

# Association of European Journalists

Other EU-wide

## Recommendation #1:

The EU should be considered competent to act to protect media freedom and pluralism at State level in order to guarantee the substance of the rights granted by the Treaties to EU citizens. The relevant provisions of Article 7 TEU, Art. 5(3) and Art.51 of the Charter of Fundamental Rights should be given substance through EU-wide monitoring at state level and other measures, in concert with Council of Europe activities and soft law instruments and the jurisprudence of the European Court of Human Rights (ECtHR). The EU's engagement in the protection of media freedom and pluralism should be anchored in the binding obligations of EU states and the Union itself under the ECHR and case law of the ECtHR, and not solely or necessarily mainly in EU legislation.

The EU's competence regarding Article 10 ECHR and associated rights should not be considered as more extensive than others in the Charter but as requiring urgent action in view of the seriousness of the barriers, restrictions and active threats to media freedom within the EU.

## Recommendation #2:

The Fundamental Rights Agency (FRA) is an appropriate agency to conduct monitoring of national level media freedom and pluralism as well as of the EU's own legislation, policies and actions in those areas, including both their conception and impact. The FRA's independence should be re-inforced and guaranteed. Its mandate should identify the ECHR and case law of the ECtHR as reference points for its task, together with the International Covenant on Civil and Political Rights, the UN Human Rights Committee's General Comment No. 34 on freedom of expression and other international law instruments, as well as relevant EU law. The FRA should take account of independent monitoring and reports by stakeholders, especially journalists and media practitioners, NGOs and academe in its monitoring and assessment work.

## Recommendation #3:

The output of academic and other experts and stakeholders should be taken into account, but the FRA is better placed, with sufficient resources, to undertake the task effectively and without delay.

## Recommendation #4:

National media councils and similar organisations should not be monitored by the Commission, although they may properly be monitored by the FRA and other entities to provide reliable information about the state of the media across the EU. The Association of European Journalists wants the EU and other European institutions to secure effective protection for media workers against political interference and all forms of harassment of journalistic activities, and not to seek to impose harmonised rules and standards. Any attempt to enforce standards of media content through legislation or the exercise of governmental power in any form carries serious dangers of political interference and threats to media freedom and freedom of expression. Notably, the Alliance of Independent Press Councils of Europe states as its core beliefs that regulation of editorial content should be independent of government and based on nations' differing cultures, and that codes of ethics are the business of journalists and publishers only.

The AEJ considers that the role of the EU and national governmental authorities in this area should be

confined to the impartial enforcement of the law, vigorous protection of the security and the working environment of journalists, and providing encouragement to effective self-regulation without recourse to prescriptive or intrusive legislation.

Recommendation #5:

It may be justifiable and beneficial for the EU to adopt minimum harmonisation rules covering cross-border media activities on areas such as libel laws or data protection, as well as conflict of interest laws applied to political figures' ownership of or influence over media assets, in order to minimise distortions of the landscape for cross-border media activities.

Recommendation #7:

Recommendation 6 has merits and deserves to be explored.

Regarding Recommendation 7 the Commission should take care not to be over-intrusive. It should focus its attention on ensuring that national governmental authorities maintain a framework of laws and regulations that protect free and inquiring journalism, including the transparency of media ownership, labour and employment rights, the independence of public service media regulators and judicial and oversight bodies to protect press freedom against undue commercial or other pressures arising from excessive concentration of media ownership and control.

Recommendation #8:

Broadly agree.

Recommendation #9:

The AEJ strongly endorses this recommendation.

Recent experience concerning the pervasive politicisation of the media in many newer EU member states, allied with serious problems of corruption and criminality in Romania and Bulgaria, demonstrate that the Commission's approval of media freedom standards in those states before accession was not rigorous enough and should be tightened.

Efforts to raise media freedom standards in accession states should acknowledge the close link between the development of free and independent media and the overall level of functioning democracy. Efforts should be stepped up to ensure the neutrality and professionalism of state and public authorities including media regulators, police and other law-enforcement agencies, election commissions, tax offices and other branches of administration, as well as guarantees of the independence of the judiciary; these must show evidence that it protects media workers who are threatened and conducts effective investigations of crimes targeting journalists and others whose work serves to inform citizens on matters of public interest.

This strategy calls for a much greater awareness and engagement on the part of EU national government leaders as well as Commission officials in order to put pressure on political forces in accession states and live up to the EU's claim to 'lead the way' in supporting media freedom and other basic rights, as was called for in the European Parliament's recent Report on the freedom of the press and media in the world. The EU needs to improve its record in selecting which media entities receive funding in accession states: credible complaints are made alleging that EU support has too often gone to media outlets that are closely tied with powerful political or business interest, especially ones with close links to those in power. The Commission should

improve its responsiveness to assessments and specific appeals from authoritative stakeholders and NGOs, including the Southeast Europe Media Organisation (SEEMO), the Balkan Network for Professionalisation of the Media, the G9 Platform and Bianet in Turkey etc. If it is to avoid damaging and credible accusations of double standards, the EU must also be seen to demand compliance with accepted media freedom standards and norms from member states of the Union. This will require a high priority to the protection of media freedom to be publicly embraced by EU institutions, Commission officials and member states.

Recommendation #10:

The EU should be very much more active in pressing for journalistic freedom in international fora where human rights and democracy are discussed, including as part of trade/partnership agreements and in the context of provision of aid. The EU should embed higher conditions and standards on media freedom in partnership and association agreements with countries of the Eastern Partnership as well as trade and other agreements with states in other regions of the world. Strong political leadership is called for so that the EEAS' forthcoming Guidelines on Freedom of Expression can become a template for the EU's leadership in this area which is often proclaimed but not sufficiently in evidence in the EU's diplomacy or that of many member states.

Recommendation #11:

Any regulatory framework must take account of the existence of new or evolving mobile and online platforms, but the level of regulation, if any, should not be automatic or uniform across all transmission mediums. The Commission should always be aware of the requirement in a democracy for restrictions on freedom of expression to be subject to narrow and strict conditions.

The protection of journalists from targeted attacks, unlawful surveillance or harassment online requires particular attention: sophisticated surveillance technology and data retention laws have placed in doubt the possibility for journalists to protect the confidentiality of their sources -- a development which could severely curtail investigative journalism.

The EU is called on to take a strong lead in ensuring the extension of legal protections covering those engaged in the 'function' of journalism from the traditional core of full-time professional journalists to a wider range of actors, who may include bloggers, online activists, human rights defenders and others, in line with rulings of the ECtHR, the UN Human Rights Committee's General Comment No.34 and other expert legal opinions.

This principle of extending the scope of such protections is among the points to be proposed for endorsement at the Council of Europe conference of media ministers scheduled to be held in Belgrade in November 2013. The EU and its member states could play a positive role by endorsing the proposal after due consideration.

Recommendation #12:

Merits further consideration.

Recommendation #14:

13: Net neutrality is an important principle which should be defended and upheld in all practical ways.

14: Many AEJ Sections and their members are preoccupied and urgently concerned about the survival of viable independent media organisations across Europe, and in many cases about their own prospects for

future work, because of the weaknesses of existing business models for media houses and the rapid loss of regular jobs in the news media.

The AEJ hopes the Commission will engage in an open-minded way with stakeholders, journalists and experts who wish to encourage or devise new forms of funding, possibly from a variety of sources, for quality journalism including investigative journalism which requires special time and resources.

Members of the AEJ are interested to take part in such conversations, and welcome investments in schemes including awards and bursaries aimed at encouraging journalistic talent and maintaining critical, inquiring and high-quality journalism in all forms of media.

Recommendation #15:

The commitment to codes of conduct is desirable but the publication of such a code should not usually be made a strict condition for being recognised as a journalist or being eligible for funding of any kind.

Recommendation #16:

Agree in principle, but better not to be overly prescriptive.

Recommendation #17:

The sounds potentially promising.

Recommendation #18:

In principle agree; but this is not evidently a matter for the Commission or any governmental authority to seek to set standards or exert direct influence.

Recommendation #19:

Desirable

Recommendation #20:

Potentially worthwhile, provided such funding does not divert scarce resources from more urgent fields, especially field activities and staff-intensive political and legal work to give effect to prospective EU activities aimed at protecting media freedom

Recommendation #21:

Strongly agree.

One of the most worrying aspects of the increase in attacks on journalists in Europe and other regions is the frequency of police raids, arrests, seizures of materials, files and equipment, in searches aimed at discovering the source of journalists' reports. The AEJ has protested about one such case which is currently being played out in Macedonia (FYROM). Other cases have occurred in France, the UK and many other EU states. The landmark case won in the Strasbourg court, after a lengthy lawsuit and delays, by Hans-Martin Tillack of Stern magazine, should have deterred other EU governments from launching intrusive searches and prosecutions in such cases; it has not.

Recommendation #22:

Strongly agree. In this matter, as in many others, AEJ member journalists have long complained that

unacceptable restrictions are placed in their way of their legitimate work and that protests directed to their own government authorities are routinely ignored

Recommendation #23:

Identifying online or social media users is a complex issue for which there are no easy and across-the-board answers.

Data collection should be kept confidential except by court order or other safeguards, but actions by state authorities and 'big data' companies has sown distrust among the public and internet users.

Recommendation #24:

Media outlets' practices in these regards are indeed a measure of their ethical and professional standards; but it is not advisable to seek to set down precise rules for how media should deal with corrections or mistakes in every country and in all circumstances. Hard and fast rules on such matters have often been abused by governments, both inside and beyond the EU, to intimidate, harass and punish critical media; great care should be taken before governments think of trying to police media ethics. Miklos Haraszti, former OSCE Representative on Freedom of the Media, wrote in The Media Self-Regulation Guidebook (2008):-

'True ethical standards can be created only by independent media professionals, and can be obeyed by them only voluntarily. Whether passed in good will or not, any attempt to impose standards on journalists by law will result in arbitrary limitation of their legitimate freedoms, and restriction of the free flow of information in society... Such laws tend to merely impose the tastes of the ruling parliamentary majority.'

Recommendation #25:

This would be difficult to enforce in all cases. It may also not be desirable to make it mandatory, except with respect to public service media and the like.

Recommendation #26:

This is a matter that cannot be resolved by any single rule or formula, as states vary greatly in their level of wealth, administrative capability and traditions in cultural matters. The only firm foundation for a general approach on this seems to be what is set down in relevant conventions, treaties and guidelines related to the basic duties of states, protection of minorities, anti-discrimination and so on.

Recommendation #27:

Agreed.

The British (BBC) model has merits for others to consider following in some respects, especially the rules governing the selection of the Chairman and other members of the Board of the BBC Trust: they are to be chosen without reference to any party affiliations but purely on the basis of expertise, experience and integrity. It is however a model that may be difficult to emulate in other countries.

Recommendation #28:

Worth considering, again bearing in mind strong competition for scarce resources.

Recommendation #29:

The programme is a valid one, but this choice of priorities may be open to question.

Recommendation #30:

A good idea to make efforts to ensure the senior figures of European institutions are exposed to the public and engaged in open debates. But uncertain whether a set formula is the best way to go about it.

Additional comment:

I add two observations, each linked to a proposal concerning the manner in which the Commission may take these matters forward; both are rooted in the experience and opinions of many AEJ member journalists:-

The state of media freedom inside the EU is less healthy and more dangerous to democratic processes than has been yet recognised by the HLG, by the Commission or member state governments. The difficult or hostile conditions for independent media in some EU states have forced many journalists to give up the profession or to work for openly partisan owners with little or no independence. This risks undermining of the fabric of democratic society, as weak or 'captured' media fail to keep a check on criminality, corruption and misuses of power. The well-publicised record of certain governments in the European neighbourhood and around the world in hampering freedom of the press and resorting to legal pressures to restrict that freedom was recently pointed out in the Schaake Report to the European Parliament. These things, in our view, demand an honest appraisal and bold new thinking, without evasions or special protection for state or EU institutional interests. The AEJ calls for the EU to identify the fight against impunity, especially in cases involving killings of journalists and other violent attacks, as a high priority internationally, together with fresh initiatives to protect the security and work of journalists within the EU. AEJ Reports, Surveys and Presentations online provide material evidence for these conclusions.

The HLG Report appears to overlook the centrality of the European Convention on Human Rights (ECHR) as the essential legal framework for protection of freedom of expression, media freedom and all fundamental human rights in the European area. In its search for remedies for serious infringements of media freedom and pluralism, the HLG Report does not take the necessary account of EU member states' binding obligations to comply with the provisions of the ECHR and the case law of the European Court of Human Rights, which have done much to create legal norms related to press freedom and plurality, including the balances to be struck between those fundamental rights and other contrasting rights. The Commission turned to the Council of Europe for expertise and authority in key cases involving EU states, including Hungary and Italy; and the ECtHR remains the primary authority for enforcing standards of media freedom and other basic rights for the EU and the whole of Europe. The AEJ urges the EU to re-inforce that authority still further as the Union prepares to accede to the European Convention itself, and not to take the path of setting itself up as a rival authority in the field of human rights and press freedom: better for the EU and its member states to commit themselves afresh to putting their own house in order and so setting an example to other countries in the wider Europe. The relevant aspects of the ECtHR's case law are set out in a Report written in February 2013 by Prof Philip Leach for the Council of Europe: The principles which can be drawn from the case-law of the European Court of Human Rights relating to the protection and safety of journalists and journalism. It is available on the website of the Council of Europe's Steering Committee on the Media,

[http://www.coe.int/t/dghl/standardsetting/media/cdmsi/CDMSI\(2013\)Misc3\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/media/cdmsi/CDMSI(2013)Misc3_en.pdf)

The particular legal protections for journalists and journalism established in rulings by the Strasbourg court provide, ready-made, the main tests which the EU can and should use to determine the extent and limitations

of media pluralism and media freedom in the various EU states. They include:-

The protection of sources and the 'vital watchdog role of the press';

Public figures should accept that 'the limits of acceptable criticism are wider in relation to a politician than a private individual';

Journalists' rights of access to information;

The 'dangers inherent in prior restraint' [pre-publication injunctions];

The role of a free media acting as a counter-balance to the secrecy of the state;

The 'positive obligations' on states: the effective exercise of freedom of expression does not depend merely on the State's duty not to interfere, but 'may require positive measures of protection...'

Restrictions to Article 10 (Freedom of Expression) rights must be subject to the tests of 1) of legality, 2) of application in pursuit of a legitimate aim, and 3) of proportionality.

Penalties imposed on journalists and media organisations, especially imprisonment, will receive the most careful scrutiny where 'measures or sanctions imposed by the national authorities are capable of discouraging the participation of the press in debates over matters of legitimate public concern.'

As to the particular protections that may be provided to journalists, they 'are subject to the proviso that they are acting in good faith in order to provide accurate and reliable information in accordance with the ethics of the profession.'

# Consejo de Informativos de TVE

**Other**

**Spain**

**Recommendation #1:**

I totally agree

**Recommendation #2:**

Would the independence of this agency be granted?

**Recommendation #3:**

It seems a good option

**Recommendation #4:**

I totally agree

**Recommendation #9:**

Definitely it must

**Recommendation #10:**

It should, in general

**Recommendation #11:**

Desirable, but certainly not easy in certain media

**Recommendation #12:**

I find this really necessary

**Recommendation #14:**

This might be interesting

**Recommendation #15:**

I agree

**Recommendation #16:**

I think this is essential

**Recommendation #17:**

This is an interesting recommendation



**Recommendation #18:**

I totally agree

**Recommendation #19:**

Definitely it should be this way

**Recommendation #20:**

I agree

**Recommendation #21:**

This is a fundamental issue. All countries should

**Recommendation #22:**

I agree

**Recommendation #23:**

I agree

**Recommendation #24:**

I agree

**Recommendation #25:**

I think this is really necessary

**Recommendation #26:**

I agree

**Recommendation #27:**

This is a most interesting issue. I totally agree, even though I know it's not easy to be put into practice

**Recommendation #28:**

I agree

**Recommendation #29:**

I agree

**Recommendation #30:**

I hope this will also increase the citizen's interest in information about EU affairs

Additional comment:

# European Union of Science Journalists' Associations

**Other**

**EU-wide**

**Recommendation #1:**

I agree

**Recommendation #2:**

I agree

**Recommendation #3:**

Specifically concerning science journalism, academia typically assumes that it's just another form of science communication, while the first is a specialisation of journalism, while the latter is ancillary to science.

As the analysis of the results of the recent "BBC Trust review of Impartiality and accuracy of the BBC's coverage of science" (published in July 2011) and the "Steve Jones Report" showed, scientists/academics don't value "critical science reporting" and especially "investigative science reporting" as much as science journalists do, even when they notice it's lacking. In that case, the observation was written in the report, whose conclusions only focused on factual inaccuracies.

**Recommendation #4:**

**Recommendation #5:**

I agree

**Recommendation #7:**

I agree

**Recommendation #8:**

I agree

**Recommendation #9:**

I agree

**Recommendation #10:**

A harmonisation of libel laws - that have a chilling effect on any form of criticism - might also be very useful.

**Recommendation #11:**

I agree

**Recommendation #12:**

I agree

**Recommendation #14:**

Even more than awards - that pose issues with language - a useful intervention might be providing grants for investigative (science) journalism.

**Recommendation #15:**

I agree

**Recommendation #16:**

I agree

**Recommendation #17:**

Highly competent science journalists are more and more often freelancers. So these efforts should also aim at them.

**Recommendation #18:**

I agree

**Recommendation #19:**

I agree

**Recommendation #20:**

Working professionals should be encouraged to participate in the design and realisation of such studies as "professional equals", and not only as consultants of academics.

**Recommendation #21:**

I agree

**Recommendation #22:**

I agree.

**Recommendation #23:**

I agree

**Recommendation #24:**

These provisions are justified, provided that intimidatory use of weak "justifications to the contrary" by aggressive lawyers should also be discouraged and punished.

Furthermore, as already stated, honest investigative journalism should not be discouraged by the fear of being jailed as a consequence of being sued for libel.

**Recommendation #25:**

I agree

**Recommendation #26:**

This is becoming more and more an issue also for responsible (ie "non-hyped") science reporting.

**Recommendation #27:**

I agree

**Recommendation #28:**

In the field of science journalism, this should ideally be monitored/managed by journalists' organisations, or else the PR machine which tends to be much more efficient - be it from scientific institutions or commercial - risks to interfere.

**Recommendation #29:**

**Recommendation #30:**

Additional comment: