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Media Freedom and Deliberative Democracy: Europe in a Comparative Perspective

HOW CAN EU MEDIA POLICY CONTRIBUTE TO DELIBERATIVE DEMOCRACY?

Research and practice on the international stage have repeatedly proved that freedom of expression is the most important life condition for democratic media in any country. Within the EU, media policy regulations and recommendations aim at guiding the way towards balanced and reliable media performance without applying rigid limitations. European Union media policy that would best support freedom of expression of the media remains topical, as developments across the EU's media systems are dynamic and wholly distinct.

This Special Issue of the *Central European Journal of Communication* (CEJC) focuses on the outcomes of an EU-funded research project – Mediadelcom – that had the ambitious aim of proposing a change of the lenses when looking at the media policies in the member countries. The leading argument of Mediadelcom (“Critical Exploration of Media Related Risks and Opportunities for Deliberative Communication: Development Scenarios of the European Media Landscape”) is that political and cultural spaces in democracies evolve best if specific policies enhance the conditions for deliberative communication (Lauk & Oller Alonso, 2024).

Ideally, deliberative communication functions as an intrinsic component of democratic decision-making processes, where collective decisions result in the public discussions of citizens who participate on equal terms and are provided with trustworthy information (Bächtiger et al., 2018). In a mediated society, this depends on the news media's ability to provide truthful information and to carry out argumentative discussions aimed at solving problems and reaching (at least temporary) agreements. Also, a supporting factor for the feasibility of deliberative democracy is the extensive access of people to the new media platforms and social media enabling them to promulgate their opinions and choices. On the other

hand, the deliberative role of the news media in contemporary digitized societies is severely challenged by various information disorders and “conflict-oriented conversations that rather polarize public opinion than keep different population segments of societies together” (Nord, Ots & Vozab, 2024, p. 24).

The EU’s regulations and rules are based on the common values set in the European Charter of Fundamental Rights, where freedom of expression is central. The EU’s media policy related documents, such as European Media Freedom Act (2024), are to be respected and enforced in all Member States. The European media policy seeks solutions for the issues common to the Member States: they regulate markets, service providers obligations, protect journalists, etc. Robustly founded on the EU’s common values, the policy often overlooks the specific realities of the practical implementation of the regulations in each of the Member States.

Research by Mediadelcom has identified in many EU countries that, irrespective of the adoption of European regulations, implementation is insufficient or has severe obstacles. For example, the recent “Anti-SLAPP Directive” (EU 2024/1069) requires Member States to early identification of SLAPP cases, provide further education of lawyers and journalists, as well as forcing Member States to fast-track anti-SLAPP proceedings, and enable courts to order that the media company pays the NGO’s litigation costs. However, according to the Mediadelcom reports, a good practice for collecting and analysing SLAPP has yet to be developed. Abusive lawsuits have become a serious constraint on the freedom of expression, increasing the risks of self-censorship by journalists.

Accountability instruments for journalists and media organisations either do not exist or are of limited effectiveness. Although the European Commission adopted the “Recommendation on the protection, safety and empowerment of journalists and other media professionals in the European Union” in 2021, security of journalists is under increasing pressure. The problem in many Member States is the absence of systematic data gathering on the working conditions of journalists and on their job security, which means that the actual implementation of the recommended measures may not be effective or is not happening (Recommendations for Media Governance, 2023). Furthermore, the Mediadelcom research demonstrates how significant is the impact of the differences in the economic, political and cultural environments in member countries on the implementation of the common regulations.

One of the main conclusions of the comparative study on the dynamics of these conditions in 14 EU countries related to the effects on media performance convinces that “media-related policy solutions that work in one country are not necessarily beneficial for other countries” (Peruško, Harro-Loit & Lauk, 2024, p. 5). The presence of a combination of certain conditions that produces a positive normative outcome in one country does not necessarily bring about

the same results in another country. Therefore, studying and considering the specific contexts in which the media operate in each country, is of the utmost importance for successful implementation of EU media policy. As the findings of the Mediadelcom project show, in the countries where freedom of expression is most at risk, empirical research on the implementation of EU legislation is missing or insufficient (Recommendations for Media Governance, 2023).

Evidence-based EU media policy in the 21st century has largely been reactive, as crises and their courses cannot be foreseen. Evidence-based policy, however, has its limitations and barriers emerging because of the varied approaches that governments and researchers apply to policymaking, such as assorted timeframes or conflicting objectives among stakeholders (Arndt et al., 2020, pp. 2016-2018). As Pabst (2021, p. 85) contends: “policy-making needs robust conceptual narratives to make sense of numbers and provide a sound basis on which to make decisions allied to ethical judgements”.

Additionally, as the Mediadelcom research found, evidence-based knowledge tends to be incomplete and produced sporadically, especially in the countries that joined the EU in the 2000s. Little research exists on the day-to-day implementation of regulations in these countries. Access to public information is insufficiently guaranteed and this reduces transparency in society and makes the work of investigative journalists more difficult (Recommendations for Media Governance, 2023).

As a result of studying and comparing creation of knowledge about the media development and performance conditions in 14 EU countries, the project suggests that evidence-based media policy should be further developed into wisdom-based media governance. The latter relies on coordinated and systematic collection, analysis and application of knowledge relevant for creating favourable conditions for the development of deliberative democracy. For achieving this, Mediadelcom has opted for a foresight strategy – design of a proactive media policy – by identifying emerging risks for deliberative communication, by developing possible future scenarios and actions for achieving desired outcomes.

MEDIA SCHOLARS IN MONITORING MEDIA FREEDOM AND DELIBERATIVE DEMOCRACY

In preparation for this CEJC Special Issue we aimed to investigate the dynamics and media freedom processes alongside the cultural context of freedom of expression as a human right. We took Mediadelcom methodologies, which the consortium members elaborated on a wide range of the existing deliberative communication theories, structures and processes as the point of our departure. We came up with a mixed methodology and perspectives collection, with scholarly comparative

research findings in today's media freedom and deliberative democracy monitoring. This strategy combined media and democracy researchers' insights from the Mediadelcom cross-cultural experience. Above all, the strategy involved the project's scholarly and civic relationships with NGOs, engagements in events and other forms of findings' dissemination, contribution to civic and media literacies that occurred throughout the project phase (2021–2024) and onwards.

We begin this issue with a study by Tobias Eberwein, Marcus Kreutler and Susanne Fengler, addressing media scholars' role in holding media to account. Our Mediadelcom authors from Austria and Germany build on the project's methodologies and findings to address comparative lenses to media accountability in Europe. The critical examination of the existing academic contributions to media and democracy research in 14 EU countries (2000–2020) looks at the scholarly media accountability contributions to journalism practice, media self-regulation, and – as a driver and a consequence – the impact on our societies. The study concludes with a call for more engaged scholarship, which follows the discussion on the deficits and successes of media accountability as an academic field:

Only rarely do academic actors take the opportunity to provide a notable impetus for the development of new media accountability initiatives. This applies to most of the countries in our sample: Where media accountability structures are only weakly developed, there is also little interest in research on media accountability.

Further questions on the quality of journalism and media freedom in Europe have been widely addressed through the Mediadelcom comparative dimensions and its potentially relevant impact on understanding multiple dimensions in Europe's journalists, alongside the ongoing interplay between normative values and democratic media processes. One of the methodologies, is the fuzzy set comparative approach (fsca) analysis, widely developed by Mediadelcom's Croatian team members, with the national project team members tasked to reflect their national data and comparative media systems indicators assessments. The qualitative-based research outcomes by Filip Trbojević, Peter Berglez, Dina Vozab, Mart Orts and Zrinjka Peruško point to the cross-cultural similarities and differences at the core media freedom conditions. This includes, for example, the critical assessment of dimensions, such as media market structure, journalistic skills, and journalists' practices in monitoring (watchdog, fact-checking, societal cohesion contribution) role(s) for– and of – professional EU media socially-relevant existing and future journalism(s).

The comparative Mediadelcom's approach to media freedom and deliberative democracy reflected both the potentially relevant comparative looks based on in-depth country researchers' insights as well as looking at the so-called

critical junctures in the overall transformation processes at the blend of media, society, politics, and others. In this CEJC issue, Halliki Harro-Loit, Mari-Liisa Parder, Anda Rožukalne, Marten Juurik and Ilva Skulte take the editorial independence freedom indicators to investigate the deliberative agents-based perspective in the cultural knowledge settings of Estonia and Latvia. The overview of the Mediadelcom's two close cultural-geographical journalism cultures further offers a fertile ground to reconsider the individual and institutional democratic media monitoring capabilities, including the critical look at media's role as democratic stakeholders.

Finally, the Mediadelcom approach highlights the European Union's legacies through legal actions to support media freedom and deliberative democracy in Europe (and beyond). The paper by Evangelia Psychogiopoulou and Anna Kandyla from the Hellenic Foundation for European and Foreign Policy (ELIAMEP) is a must-read for everyone in search of legal foundations and cultural-driven actions, from the EU media policies shaping stage to the European Media Freedom Act. Thanks to our Greek colleagues, the Mediadelcom findings have been balanced within the value-based regulatory cross-cultural interpretations, with the European-national narratives serving as another critical dimension for further future-oriented multiple-media deliberations. What if the national law begins to be in contradiction with European values? What makes the societal-regulatory deliberative practices effective? Who lives to tell?

THE MEDIADELCOM EXPERIENCE

Perhaps among the most challenging lessons for Media Freedom and Deliberative Democracy monitoring we learned through the Mediadelcom project has been to be open to the so-called 'cross-cultural' interpretations, and a need to address project findings events to the local flavour communities. While bearing in mind the proposed case studies, and comparative overviews alongside pros and cons for more general related policy recommendations, we argue for a more in-depth look at Mediadelcom members' cultural research experience.

In line with this, we acknowledge the Media Diversity Institute's contribution as a non-academic and non-governmental agent in Europe's deliberative communications. To this end, the Methods and Concepts interventions by Tanya Sakzewski and an interview with MDI Director General Milica Pesic; this is where we all point to. Moreover, the Mediadelcom experience is further related to the dissemination and findings, in other words – social organic Mediadelcom collisions. This issue contains Mediadelcom events' reports from Dortmund (2023), Athens (2024), Daugavpils (2024) and the final project conference in Brussels (2024).

We dedicate this issue to Professor Lars Nord, the Mediadelcom team member, who passed away in 2024.

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Research With(out) Values: Institutionalization and Impact of Media Accountability as an Academic Field

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Abstract: Research on media accountability regularly stresses the importance of free and responsible media for democratic societies. But how far can research itself contribute to holding the media accountable? The paper discusses the relevance of media accountability as an academic field and its impact on journalism practice, media self-regulation, and society. The analysis is based on a comparative evaluation of research infrastructures for media accountability in 14 European countries and a discussion of cases of bi-directional interplay between journalism and academia. The study enables a reflection of success factors for relevant media accountability research and develops perspectives for future studies.

Keywords: journalism; media accountability; media self-regulation; monitoring capabilities; research infrastructures.

INTRODUCTION

Post-pandemic societies in Europe must contend with numerous challenges, such as political extremism, economic disparities, societal polarization, and the pervasive influence of disinformation, which impedes cohesive decision-making and nurtures mistrust in scientific and institutional sources (Carraro et al., 2022). In the face of such challenges, the media and professional journalism continue to play a central role in shaping social coexistence. Although the Covid-19 pandemic has put newsroom practice to the test in many ways (e.g., Perrault & Perrault, 2021; Quandt & Wahl-Jorgensen, 2021), journalistic actors can claim to be an important source of information for all members of society as well as drivers of socially relevant dialog processes (Eberwein et al., 2023).

For decades, research on media accountability has been stressing the importance of free and responsible media for democratic societies (see, e.g., Fengler et al., 2014; McQuail, 2003). But how far can research itself contribute to holding the media accountable? So far, we only have a relatively sparse knowledge of the development of media accountability as an academic field and its monitoring capability (Harro-Loit & Eberwein, 2024). Our article aims to address this research gap with the help of an international baseline study.

What influence does research on media accountability have on journalistic practice, media self-regulation, and society? What scientific impulses are instrumental or necessary to support successful media self-regulation? The recently completed Horizon 2020 project “Critical Exploration of Media-Related Risks and Opportunities for Deliberative Communication: Development Scenarios of the European Media Landscape” (Mediadelcom), which was implemented in 14 EU member states between 2021 and 2024, provides initial answers to such questions. Two compilations of national case studies in the participating countries are particularly helpful in this regard, as they enable an analysis from a comparative perspective (Mediadelcom, 2022a; 2022b).

The study presented here summarizes selected findings from the compiled case studies based on a secondary analysis. On the one hand, this includes an investigation of the diffusion and impact of various media accountability instruments (MAIs) by way of systematic literature reviews and expert interviews in the countries studied. On the other hand, we also examine in detail the research infrastructures and monitoring capabilities in the field of media accountability. The analysis is followed up by a discussion of selected cases of bi-directional interplay between journalism and academia. In summary, the study makes it possible to reflect on success factors for relevant media accountability research and develop perspectives for future studies. Before the results are presented in detail, however, it is necessary to explain our conceptual

understanding of media accountability and to clarify some methodological considerations.

CONCEPTS OF MEDIA ACCOUNTABILITY

Media accountability has been defined as “any non-state means of making media responsible towards the public” (Bertrand, 2000, p. 107). While journalism or media ethics are often discussed from a normative point of view, media accountability also looks at the implementation of ethical rules and the roles played by assorted stakeholders from within and beyond the journalistic profession. Initially developed in a Western context of established journalistic professionalism, the study of media accountability first focused on media accountability instruments that built heavily on this context, such as journalistic codes of ethics (Bertrand, 2000; Laitila, 1995) or press councils (Bertrand, 1978; 2000; Fielden, 2012; Pöttker & Starck, 2003; Puppis, 2009; Wiedemann, 1992), as well as journalists’ perceptions of such instruments, again in mostly Western countries (Fengler et al., 2014). Applying the concept to contexts beyond a few Western democracies showed the need to enlarge its scope and include actors and instruments outside the journalistic profession. Building on a framework originally developed by Bardoel and d’Haenens (2004), Fengler et al. (2022b) developed, arguably, the broadest conceptualization, with a special focus on the actor groups that may be relevant in national contexts.

This framework was first applied in the *Global Handbook of Media Accountability* (see Fengler et al., 2022a, also for a systematic review of previous research) and more recently adapted for the analysis of media accountability activities within the Mediadelcom project (Kreutler et al., 2024; Kreutler & Fengler, 2024), as it allows for a holistic view of media accountability that is open to all known instruments and actors. The approach suggests a total of five frames of media accountability (Fengler et al., 2022b, pp. 36–45), distinguishing professional, organizational, societal, political, and international contexts – each shaped by the actors involved in holding the media to account, and each using specific media accountability instruments that fit their individual goals:

- The ‘professional accountability’ frame is linked to instruments such as ethical codes and performance standards that are used within the media and should help in counterbalancing every excessive dependence upon politics and the market. In this frame, the key stakeholders are media professionals and professional associations like journalists’ trade unions and media owners’ associations. Richards (2011, p. 257) underlines the relevance of the professional frame when he argues that “[s]elf-regulation of ethical standards could not be defended for a moment if most

journalists could not be trusted to apply common standards to themselves and their colleagues.”

- The ‘market accountability’ frame refers to the system of supply and demand, with free audience choice (at least in theory, see for example the dominance of media oligarchs in CEE media markets). Considerations of efficiency and competition (accountability as a ‘signal of trustworthiness’, see Fengler & Speck, 2019) also play a role. The key stakeholders in this frame are media companies.
- The ‘public accountability’ frame describes the relationship of media and citizens forming a general public. Beyond the general public, organized stakeholders may be media-related NGOs representing certain groups’ (e.g., children, women, minorities) interests in media content, or organizations that defend the interests of media in restrictive regimes. Also, part of this frame, institutes and individual researchers of journalism and mass communication can be relevant for driving and shaping the media accountability discourse.
- The ‘political accountability’ frame includes all types of formal regulation, with political stakeholders playing the dominant role. Instruments may reach from government commissions without direct regulatory competencies to statutory instruments with quasi-legislative functions or the outright goal of censorship. Common examples between these extremes include all statutory forms of media accountability (e.g., councils or ombudspersons stipulated by law, and often found in broadcasting).
- The fifth frame of media accountability is the ‘international accountability’ frame, which highlights media accountability initiatives that are driven by international actors from the political, economic, professional, or public sphere. Consequently, this frame includes transnational actors as stakeholders, such as foreign donor organizations, international foundations, and NGOs implementing MAIs in transformation countries, but also meta-coverage of media systems and journalistic practices abroad.

The five-frame approach developed in the *Global Handbook of Media Accountability* promotes an inclusive notion that integrates “*all kinds of actors, contexts, and processes of media accountability*” as long “*as they uphold a notion of media freedom and pluralism in their intent to monitor, comment on, and criticize journalism and seek to expose and debate problems of journalism*” (Fengler et al., 2022b, p. 40; emphasis in the original text). This approach was used as the basis for Mediadelcom’s studies into media accountability.

METHODOLOGICAL REMARKS

The analysis presented here draws on the concept of media accountability outlined above and applies it in a comparative study of 14 European countries – namely: Austria, Bulgaria, Croatia, the Czech Republic, Estonia, Germany, Greece, Hungary, Italy, Latvia, Poland, Romania, Slovakia, and Sweden. This country selection is based on the fundamental methodological decisions of the Mediadelcom project (Mediadelcom, 2020), intending to represent dissimilar types of European media systems with regards to geographical location, size, and historical background (see, e.g., Dobek-Ostrowska et al., 2010; Hallin & Mancini, 2004; 2012; Peruško et al., 2021).

The aim of our study is to find out how relevant academic research on media accountability is for media practice and civil society in the countries mentioned. To this end, we follow a three-stage analytical procedure:

For step 1, we aim to provide a compact review of previous research on media accountability to assess the diffusion and impact of assorted MAIs in the media systems examined. Useful starting points are found in previous comparative studies in this field as well as a collection of country reports that were compiled as part of Mediadelcom (Mediadelcom, 2022b). The 14 *Country case studies on critical junctures in the media transformation process* aimed to identify concrete risks and opportunities across domains such as legal and ethical regulation, journalism, media usage, and media-related competencies on the basis of systematic literature studies and guided expert interviews. For our summarizing and structuring analysis (Mayring, 2014) of the country reports, we focus exclusively on the results of the media accountability sub-domain.

Step 2 follows up on this analysis with an examination of the research infrastructures and their monitoring capabilities of media accountability – with a particular focus on developments since the turn of the century. The Mediadelcom project has also gathered a collection of country reports on this aspect (Mediadelcom, 2022a), which we use as the data basis for our evaluation. The *Studies on national media research capability* were realized in the form of a comparative mapping of previous research and a variety of additional documents facilitating the goal of a structural analysis in the domains of media and journalism research covered by the project. In our evaluation, we concentrate once more on the findings relevant to the topic of media accountability.

Step 3 of our study brings together the two previous analytical stages by addressing a possible influence of research infrastructures on the effectiveness of media accountability processes in the countries under investigation. In the absence of a reliable measuring instrument, we limit ourselves to discussing selected cases of bi-directional interplay between journalism and academia, which proved to be particularly meaningful in the course of the analysis. It goes without saying

that the strategy of singling out a few best practices from the wealth of compiled studies – in total, the Mediadecom partners evaluated more than 5,600 publications and other data sources for their country reports (Mediadecom, 2023) – cannot claim to be representative. However, the cases do make it possible to identify specific settings and processes, in which media accountability research not only delivers fruitful insights for the academic discourse, but also for media practice and society in general. On this basis, we also hope to show, which academic impulses are necessary to support successful media accountability – and thus responsible communication practices in democratic societies.

DIFFUSION AND IMPACT OF MEDIA ACCOUNTABILITY

The review of previous research on media accountability paints an ambivalent picture of the diffusion and impact of various MAIs in the countries of the Mediadecom sample. This can already be seen by looking at the few international comparative studies on the topic that were carried out prior to our project. The FP7 study “Media Accountability and Transparency in Europe” (MediaAcT), for example, used a mapping study (Eberwein et al., 2011) and a survey of journalists (Fengler et al., 2014) to point to considerable differences in the spread and perception of institutionalized and non-institutionalized MAIs in selected European media systems. The *European Handbook of Media Accountability* (Eberwein et al., 2018a) provides an even more comprehensive insight with its pan-European research approach. Based on a Delphi survey, the book’s European Media Accountability Index (Eberwein et al., 2018b, pp. 296–298) provides a ranking of all European countries, which differentiates the structures of media accountability in Europe according to the categories “highly developed”, “developed”, and “partly developed”. The “highly developed” countries exclusively include media systems in Northern and Western Europe (from our sample: Sweden, Germany, Austria) with a long tradition of institutionalized media self-regulation and a lively discourse on questions of media responsibility, which ultimately covers all accountability frames. The large middle block of countries with “developed” structures of media accountability is populated by countries from all parts of Europe – predominantly small states, in which at least one accountability frame is described as influential (from the Mediadecom sample, for example: Estonia, Slovakia, the Czech Republic). There are also some countries from the Mediadecom project among the media systems that are just “partly developed” (e.g., Latvia and Croatia, but also Italy and Greece). This points to an unsatisfactory situation in all accountability frames – albeit for various reasons.

The European Media Accountability Index allows a first – necessarily superficial – approach to our object of investigation. Based on the country case studies

conducted for Mediadecom, these findings can be deepened by identifying specific risks and opportunities for the development of various MAIs. In the following, we summarize key results for each of the media accountability frames examined (see also Kreutler et al., 2024):

Within the ‘professional frame’, the Northern and Western European countries in our sample have the strongest track record. Sweden and Germany stand out with their generally well accepted press councils, and they can point to a long history of media self-regulation (Berglez et al., 2022b; Kreutler & Fengler, 2022b). The Austrian Press Council is also considered a functioning example of a professional MAI, even if this long-lived institution was in a decade-long hiatus after the turn of the millennium and was re-established only in 2010 (Eberwein et al., 2022b). In contrast, comparable institutions in Southern, Central and Eastern Europe have a much shorter tradition and are usually described as less influential (e.g., Gálik et al., 2022b; Lauk et al., 2022; Raycheva et al., 2022b). In some countries – such as Greece, the Czech Republic and Romania (Avāđani, 2022b; Psychogiopoulou & Kandyla, 2022b; Waschková Císařová et al., 2022b) – there is no press council. We can also discern clear differences across countries with regards to other MAIs that are considered typical of the professional frame: Indeed, all of our study countries have professional codes of ethics. However, only in a few countries are they judged as an influential instrument of journalistic self-regulation. Doubts about their effectiveness are raised, for example, when they are not regularly updated (e.g., Lauk et al., 2022) or when different codes exist in parallel, making it difficult to identify ethical standards that are applicable to the profession as a whole (e.g., Avāđani, 2022b; Głowacki et al., 2022b; Urbán et al., 2022). A lively meta-discourse on journalistic conduct – for example, in trade journals – is only emphasized in a few Mediadecom countries. Here too, Sweden and Germany are clearly ahead of most other European countries, showcasing the potential of this MAI (Berglez et al., 2022b; Kreutler & Fengler, 2022b).

Typical instruments of ‘market accountability’ include company codes and editorial guidelines, company-based ombudspersons, and meta-reporting on media and journalism in the mass media. Compared to the professional MAIs, the market frame is significantly less developed in our sample. However, there are also recognizable differences between the analyzed countries. In Sweden, for instance, there are numerous examples of all the instruments mentioned (Berglez et al., 2022b). In contrast, even the country reports from Germany and Austria note that MAIs such as company codes and ombudspersons do occur in some media houses but are by no means the rule (Eberwein et al., 2022b; Kreutler & Fengler, 2022b). If we assess our entire sample from a comparative perspective, company codes are still the most widespread MAI in the market frame (e.g., Gálik et al., 2022b; Lauk et al., 2022; Piacentini et al., 2022; Rožukalne et al.,

2022b). Other examples are discussed sporadically but are described as being of little significance for newsroom practice. Possible reasons for a weak state of market accountability are an underdeveloped tradition of media self-regulation (e.g., Peruško et al., 2022; Psychogiopoulou & Kandyla, 2022b), deficits of media transparency (e.g., Raycheva et al., 2022b; Rožukalne et al., 2022b), and the strong influence of oligarchs in some media systems (e.g., Głowacki et al., 2022b; Urbán et al., 2022; Waschková Císařová et al., 2022b).

Exemplary instruments of ‘political accountability’ are statutory media councils, codes of conduct, or ombudspersons which are prescribed by law. They do not automatically enable direct political influence on journalistic actors but require a special risk analysis to ensure media freedom. Our country sample contains a wide variety of examples of such statutory MAIs. In democratic-corporatist media systems such as Sweden or Germany, for example, the supervisory bodies of public broadcasters are regulated by law. In Germany, undue influence of political actors on journalistic practice is meant to be countered by detailed regulations on the representation of assorted social groups (Kreutler & Fengler, 2022b). In the polarized-pluralist media systems of Southern and Eastern Europe, with their tendency towards high political parallelism, the risk of political influence is usually more pronounced. The Italian *Ordine dei Giornalisti* is often seen as an institution like a press council – however, it was established by law to regulate access to the profession (Piacentini et al., 2022). Among the Mediadelcom countries, Poland and Hungary can illustrate the risks of high-level political parallelism as both countries have recently been challenged by threats to media freedom due to illiberal turns in media regulation or the governmental capture of media ownership and control (Głowacki et al., 2022b; Urbán et al., 2022).

Compared to the other frames analyzed, instruments to promote ‘public accountability’ play the least important role in our sample. In almost all countries of the Mediadelcom study, there are isolated examples of media watchblogs, instances of public media criticism via social media, or even a few non-governmental organizations (NGOs) and other civil society groups that are committed to issues of media responsibility. However, they are generally considered to have little influence on journalistic activities.

A noticeable impact of the ‘international frame’ is perceived above all in various EU initiatives (liberalization of the media market, protection of personal data, support of professional journalism and media literacy, etc.), as they also influence the development of national media markets. The work of international NGOs such as Reporters Without Borders or Article 19 also provide examples of how MAIs can have a cross-border effect. However, their relevance also remains marginal in comparison.

In sum, the country studies from the Mediadelcom project confirm the findings of previous comparative research by illustrating clear differences in the

development of media accountability structures across Europe. At the same time, they raise the question of possible reasons for the discrepancies within our sample. Fengler (2022, pp. 575–592) refers to a set of various factors that can influence the spread and effectiveness of MAIs. These include: the quality of democracy and the credibility of institutions; journalistic professionalism and autonomy; media pluralism and the sustainability of media outlets; as well as audience participation and the involvement of civil society actors. In addition to media activists and NGOs, the latter group also includes academic observers. However, the question of how great the actual impact is of these academic actors, seems largely unresolved. Can the analyses by the Mediadelcom consortium provide concrete indications? To find out, we need to take a closer look at the research infrastructures and their monitoring capabilities of media accountability.

RESEARCH INFRASTRUCTURES AND MONITORING CAPABILITIES FOR MEDIA ACCOUNTABILITY

The Mediadelcom project has applied the broad definition of media accountability described above for its analysis of research and monitoring capabilities. It must be noted that this framework delineates a wide range of possible MAIs, of which any given national media accountability landscape will only apply a certain part; logically, MAIs that are not present or relevant in a country will also attract very little or no monitoring activities. The (rare) exception is academic and professional discourse on the chances of establishing a hitherto lacking instrument, mostly relevant with regards to press or media councils: Such a discourse can be found in the case of Croatia (Vilović, 2009) without a council actually being installed (Peruško & Vozab, 2022), and in Austria (Gottwald et al., 2006; Zimmermann & Kraus, 2007) before the currently existing council was founded in 2010 (Eberwein et al., 2022a).

Within the context of the Mediadelcom research, media accountability was analyzed alongside legal regulation as part of a broader regulation domain, allowing for comparisons between the two fields as a first approximation on the intensity of monitoring efforts in the two sub-domains. A predominance of media accountability as compared to legal regulation can only be found in the monitoring capabilities of Slovakia, where more academic literature is available on media accountability than legal regulation (Gálik et al., 2022a), and in Estonia, where the quantity in both fields is comparable, but monitoring of media accountability is described as more systematized (Harro-Loit et al., 2022). A bias towards legal problem-solving is diagnosed for Italy and the Czech Republic, but monitoring is equally established (Italy: Splendore et al., 2022) or equally lacking (Czechia: Waschková Císařová et al., 2022a) in both domains. For the other countries,

the monitoring focus is on legal regulation, with Austria, Bulgaria, and Greece as particularly clear examples (Eberwein et al., 2022a; Psychogiopoulou & Kandyla, 2022a; Raycheva et al., 2022a).

For media accountability alone, our analysis shows a focus of monitoring activities on MAIs commonly associated with the professional and sometimes (in the case of statutory implementation) the political frame: codes of ethics and press/media councils or, when such a council is lacking, less institutionalized bodies such as ethics boards of journalists' unions. These instruments play a certain role in all country reports. Moreover, press or media councils are sometimes not only the subject of external monitoring, but also monitoring actors in their own right. This is the case when they publish data or even statistical overviews or interpretations of their own case work. Such documentations can be found by the well-established councils in Austria, Germany, and Sweden (Berglez et al., 2022a; Eberwein et al., 2022a; Kreutler & Fengler, 2022a), where the respective bodies publish regular reports on their rulings. The Latvian council, founded in 2018, also offers online access to its decisions, allowing for further analysis (Rožukalne et al., 2022a). However, extensive case databases are the exception rather than the norm: In Estonia, the situation is more complicated since there are two competing councils (*Pressinõukogu* and *Avaliku Sõna Nõukogu/ASN*) each with their own competencies and proceedings – a situation that has inspired specific research on these differences (Harro-Loit et al., 2022), but also makes it more complicated to come to a comprehensive view of processed cases. Case data is also not comprehensive in Czechia, where the ethics board of the journalists' syndicate only accepts certain complaints (excluding, most importantly, tabloid journalism) and only publishes basic data (Waschková Císařová et al., 2022a). In some countries, the respective bodies do not publish any data on their cases, as is the case for Hungary (Polyák et al., 2022) and most of Greece, where journalists' unions are organized regionally and only one makes its ethics boards' decisions available to the public (Psychogiopoulou & Kandyla, 2022a).

Other MAIs, such as media ombudspersons or media journalism as a means of critical self-evaluation, receive rather marginal monitoring attention. Overall, deficits in monitoring of the media accountability situation often go in line with limited interest in the application of media accountability by media companies and the profession. In countries with little institutionalization of research on media accountability, internationally comparative research programs have a particularly strong impact: The Estonian, Latvian, Romanian and Polish case studies highlight a particular increase of institutionalization and monitoring know-how resulting from participation of researchers in international projects, with some effects lasting longer than the duration of the actual projects (Avădani, 2022a; Głowacki et al., 2022a; Harro-Loit et al., 2022; Rožukalne et al., 2022a).

CASES OF INTERPLAY BETWEEN JOURNALISM AND ACADEMIA

In order to describe the actual influence of academic media accountability research on the practice of media self-regulation more precisely, we have attempted to identify meaningful cases of interplay between journalism and academia on the basis of the Mediadelcom country studies. The hope is that these will provide an understanding of which settings are particularly promising for future exchange processes between research and (media) practice. It needs to be noted that such success stories are rather rare in our sample. They seem to occur more frequently in countries with a strongly developed media accountability structure – i.e. predominantly in the democratic-corporatist media systems of Northern and Western Europe – than in other parts of the continent. However, as the following overview shows, this is not always the case.

Media accountability research and press or media councils often seem to interact with one another: Functioning councils produce case data and sometimes their own summaries or interpretations of this data, allowing academic actors to use this data for further analysis. The Austrian case is particularly instructive: While academic and professional discourse has accompanied the way towards the re-foundation of the council in 2010, there is also an overall increase of monitoring activity after that date – it will be interesting to observe if the foundation of the Latvian council is going to have similar effects. Also in line with this relation of monitoring and implementation of a council, the current efforts to establish a press council in Poland are driven to a considerable extent by academic actors: The working group tasked with developing such a body consists of media representatives, journalism associations, journalism trainers and researchers, with several academic institutions involved in the process and delivering a perspective of internationally accepted best practices and examples (Kurkowski, 2023). Academic agents have previously been involved in similar discussions in the United Kingdom (Bettels-Schwabbauer, 2012).

Students appear to be another relevant agent in establishing an advanced discourse on media accountability: In Czechia, empirical research of media accountability has been conducted to a significant degree in case studies for Bachelor's, Master's, and Doctoral theses, even when the topic was not yet established in large-scale academic research. This interest on the students' part seems to slowly impact on structures: The first study program with a focus on media ethics was established in 2020, and the first dedicated research team was established one year later (Waschková Císařová et al., 2022a). The Czech example is not unique: In Estonia, students' theses are an important source for qualitative case studies into journalists' perceptions of media accountability (Harro-Loit et al., 2022), and in Austria, ombudspersons and media journalism have mostly been explored in students' final theses (Eberwein et al., 2022a). Given

the range of career opportunities in academia and journalistic practice, this widespread interest in media accountability on part of the younger generation has a good chance of impacting in the long term both journalism research and media practice.

A large part of the research on media accountability is either or both country-centered and focused on individual MAIs. In the past decade, however, interest in comparative research in this field has increased considerably – and this has not been without consequences. The aforementioned MediaAcT project (Eberwein et al., 2011; Fengler et al., 2014) has not only motivated various follow-up studies; some suggestions from the project have also been taken up in the policy discourse at the EU level (Viķe-Freiberga et al., 2013). This is another reason why questions of media self-regulation have recently been a recurring theme in European research funding. For example, the EU-funded study “Media Councils in the Digital Age” (<https://www.presscouncils.eu>) is being carried out in close cooperation with several European press and media councils. Horizon projects such as Mediadelcom or the recently launched DIACOMET study (“Fostering Capacity Building for Civic Resilience and Participation: Dialogic Communication Ethics and Accountability”; <https://diacomet.eu>) are also seeking data exchange with media partners and NGOs. All these examples show that large collaborative projects have a good chance of generating an echo outside the scientific system. In any case, their inventories and risk analyses strengthen a critical awareness of issues of media responsibility that is also important for society as a whole.

In addition to the research initiatives described above, communication about research on media accountability is also an important instrument for increasing public awareness. Several country reports contain references to initiatives aiming to make relevant research findings accessible to journalists, policy-makers, and the general public (e.g., Kreutler & Fengler, 2022a). One example of a transnational initiative with this objective is the European Journalism Observatory (EJO) – a network of independent media research institutes in 11 countries (including Czechia, Germany, Hungary, Latvia, and Poland).¹ Together, the creators behind the project strive not only to translate current media research and debates into concise and accessible texts, but also to contribute to the observation and criticism of media and journalism through their own monitoring initiatives. In doing so, they are building on a tradition of academic journalism observatories, which have become an important driver of media accountability processes, particularly in Latin America (Bastian, 2019).

¹ Disclaimer: Susanne Fengler is the director of the German EJO website; Marcus Kreutler works as an editor for the project.

DISCUSSION: DEFICITS AND SUCCESS FACTORS OF MEDIA ACCOUNTABILITY AS AN ACADEMIC FIELD

The aim of the study presented here was to scrutinize the influence of media accountability research on journalistic practice, media self-regulation, and society at large. To this end, country studies from the Mediadelcom project were used to trace the spread and impact of assorted MAIs; it was then examined whether a connection could be established between the research and monitoring capabilities of individual countries and the development of national media accountability structures. Of particular interest were concrete cases of bi-directional interplay between journalism and academia, from which possible success factors for the development of future initiatives in the field of media accountability in research and practice can be derived.

The overall result of our comparative country analysis is rather sobering: Just as the practice of media accountability is underdeveloped in large parts of Europe, research on this topic currently leaves much to be desired. Our findings on the diffusion of MAIs in an international comparison confirm earlier studies, according to which there is a considerable gap between the countries of Northern and Western Europe on the one hand and those of Southern and Eastern Europe on the other (Eberwein et al., 2011; 2018a; Fengler et al., 2014). Only in countries with democratic-corporatist media systems (in our sample: Sweden, Germany, Austria) can a wider range of effective media accountability practices be detected. For all other countries, our analysis illustrates that underdevelopment of single media accountability frames can lead to risks for media freedom and responsibility. We find a similar discrepancy between the countries analyzed for the prevalence of effective monitoring initiatives, as generally only those MAIs that are active can stimulate research. Only rarely do academic actors take the opportunity to provide a notable impetus for the development of new media accountability initiatives. This applies to most of the countries in our sample: Where media accountability structures are only weakly developed, there is also little interest in research on media accountability. This insight also confirms the findings of the MediaAcT study, according to which media criticism by academic observers is hardly able to compensate for deficits in traditional media self-regulation (Fengler et al., 2014). Among the various context factors that can help stimulating more effective media accountability practices around the globe, media research is obviously just a minor and weak one at present.

However, a look at other journalism cultures shows that this does not necessarily need to be the case anywhere and always. In Latin America, for example, practices of academic journalism observation have a long tradition and are an integral part of the social discourse on the norms and values of journalism. At least a few successful examples of cross-fertilization between academic and

media actors can also be found in our European study. Several settings have proven to be promising:

- Long tradition of professional self-regulation: In countries with a long history of institutionalized media self-regulation, exchange processes between media research and media practice are more likely to be successful.
- The case of press and media councils: In particular, press and media councils often provide a fruitful example of research in which journalism and academia can benefit from each other.
- International collaboration as a catalyst: Successful comparative research projects can help to put the topic of media accountability on the agenda across countries and motivate dialog processes between the actor groups.
- The value of student research: Where research on media accountability is not institutionalized (yet), student theses on selected topics can set the discourse in motion.
- Communication about media accountability: To enable a dialog at eye level, publication formats are needed that appeal to a broad public – and thus raise awareness of the topic.

As our analyses show, success factors such as these can be used in a targeted manner to increase the impact of media accountability research – along with further measures involving other stakeholders from the various media accountability frames discussed in this analysis. Academic actors who wish to contribute to holding the media accountable can use them as inspiration for the development of future studies.

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Journalism and Media Freedom in Europe: The fsQCA Approach

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Abstract: Media freedom is often seen as the main value against which the quality of media systems is judged. While the levels of media freedom in Europe are generally higher than the world average, there are yet significant variations in how certain European countries score on media freedom indices and scales. This paper uses comparative quantitative data and applies the fsQCA method to analyze how macro-, meso-, and micro-levels of journalism as a field relate to different levels of media freedom in Europe. The results suggest that media market structure, journalistic skills, and journalists adhering to the monitorial role of journalism constitute the “core” conditions for the implementation of media freedom.

Keywords: democracy; Europe; fsQCA; journalism; media freedom.

INTRODUCTION

Media freedom that McQuail (2010, p. 237) defines, as “the right to publish information without censorship and repercussions”, generally implies the autonomy of the media from sources of influence and pressure. A free media environment is, thus, one in which journalists are free to question and criticize political and business elites at local, national, and international levels (van Belle, 2000). Free and unbiased media can play a vital role in exposing the corrupt and unethical

behavior of politicians and various interest groups (Bhattacharyya & Hodler, 2015; Mueller, 1992), which is why they are often considered the watchdogs of democracy and public interest.

Although the importance of media freedom for democracy is widely discussed and accepted, there are many conceptualizations of how it ought to be achieved, one of which is that the concept can be understood as both negative and positive (Karppinen, 2016). The negative version refers to ‘freedom from’, the absence of coercion, such as state censorship or other forms of infringements (Karppinen, 2016, p. 42). By contrast, the positive version would mean ‘freedom to’, or freedom conceptualized as having communicative rights or structural opportunities in exercising them (Karppinen, 2016, p. 42). In terms of media policy towards media freedom in across media systems, one can say that liberal ones with their reliance on the market, promote the negative form, while democratic-corporatist media systems, with their strong support for public media institutions, promote positive ones (Karppinen, 2016).

Media freedom is often seen as an interplay between politics and the media. Levels of media freedom differ between regime types (Stier, 2015). Variations of media freedom were rarely investigated in the context of Western media systems, as academia took for granted that they have high levels of media freedom (Humprecht et al., 2022, p. 7). Nonetheless, media freedom was shown to be important for comparative analysis of Central and Eastern European (CEE) media systems (Castro Herrero et al., 2017; Humprecht et al., 2022). Moreover, the increasing role of populist leaders, parties, and movements in Western democracies have a negative effect on media freedom (Kenny, 2020). Media freedom should not be taken for granted in Western media systems. Maniou (2023) argues the levels of media freedom in Western media systems are declining due self-censorship, harassment of journalists, law restrictions, and other factors.

In this paper, we investigate how journalism configures in the significant variations of media freedom across Europe. Hallin and Mancini (2004) argue that the journalism profession is one of the key dimensions in the comparative analyses of media systems and their model developed three ideal types of the way journalism as a profession was institutionalized in the Western media systems. The ‘liberal model’ (dominant in the US, UK, and Ireland), has journalism founded on the values of detached and objective reporting in the market-oriented media system. The ‘democratic-corporatist model’ (dominant in continental and northern Europe) is characterized by the important, but weakened role of political-media parallelism, and the growing importance of neutral reporting. The ‘polarized-pluralist model’ (dominant in Mediterranean Europe), has a journalism profession that is highly politicized, and the journalistic style is interpretative and polemical. The analysis of the models of journalism (Esser & Umbricht, 2013) confirmed the ideal types with quantitative data. However,

the models used for comparative media systems have been criticized by various scholars as neglecting certain dimensions in the analysis or being overly static and not explaining changes in media systems face, which was also acknowledged by the authors themselves (Hallin & Mancini, 2017). The model has also been challenged in the digital and hybrid media environments, which has provoked new conceptualizations and updated analyses (Humprecht et al., 2022; Mattoni & Ceccobelli, 2018). For example, the digital environment has been shaping the journalism profession by changing working conditions, as well as professional journalistic standards and skills (Mattoni & Ceccobelli, 2018). Digital environments have created additional pressures on journalism autonomy, in the form of online attacks and harassment (Maniou, 2023).

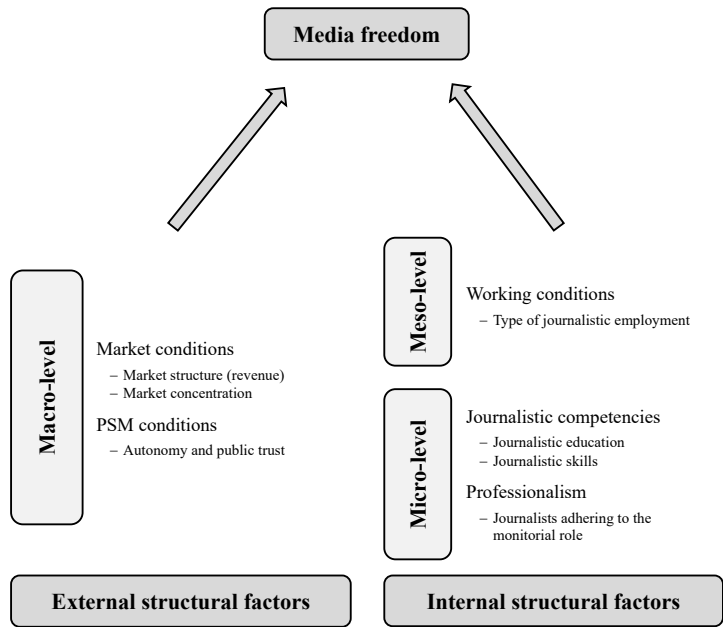
Here we focus on the dimension of journalism profession to assess its links to media freedom in the comparative media systems analysis. We are interested in how macro-, meso-, and micro-levels of the journalism field, as a form of production in a changing media environment, relate to varying levels of media freedom. Relevant secondary comparative quantitative data are analyzed with the fuzzy-set qualitative comparative analysis (fsQCA) method to show how the combinations of qualities of the journalism field relate to the presence and absence of high levels of media freedom among European countries.

JOURNALISM AND MEDIA FREEDOM

To better understand how media freedom and the production of journalism are related, our point of departure is a theoretical model for analyzing the journalism field derived from the research project “Critical Exploration of Media Related Risks and Opportunities for Deliberative Communication: Development Scenarios of the European Media Landscape – Mediadelcom”¹. This project relies on classic media system theory thinking (Hallin & Mancini, 2004, 2012). The model is a useful framework for identifying external and internal structural factors on macro-, meso-, and micro-levels of media production that are required for media organizations to serve as generators of media freedom (see Figure 1).

¹ *Mediadelcom* was an international Horizon 2020 scientific research project, whose main goal was to develop a diagnostic tool for policy-makers, media institutions, media experts, and journalists, that would enable the holistic assessment of risks and opportunities concerning the deliberative communication and social cohesion in Europe. The project involved 14 countries from Central, Northern, Eastern, Southern, and South-Eastern Europe, coordinated by the University of Tartu (Estonia). For more information see: <https://www.mediadelcom.eu/>.

Figure 1. The *Mediadelcom* approach to understanding the journalism field in relation to media freedom²



Source: Authors

At the *macro-level*, it is essential to examine the economic environment in which journalism production takes place, i.e., market conditions such as media market revenue and concentration, as well as the conditions related to the functioning of public service media (PSM), such as autonomy and public trust. Over recent decades, the traditional media, particularly newspapers, have been losing both audiences and advertisers (Papathanassopoulos & Miconi, 2023). The universal trend of news consumption suddenly competing with omnipresent mobile access to an abundance of digital entertainment and other media distractions puts pressure on news producers to reduce costs and be more efficient. A broad effect of the declining resources is that weaker media firms are merged or acquired by national or international competitors, thereby increasing the ownership concentration in news media markets (Artero et al., 2020; Grassmuck & Thomass, 2023). Even though high market concentration is often considered to be a risk to media pluralism (Trappel & Meier, 2022), it can also enhance media’s internal pluralism (Garz et al., 2023; Stühmeier, 2019) or moderate negative consequences

² Although this theoretical model was in the *Mediadelcom* project applied to analyze the relationship between the journalism field and deliberative communication, in this paper we apply it in relation to media freedom.

of audience fragmentation (van Aelst et al., 2017; Vozab et al., 2024). Finally, in today's media environment, PSM is still perceived as an agent with generally positive effects on media freedom. Public service media can promote public interest against commercial media's profit interests (Sehl et al., 2020; Sjøvaag et al., 2019), supply more news in the media environment and keep matters of public interest on the agenda (Esser et al., 2012), and facilitate public discussions (Debrett, 2015; Newton, 2016).

At the meso-level, we find factors such as journalists' working conditions. Besides its legal character, the media freedom also entails an important material dimension that concerns safety and resources required by journalists to practice quality, balanced, and independent reporting. One such indicator refers to the type of journalistic employment, i.e., the share of typical vs. atypical media workers. Mattoni and Ceccobelli (2018) contend the number of atypical journalistic employment contracts is on the rise, with ever more part-time, freelance, and temporarily employed journalists, which is coupled with the rise of the importance of ICT and changing nature of journalism profession.³ These changes have been linked to trends which may not contribute to media freedom, such as less time and resources for investigative and quality journalism (Deuze, 2007).

At the micro-level, we focus on the concrete journalistic competencies (e.g., education and skills), as well as professionalism in terms of journalists adhering to the monitorial role. The journalistic professionalism is inextricably linked to journalism autonomy, as it helps in differentiating journalism from other social fields (e.g., politics) and guards it against instrumentalization (Hallin & Mancini, 2004), which should contribute to media freedom. The university education of journalists is where they learn professional values (Deuze, 2005), but there is a long-standing debate on whether the universities, with their stronger focus on theory, are the right place for acquiring professional competencies which are often equated with particular practical skills (Örnebring & Mellado, 2018).⁴ Both journalistic education and practical skills are needed for journalists to practice professional culture. Digital environments put additional pressure on the need to develop journalistic skills (Mattoni & Ceccobelli, 2018). Strömbäck (2005) argues the normative requirements of journalism depend on the various models of democracy. Strömbäck (2005) suggests the monitorial role of journalists is the most important in the competitive model of democracy, where journalists scrutinize political elites so citizens can have the necessary knowledge and information for decision-making.

³ According to Hanitzsch et al. (2019), the highest proportions of freelance journalists can be found in Western Europe.

⁴ As explained by Hanitzsch et al. (2019, p. 93), in some European countries (e.g., in Austria, Germany, and Sweden) the university education of journalists is not perceived as required, and there is a stronger tradition of non-academic traineeships and courses.

RESEARCH QUESTIONS AND METHODOLOGY

Many international organizations, such as Freedom House and Reporters Without Borders, warn about the declining trends of democracy, media freedom, and autonomy of journalism. There is large corpus of research on how political and economic factors influence journalism in democracies (Calabrese & Sparks, 2003; Lăzăroiu, 2012; Napoli, 2003), however little is known about how the combinations of qualities of journalism are associated with the ways media freedom is implemented (Hackett, 2013). Therefore, this paper poses the following research questions:

- RQ1: Which journalism conditions (or combinations of conditions) are associated with the presence of high levels of media freedom?
- RQ2: Which journalism conditions (or combinations of conditions) are associated with the absence of high levels of media freedom?

To answer these questions, we apply the fsQCA, which is more than a method of analysis – it is also a research approach, but one which differs from the usual linear causal inference of the functionalist approach (Downey & Stanyer, 2010). Although this method is less common in comparative communication research and is yet to achieve its momentum, it has been recommended in relation to media systems research (Downey, 2020). The method determines those conditions (or combinations of conditions), which lead to a certain outcome. The necessary conditions are always present with the outcome, but do not guarantee that it will materialize, while sufficient conditions appear with the outcome in various combinations and configurations.

The three-level model for understanding the relation between the journalism domain and media freedom (see Figure 1) is the argument's point of departure. On the basis that the outcome is defined as media freedom, we examine the impact of: 1) The market structure for journalism (macro-level); 2) The TV market concentration (macro-level); 3) The autonomy of PSM (macro-level); 4) The share of full-time journalists (meso-level); 5) The share of journalists with university education (micro-level); 6) Journalistic skills (micro-level); and 7) Journalists' adherence to the monitorial role (micro-level).

The central point of the fsQCA is calibration, i.e., assigning cases to the sets based on theoretical assumptions (Schneider & Wagemann, 2012). The calibration is performed through assigning set memberships in the interval between 0 (non-membership) and 1 (full membership), above or below the crossover point (0,5) (Ragin, 2008). For the calibration of conditions and the outcome, we used the available secondary comparative quantitative data (for the full list of raw data values, see Annex 1). Although some of the data were collected at differing points in time, following Pagliarin and Gerrits's (2020) advice, we ensured that

the data are consistent (uniform) in terms of measurement and calibration to maintain the integrity of the fuzzy-sets. The calibrations were adjusted to the EU context, i.e., the variability of data among the EU countries. The percentiles method (Pappas & Woodside, 2021) was used to define data thresholds and the analysis was performed in the fsQCA software 4.1 (Ragin & Davey, 2023). The following text describes the operationalization of conditions and the outcome (for the full list of calibrated values, see Table 1 at the end of this chapter).⁵

High media freedom (*medfree*) was operationalized with the Reporters Without Borders (2020) World Press Freedom Index, which is based on experts' assessments of six indicators⁶: 1) Pluralism (the degree to which different opinions are represented in the media); 2) Media independence (the degree to which the media are able to function independently of sources of political, governmental, business, and religious power and influence); 3) Environment and self-censorship (the environment in which news and information providers operate); 4) Legislative framework (the impact of the legislative framework governing news and information activities); 5) Transparency (the transparency of the institutions and procedures that affect the production of news and information); and 6) Infrastructure (the quality of the infrastructure that supports the production of news and information), supplemented by the quantitative data on the level of abuses and violence against journalists.⁷ The thresholds for the calibration were based on those of media freedom defined by the Reporters Without Borders, but only taking into account the context of the EU⁸. An Index value of 85 was used as the threshold for full inclusion in the set, 70 for full exclusion from the set, and 77,5 as the crossover point.

Strong market structure for journalism (*marketstr*) was operationalized with the European Audiovisual Observatory (2020) data on the revenue for audiovisual media per capita (sum of public funding, TV and radio advertising, pay-TV revenues, on-demand revenues, cinema box office, and physical video),

⁵ As most of the calibrations in this paper (all besides media freedom) were done as a part of the research in the Mediadelcom project, the descriptions of calibrations also appear in some other publications related to the project (e.g., in Vozab et al., 2024). However, in this paper the calibrations were calculated for a larger number of cases than in Vozab et al., 2024.

⁶ The methodology was used from 2013 to 2021 and somewhat altered in 2022.

⁷ Although there are several criticisms over their validity, analyses indicate a strong correlation between Freedom House and Reporters Without Borders media freedom indices (Martin et al., 2016). The intercorrelation with Media Pluralism Monitor is also observed, although it not as high as between the two media freedom measures (Brogi et al., 2021).

⁸ While media freedom globally varies from "very serious" (Index values 0–45; e.g., in the authoritarian systems such as China or Saudi Arabia) to "good" (Index values 85–100; e.g., in the Nordic countries), in the EU context the countries with the lowest media freedom are categorized as "problematic" (Index values 65–75; e.g., in Hungary and Poland). For details about the methodology and thresholds defined by Reporters Without Borders for belonging to certain categories of media freedom see: https://rsf.org/en/methodology-used-compiling-world-press-freedom-index-2024?year=2024&data_type=general.

and the advertising expenditures per capita (sum of newspapers, magazines, and Internet advertising), in combination with the Eurostat (2020) data on the number of employees in publishing activities and information services per capita. The original values were first standardized as z-scores;⁹ after that, the sum of z-scores was calculated and the percentiles method was used to calibrate the values for the fsQCA.¹⁰

High TV market concentration (*marketcon*) was operationalized with the European Audiovisual Observatory (2020) data on the daily audience market share of four leading TV groups. When calibrating the values, we relied on the external criteria¹¹ to define the thresholds for inclusion – we used 70 % as the threshold for full inclusion in the set, 40 % for full exclusion from the set, and 55 % (in the middle of the 40–70 % range) as the crossover point.

High autonomy of PSM (*psmautonomy*) was operationalized with the European Media Systems Survey (EMSS, Popescu et al., 2017) data on the national experts' perception of public TV content as free from political interference, and the trust in public TV compared to private TV channels. After that, the average of these two measures was calculated and the percentiles were used to calibrate the values for the fsQCA.

High proportion of full-time journalists (*journfull*) was operationalized with the Worlds of Journalism Study (2016) second wave¹² data on the share of journalists with full-time employment contracts.¹³ The assumption was that the higher the share of full-time contracts, there are less journalists in precarious working conditions. The percentiles were again used to calibrate the values for the fsQCA.

⁹ Since it does not include only the media sector, the z-score of the number of employees in publishing activities and information services was weighted (by dividing it by 10).

¹⁰ In this study, most of the conditions were calibrated with the percentile method: "To find which values in our dataset correspond to the 0,95, 0,50, and 0,05, we use percentiles. The percentiles allow the calibration of any measure regardless of its original values" (Pappas & Woodside, 2021, p. 7). After the calibration, France had a value of 0,5 which was changed to 0,501, as its original value was higher than the EU average.

¹¹ According to Trappel and Meier (2022, p. 153), "CR4 indicates the concentration ratio of the four largest companies in the industry, with 0–40 % representing low concentration, 40–70 % representing medium concentration, and anything above 70 % representing high concentration". Due to the lack of data, we included only concentration on the TV market as an indicator of media concentration.

¹² Due to the lack of data from the second wave, the data for Slovakia were taken from the Worlds of Journalism Study (2023) third wave, and the data for Poland from Głowacki (2015).

¹³ After the calibration, France and Poland had values of 0,5 which were changed to 0,501 as their original values were higher than the EU average. This was done following a suggestion by Fiss (2011), to add a constant to 0,5 values in order to avoid dropping these cases from the analysis. In this analysis, we added a constant of 0,01 to those cases which after the calibration had the value of 0,5, if their raw value was higher than the EU average. Similarly, we subtracted the constant of 0,01 from cases which after the calibration had the value of 0,5, if their raw value was lower than the EU average.

High proportion of journalists with university education (*journedu*) was operationalized with the Worlds of Journalism Study (2016) second wave data on the share of journalists with university degree (sum of journalists with college / bachelor's degree or equivalent, master's degree or equivalent, or doctorate), and the share of journalists who specialized in journalism. The average values were then calculated and calibrated based on the percentiles.¹⁴

High journalistic skills (*journskill*) was operationalized with the EMSS (Popescu et al., 2017) data on the national experts' estimate of journalists' sufficient training to ensure that the basic professional norms (e.g., accuracy, relevance, completeness, balance, double-checking, and source confidentiality) are respected in the news-making process. After that, the percentiles were again used to calibrate the values for the fsQCA.

Strong monitorial role of journalists (*journmonit*) was operationalized with the Worlds of Journalism Study (2016) second wave¹⁵ data on the journalists' perception of importance to monitor and scrutinize political leaders and businesses, motivate people to politically participate, and provide information that they need to make political decisions. Following Hanitzsch et al. (2019), the Monitorial Role Index was created based on the aforementioned items, and the thresholds for the calibration were again determined with the help of the percentiles.¹⁶

Table 1. fsQCA calibrated values of the conditions and the outcome

Conditions								Outcome
Country	<i>marketstr</i>	<i>marketcon</i>	<i>psmautonomy</i>	<i>journfull</i>	<i>journedu</i>	<i>journskill</i>	<i>journmonit</i>	<i>medfree</i>
Austria	0,96	0,97	0,81	0,46	0,05	0,56	0,52	0,94
Belgium	0,48	0,99	0,76	0,41	0,79	0,78	0,31	0,98
Bulgaria	0,11	0,97	0,43	0,74	0,72	0,10	0,64	0,01
Croatia	0,08	0,98	0,16	0,57	0,12	0,09	0,96	0,08
Cyprus	0,10	0,17	0,21	0,94	0,90	0,28	0,43	0,69
Czechia	0,24	1	0,88	0,80	0,14	0,45	0,17	0,39
Denmark	0,94	1	0,53	0,34	0,91	0,90	0,87	1
Estonia	0,12	0,42	0,96	0,96	0,53	0,74	0,48	0,98

¹⁴ After the calibration, Netherlands had a value of 0,5 which was changed to 0,499 due to the lower share of journalists with university degree in journalism than the EU average. Although the country has a slightly above average share of journalists with university degree in general, we (theoretically) consider the degree in journalism as more important.

¹⁵ Due to the lack of data from the second wave, the data for Poland were calculated as an average result of Greece and Spain (based on the power relation domain clustering in Mellado et al., 2017), and the data for Slovakia was taken from the Worlds of Journalism Study (2023) third wave.

¹⁶ After the calibration, Latvia had a value of 0,5 which was changed to 0,499 as its original value was lower than the EU average.

Conditions								Outcome
Country	<i>marketstr</i>	<i>marketcon</i>	<i>psmautonomy</i>	<i>journfull</i>	<i>journedu</i>	<i>journskill</i>	<i>journmonit</i>	<i>medfree</i>
Finland	0,81	1	0,89	0,48	0,39	0,96	0,57	1
France	0,501	1	0,70	0,501	0,86	0,43	0,67	0,46
Germany	0,78	1	0,93	0,41	0,10	0,79	0,16	0,98
Greece	0,08	0,49	0,24	0,87	0,10	0,14	0,75	0,07
Hungary	0,11	0,26	0,04	0,19	0,07	0,04	0,21	0,03
Ireland	0,73	0,64	0,42	0,63	0,05	0,46	0,47	0,98
Italy	0,21	0,98	0,16	0,21	0,16	0,15	0,26	0,38
Latvia	0,06	0,32	0,84	0,85	0,54	0,65	0,499	0,83
Netherlands	0,64	0,99	0,86	0,04	0,499	0,81	0,04	0,99
Poland	0,09	1	0,06	0,501	0,63	0,17	0,84	0,08
Portugal	0,11	0,88	0,38	0,94	0,78	0,51	0,79	0,99
Romania	0,04	0,70	0,32	0,86	0,31	0,08	0,35	0,20
Slovakia	0,16	0,75	0,74	0,06	0,74	0,26	0,17	0,48
Spain	0,18	0,97	0,14	0,80	0,96	0,64	0,90	0,53
Sweden	0,90	1	0,95	0,41	0,29	0,90	0,88	1

Note: Due to the missing data for certain conditions, Lithuania, Luxembourg, Malta, and Slovenia were not included in the analysis.

ANALYSIS AND THE RESULTS

The analysis starts with determining the necessary, and proceeds with the presentation of sufficient conditions, both for the presence and absence of high levels of media freedom as the outcome. Following the recommendations by Ragin (2008), in the analysis of necessity we used a 0,9 consistency threshold, and a 0,6 coverage threshold suggested by Schneider (2019). No necessary conditions were found for the presence of media freedom, however the analysis showed two necessary conditions for the absence of media freedom – weak market structure, and the lack of skilled journalists (see Table 2). This indicates that low levels of media freedom do not occur without weakly developed media market and journalistic skills.

Table 2. Analysis of necessary conditions

Conditions	Outcome			
	<i>medfree</i>		<i>~medfree</i>	
	Consistency	Coverage	Consistency	Coverage
<i>marketstr</i>	0,58	0,97	0,24	0,25
<i>~marketstr</i>	0,55	0,53	0,97*	0,60*
<i>marketcon</i>	0,86	0,65	0,84	0,41
<i>~marketcon</i>	0,22	0,69	0,28	0,55
<i>psmautonomy</i>	0,75	0,85	0,42	0,30
<i>~psmautonomy</i>	0,39	0,51	0,80	0,67
<i>journfull</i>	0,62	0,67	0,69	0,47
<i>~journfull</i>	0,52	0,72	0,52	0,47
<i>journedu</i>	0,56	0,74	0,49	0,41
<i>~journedu</i>	0,56	0,63	0,69	0,50
<i>journskill</i>	0,74	0,96	0,33	0,27
<i>~journskill</i>	0,44	0,51	0,95*	0,70*
<i>journmonit</i>	0,57	0,68	0,67	0,50
<i>~journmonit</i>	0,57	0,73	0,57	0,46

Note:

~ denotes the absence of condition (or the outcome);
 * denotes the consistency and coverage values above the thresholds for the necessary conditions

In the standard analysis of sufficiency (for the presence of the outcome), for minimizing the truth table we used a 0,8 consistency threshold (a bit stricter than the minimum of 0,75 recommended by Ragin, 2008), and a 0,7 PRI consistency threshold suggested by Pappas and Woodside (2021). In the analysis of the absence of the outcome, we used minimal consistency (0,75) and PRI (0,5) thresholds suggested by Ragin (2008), to account for the lesser number of cases in the set of countries with the absence of high levels of media freedom.

In the analysis of sufficiency, the fsQCA produces the complex, parsimonious, and intermediate solutions. As Ragin (2008, p. 166) explains, “these different solutions are all supersets of the solution privileging complexity and subsets of the solution privileging parsimony”. Since complex solutions are often difficult to interpret in theoretically meaningful manner (Schneider & Wagemann, 2012, p. 277), here we present the parsimonious and intermediate solutions. Table 3 shows the parsimonious solution, but following Ragin (2008), in the discussion chapter we put more emphasis on the interpretation of intermediate solution presented in Table 4, as it is “the most interpretable and strikes a balance between

parsimony and complexity, based on a substantive and theoretical knowledge of the researcher” (Ragin, 2008, p. 175).

Table 3. Journalism conditions contributing to the presence or absence of media freedom (parsimonious solution)

Solution	Conditions							Outcome		Cases	Raw cover.	Unique cover.	Consistency	Solution cover.	Solution consist.
	marketstr	marketcon	psnautonomy	journfull	journedu	journskill	journmonit	medfree							
P1	●							●	AU, DK, SE, FI, DE, IE, NL	0,58	0,06	0,97			
P2						●		●	FI, DK, SE, NL, DE, BE, EE, LV, ES, AU, PT	0,74	0,22	0,96	0,80	0,95	
P3						●	●	●	HR, PL, GR, BG, FR	0,65	0,47	0,70	0,72	0,70	
P4		●			●			●	HU	0,25	0	0,66			
P5		●		●				●	HU	0,19	0	0,80			

Note: Black circles indicate the presence of condition or the outcome, while grey circles indicate their absence. Cases are represented with country abbreviations: AU-Austria, BE-Belgium, BG-Bulgaria, DE-Germany, DK-Denmark, EE-Estonia, ES-Spain, FI-Finland, FR-France, GR-Greece, HR-Croatia, HU-Hungary, IE-Ireland, LV-Latvia, NL-Netherlands, PL-Poland, PT-Portugal, and SE-Sweden

The parsimonious solution identified two paths leading to the presence of the outcome, i.e., the high levels of media freedom. In the first (P1), the strong market structure alone is related to high levels of media freedom in Austria, Denmark, Sweden, Finland, Germany, Ireland, and Netherlands. In the second (P2), covering Finland, Denmark, Sweden, Netherlands, Germany, Belgium, Estonia, Latvia, Spain, Austria, and Portugal, high levels of media freedom appear with high journalistic skills.

On the other hand, three paths were discovered that lead to the absence of the outcome, i.e., the low levels of media freedom. In the first (P3), the lack of skilled journalists, in combination with journalists adhering to the monitorial role, are related to low levels of media freedom in Croatia, Poland, Greece, Bulgaria, and France. The second (P4), observed only in Hungary, consists of low market concentration and low shares of university-educated journalists. The final (P5), again observed in Hungary, combines low market concentration and low shares of full-time journalists.

Table 4. Journalism conditions contributing to the presence or absence of media freedom (intermediate solution)

Solution	Conditions							Outcome	Cases	Raw cover.	Unique cover.	Consistency	Solution cover.	Solution consist.
	Marketstr	marketcon	psmautonomy	journfull	journedu	journskill	journmonit	medfree						
I1	●	●		●				●	IE	0,36	0,02	0,95	0,67	0,95
I2	●	●	●				●	●	SE, FI, DE, NL, AU, DK	0,49	0,10	0,98		
I3		●	●		●	●		●	BE, DK	0,38	0,03	0,97		
I4			●	●	●	●		●	LV, EE	0,33	0,03	0,97		
I5		●		●	●	●	●	●	ES, PT	0,33	0,03	0,93		
I6	●		●		●	●	●	●	HR, GR	0,44	0,03	0,81	0,65	0,83
I7	●	●	●				●	●	HR, PL, BG	0,56	0,15	0,81		
I8	●	●	●	●	●	●		●	HU	0,19	0,07	0,84		

Note: Black circles indicate the presence of condition or the outcome, while grey circles indicate their absence. Cases are represented with country abbreviations: AU-Austria, BE-Belgium, BG-Bulgaria, DE-Germany, DK-Denmark, EE-Estonia, ES-Spain, FI-Finland, GR-Greece, HR-Croatia, HU-Hungary, IE-Ireland, LV-Latvia, NL-Netherlands, PL-Poland, PT-Portugal, and SE-Sweden

The intermediate solution identified five paths leading to the presence of high levels of media freedom. In the first (I1), strong market structure, high market concentration, and high shares of full-time journalists relate to high levels of media freedom in Ireland. In the second (I2), high levels of media freedom are associated with strong market structure, high market concentration, high autonomy of PSM, and high journalistic skills. This path covers Sweden, Finland, Germany, Netherlands, Austria, and Denmark. The third (I3) is observed in Belgium and Denmark, and consists of high market concentration, high autonomy of PSM, high shares of university-educated journalists, and high journalistic skills. In the fourth path (I4), almost the same configuration of conditions from the third path (minus high market concentration, and plus high shares of full-time journalists) relates to high levels of media freedom in Latvia and Estonia. The final path (I5), observed in Spain and Portugal, combines high shares of full-time and university-educated journalists, high journalistic skills, and journalists adhering to the monitorial role.

Three paths were discovered that lead to the absence of the outcome. In the first one (I6), weak market structure, low autonomy of PSM, the lack of university-educated and skilled journalists, in combination with journalists adhering to the monitorial role, constitute a recipe for low levels of media freedom in Croatia

and Greece. In another path (I7), low levels of media freedom are associated with weak market structure, high market concentration, low autonomy of PSM, the lack of skilled journalists, and journalists adhering to the monitorial role. This path covers Croatia, Poland, and Bulgaria. Finally, weak market structure, low market concentration, low autonomy of PSM, and the lack of full-time, university-educated and skilled journalists lead to low levels of media freedom in Hungary (I8).

DISCUSSION

The aim of this analysis was to explore how macro-, meso-, and micro-levels of the journalism field, in a changing media environment, relate to various levels of media freedom. A strong media market structure, high journalistic skills, and journalists adhering to the monitorial role appear in both parsimonious and intermediate solutions, which indicates that they constitute the “core” conditions for media freedom (Pappas & Woodside, 2021). Furthermore, a weak market structure and the lack of skilled journalists appear as necessary conditions for the absence of the outcome, which additionally underpins their significance in relation to media freedom.

On the macro-level, strong media markets, with higher revenues for media organizations, should provide more resources for quality and investigative journalism. Loss of revenues during the economic crises caused a blow for the media autonomy by weakening working conditions for journalists, limiting the resources of newsrooms, and increasing the reliance on other sources of funding which might come with pressures on the autonomy (Price et al., 2023). In CEE, stronger media markets and higher advertising revenues attracted foreign media ownership, making them less dependent on local political influence compared to locally owned media organizations, which were more dominant in weaker media markets in the region (Salovaara & Juzefovics, 2012). There is the surprising role of media concentration in some paths explaining media freedom. Although media concentration is usually considered as having a negative association with media freedom, in this analysis in certain paths it appeared as positively associated. Previous research suggested a certain concentration in the media market could enhance media’s internal pluralism (Garz et al., 2023; Stühmeier, 2019). This is especially the case if it refers to concentration of audience to PSM.

On the meso-level, working conditions, indicated by the share of the full-time employed journalists, appeared in some paths explaining media freedom. The higher share of full-time employed journalists appeared in three paths explaining

higher levels of media freedom, which points to the important role of working conditions in ensuring media freedom.¹⁷

On the micro-level, an important factor associated with media freedom concerns journalistic skills. However, it is interesting to note the interplay of journalistic education and skills, which mostly appear together in paths explaining the outcome. There is a long-standing debate on the theoretical vs. the practical approaches to journalistic education (Örnebring & Mellado, 2018). While journalistic skills appear as a sufficient condition in almost all paths explaining both the presence and absence of media freedom, the role of university education is slightly ambiguous. High shares of university-educated journalists do not appear in the path covering the democratic-corporatist media systems (see I2 in Table 4), which can be explained by a stronger tradition of non-academic journalistic education in some countries (Hanitzsch et al., 2019, p. 93). While in most paths explaining the absence media freedom, the lower shares of university-educated journalists are usually followed by weaker journalistic skills. However, there are also exceptions. Some CEE countries have higher shares of university-educated journalists, but weakly developed journalistic skills. Although the university education seems to be associated with journalistic skills, the lack of education can be compensated with work experience when it comes to acquiring skills (and vice versa), as many journalistic skills are acquired with work experience (Willnat et al., 2013). On the other hand, weaker skills in countries with higher share of university-educated journalists might also mean that the working conditions may not be as supportive for the competencies acquired through formal education to develop in practice.

High shares of university-educated journalists do not appear consistently with journalists adhering to the monitorial role, which would be expected as journalism education is a place where “professional ideology” is acquired (Deuze, 2005). The monitorial role is the most accepted normative ideal for journalists around the world, strongly correlated with the level of democratization (Hanitzsch et al., 2019). In our analysis, the pronounced monitorial role appears only in the paths covered by the Mediterranean or CEE countries. This might seem contrary to the expectations of Hallin and Mancini’s (2004) model, which implies that the democratic-corporatist countries exhibit a greater importance of the watchdog role, while polarized-pluralist countries have more pronounced interventionist journalism. Although some countries (e.g., Denmark and Sweden) exhibit high acceptance of the monitorial role, this is not the case for all democratic-corporatist countries. Some of them have their peculiarities, where

¹⁷ However, it did not appear in paths covered by democratic-corporatist systems. Hanitzsch et al. (2019) discuss the shares of part-time and freelance journalists as being particularly high in some countries belonging to the democratic-corporatist model (e.g. The Netherlands).

a large share of journalists identifies with the role of educators (e.g. Germany, see Hanitzsch et al., 2019). These discrepancies could also be explained by types of watchdog roles, which can appear in either detached or interventionist form (Márquez-Ramírez et al., 2020). The detached watchdog role is more prevalent in journalistic cultures that value objectivity, while interventionist in polarized journalistic cultures or countries experiencing crises (Márquez-Ramírez et al., 2020). Therefore, the monitorial role appearing in paths covered by the Mediterranean or CEE countries might indicate the interventionist variant of the watchdog role. Another reason is that the acceptance of the monitorial role refers to the cognitive role and the way journalists perceive their profession ought to be performed (Hanitzsch et al., 2019), which can be different from practice, i.e., how journalists act in systems and institutions they are embedded in. Štětka and Örnebring (2013) point that investigative journalism in CEE fails to develop more strongly and serve the watchdog purpose due to weak media markets as well as the legal restrictions in some countries.

Although the fsQCA does not necessarily result in clustering of cases, the results imply that indicators from the journalism field and media freedom align the countries in clusters somewhat resembling the typology by Hallin and Mancini (2004). The liberal media system of Ireland stands out as a path of its own, consisting of a strong media market, high market concentration, and high share of full-time journalists. Countries like Austria, Denmark, Finland, Germany, Netherlands, and Sweden cover the same path which resembles the characteristics of the democratic-corporatist system – a strong media market, emphasized position of PSM, and developed journalistic skills. Portugal and Spain cover the path in which the strong market structure and the autonomy of PSM are absent, but where some elements of the journalism profession and culture are pronounced. In the polarized-pluralist media systems, with the later development of journalism profession, the university-educated journalists were more prevalent in the elite-oriented press (Hallin & Mancini, 2004). Two Baltic countries (Estonia and Latvia) are the only post-socialist countries belonging to the set of countries with high media freedom and cover a path of their own – with high autonomy of PSM, high shares of full-time and university-educated journalists, and developed journalistic skills. In the previous analyses, Estonia (and in some cases Latvia) was placed in a hybrid (Humprecht et al., 2022), “mainstream” (Peruško et al., 2013), or the northern CEE model (Castro Herrero et al., 2017), sharing the characteristics of democratic-corporatist and polarized-pluralist model. The Baltic countries have been influenced by the “neighbor effect”, i.e., the transfer of media policies, journalistic practices, and investment by the Scandinavian media systems (Balčytienė, 2009; Salovaara & Juzefovics, 2012). Greece, a polarized-pluralist country (according to Hallin & Mancini, 2004), seems to group with other post-socialist countries and newer

EU member states. Hungary appears alone in a solution path, with especially low levels of media freedom and unfavorable conditions from the journalism field. The initial expectation was that the new CEE democracies would all fit into the polarized-pluralist model due to being the most politically polarized and having the lowest levels of journalism professionalization (Peruško et al., 2021, p. 4). This analysis shows disparities among CEE media systems, with very distinct structures of the journalism field and levels of media freedom.

CONCLUSIONS

The results suggest that media freedom is most associated both with the macro-level elements from the journalism field (external structural factors, such as the development of the media market), and the micro-level, internal factors, such as the journalistic skills and the monitorial role of journalists. Based on the results, we can hypothesize about the role journalism as an institution has across media systems regarding media freedom. As macro-factors such as the strong media market are the core factor in explaining the relationship between journalism and media freedom, we assume that the structural environment in which journalism is practiced is crucial for media freedom to evolve. This can lead to expectation that media policies aiming at strengthening the economic position of journalism are also the ones aimed at enhancing media freedom (in its positive form, Karppinen, 2016).

Some unexpected or surprising results call for further research. For example, although the media concentration is usually considered as having a negative association with media freedom, in this analysis in certain paths it appeared as positively associated with media freedom. The higher monitorial role appearing in paths covering the CEE and Mediterranean countries calls for further research of the interplay of journalistic roles and media freedom. The results also point to the need for a nuanced analysis of the interplay between journalistic education, theoretical knowledge, and practical skills, and their contribution to journalism profession in future research. Finally, some path solutions resemble the typology of media systems described by Hallin and Mancini (2004), i.e., the clustering of the democratic-corporatist and polarized-pluralist countries, as well as the unique path of “liberal” Ireland. It also partly confirms some recent empirical analyses of media systems (cf. Castro Herrero et al., 2017; Humprecht et al., 2022; Peruško et al., 2013). This suggests that future theoretical models and empirical conceptualizations should address variables from the journalism field and media freedom in comparative analyses of media systems.

This study has several methodological and empirical limitations. The first is its reliance solely on quantitative data. Although the fsQCA combines qualitative

and quantitative approaches, we put more emphasis on quantitative data and less on the in-depth qualitative analysis of cases. There are also limitations concerning the data sources. As already mentioned, media freedom indices are sometimes criticized as being subjective. A similar critique could also be pointed out for the EMSS data (for the autonomy of PSM and journalistic skills), which are based on the evaluations of national experts. Since the fsQCA results are sensitive to study design, another potential limitation derives from our decisions when defining the thresholds for set membership. Although the fsQCA is often used to determine causal relationships, in this study we can speak only of associations. And finally, this study could also be critiqued that it focuses on the static point in time, hence not accounting for the media systems change.

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Press Freedom and Freedom of Expression in Estonia and Latvia: The Role of Agents

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Abstract: Editorial independence and freedom of expression are not self-evident in 21st century European Union. Although the Press Freedom Index monitors the situation on a yearly basis, we ask in the context of two Baltic states – Estonia and Latvia, what the improvement of Latvia's ranking and deterioration of Estonia's tells us about freedom of press (FoP) and freedom of expression (FoE) in these two countries. As we differentiate between FoP and FoE in the current article, our aim is to evaluate who the agents are that play a key role in ensuring both. The main objective of this article is to propose an agent-oriented approach for the assessment of the trends concerning the practices of FoE and press freedom in Estonia and Latvia. The approach includes case research method that enables us to reveal the pressure mechanisms that are related to various agents. The study focuses on cases that put pressure on media freedom as well as those that are more related to restrictions concerning FoE: Strategic Lawsuit Against Public Participation (SLAPP) and whistleblowing. We conclude that cases from Estonia and Latvia illustrate how the actions and non-actions from individual and institutional agents could have detrimental effect on both the FoE and of the press, even when the highest court instances and legal frameworks are generally supportive of these freedoms.

Keywords: freedom of expression; freedom of the press; agent-oriented approach; case analysis; Estonia; Latvia.

INTRODUCTION

In the second decade of the 21st century, the European Union is faced with the situation where the editorial independence of news media and the freedom of expression are being questioned. The various forms of pressure on the news media and people who express critical opinion are developing in small steps – through unnoticed changes in the law or through new interpretations of existing laws. With this article we first propose a methodology that allows us to reveal the agent-related pressure mechanisms and potential risks concerning both freedom of the press (henceforth FoP) and freedom of expression or speech (henceforth FoE). Second, we compare the diachronic development of both FoP and FoE in two Baltic countries – Estonia and Latvia.

Legal methods (any that include using norms and inferences in the legal domain, (Herrán, 2023) generally concern sources of law and methods of interpretation (Edwarsson & Wockelberg, 2013: 364, 365). The traditional approach to the FoE primarily assesses the legal environment in the country, asking whether the law adequately supports FoE and how the law is interpreted by assorted legal actors.

In this study, we argue that the FoE and FoP are on daily bases applied by many other actors who are neither lawmakers nor lawyers, such as journalists, media owners, bureaucrats, whistleblowers and media prosumers, etc. The activities of these agents lead to potential opportunities to restrict FoP and FoE, but also to counter-reactions to attempts of (potential) restrictions. Therefore, we would like to add the perspective of social science and ask about the role of various agents who either enhance or diminish the protection granted for FoE. We call it ‘the agent-oriented approach’, which includes the case study method. Margaret Archer’s theoretical model of morphogenic society (Archer, 2010, 2013, 2015, 2017, 2020) was used here to understand the role of particular agents. In brief, the outcome of interactions between the agents could be either a change or transformation in the structural and legal framework that Archer calls morphogenesis or reproduction of the structural and legal framework, which she named morphostasis. Primary agents are those whose actions reproduce the existing condition (uphold the existing legal framework, understandings, practices etc). Corporate Agents are those whose actions result in transformation of the existing structure. By adopting this theoretical approach, we could group all the agents into two groups: primary agents – judges, journalists, some lawyers, media experts – and corporate agents – politicians (both, far-right and corrupt), businessmen, prosecutors.

In assessing FoE and FoP in a comparative perspective, two dimensions must be considered: one is the change in the degree of freedom in each country over time. The second dimension is the implementation of existing laws of certain country compared to others. The European Court of Human Rights (ECtHR)

is the ultimate arbiter of human rights matters in Europe, and that includes respect for FoE. However, a persistent trend of clear shortcomings in national legal frameworks for the protection of FoE can be noticed. A growing number of ‘strategic lawsuits against public participation’ (SLAPP cases, for short) as well as the growing number of frivolous and vexatious lawsuits against journalist was reported in various countries (Council of Europe (2022.2)).

While the “Freedom of Expression in 2021” (Council of Europe (2022.2)) report points out the countries and aspects of increasing risks as well as progress, Estonia and Latvia are not mentioned – it is likely that changes in both countries can be described as tendencies, there are clearly no prominent symptoms of risks or progress. In the Estonian case, we can see temporal and slow tendencies happening in access to information, where restrictions are being implemented more and more to limit the access to public documents (Pild et al., 2022). There are to our knowledge no similar reports in Estonia and Latvia concerning FoP or FoE. Another area where the legislation is designed to improve the FoE is the protection of whistleblowers. However, in this article we ask about the implementation practice in small societies as Estonia and Latvia. Should it be considered that in small societies it is possible to work out the identity of the whistleblower? Although the following is a matter of discussion agreements and culture, it is not exactly the law.

The change in the situation of FoP is indirectly monitored through the World Press Freedom Index, which is updated annually. Estonia ranked 4th in the world in 2022 and 8th in 2023, while Latvia was 22nd and 16th in 2023 (RSF..., n.d.). Since the beginning of the 21st century the World Press Freedom has ranked Estonia among the 10 most free countries in the world. In 2020, ranking fell to 14th place for just one year. This was due to the owner of the daily newspaper *Postimees* interfering in staffing policy. The situation in Latvia has improved since gaining 50th place in the 2011/2012 (RSF..., n.d.), which was a low point because during the first decade of the century Latvia’s ranking had hovered between 10th and 16th. The dramatic fall to 30th rank in 2009 and 50th in both 2010 and 2011/2012 was due to the structural transformation of the Latvian media environment caused by the sale of *Diena* newspaper to Latvia’s oligarchs. Several other events related to restrictions on FoE took place during this period, such as the search of the residence of Latvian Television journalist Ilze Nagla (this will be further analysed as a separate case of violation of FoE).

Does the improvement in ranking reflect that the situation in other countries has deteriorated or has the situation in Latvia become better? Is the 16th or 22nd place in the Index actually a big difference from the top 10 countries? If yes, then what factors can be found behind the statistics? What is the qualitative difference in both countries at the time where increasing populist strategies and tactics of political communication create a risk of subverting both freedoms?

As Kenny (2020, p. 267) argues there is a difference between the public perception of FoP (as the autonomy of the media from political interference) and FoE (as an individual freedom to express one's own views without fear of sanction).

To answer these questions, we need a methodology for monitoring FoP and FoE, which allows us to analyse possible barriers to the implementation of freedom of the press and expression and to detect the tendencies. Therefore, this article focuses on the question of which actors, with which agencies, influence the balance between freedom and restrictions.

DISTINCTION BETWEEN THE (INSTITUTIONAL) FREEDOM OF THE PRESS AND INDIVIDUALS' FREEDOM OF EXPRESSION

In the context of the current article, it is important to distinguish FoP and FoE. The former is institutional while the latter is an individual right. Press freedom safeguards editorial independence, while FoE should enable individual journalists as well as lay members of society to express their opinion and deliver information freely. The close reading of the EU policy documents also reveals this distinction: ECHR Article 19 is about *FoE*, the European Media Freedom Act aims to safeguard the independence and pluralism of media institution and journalists. However, in the context of the present study it is important to point out the difference concerning the actors. In 2006 (12 years before the GDPR) Fenwick and Phillipson, note that:

Strasbourg Court often talks about information that “the public has a right to receive”... the values the Strasbourg Court are concerned with are *audience* based, rather than speaker-based – it would follow naturally that the Court would be principally concerned with *media freedom*, not individual FoE. This follows logically from the pragmatic stance of the Court – expression is valued for its contribution to the democratic process, both in watchdog and educational terms. (Fenwick and Phillipson 2006, p. 68).

Mike Annany (2018, p. 39, 40) highlights an additional dimension – the public has the right to hear, and the press can provide citizens' common listening experience. There is the argument that the institutional freedom of press (provided that it serves the public interest to be informed) has been traditionally better protected than an individual's freedom to speak. This argument became even more visible since the key case at the ECtHR in 1996 of 'Goodwin v. United Kingdom' concerning journalistic protection of sources. Still, whistleblowing protection was passed only in 2019 and entered into force on 16 December 2019.

By 2023 the transposition process is still ongoing in Estonia, and Latvia implemented the law in 2022.

However, the concept of whistleblowing includes controversial values and loyalties (e.g., loyalty to the employer versus loyalty to the public interest) (Kleinig 2014). Santoro and Kumar (2018, p. 38) define the concept of whistleblowing via five constitutional elements: “the public nature of the disclosure, the role of the agent, the confidential nature and content of the disclosure, and its significance for the public interest”. The core idea of the whistleblowing protection lies in the question of how the whistleblower is required to disclose the information. However, a whistleblower must consider several factors for gaining legal protection. Protection cannot be obtained by knowingly providing false information and a penalty is foreseen for this. The Directive follows the three-tiered model of reporting: internal (workplace of the whistleblower), external (authorities outside of the workplace) and public channels (media)”. Abazi’s critical views on the barriers of implementation of should be taken seriously:

Firstly, a person may publicly report the information only if she has tried other internal and external channels and they did not lead to appropriate action. Secondly, a public channel is permissible only if a whistleblower has grounds to believe that the breach may constitute an imminent or manifest danger to the public interest, such as where there is an emergency situation or a risk of irreversible damage, a risk of retaliation, or little prospect of the breach being effectively addressed due to the particular circumstances of the case, such that evidence may be concealed or destroyed or that an authority is in collusion with the perpetrator of the breach or involved in the breach. These additional conditions for public reporting thwart whistleblowers from directly reporting to the media and it remains to be seen how stringently the EU courts will interpret this provision. It can be suggested that a reading in line with FoE and the case law of the ECtHR should guide EU courts in future cases. (Abzari 2020, p. 49)

The whistleblower shall, when reporting a breach, ensure that it is carried out in accordance with all these requirements. Hence, the question of whether the whistleblower’s directive would increase the FoE and transparency in society will depend on the organizational culture and the attitudes towards critical opinion and loyalty obligations in society.

However, a journalist could enjoy the better protection of *FoP* if they have a job at a large media organisation and that organization protects its employees – the media organisation has the legal and economic resources to conduct litigation because of whatever is published. Freelance journalists and individuals

from a wide range of organizations are significantly less protected in litigation of SLAPP cases.

The term SLAPP (Strategic Lawsuits Against Public Participation) was coined by George W. Pring and Penelope Canan in the 1980s (Verza, n.d.). According to Sofia Verza (n.d.), US legal experts see SLAPP as different from a “normal” attack on FoE or media in that SLAPP’s goal is to completely silence critics by intimidating them and draining their resources. SLAPPs can be recognized by the large disparity between the power and available resources of the plaintiff and the defendant.

All SLAPPs can be recognized by the fact that cases are filed and journalists or their workplaces are involved in protracted litigation, which usually ends without a result. Furthermore, SLAPP activities have a dissuasive effect, in that they are intended to limit the work of critical mass media, targeting them with demands to pay large compensations for what is published and depleting their resources with the need to engage in expensive lawsuits (Borg, 2021). The large sums of money demanded from journalists and their employers silence journalists, keep them silent about the cases that are brought, and in time they may also lose the support of their employers because the fight in the courts requires too many resources.

In July 2023, the European Parliament provided a list of most vulnerable agents: “Journalists, media organisations, activists, academics, artists and researchers” (Europarl 2023.23.11), as well as proposed initiatives against SLAPP. The problem of SLAPP is its “liquid” nature, as they can take many forms. The allegations most typically relate to defamation, but they may relate to breaches of other rules or rights (e.g. data protection)” (Roadmap, 2021, EC, n.d.).

To reveal the nature of this problem, it is important to ask who it is that initiates SLAPP cases, and who are or should be accountable for protecting and balancing the FoE against individual rights?

METHODOLOGY: CASES AND ANALYSIS OF INTERACTION BETWEEN INVOLVED AGENTS

As stated in the introduction, we claim that protection of FoP and FoE needs a new monitoring methodology that enables society to collect information and carry out analysis to reveal the diachronic tendencies concerning the implementation of both freedoms.

Initially, the analysis should consist of four levels. First, the laws that are in force and the analysis of these changes (involving descriptive research methodology). Secondly, jurisprudence – legal disputes and judgments of both the ECtHR as well as national courts and other organisations with authority to make

discretionary decisions (qualitative legal research with the aim of finding relevant legal precedents and principles). Thirdly, cases where there is a public dispute between agents over the interpretation of restrictions on FoE but which in some cases do not reach the court. There is also a possible fourth level that would require specific research methods and access to relevant information: cases that are solved within organizations but are never revealed to the public.

The measurement criteria for the first component are traditional: whether the freedom is legally guaranteed and if the restrictions of freedom are prescribed by law, and what kind of safeguards exist against the abuse of laws that restrict the freedoms? Each change in the legal environment should be assessed by answering the question: how the change influences the balance between the freedom and the restrictions? As previously stated, this kind of monitoring is missing in Estonia as well as in Latvia.

The second component needs special analysis of the case law, which provides answers to the questions concerning how the interpretations of the courts have been changing over time. While there are plenty of studies concerning the ECtHR case law concerning Article 10 (and 8), there is not any systematic analysis concerning Latvian and Estonian case law.

The third component needs case study research (Yin, 2018; Gerring, 2017) of the public discourse. The qualitative analysis enables scholars to carry out analysis that focuses on finding and recording relevant cases (make a summary of the dispute between agents and identifying the various issues that are covered by the agents), identifying the parties and their agency, interaction, and reaction. What arguments are used in public debates? The analysis provides answers to the question about the sensitivity of agents concerning the FoE and FoP. The selection and collection of cases can be approached differently, depending on the aim of the study.

In this study, we have been collecting cases that can be characterised as media scandals or intensive coverage of a topic that have created a certain “attention wave” (Paimre and Harro-Loit, 2018). In the case of such intensive media coverage, it is important that the longer the media attention stays on the subject, the more voices with distinct agency are involved. This allows the analyst to follow the debate and the arguments. The in-depth analysis of each case requires a quantitative mapping of the publications and a range of voices (who talks about what and in which channel). For this study we did not carry out quantitative analysis of the cases, but focused on a qualitative, agent-oriented approach which pays attention to the various actors, their role in the cases and maps the main discourses and “voices”.

We chose four recent cases from Estonia and three cases from Latvia. We selected only those cases which were covered by several media channels and the topic was on the agenda longer than a week. These cases revealed the changes in public

discourse and the views of many stakeholders concerning FoE or FoP. The descriptions of the cases were based on the media coverage available on them, which enabled us to explore in depth the public argumentations on the matters as well as sequence of the events. The selection of the cases was done by the authors and the aim was to demonstrate the complexity of pressure mechanisms in relation to the FoP and FoE, specifically in relation to whistleblowing. Whistleblowing is represented by two cases from Estonia – these two cases demonstrate how complicated is the situation in a small country like Estonia and how different is the situation concerning the FoP and the FoE in Estonia. We did not select any SLAPP cases, but the phenomena are addressed in the chapter about the changes of the legal environment in Estonia.

THE CURRENT LEGISLATIVE ENVIRONMENT OF FREEDOM OF EXPRESSION AND PRESS FREEDOM IN ESTONIA

The legislative environment concerning FoE has been liberal and supportive of FoE in Estonia since the 1990s. Defamation of honour was decriminalised in Estonia in 2000 when the Law of Obligations Act was passed. The Act regulates defamation and the general protection to privacy (Articles 1046 and 1097). Private data protection is regulated by the Personal Data Act brought into conformity with GDPR. In Estonia, journalists and journalism (in addition to source protection and broadcasting) have only one special regulation: Art. 4 of the Personal Data Protection Act, in exceptional cases, where there is a high public interest, allows the processing of personal data for journalistic purposes without consent.

The court practice (case law) has a strong influence on legal interpretation of FoP. In the 1990s, Estonian courts afforded a remarkably high level of protection to FoP (Harro, 1996). Two of the decisions of the Estonian Supreme Court, related to the media, have reached the European Court of Human Rights (Tammer versus Estonia 2001, and Delfi versus Estonia 2013). In both judgments, the judgement of the Supreme Court of Estonia remained valid, whereas the quality of the judgments is indicated by the preservation of the arguments of the Supreme Court of Estonia in the final judgement. In the case of the Delfi v. Estonia, the solution has been criticised, as if to restrict FoE. However, because of the precise reading of the solution, it can be said that Delfi was criticised rather for its lack of editorial vigilance, and the important fact was that the comments on the news contained elements of hate speech.

Since 2019, there has been increasing pressure against FoP and FoE from politicians. For example, in March 2019 the vice-chair of EKRE (ultra-right populist party) Martin Helme, who at that time was the member of the board of the public broadcaster ERR, asked his fellow board members to sanction

ERR employees who criticised his party (ERR 2019.28.03). In 2019 the owner of Estonia's oldest daily *Postimees* interfered in the work of journalism and personnel policy (Beltadze, 2019). It should be taken into consideration that the journalistic job market in Estonia is very small and interference into personnel policy is therefore a serious threat to journalistic autonomy and FoP.

Cases of SLAPP have been increasing in the EU during the second decade of the 21st century and has also occurred in Estonia. Also, lawyers experienced in the area admit that news organisations are getting an increasing number of threats (Alaküla, 2022) but Estonia does not have a sufficiently efficient system that enables it to collect the number of cases where media organisations and journalists were sued but won the case.

The lead journalist of the investigative journalism group at *Eesti Ekspress* explains:

Anyone who want can sue journalists for their professional work or threaten somehow and all this is a waste of time. The time we should deal with the research of and publishing the articles, not waste our time under legal disputes where there is no substantive basis? If there is a legitimate legal dispute, of course we have to be sued and we have to take responsibility. Unfortunately, within recent years, we are increasingly exposed to the court actions and threats are unfounded. Therefore, a significant part of the time, sometimes even before publication, during publication and of course after the publication, goes to legal fights. (Lauk et al., 2022).

An investigative journalist at *Eesti Ekspress* admitted that too many lawsuits have the effect of creating self-censorship. Especially if a journalist is personally sued.

The most important thing for me is that I'm in SLAPP cases I am involved personally, my name is on the public list of hearings (...) That's particularly stupid, because the legal debate is not about the facts. I'm involved in a legal dispute. I even do not understand what my possible wrongdoing could be. (Eesti Ekspress, investigative journalist)

It is important to note here that Estonian legal environment enables to sue of either organisation or person, which depends on the plaintiff (Lauk et al., 2022).

From 2019 onwards, articles began to appear in Estonian media outlets, asking whether the Republic of Estonia should ban Russian propaganda channels (e.g., Mihelson, 2019.13.08, Raudsik, 2020, Ranne, 2021)? Until the official start of the Ukrainian war on 24 February 2022, Estonia had the most lenient regulations regarding Russian propaganda channels, in the Baltic states. In the

public debate on the banning of those channels, the idea proposed and discussed considered whether these channels should only be pay-per-view channels that are not offered as part of a broadcast package (Loonurm & Luhats, 2022.08.02). Finally, after several debates on the legal possibilities to ban Russian propaganda channels in Estonia, amendments to the Media Services Act were passed and the new regulation entered into force on 9 March 2022.

THE CURRENT LEGISLATIVE ENVIRONMENT OF FREEDOM OF EXPRESSION AND PRESS FREEDOM IN LATVIA

Freedom of expression is included in Constitutional Law in Latvia; it is clearly defined in accordance with international human rights standards. The restrictions to FoE, which address privacy protection issues, are proportional to the legitimate aim pursued.

Latvian media regulation is liberal, it emphasises the freedom of the press and assumes that the state protects it. The Law on The Press and Other Mass Media (published in Latvijas Republikas augstākās Padomes un Valdības ziņotājs, 6/6, 14.02.1991, see Supreme Council of the Republic of Latvia, 1990)) defines FoP as the main basis for the activities of the media, including the basic principles of the establishment and operation of the media organisations, the rights, and obligations of journalists, protecting sources of information of journalists. This law was created even before independence, in the very end of 1990, and reflects the ideals of Gorbachev's glasnost. It is outdated, and its conditions do not reflect the diversity and complexity of the modern media environment; however, it has yet to be renewed.

This is one of the laws reflecting terminological inconsistency, which has led to the fact that in Latvian media regulation, modern norms coexist with designations that are closer to instrumental media understanding, such as "broadcasting means". Thus, these words are not in accordance with modern understanding, according to systems theory (Luhmann, 1996), that media is one of the separated subsystems of society. In political public communication, these words also reflect the understanding of media and FoE, which is related to efforts to limit media freedom, subjecting it to current political or "state" interests. This also determines that in Latvia there exists a professional or modern, conservative or post-Soviet and instrumental journalistic culture (Dimants, 2019), which characterised by the use of the media to advance either or both political and economic interests, clientelism in the relations between the journalists and their sources.

In mid-2011, Section 16 of the Law on The Press and Other Mass Media was amended to ensure the need to emphasise media freedom: "An editor (editor-in-chief), when performing his or her duties, shall be editorially independent."

On the one hand, the addendum clearly accentuates independence of the media editor, on the other hand, it is declarative, as it does not provide the protection of editorial independence in the case of a conflict. At the same time, the law imposes a duty on journalists to provide truthful information and respect the rights and legitimate interests of the state and stipulates that a journalist is responsible for information published, which insults the honour and dignity of a person.

Defamation is still criminalised in Latvia. Article 157, Part 2 of the Criminal Law stipulates that defamation in mass media is punishable by temporary deprivation of liberty or by probation supervision, or by community service, or by a fine (Latvijas Vēstnesis, 199/200, 08.07.1998.). Criminal liability for defamation refers to the author. In this case, the editor-in-chief's responsibility for the content of the published material does not apply.

Analysis of media regulation prepared for the Latvian Media Ethics Council by Sorainen Law Office (Tauriņš et.al., 2020) identifies that in the Latvian legal framework, the interpretation of the concept of a journalist corresponds to the institutional approach rather than the functional one, thus unreasonably narrowing and simplifying the scope of the concept.

Protection of journalistic sources is regulated by Article 22 of the Law on the Press and Other Mass Media. The right not to disclose the source of the information is not absolute and is subject to restrictions. To protect the essential interests of an individual or society, only a court may instruct a media journalist or editor to indicate the source of the information published.

It must be noted that the general context for the development of the system of media freedom related law system significantly improved after release of first National Media Policy Guidelines in 2016 (Cabinet of Ministers, 2016). This followed the elaboration of the institutional infrastructure – creation of Media Support Fund that fostered editorial autonomy and transparency as well as establishment of the Council of Media Ethics (in 2018), and PSM ombudsperson (in 2022) in the context of ongoing reform of PSM.

Latvia is one of the first countries that has transposed the EU Whistleblowing Directive (Directive 2019/1937), followed by adoption of new Whistleblowing Law, which entered into force in 2022 (Latvijas Vēstnesis, 2022/24B.1).

POLITICAL PRESSURE AGAINST PRESS FREEDOM IN ESTONIA: OVERVIEW OF THE KEY-CASES

CORRUPTION CASE OF THE MINISTRY OF EDUCATION AND RESEARCH

In 2020, the Estonian daily newspaper *Õhtuleht* published an investigative article revealing the minister of education and research had been using the ministry's chauffeur driven car to take her kids to school and kindergarten over a long period (Kuznetsov et al., 2020.17.11). This was followed by further public allegations of misuses of finances (Mihelson et al., 2020.22.12) and possible embezzlement (Berendson, 2021). The corruption case is currently still in court (Mihelson, 2022.07.01) with no estimate of the end of court hearing.

An interesting aspect about this case was that the ministry of justice tried to act against the newspaper. *Õhtuleht* revealed that the minister of justice had asked the prosecutor's office to evaluate the work of *Õhtuleht's* journalist because he believed there were signs of private surveillance which is an offence against liberty under the Penal Code of Estonia (§ 137) (Riik, 2020a). Several stakeholders including Estonian Association of Journalists (Paju, 2020a.21.11) and Estonian Association of Media Enterprises condemned the actions of minister of justice for attacking Estonian FoP and the inaction of the prime minister who stayed silent about the actions of minister of justice (*Õhtuleht* (2020.23.11)). Minister of justice then backed down and stated that they had not attacked the FoP (Riik, 2020b). Since the communication between the minister of justice and the public prosecutor was not documented, there was nothing to publish under the Public Information Act (Riik, 2020c).

In addition to the ministry of justice, the journalists were also put under pressure by some media experts due to potential unethical conduct. To prove the abuse of the official car of the minister, the newspaper published a photo in which the children of the minister were exiting the car. The publication of the photo was criticized by various experts in the press community and politicians, some of the criticism was published before the journalists had a chance to explain their reasoning. For example, the journalism ethics ombudsman of the Estonian Public Broadcasting said: "Currently, children are unnecessarily and unethically drawn into this matter by *Õhtuleht*" (Roosve, 2020). Later journalists covering this corruption case published extended explanations about their moral reasoning for publishing the concerned photo: that the photo was taken from a distance, the faces were blurred, and that the minister had repeatedly exhibited her children in the media.

It was also revealed that several officials of the ministry knew for years of the minister's actions and understood that they were wrong. They had remained silent until journalists began to investigate the activities of the minister. We can

draw from here the question of how applicable the FoE is for officials. If there was no freedom of the press and the journalists who represent it, the corruption in the ministry that has probably lasted for years would have been still going on.

The large-scale public debate between politicians, journalists, public servants, media experts and various press organisations highlighted, that freedom of the press is no longer self-evident for the assorted agents in Estonia – even in the case of a clear high-level corruption. However, by the end of the debate the public discourse was dominated by the opinion that the public must know about corruption and that it is the duty of journalists to publish such material.

However, this case represents a change in the attitudes of politicians in Estonia. According to the cases collected by the authors of this article, this was first case since the 1990s that politicians dared to attack journalists exposing corruption in systematically proven investigative articles. However, this case illustrates that news journalism, even under pressure, still can protect its independence and the public debate helps to support the value of media freedom.

NO HAPPY END FOR WHISTLE-BLOWERS IN ESTONIA

The value of keeping citizens informed is accepted in public but whistleblowing as a civic duty is not recognized by Estonian organizations. Most organizations in Estonia set loyalty to the organization and the aim to protect the reputation of the organization as the primary priority (e.g., the draft of the Code of Good Conduct of officials). In other words, the value of workplace loyalty overrides freedom of critical speech. While whistleblowing is often viewed as an archetypal form of organizational dis-loyalty (Kleinig, 2014, p. 190), the notion of the publics' right to know seems to be diminishing its protective power in Estonia.

The next two cases reveal that even if the whistleblowing is justified (the topic concerning high public interest, the whistle-blower tried to use internal communication etc.) the final consequences for the whistleblower were detrimental. Therefore, fearless speech that discloses misdeeds in organizations is not protected in Estonia.

CASE 1: WHISTLE-BLOWER FROM THE HEALTH BOARD

In December 2020 journalistic TV magazine *Kuu-uuriija* (*Investigator of the Moon*) ran an interview with an anonymous high-level health official who revealed the state did not have a plan for vaccination against coronavirus that should be put in action already in January for the high-risk groups (Postimees 2020.20.12)). According to the official, the state had neither sufficient needle for the vaccination program nor refrigerators for storing the vaccines (Postimees 2020.20.12).

Two days later *Postimees* revealed the communication manager for the health board was fired due to his appearance on *Kuu-uuri* as he was quickly identified as the whistle-blower (Möttus-Leppik, 2020.22.12). The situation faced a backlash for breaching of FoE from Estonian Association of Journalists (Õhtuleht, 2020.22.12) and from the day investigative journalist of *Pealtnägija* (Estonian National Broadcasting) (Paju, 2020b.22.12). The director of the Health Board emphasised the whistle-blower did not approach him and admitted that the national vaccination program needed some preparations (Hussar, 2020.22.12). It was never revealed who helped to identify the whistleblower as all parties decided to remain silent (Pau, 2020.30.12).

The state did not have a vaccination plan, and the case of the whistleblower from the Health Board was a message for public servants: do not express your critical opinion in public media channels. No-one could say that the issue was not an urgent public interest. However, the saga itself illustrated that Estonia had problems concerning critical discussions.

CASE 2: WHISTLEBLOWER FROM A UNIVERSITY

In August 2019, a whistleblower revealed that some research grant money received from the European Commission by the Ragnar Nurkse Institute of Tallinn University of Technology was paid to people who were not really working on the project. The whistle-blower tried to pay attention to the problem within the university, but he was silenced. He spoke to his boss, who forbade him from calling the case a crime. After that, he spoke to the head of the department, who stated that this was a hoax, but refused to mention it publicly. In addition, the whistle-blower spoke to the head of the human resources department, who knew what was going on, but had told him that if he did not like it, he could leave (Palgi 2020.09.01). The whistleblower then contacted the rector of Tallinn University of Technology, who thought that it was essentially corruption and promised to deal with it, but the whistle-blower did not notice any changes and received no feedback. Then the whistleblower contacted the journalists.

This case was covered by all the Estonian daily newspapers. The journalists pointed out that the internal investigation of the Tallinn University of Technology did not contain errors. In this case, too, the role of the press and journalists in informing the public and amplifying the whistleblower's voice was clearly distinguished. As has been said – until the journalists escalated the misuse of funds into media scandal, the university denied any misuse of money. During the scandal in 2019, the prosecutor's office started an investigation of potential benefit fraud but in 2021 decided not to bring any charges against the university (ERR 2021.24.06).

NEW ACTORS PROVIDE PRESSURE IN ESTONIA: PROSECUTORS

THE PUBLIC PROSECUTOR'S OFFICE FINED JOURNALISTS PERSONALLY

The Public Prosecutor's Office asked Harju County Court to fine Sulev Vedler, Tarmo Vahter and their employer Delfi Media AS for publishing an article in *Eesti Ekspress* on 25 March 2022 that covered the investigation of alleged money laundering in Swedbank without the permission of the prosecutor's office. Among other things, the names of the suspects in the article were disclosed (Vedler, 2022.04.05). The case elicited many surprised responses from the experts who emphasised the dangers related to fining journalists personally (e.g., Eesti Päevaleht (2022.04.05; ERR, 2022.05.05; Nõmper, 2022.05.05; Ginter, 2022; Põlluste, 2022).

The county court fined journalists and the owner of the publication each with 1000 euros. But the Tallinn District Court annulled the ruling of the county court and explained that although the law required the permission of the prosecutor's office to publish information concerning pre-trial proceedings, the imposition of a fine was not justified. The lack of justification was because the publication of the article did not damage the investigation of the criminal matter (ERR 2022.14.06). The Supreme Court agreed with the conclusion of Tallinn District Court in the ruling, but explained further when the permission of the prosecutor's office is required for publication of the data and when a fine may be imposed on the violator of the prohibition on publication (Delfi, 2023.31.03).

All stages of, and the parties, to the case agreed that the Code of Criminal Procedure in principle allows for fines to be imposed on journalists for unauthorised publication of information concerning pre-trial proceedings in criminal matters – both the wording of the Act and the explanatory memorandum refer to this. Similarly, according to the case-law of the European Court of Human Rights, such punishment of journalists is not contrary to the principle of FoE (Delfi, 2023.31.03).

The Supreme Court noted, however, that the prosecutor's office must not act arbitrarily when granting or refusing permission to publish information but must consider both the interest of the public in obtaining information and the need to solve a criminal offence and protect the interests of the people or companies affected by the information. It is also possible to challenge the refusal of the Prosecutor's Office in court. The requirement for the permission of a prosecutor's office does not extend to information received by a person regardless of criminal proceedings – for example, by witnessing a criminal offence themselves. Similarly, the threat of a fine does not include cases where the victim tells their loved ones about a crime committed against them after interrogation (Delfi, 2023.31.03).

This case illustrates the important role of the Supreme Court as a protector of the FoP. Since the case turned into a media scandal and had been under the media's attention for a long time, representatives of various expert groups, including lawyers and former judges, took the floor. In the debate, it appeared that the lawyers had arguments between themselves, for example, about how the public interest is defined and who can define it. Journalists noted that the prosecutor's office was trying to unilaterally define which information is of high public interest status and argued that this function must remain with the press. In general, the public debate helped to protect the FoP in Estonia.

All four cases illustrate the importance of these agents and the special role of journalists as independent agents who stand for transparency. They also illustrate how the Supreme Court, in general, is the central agent of defence for FoP. However, as we look further down towards the grassroots level, there are several agents that do not take either FoP or FoE for granted, and infringe upon these freedoms with their actions, interpretations, and decisions.

An important agent in the Estonian cases is the Estonian Prosecutor's Office, as all cases involved corruption or suspicion of it. The prosecutor's office had a passive role in first two cases but took a more active stance against transparency in the third case by deciding to fine individual journalists. These cases also show that various agents can be involved in decisions and actions leading to potential limitations to FoE or FoP. In whistleblower cases, the role of the employer is crucial, as the organisation can take extra steps to retaliate against the whistleblower. Some agents have an indirect role by affecting public opinion, for instance, by turning public attention away from high-level corruption and the responsibility of those involved towards potential ethical misconduct and accountability of the press. Even if such criticism could be justified in principle, it could leave journalists vulnerable to further criticism and attacks in critical times.

The cases also demonstrate that the Estonian press and the public are ready and open for deliberative communication on various topics related to FoP. However, whistleblowing cases did not receive similar attention. Hence, there seem to be fewer agents willing to have a deliberative communication concerning the transparency and FoE in Estonian society.

JOURNALISTS' RIGHT TO FREELY CRITICISE AUTHORITIES AND PROTECT THEIR SOURCES IN LATVIA

The situation of FoP in Latvia is characterised by four significant cases, two of which have reached the ECtHR that has decided in favour of the journalist's FoE, and the journalist's right to protect their information sources. The third case required seven years of legal proceedings and ended with the decision of the Riga District Court that the online news medium TVNET did not offend the honour and dignity of the Latvian Opera and Ballet Theatre. The fourth case shows the vulnerability of FoP in front of arguments referring to national security.

In 2007, the ECtHR decided in favour of Aivars Ozoliņš, a commentator of the newspaper "Diena", who had been sued by former Minister of Economy Laimonis Strujevičs for the moral damage caused by publications critical of the politician. In them, the journalist evaluated Strujevičs's actions, which predicted changes in the privatisation of state enterprises. Aivars Ozoliņš published several articles which accused the Minister of Economy of abusing his official position and accepting bribes in connection with the privatization process of JSC Ventspils nafta. The minister filed a lawsuit for defamation and asked to recover damages from the media company. The court ordered the applicant company to pay compensation to the minister and to withdraw four of the seven articles published in Diena newspaper, as well as pay damages. The representatives of media complained that the court's decision to impose an obligation to pay damages violated their right to FoE.

In this example, several court cases dealt with the understanding of the differences between a journalist's right to express an opinion and news that must correspond to provable facts. According to the representatives of the media, the initial conclusion of the court was wrong, that the opinion was based on specific news, that they must be true, and the opinion must be based on true facts – such a conclusion of the court contradicts Article 100 of the Constitution of the Republic of Latvia. Everyone has the right to freely express their opinions. Opinions can also be formed and expressed based on false facts and erroneous information (Cilvēktiesību gids, n.d.).

The ECtHR recognized that the content of the publications was offensive and incriminating but did not violate the limits of FoE reserved for journalists. The assessment of the politician's activity corresponded to the common interests of society.

The second case shows how the source protection principles and journalist's personal protection, and agency is treated in Latvia. The case concerned the leak of important data from the State Revenue Service (SRS) revealed by the information source of Ilze Nagla, the presenter of the analytical program "De facto" of Latvian Television. On February 14, 2010, the journalist announced

in the program “De facto” that there had been a large-scale data leak from state revenue service (SRS).

On February 19, 2010, the police went to LTV to obtain evidence from the journalist as a witness in the criminal proceedings. They asked for a transcript of the 2010 broadcast, as well as access to email correspondence with the source. The applicant refused to reveal the identity of her source, referring to the right to non-disclosure of information provided for in Article 22 of the Law “On the Press and Other Mass Information Media”. On May 11, 2010, the police searched the journalist’s residence. During the search, several storage media containing a large amount of her private information, as well as most of her work-related information, were seized.

Ilze Nagla claimed that the search was related to professional activity, and its purpose was to find out the source of the information provided in the Latvian television program *De facto* about the acquisition of data from the State Revenue Service’s Electronic Declaration System and the subsequent publication of this data. Ilze Nagla also complained about the type of search and its lack of legal justification. Thus, this case showed that because the national regulation and its application are insufficient to understand the FoE in the journalist’s work, the judgment of the ECtHR court was necessary to protect the journalist’s rights. When the case went to the ECtHR, it ruled that it believed there had been a violation of Article 10 of the Convention.

Like in the previously mentioned Estonian example, important agents in this case were law enforcement officers, a police representative, a prosecutor, and a judge. The search of the journalist’s residence took place within the framework of the criminal proceedings of the Criminal Police Department of the Economic Police Department of the State Police, which was confirmed by the prosecutor of the Finance and Prosecution Office and the investigating judge in the Riga City Centre District Court (Latvijas Vēstnesis, 2013.16.07). This example shows that, when evaluating the conflict of rights of agents (journalists, media organizations and an influential state institutions), the national level law enforcement bodies take the position of defending the interests of the state institution.

EXCESSIVE OFFENSIVE OPINION OR SLAPP IN LATVIA?

The third case is related to the claim of the Latvian National Opera and Ballet Theatre (LNOB) against the online media TVNET for the violation of honour and dignity. The essence of the dispute is that on August 4, 2014, TVNET published an opinion piece entitled “How the Latvian National Opera views the public house of Putin’s court”, which expressed an opinion about the birthday party of the Russian composer Krutoy held at the National Opera. Considering

that TVNET denied committing a violation, LNOB appealed to the court. The Latvian Association of Journalists previously assessed the verdict of the first court as legally absurd and dangerous. The court of first instance decided to ask for almost 130,000 euros from TVNET – for insulting honour and dignity. After the appeal, the compensation was reduced to 50,000 euros.

“An overly critical opinion costs 50,000 euros in Latvia” – this is how the Latvian Journalists’ Association responded to the decision of the Riga District Court. While representatives of the industry called such a punishment disproportionate, the judge in the leading case explained that such a large compensation was awarded to prevent excessive offensive articles from being published by the media in the future.

In June 2021, the Riga Regional Court decided to completely cancel the first instance court’s verdict, which required “TVNET GROUP” to pay moral compensation for insulting the respect and honour in favour of the Latvian National Opera and Ballet.

Nevertheless, TVNET recently received an increased fine again and the media organisation is involved in a new trial related to FoE and media freedom. In the spring of this year, Latvia’s National Electronic Media Council (NEEMC) fined TVNET with 8,500 euros for the incorrect use of the word “deportation” in an interview with the member of the Parliament Aleksejs Roslikovs from “Stability!”. Consequently, the court of first instance in October recognized as legal the decision of the NEEMC to punish the “TVNET GROUP” (Straume, 2023.3.10).

At the Latvian level, this trial ended in the spring of 2024, when the Riga District Court reduced the fine imposed by the NEEMC on TVNET GROUP from 8,500 to 3,000 euros for the incorrect use of the word “deportation”. This means that the court of the second level recognized as justified the claim of NEEMC to address the media and not the politician. Although, the latter had “incorrectly” used the word “deportation” in his rhetoric, applying it to the amendments to the Immigration Law on residence permits of citizens of the Russian Federation, since the law uses the term “forced expulsion”. In the view of the court, the mass deportations organized by the occupation authorities of the USSR in the Baltics in 1941 and 1949, which violated the Geneva Convention of 1949, cannot be compared with the legal actions of the state defined in the Immigration Law. The court of first instance stated in the judgment that TVNET GROUP is not held responsible for the use of the term “deportation”, but for not ensuring that the facts and events are reflected in the program fairly, objectively, with due accuracy and neutrality, promoting the exchange of opinions, and comply with generally accepted journalistic and ethical principles.

In the opinion of the court, NEEMC rightly pointed out that the guest of the program could express any opinion, but journalists, regardless of the purpose

of the program, must conduct the conversation professionally, avoiding the provision of inaccurate information. The judgment has entered into force and cannot be appealed. The broadcaster TVNET attributes this court decision to NEEMC being politically influenced (Ostrovskis, 2023.23.05) and the media company is considering an appeal to the ECtHR. This is an actual example that shows that the media regulator has become an important agent in determining the climate of FoE in Latvia, by harshly addressing media organizations, instead of allowing professional problems to be solved through self-regulation. The “odd” court case of TVNET was one of the examples that was mentioned in several discussions when Latvian Radio editors published an open letter about the narrowing of the borders of FoE in Latvia (Latkovskis, 2024.3.5; Latvijas Radio, 2024.5.4).

Along with the revocation of the license for “TV Rain”, this was the second case in the same year when NEEMC applied a severe penalty against a media organization, leading to the conclusion that Latvian courts respect the position of state institutions more in FoP cases (Council of Europe, 2023).

The outlined cases show that the level of the understanding of the complexity of the concept of FoP and its exercise by media outlets and individual journalists in Latvia by the involved individual and institutional agents including judges is rather low. Despite the (rather late) development of focused national media policy (Cabinet of Ministers, 2016), there is no open and public discussion about the principles and limits of application of the principles in concrete cases. In this context the authorities involved (prosecutors, courts, but also the regulatory body NEEMC) in Latvia tend to restrict the uses of this freedom by journalists. Moreover, in some cases agents admit publicly that the fines applied are seen as a disciplinary measure for the media environment, a mechanism of prevention similar cases of journalists or media exercising their agency. The result is these decisions tend to reach out to practices, principles and values – the cultural aspects of the scene. It must be underlined, that in two first cases the journalists themselves were treated as agents, in the second case, the privacy of journalist was even treated as less important than institutional interests of the other side. In the other two cases, the processes were conducted against the media organisations. The processes were rather lengthy and, in the end, (after discussion and consideration of public interests) the outcome was supportive towards the FoP. However, in some cases, this was only the result when ECtHR was involved as an agent. The role of strong professional organisations reaching out to create public support to journalists in the country must be underlined in terms of agency. These cases show the risks of influence on the developments around understanding and usage of FoP of conservative political agents in the context of populist political communication as shown by the rhetoric and the way of argumentation of NEEMC in the recent case of TVNET (and TV Rain).

DISCUSSION

We have argued with this article that the development of the freedoms of both expression and the press in Estonia and Latvia should be carried out two-dimensionally: the diachronic dimension presents the changes within one country while the horizontal perspective enables us to discover the country's position in comparison to other countries.

The diachronic dimension shows that the pressure on both FoE and FoP has increased in Estonia since the beginning of the second decade of the 21st century. However, the resistance of journalists to this pressure has been strong and the public debates on the importance and limits of FoP have become increasingly detailed and professional. Therefore, Estonia continues to remain among the countries with a high freedom of the press.

The freedom of the press in Latvia has changed for the better in the diachronic perspective, the original position at the beginning of the 21st century was worse because the regulation of public media did not protect them from political influence. After regaining independence and the shock of economic difficulties in the 1990s, the commercial media environment was affected by oligarchization and media instrumentalization trends. However, structural elaborations do not necessarily mean a practical improvement of the perception and application of principles included in concepts of both FoP and – even less – FoE.

Indeed, current developments suggest new risks at the diachronic level. In Latvia, following recent complaints against journalists and lawsuits, SLAPP is being talked about (LMĒP, 2023.7.11) more and more often. Every fifth journalist has experienced legal action against them because of their work, according to data from the Worlds of Journalism Study (Rožukalne & Ozoliņa, 2022), although SLAPP cases are not monitored in Latvia. The FoE and the diversity of media content is affected in relation to changes in the public discourse after Russia's full-scale invasion of Ukraine, which created a geopolitical, social, and economic crisis in Eastern Europe. There have been several cases, in which Latvia's politicians have turned against the media for using "inappropriate" sources in the context of the war, using public security risks as an argument. It is a new stage of an anti-media discourse created by populist politicians and supported by an organized army of trolls who attack the media, creating a self-censorship of journalists (Brauna, 2022). The denial of access to information for journalists is also often explained by security considerations (Litvaitis et al., 2023), thereby contributing to the securitisation and militarization of the public sphere in Latvia. Support for restrictions on media freedom is linked to politically advantageous assumptions about possible negative media effects that could harm public interests and security, therefore developing a protectionist approach in the understanding of FoP in times of crisis.

The calls for restricting freedom in the media environment and political communication coincide with cases of restriction of FoE, with the introduction of the 'moral' amendments to the Education Law (LSM, 2018.9.12), enabling organizations of conservative parents to influence the content of basic education. Also in 2023, some conservative politicians, parents' organizations and politicized activists turned against contemporary art (LNB, 2023.21.11), tried to burn books intended for sexual education of children (Jakone, 2023.23.11) and criticized the media that offers diverse discussions on those issues. The agents demonstrated support for censorship of controversial art ideas and uncomfortable public opinions.

The last developments clearly show the role of culture and value systems in ensuring proper legal protection of both FoP and FoE as well as protection of information sources, especially whistleblowers in Latvia. Cases of SLAPP are followed by an increasing number of attacks on journalists in public space that may prevent journalists (but also whistleblowers) as individual primary agents from active engagement. In recent times, the geopolitical context supports a securitising attitude for the possible emergence of corporate agents that turn against more freedom in the communication in general and support more restrictions in the name of safety and security as a main public value. According to the World Values Survey (WVS) (Haerpfer et al., 2022) and the European Social Survey (ESS), Latvia's society is dominated by secular-rational values over traditional values (WVS). Conservation values dominate over openness to change values (ESS), survival values dominate over self-expression values (WVS), and self-transcendence values dominate over self-enhancement values (ESS). The WVS shows that Estonia tends to lean a bit more towards the self-expression values, but otherwise on a similar level as secular values. This might explain why after the more FoE-oriented period of 1990s, when the instrumental view on media in society did not allow the corporate agents to emerge, government rapidly developed a legal system appropriate for elaboration of the freedom of press on the structural level of changes. Most of the agents (NEEMC, courts) tend to maintain existing structures (by recursive mode of communication) representing morphostatic approach in contrast to Estonia. Even if the recent years are marked by activity by several corporate agents (including the Association of Journalists of Latvia and several other NGOs and academia) resulting in remarkable changes, this attitude prevailed in decisions and interpretations of cases by these agents.

However, in terms of FoE, Estonia too has moved towards greater restrictions compared to the late 1990s and the early 2000s. In recent years (especially after the adoption of the GDPR), the FoE of expert and lay members of the public has been affected by blurred boundaries in terms of data protection, the risk

of SLAPP cases and where the protection of whistleblowers has not really taken root in Estonian culture.

The case research method proposed by us makes it possible to analyse which actors with which agency are most likely to restrict FoE, but such methods should be used more systematically. For example, to collect as many SLAPP cases as possible and perform a separate analysis of how businesspeople, politicians, economic powerholders as well as the courts either contribute to or prevent SLAPP cases.

The case-by-case analysis we have proposed makes it possible to “diagnose” the presence or absence of pressure mechanisms against transparency. This kind of diagnostics is important because if the press does not notice the agents of pressure and the public is indifferent to the restrictions on both FoP and FoE, then it is possible to reduce these two freedoms through small changes – until the restrictions are legitimised.

It might be also worth to ask – should we need a new institution that enables monitoring not only transparency in society, but also FoP and FoE as well as access to information?

CONCLUSIONS

In the Estonian public sphere, journalists are active agents who support both FoP and FoE. The Supreme Court has supported journalists’ right to define public interest. The Estonian Supreme Court has reiterated: in Estonian society, classification and not disclosure must be justified very precisely. Like Estonia, journalists and the Association of Latvian Journalists are the most active agents of defending FoP, supported by academic media researchers and some NGOs that focus on human rights.

The problem, however, is that the pressure on FoE and FoP is mostly at the grassroots level. As stated above, very few cases reach the level of the Supreme Court. In the case of unjustified restrictions on FoE, journalists have the opportunity, initially, to speak publicly about it. Secondly, journalists can rely on the legal assistance of media organisations. It should be noted that journalists are suffering because of the SLAPP phenomena – as the lawsuits are often against individual journalists. Another problem is related to the fact that court processes related to SLAPP issues are relatively novel so that judges have insufficient experience in dealing with these issues.

The selected cases of whistleblowers in Estonia demonstrated that the critical freedom to express ones’ ideas is less protected than the FoP. Estonia should change its attitude in cases if the whistle blower acts in good faith, his loyalty

to the employer, as well as gratitude for his work, can be as important as transparency and public interest. The same can be seen as true for Latvia.

In Latvia, there were several positive developments in recent years in terms of development of the first media politics guidelines. The development included instruments for supporting the media outlets with codes, or a public statement on ethics, reforming PSM, the establishment of the Council of Media Ethics (2018) and PSM ombudsperson (2022). All of which served as an elaborate institutional framework in support of FoP. However, the sources of possible risks for the FoP, but even more – the FoE and information accessibility – is the lack of media related knowledge and both reflection and reflexivity in Latvian society. This situation led to a lack of consequence in understanding concepts such as editorial independence and journalistic autonomy as they are involved in everyday media practice. There are no lawyers specialising in media law, only few legal scholars who are regularly analysing cases dealing with FoP issues. Educating society about the role of journalists and media in democracy must involve several further agents – schools, universities, and NGOs.

In the case of Estonia, it can also be said that the general satisfaction with Estonia's ranking in the top ten countries, globally, in the context of the freedom of the press may have reduced the sensitivity to increasing pressure, but even more so, caused inattention to the fact that freedom of expression is decreasing.

In Estonia and Latvia, one of the major problems in evaluating the agents involved is connected to the implementation of the regulation, i.e., the lack of monitoring and academic study of the cases and the field in general. There are only a few researchers (two or three in each country) who work in the field with limited capacity of monitoring and analysing.

The agent-oriented approach helps to highlight potential sources of pressure that are targeted at specific individual actors, like journalists or whistleblowers, or that try to undermine the importance of the freedom of expression and of the press and their underlying values of truth and transparency. The selected cases from Estonia and Latvia illustrate how the sum of all the actions, statements and opinions of individual and institutional agents could lead to a serious detrimental effect on both the freedom of expression and press freedom, even if the highest court levels and legal frameworks are generally supportive of these freedoms.

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A Values-based Union Worthy of the Name in the Digital Era? The Trajectory of EU Media Law and Policy

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Abstract: Article 2 of the Treaty on European Union (TEU) lays down the values which form the foundations of the EU: respect for human dignity, freedom, democracy, equality and the rule of law, along with respect for human rights. Although the EU does not have a general competence to legislate in the field of fundamental rights, it has been active since the Treaty of Lisbon in developing initiatives which relate to freedom of expression, freedom of information and the role of the media regarding both. This article examines the gradual expansion of this activity and maps the relevant instruments and initiatives, focusing in particular on EU legislative acts and other policy measures that relate directly or indirectly to the media. This expansion, it argues, appears to owe much to the growing emphasis placed by the EU institutions on the Union values, along with digitalisation and processes of platformisation that have had a marked bearing on EU policy, hinting at a broader digital governance project.

Keywords: EU values; freedom of expression; media pluralism; Digital Services Act; European Media Freedom Act; European Democracy Action Plan; digitalisation.

INTRODUCTION

Pursuant to Article 2 of the Treaty on European Union (TEU), the European Union (hereafter the EU) is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are considered to be common to the Member States, in a society in which pluralism,

non-discrimination, tolerance and justice prevail. The Union value of respect for human rights is further articulated in the rights, freedoms and principles enshrined in the Charter of Fundamental Rights of the EU (the CFR), which enjoys the same legal value as the Treaties.¹ Specifically, Article 11(1) CFR enshrines freedom of expression, which also includes “the freedom to hold opinions and to receive and impart information and ideas”, while Article 11(2) CFR affirms that the freedom and pluralism of the media shall be respected. Significantly, pursuant to Article 3(1) TEU, the EU’s mission includes promoting its values, and thus promoting fundamental rights, including free speech and the freedom to receive and impart information, along with media freedom and pluralism. This is also an aim of the EU’s institutional framework, as stated in Article 13(1) TEU.

Although the EU does not have a general competence to legislate in the field of its common values,² nor a specific rule-making competence in the field of the media, it has been active since the Treaty of Lisbon in developing initiatives which relate to freedom of expression, freedom of information, and the role of the media in regard to both, and media freedom and pluralism. This article studies the nature and evolution of the EU activity in question, exploring its characteristics and the ways it has developed. It examines the gradual expansion of EU action and maps relevant instruments and initiatives, focusing in particular on EU legislative acts and other policy measures that relate directly or indirectly to the media. This expansion, the article argues, appears to owe much to the growing importance of the EU’s values within its legal order. The emphasis the EU institutions now place on the values laid down in Article 2 TEU appears to have markedly influenced the ways in which EU rule- and policy-making address the media. Moving beyond market-building measures like the Audiovisual Media Services Directive (AVMSD) and piecemeal initiatives that refer to the media in the framework of EU policies on, for instance, data protection or copyright, recent measures demonstrate the EU’s willingness to tackle *core* challenges facing the media, specifically from media freedom and pluralism angles. Digitalisation and the challenges that processes of platformisation have posed for the functioning of the media also appear to have played a role, heightening focus on the values that must underpin the EU legal and policy framework vis-a-vis the media. From

¹ See Art. 6(1) TEU.

² The provisions of the Treaty on the Functioning of the European Union (TFEU) on competences do not mention the values of Art. 2 TEU. This entails that the EU can only act on them by exercising the competences it has been *expressly* assigned. Note that the TFEU provisions on competences do not mention fundamental rights either, and the CFR explains in Article 51(2) that it does not establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties. Note, however, that the TFEU provides specific legal bases for EU legislation on certain fundamental rights-related areas. See for instance Art. 16 TFEU on the right to the protection of personal data and Article 19 TFEU on non-discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

this perspective, digital technologies, platformisation and the EU endorsement of a values-oriented policy paradigm made EU policy for the media sector *grow*. The media were placed in a wider context – that of digital governance, while the values-based legal and policy debate that took place from the late 2010s diversified the themes and objectives which EU action for the media should be addressing.

This article is structured as follows. The analysis starts with a discussion of EU values and the place of fundamental rights therein, with due attention to the EU commitment, enshrined in the CFR, to safeguard freedom of expression and respect the freedom and pluralism of the media. Then, it examines the emergence and progressive expansion that followed the Treaty of Lisbon, of the EU media and media-related interventions, backed by explicit references to freedom of expression, media pluralism and the EU's values. The article continues with a discussion of new initiatives after 2019 that followed the publication of the European Democracy Action Plan (EDAP), the Media and Audiovisual Action Plan (MAAP) and the Union's digital transformation priorities and plans, culminating in the newly adopted European Media Freedom Act (EMFA). Some concluding remarks on the shape of the EU's media policy and its evolution towards a broader digital governance project sum up the article.

EU VALUES, FREEDOM OF EXPRESSION AND THE MEDIA

EU values were originally laid out in the TEU with the Treaty of Amsterdam and were subsequently set forth in what became Article 2 TEU with the Treaty of Lisbon. Article 2 TEU reflects the Member States' *agreement* on the values that guide their cooperation, meaning that whenever common rules are enacted at EU level, *all* Member States will respect them precisely because the foundations of the rules enacted are held in common (Dawson & de Witte, 2022: 177). From this perspective, Article 2 TEU is centrally concerned with the process of European integration and its *effectiveness*. While Article 2 TEU speaks of values, its elements – democracy, the rule of law and fundamental rights – can be construed as having the value of core legal principles of EU law (Kochenov 2017: 11).³ Seen in this light, Article 2 TEU sends a powerful message to the EU institutions. Given that the EU is founded on the common values of Article 2 TEU, EU law (and policy) cannot act to the detriment of those values and secondly, it needs to positively promote them. Article 2 TEU also makes clear to Member States that to the extent that the EU is based on the common values of Article 2 TEU, it cannot leave violations of its common values at the Member State level unaddressed. This finds concrete expression in several tools established by the

³ For analyses of Art. 2 TEU see indicatively Pech (2010), Piris (2010, 71–111) and Wouters (2020).

EU to defend its values, including the preventive and sanctioning mechanisms set out in Article 7 TEU (Kochenov, 2021; Pech, 2020). The infringement procedure that gives the European Commission the power to take legal action against a Member State that is failing to respect its obligations under EU law⁴ can also be used to enforce EU values (Spieker, 2023; Scheppele, Kochenov & Grabowska-Moroz 2020). However, it has yet to be settled whether or not Article 2 TEU can be directly enforced (Bonelli & Claes, 2023).

The foundational character of EU values enshrined in Article 2 TEU emphasises the EU's commitment to the protection and promotion of fundamental rights, including freedom of expression, which Article 11 CFR specifically protects in asserting that everyone has the right to that freedom (Woods, 2022). This right includes the freedom to hold opinions and both "receive and impart information and ideas without interference by public authority and regardless of frontiers".⁵ Further, Article 11(2) CFR stipulates that the freedom and pluralism of the media shall be respected. Article 11 CFR is closely related to Article 10 (freedom of expression) of the European Convention on Human Rights (ECHR), to which all EU Member States are signatories. Article 52(3) CFR provides that the EU shall ensure that the meaning and scope of those CFR rights, which correspond to the ECHR rights shall be the same as those guaranteed by the ECHR, though the EU may provide more extensive protection (Peers & Prechal 2021).⁶

As is typical with charters of rights and other similar documents, the CFR guarantees the protection of fundamental rights, including the protection of freedom of expression, by setting negative and positive obligations (de Schutter, 2016: 24). Negative obligations take the form of a duty of non-interference in the exercise of the rights concerned. For their part, positive duties require the adoption of measures to ensure effective exercise of the protected rights; they entail duties of action to contribute to the fulfilment of fundamental rights. Pursuant to Article 51(1) CFR, the EU institutions and the Member States when they act within the scope of EU law⁷ shall respect the rights of the CFR, observe its principles and promote their application in accordance with their respective powers and respecting the limits of the EU's powers as these are conferred on it in the Treaties. As such, the CFR recognises a negative obligation incumbent

⁴ See Art. 258 TFEU.

⁵ See Art. 11(1) CFR.

⁶ Concerning Article 52(3) CFR, see also Psychogiopoulou (2022). Note that Article 6(2) TEU further proclaims the accession of the EU to the ECHR (Lock, 2012), though this has not yet come to pass.

⁷ Article 51(1) CFR mentions that the CFR provisions are addressed to "the Member States only when they are implementing Union law". Åkerberg Fransson (Case C-617/10, EU:C:2013:105) and other rulings of the CJEU have interpreted the notion of 'implementing' EU law as 'acting within the scope' of EU law (Ward, 2021).

on the EU institutions and the Member States when they act within the scope of EU law to respect the CFR rights and to observe the CFR principles, plus a positive duty to promote the application of the CFR rights and principles in accordance with the principle of conferral.⁸ In fact, to the extent that the CFR requires the EU institutions – and the Member States when they act within the scope of EU law – to also promote the application of the rights and principles thereof “in accordance with their respective powers”, Article 51(1) CFR creates a horizontal duty to mainstream fundamental rights and principles in the exercise of the EU’s competences (de Witte, 2014). In consequence, the realisation of fundamental rights in the legal order of the EU translates into a commitment to take action to promote freedom of expression across the many areas of the EU’s activity (including areas such as the internal market) on condition that this promotion takes place within the boundaries imposed by the powers attributed to the EU in the policy field concerned. The CFR similarly empowers the EU institutions to promote respect for the freedom and pluralism of the media under the same conditions.

EU INSTRUMENTS AND THE MEDIA: SETTING THE SCENE

The lack of a specific rule-making competence in the field of the media has not prevented the EU from adopting media-related legislation. Already in the pre-Maastricht era, the EU based its intervention in the media sector with the Television Without Frontiers Directive (TWFD) (Council of the European Communities, 1989) on the objective of establishing the (then) common market in broadcasting media. Crucially, considerations related to freedom of expression and the media’s role in promoting it were also present in the TWFD. Gradually, these considerations started to occupy more space and be linked to the EU common values, enshrined in Article 2 TEU by the Treaty of Lisbon. This section traces this development not only in the revised AVMSD (European Parliament and Council, 2018), but also in EU rules which address issues relevant to the operation of the media, especially in light of technological developments and a rapidly transforming and converging media landscape, such as data protection and copyright. Further, it showcases how the EU attention to these issues has materialised in other EU instruments which are not concerned with the regulation of the media at EU level in the strict sense, such as those concerned with funding and with the monitoring of the rule of law in the Member States.

⁸ See Art. 5(1)-(2) TEU.

LEGAL INSTRUMENTS ADDRESSING THE MEDIA

EU legislation directly addressing the media dates to the adoption of the TWFD in 1989. The TWFD laid down the minimum rules needed to guarantee freedom of transmission in broadcasting for the creation of a “common programme production and distribution market and to establish conditions of fair competition without prejudice to the public interest role to be discharged by the television broadcasting services”.⁹ At the same time, the TWFD put forward free speech considerations enabled by the approximation of Member States’ laws and regulations for the establishment and functioning of the common market. More specifically, the TWFD recognised that the free provision of services in the field of broadcasting and the distribution of television services is “a specific manifestation [...] of a more general principle, namely the freedom of expression”.¹⁰ Moreover, the TWFD set forth the seminal ‘country of origin’ principle, which sought to facilitate the free provision of broadcasting services by ensuring that only the Member State of establishment has jurisdiction over any broadcasting operator. In this context, the TWFD dealt specifically with the issue of hate speech as a form of expression that could not benefit from protection.¹¹ In particular, the TWFD sought to curb hate speech in broadcasting by requiring Member States to ensure that broadcasts made by operators under their jurisdiction “do not contain any incitement to hatred on grounds of race, sex, religion or nationality”.¹² The rule was retained in amendments to the Directive made in response to technological developments and media convergence, all the way through to the AVMSD of 2010, when it was rendered applicable to all audiovisual media services including both traditional broadcasting and non-linear services (European Parliament & Council, 2010).¹³ The AVMSD also allowed Member States to derogate from the freedom of reception of retransmissions in their territory of audiovisual media services from other Member States in order to fight incitement to hatred.¹⁴

The revised AVMSD (European Parliament & Council, 2018) aligned its hate speech prohibition provision with the grounds used to define the offence of racist and xenophobic hate speech, as these were laid down in Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law (Council of the European Union, 2008).¹⁵

⁹ See recital 3 of the TWFD.

¹⁰ See recital 8 of the TWFD.

¹¹ On the relation, and the balance to be struck, between free speech and hate speech, see indicatively Howard (2019) and Inglezakis (2017).

¹² See Art. 22 of the TWFD.

¹³ See Art. 6 of the 2010 AVMSD.

¹⁴ See Art. 3(2) and (4) of the 2010 AVMSD.

¹⁵ See Art. 1(1)(a) of Council Framework Decision 2008/913/JHA, which requires Member States to criminalize public incitement to violence or hatred directed against a group of persons

The revised AVMSD also extended the list of grounds (Psychogiopoulou, 2024). Thus, Article 6(1)(a) AVMSD now mandates Member States to ensure ‘by appropriate means’ that audiovisual media services provided under their jurisdiction do not contain “any incitement to violence or hatred against a group of persons or a member of a group” based on any of the grounds referred to in Article 21 CFR. These grounds are: sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. Article 6(2) AVMSD specifies that the measures must be necessary, proportionate and respect freedom of speech and other rights enshrined in the CFR. The revised AVMSD also creates requirements with regard to curbing hate speech online for video-sharing platforms (VSPs).¹⁶ Pursuant to Article 28(b)(1), Member States shall ensure that VSPs under their jurisdiction take appropriate measures to protect the public from all kinds of content containing incitement to violence or hatred. Article 28(b)(3) provides an indicative list of measures that Member States may adopt, which includes the establishment of conditions, mechanisms and systems aimed at both ensuring that users do not share illegal content and encouraging users to flag or control their own exposure to such content. The AVMSD also encourages VSPs to self-regulate, stipulating that they “take stricter measures on a voluntary basis in accordance with Union law, respecting the freedom of expression and information and media pluralism”.¹⁷ This echoes earlier efforts to strengthen operators’ fight against hate speech online, which resulted in the 2016 Code of conduct on countering illegal hate speech online (European Commission, 2016a). The Code, which the Commission agreed with major digital intermediaries, affirmed the need to defend the right to freedom of expression, and encouraged action to ensure that online hate speech is dealt with expeditiously upon receipt of a valid notification.¹⁸

or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin.

¹⁶ A VSP is defined as a commercial service addressed at the public: of which a principal purpose, dissociable section or essential functionality is devoted to the provision of programmes and/or user-generated videos for which the VSP provider has no editorial responsibility towards the general public, and which are intended to inform, entertain or educate; which is made available by electronic communication networks; and whose organization is determined by the VSP provider, including by automatic means or algorithms, in particular by displaying, tagging and sequencing. See Art. 1(a)(aa) of the revised AVMSD.

¹⁷ Recital 49 of the revised AVMSD.

¹⁸ Parties to the Code committed in particular to reviewing the majority of flagged content in less than 24 hours and to removing or disabling access to it, if required. Compliance should be regularly reviewed through a structured process of periodic monitoring involving a host of civil society organizations across the Union and through self-reporting by signatories to the Commission. For a discussion, see Quintel and Ullrich (2020).

The right to freedom of expression is also directly addressed in the provisions of the revised AVMSD pertaining to audiovisual media ownership transparency. Indeed, recital 15 of the revised AVMSD asserts the direct connection between ownership transparency and freedom of expression – as “a cornerstone of democratic systems”,¹⁹ and recital 16 adds that users have “a legitimate interest” in knowing who is responsible for the content of audiovisual media services, especially because of “the impact of those services on the way people form opinions”.²⁰ Affirming that Member States should ensure that users have easy and direct access to information about media service providers “in order to strengthen freedom of expression, and, by extension to promote media pluralism”,²¹ the revised AVMSD stipulates in Article 5(2) that Member States may adopt legislation requiring media service providers under their jurisdiction to make “accessible information concerning their ownership structure, including the beneficial owners”.²² This provision cannot create a harmonised legal framework across the EU, because not only it is optional but also it does not specify the kinds of legal rules that Member States may adopt (Cole & Etteldorf, 2021: 18). Nonetheless, the freedom of expression and media pluralism reasoning employed to introduce these requirements enhances the visibility of the fundamental rights and common values dimension of EU audiovisual media regulation. Furthermore, the revised AVMSD incorporates independence requirements for national media regulators, noting the key role they have to play in ensuring respect for media pluralism.²³ In particular, it calls on Member States to ensure that their media regulatory bodies “are legally distinct from the government and functionally independent of their respective governments and of any other public or private body” and that they “exercise their powers impartially and transparently”.²⁴ Member States are also required to define in law the competences and powers of the national regulatory authorities.²⁵ They are also mandated to establish transparent, non-discriminatory and independent procedures for the appointment and dismissal of the heads of national regulatory authorities (or the members of the collegiate body that fulfils the media regulatory function).²⁶

¹⁹ Recital 15 of the revised AVMSD.

²⁰ Recital 16 of the revised AVMSD.

²¹ Recital 16 of the revised AVMSD.

²² Art. 5(2) of the revised AVMSD.

²³ Recital 53 and Art. 30(2) of the revised AVMSD.

²⁴ Art. 30(1) and (2) of the revised AVMSD.

²⁵ Art. 30(3) of the revised AVMSD.

²⁶ Art. 30(5) of the revised AVMSD.

LEGAL INSTRUMENTS OF RELEVANCE TO THE MEDIA

Whereas EU regulation of the media has been limited to audiovisual media services with the AVMSD at its heart, references to EU values and fundamental rights, and in particular to freedom of expression and pluralism of the media, are also to be found in other pieces of EU internal market law. One area of the EU's internal market legislation where free speech standards have been fleshed out is EU law on copyright and related rights. Copyright enjoys protection under Article 17(2) CFR. Yet, copyright and related rights establish exclusive rights for right-holders over the use of their protected works or other subject matter (such as sound recordings, audiovisual works, broadcasts, etc.) which may interfere with the exercise of fundamental rights, and in particular freedom of expression (Izyumenko, 2016; Mylly, 2015). Thus, the protection afforded to copyright in the EU is not absolute and must be weighed against other fundamental rights and interests, including freedom of expression.²⁷

Directive 2001/29 EC – the Copyright Directive – has harmonised a set of exclusive rights for authors, performers, producers and broadcasters, but it has also introduced exceptions and limitations to these rights with the express purpose of safeguarding “a fair balance of rights and interests” (European Parliament & Council, 2001). The system of exceptions established with regard to the right of reproduction²⁸ and the rights of communication and making available to the public²⁹ covers exceptions that have been specifically devised to facilitate freedom of both expression and of the press (Cabrera Blázquez et al., 2017).³⁰ However, being optional, they leave Member States a great degree of discretion, as to whether or not to introduce them into their national legal orders (Guibault, 2010). In more detail, Article 5(3)(c) of the Copyright Directive allows Member States to introduce exceptions and limitations for the “use of works or other subject matter in connection with the reporting of current events”. Usage is justified by the informative purpose and subject to conditions. The Directive also allows the “reproduction by the press, communication to the public or making available of published articles on current economic, political or religious topics or of broadcast works or other subject matter of the same character, in cases where such use is not expressly reserved”, provided that the source, including the author's name, is indicated.³¹

Other exceptions or limitations that accommodate free speech considerations and can be relevant for the media include those relating to “quotations

²⁷ On this, see CJEU, Case C-469/17 *Funke Medien NRW*, ECLI:EU:C:2019:623; and Case C-516/17 *Spiegel Online*, ECLI:EU:C:2019:625.

²⁸ Art. 2 of the Copyright Directive.

²⁹ Art. 3 of the Copyright Directive.

³⁰ Art. 5(1) of the Copyright Directive.

³¹ Art. 5(3)(c) of the Copyright Directive.

for purposes such as criticism or review”,³² “caricature, parody or pastiche”³³, and “the use of political speeches”.³⁴ Significantly, Directive 2019/790 on copyright and related rights in the digital single market (the DSM Directive) seeks to modernise copyright law due to technological developments and digitalisation.³⁵ The DSM Directive renders mandatory the optional exceptions for “quotation, criticism, review” and “caricature, parody or pastiche” in favour of users who upload and make available user-generated content on online content-sharing services (European Parliament & Council, 2019a).

Another area of EU internal market law that features considerations related to freedom of expression, particularly through the media, is EU legislation setting forth harmonised measures for the protection of people who disclose breaches of EU rules, i.e. the EU Whistleblower Directive (European Parliament & Council, 2019b).³⁶ The Directive asserts that persons who report information about such breaches obtained during their work-related activities are making use of their right to freedom of expression and refers directly to relevant case law of the ECtHR and the Recommendation of the Council of Europe on the Protection of Whistleblowers (Council of Europe, 2014).³⁷ In line with the Recommendation’s principles,³⁸ the Directive then follows the typical three-tiered approach for reporting wrongdoing, which protects those who disclose, as a last resort, directly to the public, via the media (Vandekerckhove, 2022: 7). Thus, public disclosures are protected, provided that the whistleblower first reported through internal channels within an organisation, and then externally to an outside authority, or directly through external channels but with no appropriate action taken in response within a specified timeframe³⁹. Otherwise, direct public disclosures may still be protected in case of an imminent or manifest danger to the public interest, when there is a risk of retaliation or the prospect of the breach being effectively addressed is low due to the particularities of the case.⁴⁰

³² Art. 5(3)(d) of the Copyright Directive.

³³ Art. 5(3)(k) of the Copyright Directive.

³⁴ Art. 5(3)(f) of the Copyright Directive.

³⁵ See recital 2 of the DSM Directive.

³⁶ Besides Article 114 (approximation of laws for the establishment and functioning of the internal market), the legal bases of the Whistleblower Directive include: Article 16 (protection of personal data), Article 43(2) (common agricultural policy/common fisheries policy), Article 50 and Article 53(1) (freedom of establishment), Articles 91 and 100 (transport), Article 168(4) (public health), Article 169 (consumer protection), Article 192(1) (environment) and Article 325(4) (combatting fraud) TFEU, as well as Article 31 of the Treaty establishing the European Atomic Energy Community (health protection).

³⁷ Recital 31 of the Whistleblower Directive.

³⁸ Recital 31 of the Whistleblower Directive.

³⁹ Art. 15(1) of the Whistleblower Directive.

⁴⁰ Art. 15(1) of the Whistleblower Directive.

Freedom of expression considerations in connection with the operation of the media can also be found in EU personal data regulation. Article 16 TFEU is the legal basis that specifically allows for the introduction of rules on the protection of personal data and their free movement and forms the basis of the General Data Protection Regulation (GDPR) (European Parliament & Council, 2016). The GDPR regulates potential conflicts between, on the one hand, the right to privacy and personal data protection, both of which are enshrined in the CFR (Article 7 and 8 respectively), and, on the other, freedom of expression and information. The broad definition of personal data used accounts for such potential conflicts: according to Article 4(1) of the GDPR, personal data means “any information relating to an identified or identifiable natural person”. In consequence, the processing of personal information for a news report focusing on one or more individuals comes within the scope of application of the EU data protection rules. One of the GDPR provisions which is directly related to the exercise of the right to freedom of expression and the role of the media in democratic societies is Article 85, which is often referred to as the ‘journalistic exemption’ (Erdos, 2021). Article 85(1) provides that “Member States shall by law reconcile the right to the protection of personal data [...] with the right to freedom of expression and information, including processing for journalistic purposes [...]”. Article 85(2) states that the processing of personal data for journalistic purposes shall be subject to exemptions or derogations, that Member States provide, from certain provisions of the GDPR,⁴¹ if this is necessary to reconcile the right to protection of personal data with freedom of expression and information. Significantly, recital 153 of the GDPR stipulates that exemptions or derogations “should apply in particular to the processing of personal data in the audiovisual field and in news archives and press libraries”. It adds that “in order to take account of the importance of the right to freedom of expression in every democratic society, it is necessary to interpret notions relating to that freedom, such as journalism, broadly”. Thus, although the GDPR refrains from defining journalistic activity, it calls for a wide interpretation of the notion of journalism.⁴²

A second GDPR provision that directly relates to freedom of expression, particularly in the context of digitalisation, is the one regulating the ‘right to be forgotten’ as an instance of the right to the protection of personal data. The right to be forgotten, which finds protection under Article 17 of the GDPR,

⁴¹ Article 85(2) of the GDPR refers to the following chapters of the GDPR: Chapter II (principles), Chapter III (rights of the data subject), Chapter IV (controller and processor), Chapter V (transfer of personal data to third countries or international organisations), Chapter VI (independent supervisory authorities), Chapter VII (cooperation and consistency) and Chapter IX (specific data processing situations).

⁴² Article 85(3) of the GDPR requires Member States to notify the Commission without delay of any exemptions or derogations adopted pursuant to Article 85.

entitles individuals to obtain the erasure of personal data when they are no longer required in relation to the purposes for which they were collected or otherwise processed. At the same time, the GDPR addresses potential conflicts between the right to be forgotten and journalistic free speech, which may stem from the availability of personal information in online news archives (Ausloos, 2020).⁴³ It includes a provision which provides a specific exemption to the right to be forgotten to the benefit of free speech, stipulating that it shall not apply to the extent that the processing of personal data is necessary for freedom of expression to be exercised or for archiving purposes in the public interest.⁴⁴

OTHER POLICY INITIATIVES ADDRESSING THE MEDIA

EU instruments that relate to freedom of expression, media pluralism and the common values on which the EU is founded are not limited to EU law. First, there is EU funding. For example, the EU has a long record of supporting the audiovisual media sector through financial support measures. From the MEDIA programme in 1990 (Council of the European Communities, 1990) up to the Creative Europe programme, which was established in 2014, encompassing one cultural, one media and one cross-sectoral sub-programme (European Parliament and Council, 2014), the EU channelled substantive funds to support audiovisual works and the career development and training of audiovisual media professionals. But whereas the objectives of earlier support programmes were mainly industrial and concerned with boosting the competitiveness of the sector, a wider set of objectives, also related to the promotion of EU values, have gradually gained traction (Psychogiopoulou et al., 2024: 83–110). It is indicative that the 2014 Creative Europe programme expressly acknowledged the role of the cultural and creative sectors, including the media, as “an important platform for freedom of expression”.⁴⁵ Moreover, since the entry into force of the Treaty of Lisbon, the EU has developed several funding instruments that directly address free speech and media pluralism. For instance, the EU programme for research has begun funding collaborative research projects on such issues.⁴⁶ Also, the EU started (co-)financing research and advocacy institutions such as the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute⁴⁷ and the European Centre for Press and Media Freedom (ECPMF).⁴⁸

⁴³ See recital 65 of the GDPR.

⁴⁴ See Art. 17(3)(a) and (d) of the GDPR.

⁴⁵ See recital 4 of the 2014 Creative Europe programme.

⁴⁶ See, for instance, the MEDIADDEM and MediaACT projects at <https://cordis.europa.eu/project/id/244365> and <https://cordis.europa.eu/project/id/244147> respectively.

⁴⁷ See <https://cmpf.eui.eu/>.

⁴⁸ See <https://www.ecpmf.eu/>.

The CMPF was established in 2011 and engages in comparative monitoring of Member States and other European countries through the Media Pluralism Monitor (MPM), a tool designed to assess features in national legal and media systems that may hinder media freedom and media pluralism.⁴⁹ The ECPMF was founded in 2015 and monitors press and media freedom violations. It also provides advocacy for journalists.

The second recent area of EU action that taps directly into issues relating to EU values, freedom of expression and media pluralism is the rule of law framework established by the Commission in 2014 (European Commission, 2014). The framework seeks to ensure that the EU values enshrined in Article 2 TEU are observed by resolving threats, particularly as regards the rule of law in Member States, before the conditions that could trigger the application of Article 7 TEU are met. Where there are clear indications of a systemic threat to the rule of law in a Member State, the rule of law framework sets in motion a structured dialogue procedure between the Commission and the Member State concerned with finding a solution to the problems identified. Within this framework, the Commission initiated an assessment of the rule of law in Poland following reforms implemented by the Polish government concerning the independence of public service media (PSM). The assessment culminated in a Commission Opinion on the rule of law in Poland in June 2016 (European Commission, 2016b). The dialogue that followed did not prove effective, however, and the Commission continued to issue Recommendations for the Member State to remedy the situation (2016c; 2017; 2018a). Later on, to avoid such pitfalls and prevent rule of law deficiencies in Member States, the Commission decided to systematise the evaluation of the state of the rule of law in the Member States through the Rule of Law Mechanism (RoLM) (Holtz-Bacha, 2023). The RoLM establishes an annual structured dialogue process between the EU institutions and the Member States which feeds into and continues after the Rule of Law Report (RLR), which is published by the Commission and maps important developments in four core areas in the Member States, including media pluralism (European Commission, 2019).

FREE SPEECH, MEDIA FREEDOM AND PLURALISM: A FRESH IMPETUS

Ursula von de Leyen's (2019) political guidelines for the European Commission 2019–2024, 'A Union that strives for more', were firmly rooted in EU values. The Commission President proclaimed the intention of proposing a European Democracy Action Plan (EDAP) for "a new push for European democracy" (von

⁴⁹ See <https://cmpf.eu.eu/media-pluralism-monitor/>.

der Leyen, 2019: 20). Published in December 2020, the EDAP set an ambitious tone from a media perspective (European Commission, 2020a). Strengthening the EU's democratic resilience was intrinsically linked to supporting media freedom and pluralism and countering disinformation. Among other measures, the Commission announced the future adoption of a Recommendation on the safety of journalists which takes into account the challenges of the online environment; action to fight strategic lawsuits against public participation (SLAPPs) aimed at intimidating and silencing public watchdogs, including journalists; and a multi-faceted agenda designed to address disinformation, covering a strengthened EU toolbox encompassing *inter alia* tools against foreign information manipulation and interference (FIMI), support for the promotion of professional ethics and standards in journalism, and media literacy. Other measures were about support for media pluralism through measures for the transparent and fair allocation of state advertising and establishing a Media Ownership Monitor. The gradual delivery of the set of measures proposed should “ensure that Europe has a stronger democratic underpinning”, in full respect for EU values (European Commission, 2020a: 26).

Adopted in December 2020, the Media and Audiovisual Action Plan (MAAP) (European Commission, 2020b) also endorsed an EU values discourse. Focused on the economic recovery and competitiveness of the media sector, the Commission portrayed the MAAP as a strategy, which complemented the EDAP primarily in order to support sector resilience and accelerate its transformation with regard to the twin transitions of climate change and digitalisation. The importance of the latter was underlined in particular from the perspective of fostering EU values and helping the sector meet societal needs. The values dimension was further embedded in EU action for “a Europe fit for the digital age”. The Commission 2020 Communication ‘Shaping Europe Digital Future’ promised “a European way to digital transformation”, emphasising respect for and enhancement of the Union values (European Commission, 2020c). In this context, adopting new rules and modernising the legal framework to deepen the digital single market and define the responsibilities and obligations of providers of digital services, including online platforms, came under the rubric of initiatives for “an open, democratic and sustainable society”, along with the EDAP and the MAAP (European Commission, 2020c: 12).

In the wake of the EDAP, the MAAP and the Commission plans setting out the EU's digital transformation strategy, efforts at the EU level to bolster freedom of expression, media freedom and media pluralism intensified. For starters, funding for the media acquired a clear EU-values-oriented dimension. The Creative Europe programme (2021–2027) (European Parliament and Council,

2021) now expressly refers to EU values,⁵⁰ and provides funding to projects defending media freedom and pluralism⁵¹ in recognition that news media should be supported with a view to achieving “a free, diverse and pluralistic media environment”.⁵² The EU research and innovation programmes now also regularly support projects focused on wide-ranging media-related and free speech topics,⁵³ along with pilot projects,⁵⁴ whereas a broad range of EU programmes have been mobilised to offer dedicated funding: the Citizens, Equality, Rights and Values programme, the Erasmus+ programme and Digital Europe, to name a few.⁵⁵ At the same time, an EU values discourse has accompanied and permeated legislative and policy measures, which have brought core issues regarding free speech, media freedom and media pluralism in the digital age centre stage. Measures devised to offer protection to journalists, combat hate speech and disinformation, and protect media freedom and media pluralism, with due account taken of the digital transformation of the media space, are illustrative and discussed in more detail below.

PROTECTING JOURNALISTS

In 2021, the Commission presented its first-ever Recommendation on strengthening the safety of journalists and other media professionals (European Commission, 2021) on the basis of Article 292 TFEU, which enables the adoption of recommendations at EU level. The Recommendation refers to the obligation of the EU and its Member States to respect media freedom and pluralism and invites the Member States to adopt measures aimed at empowering, and ensuring the protection and safety of, journalists. These range from effectively prosecuting criminal acts and preventing threats and attacks against journalists to specific measures aimed at digital empowerment and ensuring journalists’ online safety.

In 2022, the Commission published its proposal for a Directive protecting journalists and human rights defenders from SLAPPs (European Commission, 2022a; Milewska, 2023). This led to Directive 2024/1069 on protecting persons

⁵⁰ See recital 2 of the Creative Europe programme (2021–2027).

⁵¹ See the Creative Europe 2022 call, Defending media freedom and pluralism (<https://digital-strategy.ec.europa.eu/en/news/commission-launches-eu41-million-call-monitor-and-defend-media-freedom-and-pluralism>).

⁵² See recital 22 of the Creative Europe programme (2021–2027). See also Annex 1, Section III on cross-cutting actions supporting the news media sector.

⁵³ See <https://digital-strategy.ec.europa.eu/en/library/horizon-2020-projects-media-and-social-media-related-topics>. See also the MEDIADÉLCOM project, <https://www.mediadelcom.eu/>

⁵⁴ See for instance the Euromedia Ownership Monitor (<https://media-ownership.eu/>), the Local Media for Democracy project (<https://digital-strategy.ec.europa.eu/en/news/local-media-democracy-project-will-support-local-media-eu-news-deserts>), and the European Festival of Journalism and Media Information Literacy (<https://www.eui.eu/news-hub?id=european-festival-of-journalism-and-media-literacy-organised-by-seven-partners>).

⁵⁵ For more information see European Commission (2023: 25, Annex).

who engage in public participation from manifestly unfounded claims and abusive court proceedings (European Parliament and Council, 2024a; Maoli, 2024), which are defined as “proceedings which are not brought to genuinely assert or exercise a right, but have as their main purpose the prevention, restriction or penalisation of public participation, frequently exploiting an imbalance of power between the parties, and which pursue unfounded claims”.⁵⁶ The Directive, which is based on Article 81(2)(f) TFEU (judicial cooperation in civil matters), makes express mention of EU values,⁵⁷ freedom of expression and information,⁵⁸ and media freedom and pluralism.⁵⁹ The Directive covers SLAPPs employed in civil matters with cross-border implications targeting natural or legal persons (i.e. journalists and media organisations) because of their engagement in public life, which is understood as “the making of any statement or the carrying out of any activity [...] in the exercise of the right to freedom of expression and information”, and any preparatory, supporting or assisting action, on matters of public interest.⁶⁰ The Directive enables judges to make several important actions. They can swiftly dismiss manifestly unfounded lawsuits;⁶¹ and require the claimant to provide financial security for the estimated costs of the proceedings as a precautionary measure to ensure the effects of a final decision finding abuse of procedure.⁶² They can order the claimant to bear the costs of abusive proceedings, including the costs of the defendant’s legal representation;⁶³ and impose penalties to dissuade abusive proceedings.⁶⁴ The Member States shall also ensure that national legislation allows domestic courts and tribunals to accept that associations, organisations, trade unions and other entities may support the defendant or provide information in the proceedings.⁶⁵ They shall further take steps to offer protection against manifestly unfounded or abusive third-country judgments⁶⁶ and remain free to introduce or maintain more protective provisions, including more effective procedural safeguards relating to freedom of expression and information.⁶⁷ The Directive highlights the need for “a robust system of safeguards and protection to enable investigative journalists to fulfil their crucial role as watchdogs on matters of public interest, without

⁵⁶ Art. 4(3) of Directive 2024/1069.

⁵⁷ Recital 2 of Directive 2024/1069.

⁵⁸ Recitals 3, 4 and 7 of Directive 2024/1069.

⁵⁹ Recitals 5 and 8 of Directive 2024/1069.

⁶⁰ Art. 4(1) of Directive 2024/1069.

⁶¹ Art. 11 of Directive 2024/1069.

⁶² Recital 36 and Art. 10 of Directive 2024/1069.

⁶³ Art. 14 of Directive 2024/1069.

⁶⁴ Art. 15 of Directive 2024/1069.

⁶⁵ Art. 9 of Directive 2024/1069.

⁶⁶ Arts 16–17 of Directive 2024/1069.

⁶⁷ Art. 3(1) of Directive 2024/1069.

fear of punishment for searching for the truth and informing the public”.⁶⁸ It is supplemented by a Commission Recommendation encouraging Member States to adopt similar rules regarding domestic SLAPPs in all proceedings, not only civil matters (European Commission, 2022b). The Recommendation also calls on Member States to take additional measures to fight SLAPPs, including training and awareness-raising.

HATE SPEECH, DISINFORMATION AND THE DIGITAL SERVICES ACT

The Digital Services Act (DSA), the cornerstone of the EU’s digital strategy, seeks to create a safer, more accountable and trustworthy online environment (Heldt, 2022; Husovec, 2024; Turillazzi et al., 2023). The DSA, grounded on the internal market legal basis of Article 114 TFEU (measures for the approximation of Member States’ laws which have as their object the establishment and functioning of the internal market) was adopted in 2022 (European Parliament and Council, 2022). The DSA lays down harmonised rules on the provision of digital intermediary services, acknowledging that the “[r]esponsible and diligent behaviour by providers of intermediary services is essential for [...] allowing Union citizens and other persons to exercise [...] the freedom of expression and information”.⁶⁹ The DSA casts a wide regulatory net: it applies to providers who offer intermediary services in the EU,⁷⁰ irrespective of their place of establishment,⁷¹ encompassing providers of hosting services⁷² and in particular online platforms,⁷³ very large online platforms (VLOPs) and very large online search engines (VLOSEs).⁷⁴

A fundamental component of the EU’s approach to digital governance, the DSA goes to great lengths to tackle illegal content online, including hate speech,⁷⁵

⁶⁸ Recital 10 of Directive 2024/1069.

⁶⁹ See recital 3 of the DSA.

⁷⁰ Defined as all providers offering mere conduit, caching and hosting services (Art. 3(g) of the DSA).

⁷¹ Art. 2(1) DSA.

⁷² Defined as the providers of a service that consists of the storage of information provided by, and at the request of, a recipient of the service (see Art. 3 (g)(iii) of the DSA).

⁷³ Defined as the providers of a hosting service which, at the request of a recipient of the service, stores and disseminates information to the public, unless that activity is a minor and purely ancillary feature of another service or a minor functionality of the principal service which, for objective and technical reasons, cannot be used without that other service, where the integration of the feature or functionality into the other service is not a means to circumvent the applicability of the DSA (see Art. 3(i) of the DSA).

⁷⁴ Defined as online platforms and online search engines with at least 45 million monthly active users within the Union, or designated as VLOPs or VLOSEs by the Commission. See Art. 33(3) of the DSA.

⁷⁵ Recital 12 of the DSA.

and makes provision for the imposition on operators of various transparency, reporting and due diligence obligations following a graduated approach.⁷⁶ Providers of hosting services also need to put in place easy to access and user-friendly notice-and-action mechanisms regarding plausible illegal content on their service,⁷⁷ and issue clear and specific statements to affected users explaining the reasons for any measures taken on grounds of illegality or incompatibility with their terms and conditions.⁷⁸ Online platforms are additionally required to take technical and organisational measures to ensure that notices submitted by trusted flaggers, namely entities with particular expertise in tackling illegal content in a diligent, accurate and objective manner,⁷⁹ are given priority and are processed and decided upon without delay.⁸⁰ Other arrangements that online platforms must make pertain to internal systems for handling complaints against decisions taken on grounds of illegality or incompatibility with own terms and conditions,⁸¹ as well as to certified out-of-court dispute procedures.⁸²

The DSA also requires VLOPs and VLOSEs to identify, analyse and assess any ‘systemic risks’ stemming from the design or functioning of their service, or from the use made of their services, at least once a year.⁸³ Systemic risks may involve the dissemination of illegal content,⁸⁴ and thus cover hate speech. They may also relate to the negative effects – actual or foreseeable – of the service on the exercise of fundamental rights, including freedom of expression and information, media freedom and pluralism,⁸⁵ and civic discourse.⁸⁶ Such risks may arise from the design of the recommender and other algorithmic systems used by VLOPs and VLOSEs, the applicable terms and conditions and their enforcement, operators’ content moderation schemes, the misuse of their service through the submission of abusive notices or other methods for silencing speech, etc.⁸⁷ When assessing systemic risks, operators should consider how their services are used to disseminate or amplify misleading or deceptive content, including disinformation,⁸⁸ and the identification of systemic risks should entail the adoption of proportionate

⁷⁶ Arts 14, 15, 24 and 42 of the DSA.

⁷⁷ Art. 16 of the DSA.

⁷⁸ Art. 17 of the DSA.

⁷⁹ Art. 22 of the DSA.

⁸⁰ Art. 22 of the DSA.

⁸¹ Art. 20 of the DSA.

⁸² Art. 21 of the DSA.

⁸³ Art. 34(1) of the DSA.

⁸⁴ Art. 34(1)(a) of the DSA.

⁸⁵ Art. 34(1)(b) of the DSA.

⁸⁶ Art. 43(1)(c) of the DSA.

⁸⁷ Recital 81 and Art. 34(2) of the DSA.

⁸⁸ Recital 84 of the DSA.

and effective mitigation measures, with particular consideration paid to their impact on fundamental rights.⁸⁹

The DSA confirms and, importantly, expands the regulatory approach followed by the revised AVMSD. When the latter brought VSPs within its scope, ending a long debate on whether or not VSPs should be treated as media, it made them accountable for the measures they take to protect the public from hate speech and other illegal content on their services rather than holding them directly responsible for it in the way that providers of audiovisual media services are (Broughton Micova and Kukliš, 2023). This procedural accountability regulatory model employed by the revised AVMSD, coupled with the emphasis it places on the active user (Kukliš, 2021) – who needs to flag and report illegal content but also, as a creator of online content, enjoys protection and bears responsibility for it – laid the groundwork for the forthcoming platform regulation. Indeed, the DSA embraces and elaborates on procedural accountability as the regulatory method for defining the responsibilities of digital intermediaries, and also places a significant regulatory onus on the users of digital intermediaries' services.

At the same time, the DSA seeks to be at the forefront of the fight against both hate speech and disinformation (Pentney and McGonagle, 2021). Whereas the revised AVMSD addressed harmful content with reference primarily to protecting minors,⁹⁰ the DSA understands online harms as comprising disinformation and the societal risks it brings and regulates online platforms, in particular VLOPs and VLOSEs, on this front. Moreover, in those Member States whose national legislation considers disinformation as illegal, the DSA opens the way for all digital intermediaries to combat it, since it defines illegal content as any information that “is not in compliance with Union law or the law of any Member State which is in compliance with Union law, irrespective of the precise subject matter or nature of that law”.⁹¹

In recent years, disinformation has moved centre stage in regulatory debates concerning free speech, democratic debate and the open confrontation of ideas in society (High-Level Group on Fake News and Online Disinformation, 2018; Pollicino, 2023; Terzis et al., 2021; Wardle and Derakhshan, 2017), with the EU enriching the debate with a FIMI angle, too (European Commission, 2023: Annex). The DSA does not define disinformation, but according to the EDAP, disinformation amounts to “false or misleading content that is spread with an intention to deceive or secure economic or political gain and which may cause public harm” (European Commission, 2020a: 18). Disinformation is considered to “[hamper] the ability of citizens to take informed decisions” and to “impair

⁸⁹ Art. 35 of the DSA.

⁹⁰ See Art. 6a(1) and (3) and Art. 28b(3) of the revised AVMSD.

⁹¹ See Art. 1 point (h) of the DSA.

freedom of expression” (European Commission, 2018b). It interferes with the right to receive and impart (accurate) information but disinformation laws which are overly broad also raise questions with regard especially to the degree of limits on free speech that are constitutionally acceptable. In 2018, representatives of major online platforms, tech companies and the advertising industry signed the Code of practice on disinformation, with the support of the Commission, and committed thereby to take specific action to limit the spread of disinformation (Chase, 2019; Monti, 2020). As announced in the EDAP, the Code was strengthened in 2022 by the inclusion of a broader set of commitments and measures to counter the dissemination of advertising which contains disinformation, to increase the transparency of political advertising, to ensure the integrity of services by dealing with issues such as fake accounts, online bots, ‘deep fakes’, etc., to help users detect disinformation, and to support research into disinformation. Underscoring the delicate balance that must be struck between action against disinformation and the protection of free speech (European Commission, 2022c: Preamble, para. c), the Code now brings together major and emerging and specialised online platforms, the advertising industry, tech companies, fact checkers, research bodies and civil society organisations with expertise in disinformation. Together with the Code of conduct on countering illegal hate speech online, which has also been revised in 2024, it can play an important role in operationalising the provisions of the DSA. This is because the DSA encourages the drawing up of voluntary codes of conduct at the EU level as a means to support its implementation,⁹² and identifies risk mitigation measures against both illegal content and threats to society and democracy, including disinformation, as areas that warrant consideration through self- and co-regulatory instruments.⁹³ In fact, the DSA refers expressly to both the Code of conduct on countering illegal hate speech online and the Code of practice on disinformation.⁹⁴

THE EUROPEAN MEDIA FREEDOM ACT

Though not expressly referred to in the EDAP, Regulation 2024/1083 establishing a common framework for media services in the internal market, the European Media Freedom Act (EMFA), also forms part of the EU’s efforts to bolster its values and support media freedom and media pluralism in the digital era (European Parliament and Council, 2024b). Heralded as a response to Europe’s need for a law safeguarding media independence (von der Leyen, 2021), the Commission’s EMFA proposal, which was presented in September

⁹² Art. 45 of the DSA.

⁹³ Recital 104 and Art. 35(1)(h), in conjunction with Art. 45 of the DSA.

⁹⁴ Recitals 87 and 106 of the DSA.

2022 (Brogi et al., 2023; Cole & Etteldorf, 2023; European Commission, 2022d), adopted an internal market viewpoint to bring together an array of issues considered important for free and pluralistic media, using Article 114 TFEU as its legal basis (Cantero Gamito, 2023). Using plain internal market language, the proposal set out to address “the fragmented national regulatory approaches related to media freedom and pluralism and editorial independence”, as well as to “ensure the optimal functioning of the internal market for media services” and “prevent the emergence of future obstacles to the operation of media service providers across the EU”.⁹⁵ The Commission’s proposal was accompanied by a Commission Recommendation detailing good practices media companies can employ to promote editorial independence along with recommendations concerning ways in which media ownership transparency can be increased for media companies and Member States (European Commission, 2022e).

The EMFA maintains the obstacles logic of internal market legislation and points to both insufficient integration in the internal market for media services and to market failures that digitalisation has accentuated.⁹⁶ Different national rules and approaches to media pluralism and editorial independence are considered to hamper free movement, undermining the ability of media players in different sectors – the audiovisual, radio and press sectors – to operate and expand across borders.⁹⁷ According to the EMFA, discriminatory or protectionist national measures can disincentivise cross-border investment and market entry, but the divergence of Member States’ measures and procedures that support media pluralism can also lead to additional costs and legal uncertainty.⁹⁸ Against this background, the EMFA underlines the necessity of harmonising certain aspects of national rules related to media pluralism and editorial independence, and doing so in ways that guarantee high standards for the operation of the internal market for media services,⁹⁹ which also needs to be seen in the light of digitalisation and the challenges it poses. The EMFA openly declares that global online platforms now act as gateways to media content and that their business models tend to disintermediate access to media services and amplify polarising content and disinformation.¹⁰⁰ It also considers online platforms, as providers of online advertising, to have diverted financial resources from the media sector, affecting its financial sustainability and, consequently, the diversity of content on offer,¹⁰¹ recognising, too, that media undertakings, especially smaller ones in the radio

⁹⁵ See the Explanatory Memorandum to the EMFA proposal, part 2.

⁹⁶ See recital 4 of the EMFA.

⁹⁷ Recitals 4 and 5 of the EMFA.

⁹⁸ Recital 5 of the EMFA.

⁹⁹ Recital 7 of the EMFA.

¹⁰⁰ Recital 4 of the EMFA.

¹⁰¹ Recital 4 of the EMFA.

and press sectors, cannot compete with the online platforms on a level playing field.¹⁰² Insufficient tools for cooperation between national regulatory authorities are also seen as problematic, enabling media players that systematically engage in disinformation or information manipulation and interference to abuse the internal market.¹⁰³

In such a context, the EU values paradigm becomes particularly pronounced and imbues the EMFA internal market rationale. The EMFA proudly proclaims its purpose to be securing a well-functioning internal market for media services, an essential feature of which is the protection of media freedom and media pluralism “as two of the main pillars of democracy and of the rule of law”.¹⁰⁴ According to the EMFA, recipients of media services in the Union should “be able to enjoy pluralistic media content produced in accordance with editorial freedom”,¹⁰⁵ and the Member States should “respect the right to a plurality of media content and contribute to an enabling media environment”,¹⁰⁶ which is in line, as noted, with the provisions of the CFR, in particular the right to receive and impart information and the requirement to respect media freedom and media pluralism.¹⁰⁷

In more detail, the EMFA requires Member States to “respect the right of recipients of media services to have access to a plurality of editorially independent media content and ensure that framework conditions are in place [...] to safeguard that right, to the benefit of free and democratic discourse”.¹⁰⁸ It lays down rules obliging Member States to respect the editorial freedom and independence of media service providers, to improve the protection of journalistic sources,¹⁰⁹ to refrain from deploying intrusive surveillance software in any material, digital device, machine or tool used by media service providers, their editorial staff and any persons with a regular or professional relationship with them,¹¹⁰ and to ensure the independent functioning of PSM.¹¹¹ The latter rests on requirements for transparent, open, effective and non-discriminatory appointment procedures, along with guarantees of adequate and sustainable financing for PSM.¹¹² The EMFA also makes arrangements to protect media content against

¹⁰² Recital 6 of the EMFA.

¹⁰³ Recital 6 of the EMFA.

¹⁰⁴ Recital 2 of the EMFA.

¹⁰⁵ See recital 8 of the EMFA.

¹⁰⁶ Recital 8 of the EMFA.

¹⁰⁷ Recital 8 of the EMFA.

¹⁰⁸ Art. 3 of the EMFA.

¹⁰⁹ Art. 4 of the EMFA.

¹¹⁰ Art. 4 of the EMFA.

¹¹¹ Art. 5 of the EMFA.

¹¹² Art. 5 of the EMFA.

unjustified removal by VLOPs,¹¹³ requires media service providers to guarantee the transparency of their ownership,¹¹⁴ and mandates the provision of substantive and procedural rules at the Member State level for the assessment of media market concentrations that could have a significant impact on media pluralism and editorial independence.¹¹⁵ Moreover, it lays down requirements for systems and methodologies designed to measure audience,¹¹⁶ which can affect advertising revenue, and provides for the transparent and non-discriminatory allocation of state advertising and supply or service contracts to media service providers and online platforms.¹¹⁷ It further transforms the European Regulators Group for Audiovisual Media Services (ERGA), established by the AVMSD, into a new European Board for Media Services (EBMS)¹¹⁸ charged with promoting the effective and consistent application of the rules introduced and the AVMSD.¹¹⁹ The EBMS is fully independent¹²⁰ and serves as the collective body of independent national media regulators.

With such content, the EMFA sheds light on the multi-pronged nature of Article 114 TFEU as an internal market legal basis. Not all Member States were convinced by it, however, and Hungary has challenged it before the Court of Justice of the EU (CJEU).¹²¹ The preparatory work done in the Council Audiovisual and Media Working Party reflected the difficulties inherent in the adoption of the EMFA (Council of the European Union, 2022; 2023a). Although the Member States agreed on 21 June 2023 on the Council mandate for subsequent negotiations with the European Parliament, they also emphasised that, besides maintaining the ambition and objectives of the Commission proposal, future negotiations should ensure that “the new law is consistent with existing EU legislation, respects national competences in this area, and strikes the right balance between the necessary harmonisation and respect for national differences” (Council of the European Union, 2023b).

Should Hungary’s referral prove admissible, it will of course be up to the CJEU to determine what falls within the competence of the Union and what rests with Member States. For sure, the incorporation of non-economic public interest concerns and objectives in internal market legislation has long been possible, covering the protection of fundamental rights and the elaboration of protective standards, provided that the use of the internal market legal bases could

¹¹³ Arts 18 and 19 of the EMFA.

¹¹⁴ Art. 6 of the EMFA.

¹¹⁵ Art. 22 of the EMFA.

¹¹⁶ Art. 24 of the EMFA.

¹¹⁷ Art. 25 of the EMFA.

¹¹⁸ Art. 8 of the EMFA.

¹¹⁹ Art. 12 of the EMFA.

¹²⁰ Art. 9 of the EMFA.

¹²¹ See C-486/24, *Hungary v Parliament and Council* (case in progress) and *Politico* (2024).

be justified (de Witte, 2006; 2014). The EMFA addresses a wide set of contemporary challenges from an EU values perspective in an internal market context and it is intrinsically linked to the MPM and the EU RoLM, which are both concerned with threats, risks and impediments to free speech, media freedom and media pluralism. Indeed, the explanatory memorandum that accompanied the EMFA proposal referred in detail to the annual RLRs and the MPM findings that inform it (European Commission, 2022d). Seen in this light, the EMFA signals (and confirms) the potential of Article 114 TFEU to serve as a basis for internal market legislation which is not only about the free provision of services. The EMFA does not limit itself to ensuring the free provision of media services, but seeks the unimpeded provision of free, independent and pluralistic media services and hence the good functioning of the internal market for media services, understood as a values-based internal market that fosters free speech, media freedom and media pluralism in various ways. From this perspective, the EMFA also significantly expands the issues which media regulation at EU level concerns itself with.

CONCLUSION

In the mid-1990s, a former commissioner for the internal market Mario Monti sought to address the protection of media pluralism through media ownership regulation at EU level (Harcourt, 2005: 81–84). The Commission submitted two consecutive proposals, neither of which moved forward, primarily because of a claimed lack of competence by the then European Community. The EU's media regulation moved ahead slowly after that. The legal debate surrounding competences (Craufurd Smith, 2004) and the political opposition to enacting common rules on media freedom and media pluralism have weakened attempts at regulation in the past. Indeed, with its market-building rationale, the AVMSD was for a long time the main regulatory instrument which addressed the media as such. Gradually, and especially after the Treaty of Lisbon, the EU has enacted several media-related measures, increasingly citing the EU's common values – and in particular freedom of expression, media freedom and media pluralism – for doing so. Still, this activity did not coalesce into a coherent media policy. This is because relevant provisions were scattered through laws and instruments dealing with a broad range of issues that related to the media – from data protection to copyright and whistleblowing – but did not *directly* address them.

Since 2019, EU policy discourse has been marked by a sharp focus on the EU common values – a response to the challenges facing democracy in certain Member States – which seems to have facilitated a more concerted approach to media policy. Moving away from fragmented initiatives, major policy

documents of the Commission, in particular the EDAP, have signalled a change in the way the media should be regulated at EU level. The EMFA addresses *core* challenges relating to media freedom and media pluralism. It seeks to tackle and brings together a range of issues which are centrally connected to freedom of expression and the role and operation of the media in a democratic society. It therefore marks a break from the piecemeal approaches that have dealt in the past with issues more peripheral to the media. It is true that Article 114 TFEU is still the legal basis used, and the usual internal market rhetoric about trade barriers and distortions hampering the functioning of the internal market is still present. However, these barriers and distortions now derive from Member States' divergent treatment of, specifically, media freedom and media pluralism. As originally noted by the Commission in its EMFA proposal, either because the Member States lack specific rules or because the existing rules vary, fragmented national safeguards for media freedom and pluralism translate into internal market barriers, distortions of competitive conditions and, ultimately, an uneven playing field, hampering media service providers' ability to use the internal market to its full potential and to properly fulfil their societal role to inform. This suggests a heightened sensitivity to a values-based internal market and the recognition that obstacles to the free movement of media services are not only market-, but also values-related. The EMFA puts free speech, media freedom and media pluralism policy considerations centre stage.

This is a welcome move in the fight for democracy across the EU (Tambini, 2022) and one that has also been incentivised by digitalisation and the challenges it has posed vis-a-vis the operation of the media. The provision of media services in the EU has been markedly affected by online platforms, which amount to prominent online advertisers and act as gateways to news and information. The pressures which platformisation has imposed on the operation of the media have shed light on the inefficiencies of customary EU media regulation (Brogi and Parcu, 2014), underscoring the need to define, operationalise and safeguard the role of the media in a democratic society, at EU level, within the powers attributed to the Union. From this perspective, EU media regulation is not just about creating a level playing field through upholding the principles of the internal market, i.e. free competition and equal treatment. It now also addresses a broader set of issues, advancing a qualified understanding of what a well-functioning internal market of media services is: namely one in which the integrity of the European information space is guaranteed and the importance of the media for the functioning of our democratic societies, besides the economy is acknowledged and upheld.

This reveals a widened EU media policy: that is, one that seeks to cater to topics that had not hitherto been addressed at EU level, ranging from editorial freedom and the independence of PSM to methods for assessing media

market concentrations. But while the EMFA significantly expands the issues which media regulation at EU level now addresses, the values-based regulatory paradigm also transcends the regulation of digital intermediaries. Here, too, much regulatory effort now goes into ensuring the integrity of the European information space where free speech and the right to seek and impart information and ideas are taken seriously in the digital realm. The regulatory model may differ – it is mostly based on procedural and organisational accountability with enhanced user agency – but the underlying premise is the same: ensuring a values-based internal market of digital intermediary services in which the approximation of Member States’ rules concurrently seeks to create an enabling environment for the exercise of free speech and for the right to information in a digital setting. This approach underpins the DSA and the regulation of VSPs in the revised AVMSD, and is also reflected in efforts directed at the co- (and self-) regulation of digital players.

Evidently then, media and digital intermediary services are now embedded in a wider digital governance project which purports to address technological transformation and societal change in ways that are rooted in Europe’s common values. This is a complex regulatory project, which raises significant challenges for implementation because it involves multiple themes and a broad set of actors with different interests that have to be balanced. It will require targeted efforts to turn what has been agreed upon into practice, and a cooperative approach to address the different sets of interests at stake. Success, therefore, lies not only in creating a framework (or multiple frameworks); it also requires that the rules introduced be put coherently to work in ways that uphold the Union’s values.

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Unlocking the Media's Future and Fostering Social Harmony: The Power of Deliberative Communication

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While working on the Mediadelcom project in 2023, a new conflict in the Middle East was once again forcing the media to grapple with how it both portrays the actors, and maintains balance and objectivity. This was just the latest event to force the media to self-reflect on how it operates and faces the challenges ahead.

Those challenges are plentiful and varied and involve assorted causes. Declining audiences and readership numbers and consequently reduced revenues and budgets are severe problems. Digital technologies have led to increasing hate speech, misinformation, disinformation, fake news, propaganda, lying politicians, falling trust in the media, and attacks on journalists. Local news outlets are either disappearing and creating 'news deserts' or being captured by politicians and political parties resulting in some cases in suppression of free speech and increasing political pressure on media professionals.

Some countries have addressed these issues by enacting policies and programs, including media literacy education and laws and regulations. Media organizations have introduced innovative forms of journalism such as slow, community and solutions-based to appeal to more people and present issues in novel ways. Fact-checking units and organizations have been set up to correct false and misleading information.

Yet despite these programs and initiatives, the problems persist.

One of the best examples of this comes from the United States. A Monmouth University Poll¹ in June 2023 that found 3 in 10 Americans still believe the false narrative that Joe Biden only won the presidency because of voter fraud. That's despite rigorous fact checking and numerous reports to the contrary.

So is another new approach needed?

Now that the Mediadelcom project has reached a conclusion (February 2024), the burning question is whether can it provide a deliberative option – communication or journalism – for the media to embrace that could help address these challenges?

Mediadelcom, an EU-funded three-year project, examined the risks and opportunities for deliberative communication in 14 EU countries.

The concept of deliberative communication is not widely known, especially in the EU. Whenever I mention this project, the first question I'm asked, even by experienced journalists, is 'what is deliberative communication?'

I have been trying to answer this question, as part of my work on the communications side of Mediadelcom by interviewing people across the globe for a podcast series. I've spoken to academics, journalists, editors and TV producers who have a view on the future of the media or are putting deliberation or something like it into practice.

So back to the definition of deliberative communication.

The Mediadelcom project states:

Deliberative communication implies communication in which different ideas are articulated and listened to. Decisions are made after reasonable discussion. News media can support the deliberative potential of society by providing truthful facts, and inducing dialogue and rational discussion between different groups in society.

As Ioana Avădani, the President of the Centre for Independent Journalism in Bucharest and a member of the Romania's Mediadelcom team summarizes: deliberative communication "is not only about talking and having a platform, but it also involves the right to be listened to and considered as part of problem solving".

If we take the definition further and apply it to the media, then what would deliberative journalism look like? The simple answer is quite different to what we often see now. Gone would be the polarized and combative debates and discussions. In their place, we would probably hear more diverse voices, and a more "reasoned" or in-depth look at issues. The discussion would move beyond

¹ Monmouth University Poll. June 20, 2023. *Most Say Fundamental Rights Under Threat*. https://www.monmouth.edu/polling-institute/reports/monmouthpoll_US_062023/

slogans and catch phrases and explore not only the problems but some of the solutions as well. Respect would be a key aspect.

Let's consider a few important issues – elections and migrants. What would a deliberative approach to them look like in terms of news coverage and discussions or debates?

I think basically all topics and issues would look different if you have a deliberative dimension of the public debate. And in the case of migration of course it would mean that some aspects that are today completely neglected, that are not newsworthy in one or another aspect, would be coming to light if you have a more deliberative process (Lars Nord, Professor in political communication at Mid-Sweden University and a Mediadelcom member).

Professor Nord's comment highlights a crucial aspect of our media landscape; the formation of consumption habits that revolve around whatever mainstream media labels as newsworthy.

Iveta Jansová, Assistant Professor at the Department of Media Studies and Journalism at MUNI and member of the Mediadelcom team in Czechia, agrees that a deliberative approach would make a big difference:

In the deliberative concept, you expect news media through providing different opinions, to spread diversity, transparency. And if media fulfill these obligations, it will really make a difference compared to elections without deliberative communication where some voices are not heard, some perspectives are not offered to the public.

So, can we safely presume that adopting a deliberative approach holds the key to fostering social cohesion? Could it serve as a means to mend the divides within our society, particularly in communities marked by deepening polarization or individuals who believe their voices go unheard?

A project in the United States is working to enhance local democracy, and perhaps heal some of those divisions, through deliberation. The Center for Public Deliberation (CPD) at Colorado State University aims to improve public communications and community problem solving by training its students to become facilitators so they assist local government, schools, and community organizations in problem-solving key issues.

Certainly, our assumption, and I think we certainly have evidence of this with different projects, is that if you elevate the quality of the discussion, then the decisions are going to be better. Not only will the decision be better,

but there's also more legitimacy to the decision. There's more support for it (Martin Carcasson, Director of the CPD).

The CPD is also trying to help improve local journalism. It works with the local newspaper, *The Coloradoan*, on a deliberative approach to engage residents on local issues.

As a way of reaching out to its community, the newspaper has abandoned its traditional opinion page, which has been replaced with a deliberative approach. Each week, in a section called *Coloradoan Conversations*, the newspaper poses a question or questions based on what's happening in the local news, inviting everyone – subscribers and non-subscribers – to send in their comments and feedback and engage in a conversation. The aim is to provide a platform for discussion and demonstrate that everyone's voice is valued and welcome. The CPD's role is to read through the conversations to identify value-based statements, as well as examples of good and bad deliberation to help the newspaper frame the conversation.

Eric Larsen, Editor of *The Coloradoan*, says:

Ultimately our goal is to work towards community solutions, whether it's just improving the amount of information that's available to decision makers. Distrust in media is also seen as distrust in our institutions and a lot of that comes from, especially in the pandemic era, people feeling not involved in the processes.

Mr Carcasson concurs, saying that working with the newspaper has sparked a deep conversation about local journalism.

So, we've deliberated about journalism, and then we're also trying to innovate on this idea of deliberative journalism. How is that different than other journalism? How do we build up the skills for journalists to also have that as part of their skillset to help their local community?

In Norway, public broadcaster NRK is also trying to spark better conversations and debates on key issues by breaking away from combative debates. In 2019, the NRK launched *Einig* (agree). Although the NRK does not consider the TV program, renamed in 2022 as *Ueinig* (disagree), as deliberative journalism, it shares many of the same values and objectives. The program presents issues in a more constructive and considered way.

Gro Engen, Editor of the TV program, says *Ueinig* is trying to engage and win back audiences, especially younger ones, who she says were tired of combative debates and found them boring. *Ueinig* tackles some of the country's major issues,

including freedom of expression, drugs, and electricity production problems, and invites politicians and non-politicians to leave their political lines, rehearsed speeches, and antagonism outside the studio to engage in discussions. Guests are encouraged to ask each other questions and to bring a “human dimension” to the discussion.

We saw the discussion got more interesting because they (the guests) left that typical political talk behind. They were using examples from their own lives, like talking about how they got involved in the issue or why they became a politician. It got more interesting because they were curious and they thought they could ask good questions to their opponents (Gro Engen, Editor of *Uenig*).

She says the reaction from guests has been positive. Following the first show, politicians got in touch with the program asking to participate and the show has also managed to bring together adversaries who usually do not debate with each other. What aspect is attracting them to the idea of debating differently? The absence of antagonism and ‘hardness’, according to Ms Engen.

There are, of course, challenges with changing a main political debate program into a more “considered” format. Ms Engen says they have been making changes to the show’s format to appeal to more audience members. She says, long-term support for developing new formats like hers is key to their success.

The projects in Colorado and Norway provide examples for others to follow, if that support, as Ms Engen notes, is there to provide the time to innovate on the idea of deliberative journalism.

Dr. Tobias Eberwein, a Senior Scientist at the Austrian Academy of Sciences and Mediadelcom team member, sees the need for deliberation in his country:

We see a lot of controversy in Austria at the moment, particularly in the aftermath of Covid 19 because there are many examples of polarization within society, there are fronts between different segments within society and people competing with very adversarial opinions and of course deliberation in such a climate would certainly help foster dialogue and actually foster something like understanding between those different factions within society.

Eberwein believes the Mediadelcom project could help develop best practices and role models for a deliberative approach.

So, if as Eberwein points out there is a need for a deliberative approach, what is needed other than the media to buy-in, to make it happen?

Deliberative communication, like the media in general, needs certain conditions to be met in order to thrive. The Mediadelcom project has examined

those conditions, which include everything from media laws and regulations, media literacy, free speech and freedom of information protections, to media accountability.

If we consider the project's findings as a snapshot of the state of the media in the EU, then it's not easy to give an overview of the situation. It's too complex. The differences, in some cases, are too big or the data is not comparable.

Let's take free speech and freedom of information protections as an example. According to Anna Kandyla, Research Fellow at ELIAMEP in Greece and Mediadelcom member, the picture in Europe is mixed. Even if laws and regulations exist, it doesn't mean they're implemented. So whether or not they are in place and adhered to poses either a risk or opportunity for deliberative communication.

If I could make a general remark, I would say implementation overall is problematic. We have countries where implementation of the laws addressing the media and in particular freedom of expression and freedom of information guarantees works well even though the laws are not really thick or detailed, like Sweden for instance. And then you have at the other extreme countries like Romania and Greece for instance, which have detailed laws that really touch on every little aspect of the media and the media market, yet no implementation whatsoever (Anna Kandyla, Research Fellow at ELIAMEP in Greece and Mediadelcom member).

Trust in media is also vital for a deliberative approach to succeed.

If we see the media as an infrastructure for public deliberation, like the nervous system of society that's trying to bring different views together, that's trying also to explain different views to other groups. If you don't trust that nervous system, if you feel disconnected from it, of course that's a high risk (Marcus Kreutler, Researcher at the Erich Brost Institute for International Journalism and member of the Mediadelcom team).

Lards Nord argues media literacy or media competency is also important:

I think media literacy is a cornerstone for having deliberative communication to work because the public needs to have the capacity and competencies to use different media to evaluate different messages. There is a need for media competency; it is a basic thing for deliberative communication to work.

The Mediadelcom project examined other factors that determine the risks and opportunities for deliberative communication. The aim is for their findings

to help the media and policy makers decide how to embrace or promote a deliberative approach.

But some media professionals and academics are warning the media does not have the luxury of time. It needs to change quickly if it wants to stay relevant.

One of them is Chris Anderson, a Professor of Media and Communication and co-author with Barbie Zelizer and Pablo J. Boczkowski of the *Journalism Manifesto* book. The co-authors argue that journalism is outdated and disconnected from everyone who matters. They say ‘journalism needs to revisit its engagement with society, rethink its priorities, rekindle relevancies gone dormant and question its default settings’. If it doesn’t they say, its future is at risk and time is running out to change.

Anderson concurs that deliberative journalism has a role in this transformation of the media, but warns there are risks.

I think deliberative journalism has a huge role to play and it has one problem. The opportunities are endless. It gets people involved in the conversation, it promotes new ways of thinking about politics, it creates ways of understanding politics that go beyond this binary ‘us versus them’ sort of agonistic attitude. It trains citizens and it trains journalists in thinking about democracy and about citizenship in new and different ways. It’s a training ground for certain types of political practices we would like to see more of. When paired with things like solutions journalism or other types of journalism that are out there, it can rethink what media is for and what the media is supposed to do.

The solitary problem that Anderson mentions is that not everyone wants to deliberate.

So what happens when we have a deliberate system that is forced to engage with partisan actors who are utterly uninterested in actually putting in the good faith effort to deliberate and that is something that all the institutions and organizations that have taken up the mantle of deliberate journalism need to wrestle with.

Even if the media adopts a deliberative approach and finds a way to address the issue of partisan actors, audiences still need to show an interest. If they do not want to listen, read or participate in deliberative journalism and other deliberative initiatives, can it thrive and survive?

“The reason people should be interested in deliberation is because their voices could be heard, they could be part of decision processes, they could be part of the way the world actually moves forward,” argues Ms Jansová.

Perhaps Marcus Kreutler best summarizes the choice the media faces when it comes to adopting deliberative communication:

Well, the question is what do you want from the public, do you just want to give people information to take a decision or do you want more? Do you want to make sure that everybody who's affected by decisions also has a say in how they come together? Do we want the best argument to be accepted, to shape the decision that is taken in the end? These are all things that are very much connected to the deliberative approach.

In an ever-evolving and challenging media landscape, the choice is clear: embrace deliberative communication as a path to more inclusive, informed, and cohesive societies, or risk missing out on the opportunity for a more vibrant and participatory future.

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Living Media Diversity: The Media Diversity Institute's Perspective on Deliberative Communication

Interview with Milica Pesic, Director of the Media Diversity Institute Global

Deliberative communication in practice requires the inclusion of multiple voices, which include academia, alongside other critical stakeholders, such as media actors, policymakers, non-governmental organisations and other forms of social organic collisions across cultures and experiences in the media workplace. It also requires a willingness to listen and respect differences of opinions and ideas. Within the Mediadelcom project, the role of promoting the project and the voices of European academics involved in it to the wider public was orchestrated by the Media Diversity Institute Global, our partner institution, led by Milica Pesic.

Below, we discuss how the Media Diversity Institute, which recently celebrated a major milestone, has been and continues to change concepts of media diversity as well as its contribution to European media deliberation – its visions and realities.

/// First, Milica, Happy Birthday to the Media Diversity Institute. 25 Years and Counting. Tell us how you celebrated?

For us, it's been a significant celebration and we organised several major and important ways to mark it. We created a book featuring a collection of essays by academics, journalists, policymakers, and civil society actors we have worked with over the last 25 years. We asked them to use ethnographic methodology and tell us their stories about how they got involved in media diversity issues across the globe. As well as their insights, they also addressed how they see MDI in the next 25 years, which was wonderful to read and provides us with the inspiration to continue our important work. One of our goals – what we thought was very important in our 25th year – was to appeal to more younger people, which

is a challenge for many of us. We used our digital channels to address them and encourage them to get involved. We did that by posting short messages on TikTok, Instagram, X, and Facebook. Sometimes, when some inspiring examples of inclusive journalism were shared with our audience, we'd have up to 10% more likes on those platforms. We also hosted a hybrid anniversary celebration in London, with over 1,500 people listening to and watching the recording online.

Looking back over the years, there have been so many critical cultural and technological shifts, and more are to come. Tell us how the overall dynamics of socio-cultural contexts have changed your work – MDI visions, strategies, and impact.

There have been dramatic changes over the last 25 years. If we talk politically, 25 years ago in Europe and globally, there was this understanding that 'someone' was missing in the media and public space. We are not made of one ethnic group, one religion, one gender, or one sexual orientation, but we weren't hearing often enough from people with different backgrounds. Back then, multiculturalism became a 'sexy' concept, so many countries and governments started thinking about how to deal with diversity and inclusion in the fast-changing media and culture environments.

And that's where MDI came in. In north America, the concept of diversity, a model called 'melting pot' had existed for centuries. Canada was the first country to introduce a concept of diversity in their constitution in 1974. They started insisting on what my Canadian colleague journalists would call a 'salad bowl': "Let's see who is out there. We are like a salad bowl, Vietnamese, Chinese, Canadians and others; they all contribute what they brought to our society". You can still recognise the ingredients but it's the dressing which changes the taste of the salad. The individual community identities are still recognisable but the whole society is changed thanks to the communities' contribution to it.

Looking at the time at what was happening in Britain and the rest of Europe, I would say there were different attempts to find the best ways to respond to a growing ethnic and religious diversity brought by either people coming from former British colonies in the case of Britain, or by a growing need to respond to *civic assimilation* brought by the principles of *égalité et fraternité* which was a model of diversity management in France. That provided MDI with an opportunity to question together with the media actors and academic researchers what models of diversity approaches were working, if any, in Europe, and what models were needed.

For us, it was an exciting time. We felt like we were pioneering something others are now trying to understand 25 years later.

I see our dynamic Media Diversity Institute history as an interplay between politics and technology. Today, media polarisation is everywhere in Europe, the

USA and elsewhere and we know how that affects all of us. On a technological level, when we started, there was only conventional, or what we now call legacy media. Then, social media was still relatively new, and we, like so many others, were optimistic that it would be a space for the marginalised, the vulnerable, and the excluded. But then reality set in and since then, a lot of our work has been tackling intolerance, hate speech and other divisive and unacceptable behaviour online. Of course, there is still this positive side of social media where everyone feels like a journalist or has something to say, but, as one of our academic advisors put it, there is no ear to hear them. The public space has become fragmented and marginalised. Vulnerable people, minority communities are different from the mainstream, and the MDI has been working with those communities, which have become more exposed to negative stereotypes and exclusion in particular in the online space.

Maintaining diversity nowadays is a challenge for MDI and other organisations; I can see that universities are struggling to get the students involved in different debates and are becoming the subject of cancel culture. “As you express your opinion and it’s not like mine, I want to cancel you”. We all know that the public space should be about inclusion and hearing different views, so basically, these are the challenges we are dealing with and looking for solutions via training, projects, and so on.

The multilayered concept of media diversity has changed a lot. So, what has been more challenging? Dealing with media, policymakers or the cultural space: media’s cultural path-dependencies vs imaginative media futures?

Politicians are mainly those who make decisions on a high level and their hearts are the hardest to change; it’s hard to get some of them to realise they need to change. I watch what’s happening in UK politics. What we expect from politicians is for them to have values and a vision for the country and community, but they are either not articulating their vision or don’t have one.

Let me give you an example. While everyone is discussing migration and whether Europe needs it, political parties are not necessarily addressing what we need from migrants and the value they bring to our countries. Would the British health system survive without migrant doctors and nurses? Would British agriculture or hospitality industry survive without migrant workers? What are the values migrants bring to British culture? That’s something migrants could share through the media with the public, and this would increase constructive debate about migration and hopefully tackle the problem of hate speech and intolerance towards migrants who are often portrayed as invaders or a problem. That’s why training journalists is so critical to MDI’s work. We train and support journalists in producing content, hoping they will return to their newsrooms

and tell their editors: “I will try to do something a new way, our new Diversity and Inclusive way”.

For instance, we bring journalists from the South Caucasus or the Middle East or North Africa to Amsterdam, Vienna or London to visit media organisations that have already embraced inclusion principles. These media outlets can explain why they do that and the benefits the inclusive approach bring to their organisations, content and audiences. They can explain the business case for diversity and what's at stake for Public Service Media (PSM) which per definition are supposed to be inclusive since they are funded by all taxpayers regardless of whether those taxpayers are of this or that ethnic, religious, gender or any other diversity background. I'm proud we've been able to connect journalists and media outlets across different continents to learn from each other to gain a better understanding of diversity and inclusion. As a result of this initiative, Public TV in Georgia adopted a completely new diversity policy by creating shows in 5 minority languages produced and anchored by minority journalists while at the same time people behind those new shows produced 10 minute news stories about minorities to be aired in primetime news bulletins. As a small group of activists, we have an uphill battle, but working together with like-minded groups we can push and say, “Guys, you have to learn to be leaders and listen”.

◇ So, what have been the most successful Media Diversity Institute initiatives?

I'm proud to say in the past 25 years we've had a lot of successful initiatives, and we've had an impact by advocating for the media to give a voice to a diverse range of people. Let's hope we can keep that momentum going!

So, I would say one of our most significant achievements is that we listen and act with media actors, civil society organisations, and media scholars. We have worked with media academics from more than 80 countries across the globe, supporting them in developing and teaching Inclusive Journalism modules and courses. With the University of Westminster in the UK, we established a more practical Master's course in diversity and media for journalism students. We found these collaborative courses very useful, because even if students don't become journalists, they graduate with knowledge and practical experience in how to deal with media diversity and inclusion in general. A moment I consider a success is when I was presenting the MDI work at Columbia University Journalism School and the professor running the department said our work is unique not only for Europe, but globally. To be recognised for our work and its impact is always appreciated and encourages us to continue our efforts. Of course, I would like to add that all our programmes from training to monitoring hate speech have been important in the promotion of responsible media and diversity.

Nowadays, one of our goals is to be listened to by big tech companies, but so far, we think they haven't taken us seriously. With high technology, it is not a kind of friendship, but you would say it is a 'frenemy' situation. So, we are friends and enemies at the same time. We need them to be more inclusive of diversity, which is a daily struggle. But yes, when we go to them, I say you should close this account because this is very antisemitic or homophobic or anti-Muslim, the big techs do not react as much as we believe they should. For instance, some social media users keep questioning the existence of the Holocaust. With a group of likeminded organisations we approached Facebook and they decided to adopt a policy of removing the Holocaust deniers' accounts.

We know how important social media are, but our relationships are still far from being perfect. We are not powerful enough to change them dramatically. So, this is the direction we want to go further, particularly for those who set up and create artificial intelligence, because we realise that Generative AI can reproduce as many standard negative stereotypes, similar to humans who have them made. We hope to influence how algorithms are created and spread throughout multicultural societies to prevent hate speech, discrimination and negative stereotypes of different groups.

✦ What's the next step in media diversity?

It's internet governance. We were one of the organisations trying to push for it. And we speak about internet governance, not government. This is where people and different media stakeholders must get together. The big tech companies are becoming so powerful, and there are policies to look ahead to. Look at what's happening in both Australia and Canada, where governments are insisting social media giants pay fees for news taken from legacy media. This happened in Australia in 2023 and in 2001. Facebook responded by temporarily closing firefighters and other government services' pages to demonstrate their power. In Canada in 2023, the government issued a law that the 'Big Six' have to compensate media outlets for the content they share and make a profit from. So, we are now looking to see what will happen, but these governments, together with the civil society sector, are fighting this robust sector called big tech or social media to protect their media companies.

✦ Within the Mediadelcom project, the MDI has worked with several academic and research institutions. What is the value of the research we are producing? In other words, how does scholarly data contribute to media diversity? What have we learned collaborating together?

One of the reasons we joined the project was the concept of deliberative communication and its use in the media. We've been doing work and projects around societal polarisation, and the polarisation of public debate has been something we need to explore. So working on the Mediadelcom project provided us with an opportunity to work on something important to us. We have learned that we need to listen to each other more.

Working with Mediadelcom has been interesting as we work directly with journalists, media and civil society organisations. It's very different working with people in academia. Your priorities are very different to ours – and sometimes so too is your language, your 'lingo'. But in the end, we need to find the best way to work together to ensure your findings and recommendations can be applied in the media, civil sector and the wider communication landscape.

I think there's a real advantage for academics of studies like these to work with people and organisations outside academia – like us – as we bring a different experience and perspective. Academic findings mustn't end up on a shelf-journalists, media owners and other media decision-makers, organisations representing diverse communities and policy makers should understand those studies and the value they bring to their work. That means presenting it in a way that appeals to various target audiences. We all need to get out of our comfort zones.

For me, another important thing is ensuring the recommendations of studies like Mediadelcom respond to current challenges. A good example of this was when we worked together to organise an event in Warsaw for Mediadelcom called "Breaking Down the Walls". It brought together media and cultural figures to discuss how they could work together to promote social cohesion. That was a time when one-third of municipalities in Poland functioned under the so-called LGBT-free zones. So, we brought together people in a deliberate format to discuss issues relevant to them at a time when they mattered. What I also liked about that event is that we really encouraged young people to attend and get involved. It was inspiring! Working with a variety of people like artists and young people, also inspired me to explore new ideas, to innovate and collaborate.

So, back to your question on how the project can contribute to media diversity: I think the event in Warsaw is a prime example of how deliberative communication encourages listening to diverse voices. It takes the conversation away from polarisation and towards an inclusive and respectful dialogue on important issues.

We need a straightforward approach to tackling issues because of what's happening in the world. I mean, nativism, nationalism, and chauvinism need much stronger answers and that's where I think deliberative journalism communities can play a role. The MDI Global's view on deliberative journalism is that it *can* be an answer, and it's not complicated to introduce it to media outlets. The main challenge may be convincing audiences to turn away from fiery, entertaining polarised "fights" and listen to more deliberative discussions because these deliberative

debates could provide them with more information, a wider range of views, and therefore a better understanding of an issue.

/// We as researchers, mostly address our work to other academics, so what would your advice be to us when it comes to media, diversity and deliberation?

I mentioned it a little above, but I think you need to think about the language you use. Sometimes it is not understood or relevant to us working in the field. We need to understand each other and open up lines of communication. I would like to see that happen so we can all benefit from each other's work.

I'm sure you and your colleagues would like more journalists and organisations to adopt some of your recommendations, but first they have to understand in a very practical way how they can apply them. I think that is important and one of the key lessons from this project: the need to collaborate for greater impact. And it would be great for you to work with us – the media or other interested parties – from the project inception stage. I would like to see more of these projects have a real and lasting impact on how we operate – no matter what field we work in. Considered and serious research can help us all work better and create a better society.

If I think of a few Mediadelcom recommendations that we could work together on they would be media literacy, especially for youth, and strengthening public service media. I would love us to work together to make public service media more appealing to new generations and your students. I think we could do some really good work that brings a lot of positive results.

Milica Pesic is the President of Media Diversity Institute Global (MDIG). She has been working in Diversity and the Media field for more than 25 years designing and supervising multi-national, multi-annual programmes in Europe, NIS, MENA, South Asia, the Sahel, Sub-Saharan, West Africa, China and Cuba. She has co-designed an MA Course in Diversity and the Media which is jointly run by the MDI and University of Westminster. A Journalist by profession, she has reported for the BBC, Radio Free Europe, the Times HES, TV Serbia and other media.

*Milica Pesic was interviewed by
Michał Głowacki in the Spring 2024*

**EPP LAUK, MARTÍN OLLER ALONSO, HALLIKI HARRO-LOIT (EDS.)
*MONITORING MEDIASCAPES. A PREMISE OF WISDOM-BASED EU MEDIA
GOVERNANCE. UNIVERSITY OF TARTU PRESS, 2024, 235 PP., ISBN 978-
9916-27-459-0 (PRINT), ISBN 978-94916-27-460-6 (PDF)***

This volume is a result of the EU-funded research program “Critical Exploration of Media Related Risks and Opportunities for Deliberative Communication: Development Scenarios of the European Media Landscape (Mediadelcom)”, which lasted from February 2021 to February 2024. The program had many qualities, which other commentators will also observe, highlight and analyse. Among them I will briefly mention: a) the large research base, comprising 14 countries; b) the case studies prepared according to an interesting grid, which summarizes the media landscape in those countries; c) the complex theoretical model, which researchers participating in the project developed; d) the clear research methodology (although not always respected by the authors of country reports) and e) transversal analyses. The latter focused: a) various other media transformation monitoring projects in these countries; b) legal regulations and media accountability; c) the study of the profession and its transformations; and d) investigating media usage and consumer skills. These aspects of the project provide a lot of useful information, interpreted by the project members in thematic summaries, which can always become the starting point for other research.

I would like to focus only on one aspect—the theoretical frameworks—on which this project was based, and particularly on the models and paradigms that underlie this construction. The theoretical model generates the major frames by which the research of the 14 case studies was carried out and also provided the frameworks for interpreting the data. The Mediadelcom team started from the idea that deliberative democracy needs the institutional bases of deliberative communication: “Deliberative communication is interrelated with media monitoring in the four research domains analysed within the Mediadelcom project: legal and ethical regulation, journalism, patterns of media use, and media-related competences” (p. 15).

The book starts from the premise that, in order to understand media transformations and at the same time generate the appropriate media policies, “a strong capability of monitoring mediascapes” (p. 4) is needed. This concept is revealed as the “capability of monitoring risk and opportunities emerging from the news media transformation” (p. 13). In other words, this broad theoretical perspective

provides a holistic integrative framework for the analysis of media monitoring capabilities, with a particular focus on structures and agencies: thus, the monitoring process is defined “both from the individual (agent) as well as from the institutional (structural) perspective” (p. 21).

Pursuing this perspective, the authors consider that four variables should be taken into account: (i) the structure; (ii) the agents; (iii) the hierarchy of heuristic instruments; and (iv) the context in which media monitoring is conducted. The last variable refers to the existing technological conditions, legal regulations, economic and financial conditions and, of course, to the human capital (p. 30).

Of these variables I would like to focus on the agents, because the concepts of both structure and context are sufficiently clear and do not require any reflection. The authors distinguish between corporate agents and primary agents and they point out they are defined by the competence and motivation to implement certain norms; in this case those of deliberative communication. The authors also stress the importance of the relationships between these agents, defined by several elements such as the type of cooperation between them, their motivations, their ability to apply the knowledge acquired and the necessary skills to do so. This model applies to the agents studied in the 14 media systems, but an interesting example of how the model materializes can be found within the project team; in an overwhelming majority of the team members are representatives of the academic field or research institutions; this means that through training and experience they have the conceptual and methodological competence to carry out such research; at the same time their motivation is scientific and it is evident that they have a tradition of academic cooperation. This perspective is quite idealistic, suggesting that agents are detached from the determinations of what Pierre Bourdieu called “habitus.” Even members of the academic field, not to mention those from other fields (such as NGOs or the media) can introduce different biases into their descriptions and evaluations, so that the idea (affirmed apodictically) of the project’s capacity to provide “a strong capability of monitoring mediascapes” requires multiple nuances and a more reflexive self-evaluation.

An essential idea of this project is to overcome the simple production of knowledge, obtained from the collection, but also the analysis of data, by reaching what the authors call wisdom production:

In other words, for an assessment of media monitoring capabilities, knowledge and wisdom have critical importance: the capability of media monitoring concerning the ROs for deliberative communication depends on whether, and to what extent, data and information can be collected and processed in a particular country to generate knowledge and wisdom about changes

in the structure and the activities, competences, and interactions (relationships) of various agents (p 29).

This is necessary because evidence-based policies are built from a knowledge that does not always provide an integrative and nuanced view of the media landscape.

This arborescent theoretical construction, inspired by systems theory, leads to a sum of indicators, the conjunction of which places the various countries in one of the three categories of risk and opportunity (RO): low, medium, and high risk. This placement is considered a reliable basis for designing various media governance strategies: “The central idea of this book is the concept and method of evaluating the capability of monitoring mediascapes (CMM). From the outset we have argued that CMM is needed to develop evidence-based media policy into wisdom-based media governance” (p. 212).

Although attractive in its aspect of irrefutable mathematical proof, this model raises some theoretical problems:

- Reification: the essentialization of concepts considered to be indicators of a higher or lower degree of risk; many of the phenomena that circumscribe media life in different countries cannot be formalized because they encounter unpredictable developments, and are modelled by subjective, not objective factors.
- The deterministic character: it is not mandatory that the absence, for example, of European projects should be an indicator of a low level of media research; or that the low number of state-commissioned reports that assess trends in freedom of expression and of information should be a risk indicator for the monitoring of the freedom of expression.
- The character, that while not utopian, is extremely optimistic. As the Conclusions state:

A good CMM allows for the development of wisdom-based media governance. In the context of the Mediadelcom project, wisdom is defined as agents’ accumulation of experience and knowledge. Wisdom also presupposes orientation towards learning from others. Hence, the pathway to enhanced wisdom-based media governance requires a focus on cooperative engagement, mutual learning and a shared commitment to transparent, accountable and value-driven mediascapes (p. 215).

Press history, not only in post-communist countries, shows the non-linear (slightly chaotic) character of press developments, determined by several factors: the functioning of a liberal market and economy; the rise and fall of power structures from authoritarianism to liberalism. Other factors include the diversity

of interests of media institutions, the poor media culture and implicitly professional solidarity, the dependence on the oscillations of public opinion, and the threats of new technologies, etc. It is difficult under these circumstances to believe that political structures, economic forces or professional bodies will manifest a “wisdom-based media governance”, ignoring specific interests in favour of ideal normative values.

It is rare that a volume of media landscape studies in several countries goes beyond the stage of a coagulation of analyses, many of them often interesting. It is more rare that we encounter a volume that provides a homogeneous theoretical model, which it applies to a large number of cases, to provide transversal analyses and projects to apply the results to other situations. The work coordinated by Epp Lauk, Martín Oller Alonso, Halliki Harro-Loit is an excellent such example, stimulating, primarily for theoretical and revealing reflection, but also for the transversal thematic perspectives and for most of the case studies.

Mihai Coman

PROFESSOR EMERITUS,

BUCHAREST UNIVERSITY, ROMANIA

“MONITORING MEDIASCAPES FOR DEMOCRATIC COMMUNICATION IN EUROPE”, BRUSSELS, BELGIUM, FEBRUARY 15, 2024

The “Monitoring Mediascapes for Democratic Communication in Europe” conference, held on February 15, 2024, at the Residence Palace in Brussels, marked the culmination of the EU-funded Mediadelcom project. This three-year initiative examined the risks and opportunities for deliberative communication across 14 European countries, aiming to enhance the media’s role in supporting democratic processes. The conference featured keynote speeches, panel discussions, and a roundtable addressing the media’s role in democracy, freedom of expression, and combating polarisation during an election year (2024). Experts from various fields, including media sociology and journalism, presented findings on risks and opportunities for deliberative communication in Europe. The event offered a platform for policymakers, media professionals, and academics to engage in critical discussions on safeguarding democratic values and freedom of expression in an evolving media landscape.

The conference brought together leading experts in media sociology, journalism, and policy. Key contributors included Zrinjka Peruško, a professor of media sociology from the University of Zagreb, presented the Croatian perspective and Mediadelcom’s contributions; Marius Dragomir, the Director of the Media and Journalism Research Center, discussed transformative strategies for European media; Eric Heinze, a professor at Queen Mary University and author of *The Most Human Right: Why Free Speech is Everything*, provided insights into the significance of free expression in democratic governance; Renate Schroeder, Director of the European Federation of Journalists, shed light on challenges facing journalism and the implications of the European Media Freedom Act; Laura Becana Ball, Advocacy and Policy Manager at the Global Forum for Media Development (GFMD), emphasized global media development trends; Ioana Avădani, President of the Center for Independent Journalism in Romania, offered perspectives on Eastern Europe’s media challenges; Michał Głowacki, Professor at the University of Warsaw, discussed innovative approaches to media policy.

OPENING OF THE CONFERENCE

The event started with a series of welcoming speeches by Halliki Harro-Loit, a Professor of Journalism at the University of Tartu and the primary coordinator of the Mediadelcom project. She introduced the project's objectives, emphasising that it has developed new methods and concepts to enhance further research on the role of media in democracy. Harro-Loit said: "We have also created, based on methods and concepts, some policy recommendations that I hope will have an impact and will change the way of our thinking about media development in the future". Secondly, Andrea Miconi presented insights from the complementary EUMEPLAT project. He highlighted that there are still many things to do in the area of mediating in society. Meanwhile, Epp Lauk (Institute of Social Studies of the University of Tartu) presented publications and posters connected with the results of the Mediadelcom project.

THE KEYNOTE SPEECHES

The keynotes emphasised the media's role in fostering democratic dialogue amid increasing polarisation. Zrinjka Peruško highlighted the project's findings, focusing on how deliberative communication can help counter democratic backsliding. As she said at the very beginning of the speech: "We should think what media do for the democracies". She considered the role of the media in creating democracy and explained the social role of deliberative communication in the media space. She emphasised that the Mediadelcom project concentrated on the aspect of deliberative communication rather than solely on deliberative democracy, which is also influenced by the state of media systems in various countries. She presented some results regarding the media's contribution to the development of deliberative communication and pointed out: "The results are the effect of the team efforts. The research would not have been possible without the financial support of the European Commission", thereby emphasising the need to continue further research and international cooperation.

Marius Dragomir addressed systemic reforms needed to safeguard European media ecosystems from political and economic pressures. In his speech, Dragomir clearly emphasises the role of media funding and the dangers that arise from the capture of the media and, thus, the quality of democracy. Therefore, it is essential to have sustainable media funding and regular monitoring of the media, keeping both public and commercial resources in mind. Dragomir also spoke about the phenomenon of atomisation in media financing: "The atomisation model facilitates media capture, and this is a major threat that occurs not only in Eastern European countries but also in many other countries".

THE PANEL DISCUSSIONS

Another part of the meeting was panel discussions on *Media for Democracy: Crossing the East/West Divide* and *Freedom of expression and freedom of information – who are the agents under pressure and which agents have too much power?* Both panels were chaired by Tanya Sakzewski from the Media Diversity Institute (UK). The first panel, entitled *Media for Democracy: Crossing the East/West Divide*, looked for answers to questions such as: How can the findings of the Mediadelcom project help in improving democracy in both Eastern and Western Europe? Additionally, how can the risks be turned into opportunities? Panelists included previous keynote speakers (Marius Dragomir, Zrinjka Peruško) and Eric Heinze (Professor of Law & Humanities Executive Director, Centre for Law, Democracy, and Society), and Ioana Avădani (President of the ICJ, Romania, Mediadelcom member). The panellists explored strategies to overcome media capture in Eastern Europe and lessons applicable across the continent. This session explored disparities in media freedom between Eastern and Western Europe, with particular emphasis on combating media capture in Eastern regions. For example, Heinze discussed the urgent need for a clear definition of inclusion and exclusion in the contemporary communication system. Avădani spoke of the need for media literacy from the early educational process, and currently, the role of media education is being overlooked. On the other hand, Dragomir highlighted that “we are at the moment of the transformation media system in Europe. And I don’t say in a negative way here. In many ways, there are also opportunities”..

The second panel was dedicated to *Freedom of expression and freedom of information – who are the agents under pressure, and which agents have too much power?* Panelists included Renate Schroeder (Director, European Federation of Journalists), Laura Becana Ball (Advocacy and Policy Manager, Global Forum for Media Development – GFMD), Michał Głowacki (Professor, University of Warsaw, Mediadelcom member), and Marcus Kreutler (Researcher, Erich Brost Institute for International Journalism, Germany, Mediadelcom member). Panelists sought answers to questions: What can the EU’s flagship European Media Freedom Act, which is aimed at protecting journalists and the media from threats and interference, learn from the findings of the Mediadelcom project? Panelists examined the tension between free expression and regulation, considering the implications of the European Media Freedom Act. Schroeder stated that the current state of media freedom is not ideal. However, there are many ongoing initiatives aimed at improvement, such as the European Media Freedom Act. Conversely, Ball emphasised the importance of seeking solutions not only within media organisations but also in civic networks, including media support organisations and journalistic unions. Głowacki added that “participation is important for deliberative communication”, having in mind, for example, the use of the right to vote by citizens, which is still a problem in many countries.

THE ROUNDTABLE DISCUSSION

The event concluded with an interactive roundtable on *Monitoring Mediascapes for Wisdom-Based Media Governance*. This session brought together all speakers and key panellists to discuss collaborative strategies involving academia, media industries, and policymakers to promote ethical and wisdom-based approaches to media governance. The chair was Daniel Hallin, Professor Emeritus, Professor of Graduate Division, University of California, San Diego, and Mediadelcom Advisory Board member. Participants in the discussion included Maria Jufereva-Skuratovski (MP, Estonia), Halliki Harro-Loit (Mediadelcom Principal Investigator), Anne Leppäjärvi (Vice-President of the European Journalism Training Association), Bogusława Dobek-Ostrowska (Mediadelcom Advisory Board member). Harro-Loit emphasised that „the media policy requires data from grassroots organisations” to implement recommendations effectively. Jufereva-Skuratovski addressed the challenges posed by social media platforms, which serve as communication tools but are also significant venues for propaganda. Conversely, Dobek-Ostrowska pointed out that the political and civil culture within society is still not at an optimal level, indicating a need for further education. Additionally, Anne Leppäjärvi discussed the importance of incorporating more research into the educational process to better educate young people.

KEY OUTCOMES AND INSIGHTS

The last part was devoted to summarising the eight-hour conference and identifying the main conclusions. The conference provided valuable insights into the media’s critical role in supporting informed citizenry and deliberative democracy, particularly during election years (around 60 elections worldwide). Attendees emphasised the urgent need to combat disinformation, polarisation, and media capture to ensure that media serves as a pillar of democratic governance. To summarise, the Mediadelcom project’s findings and recommendations aim to inform future policy directions and foster stronger partnerships among stakeholders in Europe’s media landscape.

Jacek Mikucki

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MORE THAN 'MEDIA MEMORY LANE': MEDIAELCOM RESEARCHERS EXPLORE LONG-TERM EFFECTS OF THE 1990'S TRANSFORMATIONS ON TODAY'S MEDIA IN ESTONIA, POLAND, CZECH REPUBLIC AND (REUNITED) GERMANY, DORTMUND, GERMANY, NOVEMBER 8, 2023

What do the Czech Republic, Estonia, Poland and Germany – quite distinct at first sight – have in common in terms of their media structures? The answer is one kind or another of a “restart moment” of both the state and the media system in the early 1990s; albeit in decidedly distinct “flavors”: While Estonia became once again an independent state albeit with detrimental border losses, Poland managed to transform the political system without changing its borders. This happened elsewhere: Czechoslovakia not only changed the political system, but also split into the Czech and Slovak Republics. In Germany, the opposite happened with two states becoming one. But absorbing an established system into the “new” federal states did not always go smoothly.

It is against this historical background that today's media systems in the four countries have been shaped. Differences, similarities, and their relevance for public discourse in the 2020s were discussed at an event titled “Political change and the media. The Polish, Czech, Estonian and German publics after the transformation of the 1990s” in Dortmund on November 8, 2023.

The Dortmund-based Erich-Brost-Institute, the German member of the Mediadelcom research consortium, had teamed up with partners to bring selected project results and a new comparative perspective to a media-interested audience. *Auslandsgesellschaft NRW*, *Europe Direct Dortmund*, and journalists association *DJV* helped to organize and promote the event. Some 75 participants—citizens, journalists, students of TU Dortmund University, mostly from its Institute of Journalism—accepted the invitation to discuss political, social, and media issues of the four countries at the *Auslandsgesellschaft* in Dortmund city center.

Four Mediadelcom researchers all discussant guests of moderator Louisa von Essen: Project coordinator Halliki Harro-Loit for the Estonian team, Lenka Waschková Císařová of the Czech team, Michał Głowacki for the Polish team, and Marcus Kreutler as the representative for the German team hosting the event.

The guests gave a unique insight into how the media in their countries developed in the course of political transformation: Whatever made the international news in 2023 – political conflict about public service broadcasting or media regulation in Poland, media ownership and concentration issues in the Czech

Republic – can often be traced to decisions taken in the 1990s or early 2000s. Among the guest countries, the Estonian situation turned out to be the least known to the German audience: While Halliki Harro-Loit could report that journalism assumed an important social role in the young country and that Estonia was the highest-ranking of the four countries in Reporters without Border's media freedom index, she also pointed out relevant risks. Russian propaganda's influence, especially on Russian-speaking Estonians, was the most topical one, but also questions of media ethics versus the influence of media ownership.

Perhaps surprisingly, the German case induced several questions and follow-up discussions with members of the audience: From a Western-German perspective, the impact of reunification on the media is not too apparent – after all, the “new federal states” legally joined the Federal Republic. While Germany's Eastern neighbors frequently followed Western models in constructing an all-new media system, Germany had continuity in one part and revolution in the other. In the former GDR, this meant a redesign of the “nervous system” of society, including a quick introduction of public broadcasting structures modelled after the Western ones. Practically overnight, the Western-German Press Council was also competent for journalistic conduct in the East. But perhaps the most significant change happened in the press sector, where the trust agency managing privatization of economic assets in the new federal states applied economic criteria with little consideration of journalistic pluralism. Larger regional newspapers were quickly sold to big Western-German publishers, with the result of regional monopolies – a structure that had had been rare in Western Germany, but is now more common: Older members of the Dortmund audience could relate, as the city had lost two of its formerly three independent newspapers in recent years.

So, is there a preferred way, a recipe for successful media system transformation in times of political transformation or sometimes even the birth of new state entities? All the panelists pointed to both risks and opportunities that could be seen in their country cases. While the German path did not leave much room for journalistic startups and new media brands, “copying” established structures in public service broadcasting brought a stability to that sector that its Polish counterpart is yet to find. On the other hand, the German print and digital news landscape is still surprisingly divided – much more so than in the Czech, Estonian, and Polish cases, where such partial continuity was not an option. But starting from scratch comes with its own risks: Czech media companies, after a phase of foreign investment, are now mostly under control of few domestic owners. Privatization has long been associated with press freedom, and the risk of oligarchisation only became apparent along the way.

To conclude the discussion, Louisa von Essen asked her guests for their perspectives on challenges that are common to young journalists in all four

countries: The panel agreed on the key role professional moderators of public discourse will have to take to bridge political, but also generational gaps. Halliki Harro-Loit pointed out that listening to each other is an essential competency in an age of information overflow. Michal Głowacki seized the opportunity for a forceful appeal not to take media freedom or even the democratic system for granted: “We have to stand for these rights again and again”.

Marcus Kreutler

TU DORTMUND UNIVERSITY, GERMANY

COMPARATIVE MEDIA RESEARCH AND MONITORING IN EUROPE: LESSONS LEARNED AND WAYS FORWARD. ATHENS, GREECE, JANUARY 29, 2024

Comparative media research is essential for understanding trends in the functioning of the media and for revealing the impact of economic, political and technological forces on the ability of the media to fulfil their democratic role. It is also an essential resource for the design of evidence-based media policies, capable of addressing the various challenges facing the media in contemporary European societies. Based on these observations, the Hellenic Foundation for European and Foreign Policy (ELIAMEP) organized a workshop on “Comparative Media Research and Monitoring in Europe: Lessons Learned and Ways Forward” in Athens, Greece. The event was part of Mediadelcom, the EU-funded research project concerned with risks and opportunities for media-related deliberative communication in Europe (March 2021-February 2024, grant agreement number: 101004811).

The first session was about the Mediadelcom project and its comparative output.

Martín Oller Alonso, Marie Skłodowska-Curie Fellow at the University of Salamanca, presented Mediadelcom’s methodology for studying the capacity to monitor mediascapes in terms of their ability to support deliberative communication. As explained, the proposed methodology offers the possibility of making a diachronic assessment of the risks and opportunities associated with media monitoring, and the nature and breadth of research focused on deliberative communication in a comparative way. It is structured around the concept of ‘capabilities of monitoring mediascapes’ (CMM), which focuses on the skills and resources that agents have at their disposal to analyze media (policy) developments over time and the changes that result from media transformations. Based on a systematic review of available literature and research, the Mediadelcom consortium has explored the CMM in relation to media regulation and self-regulation, sustainability of journalism, media literacy and patterns of media use in the 14 countries that make up the consortium.

Dina Vozab, Assistant Professor at the Faculty of Political Science of the University of Zagreb, presented Mediadelcom’s comparative approach to the study of the conditions of the media system that are conducive to deliberative communication. This comparative work that will be published as an edited volume by Routledge in 2024, uses the set-theoretic method to identify the

combinations of conditions that create risks – or opportunities – for deliberative communication. The information for developing the conditions was drawn from the case studies carried out in the Mediadelcom partner countries, while deliberative communication (the outcome) was measured by an index combining macro, meso and micro levels of societal discussion and deliberation. In outlining some of the key findings, Dina Vozab noted the importance of structural factors of the media system, alongside aspects of agency related to the practices and actions of groups or individuals. For example, strong market development as a structural condition is important, indicating a potential risk for countries with small populations and commensurately modest media markets. The study also shows the importance of legacy media as a core condition for deliberative communication. Those countries that not only have audiences who place more trust in legacy media, but also use legacy media as their main source of news, have higher levels of deliberative communication.

The next session focused on other comparative research projects and studies on media monitoring in Europe.

The session began with a presentation by Elda Brogi, adjunct professor and research coordinator at the Centre for Media Pluralism and Media Freedom at the European University Institute, on the Media Pluralism Monitor (MPM) project. The MPM is a tool for assessing weaknesses in national media systems that pose potential risks to media pluralism. Since 2016, it has been conducted regularly in all EU Member States and other European countries, providing an important source of comparative data. The project is co-financed by the European Union. Elda Brogi presented the development of MPM and discussed the benefits and challenges associated with its implementation.

Michał Głowacki, Associate Professor at the Faculty of Journalism, Information and Book Studies of the University of Warsaw, introduced the audience to the PSM-AP project, which is a cross-national study of public service media in the age of platforms. The PSM-AP project focuses on television, which remains at the heart of PSM, and examines the various dimensions of platformization it experiences. Michał Glowacki presented key findings and recommendations, focusing on the need for policy makers to balance public service obligations with the expectations placed on PSM to compete with platforms, and the need for it to maintain its distinctiveness in terms of content and accountability.

Evangelia Psychogiopoulou, Assistant Professor at the Department of Political Science and International Relations of the University of the Peloponnese and Senior Research Fellow at ELIAMEP, presented a comparative study examining European and national high court rulings on social media over the past decade. The study, which was published in 2023 as an edited volume entitled *Social Media, Fundamental Rights and Courts: A European Perspective* (edited by Federica Casarosa and Evangelia Psychogiopoulou), examines the contribution of national and

European judiciaries to the protection of fundamental rights in a social media environment and explores patterns of dialogue and interaction between national courts, the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECtHR), and between the CJEU and the ECtHR. The book specifically examines the extent and ways, in which national and European judges incorporate fundamental rights reasoning in their social media rulings. The book also investigates the use of European case law in domestic judicial assessment and analyzes the engagement of the CJEU and the ECtHR with each other's case law. The study instills jurisprudential dynamics into the study of social media and regulation, and shows that the fundamental rights dimension and the effects of European constitutionalism are growing in importance in relevant case law.

Evangelia Psychogiopoulou and Anna Kandyla

HELLENIC FOUNDATION FOR EUROPEAN AND FOREIGN POLICY, GREECE

“BREAKING DOWN THE WALLS? FREEDOM OF EXPRESSION AS A COMMON VALUE”, DAUGAVPILS, LATVIA, FEBRUARY 27, 2024

The concept of freedom is multifaceted, encompassing both independence and the ability to pursue one's goals, construct, develop, and transform imagined boundaries. Artists and journalists intimately understand this concept through their experiences. They often navigate the borders of one of the fundamental freedoms enshrined in constitutions across the EU and other democratic societies—the freedom of expression. But how does the exercise of freedom of expression within the realms of media and arts aid in dismantling barriers between disparate societal groups? How can it foster social cohesion and bridge divides, particularly amidst today's often populist-driven public discourse and rapid technological advancements reshaping our modes of communication?

These critical questions were the focus of attention at the event titled “Breaking Down the Walls? Freedom of Expression as a Common Value,” held at the Rothko Museum in Daugavpils, Latvia.

Daugavpils, the second-largest city in Latvia, situated in the southeastern region near the border with Belarus, has a unique cultural background for a discussion on this topic. Historically, it has been a convergence point for Lithuanian, Polish, Russian, Belarusian, Latvian, and Jewish cultural influences. Today, Daugavpils is home to a diverse population, predominantly Russian, alongside significant Latvian, Polish, and Belarusian communities. It stands as both an industrial and cultural center, hosting a university, a professional theater, media outlets (primarily in Russian), an artist community, and the renowned Mark Rothko Museum—a tribute to the city's native son, one of the well-known American avant-garde artists of the 20th century.

The discussion aimed to draw on the creative resources of the locale while grappling with its cultural, linguistic, and ideological complexities. Diverse perspectives were brought to the fore by speakers, including journalists, artists, and academics, reflecting the multidimensional nature of freedom of expression. The discussion was moderated by professor Michał Głowacki, University of Warsaw and Tanya Sakzewski Media Diversity Institute Global and organized by the Faculty of Social Sciences of the Riga Stradins University in collaboration with Rothko Museum and the Media Diversity Institute Global as part of the Mediadelcom research project.

The event commenced with an artistic intervention—a choreographic interpretation of the theme performed by two young dancers Viktorija Kovaļova and Kristina Kovaļova, symbolically mixing the idea of talking through differences directly to the audience. The ensuing dialogue highlighted the varying interpretations of freedom of expression within Daugavpils' heterogeneous community.

Participants – all locals – including sculptor Ivo Folkmanis, photographer and assistant professor of Riga Stradins University Alnis Stakle, marketing specialist and journalist Vladislava Romanova and Inna Plavoka, editor-in-chief of the local news outlet Chayka.lv, actively engaged, reflecting on the role of culture, education and societal norms in shaping perceptions of freedom. Ivo Folkmanis pointed on the importance of family that sets the first standards. Inna Plavoka emphasized the importance of engaging with audiences across cultural divides, advocating for dialogue grounded in shared humanity. Vladislava Romanova, who recently became well-known in Latvia with her documentary “Daugavpils – the city of (Im)possibilities”, ignited debate by labeling Chayka.lv as the city's sole bastion of media freedom, prompting reflections on the nuanced dynamics of press freedom within the community.

Yet, amidst these discussions, questions lingered. What are the limits of freedom of speech, artistic expression, and press freedom? How do societal shifts impact the contours of freedom of expression in public life? Do we probably need to keep boundaries to maintain our privacy or identity? What can be done, if the community does not want to be involved? Alnis Stakle voiced pessimism, both because of the potential erosion of freedoms and the widening gap between social groups.

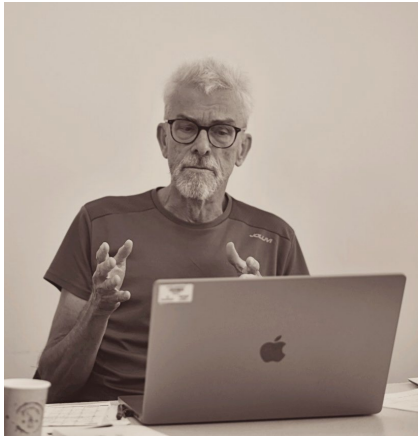
As Daugavpils grapples with its cultural mosaic and the complexities of freedom, one thing becomes clear—dialogue, collaboration, and a steadfast commitment to fundamental values are indispensable in fostering a cohesive society. As examples voiced by participants of the audience showed, it can be achieved through mutual tolerance, understanding the perspective of the other and collaboration, including artistic and journalistic projects. “It is important to find love for each other, mutual understanding, trust and commonalities – where we are similar. To reach it You have to invest Your time – all sides involved,” so Ivo Folkmanis summarized the conclusions of the discussion.

The discussion was the second public discussion event in the “Breaking Down the Walls?” series. These discussions were developed in collaboration between the University of Warsaw and Media Diversity Institute Global, London in the framework of public events of the Mediadelcom project, a comparative research initiative searching for the risks and opportunities for deliberative communications in Europe. The project supported by HORIZON 2020 program involved 14 countries including Latvia, Poland, Czechia, Romania, Estonia and Germany representatives of which participated in the discussion. The fact that the conclusions of the project were revealed in form of open, deliberative conversations

at the edge of EU, the event at the Rothko Museum and a “warming up” session to it entitled “Scenarios of our freedom” in Daugavpils University) does not only have symbolic meaning. In the given geopolitical situation city of Daugavpils and the neighboring border region of Latvia, which has become an ideological battlefield, a place of daily advocacy for liberal values such as free speech and independent media, and deliberation.

Ilva Skulte

RĪGA STRADIŅŠ UNIVERSITY, LATVIA



Lars Nord (1958–2024)

Lars Nord was a valued member of the Mediadelcom project's consortium not only because of his professional achievements, but very much for the inspiring and dedicated way he contributed to the common goals of the project. The Mediadelcom project's main theme – deliberative communication for the democracy – entirely coincided

with one of his main interests of research, namely media policy and democracy. His input in conceptualizing deliberative communication as the project's pivotal theoretical framework was essential for the whole project's success.

When collaborating with Mediadelcom (2020–2024), Lars Nord was Professor and Chair of political communication at Mid-Sweden University in Sundsvall. He had also been Director of the Centre for Study of Democracy and Communication (DEMICOM) at the same University in 2006–2019. In addition to media policy and democracy, his area of expertise embraced political journalism, crisis communication, and digital election campaigns. Lars was a well-known scholar in his field not only in Sweden, but also internationally, actively participating in conferences and collaborative projects. He is well remembered by many from IAMCR and NordMedia conferences.

Lars has a publications list of over 250 journal articles, book chapters, books, conference papers and reports. He also co-authored many reports and publications of the Mediadelcom consortium. Through this work, Lars will always be with us.

When Lars did not arrive at the project's final conference in Brussels in February 2024, we did not yet know that Mediadelcom would be his last international project. The consortium members from 14 European countries will keep alive his memory in their hearts.

*Epp Lauk on behalf of the Mediadelcom consortium
Photo taken at the Mediadelcom consortium meeting in Sofia, Bulgaria
in September 2022 by Marcus Kreutler*

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