

## **EU contribution to the Questionnaire from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on opportunities, challenges and threats to media in the digital age. 15 January 2022**

### **Introduction**

The European Union would like to thank the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, for the request to contribute to a questionnaire on opportunities, challenges and threats to media in the digital age.

The contribution from the European Union was prepared in collaboration with several relevant EU services and follows the questionnaire's structure.

### **EU's contribution**

What are the key trends, threats or challenges to the freedom, independence, pluralism and diversity of media and the safety of journalists in your country, region, or globally in your view?

- Although the EU is widely considered to be one of the safest spaces for journalists and other media professionals, there has been a **growing number of physical, legal and online threats to and attacks on journalists** and other media professionals over the past years. Nearly one third of such incidents in EU Member States between January 2020 and June 2021 was related to the COVID pandemic.
- The **Covid pandemic** has exacerbated risks and limits already affecting freedom of expression. The pandemic is being used in some countries to impose undue restrictions on freedom of the press and journalists are more than ever subject to harassment, attacks, pressure and limitations to their reporting.
- The reportedly widespread use of **surveillance technology** has been used to target journalists, activists and NGOs worldwide. Any use of such technology must abide by the strictest protections and only be available according to domestic law that is consistent with international human rights standards.
- **Restraining right to free speech** (e.g. through trolling and digital harassment) is increasingly used to silence journalists, opposition figures and independent actors and to reduce plurality of voices and distort public opinion. **Transnational digital repression** is on the rise too, as we see diaspora journalists, activists and lawyers being threatened by their countries of origin.
- The COVID-19 pandemic has also highlighted the threat posed by **foreign disinformation, information manipulation and interference**, as well as the very harmful impact it can have on our society.

- Governments across the world are limiting and blocking internet with the objective of controlling information. In the past decade, **Internet shutdowns** have exponentially increased both in quantity and complexity, becoming a substantial threat to freedom of expression and posing a severe hazard to our communities, in the technical, economic, and social spheres. Other forms of restricting the free flow of information online, used by governments to censor critical voices, involve more targeted access restrictions, such as Internet Protocol ('IP') address blocking, Domain Name System ('DNS') filtering, and redirection or Uniform Resource Locator ('URL') filtering.
- Massive **mining of user data** from digital and social media companies by some governments continued if not increased. Databases on journalists, activists and other potential targets are created and maintained and may be used to facilitate future harmful actions against them.
- **Targeted Ransomware and DDoS attacks against civil society organisations** continued to increase disrupting their operations and causing costs for recovery or protection increased.
- **Hate speech** is used more and more to attack political opponents and independent journalist, often targeting women and minorities.
- We have also observed the increase of cases of **strategic lawsuits against public participation**, which are becoming one of the prevalent forms of harassment used against journalists, rights defenders and others involved in protecting the public interest (e.g. media outlets and civil society organisations). The main purpose is to intimidate and ultimately silence the defendant by draining their resources, e.g. by filing high claims for damages or deliberately lengthening proceedings. The prevalence of SLAPP has been identified as a matter of serious concern in some EU Member States

To what extent have these trends, threats and challenges emerged, or have been aggravated, because of the policies and practices of digital and social media platforms?

- Online platforms, including social media, **may enable the dissemination of disinformation through the use of manipulative online techniques**, such as fake accounts, fake engagement, and abusive bots as well as through micro-targeting of sponsored political messages. **Platforms' algorithmic systems**, if poorly designed, may also facilitate manipulation by bad actors. Disinformation and manipulative online techniques have the potential to cause public harm and interfere with the right of individuals to freely exchange information and ideas and affect their ability to take informed decisions.
- **Automated content moderation** is being widely rolled out as part of the strategy of digital and social media platforms. This approach includes the non-transparent

suspension or removal of accounts belonging to journalists and activists, often based on algorithms.

- Social media platforms work through recommender systems and algorithms increasing interactions amongst users. As a consequence, **messages which are aggressive, divisive or controversial** are spread more across the platforms and can lead to greater radicalisation of society. Some actors exploit social media and digital platforms by **manipulative behaviour**, for example by amplifying messages using fake accounts.
- The lack of a cross-platform or internationally agreed upon **definition of information manipulation and interference** makes regulation challenging.
- Some platforms and Messenger Applications have **less clear policies in relation to information manipulation and interference** and are sometimes based in countries that rely on suppression of independent voices.
- There is increasing pressure on tech companies to take down content, as stated in transparency reports published by large online platforms. However, it is important to make sure that this process is not used in a harmful way and that the relevant measures **focus on illegal conducts/messages and do not indiscriminately affect** journalists, dissidents, critics of authoritarian regimes, families of opposition members and human rights activists.
- Digital and social media companies have not still found **effective ways to prevent massive mining of their user data** while limiting data access for research purposes.

Please highlight the gender dimensions of the trends and their consequences for the equality and safety of women journalists as well as media freedom.

- Within the general larger use of digital harassment, **the increase in gender harassment** is particularly worrying. Female activists and journalists are constantly threatened, shamed and bullied online. Attacks against women often involve particular forms of online abuse, including sexuality-related threats (such as stalking, rape threats, doxing, and non-consensual disclosure of sexually explicit images and videos).
- Digital platforms are increasingly a space where **women, gender non-conforming people and marginalised groups are disproportionately targeted and harassed**. As a result, women and marginalised groups are leaving the online spaces, forgoing their fundamental right to participate in civil and political life, and their freedom of expression and opinion. Recently, research into “gendered disinformation” has gained more attention in the field.

- Women continue to be **under-represented** in the media sector in managerial and top executive positions, as well as in the roles of editors-in-chief. Moreover, discrimination towards female journalists, journalists belonging to minority groups or reporting on equality issues may occur inside newsrooms.

What legislative, administrative, policy, regulatory or other measures have Governments taken to promote press/media freedom, including media independence, pluralism, viability and ownership issues? What has been the impact of these measures? What changes or additional measures would you recommend?

- The **European Democracy Action Plan**, adopted in December 2020, is geared at strengthening media freedom and media pluralism to protect free speech and the democratic debate. This includes measures on protection of journalists' safety, addressing strategic lawsuits against public participation, as well as support measures to enhance media pluralism in close alignment with the Media and Audio-visual Action Plan. The EDAP will also address disinformation, information manipulation and interference by improving the capacity of Member States and the EU in this area, introducing additional measures on online platforms.
- The **Media and Audio-visual Action Plan** was adopted on 3 December 2020, with a view to strengthening the competitiveness, diversity and pluralism of the sector in the context of the digital transformation. The Media and Audio-visual Action Plan covers the entire European media and audio-visual ecosystem and lists a raft of measures to support this sector in the post COVID-19 environment. It introduced EU grants for news media to work on collaborative transformation, measures to stimulate loans and equity, increased dialogue with the news media sector through a European News Media Forum, and a Media Outlook every two years to monitor industry trends.
- The above-mentioned action plans (and their implementation) are closely linked with the **Human Rights and Democracy Action Plan** for the years 2020-2024. They will also contribute to inform the EU's external action in the field of democracy assistance in partner countries. A number of challenges faced by democracies beyond the European Union's borders are similar to those witnessed within the EU, but they may be exacerbated by recurrent undue political pressures (on the media or the justice systems for example) and by precarious economic conditions, confirming the relevance of EU support aimed at transparent elections, free media and unhindered flows of information.
- In December 2020, the European Commission adopted its proposal for a **Digital Services Act**, aimed at framing the governance of online content to tackle illegal activities while simultaneously protecting users' freedom of expression and empowering them in their interactions with online platforms. Among other measures, the DSA will give users of online platforms more rights when their content is suspended by the online services.

- Under the DSA proposal, **the platforms will be obliged to provide users with information and a statement of reasons** for any deletion of content based on infringements of the platforms' terms and conditions as well as when the content is considered illegal, and users should be able to access an effective complaint mechanism provided by the platform, as well as an out-of-court dispute settlement mechanism. The proposed Digital Services Act is currently under discussion by the co-legislators (Council and Parliament) and the rules will only enter into force once the regulation is adopted.
- As announced in the EDAP, in May 2021 the Commission issued a **Guidance on Strengthening the Code of Practice on Disinformation**, a self-regulatory instrument drafted in 2018 by online platforms and the advertising sector under the Commission's auspices. The Guidance sets out the Commission's views on how platforms and other relevant stakeholders should set up measures to address gaps and shortcomings in the Code and create a more transparent safe and trustworthy online environment. It calls for improved commitments inter alia to defund disinformation spread through the online advertising system, limit manipulative behaviour, strengthen user empowerment tools, increase the transparency of political advertising, and further empower the research and fact-checking community. The Guidance also lays out the cornerstones for an improved framework for the monitoring of the strengthened Code of Practice. Ultimately, the Guidance aims at evolving the Code of Practice towards a co-regulatory instrument under the proposed Digital Services Act. A revision of the Code by the existing signatories and potential new signatories is presently under way.
- To prevent and counter the spread of illegal hate speech online, in May 2016, the European Commission agreed with Facebook, Microsoft, Twitter and YouTube a **"Code of conduct on countering illegal hate speech online"**. Since then, Instagram, Snapchat, LinkedIn, TikTok, Dailymotion and Jeuxvideo.com took part to the Code.
- The Code of Conduct is delivering **positive results**: the last evaluation shows that on average the companies are now assessing 81% of flagged content within 24 hours and 62.5% of the content deemed illegal hate speech is removed. The average removal rate is higher for more serious cases of deemed illegal hate speech. This suggests that the review made by the companies is done with due consideration of protected speech and that there is no sign of over-removal.
- As part of its commitments under the European Democracy Action Plan, the Commission is working on an **initiative to protect journalists and rights defenders against SLAPP**. The Commission concluded that the most efficient way to fight against SLAPP and prevent it from growing roots in the EU would be a combination of legislative and non-legislative measures. The legislative action proposed could consist of procedural safeguards against SLAPP in cross-border civil proceedings. The legislative action would be complemented by non-legislative measures covering aspects such as awareness on SLAPP, training or monitoring to reinforce the effect of the legislative initiative. The Commission's anti-SLAPP initiative is due to be adopted in spring 2022.
- The EU fully endorses the G7 initiative against state-sponsored **Internet shutdowns** and in support of an open internet and free flow of information, ideas and knowledge.

We are concerned about the impact of such practices on global internet fragmentation and stability in cyberspace.

- The EU continues to promote a political model and **vision of cyberspace grounded in the rule of law, human rights and democratic values** and encourages all partner countries to promote best practices, provide practical guidance and assistance and step-up efforts to prevent such practices.
- **Dedicated programmes** are implemented in all regions to support independent media and journalists' safety, such as '*COVID-19 response in Africa: together for reliable information*' or the programme '*Safejournalists*', run by Western Balkans journalist associations.
- In the **neighbourhood and enlargement area**, several programmes were launched in order to increase the quality and financial sustainability of independent media in the Eastern Partnership region. A EUR 11,2 million *Support to Media Freedom and Pluralism programme in the Western Balkans* was launched to support the economic sustainability of media outlets in the region, and specifically independent media.
- In the EU, the European Commission provides support to projects that **promote a free, diverse and pluralistic media environment**, including supporting collaborative and cross-border journalism, mapping violations of media freedom and defending journalists under threat. The EU stands ready to support Member States – technically and financially, in the implementation of the actions set out under the Recommendation on the protection, safety and empowerment of journalists. Ongoing projects in support of safety of journalists, media freedom and media pluralism already amount to a total of €21.5 million in EU funding.
- The EU also co-funds a **European rapid response mechanism** led by the European Centre for Press and Media Freedom based in Leipzig, Germany. It offers support for legal defence and opinion, emergency support such as covering travel, psychological support and family costs, offering residencies in Germany and Italy, and delivering and supporting training across the continent.
- The cross-sectoral strand of the **Creative Europe programme 2021-2027** will ensure a stable financing of such projects. At least €75 million of EU grants will be available for collaborative transformation projects (so-called Journalism Partnerships), projects supporting freedom and pluralism (incl. the Media Pluralism Monitor) and cross-border media literacy projects.
- Through the **European Digital Media Observatory (EDMO)**, the European Commission supports the creation of a cross-border and multidisciplinary community of independent fact-checkers and academic researchers, which collaborates with relevant stakeholders to detect, analyse and expose potential disinformation threats. EDMO comprises a central digital platform, governed by an independent board, which will interconnect national/regional research hubs. The Commission has provided funds to establish eight regional hubs, and will provide for further regional hubs, with the aim of expanding coverage to the whole EU.

- In our **external action programming exercise**, Media Freedom is getting more attention than in the past and we expect an increase of dedicated funding available for the next 7 years. The NDICI, as a single instrument, will allow to better coordinate and streamline efforts through thematic and geographic programmes. Under the Instrument for Pre-accession Assistance, a similar increase is expected in the neighbourhood.
- As announced by President von der Leyen in her 2021 State of the Union, the European Commission will present a new **European Media Freedom Act** (planned for adoption in the third quarter of 2022). The proposal will build on the revised Audiovisual Media Services Directive, which lays down rules for the independence of media regulators, promotes transparency of media ownership and recognises that editorial decisions should be free from interference. The initiative will focus on eliminating barriers to the establishment and operation of media services and will aim to establish a common framework for advancing the internal market in the media sector, in view of safeguarding media freedom and pluralism in that market. It will be coherent with the EU's efforts in promoting democratic participation, fighting disinformation and supporting media freedom and pluralism as set out in the European Democracy Action Plan.
- Media Freedom was one of the main topics discussed in the framework of the **G7 group** in 2021 and one of the pillar of the **Summit of Democracies**. In the G7 context, we insisted on the necessity of **more effective coordination** among the many relevant initiatives, proposing a concrete engagement with the widest possible range of organizations and mechanisms, including those of international organisations (UN/UNESCO, Council of Europe, OSCE, Inter-American Commission on Human Rights) and originated by media organisations and NGOs themselves.

What measures are Governments taking to support public service media? What has been the impact of such measures? What changes or additional measures would you recommend?

- We supported the resolution by Netherland, Canada and others at the Human Rights Council in 2021, which reminded that **Access of Information** is a critical tool to prevent and combat corruption and ensure democratic participation, enables the public to impact decision making and influence legislation and is central to the work of journalists, media workers, civil society and human rights defenders.
- We recommend **increased support to local governments**, whose media environments are compromised by information manipulation and interference by external governments. We suggest tactical support and capacity building projects within the governments, and encourage linkages between public institutions, academia, human rights organizations and fact-checkers.

- We recommend **providing training to identify FIMI, implement fact checking and acquire cybersecurity** to those journalists working in hostile informational environments or conflict areas as well as encourage interregional platforms where best practices can be shared.
- The European Commission attaches great value to the '**dual system of audiovisual media**', whereby both public service media and commercial broadcasters contribute to a viable and pluralistic media eco-system. Therefore, through the upcoming European Media Freedom Act, the Commission would provide a comprehensive instrument for all actors in the media sector, including public service media. This would be fully aligned with the competences of Member States regarding the funding of public service broadcasting.

What measures have a) Governments b) social media companies c) media companies taken to promote the safety of journalists? What has been the impact of these measures? What more can/should be done and by whom? Please also mention any specific laws or measures to address online violence, threats and harassment and what result they have produced.

- The EC has adopted in September 2021 a **Recommendation for the Protection, Safety and Empowerment of Journalists**, aiming at ensuring safer working conditions for all media professionals, free from fear and intimidation, whether online or offline. The Recommendation includes a set of concrete actions, such as joint coordination centres, support services for victims, early warning mechanisms, with particular attention to the specific risks for female journalists as well as journalists representing or reporting on minorities. It also envisages reinforced and more effective approach to prosecution of criminal acts, cooperation with law enforcement authorities, rapid response mechanisms as well as economic and social protection.
- The European Commission asked Member States to submit, eighteen months after the adoption of the Recommendation, **all relevant information regarding the measures and actions they have taken**. In parallel, the Commission will hold discussions on the measures and actions taken to put the Recommendation in practice with Member States and stakeholders in relevant forums, in particular within the European News Media Forum.
- We have reinforced and streamlined our response, **at global and local level**, at any time a journalist is seriously attacked or freedom of expression is unduly limited. A **Handbook on journalists' safety** was distributed to all Delegations with some indications regarding statements, presence at trials, use of social media but also proposing a more structured analysis of the media situation in the country.
- In the last years, hundreds of journalists benefited from the **EU mechanism for protection of Human Rights Defenders**, while the EU took important actions to support independent media and the fight against disinformation in the context of the



pandemic in many regions, increasing the quota of EU development cooperation's funds dedicated to media freedom.

What measures have Governments taken to investigate and prosecute attacks against journalists, including online violence and harassment against female journalists? What are the barriers to fighting impunity? What changes would you recommend?

- **Eliminating impunity** is a key objective of the EU Recommendation for the Protection, Safety and Empowerment of Journalists. The European Commission asks Member States to investigate and prosecute all criminal acts committed against journalists, whether online or offline, in an impartial, independent, effective, transparent and timely manner, making full use of existing national and European legislation, to ensure that fundamental rights are protected, justice is swiftly delivered and we prevent the emergence of a 'culture' of impunity
- Effective proposal to reinforce fight against impunity would be: **Increase the support to regional networks of journalist** providing emergency funds and secure shelters to female journalists at distress as a result of sexual and digital harassment or death threats, and **Provide more platforms to make visible the work done by female journalists** in those countries where women are persecuted or they are prohibited from working in the media.

What do you believe has been the impact of digital and social platforms on press/media freedom, independence, viability and safety of journalists? What specific recommendations would you make to a) Governments and b) the companies to address or mitigate the detrimental impact?

- **Digital and online safety has become a major concern for journalists.** Smear campaigns and online denigration of journalists are frequent. This situation is particularly concerning when politicians or powerful public figures are initiating such attacks. Synchronised attacks on journalists by trolls and bots, e-mail hacking, internet restrictions or cyberbullying are some examples of online attacks against journalists and their sources.
- EU Member States (and other countries) should provide that national and media regulatory authorities or bodies, and other competent regulatory authorities or bodies responsible for online law enforcement and cybersecurity, **establish dedicated working groups specialised in collecting information and best practices related to the prevention of online attacks and threats to journalists.** Member States should provide that such authorities present regular reports on their findings, assessing the effectiveness of national measures aimed at tackling cyber-attacks on journalists.
- EU Member States are encouraged to promote the **cooperation between online platforms and organisations or bodies operating on their territory** that have particular expertise in tackling threats, harassment and incitement to hatred targeting journalists, for instance by encouraging their potential role as trusted flaggers. Member States should foster, in close cooperation with online platforms, a digital environment that prevents the use of online services to attack journalists, in particular by developing strategies to address orchestrated attacks. Member States

should encourage online service providers to increase transparency on any measures they put in place to deal with specific threats to journalists.

What policies, procedures or other measures have the media (broadcast, print and digital) sector taken to promote press/media freedom, independence, pluralism, diversity and viability? What has been most successful? What additional measures would you suggest? What steps should the media sector take to promote gender equality?

- EU Member States (and other countries) should promote and support action to **foster equality and inclusion in the media industry and in newsrooms**. To this end, they should take continuous efforts to ensure that female journalists, journalists belonging to minority groups and those reporting on equality issues have access to equal working opportunities and can work in a safe and inclusive environment.
- Member States should also engage in **regular dialogues with the representatives of journalists and media self-regulatory bodies**, to promote equality and inclusion in newsrooms and media management positions. Such dialogues should focus on support mechanisms for female journalists, journalists belonging to minority groups and those reporting on equality issues who may be subject to all forms of harassment and violence. Member States should encourage collective agreements aimed at addressing these issues
- Media outlets could integrate in their structure **a specific team of fact checkers** to avoid dependency on external validators and to agree on a common ethical line to follow when identifying attempts to deliberately manipulate the public information space as in the case of terrorist attacks or left/right extreme groups' violent actions intended to incite hate of speech.

The Special Rapporteur would welcome examples of good practice by Governments, companies, the media sector, civil society and other stakeholders, and your recommendations on how best to address the challenges and threats to press/media freedom, independence, diversity, pluralism, and safety of journalists. Please share any relevant documents, reports, news or academic articles that you believe should be considered in the preparation of her report.

- Suppression of independent voices, in particular of journalists and independent media, is one of the approaches that perpetrators take to manipulate the information environment. The EEAS has started **mapping the specific tactics, techniques and procedures** (TTPs) that actors employ to engage in such suppression activity. This aims to foster a better understanding of the threat to independent voices, including journalists, and to help develop effective responses to these individual TTPs. The EEAS aims to share these insights with relevant partners and stakeholders as appropriate. The systematic collection of evidence of challenges and threats to journalism and media will drastically increase our understanding of the scope and nature of the problem as well as facilitate priority setting, common responses and awareness.

- As mentioned above, in order to tackle COVID-19 specific disinformation and information manipulation, the project “COVID 19 - Together for Reliable Information” supported a **COVID observatory** which monitored abuses against journalists, advocated for a safer environment for journalists, and supported journalists from 19 Sub-Saharan African countries getting information to the most remote public, including women and youth. <https://www.article19.org/covid-19-response-in-africa/>
- The **Handbook on journalists’ safety** for EU Delegations is available here: <https://media4democracy.eu/wp-content/uploads/2020/07/Final-M4D-Safety-of-Journalists-Handbook.pdf>
- On the **EU Code of conduct on countering illegal hate speech online**: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online_en)
- On the **2021 Call for proposals on media freedom and investigative journalism** <https://digital-strategy.ec.europa.eu/en/funding/media-freedom-and-investigative-journalism>
- The **Recommendation for the Protection, Safety and Empowerment of Journalists** is available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021H1534>