

## Rule of Law Submission

<https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rle-law/rule-law/rule-law-mechanism/2021-rule-law-report>

EU Login password: EFJBrussels21

With e-mail: [Renate.schroeder@ifj.org](mailto:Renate.schroeder@ifj.org)

Introduction: We lost our contribution when my colleague entered with above credentials while I was in.

About you

2

\* I am giving my contribution as Academic/research institution

Business association  
Civil society organisation/NGO  
\*International organisation  
Judicial association or network  
Media organisation or association  
Public authority or network of public authorities Other

If "Other", please specify

\* Organisation name  
European Federation of Journalists (EFJ)

\* Main Areas of Work Justice System

Media Pluralism  
If "Other", please specify

\* Please insert an URL towards your organisation's main online presence or describe your organisation briefly:  
<https://europeanjournalists.org>

Transparency register number  
27471236588-39

\* Country of origin  
Belgium

\* First Name: Renate

\* Surname: Schroeder

\* Email Address of the organisation [secretariat@europeanjournalists.org](mailto:secretariat@europeanjournalists.org)

\* Publication of your contribution and privacy settings

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

Can be published

I agree with the personal data protection provisions.

## Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

Please provide any relevant information on horizontal developments here

### **General**

In 2020, in a few EU MSs extraordinary damage was inflicted on the practice of free and independent journalism through actions by state authorities that imposed additional risks and interferences on the media during the Covid 19 pandemic. Governments imposed extraordinary restrictions on journalists' activities, especially through laws and regulations related to public order and spreading "false or misleading information".

The past year confirmed the deeply alarming spread of a culture of impunity in parts of Europe. State authorities in Malta once again failed to prosecute and convict those responsible for the assassination of Daphne Caruana Galizia in 2017. The person or persons responsible for ordering the mafia-style killing of

Slovakian journalist Ján Kuciak and his fiancée Martina Kušnírová in 2018 still remain unidentified and unpunished

The CoE Platform recorded disturbing patterns of intrusive surveillance, casual and arbitrary arrest and detention; and judicial harassment including through vexatious legal threats (SLAPPS) and criminal prosecutions of journalists on spurious charges of terrorism, treason or common theft, sometimes using COVID-19 as pretext. Hindering access to information or press conferences due to covid-19 has been a common threat throughout 2020.

The severe economic impact of the emergency, especially on small and independent media outlets and freelance journalists, was aggravated by discriminatory acts such as official ‘blacklisting’, and favouritism shown to complaint or government-friendly media in the allocation of funds or access to information sources. In EU member states where ‘media capture’ by political forces has already seriously distorted the media market, governments sought in 2020 to further expand their control of major news narratives through ownership and the misuse of media regulation for political purposes. The question of media viability in several countries is of utmost urgency and a threat to media pluralism.

2020 was an unfortunate record year, regarding the safety of journalists: the MFRR Platform recorded 245 alerts (with 873 attacked persons or entities related to media) in 22 EU Member States, and the Council of Europe Platform for the Protection of Journalism recorded 115 media freedom violations in 27 EU Member States (the highest level since 2015).

According to MFRR data, nearly one in four incidents (23.7%) resulted in journalists and media workers being physically attacked. In more than every tenth incident (11.4%) media workers were injured.

In particular, **incidents during protests** have become a serious issue. 72 MFRR alerts, involving 163 affected journalists, media workers or entities, in 11 countries took place during demonstrations. Such incidents happened across the European Union, from an attack on the camera crew of Germany’s public service broadcaster ARD in Berlin to French journalists obstructed in the exercise of their profession by the police, when Yellow Vests resumed their demonstrations in several French cities.

Assaults on journalists during protests were reported in France, Germany, Greece, Italy, Poland, the Netherlands, Spain and the United Kingdom.

Denial of essential workers status, summonses for police questioning, arrest and custody interrupt the reporting of public events, even when they are of short duration.

Member States covered in contribution [several choices possible]

Please select all Member States for which you wish to contribute information. For each Member State, a separate template for providing information will open. This may take several minutes to fully load.

\*Austria

\*Belgium Bulgaria

\*Croatia

\*Cyprus

\*Czechia

Denmark

Estonia

Finland

\*France

\*Germany

\*Greece

\*Hungary

Ireland

\*Italy

Latvia

Lithuania

\*Luxembourg

\*Malta

\*Netherlands

\*Poland

Portugal

Romania

Slovak Republic

\*Slovenia

\*Spain

Sweden

## **1. Austria:**

**Independence, enforcement powers and adequacy of resources of media authorities and bodies.**  
3000 character(s) maximum

**Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media authorities and bodies**

3000 character(s) maximum

The ORF (Public Service Broadcast) Board of Trustees: The board of trustees consists of 35 members, 29 of which are currently assigned to political parties. This enables political influence on topics such as the rate of the broadcasting fee, the budget or program schemes; related decisions are based on a majority

vote. The board is formed by the councils sent by the federal government (nine councils), parliamentary parties (six), federal states (nine), the ORF Public Council (six) and the ORF Works Council (five). The councils are posted for a term of four years and the current board members are appointed from 2018-2022. As the government constellation changed in 2020, the councils sent by the government were substituted. However, members sent by the public council will not be removed until 2022, which means that there are still three FPÖ-aligned members plus the chairman in office. Notably, the chairman is Norbert Steger, ex-party leader of the FPÖ, who decides, for example, in the event of a tie in a vote. Thus, although the Greens are a coalition party, there are still more FPÖ-aligned (four) than Green (three) councils since March 2020. It is widely acknowledged that, although councils are supposed to decide independently and in the economic interest of the ORF, the political groups meet for internal discussions within their so-called circles of friends. Thus, with the now 16 ÖVP-aligned councils, the ÖVP's circle of friends is close to a majority.

### **Existence and functions of media councils or other self-regulatory bodies**

<https://www.presserat.at/>

The Austrian Press Council is a self-regulatory body in the press area, which aims to ensure editorial quality and guarantee freedom of the press. The Press Council has drawn up a code of ethics for the Austrian press (principles for journalistic work), which contains rules for good and responsible journalistic behavior and is an ethical guideline for media professionals. This code forms the basis for the decisions of the Senates of the Press Council. One of the main tasks of the press council is to identify grievances in the press and to counteract them. The Presserat is an association whose sponsors are the most important journalists 'and publishers' associations in Austria.

<https://medialandscapes.org/country/austria/policies/accountability-systems>

Its verdicts are not legally binding and its decisions often require wrongdoing media to publish the decision. Not all Austrian newspapers are members of the Press Council and many do not obey to these self-regulatory rules. The most prominent absentees from membership in the Press Council are the largest daily newspapers Kronenzeitung, Heute and Oesterreich.

<https://medialandscapes.org/country/austria/policies/regulatory-authorities>:

Several authorities regulate electronic media, telecommunications and the press. The most important authority is the Austrian Communications Authority KommAustria, which was legally founded by the KommAustria Act (2001). Since 2010, KommAustria acts fully independently and is responsible for the allocation of frequencies and licences for private broadcasting as well as for the supervision of ORF and its subsidiaries. Moreover, it observes compliance with advertising rules by public and private broadcasters and administers the Austrian press subsidy scheme. The Federal Administrative Court is the court of appeal for any decision made by the KommAustria.

### **Transparency of media ownership and government interference**

[https://www.access-info.org/wp-content/uploads/Transparency\\_of\\_Media\\_Ownership\\_in\\_the\\_EU-09-26-2014.pdf](https://www.access-info.org/wp-content/uploads/Transparency_of_Media_Ownership_in_the_EU-09-26-2014.pdf)

**The transparent allocation of state advertising (including any rules regulating the matter) 3000 character(s) maximum**

Government ads in print media: An Austrian peculiarity of structural implications is the amount of government ads and political funding for media. Due to a media transparency law, active since July 2012, public authorities and companies have had to report how much they spend on ads to the Austrian communications authority. This includes political parties and ministries, who have to expose ads higher than €5,000. The collected data is published quarterly and is clearly listed (Medientransparenz, n.d.) which is very useful for comparisons. Regular advertising is a common source of media income; however, it was found that Austria is “the country of government ads” (Sim & Skrabal, 2017). For instance, in 2016, with €16.2 millions, Austria spent almost ten times more on government ads per capita than Germany (ibid.). The criteria for receiving these ads are not transparent and may differ per government. Under the ÖVP-FPÖ government, right-aligned media outlets received government ads for the first time, while critical Falter received 80% less than in 2017 (OE1, 2019). Krone, Oe24 and Heute are the front runners, meaning that tabloid media are prioritised. Further, advertising money in total is distributed very unevenly. According to the media transparency data, in 2019, Krone and Heute together received over €26 million from the public sector, while Der Standard and Presse only received about €8.3 million and Falter not even €1 million. Thus, there is a market distortion in favour of the tabloid media. In comparison, official press subsidies to promote quality and pluralism are low with a total of €1.56 million and €3.2 million respectively in 2019 (RTR, n.d.).

**Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)**

3000 character(s) maximum

**Rules governing transparency of media ownership**

3000 character(s) maximum

**Framework for journalists' protection**

**Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities**

3000 character(s) maximum

**Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

3000 character(s) maximum

**Access to information and public documents**

3000 character(s) maximum

Austria is one of the worst countries in the EU when it comes to freedom of information and transparency legislation. The planned Freedom of Information Act must meet international standards and must be accompanied by the political will to implement it in practice. The doctrine of “official secrecy” (“Amtsgeheimnis”) still in force under Art. 46 of the Civil Service and Employment Law Act (Beamten- und Dienstrechtsgesetz) has long since exhausted its purpose as a reason for denying information that is in the public interest.

However, in early 2021, the ÖVP-Green coalition finally agreed on a long-awaited Information Act. The agreed package should come into force by summer 2021.

<https://www.informationsfreiheit.at/2021/02/21/informationsfreiheitsgesetz-in-begutachtung/>

[https://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-1&p\\_p\\_col\\_pos=1&p\\_p\\_col\\_count=2&\\_sojdashboard\\_WAR\\_coesojportlet\\_alertId=39715090](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-1&p_p_col_pos=1&p_p_col_count=2&_sojdashboard_WAR_coesojportlet_alertId=39715090)

[https://cadmus.eui.eu/bitstream/handle/1814/67793/austria\\_results\\_mpm\\_2020\\_cmpf.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/67793/austria_results_mpm_2020_cmpf.pdf?sequence=1&isAllowed=y)

The implementation of the MPM 2020 indicates (like MPM 2017) that media pluralism in Austria is at medium risk in all but one areas of investigation (Basic Protection). Five of 20 indicators represent a high risk, eleven a medium risk and only four a low risk. It has to be emphasized that the very foundations of the democratic media system are intact and strong: freedom of expression is well protected; journalism is in many ways legally recognised as a public-interest function; media authorities work independently; and people can choose between a diversity of different media outlets, including public service, commercial and non-profit community media. During election campaigns political ads are forbidden in public service broadcasting, and the ORF does a fairly good job in representing the parliamentary parties. The public service broadcaster feels also responsible for providing access to media for people with disabilities, and, equally important, there is a rich and varied supply of regional and local media services, including a lively community broadcasting sector. Risks to media pluralism in Austria are primarily due to horizontal and cross-media concentration, missing incorporation of changes in the media landscape into competition law, the lack of protection of the right to information, limited access to media for women and minorities, a declining number of journalists, endangered editorial autonomy, political and - to a lesser extent - commercial influence over editorial content, threats to the independence of PSM governance and funding, a system of state subsidies that is in urgent need of reform, and a missing policy (and missing resources) for promoting media and digital literacy.

Austria's ranking in the RSF Press Freedom Index has declined from 2018 (12) to 2019 (16) to 2020 (18)!

There are two main reasons why the Media Pluralism Monitor has deemed the indicator on protection of freedom of expression to show a medium (39%) risk (compared to its low-risk status in recent years) for the first time since it was established. Firstly, after the inauguration of the center-right government in December 2017, Index on Censorship recorded a significant rise in the intimidation of media outlets, particular the ORF and several "critical" newspapers, and smear campaigns against journalists. Several representatives of journalistic organizations, including Rubina Möhring, president of Reporters Without Borders, observed "increasing signs that media freedom is being restricted" (Index on Censorship, 2018, p. 12). The situation seems to have changed after the resignation of the government in May 2019. Secondly, Art. 111 of the Criminal Code allows for an increased prison sentence for defamation when it has been made accessible to a wider public by means of the mass media. Art. 116 explicitly extends the provisions of Art. 111 and 115 (regarding insults) to national and regional parliamentary bodies, army and government offices. Fortunately, the Austrian Supreme Court generally applies ECHR case law and considers Art. 29 of the Media Act (that takes into account basic journalistic duties, the nature of potentially libel statements and public interest in the given information), thus overruling a number of

decisions of lower courts on this matter. The protection of the right to information, the necessary counterpart of freedom of expression, is also at medium risk (46%).

## **2. Belgium**

### **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

The regulator of the French Community, the Conseil Supérieur de l'Audiovisuel (CSA), is authorised to monitor concentration indices and take regulatory action if it concludes that the media market in the French Community is becoming too concentrated, whereas the Vlaamse Regulator voor de Media (VRM) of the Flemish Community only has the power to 'map' media concentration and publish annual reports about the state of media markets (art. 7 French Community Coordinated Act on Audiovisual Media and art. 218, §2, 8° Flemish Act on Radio and Television Broadcasting).

### **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

**3000 character(s) maximum**

### **Existence and functions of media councils or other self-regulatory bodies**

There are two efficient journalistic self-regulatory bodies, the CDJ and the RVDJ, but they lack resources and are overwhelmed by the number of complaints.

### **Transparency of media ownership and government interference**

#### **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

According to the 2020 EU Media Pluralism Monitor, "Belgium has always defended their high concentrations with the argument that ownership is transparent and media regulators independent. While the latter may still be considered true, Belgium did not meet the expectations of transparency when confronted with the questions regarding online transparency. The specific concern is the lack of transparency regarding ownership, control and funding of digital media (both print and advertising media specifically). Belgium (like neighbouring countries) has a tradition of leaving non-audiovisual news media relatively free and unsupervised. For the purpose of safeguarding media pluralism however, transparency on their ownership, control and funding is considered an essential, including for those active in the online environment."

### **Rules governing transparency of media ownership and public availability of media ownership information**

According to the 2020 EU Media Pluralism Monitor, "The indicator on News media concentration scores a high risk (85%). An ever increasing risk across the years, with some relevant recent market changes. Only a handful of companies now own all media outlets on the Flemish and French markets. The market and audience concentration shares of the Top4 in any media format nears a 100%, resulting in very high

concentration indexes for the Flemish and French speaking markets. Nevertheless, due to language overlaps with our neighbouring countries, France, Germany and Netherlands based media do carry importance within the Belgian media landscape.

A second factor is the lack of sector-specific anti-concentration rules. Apart from some restrictions on the accumulation of radio or TV licenses, regional media laws do not contain specific thresholds or procedures for (cross-)media mergers, mainly caused by the division of powers in Belgium between the federal state and communities. General merger control rules also apply to the media sector. The Belgian Competition Authority occasionally attaches conditions to a merger with the goal of ensuring diversity of media content offers, but this has not prevented the current high level of concentration.

The indicator on Online platforms concentration and competition enforcement scores a high risk (75%). This new sub-section primarily looked at the extent of activities on and integration into a national media market of online platforms and other online international market players. Rather unsurprisingly, this shows a high risk for Belgium, as the use of social media and search engines are relatively well-established amongst our population, without the necessary transparency coming from these players. As mentioned before however, our federal, nor regional regulations do not contain provisions that account for the specific non-economic threats associated with such a highly concentrated media market. As a result our independent authorities, however much willing, currently appear ill-equipped to assess the effects and the potential harm of these activities for media pluralism."

## **Framework for journalists' protection**

### **Rules and practices guaranteeing journalist's independence and safety**

The Belgian authorities have not yet taken any steps to start implementing the Council of Europe Recommendation 2016/4 on the Protection of Journalism and the Safety of Journalists. Five years after the signature of this Recommendation by the Belgian government, nothing has been implemented.

### **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

The specific provisions related to law enforcement capacity to ensure journalists' safety mentioned in the Council of Europe Recommendation 2016/4 on the Protection of Journalism and the Safety of Journalists have not been implemented in Belgium.

### **Access to information and public documents**

### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

In September 2020, the news website Apache was required to take down an article after the Antwerp top executive and lobbyist Erik Van der Paal filed a civil lawsuit for 'breach of privacy' and 'slander' over an Apache article on two major Antwerp real estate groups. The case was brought by unilateral application before the President of the Court of First Instance at Antwerp under the fast-track procedure. The Flemish journalists' association (VVJ) has since long denounced bringing cases by unilateral application, as a journalist is denied any right of defence, which according to the VVJ amounts to censorship. This is not the first case Van der Paal initiated against Apache.

Journalist Florence Hainaut has been the target of an online harassment campaign following the publication of an opinion piece about wearing of the Islamic headscarf on the website of "Le Soir"

newspaper. Dozens of insulting and defamatory comments targeting the journalist were posted on Facebook and Twitter.

### **Other - please specify**

Six media freedom violations were submitted to the Council of Europe Platform for the Protection of Journalism in 2020:

- Land Invest Group Had Investigative Journalists Shadowed by Private Detectives
- News Website Apache Ordered by Court to Take Down an Article
- Journalist Florence Hainaut Targeted by Harassment Campaign
- MIA Brussels Correspondent Tanja Milevska Receives Death and Rape Threats
- EUobserver under Threat of Legal Action in Belgium after Complaint was Dismissed in Luxembourg
- Journalist Jeremy Audouard Intimidated by Brussels Police while Filming an Arrest

The Belgian authorities did not reply to any of these alerts.

Source:

[https://www.coe.int/en/web/media-freedom/all-alerts?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-4&p\\_p\\_col\\_count=1&sojdashboard\\_WAR\\_coesojportlet\\_keywords=&sojdashboard\\_WAR\\_coesojportlet\\_selectedStringFilters=year.2020&sojdashboard\\_WAR\\_coesojportlet\\_selectedCategories=11709488](https://www.coe.int/en/web/media-freedom/all-alerts?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-4&p_p_col_count=1&sojdashboard_WAR_coesojportlet_keywords=&sojdashboard_WAR_coesojportlet_selectedStringFilters=year.2020&sojdashboard_WAR_coesojportlet_selectedCategories=11709488)

## **3. Bulgaria**

### **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

There is a lack of independence of media authorities. Two of the members of the Council for Electronic Media (CEM), the regulatory authority, are appointed by the President and the other three are elected by the Parliament. Genuine citizen participation in nominating CEM members is not guaranteed. Thus, the very constitution of the CEM is inevitably exposed to risks of political influences. The duties and responsibilities of the CEM are clearly defined by the law, and the authority has been transparent about its activities. One of the principal tasks of the body is to select and dismiss directors general of the PSM. Recent controversial decisions of the CEM regarding the directors general of the Bulgarian National Radio (BNR) and the Bulgarian National Television (BNT) have led to suspicions of dependence on external factors and to the observation that the authority is not attributed with adequate mechanisms to safeguard the independence of the public-service broadcasters

### **Existence and functions of media councils or other self-regulatory bodies**

The National Council for Journalistic Ethics (NSW) Foundation was established in 2005 as a non-profit legal entity for performing activities in the public interest. The purpose of the Foundation is to establish and maintain a self-regulatory system for print and electronic media in Bulgaria on the basis of the Bulgarian Media Code of Ethics, adopted in 2005. The Foundation's co-founders are the Association of Bulgarian Broadcasters - ABRO, the Union of Publishers in Bulgaria, the Union of Bulgarian Journalists, the Bulgarian Media Coalition and the Center for Media Development (see <https://presscouncils.eu/members-bulgaria> ). However, the press council is not acknowledged by the

government, which has intruded several times in editorial decisions (see : <https://mediaethics-bg.org/декларация-на-комисията-за-журналист/>) Self-regulatory measures stipulating editorial independence from political interference in the news media are not effectively implemented. Practices of politicians pressuring journalists are among the most troublesome issues in the media environment in the country.

## **Transparency of media ownership and government interference**

### **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

Rules governing transparency of media ownership and public availability of media ownership information. There are legal provisions requiring disclosure of ownership details, including the ultimate owner, of all media service providers. In practice though, many outlets do not comply with the law and even the available information is not always easily accessible to the public. Although the law envisages sanctions in case of non-compliance with the transparency obligations, such sanctions have never been imposed.

### **Framework for journalists' protection**

#### **Rules and practices guaranteeing journalist's independence and safety**

Bulgarian Freelance Journalist Dimitar Kenarov Beaten and Detained by Police while Covering Protest : Council of Europe Platform, see :

[https://www.coe.int/en/web/media-freedom/all-results?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=2&p\\_p\\_cacheability=cacheLevelPage&p\\_p\\_col\\_id=column-4&p\\_p\\_col\\_count=1&sojdashboard\\_WAR\\_coesojportlet\\_keywords=Bulgaria&sojdashboard\\_WAR\\_coesojportlet\\_orderByCol=&sojdashboard\\_WAR\\_coesojportlet\\_orderByType=asc&sojdashboard\\_WAR\\_coesojportlet\\_selectedCategories=&sojdashboard\\_WAR\\_coesojportlet\\_selectedStringFilters=&sojdashboard\\_WAR\\_coesojportlet\\_cmd=get\\_pdf\\_dashboard](https://www.coe.int/en/web/media-freedom/all-results?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=2&p_p_cacheability=cacheLevelPage&p_p_col_id=column-4&p_p_col_count=1&sojdashboard_WAR_coesojportlet_keywords=Bulgaria&sojdashboard_WAR_coesojportlet_orderByCol=&sojdashboard_WAR_coesojportlet_orderByType=asc&sojdashboard_WAR_coesojportlet_selectedCategories=&sojdashboard_WAR_coesojportlet_selectedStringFilters=&sojdashboard_WAR_coesojportlet_cmd=get_pdf_dashboard)

The access to the profession is open and free but there are not fully effective guarantees of editorial independence. Journalists face poor working conditions and lack of adequate trade union protection. What is particularly alarming is that, in the past two years, journalists have been object of physical attacks, assaults, arbitrary detention and death threats. Bulgaria is not only not providing a safe and enabling environment for journalists but is actually among the leading actors in threatening media independence due to political, administrative and judicial pressure.

## **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

### **3000 character(s) maximum**

#### **Access to information and public documents**

Protection of the right to information is at medium risk according to the CMPF MPM and confirmed by EFJ affiliates. In 2019, amendments to the Administrative Procedure Code and the Access to Public Information Act transformed the two-instance system of judicial review of administrative acts, including access to public information proceedings, into a one-instance procedure in the hands of regional administrative courts. This has opened the door to feudalization of administrative justice. In practice, although the amount of open public data sources has increased in recent years, journalists still face obstacles when accessing public information.

**Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

**3000 character(s) maximum**

**Other - please specify**

**3000 character(s) maximum**

**Croatia**

**Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

**3000 character(s) maximum**

The media are monitored by several regulatory bodies, ministries and government agencies. The scopes of these bodies sometimes overlap, but for some issues none of them is competent. There are The Croatian Regulatory Authority for Network Industries (HAKOM) and the state company Digital Signals and Networks (OIV), the Croatian Competition Agency (AZTN), Croatian Chamber of Commerce (HGK), the Ministry of Culture, the Ministry of Finance - all sharing some responsibilities in the field of media with the Electronic Media Agency (AEM). Public Broadcaster (HRT) is overseen by its Programming Council, the Supervisory Board and the AEM. Although not all directly part of it, all of these bodies are highly dependent on the Government.

The best example of this is the only regulator that deals only with the media - AEM and its governing body, the Electronic Media Council (VEM). They are in charge of regulating the so-called electronic media. This legal term refers to television, radio and part of websites, which means that the implementation of regulations in relation to newspapers and many other media is without proper regulatory oversight. Although officially "independent," the VEM is traditionally controlled by governments, regardless of their political affiliation. In this quasi-autonomy, however, deterioration is noted. "Political pressure on the Council is increasing," notes Media Pluralism Monitor.

The VEM grants broadcasting concessions and grants from the Pluralism Fund. Both imply the fulfillment of certain obligations. However, the work of VEM and AEM is not always sufficient or transparent in this respect. Smaller production than the one prescribed by law for authentic, and especially informative programmes, is clearly visible, but the sanction is small, according to the Mediadem project report. Another report, Media Integrity Matters, also notes the problem of inefficiency, which clearly warns of the problem of "capturing regulators". The concept of regulatory capture is used to describe a situation where the regulatory body, instead of the public interest, promotes the interests of the private entities that should be regulated.

The Pluralism Fund is financed from 3% of the revenue from the public service broadcasting fee. This totals to about 35 million kuna (less than five million euros) per year, which in any case represents insufficient resources to finance quality journalism, which, in the context of the modest Croatian media market, has largely lost commercial sources of funding. In the discussion on the new Act for governing the Fund, CJA and TUCJ requested a significant increase, estimating the minimum needs for support for media pluralism at 16 million euros.

**Conditions and procedures for the appointment and dismissal of the head / members of the**

## **collegiate body of media regulatory authorities and bodies**

The VEM consists of seven members (including the president, also the ex-officio executive of the AEM) who, at the Government's proposal, are appointed by the parliament for a five-year term. It is the very appointment mechanism that is the source of general doubt about the independence of the media regulator. Moreover, "VEM members can be re-elected for an unlimited number of terms, which can have a negative impact on their decision-making independence. Their required knowledge and qualifications are very general and subject to multiple interpretations. In any case, too much power in terms of proposing and appointing the VEM is in the hands of the parliamentary majority ", conclude the authors of the report for Croatia of the Monitoring Media Pluralism in the Digital Era project.

The law governing the area is currently in the process of being amended, so the CJA has proposed that members of the VEM be elected by a two-thirds majority and that the Government give up its monopoly on their nomination. Starting from the assumption that in-depth knowledge of media practice can actually turn professional journalists in quality regulatory supervisors, it was proposed that two members of the Council be elected from among journalists by the Croatian Parliament, at the suggestion of the Croatian Journalists' Association, instead of by a public invitation from the Government, and that an appropriate public tender be held for those positions prior to candidate nominations. The proposer of the law, the Ministry of Culture, rejected CJA's proposals without a given explanation.

## **Existence and functions of media councils or other self-regulatory bodies**

There is no independent press or media council in Croatia. Self-regulatory measures are not effective in guaranteeing editorial independence. The working conditions for journalists have consistently been deteriorating, often due to temporary contracts. The Editorial autonomy scores according to the MPM 2020 a high risk of 97 percent and is the most problematic indicator in the entire evaluation. Self-regulatory measures (i.e. media statutes) and the Code of Ethics of the Croatian Journalists' Association have proven to be highly ineffective in controlling political influence

While AEM and VEM, at least for now, have sufficient resources and regulatory powers, but do not use them, the situation on public radio and television is completely different. In charge of protecting the public interest in its contents, the Program Council, the only regulatory body of HRT that to some extent includes representatives of civil society, was left practically without any powers by the amendments to the 2012 Act. They are assigned to the Supervisory Board, which is under even greater control of the Government. Thus, the director, who is elected by a simple parliamentary majority, is virtually without any oversight.

In 2011, the CJA and the publishers from all major Croatian media outlets established the Croatian Media Council (HVM), a self-regulatory body, to monitor and sanction violations of professional journalistic ethics. Faced with organizational and financial problems, the work of the Council never fully came to life, and after several years of existence, it was completely shut down.

In Croatia, there is a Code of Honor for Croatian Journalists, adopted by the Croatian Journalists' Association on the model of similar documents in Europe. The implementation of the Code of Honor is supervised by the Journalists' Council of Honor, the only self-regulatory body of the media in Croatia that has been operating within the CJA since its founding in 1910. The Press Council of Honor acts on reports that anyone can make if they notice a violation of the Code of Honor, i.e. universal journalistic ethical

principles. <https://www.hnd.hr/novinarsko-vijece-casti1>

## **Transparency of media ownership and government interference**

### **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

#### **3000 character(s) maximum**

“The ‘State advertising’ indicator is (...) showing a high risk (83%)”, finds another Media Pluralism Monitor's report. “There are no rules relating to the distribution of state advertising and no data on the share of state advertising as part of the TV, radio and newspaper advertising market, which is seen as a transparency issue due to recent cases in which state advertising has been abused by political actors. Specifically, state advertising was part of high-level corruption cases with regard to the company Fimi-Media, through which state funds were drawn and channelled to a secret fund. Among other indictments, these were key in sentencing the former Prime Minister Ivo Sanader. There is full agreement between consulted experts on this issue.”

At the beginning of the recent coronavirus-related crisis, media owners and editors selected by the Prime Minister Andrej Plenković sat with him and agreed, among else, that the state will spend undisclosed sums on (unnecessary) advertising of state companies to help the media hit by the crisis, published Iloko Ćimić, journalist from one of the outlets that were not selected to attend the meeting.

We also see indirect state advertising in the mainstream media through thematic conferences, without public tenders and clear criteria, as a serious problem. As a rule, these conferences are held in a joint organization of large commercial media and ministries, thus ensuring the inflow of public money and the Government securing their support, which is especially important given the declining share in financing by traditional advertisers during the COVID pandemic. While we welcome the attempt to support the media, we warn of the danger of political abuse of such a non-transparent model of spending public money.

Referring to the proposal of the Law on Electronic Media, which is currently in the process of being passed by the Parliament, CJA warned about the procedures for advertising public companies on local media. Decisions on advertising are made discretionarily, non-transparently, most often at the will of political leaders, without any public tender. The public has no insight into the purpose of spending that money. Thanks to such transactions, an affair known as Fimi-media was created.

The capacity of the local economy in Croatia is not so large that it could finance media production through advertising. The current amendments to the Law on Electronic Media envisage a significant reduction in the obligation to publish local news for radio and television that use the limited common good of the radio frequency spectrum. At the same time, a public tender, through which the Ministry of Culture stimulated employment and production of programs in non-profit community media, was abolished five years ago, and the means of the Pluralism Fund awarded by the media regulator, the AEM, did not increase significantly enough to cover losses on the commercial side of revenue.

### **Rules governing transparency of media ownership and public availability of media ownership information**

The [Media Pluralism Monitor's] indicator ‘Politicisation of control over media outlets’ shows a medium level of risk (56%). There is no data on the shares of TV channels, radio channels and newspapers that are

owned by the politically affiliated entities, which points to a situation of low transparency and the problems in accessibility of the media ownership data. The Electronic Media Council keeps the register for radio and television, while the Croatian Chamber of Economy keeps the register for print media. This creates problems in determining political affiliation, particularly in cases of cross-media ownership. All of the experts on the panel agree with this assessment.” The same project in 2018 finds again that “among the most problematic areas are commercial and owner influence over editorial content as well as poor regulation of cross-media ownership and competition”, proposing that what is to be done in the field of political independence is to “expand the definition of connected persons (article 53) in the Electronic Media Act to include limits to party, partisan groups or politicians as owners. Introduce a similar definition in the Media Act and ensure limits to political influence on editorial content.”

There are certain provisions of the Media Act (article 12, article 31 and 32): “A newspaper publisher shall report [to] the Croatian Chamber of Economy [the] data on the ownership structure of the media”, as well as “publish [it] in the "Official Gazette" by 28th February of each calendar year.” However, these data are not easily accessible. The provisions of the EMA (articles 52 and 57) were of better performative luck, definitely due to the actually existing regulator for the “electronic”, as opposed to “non-electronic” media. The registry on the Agency’s website is accessible to everyone, free of charge, and, in several clicks, it shows the owners of the television and radio broadcasters, online/digital channels and some on-demand services. (For the owners of the websites, one has to download the Excel table from the same URL, but again, for more than a half of them the ownership data is missing.) Helena Popovic, in the Media Integrity Matters report, provides a very methodical analysis of the ownership structure and its primary accumulation.

## **Framework for journalists' protection**

### **Rules and practices guaranteeing journalist's independence and safety**

Freedom of expression is constitutional so the Criminal Code proscribes its violation by stipulating the imprisonment (not exceeding one year) on “whoever orders or practices censorship or unlawfully denies a journalist the freedom to report or limits this freedom” (article 127).

Moreover, the Criminal Code stipulates a threat “against a journalist in connection with his or her job” as a qualifying (harder) offence to be investigated and prosecuted upon (ex officio) request (article 139).

However, from the perspective of a criminal, or a politician provoked by journalistic work, the question would be why threaten journalists in an old-fashioned way, when one can sue them?

The amendments of the Criminal Code in December 2019 have finally abolished the “shaming” offence, which had brought so many journalists to court since 2012. Defamation ensuing from the practice of a journalist shall not be deemed a criminal offence (article 148a), under condition that the court finds the critical piece of journalism was composed “in the public interest” - precisely the legislative subtlety on which the major part of the “juridical offensive against journalism” was based upon. So it was early to celebrate journalistic independence.

Due to the increase in SLAPP lawsuits, urgent action is needed to protect the media from the freezing effect of such lawsuits. CJA and TUCJ believe that it is necessary to unconditionally decriminalize defamation. In accordance with the recommendations of the Council of Europe, the dignity of persons exposed to defamation can be successfully protected in the field of civil law. Defamation needs to be precisely defined by law, in order to avoid its arbitrary application. The amount of compensation should

be determined by reasonable and proportionate limits, so that the social functionality of the media does not get brought into question.

Media Pluralism Monitor's report recommends that a sure way to improve political independence would be to "expand the definition of connected persons (article 53) in the Electronic Media Act to include limits to party, partisan groups or politicians as owners", to "introduce a similar definition in the Media Act and ensure limits to political influence on editorial content", as well as "ensure less political interference in PSM management by amending the Croatian Radio-Television Act."

Just on 22 February, there have been death threats against a journalist reported to the CoE Platform: [https://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-2&p\\_p\\_col\\_pos=4&p\\_p\\_col\\_count=9&sojdashboard\\_WAR\\_coesojportlet\\_alertPK=91375925#block-member-replies](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-2&p_p_col_pos=4&p_p_col_count=9&sojdashboard_WAR_coesojportlet_alertPK=91375925#block-member-replies)

### **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

In order to assess the capacity and will of Croatian institutions to ensure the safety of journalists, these institutions should process attacks on journalists within a reasonable time. Practice tells us differently, and here is an example: in the last 7 years, 68 attacks on journalists have been recorded in Croatia, of which as many as 12 attacks were recorded in 2020. Although some cases were resolved very quickly, most have not yet received a court epilogue.

In 2020, the institutions reacted quickly to the attack on the N1 television team, which interviewed Alemka Markotić (director of the Clinic for Infectious Diseases) in public. A man who, accompanied by another person, verbally attacked the journalist team and Alemka Markotić, was detained, processed and convicted within 48 hours. The attacker was given 20 days probation and had to pay legal fees in the amount of 300 kunas. Although the quick reaction of the police and the judiciary is commendable and desirable, we cannot help but wonder if this case was resolved so quickly because the story also included Alemka Markotić, director of the Clinic for Infectious Diseases, which is currently, due to the Covid crisis, one of the most prominent people in Croatia.

On the other hand, in 2008, investigative journalist Dušan Miljuš was beaten with baseball bats in front of the building where he lives in Zagreb. As part of Operation "Shock 3" in November 2010, a large number of people were arrested in search of the perpetrators. The investigation was conducted against three people, but after a six-month procedure, the prosecution dropped the indictment because there was not enough evidence, and the case was returned to the Zagreb City Police Department, to find evidence of the perpetrators and the mastermind behind the attack. Even after 13 years, this case still does not have its epilogue.

Also, the police, the legal profession and the members of the judiciary system are not sufficiently educated to work with journalists and it often happens that at trials the judges themselves are not prepared enough to be handling cases related to journalistic work.

<https://safejournalists.net/homepage/>

Although law enforcement services never objected to lack capacities, for the attacks and threats against journalists "the penalties are mild, while sentences are few", says Vanja Jurić, the lawyer specialised for journalism, "there's even not much difference between penalties for the threats against journalists and the 'regular' threats, even though journalists have been targeted just because they were doing their job. It is

important that the criminal procedures are requested by the State Attorney's Office, but from the journalists' perspective it has precisely turned out to be the main obstacle for their protection", because the State Attorney's Office decides to dismiss cases very often, even before they come to court.

### **Access to information and public documents**

The Right of Access to Information Act (ZPPI) should facilitate and expedite the procedure for cases where it has been irrefutably established that it is indeed a case of request for access to information. Namely, in the vast majority of situations, information that should be public anyway are made unavailable or hard to access by state officials delaying the procedure of information delivery, complaints to judgements by default, complaints of incomplete responses and others, all of which leads to information being obtained for a few months, which is unacceptable.

According to journalists' experience, officials very often let the deadline for a response expire, and after an appeal to the Commissioner, they again delay the procedure by giving a response that is partial or by giving information that has not been requested.

The law should also include the punishment of public authorities when it is determined that it is a matter of intentional procrastination, and that this item should be introduced in the direct sanctioning of public authorities and responsible persons. This is especially true for those requests that require information that should be public anyway, i.e. published on the official website of the authority in question.

We advocate that the powers of the Information Commissioner be increased when the authority is warned that it is obliged to provide certain information, as well as that the misdemeanor punishment of the commissioner or authority is resolved automatically, and not by initiating a separate procedure.

We also advocate for stricter sanctions for persons who, as representatives of public authorities, are in charge of providing information. Such persons, once it has been established that they have abused the Right of Access to Information Act (ZPPI), should not be deployed to those places. In addition to the misdemeanor provisions, which have not had the desired effect so far, we also request that these persons be prevented from further work in the same position, not only in that body, but also in all other bodies.

<https://www.gong.hr/hr/dobra-vladavina/pristup-informacijama/drzavne-tvrtke-zakljucavaju-informacije-pod-okrilj/>

In his proposals for amendments to the ZPPI, the Information Commissioner suggests redefining Article 29, which deals with resolving requests for re-use of information, in such manner that bodies of public authorities, which are not bound by the Directive, be exempted of the obligation of resolving such cases, primarily commercial companies, followed by educational and scientific research organizations.

<https://pristupinfo.hr/wp-content/uploads/2021/02/Prijedlog-Povjerenika-za-izmjene-i-dopune-Zakona-o-pravu-na-pristup-informacijama.docx?x58018>

### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

According to a [survey by the Croatian Journalists' Association for 2020](#), there are currently 905 lawsuits against journalists and the media outlets, demanding a total of 69 million kuna (€9 million) for various compensations. Since not all media outlets responded to the CJA's survey, this figure could be far higher. In 2019, according to its survey, there were 1,163 lawsuits ongoing in the country, with the majority of

claims being made for non-material damages such as “mental anguish” or “tarnished reputation“. In Croatia, the majority of these lawsuits against the media are brought by politicians or former officials, as well as business owners and in some cases even judges. While not all of these lawsuits can be classified as SLAPPs, many of these cases meet the criteria: lawsuits brought forward by powerful opponents such as companies, public officials in their private capacity, or high profile persons, with the aim of harassing and silencing those speaking out on matters of public interest, rather than achieving justice.

In Croatia it is not rare that a journalist is sued for an article that already underwent a legal screening prior to publication, or for publishing satirical content, or for simply quoting an interviewee. In November 2018, for example, a court ordered the daily Jutarnji list to pay 50,000 kuna (€7000) in damages to a judge and member of the State Judicial Council, over an interview with a politician who referred to the State Judicial Council as “the source of corruption”. However, the plaintiff’s name wasn’t even specifically mentioned in the interview, and the article was approved by the interviewee before publication. The lawsuit went ahead nonetheless. In October 2019, the offence of ‘shaming’ was removed from the Croatian criminal law, a move that was welcomed by CJA and the media sector in the country. However, plaintiffs can still launch criminal proceedings for insult and defamation or start civil proceedings with claims for compensation. According to data obtained by the end of 2018, 91 of the 119 criminal proceedings brought against journalists that year were for defamation, 13 were for insult and only five were for harsh shaming. During a pandemic and economic recession, such lawsuits are therefore a question of survival for smaller, independent outlets.

“The state has not decriminalized defamation. In 2019, an enormous number of lawsuits (1163) was directed towards journalists by politicians and other public figures. Some of the lawsuits were raised by the Public Service Broadcaster (HRT) and were directed towards the Croatian Journalists’ Association - CJA. The CJA is under increasing pressure and journalists often face threats, and sometimes harassment by the police”, states the Country Report of the Monitoring Media Pluralism in the Digital Era project.

### **Other - please specify**

General atmosphere, mainly driven by the political class of the country to miscredit media and journalists  
Croatian authors' rights legislation

“Looking at the proposed implementation of the EU Copyright Directive into Croatian Law, it seems not to reflect proper copyright protection of either authors' economic and moral rights or publishers' rights. The proposed legislation rather seems to misuse the implementation of the Directive to provide more rights for publishers and less to the authors. The proposed law lacks any mention of journalists’ work within the category of authors’ work which requires to be protected. Under the EU Copyright Directive it is clear that journalists are among the authors and are specifically members of the main group who should benefit from publishers’ rights. It also has to be stressed that for many freelancers, remuneration stemming from authors’ rights is crucial. Authors’ rights belong by their nature to the person who creates the work. This is stated in the current law on Copyright and Related Rights (ZAPSP)” - the president of the European Federation of Journalists Mogens Blicher Bjerregård also wrote in a letter to the Croatian government

### **Frail protection of labor rights of media employees and freelancers**

There is no National Collective Agreement - collective agreements have been signed only in two media houses. Freelancers have almost no protection of labor rights.

In general, the protection of labor rights is at a poor level. Media houses, especially private media houses, do not support the establishment of trade unions, although the right to trade union association is also mentioned in the Croatian constitution. On the other hand, the union is strong in large and old media houses, and according to labor law, it is the union that is authorized to negotiate a collective agreement that should further defend and regulate the protection of specific rights of media employees. That is why today we have only two signed collective agreements, and a few more cases in which the old agreement is extended with annexes reducing workers' rights. The pandemic also showed how big the problem of protection of freelancers and off-standard-contract workers is – they enjoy almost no protection of labor rights.

The Trade Union of Journalists has published several testimonies of dismissals in newsrooms that are justified by optimization or not justified at all, and show how frail the protection of journalists' rights is.

<https://www.snh.hr/koja-je-cijena-krivog-pitanja-za-novinare-u-hrvatskoj/>

<https://www.snh.hr/cenzura-mobing-otkaz-prica-druga>

<https://www.snh.hr/cenzura-mobing-otkaz-prica-cetvrta/>

There are currently 905 lawsuits filed against journalists and media outlets in Croatia, with plaintiffs claiming almost HRK 68 million, according to the results of an annual survey conducted by the Croatian Journalists' Association (CJA)

<https://europeanjournalists.org/blog/2020/05/06/croatia-over-905-pending-lawsuits-against-journalists-and-media-outlets/>

The Croatian journalists' trade union and professional associations (TUCJ and CJA) announced last week that a new wave of vexatious lawsuits (SLAPP) is hitting Croatian media and journalists. The dozen of SLAPPs targets Telegram news portal, Virovitica.net, Index and journalist **Dora Kršul**. The European Federation of Journalists (EFJ) joined its affiliates in Croatia in denouncing an attempt to intimidate and silence investigative journalism.

<https://europeanjournalists.org/blog/2020/11/04/new-wave-of-slapps-hits-croatian-media-and-journalists/>

<https://www.osce.org/representative-on-freedom-of-media/430625?fbclid=IwAR0J67Kt7-SomxdkzIcq6Jp2va2Hi-KCPq6IEUyYYsUaVIZIMUnpxn7zggk>

Milanović has been publicly insulting several media outlets, journalists as well as members of the opposition and a political analyst in ad hominem attacks. The insults began after a major corruption scandal involving an oil pipeline company was revealed in September. Milanović admitted having gone to a secret club during the lockdown in March, where apparently illegal deals were made.

<https://europeanjournalists.org/?s=croatia>

<https://europeanjournalists.org/blog/2020/10/13/croatia-president-milanovic-is-urged-to-stop-attacking-media-and-journalists/>

[https://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-3&p\\_p\\_col\\_pos=1&p\\_p\\_col\\_count=11&\\_sojdashboard\\_WAR\\_coesojpo](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-3&p_p_col_pos=1&p_p_col_count=11&_sojdashboard_WAR_coesojpo)

[rtlet.alertPK=76126652&\\_sojdashboard\\_WAR\\_coesojportlet\\_displayLink=SojPortlet.getDashboardPortletId%28%29](http://rtlet.alertPK=76126652&_sojdashboard_WAR_coesojportlet_displayLink=SojPortlet.getDashboardPortletId%28%29)

We have to appreciate that at least the croatn government does respond to all alerts submitted to the CoE Platform on the protection of journalists. BUT Journalists keep being objects of smear campaigns, hate speech, death threats, scare tactics, police harassment, and defamation charges (Mapping Media Freedom 2020; Council of Europe 2020)

Dramatic impact due to pandemic :

The Trade Union of Croatian Journalists (TUCJ) and the Croatian Journalists Association (CJA) urged in a letter the government “to save journalism” by taking financial compensation measures for the media sector. If nothing is done, mass layoffs will occur and the media will shut down, they warned. The European Federation of Journalists (EFJ) joined its affiliates in urgently requesting a media recovery plan. <https://europeanjournalists.org/blog/2020/04/17/in-croatia-journalists-unions-raise-the-alarm-about-the-co-vid-19-impact-on-journalism/>

## 5. Cyprus

### **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

The media regulatory system ensures a legally independent authority with its own budget and adequate powers to conduct its mandate. Its decisions are published regularly and are subject to judicial review only, with no room for government interference

### **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

The criteria regulating the appointment of the PSM’s DirectorGeneral and the composition of its governing board are fairly broad and are exploited by the government and political parties in a sharing-the-spoils attitude at the expense of independent experts participation

### **Existence and functions of media councils or other self-regulatory bodies**

The Cyprus Media Complaints Commission is an independent press council, responsible for the self-regulation of the news media, both written and electronic. It is free from government interference or judicial supervision, ensuring that through self-regulation freedom of the press is maintained, standards of conduct are raised and the members of the public are given the opportunity to lodge their grievances against the media when they feel they have been offended.

### **Transparency of media ownership and government interference**

The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

**Rules governing transparency of media ownership and public availability of media ownership information**

According to the MPM and confirmed by the Cyprus Union of Journalists with legal obligation of Transparency of media ownership only applicable to broadcast media (where efficient implementation of rules remains doubtful), the written press and digital media landscape still remains worryingly nebulous. In both the written press and digital media it remains difficult to identify and verify ultimate owners or cross ownership.

**Framework for journalists' protection**

**Rules and practices guaranteeing journalist's independence and safety**

**3000 character(s) maximum**

**Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

**3000 character(s) maximum**

**Access to information and public documents**

Restrictions to the right to information are defined in accordance with international standards but appeal mechanisms for denials to access both on Court and Ombudsman level are slow and thus cannot be considered fully satisfactory. A law on Freedom of Information was voted in 2017 aiming to resolve the problem and finally came into force on 20 December 2020. It has yet to be tested and known enough for any analysis. There has also not been any development on the establishment of a regulatory framework to protect whistleblowers

**Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

**3000 character(s) maximum**

**Other - please specify**

**3000 character(s) maximum**

**Czechia**

**Media authorities and bodies (Cf. Article 30 of Directive 2018/1808)**

**Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

**3000 character(s) maximum**

The Council for Radio a Television Broadcasting (the Council) is the only self-regulatory body in the media field in Czechia. The missing media council for print and digital media is a big problem.

**Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

**3000 character(s) maximum**

## **Existence and functions of media councils or other self-regulatory bodies**

**3000 character(s) maximum**

## **Transparency of media ownership and government interference**

### **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

On 3 February 2021, Act No. 37/2021 Coll. on the register of beneficial owners entered into force, with effect from 1.6.2021. The information to be newly made available to the public includes the name and surname of the beneficial owner, the state, residence, year and month of birth, citizenship or information on the status of the beneficial owner of the legal entity. In the event of a breach of the obligation to register the real owner, it will be possible to impose a fine of up to CZK 500,000. BUT! In fact, the veracity of the records of beneficial owners cannot be enforced, points out Transparency International. Sanction mechanisms apply only in the case of a missing registration, but not if the registration is not true. The veracity of the data will not be actively monitored by the registry courts; according to the Ministry of Justice, they will act in this matter only on the qualified initiative of a professional who will submit arguments why, in his opinion, the data in the records are incorrect.

**3000 character(s) maximum**

## **Rules governing transparency of media ownership and public availability of media ownership information**

**3000 character(s) maximum**

## **Framework for journalists' protection**

### **Rules and practices guaranteeing journalist's independence and safety**

**3000 character(s) maximum**

## **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

**3000 character(s) maximum**

## **Access to information and public documents**

**3000 character(s) maximum**

Act on Free Access to Information No. 106/1999 Coll. is currently transposing European Parliament Directive 2019/1024 of 20 June 2019 on open data and re-use of public sector information. The deadline for transposition into Czech law is set by this Directive by 17 July. 2021.

The meeting of the Chamber of Deputies discussed in the 1st reading the government's draft amendment to the Act on 10 December 2020 (Chamber of Deputies Press No. 633 - <https://www.psp.cz/sqw/historie.sqw?o=8&t=633&snzp=1> ).

The bill is currently (8.3.) still being discussed by committees. The deadline for discussion by the committees was set at 80 days. The second reading in the Chamber of Deputies should therefore take

place by the end of March 2021.

Some government proposals could raise concerns that access to information could be more difficult for journalists in the future. The government proposed among others, that the reasons for refusing information consisting in the abuse of the right to information would be extended (if the purpose of the request for information is to put pressure on the person to whom the requested information relates or imposes a disproportionate burden on the data subject). If the amendment to the law is approved, then the obligated subject will be able to reject the request also if it does not have the information and does not even have the obligation to have it by law. At the same time, the obligated entity should be able to request an advance payment to cover the costs associated with an extremely extensive search for information, which should not exceed 60% of the estimated costs and should not exceed CZK 2,000. A new reason for not providing information is also to protect the equality of participants in court, arbitration and similar proceedings.

### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

**3000 character(s) maximum**

**Other - please specify**

**3000 character(s) maximum**

The Czech Republic has long lacked the infrastructure for the support of the functioning and development of independent media. The professional organization is practically non-functional (pedagogue Michal Kaderka, creator of materials for media literacy for schools, states directly in the teaching materials: It should be noted that there are not many active journalists who are members of the Syndicate of Journalists. If someone brags about being a member of the Syndicate of Journalists, it is often a member of the „pigeon squadron“.)

There is also no media council for print and digital media, which means among others a number of ethical issues.

Also no working or advisory body of the government deals with the media. There are no journalists or media representatives in these bodies. One of the consequences of the absolute absence of the media topics in the government's agenda is currently, for example, the fact that no support from the EU Renewal Fund has been allocated for the media in the Czech Republic at all.

But as result there are also no special rules guaranteeing journalist's independence and safety, or safeguards against abuse of lawsuits and against journalists.

## **France**

Media authorities and bodies (Cf. Article 30 of Directive 2018/1808)

**Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

## **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

The French media regulatory authority, Conseil supérieur de l'audiovisuel (CSA), is governed by a College of seven members: the CSA Chair and six advisors. All are appointed by decree of the President of the Republic for a six-year, non-revocable and non-renewable term. The President is appointed by the President of the Republic. The six other members of the College are appointed by the Presidents of the Senate and the National Assembly. The latter each appoints three members, chosen on the basis of their skills, experience and expertise taking into account the gender balance. All appointments must be validated by the cultural affairs committees of the Senate and the National Assembly, by a favourable vote of 3/5ths of the votes cast by each of these committees. With the exception of its President, one-third of the College is renewed every two years.

To guarantee their independence, their functions are incompatible with any elected office, employment or other professional activity. In addition, they are subject to a right of discretion and to ethical obligations aimed at preventing conflicts of interest for one year after the end of their mission, as required by the Law on the Transparency of Public Life. During the three years following the termination of their duties, members of the College may not work for a public or private company which the CSA has supervised or controlled.

However, journalists' unions have been asking for a genuine independence of the CSA from the political powers. Proposals include a change in the appointment process so that half of the members are appointed by the employees of public companies and a change in the appointment process of France Télévisions' CEO, currently appointed by the CSA, by pluralist and independent boards of directors.

## **Existence and functions of media councils or other self-regulatory bodies**

The French press council, Conseil de déontologie journalistique et de médiation (CDJM), was created in December 2019. The council is tripartite, made up of representatives of publishers and journalists from all media (written press, radio, television, digital, agencies) at the national level, as well as representatives of the public. It is a professional self-regulatory body, independent of the State, a body for mediation and arbitration between the media, editorial offices and their audiences, and finally, a body for reflection and consultation for professionals and education for the public. It is seized by the public or can take action on its own initiative. It rejects all referrals concerning the editorial line or editorial choices, which are free and remain the prerogative of the editorial offices under the authority of the director of publication.

## **Transparency of media ownership and government interference**

The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

Details of direct aids are no longer published since 2017. An in-depth reform is much needed and not coming. 800 million euros of direct aid to the press is paid by the State. The French journalists' Union SNJ asks for the aids to be conditioned to media outlets with permanent editorial teams, to media outlets respecting the journalists' charters on ethics, compliant with the provisions of the collective agreements in force and Labour Code, respecting equality between men and women.

## **Rules governing transparency of media ownership and public availability of media ownership information**

The rules currently in force regarding media ownership and concentration (so-called “2 out of three media”) date for the most part either from the post-war period or from 1986, far from taking into account the revolution that the Internet and social networks have since represented in the media world. New regulations are much needed in this field.

## **Framework for journalists' protection**

### **Rules and practices guaranteeing journalist's independence and safety**

In 2020, the Council of Europe platform for the protection of journalism and safety of journalists recorded 18 media violations in France. Among the 18 alerts, 12 of them document the state as the main source of the threat. It involved threats such as: obstruction of work by the police, bill or legislation threatening media freedom, arrest and custody of journalists, police violence and intimidation during protests and attempts to identify journalistic sources.

### **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

The year 2020 was marked by many developments regarding police violence in France. The debate over the dissemination of images of law enforcement authorities at work reached a new level after French Interior Minister Gérald Darmanin proposed, with two texts, to better regulate the exercise of law and order. The National Policing Plan introduced in September 2020 was seen by journalists’ organisations as a green light for law enforcement authorities to prevent media professionals from fully reporting on protests. The bill on ‘global security’ proposed in October 2020 further confirmed the government’s intention to restrict the work of journalists by proposing a bill – under a fast track procedure – which would establish a sanction of up to €45,000 and one year’s imprisonment, to anyone who disseminates images of police and gendarmerie officers “with the aim of causing harm to his or her physical or psychological integrity”. The IFJ, EFJ, their affiliates in France consider that this law is contrary to international legal standards on freedom of expression and disproportionately restricts the rights of journalists and press freedom. Experts, advisers and United Nations spokesperson for human rights called on France, as did the European institutions. In France, the Human Rights Defender and the Commission consultative des droits de l'homme (CNCDH), two independent bodies, have stigmatised these provisions as violating freedoms

In addition to these two texts, the 2015 law on Intelligence allows phone tapping, storage of data, geolocation, without control by judges. These provisions directly threaten the protection of the sources. An appeal has since been lodged with the ECHR.

French journalists’ unions denounced several cases of police violence against journalists in 2020. This is a recurrent problem: according to them, in 2019, nearly 200 journalists were victims of police violence and intimidation in France. Their equipment has been seized, broken, confiscated and their press cards ignored or stolen. More than 20 journalists were unduly detained and almost all of them, among the most well known cases, were released without prosecution. The longest custody lasted 83 hours.

## **Access to information and public documents**

The Interministerial General Instruction of 13 November 2020, which intends to defend a stricter application of the use of classified defence, is problematic.

In 2019, two journalists (working for Disclose) and one journalist for Radio France's investigation unit are summoned by the DGSI as free suspects for "compromising the secrecy of national defence". Disclose, Arte Info, Konbini and Mediapart believe that "this police investigation is an attack on press freedom, which implies the secrecy of journalists' sources of information".

In early 2020 - A book on the wars in the shadow of the General Directorate of Internal Security (DGSI): journalist Alex Jordanov is prosecuted for "compromising defence secrecy".

In 2020, the Association of Defence Journalists wrote two letters to the government on the communication of information : "The Association of Defence Journalists, on behalf of its 140 members representing the diversity of the profession, takes up the pen to bring to everyone's attention the multiple and recurring dysfunctions affecting the community of defence specialists. Existing before the crisis, they have now multiplied, increasingly hindering the exercise of our profession. Clearly, their origin and/or resolution are the responsibility of the communicators of the Ministry of the Armed Forces. Issues include: Lack of timely and substantiated answers to the questions asked; Arbitrary selection of journalists with access to certain sources; Pressures on journalists, especially as a result of articles that were "unpopular"; Lies, deliberate or not, from communicators.

### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

In 2020, French freelance journalist Inès Léraud was prosecuted for defamation by business tycoon Jean Chéritel, CEO of the Chéritel group, following the publication, in March 2019, of her investigation entitled: "Hidden work, label fraud: the multiple abuses of a Breton agro-industrial group". On 22 January 2021, the Chéritel group withdrew its criminal complaint and civil lawsuit against Inès Léraud (<https://go.coe.int/HCZFd>). Léraud was previously sued for defamation, in 2019, by a Breton agri-food business owner. Charges were also dropped a few days before the trial.

**Other - please specify**

## **Germany**

**Media authorities and bodies (Cf. Article 30 of Directive 2018/1808)**

**Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

**3000 character(s) maximum**

<https://www.die-medienanstalten.de/en/about-the-media-authorities>

<https://medialandscapes.org/country/germany/policies/accountability-systems>

14 Media Authorities exist in Germany. On behalf of the states, they work together on central tasks and projects under the umbrella brand die medienanstalten. This ensures that private radio and television

stations throughout Germany are regulated in a uniform way and that the media authorities in European media policy speak with one voice.

The cooperation is conducted in 4 central commissions:

- Commission on Licensing and Supervision (Kommission für Zulassung und Aufsicht, ZAK)
- Committee Chairperson Conference (Gremienvorsitzendenkonferenz, GVK)
- Commission on Concentration in the Media (Kommission zur Ermittlung der Konzentration im Medienbereich, KEK)
- Commission for the Protection of Minors in the Media (Kommission für Jugendmedienschutz, KJM)

The ZAK is responsible for licenses and control of nationwide private broadcasters, regulation of platforms, as well as development of digital broadcasting.

The GVK makes the selection decision for allocating platforms and assigning wireless transmission capacities to private providers.

The KEK monitors compliance with regulations for securing diversity of opinions in nationwide private television.

The KJM is the central point of contact for youth protection in private television and radio as well as the internet.

Germany has a dual broadcasting system, which includes public service broadcasting programmes and private television and radio channels. Private programmes such as RTL, Sat. 1, Klassik Radio, or Energy primarily finance themselves through advertising. The public broadcasting corporations ARD and ZDF receive money from broadcasting license fees.

Supervision is also regulated in different ways. "die medienanstalten" form the exclusive point of contact for private radio and television broadcasters.

### **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

#### **3000 character(s) maximum**

#### **Existence and functions of media councils or other self-regulatory bodies**

<https://www.presscouncils.eu/members-germany>

The German Press Council is the body responsible for enforcing the voluntary self-regulation of the press in Germany. Through addressing complaints about press behaviour, it monitors compliance with the ethical rules for the daily work of journalists laid down in the German Press Code. Inspired by the British Press Council of 1953, the journalist and publisher associations formed the German Press Council on November 20, 1956. The German PC is a non-profit association, an organ of the major associations of the press under private law. The Press Council is responsible for preserving the reputation of the German

press, while protecting its freedom. Furthermore, the Press Council champions the unimpeded access by journalists to news sources and ensures self-regulation with regard to editorial data protection and financial market reporting. The Press Council is organised as a registered association under German law. This association is comprised of two publishing and two journalist organisations. Three complaints committees elected from the 28- member plenary deal with the complaints handed in by readers and users. The hardest sanction is the public reprimand with an obligation to be printed.

<https://medialandscapes.org/country/germany/policies/regulatory-authorities>: It is determined in the German Constitution that the *Länder* are exclusively equipped with the mandate to regulate electronic media. The Federal Constitutional Court defines specific obligations to be observed by state legislation dealing with the broadcast medium. The regulation is under a positive duty to enact rules ensuring that television and radio will serve the purpose of promoting the free formation of individual and public opinion. This aim is promoted by a standard of a “balanced diversity” of all broadcast programs; the communication law has to establish a framework that will allow for different viewpoints to gain access to the medium. Such a standard mandates safeguards against concentration of ownership in the broadcasting industry and the accumulation of power to dominate public opinion. For this reason, the legislative bodies of the *Länder* are specifically obliged to provide for mechanisms that will contain media outlets’ concentration of control, as KEK points out.

The organisational and legal structure of broadcasting corporations is defined in *Länder* laws and, if more than one state is involved, in agreements between several or all *Länder*. A basic agreement of all *Länder* (*Rundfunkstaatsvertrag*) defines the general broadcasting conditions, as far as both the public and the commercial sectors are concerned.

Supervisory councils are important in both the public and private sector. All PSM corporations are governed by an ideally independent *Rundfunkrat* (Broadcasting Council), whose representatives are supposed to reflect the “socially relevant groups” of society, according to a Federal Constitutional Court’s ruling. Broadcasting Councils oversee the fulfilling of program standards and elect the director of a broadcaster, whereas Broadcasting Boards mainly decide on financial and personnel issues. Both bodies follow a representative democracy model. The council members are representatives of “relevant social groups”, like official representatives, employer and trade associations, employee organisations and unions, churches and educational institutions. The representatives are mandated to represent the general public and not their sending organisation. Aside from this process, there is no possibility for the broader public or civil society to participate in media governance.

### **3000 character(s) maximum**

#### **Transparency of media ownership and government interference**

[https://cadmus.eui.eu/bitstream/handle/1814/46797/Germany\\_EN.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/46797/Germany_EN.pdf?sequence=1&isAllowed=y)

The indicators for the market plurality domain lead to an ambivalent assessment. The evaluation of Transparency in media ownership shows a low risk (3%). There are no special rules that oblige media companies to publish their ownership structure to the public, but in many cases they take the legal form of incorporated companies and they are therefore obliged to publish their financial reports. Broadcasters

must publish annual reports, including notes of their annual accounts; they must report ownership structures and disclose the relevant information after every change in their ownership structure.

**The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

[https://www.access-info.org/wp-content/uploads/Transparency\\_of\\_Media\\_Ownership\\_in\\_the\\_EU-09-26-2014.pdf](https://www.access-info.org/wp-content/uploads/Transparency_of_Media_Ownership_in_the_EU-09-26-2014.pdf)

In Germany, the state media authorities publish an annual list of nationwide commercial services, their broadcasters, and parties with participating interests. This information is also collated on the website of the KEK, the independent Commission on Concentration of the Media. The KEK additionally publishes annual reports that are available free on request and widely distributed to the media, politicians, universities, libraries and other relevant institutions.

The KEK database depicts very clearly the relationship between the various holdings in the media organizations covered and could serve as a useful template for countries that have still to adopt, or are in the process of modifying, such databases. In a number of countries, access to information is in practice obstructed by administrative delays and a lack of political commitment to transparency.

**3000 character(s) maximum**

**Rules governing transparency of media ownership and public availability of media ownership information**

**3000 character(s) maximum**

**Framework for journalists' protection**

**Rules and practices guaranteeing journalist's independence and safety**

**3000 character(s) maximum**

Positive outcome:

<https://europeanjournalists.org/blog/2020/05/19/victory-for-press-freedom-in-germany-global-mass-surveillance-ruled-unconstitutional/>

**Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

**3000 character(s) maximum**

[https://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-3&p\\_p\\_col\\_count=7&\\_sojdashboard\\_WAR\\_coesojportlet\\_alertPK=70608158](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-3&p_p_col_count=7&_sojdashboard_WAR_coesojportlet_alertPK=70608158)

Continuously: Calls for improvement of safety for journalists:

(<https://www.djv.de/startseite/profil/der-djv/pressebereich-download/pressemitteilungen/detail/news-sicherheit-verbessern>;

<https://dju.verdi.de/presse/pressemitteilungen/++co++43131b88-d57b-11ea-9c84-001a4a160100>)

<https://rsf.org/en/germany>: Some government officials and lawmakers keep pushing for far-reaching security, data-retention and surveillance laws with the potential to infringe on rights such as digital privacy and anonymity. Recent examples include a provision criminalizing the handling of leaked data as well as a draft law aiming to allow German intelligence services to hack into computers and smartphones or intercept encrypted communications without judicial oversight, thus potentially enabling authorities to circumvent existing protections for journalists' sources.

### **Access to information and public documents**

#### **3000 character(s) maximum**

<https://rsf.org/en/germany>: German laws on access to information are weak by international standards. Media pluralism is undergoing a slow but steady erosion for economic reasons, especially as regards local newspapers

Freedom of Information Act: Information from offices and authorities should in principle be freely accessible to everyone. The Freedom of Information Act (IFG) makes it easier to inspect official files. In addition, it is easier to detect corruption and abuse of office. Individual areas such as personal data protection or intellectual property remain protected.

Violation of journalists' protection of sources through BND:

<https://www.djv.de/suche/meldungen/news-informanten-besser-schuetzen>

### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

#### **3000 character(s) maximum**

Resolved:

[https://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-3&p\\_p\\_col\\_count=11&\\_sojdashboard\\_WAR\\_coesojportlet\\_alertPK=91303993&\\_sojdashboard\\_WAR\\_coesojportlet\\_displayLink=SojPortlet.getDashboardPortletId%28%29](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-3&p_p_col_count=11&_sojdashboard_WAR_coesojportlet_alertPK=91303993&_sojdashboard_WAR_coesojportlet_displayLink=SojPortlet.getDashboardPortletId%28%29)

### **Other - please specify**

In 2020, attacks against journalists in Germany more than doubled compared to previous years, according to the latest figure of the federal government. Demonstrations are considered as high-risk sites for journalists, and police officers were often unable to protect media professionals. At the request of the Green parliamentary group, the federal government published official figures for the attacks on media workers in 2020. It recorded 252 incidents, among which 22 were physical injuries, 33 were damages to property, 4 were arson attacks and more than 29 were various threats, coercion, robbery, blackmailing and propaganda offences. The number of incidents has skyrocketed compared to the previous two years, which recorded 93 cases in 2018 and 104 in 2019.

<https://europeanjournalists.org/blog/2021/01/21/germany-252-attacks-against-media-workers-in-2020/>

<https://www.coe.int/en/web/media-freedom/germany>

3000 character(s) maximum

## **Greece**

### **Media authorities and bodies (Cf. Article 30 of Directive 2018/1808)**

#### **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

The independence of PSM governance and funding is not guaranteed mainly due to the lack of safeguards for the objective selection of board members.

#### **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies.**

The law foresees that the President and the Managing Director of ERT are chosen on the basis of typical qualifications and professional expertise following an open call for applications. The Committee on Institutions and Transparency, a cross-party parliamentary committee, is involved in the process, giving its opinion on the nominees. It is the Minister though that makes the nominations and appointments.

#### **Existence and functions of media councils or other self-regulatory bodies**

Existing self regulatory norms on professional standards lack the commitment of media houses. There are no regulatory or self-regulatory mechanisms that grant social protection to journalists in case of changes of ownership or editorial line. Similarly, there are no safeguards to ensure that decisions regarding appointments and dismissals of editors-in-chief are not influenced by commercial interests(s). There is indeed a significant lack of a well functioning mechanism to safeguard and implement ethical rules by engaging all parts interested.

#### **Transparency of media ownership and government interference**

#### **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

#### **Rules governing transparency of media ownership and public availability of media ownership information**

Domestic legislation is not characterized by clear provisions on the disclosure of news media ownership. Whilst audiovisual media are mandated to report on their ownership structures to the ESR, the print media are not required to indicate their owner on their copies. It is worth noting, however, that in order to register with the Registry of the Regional and the Local Press and the Registry of Online News Media, media operators must provide domestic authorities with ownership information. Disclosure of news media ownership to the public – what is more up to the final layer, only partially takes place.

## **Framework for journalists' protection**

### **Rules and practices guaranteeing journalist's independence and safety**

**3000 character(s) maximum**

### **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

**3000 character(s) maximum**

### **Access to information and public documents**

The right to information is enshrined in the Greek Constitution. This also provides for a right of access to documents held by public bodies. Restrictions are defined in accordance with international standards and appeal mechanisms are in place. The Greek state also benefits from a regulatory framework for the protection of whistleblowers. This could be subject to improvements, as it has a narrow field of implementation.

**Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse  
key concerns remain the non-decriminalization of defamation.**

### **Other - please specify**

Physical attacks, online harassment and censorship – threats against journalists reporting on the arrival of migrants into Greece have continued in 2020. These attacks are taking place in a context of violence against migrants and those supporting them, such as NGOs and self-organised groups. They restrict the ability of journalists to work safely and inform citizens about the humanitarian crisis taking place at the borders of the European Union (EU), see here:

<https://europeanjournalists.org/blog/2020/03/04/eu-and-member-states-must-create-safe-environment-for-journalists-reporting-in-greece/>In this last year the attacks on journalists especially sports editors, have risen sharply. So far they had taken different forms such as threats, insults, beatings and serious injuries.

See pr on a smear campaign:

<https://europeanjournalists.org/blog/2020/05/12/greece-efj-ifj-condemn-smear-campaign-against-four-sport-journalists/>

Photojournalist Yannis Liakos Attacked by Police During Protests in Athens, see

<https://www.coe.int/en/web/media-freedom/all-alerts>

On 22 February 2021, the Athens-based offices of Greek TV station Action 24 were firebombed and attacked with stones and paint by a group of individuals protesting in support of convicted terrorist Dimitris Koufontinas. The attack on the entrance of the news and sports channel's office in the Patisia neighbourhood took place at around 8.30pm. (several cases on attacks against journalists on Mapping Media Freedom Portal Greece)

## **Hungary**

**Media authorities and bodies (Cf. Article 30 of Directive 2018/1808)**

## **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

### **3000 character(s) maximum**

Hungary's system of media regulation is not independent. In particular, the Media Council, the sector regulator, is composed of five members, all of whom were nominated by the Fidesz party. As the terms of four of the current Council members have now expired, just days after the mission a new group of Fidesz appointees were announced for a nine-year term. The Media Council's decisions on the tendering of radio frequencies have been made on political lines, with the frequencies of independent broadcasters cancelled or not renewed. In other cases, the Council has declined to issue any ruling in response to extension requests, preventing independent outlets from challenging a decision in court and thus undermining basic principles of the rule of law. As has been widely reported, the Media Authority did not have any say whatsoever with regard to the cross-media KESMA merger though Section 24 of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices stipulates that the national competition authority shall obtain the opinion of the Media Council in certain cases. Namely, in cases when concentration concerns enterprises which have editorial responsibility and the primary objective of which is to distribute media content to the general public via an electronic communications network or a printed press product.

The government's spokesperson has, for now, ruled out earlier-aided plans of establishing a highly controversial "chamber of journalists" with the power to determine who is a member of the profession, with all corresponding benefits.

## **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

### **3000 character(s) maximum**

<https://medialandscapes.org/country/hungary/policies/regulatory-authorities>

The **National Media and Telecommunications Authority** is in charge of frequency distribution, among other things. The allocation criteria are not laid down in any legal document and the procedure is non-transparent. During the first 18 months of its mandate, it distributed 35 local radio frequencies, of which 18 were granted to pro-government stations (Mária Rádió obtained 7 licences, Katolikus Rádió 2, the protestant Európa Rádió 3, and Lánchíd Rádió 5). At the same time, the authority refused to renew the frequency concessions outside the Budapest area of the long standing left-liberal Klubrádió, the last of the opposition voices on the air.

The Media Act established the National Media and Telecommunications Authority to replace the National Radio and Television Board created by the 1996 Radio and Television Act. This authority is also in charge of telecommunication, while media matters are managed by the Media Council of the authority, a body of four members, appointed by an ad hoc parliamentary commission. The council's chairperson is also the Head of the National Media and Telecommunications Authority and of the Media Council. Currently, all members of the Media Council are Fidesz nominees. The chair and the four members are elected for a nine-year term, reaching beyond two regular parliamentary cycles.

## **Existence and functions of media councils or other self-regulatory bodies**

**3000 character(s) maximum**

**<https://presscouncils.eu/members-hungary>, <http://korrektor.hu/kik-vagyunk/>**

The Association of Chief Editors, the Association of Hungarian Publishers and the Association of Hungarian Content Providers have worked together to establish and operate a system of media self-regulation in Hungary. In addition to these organizations, the association cooperates with the Hungarian Self-Regulatory Board, whose members include the National Association of Hungarian Journalists, the Association of Hungarian Journalists, the Association of Protestant Journalists, the Association of Hungarian Catholic Journalists, the Press Organization and the Romanian Association of Hungarian Journalists. Our partner is also the Self-Regulatory Advertising Board. MUOSZ has an ethic's council, its decisions apply for its members only, in ethical issues of non-members (based on observation) there is only a (public) mention of the issue.

## **Transparency of media ownership and government interference**

The government has pursued a strategy to silence critical press through manipulation of the media market – engineering the closure or takeover of independent media. In March 2020 a pro-government investor purchased a controlling stake in Indamedia, the company that runs advertising at Hungary's largest independent online news site, Index.hu. In August the editor in chief, Szabolcs Dull, was fired leading to the mass resignation of 90 journalists. The demise of Index as the leading source of independent news online was widely seen as a result of the machinations of the authorities.

The government has constructed a media empire, serving as a vast propaganda machine, insulating large parts of the public from critical news.

Independent media are starved through the state's abuse of public resources and harassment of private advertisers, even as the government directs taxpayer money to its own media.

Media ownership is heavily concentrated in the hands of government supporters, and specifically in the KESMA foundation (see below).

## **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

**3000 character(s) maximum**

As the Media Pluralism Monitor 2019 on Hungary states, with regard to the State regulation of resources and support to media sector indicators, KESMA deepens an already serious problem by consolidating political influence within the merged entity that includes some of the biggest beneficiaries of state advertising. The problem is also exacerbated in relation to the Editorial autonomy and Media and democratic electoral process indicators. there is no transparent allocation of state funding

## **Rules governing transparency of media ownership and public availability of media ownership information**

### **3000 character(s) maximum**

Over the past 10 years, the Hungarian government has progressively assumed control over a huge segment of the country's media by placing the media under effective government control, at first through a network of pro-government investors. Later, this deliberate media concentration plan reached a provisional apex in 2018 when pro-government investors "donated" 467 media outlets – many of which were originally acquired with loans from state banks, i.e., taxpayer money – to the Central European Press and Media Foundation (KESMA), which is under effective government control and facilitates financial management and content control regarding pro-government media.

The Hungarian government has taken clear steps to reduce scrutiny of media ownership concentration. In the case of KESMA, the government exempted by decree **the merger and the foundation's activities from oversight by the Hungarian Competition Authority and the Media Council**, even though these bodies are already controlled by the ruling party – underscoring how blatantly the merger flouted competition law.

For its part, the European Commission has not sufficiently enforced EU law in the area of competition law and state aid. These cornerstone elements of the single market have been systematically abused by Hungary to silence the media. The European Commission has not acted on at least two complaints in these areas, one regarding the state aid to the public broadcaster, filed in 2016, and one regarding state aid in the form of public advertising, filed in January 2019.

### **Framework for journalists' protection**

#### **Rules and practices guaranteeing journalist's independence and safety**

Journalists working for independent media are publicly vilified, including on pro-government media, as opposition political activists, foreign agents, traitors or even as "Hungary-haters". The claim that independent journalists are "political activists" is repeated by the government's spokesperson.

Female journalists note that gender is used as an additional excuse to diminish their critical work. Some also highlighted gender-based online harassment and reported receiving rape threats following reporting on sensitive topics.

Government pressure on the media has also succeeded in dividing the journalistic community, limiting solidarity among remaining independent journalists and media outlets as they fight for limited resources and audience share.

**[tps://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-3&p\\_p\\_col\\_pos=1&p\\_p\\_col\\_count=11&sojdashboard\\_WAR\\_coesojportlet\\_alertPK=90848653&sojdashboard\\_WAR\\_coesojportlet\\_displayLink=SojPortlet.getDashboardPortletId%28%29](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-3&p_p_col_pos=1&p_p_col_count=11&sojdashboard_WAR_coesojportlet_alertPK=90848653&sojdashboard_WAR_coesojportlet_displayLink=SojPortlet.getDashboardPortletId%28%29)**

On 11 September 2020, the Media Council of the National Media and Communications Authority (ORTT) announced it would not extend the license for Klubrádió, the last remaining independent radio station in Hungary. The decision means that the Budapest-based commercial talk and news radio station's license will expire on February 14, 2021, potentially forcing it off the airwaves for good. Justifying its ruling, the Media Council, which is stacked with figures supportive of the ruling FIDESZ party, said that

during the last seven years Klubradio had repeatedly violated Hungary's Media Law. In a statement the station said it believed the decision "does not correspond to reality." It added: "The leaders and employees of Klubrádió are looking for legal and other means in order to ensure that Hungary's last independent radio, which authentically informs hundreds of thousands of people every day, is not muted."

At the beginning of the Covid-19 pandemic the Hungarian government passed a new law ostensibly directed at combating disinformation on the pandemic but that upon closer review is a powerful new tool to control and punish independent media. The law states: "Whoever presents a false claim of fact or an actual fact in a distorted manner, or spreads such claims at the time when the emergency legal order is in effect, and does so in public, with the result that the underlying claims impede the effectiveness of the protection efforts, or cause the outright failure of the latter, is liable of a criminal offence that is punishable for a term of imprisonment between one and five years." see Council of Europe Alert:

[https://www.coe.int/en/web/media-freedom/detail-alert?p\\_p\\_id=sojdashboard\\_WAR\\_coesojportlet&p\\_p\\_lifecycle=0&p\\_p\\_col\\_id=column-3&p\\_p\\_col\\_pos=1&p\\_p\\_col\\_count=11&sojdashboard\\_WAR\\_coesojportlet\\_alertPK=61853612&sojdashboard\\_WAR\\_coesojportlet\\_displayLink=SojPortlet.getDashboardPortletId%28%29](https://www.coe.int/en/web/media-freedom/detail-alert?p_p_id=sojdashboard_WAR_coesojportlet&p_p_lifecycle=0&p_p_col_id=column-3&p_p_col_pos=1&p_p_col_count=11&sojdashboard_WAR_coesojportlet_alertPK=61853612&sojdashboard_WAR_coesojportlet_displayLink=SojPortlet.getDashboardPortletId%28%29)

On 23 March 2020, the Hungarian parliament began debating draft legislation that would allow Prime Minister Viktor Orban to indefinitely extend the current state of emergency over the COVID-19 pandemic, essentially amounting to rule by decree. It would also allow the government to punish the spreading of "false information" deemed to harm the fight against the virus with up to five years in prison.  
→ no state reply yet!

### **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

The Fidesz party holds control over key law enforcement institutions such as prosecutorial offices, reducing the likelihood of independent investigations into attacks on the media. High-level judicial institutions such as the Constitutional Court are also widely considered to be under the sway of Fidesz. By contrast, lower courts in Hungary have been perceived as comparatively independent and in some cases have demonstrated a willingness to protect journalists' rights. The wide-ranging and time-unlimited emergency rule ushered in by the Orban government in March 2020 threaten the last remaining pockets of judicial independence.

### **Access to information and public documents**

Independent journalists are subject to pervasive discrimination by the state when it comes to access to information. They are routinely denied access to publicly held information without explanation and excluded from official events. Public officials connected to the ruling party largely refuse communication and interviews with independent media who are often placed on blacklists.

The impact of the small independent press, which is left, is highly limited as the outcomes of journalistic investigations are simply ignored by the state apparatus due to informal government control over key institutions, including prosecutor's offices.

Rules have been introduced to limit the activities of audiovisual service providers, such as a regulation shortening the allowed time span for primetime television news to 45 minutes.

The government used the Covid-19 pandemic to exert further control over access to information by limiting access to press conferences, only responding to pro-government media inquiries and placing a ban on local health sector representatives from talking to the media but channeling all pandemic related questions through a centralized 'operative unit'. In April 2020 it weakened the deadline for responding to FOI requests from 30 to 90 days. This exacerbated a system that was already highly flawed with ministries regularly refusing to answer requests with the only option to appeal through a lengthy and expensive court case.

### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

Journalists are regularly threatened with legal action particularly by business interests for breach of privacy using the General Data and Protection Regulation (GDPR) provisions to conceal information that would otherwise be publicly available and publishable in the public interest.

In January 2020 a Budapest court forced Forbes Magazine to remove the name of the owner of the drinks company, Hell Energy, from the list of the 50 richest Hungarians claiming it had violated GDPR.

In August, the National authority for Data Protection and Freedom of Information (NAIH) fined Forbes 12.000 € for failing to inform the subjects of their list of how their data would be handled despite all data being publicly available.

In October the same company used the same argument to force Magyar Narancs, an independent weekly to censor an article about Hell Energy.

Unlike most other EU countries, Hungary has not exempted journalists from the GDPR constraints on handling data.

This misapplication of GDPR against journalists threatens to seriously undermine access to independent information in the public interest on, for example, how businessmen benefit from state subsidies.

### **Other - please specify**

As stated by the ipi, the EFJ and other press freedom groups, the Hungarian government has used the Covid-19 pandemic to further violate journalists' rights and independent media to exist through the emergency legislation rushing through the law on criminalizing disinformation providing for heavy fines and up to five year jail terms for misinformation deemed to 'undermine the authorities fight against Covid-19'. This law sets a highly dangerous precedent in the EU empowering a government to jail journalists for their critical journalism that the government declares as disinformation. It also severely restricts the public's ability to access independent and reliable news sources in the extreme public interest. It leads to self-censorship. The government has also raised the rhetoric against independent journalists as unpatriotic foreign agents, even instructing embassies across the European Union to report on the activities of visiting Hungarian journalists.

## **Italy**

### **Media authorities and bodies (Cf. Article 30 of Directive 2018/1808)**

#### **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

Independence, resources and powers of the media supervisory authority (Autorità per le garanzie nelle comunicazioni - Agcom) are guaranteed by law.

#### **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

The law prescribes conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of the Agcom. But as confirmed by the MPM 2020 PSM (RAI) has been captured by political interests, which weakens its role, as it is an easy target in political debate and in policy-making. This assessment results both from the analysis of the legal framework which set the rules on the appointment and dismissal of members of the PSM management board and executives, and by the evaluation of its effective implementation. As confirmed by the FNSI Rai's governance continues to be controlled by rules that do not ensure independence from the political parties.

#### **Existence and functions of media councils or other self-regulatory bodies**

##### **3000 character(s) maximum**

The Authority for communications guarantees (Agcom) is an independent Authority, established by law 249 of 1997. Independence and autonomy are constitutive elements that characterize its activity and resolutions. The instituting law entrusts the Authority with the dual task of ensuring the correct competition of operators on the market and of protecting the consumption of fundamental freedoms of users. Agcom is accountable for its actions to the Parliament, which established its powers, defined the statute and elects the members.

There is no real self-regulatory body in Italy, the Ordine nazionale dei Giornalisti, that is a national order of Journalists, is dealing with complaints. But there is no national ethical code.

#### **Transparency of media ownership and government interference**

##### **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

##### **3000 character(s) maximum**

Public subsidies for the media are regulated by national or regional laws.

#### **Rules governing transparency of media ownership and public availability of media ownership information**

##### **3000 character(s) maximum**

Transparency of ownership and public availability of media ownership are guaranteed by Agcom.

## **Framework for journalists' protection**

### **Rules and practices guaranteeing journalist's independence and safety**

#### **3000 character(s) maximum**

In 2017, the Italian Minister of the Interior created, together with the Fnsi (the Union of Italian journalists), the Order of Journalists and the Department of Public Security, the Coordination Center for the monitoring and permanent exchange of information about the phenomenon of intimidating acts against journalists. whose task is to monitor threatening situations for journalists and promptly intervene in the most delicate cases. The parliamentary Commission of inquiry into the phenomenon of mafias and other criminal associations, including foreign ones, has also dedicated a special committee to the phenomenon of threats to journalists, who can personally report cases concerning them to the representatives of the Italian parliament.

### **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

#### **3000 character(s) maximum**

Despite the attention of the police and the authorities in charge, the times of the trials in Italy are long. In addition, often minor threats are not followed up. Journalists are increasingly subject to physical attacks, threats, insults and hate speech, not only online, as shown by the data processed by the "Coordination Center for the monitoring, analysis and permanent exchange of information on the phenomenon of intimidation against journalists" and the numerous hearings of journalists and media operators at the "Committee for intimidation and mafia conditioning in the world of journalism and information" at the Parliamentary Commission of Inquiry into the Mafia phenomenon.

According to the Coordination Center, in 2020 acts of intimidation against journalists was 163, 87% more than in 2019 (87 cases). Lazio, Sicily, Campania, Calabria and Lombardy the regions where the largest number of cases has occurred. In 2020 increased the percentage of intimidation received via web (44% of the total): the most used platforms are Facebook and Twitter. In 2019 the episodes online had been a quarter of the total. And in January and February 2021, recorded episodes are 23.

In the context of "threats", the aspect relating to the so-called "Slapp" (Strategic case against public participation) against journalists must be evaluated, with consequent claims for damages in civil proceedings, which affect a growing number of journalists and which represent a real intimidation to the free exercise of the profession, especially in economically fragile media such as in the local information sector.

### **Access to information and public documents**

#### **3000 character(s) maximum**

Access to information and public documents is required by law 97 of 2016, the Italian Freedom of information Act. However access to information has several weaknesses due to the slowness of, and limits in the implementation of, two main reforms that were approved in 2016 and 2017: the Bill on the Freedom of Information and the Law on Whistle-blower Protection. The 2016 Legislative Decree on Transparency (D.lgs n. 97/2016) empowers citizens to be able to access the data and documents of the Public Administration that are relevant to public and private interests ("civic access"). Any refusals by the

Administration to provide such data must be duly motivated and may be subject to the scrutiny of an official who is responsible for the prevention of corruption.

During Italy's largest mafia trial **journalists** (USIGRai) were banned from using cameras in the courtroom. The EFJ with its affiliate condemned this action, see

<https://europeanjournalists.org/blog/2021/03/03/italy-cameras-banned-from-ndrangheta-maxi-trial/>

### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse 3000 character(s) maximum**

The massive use of lawsuits against journalists is increasingly, turning into an attack on the freedom and independence of the media. After the sentence of the Constitutional Court of June 2020, the legislator is expected to approve a reform of the law on defamation, which still provides for the prison sentence despite numerous judgments of the European Court of Human Rights have condemned Italy for this reason. The introduction in the civil trial of a provision that provides for the sanction for causes promoted in bad faith, aimed at avoiding disproportionate requests for compensation, whose chilling effect has been repeatedly reiterated by the Strasbourg judges, is still firm in Parliament.

<https://europeanjournalists.org/blog/2020/06/10/major-step-forward-by-italian-constitutional-court-to-abolish-prison-sentences-for-criminal-defamation/>

### **Other**

The harvesting of market resources in online advertising and the availability of online free information do not help the news market to sustain itself. Media viability is at a very low score. Media market revenues and employment trends are stationary for the audiovisual and radio sectors, while suffering a considerable decrease in newspapers and particularly in local media.

In conclusion, for over 10 years, the sector has been going through a terrible economic crisis, that is slowly and inexorably emptying the newsrooms, leading to the exit of staff journalists, the increasingly massive use of atypical working contracts and self-employed: workers without protections, security and rights established by collective bargaining agreement that are often underpaid and exploited by publishers aware of the possibility of replacing those who refuse economic conditions often below a minimum threshold that guarantees professional dignity.

## **Luxembourg**

### **Media authorities and bodies (Cf. Article 30 of Directive 2018/1808)**

### **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

### **3000 character(s) maximum**

There is ALIA ([alia.lu](http://alia.lu)) who is responsible for monitoring the application of regulatory requirements in the audiovisual sector.

There is the press council which is a self regulating body established by law. The Councils complaints commission treats complaints on editorial content. It has published a code of ethics which serves as ethical guidelines for journalists' work. Decisions of the complaint commission are published on the website of the Press council. (See report 2020)

### **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

The members of ALIA are chosen by the government thus giving concern to its independence (guaranteed by law) (please see RoL report 2020)

### **Existence and functions of media councils or other self-regulatory bodies**

The press council is composed of equal numbers of journalists and publishers. The presidency changes every two years amongst journalists and publishers and are appointed by a grand-ducal decree based on the propositions of the respective associations, the commissions are staffed equally by publishers/journalists.

### **Transparency of media ownership and government interference**

The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

See report 2020

### **Rules governing transparency of media ownership and public availability of media ownership information**

#### **3000 character(s) maximum**

See report 2020, there is a law underway on the state subsidies for media, which will request further transparency from the government, but it hasn't passed parliament yet)

<https://chd.lu/wps/portal/public/Accueil/TravailALaChambre/Recherche/RoleDesAffaires?action=doDocpaDetails&backto=/wps/portal/public/Accueil/Actualite&id=7631>

### **Framework for journalists' protection**

#### **Rules and practices guaranteeing journalist's independence and safety**

#### **3000 character(s) maximum**

Press freedom is guaranteed by the law on freedom of expression, censorship is forbidden according to the constitution. (See report 2020)

There is a reform of the press subsidy law pdl 7631 which will likely have repercussions for the status of professional journalists, but it is still underway and has not passed parliament yet. See link below and read expert opinion by the press council and the ALJP.

<https://chd.lu/wps/portal/public/Accueil/TravailALaChambre/Recherche/RoleDesAffaires?action=doDocpaDetails&backto=/wps/portal/public/Accueil/Actualite&id=7631>

[https://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=3C7BF4726DA1767E38EF6854D0C9BA96B63EDA88153AF3C42372283E47CBE7EA38361ECC87FC41332C6CD366412D31B8\\$2980FC396330433AB115F1C79A391FD3](https://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=3C7BF4726DA1767E38EF6854D0C9BA96B63EDA88153AF3C42372283E47CBE7EA38361ECC87FC41332C6CD366412D31B8$2980FC396330433AB115F1C79A391FD3)

[https://chd.lu/wps/PA\\_RoleDesAffaires/FTSByteServletImpl?path=7061E682EFDB551ADF4C1C2B87CF065E7BA4A355AB29CAB563254355A793D5BCB56454EB5D4D06CD37783FDDEC67FFDC\\$7B556BC5F4EEEEBFAD686CC6108F2D68A](https://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=7061E682EFDB551ADF4C1C2B87CF065E7BA4A355AB29CAB563254355A793D5BCB56454EB5D4D06CD37783FDDEC67FFDC$7B556BC5F4EEEEBFAD686CC6108F2D68A)

## **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

### **3000 character(s) maximum**

Apart from the Lopez case 2017/2018 (which was lost by the plaintiff, see link), there is only one case still pending against a journalist who is being accused of spreading hate after having published a letter to the editor that was seen as discriminatory.

<https://today.rtl.lu/news/luxembourg/a/1279924.htm>

## **Access to information and public documents**

### **3000 character(s) maximum**

There is a transparency law from 14.9.2018 (<http://legilux.public.lu/eli/etat/leg/loi/2018/09/14/a883/jo>), which has not proven to be very efficient when it comes to demands from journalists, due to long deadlines (up to two months) which are not very convenient for journalistic investigations. And also because it only guarantees access to already existing (written) documents. The government asked the press council and the Journalist association ALJP for an evaluation and an assessment of the law and its efficiency for journalists. Also, despite a positive decision from the appealing commission in the Google case, the government refused to publish the demanded MoU but only gave access to parliament. Now members of the biggest opposition party have asked for more access to different MoU. The plaintiff mouvement écologique has filed a suit before the administrative court, lost and has appealed the decision (still pending).

<https://www.meco.lu/de/blog/documentcenter/verwaltungsgericht-bestaetigt-memorandum-of-understanding-zwischen-staat-und-google-muss-nicht-veroeffentlicht-werden-der-mouvement-ecologique-wird-gegen-dieses-urteil-berufung-einreichen/>

<https://www.rtl.lu/news/national/a/1529083.html>

<https://download.rtl.lu/2020/05/13/53c7d3f573c45ba4667382c9c411bd9b.pdf>

<https://www.tageblatt.lu/non-classe/csv-will-mehrere-memorandum-of-understanding-im-parlament-vorgelegt-bekommen/>

**Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

**3000 character(s) maximum**

See report 2020, no new cases as far as we know.

## **Malta**

### **Media authorities and bodies (Cf. Article 30 of Directive 2018/1808)**

#### **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

##### **3000 character(s) maximum**

There is no overall media authority in Malta, but only The Broadcasting Authority, which monitors and regulates radio and television broadcasting in Malta. According to the 2020 MPM report, “the area of Political Independence, continues to underline serious issues within the political party owned media scenario, as well as concerns over the lack of independence in PSM governance and funding, as well as editorial independence, since all key positions are still directly appointed by the government. Malta is in need of an overhaul in PSM regulation if it is to suitably restore and safeguard the role of a recognised and respected public service.”

#### **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

##### **3000 character(s) maximum**

All five members members of the board of the Maltese Broadcasting Authority are political appointees, and are selected by the two main political parties, that is the party in government and the opposition, who each appoint two members, whilst the chairperson is generally chosen by mutual agreement of the same two parties.

#### **Existence and functions of media councils or other self-regulatory bodies**

##### **3000 character(s) maximum.**

#### **Transparency of media ownership and government interference**

#### **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

##### **3000 character(s) maximum**

According to the MPM 2020 report, “Independent media outlets are also showing concern about the fact that government spending on social media is unregulated, and that there is no stipulated limit on the spend. Currently, there is no legal framework for, nor is there complete transparency in the allocation of state advertising, and, as things stand, there is no safeguard to stop the government from spending all its advertising budget on, for example, Facebook and nothing on local media organisations, or, worse still, from excluding particular media houses from the advertising budget when a media house gets too critical. Added to this, since certain ministries do not have their own social media pages, taxpayers’ money is being used to directly fund ministers’ promotional campaigns on their individual platforms.”

## **Rules governing transparency of media ownership and public availability of media ownership information**

### **3000 character(s) maximum**

There are no specific legal obligations for media companies to publish their ownership structures in a manner that would make this information easily accessible to the public.

## **Framework for journalists' protection**

### **Rules and practices guaranteeing journalist's independence and safety**

#### **3000 character(s) maximum**

The Maltese authorities have not yet taken any steps to start implementing the Council of Europe Recommendation 2016/4 on the Protection of Journalism and the Safety of Journalists. Five years after the signature of this Recommendation by the Maltese government, nothing has been implemented.

### **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

#### **3000 character(s) maximum**

A third year passed without State authorities in Malta prosecuting and convicting those responsible for the assassination of Daphne Caruana Galizia in October 2017 (One man was convicted and sentence in early 2021 after confessing to his part in the killing and implicating others). The EFJ welcomes the progress of the ongoing public inquiry into Daphne Caruana Galizia's assassination in Malta, which has so far uncovered significant state failures to protect her life. However, we express our concern at the government's attempted interference in the enquiry and remind the authorities that the board must be permitted to independently fulfil the terms of reference, with a view to bringing everyone behind her killing to justice.

### **Access to information and public documents**

#### **3000 character(s) maximum**

### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

#### **3000 character(s) maximum**

In May and June 2020, the Times of Malta, MaltaToday, Malta Independent, Lovin Malta, and The Shift News received letters from UK-based law firm Atkins Thomson and US-based law firm Lambert Worldwide on behalf of Turab Musayev, a British-Azerbaijani entrepreneur, demanding the removal of articles and threatening legal action.

In another case, Maltese blogger Manuel Delia and newspaper Times of Malta are sued in Bulgaria by Christo Georgiev, the Bulgarian co-owner of the Maltese Satabank.

### **Other - please specify**

According to the 2020 EU Media Pluralism Monitor, the independence of PSM governance and funding were at high risk in Malta (83% of risk) mainly due to the appointment of politically dependent management.

Three media freedom violations were submitted to the Council of Europe Platform for the Protection of Journalism in 2020:

- Attempt by a Lawyer to Bribe Journalist Ivan Martin
- British-Azerbaijani Businessman Threatens Defamation Actions against Five Media Outlets
- Croatian Businessman Requests The Shift to Deposit €300,000 in Damages

The Maltese authorities did not reply to any of these alerts.

## **Poland**

**Submission based on responses from the Society of Journalists, member of the EFJ to the European Commission Rule of Law consultation for the 2021 Rule of Law report.**

### **Media authorities and bodies**

#### **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

The main electronic media regulatory body is The National Council for Radio and Television (Krajowa Rada Radiofonii i Telewizji (KRRiT)) which issues broadcast licences and monitors the implementation of the conditions agreed with broadcasters during the licensing process. (the print media and the internet are not regulated other than by the press law and other laws). KRRiT is wholly under the control of the ruling Law and Justice movement and the KRRiT chair Witold Kołodziejski, a Law and Justice (Prawo i Sprawiedliwość, PIS) loyalist, refuses to implement those clauses of the public broadcast law which require that news and current affairs coverage on Poland's public service media be impartial and should present all political points of view. Kołodziejski argues, disingenuously, that such monitoring would put the KRRiT in the role of a censor of the electronic media. However by failing to act he tolerates massive bias in the public service media in favour of the ruling Law and Justice party and its allies, a fact which has been noted by the OSCE's ODIHR election monitoring teams in successive reports on elections in Poland between 2018 – 2010. The public service broadcast law also places strictures on content which runs counter to 'morality and the social good' a formula which could see the KRRiT censoring reports on current demonstrations in favour of abortion and LGBT rights. Accordingly Janusz Kawecki, a member of the KRRiT, said recently that the KRRiT was examining television coverage of autumn 2020 demonstrations by Poland's women's movement (Strajk Kobiet).

The KRRiT has adequate resources to monitor broadcast content and the right to impose heavy fines on public and private broadcasters if it finds them breaking the terms of the licencing agreements.

#### **Existence and functions of media councils or other self regulatory bodies.**

Each broadcaster has an in-house ethics council which are mostly dormant. Central public radio and television as well as 16 regional public broadcasters have programme councils which have a built in majority of pro government members. These councils are mandated to advise management on broadcast content and, potentially, provide a forum for independent members to criticise TVP and Polish Radio programming. Since 2016 such members have raised media freedom and pluralism issues in the PSM and on dismissals of journalists who sought to defend professional standards. Such criticism has been ignored by management. Currently a move is afoot to establish a network of independent members of these councils in order to strengthen their hitherto isolated voices and reach out more effectively to public opinion.

Poland has a self governing national media ethics council – the Rada Etyki Mediów (The Media Ethics Council, REM) which is bound to enforce a Charter of Media Ethics and answer complaints sent in by readers, listeners and viewers. Replies to complaints are placed on a website and the Council, since it was founded in 1995, has built up an impressive archive of cases which examines the limits of free speech in the media. It has no provisions for sanctioning transgressors and can only influence media behaviour by its powers of persuasion. Nevertheless the REM receives a steady stream of complaints, some of them from defence lawyers in defamation cases who need a written opinion from REM to bolster their clients' case.

### **Transparency of media ownership and government interference**

#### **The transparent allocation of state advertising (including any rules regulating the matter); others safeguards against state/political interference**

It is important to note the attitude to media freedom held by the ruling PIS party and its founder Jarosław Kaczyński, is that all is well as long as the media support his views and his policies but if they do not, then, they have to be brought into line.

As a result at the end of 2015 when PiS was democratically elected, the movement moved to swiftly and successfully take control over the public media and has since sought to find ways of bringing the private media under control. It has also used the money at the disposal of the state owned (PIS controlled) companies to support newspapers and magazines which favoured its policies.

Taking control of the private media (owned in part by investors from the US and the EU) has been the most difficult thanks to limits placed by EU law, resistance from Washington and Brussels and despite harassment through tax and other regulations, lawsuits against journalists and a ban on placing advertising by state sector companies in privately owned publications. At the same time state sector managers, either through conviction or to show that they were ready to carry out the bidding of the rulers, have placed their advertisements in pro PIS publications.

In a process where there were no rules of procedure state owned companies and government agencies spent 6.0 bn Polish Zloties (1.5 bn. Euro) between 2015 and 2020 on media advertising, according to a recent study conducted by Professor Tadeusz Kowalski working with Kantar Media. The study clearly shows that state sector company advertising spend has flowed since 2016 to pro PIS magazines and daily newspapers regardless of the high cost per reader while readers of anti PIS publications were ignored by these companies. During the first stages of the Covid crisis when the government was placing full page, paid, newspaper ads containing instructions as to how to stay safe in almost every Polish newspaper and

magazine. However, the authorities ignored the oppositionist Gazeta Wyborcza and failed to place anti covid information ads there leaving its 65,000 readers without any advice at all.

The logical outcome of this support by state sector companies for PiS friendly newspapers has been the recent acquisition by PKN Orlen, the largest state sector company, of 20 regional dailies and over 100 local weeklies as well as 6 printing works from Passauer Presse, a German newspaper publisher. PKN Orlen has also acquired the ailing Ruch network which owns 1200 newspaper kiosks and set up a media buying company. This gives Orlen a great deal of power over other local newspapers who will have to print in their print works but also gives the company a hold over other state sector entities who will have to channel their advertising through Orlen's media buying unit. Thus this acquisition gives PiS, through Orlen, a powerful instrument to influence public opinion in the provinces. However, it also centralises the flow of state advertising to publications which is important as in fighting inside PiS is on the rise and Jarosław Kaczyński, through Orlen, will be able to control media activities by state owned companies which are beholden to various PiS factions.

The transaction has been questioned by Poland's Ombudsman who has argued that the deal should be reversed because it marks a possible threat to freedom of the press were Orlen to force journalists to follow the PiS party line. Poland's Competition and Defence of Consumers authority (UOKiK) however approved the transaction after ignoring opposition on the same lines from the Society of Journalists.

This incident shows that there are no institutional safeguards against state or political interference in Poland other than the right to protest.

Lately the government has proposed a tax on advertising revenue which would affect both domestic publishers and broadcasters and the large foreign social media owners. The plan, which has yet to be implemented, provoked an unprecedented day of protest when a great majority of private media decided not to broadcast either on television or radio and newspapers published a call to the government to desist on their front pages. The owners argued that the tax was designed to financially weaken the private media sector and make it easier for these outlets to be taken over as has happened with the purchase by PKN Orlen by Polska Press. The protest was joined by several local newspapers.

<https://europeanjournalists.org/blog/2020/12/18/poland-media-pluralism-greatly-endangered-by-oil-firms-polska-press-takeover/>

### **Rules governing transparency of media ownership and public availability of media ownership information**

There are no rules on transparency of media ownership and newspaper owners are subject to the same rules and regulations as are other corporations. All companies are obliged to register company accounts and other information with the Registry Court (Krajowy Rejestr Sądowy KRS)

### **Framework for journalists' protection**

#### **Rules and practices guaranteeing journalist's independence and safety**

There are numerous safeguards of journalistic independence in Polish laws such as the Radio and Television law and the Press Law which was much amended after it was initially passed in 1984 by the then Polish authorities. The Press Law gives a journalist the right to refuse to accept editorial orders which would force him or her to contravene principles of probity, objectivity and professional accuracy.

These safeguards are regularly broken by editorial management in the pro government media and can only be tested in the courts when a journalist is sacked for refusing such an instruction and decides to sue for wrongful dismissal.

### **Law enforcement capacity to ensure journalists' safety and investigate attacks on journalists**

Poland is bound by Council of Europe recommendations and ECHR rulings which say that journalists have the right to be present at demonstrations even after the police have called for participants to disperse. In the autumn of 2020 with the onset of major street demonstrations on the November 11 independence day and demonstrations against the planned introduction of further restrictions on abortion (and amidst the covid crisis when restrictions on public gatherings were in place) there were incidents when journalists were beaten even though they were clearly identified as press people. There were also cases of detention of photographers. At this time there were also cases of violent police action against the demonstrators. The police used tear gas from hand held canisters against journalists as well as demonstrators. Last November 11 police also fired rubber bullets wounding Tomasz Gutry a photographer, in the cheek. He worked for a pro government magazine and later obtained an apology from the police. It has to be noted that there were no apologies to journalists from critical media who were also beaten on the same day. Also women journalists have been manhandled and detained during pro abortion protests.

It seems clear that such incidents (also involving members of anti terrorist units in plain clothes) came as a result of official instructions to treat demonstrators roughly. In effect this included women demonstrating for the liberalisation of abortion laws. The aim appears to have been to inflict maximum discomfort on demonstrators and discourage people from future participation in demonstrations.

It also has to be said that NGOs and the organisers of demonstrations while protesting against police violence (they were supported by the ombudsman) failed to seek to initiate a dialogue with the police to establish a modus vivendi as to police behaviour during future demonstrations. Were this to happen Poland would possibly obtain a code of conduct agreed between both sides to govern the behaviour both of the police, journalists and demonstrators.

There does not appear to be any special law enforcement capacity to ensure journalists' safety.

### **Access to information and public documents**

Access to public information legislation is in place in Poland and opposition politicians have achieved a measure of success in extracting information from the bureaucracy later rather than sooner. The task is more difficult for journalists who find access to public information difficult and time consuming.

The situation could worsen as the new head of the Supreme Court Małgorzata Manowska has asked the Constitutional Tribunal (CT) to examine Poland's access to public information legislation in the light of the fact that it contravenes Poland's constitution. Ms Manowska is asking the CT to consider the acceptance of a stricter definition of who is considered to be a public official and who is bound to publicly declare his or her material circumstances. Ms Manowska is also suggesting that limits be put on the number of institutions funded by the government which at the moment are bound to openly declare their finances and sources of funding. Critics of the move argue that were the changes to be accepted then this would place significant limitations on access to public information.

PiS politicians (as well as members of the opposition) are open to off the record meetings with journalists even from those they deem to be hostile to them. Official press conferences however are strictly disciplined with official refusal to answer questions which stray from the agenda of a given conference. Journalists insisting on asking questions risk failing to be asked to these conferences. This is a major infringement on the right to public information. Jarosław Kaczyński the head of PiS gives interviews solely to the media to support his party.

### **Lawsuits and convictions against journalists (including defamation cases) and safeguards against abuse**

The years that the Law and Justice party has been in power have seen a visible growth in the number of lawsuits which have been brought against journalists by government agencies and state controlled entities for defamation and also amongst journalists themselves. Some cases termed SLAPPs have been brought by the state to embroil media outlets in expensive court procedures others have sought to have the courts pronounce on the extent to which defamation has occurred when critical articles have been published.

The result is that the onus for determining the truth and defining the limits of free speech has been placed squarely in Polish court rooms. This comes as pressure has mounted on the judiciary as well as the prosecution service to follow the wishes of government politicians who have been pushing to limit the independence of the judiciary in the wake of the drive to take control of the Constitutional Tribunal in 2016.

The Society of Journalists has sought to monitor defamation cases where state entities and their allies have attempted to deflect the public impact of critical media articles and broadcasts by having the courts order the publication of apologies and retractions and direct the removal of offending texts as well as payment of large contributions by publishers or authors to worthy causes. Monitoring has not been easy as often publications prefer to keep such problems out of the public view and relatively rarely publicise the number of cases to avoid revealing to investors that they are beset by legal problems.

The Society's monitoring identified 148 cases initiated against journalists or publications between 2016 and 2020 and the peak of this activity came in 2018 when 25% of the total were started and 31 per cent were started in 2019 falling to 13 per cent in 2020. The fall may be explained by the fact that around a quarter of the cases which were ongoing in 2019 and 2020 were lost by the state plaintiffs. The state entities won a mere 9 per cent of the cases in 2019 and 5 per cent in 2020. The great majority of cases remained unresolved in both years owing to major delays in Poland's justice system (41 per cent in 2019 and 53 per cent in 2020).

The fall in activity by state entities in 2020 may be explained by the fact that so few of them found favour with the courts. This suggests that the government's drive in these years to limit the independence of the judges is failing. It can be noted in the past six months brought to court in the wake of demonstrations by the police on public order charges and those accused of offending public morality have also been found not guilty by the courts.

Thus it has fallen to the courts to defend citizens and the law against abuse by the authorities in the lack of other safeguards. This development begs the question of whether at some point in the future self governing arbitration bodies for journalists should not be established as a port of 'first call' for those who feel they have been offended in the media. Only when arbitration in such bodies fails then cases could be

taken to court for resolution. This would lessen the courts' workload and free them from seeking to define the limits of free speech, polite discourse and, at times, being asked to adjudicate versions of the truth in media reports of events.

## **Other**

The situation of local media

The purchase by PKN Orlen, a state owned entity of the media assets of Polska Press from the German Passauer Presse publisher has focussed attention on the situation of regional and local media in Poland.

The transaction saw Orlen take control of 20 regional daily newspapers, around a 120 local weeklies, 6 printing companies and gave it access to around 17.4 million internet users. It is generally assumed that the aim of this transaction is to use this media network to bolster support for the ruling Law and Justice movement (this vehemently is denied by Mr Daniel Obajtek, the CEO of Orlen and a PiS loyalist who insists the transaction will serve to diversify the energy giant's business portfolio).

Whatever the outcome of this move it is clear that a rich and powerful player has entered the local and regional media market which up till now has attracted little attention from media experts but also from local government governance analysts who focus on institutional issues but rarely examine the influence on local public opinion of local and regional media. Indeed it has to be said that while the saying that „democracy depends on a free media' is often repeated in Poland no one ever says that 'local democracy depends on a free local media'. Meanwhile the Orlen transaction leaves independent local media with around 200 newspapers owned by some 60 publishers ( and a joint weekly print run of 1.2 million newspapers) exposed to the danger that the government controlled group could move to purchase the cash strapped independent local weeklies thereby further narrowing the space for an independent voice in the small and medium sized towns and the countryside.

Surveys show that around 20 percent of the rural and small town population (mainly the older people) regularly reach for local newspapers. This is a significant share of the national electorate and they deserve independent media they can rely on as much as city dwellers.

It might be useful to note that one of the original aims of the Common Agricultural Policy was to bolster rural incomes to avoid the poverty which then saw the rural population favour radical political options and later, possibly, question the benefits of European integration.

It may well be that the time has come for the establishment of a Local Media EU Policy which would address the financial problems of local and regional media and provide their readers with an independent press which would defend and enrich local democracy. See also Press freedom mission report:

<https://europeanjournalists.org/blog/2021/02/11/report-erosion-of-media-freedom-gathers-pace-in-poland/>

## **Slovenia:**

### **Media authorities and bodies**

## **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

Article 109 of The Mass Media Act attributes sanctioning powers to the Agency (Akos), it can issue warnings, suspend and revoke licenses.

There have been examples in the past where the decisions of Akos were arbitrary. A conflict of interests exists in the case of the telecommunications operator Telekom Slovenije, which is owned by Republic of Slovenia. End of 2019, the Constitutional Court annulled provisions of a law requiring commercial radio and television stations to dedicate a part of their airtime to Slovenian music. The law was before that changed on the request of The Ministry of Culture (with support of the Agency).

The budget for Akos comes from spectrum fees, authorisation/licence fees paid by broadcasters and notice fees, number licence fees, postal licence fees and railway fees, as Akos is a converged regulator.

## **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

The highest and individual decision making organ – the Director General of the Agency for communication networks and services of the Republic of Slovenia (AKOS) – is appointed by the government at the proposal of the AKOS Council and after a public competition held by a special competition commission appointed by the official council.

## **Existence and functions of media councils or other self-regulatory bodies**

The main self-regulatory body in Slovenia is Journalists' Ethics Council, jointly managed by the Slovene Association of Journalists and the Slovenian Union of Journalists. The Council is completely independent in its process of examining the complaints lodged due to alleged violations of the Ethics Code. It consists of 9 journalists and 2 representatives of the public. All members of the Council are elected by assemblies of both organizations and are volunteers.

Much smaller Association of Journalists and Publicists manages their own Court of Honour, but according to their website it hasn't examined any complaints in years.

## **Transparency of media ownership and government interference**

### **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

There is a lack of transparency in the distribution of state advertising to the media, those interested can retain specific and scattered information on campaigns. There was an issue with advertisements for the Slovenian Army by the Ministry of Defense in 2020. They started appearing on NOVA24TV, media outlet close to SDS, which later turned out not to be in the ministries media plan, while the advertising was not done on media, which were included in the plan (the ministry also claimed they did not have the plan in the first place), as Domen Savič from civil organisation Državljan D wrote in his research titled "Slovenian Army in the service of Hungarian hate". He later called on opposition MPs to sign a proposal for an extraordinary audit.

The conflict of interests between owners of media and the ruling parties, partisan groups or politicians is not specifically regulated within media laws, the general Integrity and Prevention of Corruption Act applies. The Mass Media Act states that any person who enjoys immunity under the constitution or the law may not be the editor-in-chief. Political figures and individuals connected to political parties own and manage a number of media outlets.

In 2020, the government published recommendations for the implementation of advertising campaigns by ministries and government services, which suggested redistributing funds among the media evenly, regardless of their performance on the media market.

### **Rules governing transparency of media ownership and public availability of media ownership information**

The Mass Media Act requires the media to disclose information on their ownership structures to the Ministry of Culture. The information is later published in the Media Register, which is public, but does not always include the information about the ultimate owners. The law does not contain an article which would require the disclosure of ownership details to the public by the media itself. Publishers may not disseminate programmes via a mass medium that is not entered in the mass media register. The Mass Media Act requires disclosure of 5 % or higher individual ownership or management stakes in the publishing or broadcasting company. Slovenia has an online Register of ultimate owners, where the beneficial owners of media can be found.

Stated by the European Commission (2020 Rule of Law Report): "Certain information is made publicly available on the website of the Ministry of Culture. Particularly in the case of multiple cascading owners, the current legislation may make it difficult to identify if decision-making is being concentrated in the background."

### **Framework for journalists' protection**

#### **Rules and practices guaranteeing journalist's independence and safety**

Article 26 of the Code of Journalism Ethics states: "For the journalist to avoid real or perceived conflicts of interest, he must refuse gifts, favors, awards and other benefits. He must avoid work outside the journalistic profession, which reduces his credibility or the credibility of the journalistic community."

Article 50 of the Mass Media Act states: "(2) The person that commissions an advertisement may not influence the programme concept and editorial independence of a mass medium." Article 53 states: "(1) A sponsor may not influence sponsored programme and its distribution in the programme scheme and thereby restrict the editorial independence of the mass medium."

#### **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

No journalists have been killed in Slovenia, as seen also in the Committee to Protect Journalists database of attacks on the press. There are 29 reported threats in the Mapping media freedom index.

Following PM Janša's motion to review Higher Court's (in Celje) decision to confirm the District Court verdict in favour of Mojca Šetinc Pašek in the case of Šetinc Pašek vs. Janša the Supreme Court decided (the session was held in February, Mojca received their verdict three months later) that Janša's tweet from

2016 – [see more on CoE platform](#) – falls under the category of “highly protected political expression”, freedom of political expression trumps the right to honor and reputation in this case. The Supreme Court dismissed her claim for damages and ordered her to reimburse Janša’s costs in the proceedings. Šetinc Pašek has filed an appeal to the Constitutional Court.

On November 5, 2020, photojournalist Borut Živulovič, who works as a photographer for the agency Bobo and a freelancer for Reuters, was hospitalized after being beaten by unknown perpetrators while covering violent clashes with riot police in the centre of Ljubljana. Two more journalists sustained minor injuries. The same night, several other media outlets reported that their news crews had been pushed and faced obstruction, threats and intimidation as they reported on the protests. In December 2020 the police apprehended a 26-year-old man from Maribor suspected of attacking two police officers, two reporters and a photo journalist during the violent protests.

### **Access to information and public documents**

The right to information is explicitly recognised in the Constitution and defined in the Access to Public Information Act. The process of obtaining public information is often prolonged – and response time was even longer during the epidemic – as with public administrations waiting the maximum amount of time until denying the access, the applicant then appeals and the Information Commissioner has a big number of requests due for re-decision. The legitimacy of the confidential label also presents an issue and has been misused in the past.

In May 2020, the Senate of the Supreme Court decided that all court files were no longer subject to freedom of information requests. The courts were subsequently denying applicants’ FOI requests for access to information of a public nature - including judgments – referencing the aforementioned ruling of the Supreme Court. In November, the Supreme Court announced that their May ruling does not restrict access to court rulings and that the understanding of the decision in the sense that it is closing the judiciary to the public is the result of misinterpretations. The Judicial Council also noted that the judgment did not interfere with the courts' obligations regarding access.

In December 2020 the National Assembly passed a bill amending the criminal procedure act. Based on the freedom of information act, the changes make it possible for anyone to access prosecution or court records in criminal procedures if there are no reservations for such access. The coalition Slovenian Democratic Party (SDS) and New Slovenia (NSi) proposed the amendment, which is to give anyone the right to make a freedom of information request in individual criminal cases. The Information Commissioner has welcomed the step, which, the government believes, has been necessary after access to court records or those produced by prosecutors was constrained by the Supreme Court ruling in May.

### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

There is no anti-SLAPP legal framework. In August and September 2020, 39 defamation lawsuits were taken out against three journalists at the investigative news website Necenzurirano. Primož Cirman, Vesna Vuković and Tomaž Modic are facing 13 different criminal defamation lawsuits each. They were filed by a tax expert who argues that their reporting on his business dealings contains false information and has damaged his honour and reputation.

Acron company demanded 120,000 euros in damages from POP TV due to their reporting on their business, the lawsuit was also filed against journalists Alenka Marovt and Nika Kunaver and the editor-in-chief of 24ur.com Jure Tepina. In addition, both journalists were also being prosecuted with a private criminal lawsuit. In November the court in Ljubljana dismissed the offenses. Acron filed a complaint which was dismissed by the court.

### **Other – please specify**

#### COVID RESTRICTIONS

In Slovenia there was no state help specifically for media outlets. They were treated as all other companies and were eligible for state aid under the emergency stimulus packages. Self-employed journalists could apply for aid under the same conditions as self-employed workers in other sectors.

In spring 2020 the Ministry of Culture announced that they will be able to pay up to 30 % of grant amounts for media whose programmes were already selected for co-financing in the annual media tender by the ministry in 2020 and the contracts have been signed, as soon as they send payment claim forms. They would pay the rest only after the budget is rebalanced, but they couldn't guarantee that the media will receive the full amounts that have already been agreed upon in the contracts. Many media outlets signed the proposed annexes. In autumn 2020 the ministry announced they would pay the initially agreed subsidies in full, but new annexes needed to be signed which delayed the payment process once again

The new government imposed some restrictions on media reporting of the pandemic. They announced they will replace classic press conferences with an appearance in front of the cameras without journalists present - justified by health and safety measures. Journalists lost their ability to ask multiple questions in person (this was allowed only via e-mail) or they were able to ask one question via video but not follow up with another. After a strong backlash from the public, they allowed journalists to participate via video calls and ask multiple questions.

Newspapers and other print media were banned from coffee shops, hair salons and other places where they were usually available pre-pandemic, for a very long time, until 2 September 2020, even though the PM declared the end of the epidemic in May.

#### MEDIA LEGISLATION

In July 2020, the government proposed a package of four media laws with a public consultation of only five days (which was later extended). Following the public debate the ministry said they would present the amended versions soon, but the proposals haven't been made public yet (March 2<sup>nd</sup> 2021). Among them was also the new Slovenian Press Agency Act, which tried to establish direct government control over the appointment of the agency's Supervisory Board members. In November 2020, the Government Communication Office (UKOM) announced it will suspend the agency's financing. UKOM requested a series of data from STA in order to »determine adequate funding«, which was rejected by the director of STA, as this information can only be requested by the government, which is the sole shareholder, and UKOM does not have the appropriate authority. The government's law enforcement service also established the suspension of STA funding from October onwards was illegal. In December the National Assembly voted in favour of a last-minute amendment to the 7th economic stimulus bill that the coalition

Modern Centre Party (SMC) tabled to reinstate public financing of the Slovenian Press Agency (STA). The agency remained without public service payment for another couple of weeks as the government first asked the European Commission whether this payment would be in compliance with EU state aid rules. Government ultimately cleared the payment mid-January 2021. A month later the public learnt that the emerging National Demographic Fund might become the founder and the only shareholder of the Slovenian Press Agency (STA), according to an amendment to the government-sponsored bill on the new fund. In late February 2021 STA financing was suspended again, on the ground that the parties have not yet signed a contract for 2021. A provision in the 7th economic stimulus bill states that the budget funds are to be provided to STA for performing a public service in 2021 in line with the agency's business plan, regardless whether a contract has been signed or not.

## **Spain**

### **Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies**

**3000 character(s) maximum**

### **Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

**3000 character(s) maximum**

### **Existence and functions of media councils or other self-regulatory bodies**

**3000 character(s) maximum.**

### **Transparency of media ownership and government interference**

### **The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference**

**3000 character(s) maximum**

According to the 2020 MPM report, "as in newspapers, radios and TV stations ruling parties have several mechanisms to influence media decisions. The most evident is through institutional advertising and subsidies. Digital native media can be considered as the most easily influenced media and vulnerable to pressure media because of their economic weakness, as well as because in a highly polarized media system like the Spanish one, most of them are clearly partisan. In this sense, complaints about the unfair distribution of public expenditures (i.e. institutional advertising and subsidies) depending on the ideological alignment of digital news media are frequent."

### **Rules governing transparency of media ownership and public availability of media ownership information**

**3000 character(s) maximum**

There is little transparency when it comes to knowing precisely the real owners of the media, especially print and digital press.

According to the 2020 MPM report, “News media ownership information is effectively provided only for radio and television. According to Section 33 of the law 7/2010, it is compulsory for audiovisual communication service providers and holders of significant shares in audiovisual communication service providers to report ownership data (i.e. the size of shareholding). There is no specific transparency requirements for media companies different from Audiovisual Communications Service Providers. In any case, some information regarding ownership structures is available in the Companies registry (registro mercantil). The information included in the Companies Registry is publicly accessible. However, it is difficult even for experts to have a clear idea of who exactly is behind each company.”

### **Framework for journalists' protection**

#### **Rules and practices guaranteeing journalist's independence and safety**

##### **3000 character(s) maximum**

The Spanish authorities have not yet taken any steps to start implementing the Council of Europe Recommendation 2016/4 on the Protection of Journalism and the Safety of Journalists. Five years after the signature of this Recommendation by the Spanish government, nothing has been implemented.

#### **Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

##### **3000 character(s) maximum**

The number of cases of attacks and threats to the safety of journalists has increased drastically (PDLI 2019). In October 2019, during the week of riots in Catalonia after the Supreme Court's ruling against Catalan independence leaders, at least 66 journalists were victims of aggressions while doing their job, both from protesters, but also from the police (SPC, 2019). According to journalists unions, the arbitrariness of many police actions suggests that these attacks are aimed at intimidating journalists, intending to force them to be away from the places where the events occur and therefore avoid witnesses of the abuses they may commit. Although attacks on journalists have been frequent in those issues related to the Catalan independence process, it is worth noting that violations of freedom of expression and attacks and harassment to journalists in Spain must be understood in a context of extreme political polarization. Thus, the right-wing party VOX banned journalists of several media access to press conferences and other media meetings.

#### **Access to information and public documents**

##### **3000 character(s) maximum**

#### **Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

##### **3000 character(s) maximum**

According to the 2020 MPM report, “Regarding the Protection of freedom of expression and Protection of right to information, the assessment shows a disturbing situation. Despite the constitutional recognition, some legal reforms have had a significant impact on the exercise of these rights. Particularly, the reform

of the Spanish Penal Code (Organic Law 1/2015) as well as the Organic Law 4/2015 on the protection of public security. After the legal reforms, and under the umbrella of the protection of public security, there are several articles in which “the parameters of the UN are not being respected.”(PDLI et al 2019). Hence, those articles related to insults to the Crown, disrespect for authority, outrage to Spain and its symbols, offense to religious feelings, glorification of terrorism, and hate speech, among others, are a risk of criminalization of information activities linked to the effective exercise of freedom of expression and information. As a consequence, journalists and media have been reported to the courts for disrespecting the authority, glorification of terrorism, and outrage to the Spanish flag. Since the legal reforms came into force and until the end of 2018, a total of 766,416 fines have been imposed, with a total amount of 416,527,489 euros. The most numerous were by application of Article 37.4, on “disrespect and consideration” to the members of the State Security Forces and Bodies (65,007 fines). Improper use of photographs of police officers has resulted in 125 fines (PDLI 2019).”

**Other - please specify**

**3000 character(s) maximum**

Five media freedom violations were submitted to the Council of Europe Platform for the Protection of Journalism in 2020:

- RTVE Left without Board of Directors for the Past Two Years
- Sexist Graffiti Painted on the façade of «Pikara Magazine» headquarters
- Spanish Journalist Physically Assaulted while Reporting on Protests in Madrid
- Portuguese Journalists Banned from Entering Spain
- Spanish Journalist Raquel Guillán Assaulted While Reporting Live on TV

The Spanish authorities only replied to two of these alerts.