

$$\frac{\partial}{\partial a} \ln f_{a,\sigma^2}(\xi_1) = \frac{(\xi_1 - a)}{\sigma^2} f_{a,\sigma^2}(\xi_1) = \frac{1}{\sqrt{2\pi}\sigma} \left[\frac{\xi_1 - a}{\sigma^2} \right]$$

$$\int T(x) \cdot \frac{\partial}{\partial \theta} f(x, \theta) dx = M \left(T(\xi) \cdot \frac{\partial}{\partial \theta} \ln f(\xi, \theta) \right), \quad \int_M^D \dots$$

$$\frac{\partial}{\partial R_n} \ln f_{R_n}(\xi_1) = \frac{(\xi_1 - a)}{\sigma^2} f_{R_n}(\xi_1) = \frac{1}{\sqrt{2\pi}\sigma} \left[\frac{\xi_1 - a}{\sigma^2} \right]$$

$$\int T(x) \cdot \frac{\partial}{\partial \theta} f(x, \theta) dx = M \left(T(\xi) \cdot \frac{\partial}{\partial \theta} \ln f(\xi, \theta) \right)$$

Challenges to Media Freedom: A View from Europe

EUGENIA SIAPERÀ Y CHIARA SIGHELE

The ability of the media and especially journalism to operate freely is crucial in order on the one hand to hold governments and other institutions accountable for their actions and on the other to allow citizens to make informed decisions.

To discuss the current state of affairs for media and journalistic freedom in Europe, the authors draw on the findings of two of independent projects awarded a grant by the European Commission—the Safety Net for European Journalists and the European Centre for Press and Media Freedom (ECPMF)—. First, the article offers insights as to current threats and other impediments experienced by journalists, and highlights their structural basis. In the second section it shows how, despite the European commitment to media freedom, developments in 2015-16 suggest that both the «war of attrition» and the ‘toxic environment’ identified by Safety Net are expanding and apply to more countries in Europe.

Revisiting issues of the political economy of journalism, issues of representation and contents, and questions pertaining to the audience, the article concludes with a set of reflections on the possible future of journalism and media freedom.

EUGENIA SIAPERÀ es profesora del Institute for Future Media and Journalism, Dublin City University (Irlanda)
 CHIARA SIGHELE es investigadora del Osservatorio Balcani e Caucaso Transeuropa (Italia)

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A free and vibrant public sphere is vital for the functioning of democracy. This has been advocated both by early thinkers such as Tocqueville (2003 [1840]) and Mill (1966 [1860]) as well as by more recent theorists such as Habermas (1991) and Chomsky (2010). The ability of the media and especially journalism to operate freely and without censorship or other external controls is crucial in order on the one hand to hold governments and other institutions accountable for their actions and on the other to allow citizens to make informed decisions. Both Habermas and Chomsky as well as many other theorists and researchers discussed constraints and limits place on the proper functioning of the media stemming from political economic factors, such as the reliance on advertising as the main source of income (e.g. Golding and Murdock, 2005), the tendency towards media monopolies and occasionally the illiberal control of the media in the context of certain political regimes. Others, for example Entman (2007) and Altheide (1979), focus on the ways in which media framing and media logics already contain biases that reflect dominant ideologies, compromising the ability of the media to check authorities and to allow publics to make informed decisions. At the same time, theorists such as Stuart Hall (2001 [1980]) and Fish (1980) focus on the audiences themselves and their division in class and other social groups, which lead them to diverse interpretations of the same media reports thereby complicating views of publics acting as rational decision makers outside of their identities and interests. Drawing on similar arguments, critical theory has criticised views that the media represent objective and value free information pointing to the need to conceive of media and journalism in different ways, engaging with questions of social justice. While theorists and publics alike can keep on discussing the normative role of journalism and the best ways in which it can serve its diverse publics, one thing is certain: such discussions must take place in a context where journalists are able to practise journalism free from external coercion or controls. Studying and monitoring external influences and barriers to journalism and media freedom is therefore imperative in order to allow journalism to fulfil its role in democratic societies.

Recognizing this, the European Union has developed a rationale and a set of policies that seek to address media pluralism and freedom, on the premise that the best way in which journalism can function and reflect upon its role and position is by ensuring media pluralism and by removing barriers to media freedom. This has been enshrined in Article 11 of the Charter of Fundamental Rights,¹ which reflects Article 19 of the Geneva Convention on freedom of opinion and expression. Media freedom is therefore central to how the Union conceives of itself: indicators of media freedom are important factors in accession talk with candidate countries, showing the Union's commitment to this fundamental freedom. As part of this commitment to defend media freedom and pluralism, the European Commission has awarded grants to projects

¹ «Article 11, Freedom of expression and information 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

that address violations of media freedom and monitor both freedom and pluralism. The present article reflects on the findings of two of these projects: the first, Safety Net for European Journalists, conducted research in 2014-2015 on media freedom in 11 European countries including Turkey, while the second, the European Centre for Press and Media Freedom (ECPMF), built upon and expanded this work by establishing an independent not-for-profit European Co-operative Society (SCEK). The findings of the Safety Net project will be discussed in the first part of this article, followed by a discussion of the current state of affairs for media and journalistic freedom in Europe, and the emergent challenges faced by media and journalists in the current climate. The article will conclude with a set of reflections on the future of media freedom.

Building a Safety Net for European Journalists

The main objective of the Safety Net project was to develop a set of resources and tools for journalists in 11 countries that would enhance their safety and allow them to carry out their profession. The countries involved were Bulgaria, Croatia, Cyprus, Greece, Italy, Macedonia, Montenegro, Romania, Serbia, Slovenia, and Turkey, representing older and newer EU countries, candidate countries, mature and newer democracies. The project's main idea was that to provide such a service to journalists, we would first need to identify the needs and specific challenges faced by them. The empirical part of the project therefore consisted of a set of in-depth interviews with journalists who were victims of violence and intimidation or who experienced other incidents that compromised their safety. We sought to interview a wide range of journalists and editors, representing public and private media, press, broadcast and digital, and tried to achieve gender balance. Overall, the project conducted 110 in depth interviews with journalists across the 11 countries and reported the results in a report published in 2015. This section discusses the findings and recommendations of the report and their implications for understanding media freedom in Europe.

The empirical investigation sought to establish the sources of threats faced by journalists —in other words, who is interfering in their work— and the mechanisms by which these threats operated —the «how» or the form taken by such attempts to control and hinder journalism. The main sources of the threats included threats coming from the political establishment and the apparatus of the state; (2) commercial and business interests; (3) intertwined political and business interests; (4) the underworld and criminal organisations; and finally (5) from random and unpredictable sources. These sources were not mutually exclusive but all co-existed and occasionally combined making it very difficult for journalists to perform their duties safely.

Direct political threats were rare but nevertheless present: some journalists were at the receiving end of phone calls, others were replaced in favour of journalists more sympathetic to government lines, while others were given instruc-



tions as to who they were to quote and interview. Such political interference was more common in some countries (e.g. Turkey) and less common in others (e.g. Cyprus). But the second kind of source of interference was much more common across the countries in our sample. Moreover, there was also a sense of transition, moving from direct political interference to commercial interference especially in former socialist countries that transitioned to liberal democracy. One of the most striking findings of the report was the rise of a new breed of media owners, whose business interests extend beyond the media sphere. While studies of the political economy of the media were concerned with issues such as media concentration and the rise of media oligopolies (Golding and Murdock, 2005), this new media owner class raises new issues. Given that most media and news outlets underperform financially, there are serious questions raised as to the purpose of buying these outlets and journalists in our sample openly speculated that these are used for political influence on the one hand and to support their other business interests on the other, using their media outlets to gain advantage over their competitors. This finding supports Stelka's (2012) discussion of a shift in media ownership patterns in Central Eastern Europe, which also observed a tendency for Western media to disinvest from the media sphere in these regions and their replacement by local elites.

Often, rather than threats emanating clearly from a political or a business source, we found reports of a combined and concerted attack from intertwined interests, and an environment where the business and political classes were deeply involved with one another. Our respondents referred to instances where media owners or editors entered the political arena or where politicians bought stakes in media publishing, and this resulted in added pressures and attempts to influence journalism. The most well known case is Italy's Silvio Berlusconi, but there are similar though less spectacular cases across the countries in our sample, for example the Peevski family in Bulgaria. Journalists are also under attack by criminal organisations, when they expose them: at least two journalists in our sample were under police protection, while others have been subjected to violent attacks. Lastly, journalists were occasionally under threat by random or unexpected sources, for example from people who thought their reports weren't truthful or accurate or who held other resentments against the press. Overall, the important finding here is that all these sources of threat were operating at the same time and in some cases journalists had been receiving threats from all.

As alluded to above, violence or the threat of violence constitute one of the means available to the above sources used in order to intimidate journalists. Other forms include controlling advertising income, lawsuits, sacking or threats to employment, slander or defamation, social media harassment, and freezing access to information. Given that income from advertising is the main revenue source for most independent news outlets, keeping the tap open may make the difference between survival and closure. This makes news outlets very reluctant to publish stories that may jeopardise their relationship with advertisers. Addi-

tionally, in some instances government and occasionally even EU advertising money is distributed in ways that benefit mostly those close to the government. In this manner, governments may exert control through the management of advertising funds. In parallel, new outlets and individual journalists were hit by lawsuits mostly without merit, but which they still had to defend. For instance a Greek news outlet told us that they typically pay about 80,000 euro a year defending lawsuits without having ever lost. In this manner, frivolous lawsuits without merit operate as a control mechanism. Although such actions are frustrating and expensive, they are not as intimidating or psychologically damaging as harassment through social media and in some instances through openly slander. Social media harassment was on the rise when the research for the project was undertaken, and very clearly gendered: most if not all of the victims of online harassment were women. The nature of such attacks as varied but sexual violence was common, including some rape threats, and posts of overtly sexual nature. Women were also at the receiving end of defamatory comments and smearing campaigns, especially around their past and alleged sexual relationships. Slanderous and defamatory comments were also addressed to ethnic minority journalists, who were accused of being unpatriotic and operating as foreign agents. In a context characterised by very high unemployment among journalists —in Greece it is estimated at over 25% (Trimis, 2012) —and general precarity, loss of employment is very serious. Journalists are often finding themselves applying caution even without having received any overt pressure or threats. A similar caution is exerted because some sources, from both the government and the business world, will stop offering any information or talking to them; several journalists referred to incidents where if a source did not like a story or a report they would immediately ‘freeze’ them and exclude them from briefings. They were therefore conditioned to apply caution and to think of the repercussions that a particular story or angle used might have on them.

The above discussion offers insights as to current threats and other impediments experienced by journalists, and shows the existence of what we referred to as a toxic environment that makes things very difficult for journalists. The study did not find a set of isolated incidents but an undercurrent of low grade but constant pressure applied, that we characterised as a war of attrition against journalism. But what made possible this war? We identified seven main structural conditions that contributed either directly or indirectly to the build up this kind of toxic environment. These are: (1) non-transparent media ownership, whereby many media owners have stakes across a wide range of business that may result in conflicts of interest. (2) Media in the countries in our sample operated in a media landscape which was almost totally deregulated; although liberalisation is meant to contribute to media pluralism, allowing more and diverse publications to operate, in reality, deregulation has led to oligopolies, to conflicts of interest, and to the use of media to exert political pressure. (3) Thirdly, the position of unions was equivocal and ambivalent: there is no doubt that strong unions would help and support journalists.



But the current unions are seen as weak, inefficient and in some instances corrupt. Deregulation of employment and the shift towards signing individual labour contracts was certainly weakened unions, while in some instances unions are closed to new members, especially those working for online media. (4) Short terms precarious working arrangements, alongside the contraction of wages and more top down control of journalists have led to the de-professionalisation of journalism. This in practice means that people are leaving the profession and those who remain or who enter may not have the skills or the autonomy of previous generations of journalism workers. (5) Additionally, the legal context is not sensitive enough to the needs of journalists, and there is no mechanism to protect them from frivolous lawsuits. Long delays in dealing with lawsuits and the development of more ambiguous laws that hinder rather than protect journalists, such as for example, the 'humiliation law' in Croatia.² (6) A number of the problems identified can be linked to high levels of political corruption, itself seen in most instances as a remnant of authoritarian regimes of previous eras. (7) Similarly, the region under study has been the epicenter of ethnic tensions, and these often feed into the problem.

This summary of the findings of Safety Net highlighted several problems identified by journalists and their structural basis in the ways in which the media sphere has developed and operates in the countries under study. The objective of the study was to develop a set of practical tools to help journalists, and to this end, the report concludes with a set of proposals and policy recommendations for both the immediate relief of journalists under threat and the longer term improvement of the conditions under which they practise journalism. How does the Safety Net project compare to the current situation? Has anything changed since then and have things improved or worsened for journalists? This is examined in the next section.

Current Developments and Emerging Problems

Despite the European commitment to media freedom, things have deteriorated further since the Safety Net research. There is some evidence that suggests that both the 'war of attrition' and the 'toxic environment' identified by Safety Net are expanding and apply to more countries in Europe. This section will provide updates on the present situation by focusing on three main developments occurred in Europe during 2015-16. First, the European political context has become increasingly challenging for media freedom and journalistic safety, due to the rise of illiberal democracies even among EU Member States as the situation in Hungary, Poland and Croatia suggests. Second, the populistic attack against

² This refers to Article 148 of the Criminal Code, according to which the court may sentence a journalist if the information published is not considered as of public interest and those referred to it feel humiliated (Hedl, D., 2014, Croatia's new Criminal Code establishes the offence of «humiliation» in Osservatorio Balcani e Caucaso, 18/4, available at: <http://www.balcanicaucaso.org/eng/Areas/Croatia/Croatia-a-law-threatens-journalists-150653>

the media made famous by US President Donald Trump is a rising phenomenon in Europe as well, which further exacerbates the picture marked by declining trends in Europeans' trust in the media and their independence. Third, despite the fact that in 2016 the Panama Papers clearly demonstrated how vital investigative journalism and whistleblowing are to expose wrongdoing and hold accountable those in power, journalistic sources and whistleblowers are still not enough protected by European laws and are currently under attack.

European standards for the protection of media freedom and pluralism result from the combination of legal provisions, case law and soft law produced at national and international level. The European Union and its various institutions, the Council of Europe and its Strasbourg-based European Court for Human Rights, the Organisation for Security and Cooperation in Europe are among the most relevant regional organisations regularly calling on European states to respect their positive obligations to ensure the safety of free journalism and of people delivering it. As mentioned earlier, the European Union has consistently recognised media freedom and pluralism as fundamental pillars of democratic systems, enshrining these principles in EU binding documents and considering freedom of expression and information as an «imperative» to be respected to *become and remain* part of the EU. However, several sources give evidence that both in Member states and in the countries aspiring to join the EU, media independence and the safety of journalists are often under pressure by means of direct and indirect threats.

According to Freedom House's Freedom of Press 2016³ report, even if Europeans still enjoy among the most open and free media systems globally, the old continent has experienced the largest drop in press freedom over the last decade when compared to other regions of the world. Restricting the focus to the 11 European countries analysed in the Safety Net report, Slovenia and Cyprus kept being the only two rated as «free»; «Not free» countries passed from one (Turkey) to two, with Macedonia's status downgraded in 2016; and the other seven are still rated «Partly Free», with declining scores in many cases. From January 2015 to December 2016, 2116 verified reports of violations and limitations faced by members of the press throughout Europe were published in the Mapping Media Freedom platform.⁴ Out of these, 711 reports are categorised as «physical attacks», «injuries», «attacks to property» a typology of threats particularly concentrated in South Eastern Europe (348/711). Here, the growing recourse to physical violence as a tool for intimidating the media is confirmed also in the first report of the «Regional platform for media freedom in the Western Balkans», a recently established initiative led by the Independent Journalists' Association of Serbia NUNS and co-funded by the European Commission.

³ See the full report here: <https://freedomhouse.org/report/freedom-press/freedom-press-2016>

⁴ The Mapping Media Freedom platform is a Europe-wide monitoring initiative run by UK-based Index on Censorship with the financial support of the European Commission: <https://mappingmediafreedom.org/#/>. It provides a secure tool to submit and search reports of threats and violations from across Europe.

$$\sigma_{\mathbf{R}_n}^2(x, \theta) = \frac{(\xi_1 - a)^2}{\sigma^2} \cdot \mathbf{M}[\mathbf{T}(\xi), \theta] dx$$



As far as more indirect threats are concerned, preliminary findings of the Media Pluralism Monitor 2016⁵ show that none of the 30 European countries monitored is free from risks, being assessed through a holistic approach that looks at qualitative and quantitative indicators in four major domains: Basic Protection, Market Plurality, Political Independence and Social Inclusiveness. Such deterioration can be attributed to incremental erosion of the legal and economic environments the product of several trends including the digital evolution as well as negative factors such as the economic crisis and the securitarian turn, that further facilitate interference with the ability of journalists to do their job.

Journalists face the abuse of legal actions for defamation, but the EU has no direct power to intervene on member states' national regulations over this matter. Defamation is a criminal offence in 22 out of 28 EU countries (all but Cyprus, Estonia, Croatia, Ireland, Romania and UK), and it is punishable with imprisonment in most of them, with the sole exception of Bulgaria and France. For instance, in Italy a recent report by Ossigeno per l'informazione (2016) analysed official statistical data of the Italian Ministry of Justice on defamation trials defined in the period between 2010-2015. Findings indicate that nearly 90% of the criminal sentences assess the journalists' innocence; still, in average every year 155 journalists are sentenced to jail for a total amount of 100 years of prison all together. The abuse of defamation and insult laws —by no way an Italian exception as highlighted in IPI's Defamation Laws in Europe Database— can obviously have a huge chilling effect on freedom of expression, making self-censorship a widespread practice between European journalists. According to a study carried out by the Council of Europe in 2016 and in course of publication, around 30% of the 1000 European journalists surveyed admit self-censorship (2016).

Increased risks for freedom of information derive from the abuse of anti-terrorism and national security laws too, even more so today with the fear of jihadist terrorism spreading across Europe, favouring also a climate of witch-hunt and the escalation of hate speech against minorities, refugees, and migrants. As shown in the discussions in the European Parliament around the Directive on Trade Secret, restrictions to journalists' access to information of public relevance can be introduced even by means of copyright norms aimed at countering industrial espionage. Evidence of important chilling effects also results from legal issues connected with managing digital broadcasting and online content (comment sections, social media) as well as from the introduction of new laws on the right to be forgotten and the related responsibilities of service providers.

⁵ The Media Pluralism Monitor is a tool designed to identify potential risks to media pluralism in EU Member States. It has been developed and implemented by the Centre for Media Pluralism and Media Freedom (CMPF - <http://cmpf.eui.eu>) at the European University Institute. Its 2016 round of monitoring analysed indicators in 28 EU member states plus applicant countries Montenegro and Turkey, with preliminary findings presented in November 2016. The publication of MPM2016 report is expected by March 2017.

Editorial independence is constantly in danger as a consequence of a well-known alliance between political and economic powers —one of the central findings of the Safety Net report—that use the media as political and business leverage and take advantage of opaque methods of distribution of advertisement revenues as a disciplinary mechanism. This problematic coalition, coupled with worsening labour conditions for journalists, makes censorship redundant, relying instead on self-censorship and the forced erosion of professional standards —what we described as de—professionalisation and managerialism in the Safety Net report. The negative impact of the rise of a new class of media owners exerting direct interference in editorial decisions documented by the Safety Net report is reaffirmed in a comparative study commissioned by the European Parliament on seven EU Member States: Bulgaria, France, Greece, Hungary, Italy, Poland and Romania. Assessing that «non-transparent interconnections network of political and economic power in some countries are provoking systemic failure of the media market and are linked to the dysfunction of democracy» (Bárd y Bayer, 2016), the research concludes that this poses a greater threat than the concentration of media ownership, and should be a key priority for urgent action.

The rise of illiberal democracies in Europe and its impact on the media

During 2016, developments in Hungary, Poland and Croatia made clear that the political context has become increasingly challenging for media freedom and pluralism within the European Union itself. In Poland and Hungary, the right-wing ruling parties Justice and Law and Fidesz launched severe challenges to the rule of law and democracy to an extent that cannot be observed in any other Member State. Pressures and intimidations against the media followed such general pattern. In Poland, after amendments to the Public Broadcasting Act were approved in December 2015 allowing the government to directly appoint management and supervisory boards of public service media, nearly 200 media workers of the public broadcasters lost their job. Sinking advertising revenues of critical private media like the prominent newspaper *Gazeta Wyborcza* give additional evidence of increased pressures to silencing voices not in line with the government positions.⁶

The end result of such pressures is epitomised by what occurred in Hungary with the sudden closure of *Népszabadság*, the largest and main opposition newspaper in the country, in late 2016. Since Viktor Orbán's right-wing government came into power in 2010, the Hungarian media have been confronted with higher risks to media pluralism,⁷ strengthening state control and growing

⁶ Listen to the testimony by Piotr Stasiński, deputy editor in chief of *Gazeta Wyborcza*, intervening at the Annual Colloquium, panel «An independent media, free from political and commercial pressures». Podcast here: http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=31198 (from minute 28:00 to 30:45).

⁷ See MPM2014 country report for Hungary at: <http://monitorcmpf.eui.eu/results-2014/hungary/>



attempts to stifle critical reporting. In October 2016, Népszabadság suddenly suspended publications without any prior communication to its employees, who were even denied access to the newspaper building. While the owners claimed it was being closed simply because it was no longer financially viable, journalists, the opposition and external observers contested the highly political nature of the decision, arguing it came after investigative stories exposing corruption by senior officials, and that financial difficulties were directly connected also with manipulated distribution of state advertisements.

Croatia has undergone a similar pattern with regard to the deterioration of journalistic safety and freedom. This was particularly evident during the short coalition government in which Zlatko Hasanbegović served as Minister of Culture, an appointment highly contested because of his apologetical stance toward WWII-fascist Croatian state. In the few months he was in office, the Croatian government attacked the national regulator for electronic media proposing the removal of its president and the dismissal of its council; blocked the funds for non-profit media; imposed managerial changes at the top of the Croatian public television (HRT) which were followed by the dismissal or replacement of over 70 media workers;⁸ a statement he made in response to the physical aggression against a prominent journalist recalled «the importance of being responsible for words spoken and written in public» (Bona, 2016). These and other violations, including the attempted assassination of the president of the Croatian journalists association and the brutal beating up of an investigative journalist working on crime and corruption, have been reported in the Platform to promote the protection of journalism and safety of journalists.

Moving to countries aspiring to join the European Union, even if laws adopted—thanks to the close monitoring and negotiations with the European Commission entailed in the accession process—tend to be in line with European standards, proper implementation is lacking (Pavlou, 2016) and authoritarian trends are still very present in all states of the region. «The lack of progress in the area of freedom of expression and media, already observed over the past two years, has persisted and, in some cases, intensified»⁹ is stated in the last Progress Report issued by the European Commission in November 2016.

Along with the increased recourse to violence and the impunity of crimes against journalists, key problems identified in various reports (Human Rights Watch, 2015) include the selective use of state advertising and the controlled distribution of commercial advertising used as tools to silence the critical media and finance those which «follow the line»; journalists' very poor working conditions; cyberattacks to impede access to critical websites; the orchestration of smear campaigns against independent journalists and prominent civil society actors. Quoting the journalist and director of the Centre for Investi-

⁸ On deterioration of media freedom in Croatia see here a summarising infographics: www.rcmediafreedom.eu/Multimedia/Infographics/Deterioration-of-media-freedom-in-Croatia

⁹ European Commission, DG NEAR, Enlargement Strategy Paper 2016, page 4. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_strategy_paper_en.pdf

gative Journalism of Serbia cins, Branko Čečen, «We have no money, we are helpless, very often threatened, under legal pressure, we have big issues with the institutions that do not want to work with us. [...] We overcome obstacles every day, and we manage to do investigative journalism. The problem is that the mainstream media literally bury our findings». And when asked if he has hope the media situation will improve in the future «I work with my organisation to do investigative journalism according to international standards, in an objective, neutral, and professional manner. The only thing I can say is that, as long as we exist, we can be the seed from which one day, when possible, proper journalism will be born» (Zanoni, 2016).

As gloomy as it is the situation in the Western Balkans, in Turkey the government's post-coup crackdown on the media has had a far more devastating impact. According to the last published BiA Media Monitoring Report 2016 July-August-September, 117 journalists and distributors are in jail, 76 in custody, 800 press cards cancelled, 173 media outlets had shut down or banned, 2,500 media professionals left without job because of these closures, and since October 2016 new State of Emergency decrees have been issued, making Erdogan's repression further worse.¹⁰

However insufficient one may consider the criteria set forth in the EU conditionality and checklisted in Progress Reports (known as the 'Copenhagen criteria'), even this incentive ceases to exist once a country joins the EU, meaning that there is no 'progress report' for member states. The experience with new member states confirms that media freedom tends to be harshly challenged after membership is obtained, but EU institutions have a limited scope of intervention, as the media are mostly regulated at the state level and the EU Charter of Fundamental Rights applies to Member States only when they are implementing EU law. The European Commission can only intervene on media issues when other areas of the EU acquis are concerned (like competition law), monitor the situation, and prompt governments as well as empower domestic actors to work for media freedom and pluralism at home. At the same time, political and commercial pressure, economic hardship, physical attacks against journalists, restrictive legislation and the economic crisis are important challenges to media freedom and pluralism in EU member states too.

Referred to as the «Copenhagen dilemma», this phenomenon would require urgent and joint action by the EU institutions. The introduction of an annual monitoring mechanism to assess each Member State's performances in respecting fundamental rights and values, including those on freedom of expression and information, would be a key first step to strengthen their enforcement at EU level.¹¹ Given the current alarming trends at national level,

¹⁰ See independent report by BiA Media Monitoring Report 2016 July-August-September: <http://bianet.org/english/media/181569-closed-radio-tv-channels-come-together-there-is-1-report>

¹¹ The European Parliament resolution with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights was adopted in Plenary Session on 25 October 2016. Full text:

$$\sigma_{R_n}^2(x, \theta) = \frac{(\xi_1 - a)^2}{\sigma^2}, \quad \int_{-\infty}^{\infty} \sigma_{R_n}^2(x, \theta) dx = M(T(\xi))$$



the procedure initiated by the European Parliament with a call for an interinstitutional agreement setting up a «EU binding Pact for Democracy, the Rule of Law and Fundamental Rights» risks however to be too long and late, and its successful adoption cannot be taken for granted in the context of resurgent nationalism and anti-multilateralism across the Member States.

Europeans and the media: between declining trust and media scepticism

The Special Eurobarometer 452 on Media pluralism and democracy issued in November 2016 highlights another worrying trend. Even if results greatly differ from country to country, Europeans' perception of the media is clearly marked by declining trust and a widespread belief that national media are not free.¹²

Across the EU, only a slight majority (53%) agrees their national media provide trustworthy information (44% think it does not); when the question is about the independence of the media, only a minority thinks their national media are free from political or commercial pressure (38%), with the percentage further declining when looking at the political independence of public service media (35%) and of the national body that oversees audiovisual media (37%). Moreover, 75% of Europeans using social media have experienced abuse, hate speech or threats, with the declared result of discouraging nearly half of them, and especially women, from engaging in public debates.

Media criticism is not something new to democratic societies, nor it is an exclusively negative factor when it is exercised in view of improving the media. Things however change when public skepticism grows to the extent of having relevant share of the audience considering the mainstream media as an elitist tool for spreading the government's views through biased reporting. Evidence of this happening in Europe is found in Germany, for instance. In 2015-16 the European Centre for Press and Media Freedom (ECPMF) carried out fact-finding missions¹³ to investigate the growing number of physical attacks and threats against journalists and media professionals connected to the «Lying press» —debate initiated by the movement PEGIDA (Patriotic Europeans against Islamization of the West) and the right-wing populist AFD (Alternative for Germany) party. Both these political actors aim at providing a platform for citizens who feel betrayed by German politics —and by the German media, labelled as a compliant propaganda tool of the government. The audience's skeptical stance toward the media was fuelled by the media coverage of the

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0409+0+DOC+XML+Vo//EN&language=EN#BKMD-20> The call for an interinstitutional agreement was recalled also at the Annual Colloquium on Fundamental Rights «Media and democracy» by the EP Vice-President Ulrike Lunacek.

12 Cited above.

13 See full report of the ECPMF fact-finding mission here: <https://ecpmf.eu/news/ecpmf/pegida>

Cologne incidents of 2016 New Year's Eve —when it took several days before the mainstream media in Germany began reporting heavily about the alleged sexual assaults and theft allegedly committed by recent migrants to Germany.

Another example is the heated debate around «fake news» that shook the Italian public debate at the beginning of 2017. In two articles published right before and after the New Year's eve entitled «The post-bullshit of the new Inquisition» and «A popular jury for the lies of the media», the leader of the Five Star Movement— a popular anti-establishment movement and opposition party which took 25% of the vote at the last Italian election in 2013 - reacted against the idea of having public regulatory bodies in charge of monitoring and removing fake news online, something which Italian high-ranking public officials such as the Italian Minister of Justice or the president of the national anti-trust agency seemed to suggest in public statements and interviews. Sharply criticizing the idea of a «minister of truth» applied to online information, Beppe Grillo reverted the accusation claiming that the «principal fabricators of fake news» are the mainstream media and proposed instead to set up popular tribunals to spot and denounce lying press and tv broadcaster.

As far as Enlargement countries are concerned, critical journalists and prominent civil society actors are regularly attacked by political leaders with accusations of acting on behalf of foreign agents, of being liars, informers, thieves, prostitutes and the like. The Prime Minister of Serbia, Aleksandar Vučić, and the one of Montenegro, Milo Đukanović, are among those who have repeatedly and publicly accused journalists labelling them «media mafia» and liars. Hate speech by high-ranking public figures is echoed by smear campaigns by pro-government media, as the politicisation of the media has led to a polarization within the category of journalists. Many of the journalists interviewed in the Safety Net report and in other reports¹⁴ complain of being subjected to attacks coming both from political power and by their colleagues who publish articles and features aimed at discrediting what journalists write without actually addressing the facts and arguments they are exposing. Thus, in the Western Balkans hate speech against journalists is unfortunately nothing new: it has almost become institutionalised and attacks are often aggravated by discrediting on the basis of gender and ethnic affiliation, feeding broader societal tensions.

The battle around journalistic sources and whistleblowing

In April 2016, hundreds newspapers across the globe published the first pieces of the Panama Papers, a worldwide investigation on taxheaven, anonymous offshores and shady businesses run by 400 journalists from 100 countries. Three months after the largest data leak ever enabled what the Ethical Journa-

¹⁴ Human Rights Watch, 2015, cited above.



lism Network labelled as «the biggest single, corruption-busting story of the decade»,¹⁵ a court in Luxembourg sentenced to prison Antoine Deltour and Raphaël Halet, the two whistleblowers of the so called «LuxLeaks» scandal.

Their revelations helped investigative journalists to shed light to Luxembourg's controversial tax deals with big corporations aimed at minimising their tax payments. Several European public figures, included the European competition commissioner Margrethe Vestager, praised the whistleblowers and investigative journalists for having safeguarded the public interest and prompted a much needed debate about corporate taxation in Europe (Valero, 2016). However, they were found guilty for theft and violating professional secrecy laws, while the French journalist involved in the case was acquitted.

The LuxLeaks verdict is not the sole reason for concern. In 2016, several countries have witnessed attempts and pressure to disclose confidential sources and materials by legislative, judicial, and even security/intelligence means, highlighted a recent report of the Fundamental Rights Agency (FRA).¹⁶ Considerable shortcomings are to be envisaged also in the EU legislation itself. The EU 'Trade Secret' Directive aimed at countering business espionage, for instance, was approved in June 2016 without including a proper protection clause extended to whistleblowers, and this despite numerous media freedom and journalists NGO advocated such provisions.

A campaign calling on the EU legislator to adopt EU -wide common minimum standards for the protection of whistleblowers has started and is gaining momentum. It initiated in May 2016 with the presentation of a draft Directive by the Green/ EFA group at the European Parliament¹⁷ followed soon after by the launch of <https://whistleblowerprotection.eu/>, an online campaign supported by a coalition of trade unions, NGO, and journalist organisations. In the following months, all the three main EU institutions —the European Parliament, the Commission and the Council of the Union— undertook some measures expressing support for advancements of the EU legislation in this field,¹⁸ and more concrete developments are expected to follow in the course of 2017- 2018.

So far, at European level a key actor for high standard-setting in this field has been the European Court of Human Rights (ECTHR). As recalled by Media Law professor Dirk Vorhoof at the ECPMF 2016 conference, «the Strasbourg court has been on the barricades for better access to public information, for

¹⁵ Ethical Journalism Network, 2016, Report on Challenges for Journalism in «Post-Truth» Era. At <http://ethicaljournalismnetwork.org/wp-content/uploads/2017/01/ejn-ethics-in-the-news.pdf>

¹⁶ In the Fundamental Rights Agency report of November 2016 «Violence, threats and pressures against journalists and other media actors», cases from Belgium, France, Ireland, the UK, Germany, Lithuania, Croatia, Poland are reported (pp.14-15). Full report here: <http://fra.europa.eu/en/publication/2016/violence-threats-and-pressure-against-journalists-and-other-media-actors-european>

¹⁷ More info at: <http://www.greens-efa.eu/en/article/whistle-blowers-directive/>. The proposal for a draft directive in full:http://www.greens-efa.eu/legacy/fileadmin/dam/Images/Transparency_campaign/WB_directive_draft_for_consultation_launch_May_2016.pdf

¹⁸ More background information at: <http://www.greens-efa.eu/en/article/positive-feedback-on-greens-efa-draft-eu-directive-for-the-protection-of-whistleblowers/>

the protection of investigative journalism and newsgathering through leaks, the protection of journalistic sources and of whistleblowers. As a matter of fact, it is thanks to the ECTHR that we can formulate these four aspects in terms of rights, because the national states were not (sufficiently) considering these aspects as being protected under Article 10 of the European Convention, the right to freedom of expression [...]. The European Court upgraded, uplifted, strengthened these rights through its case law of the last 10-15 years».¹⁹ However, his intervention highlighted some worrying trends in the recent ECTHR jurisprudence. In cases like Weber vs Germany (2015), Bedat vs Switzerland (2016), Diamant Salihu vs Sweden (2016) or Boris Erdtmann vs Germany (2016) the Court did not follow the previous line of legal arguments broadening the scope of Article 10 on Freedom of Expression to include journalists' rights to access information, publish investigation stories based on leaks, protect their sources. Such developments give reasons of concern and suggest the need for better monitoring of ECTHR case law by media, journalists, academia to raise public awareness; and for enhanced dialogue with the Court as well.

Thinking of the Future

The heated discussions on the so-called fake news, post-truth, and «alternative facts» —primarily but not exclusively focused on the US— did not come as a surprise to people working on media freedom. The erosion of journalistic standards, associated with both direct attacks and political economic factors, has been taking place for a long time and it will be a difficult process to reverse. The task of researchers is on the one hand to identify and seek to preempt further assaults to media freedom and on the other to contribute to the creation of strategies to redress some of the problems discussed above. Returning to our initial discussion in the introduction, we referred to issues of the political economy of journalism, issues of representation and contents, and questions pertaining to the audience. Revisiting these in the light of the preceding discussion may shed some light to the current situation and the possible future of media and journalism.

In terms of the political economy of media and journalism, it is clear that questions of oligopolies, and the inter-meshing of economic and political interests have a clear and negative effect on the media sphere. The rise of the internet and social media corporations has further complicated the picture, given on the one hand their algorithmic management of contents and their usurpation of the advertising market. More specifically, the algorithmic rules they use in order to order information are trade secrets, but in the last US election it became clear that the «like economy» that constitutes Facebook's

¹⁹ Podcast and slides of professor Vorhoof's intervention at the ECPMF 2016 conference are among the resources available in the online Resource Centre on Media freedom in Europe - www.rcmediafreedom.eu. <http://www.rcmediafreedom.eu/Multimedia/Video/Whistleblowing-Prof.-Dirk-Vorhoof-at-ECPMF2016-Conference>



business model was conducive to the circulation of fake news about the election produced by, among others, teenagers in Macedonia, who found this a profitable enterprise (Silverman & Alexander, 2016). Moreover, in the highly fragmented online landscape the only organisations that can generate reliable advertising revenue are social media corporations. In discussing the US media sphere, Victor Pickard (2015) suggests three main ways of addressing the current problems faced by the news media. The first is to encourage and fund not-for-profit alternatives, such as public service broadcasting and community-based media. Along these lines we have seen some positive developments such as for example, the development of media cooperatives, run by journalists and publics (Siapera & Papadopoulou, 2016). The second is to regulate against monopolies, in order to prevent market concentration. Here we can add that while there is a distrust of regulation especially after years of neoliberalism, publicizing the effects of media monopolies and lists of interests in possession of certain media owners may be a step in the right direction. For example, the UK Media Reform coalition²⁰ and the Centre for Media Pluralism and Media Freedom²¹ constitute important attempts to monitor, and if necessary apply pressure to governments. The third method, according to Pickard, is to closely regulate monopolies when they cannot be dismantled. Pickard refers here to Facebook, whose de facto monopoly over a large part of global internet cannot be dismantled from the top down. Rather, Pickard (2017) suggests that Facebook be subjected to the same scrutiny and norms as other media organisations, despite the fact that Facebook's CEO, Mark Zuckerberg has repeatedly refused to accept that Facebook is a news medium and not merely a technology company (Ingram, 2016).

In terms of media contents and representations, interventions may take the form of protecting journalists as workers and investing in their professional development. As we observed earlier, the de-professionalisation and the precarisation of journalists, the low degree of unionisation and the weakness of journalists' unions associations are significantly contributing to the problems of the media sphere, and end up compromising the news output. In parallel, there is an urgent need for journalists' education both on the fundamentals (e.g. professional ethics or fact-checking) and on new tools and challenges (e.g. data journalism or digital security issues). While to some extent these are integrated in the new curricula of schools of journalism, there is a need for lifelong learning and of course the space that allows journalists to take advantage of this. Strengthening journalists as professional workers is therefore a factor that contributes to the improvement of the quality of their output.

A third, and crucial, if overlooked, parameter is that of audiences. More often than not, a focus on media freedom focuses on journalists rather than their publics. But publics are important stakeholders. The loss of public trust

²⁰ See <http://www.mediareform.org.uk/>

²¹ See <http://cmpf.eui.eu/Home.aspx>

in the news has had a pernicious effect on the public and socio-cultural sphere, as evidenced in the rise of online hate speech, the proliferation of fake news and widespread suspicion. As we pointed out in the Safety Net project, there is an urgent need to restore the missing link between the rights of journalists to do their work safely and the right of citizens to receive quality information. Actively involving citizens and publics in the work of journalism may contribute to the formation of more positive views and help re-establish awareness of the important role media play in a democratic society. This task demands transnational information aimed at raising awareness about the challenges journalism faces and the mechanisms through which media are seized and controlled an effort which grassroots and virtuous journalism, joining forces across European borders, can certainly aid. It also requires that journalists pay more attention to the needs of citizens rather than to elites.

None of these recommendations are easy to implement, nor is there any guarantee that they will reverse the downfall of journalism and media freedom. But the time is ripe to have a discussion about what kinds of media do we need, want and are willing to support. We, as citizens, journalists, academics and policy makers, have to keep pushing this agenda, because if we are to learn anything from the empirical research that has been carried out and in part discussed above, is that democracy cannot function without free media.

References

- Altheide, D. L. (1979). *Media Logic*. Chichester: John Wiley & Sons.
- Bárd, P. and Bayer, J. (2016). *A Comparative Analysis of Media Freedom and Pluralism in the EU Member States*. Study requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE).
- Bona, M. (2016). «Croatia: the Attack Against Journalist Ante Tomić and the Disconcerting Reaction of the Minister of Culture». *OBC Transeuropa* 5/4. Disponible en www.balcanicaucaso.org/eng/Areas/Croatia/Croatia-the-attack-against-journalist-Ante-Tomic-and-the-disconcerting-reaction-of-the-Minister-of-Culture
- De Tocqueville, A. (2003 [1840]). *Democracy in America*. Washington DC: Regnery Publishing.
- Entman, R.M., (2007). «Framing Bias: Media in the Distribution of Power». *Journal of communication* 57 (1), pp. 163-173.
- Fish, S. E., (1980). *Is There a Text in this Class?: The Authority of Interpretive Communities*. Cambridge: Harvard University Press.
- Golding, P. y Murdock, G. (2005). «Culture, Communications and Political Economy». En: Curran, J. y Gurevitch, M. (eds.) *Mass Media and Society*. Londres/Nueva York: Arnold/Oxford University Press, pp. 70-92.
- Habermas, J. (1991). *The Structural Transformation of the Public Sphere: An Inquiry Into a Category of Bourgeois Society*. Cambridge: The MIT Press.



- Hall, S. (2001 [1980]). «Encoding/Decoding». In: Durham, M. G. & Kellner, D. (eds.), *Media and Cultural Studies: Keyworks*. Oxford: Blackwell, pp. 163-173.
- Herman, E. S. & Chomsky, N. (2010). *Manufacturing Consent: The Political Economy of the Mass Media*. Nueva York: Random House. ([http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571376/IPOL_STU\(2016\)571376_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571376/IPOL_STU(2016)571376_EN.pdf))
- Human Rights Watch (2015). «A Difficult Profession. Media Freedom Under Attack in the Western Balkans», report. (<https://www.hrw.org/report/2015/07/15/difficult-profession/media-freedom-under-attack-western-balkans>).
- Ingram, M. (2016). «Sorry Mark Zuckerberg, but Facebook Is Definitely a Media Company». *Fortune*, August 30. (<http://fortune.com/2016/08/30/facebook-media-company/>).
- Media Pluralism and Democracy – Special Eurobarometer 452, November 2016. (<http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2119>).
- Mill, J. S. (1966). «On Liberty». *A Selection of His Works* (pp. 1-147). London: Macmillan Education UK.
- Ossigeno per l'Informazione (2016). *Taci o ti querelo*. (http://notiziario.ossigeno.info/wp-content/uploads/2016/10/DOSSIER_TACI_O_TI_QUERELA.pdf).
- Pavlou, A. (2016). «Europe: Access to Information in Practice, Not Just On Paper», *OBC Transeuropa* 17/II.
- Pickard, V. (2015). «The Return of the Nervous Liberals: Market Fundamentalism, Policy Failure, and Recurring Journalism Crises». *The Communication Review* 18, pp. 82-97.
- Pickard, V., (2016). «Media Failures in the Age of Trump». *The Political Economy of Communication* 4 (2), pp. 118-122.
- Siapera, E. & Papadopoulou, L. (2016). «Entrepreneurialism or Cooperativism? An Exploration of cooperative Journalistic Enterprises». *Journalism Practice* 10 (2), pp. 178-195.
- Siapera, E., (2015). *Building a safety net for European journalists*. Project report to DG Connect. (<https://www.balcanicaucaso.org/eng/Media-Freedom-Net/Building-a-Safety-Net-for-European-Journalists2>).
- Silverman C. & Alexander, L., (2016). «How Teens In The Balkans Are Duping Trump Supporters With Fake News», *Buzzfeed*, November 5. (https://www.buzzfeed.com/craigsilverman/how-macedonia-became-a-global-hub-for-pro-trump-misinfo?utm_term=.nh6OxQEoy#.nmlA7JGQW).
- Stetka, V. (2012). «From Multinationals to Business Tycoons Media Ownership and Journalistic Autonomy in Central and Eastern Europe». *The International Journal of Press/Politics* 17 (4), pp. 433-456.
- Trimis, (2012). Cited in Siapera, E., Papadopoulou, L. & Archontakis, F. (2015). «Post-crisis Journalism: Critique and Renewal in Greek Journalism». *Journalism Studies* 16 (3), pp. 449-465.
- Valero, J. (2016). «Vestager: We Should Thank the LuxLeaks Whistleblowers», 11/01, *EurActiv.com* (january 11) (<http://www.euractiv.com/section/digital/interview/vestager-we-should-thank-the-luxleaks-whistleblowers/>).
- Zanoni, L. (2016). «Media in Serbia: Someone Says No», *OBC Transeuropa* 2/12. (www.balcanicaucaso.org/eng/Areas/Serbia/Media-in-Serbia-someone-says-no-175966).