

2016 Annual Colloquium on fundamental rights Public consultation* on "MEDIA PLURALISM AND DEMOCRACY"

Fields marked with * are mandatory.

Introduction

Media freedom and pluralism are essential safeguards of well-functioning democracies. Freedom of expression and media freedom and pluralism are enshrined in the EU Charter of Fundamental Rights and they are at the core of the basic democratic values on which the European Union is founded.

The second Annual Colloquium on Fundamental Rights will take place on 17-18 November 2016. It will provide the stage for an open exchange on the many different aspects of media pluralism in a digital world, and the role of modern media in European democratic societies.

The colloquium should enable policymakers at EU and national level and relevant stakeholders — including NGOs, journalists, media representatives, companies, academics and international organisations — to identify concrete avenues for action to foster freedom of speech, media freedom and media pluralism as preconditions for democratic societies.

The Commission's objective with this public consultation is to gather broad feedback on current challenges and opportunities in order to feed into the colloquium's discussions. The questions asked are thus meant to encourage an open debate on media pluralism and democracy within the European Union — without, however, either prejudging any action by the European Union or affecting the remit of its competence.

IMPORTANT NOTICE ON THE PUBLICATION OF CONTRIBUTIONS

*Contributions received from this survey will be published on the European Commission's website. Do you agree to the publication of your contribution?

- Yes, my contribution may be published under my name (or the name of my organisation);
- Yes, my contribution may be published but should be kept anonymous (with no mention of the person/organisation);
- No, I do not want my contribution to be published. (NB — your contribution will not be published, but the Commission may use it internally for statistical and analytical purposes).

For further information, please consult the privacy statement [click below]

[Privacy statement. 2016ac public consultation.pdf](#)

A. Identifying information

1. In what capacity are you completing this questionnaire?

- Individual/private person
- Civil society organisation
- Business
- Academic/research institution
- Other (please specify)

2. If you are answering this consultation as a private citizen, please give your name.

3. If you are answering this consultation on behalf of an organisation, please specify your name and the name of the organisation you represent.

Is your organisation included in the Transparency Register?

- Yes
- No

If yes, please indicate your Register ID-number

If your organisation is not registered, we invite you to register [here](#). Please note that it is not compulsory to register to reply to this consultation. Responses from organisations that are not registered will be published as part of the individual contributions.

Citizens have a right to expect that European institutions' interaction with citizens associations, NGOs, businesses, trade unions, think tanks, etc. is transparent, complies with the law and respects ethical principles, while avoiding undue pressure, and any illegitimate or privileged access to information or to decision-makers. The Transparency Register exists to provide citizens with direct and single access to information about who is engaged in activities aiming at influencing the EU decision-making process, which interests are being pursued and what level of resources are invested in these activities. Please help us to improve transparency by registering.

4. If you are an individual/private person:

a) What is the country of your nationality?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other (please specify)

Other (please specify)

b) What is your age group?

- Under 18
- 18-30
- 31-40
- 41-50
- 51-60
- 61-70
- Over 71

B. Media freedom and pluralism

5. In the context of media freedom and pluralism, what should be the role of the State, if any, in the regulation of media? What should be the role of self-regulation?

The State should introduce regulations which would guarantee the independence of the regulatory bodies and the pluralism of information, particularly in public broadcasters. Self-regulation is crucial in the field of ethics and professionalism of journalists. Efficient self-regulatory bodies should be put in place.

6. Could you provide specific examples of problems deriving from the lack of independence of media regulatory authorities in EU Member States?

Impact of politicians on the public broadcaster Council in Poland, the attempts to take over the broadcasting council each parliamentary elections. This in turn leads to a politicization of the content of the public media. The Public Broadcasting Council was taken over by politicians of Platforma Obywatelska in 2010 and by Prawo i Sprawiedliwość in 2016. The broadcasting council needs to present a yearly report to the parliament. If not adopted this leads to the dismissal of all the Council.

7. What competences would media regulatory authorities need in order to ensure a sufficient level of media freedom and pluralism?

They should have independence in decision making from any political influence. Members of the regulatory bodies, should be elected by different social groups, academics, NGOs, judges, not only politicians. They should have a control on the finances and management of the broadcasters, without influencing the programs and content.

8. What should be the role of public service media for ensuring media pluralism?

Fairly reporting on different thematic issues, mainly political. Granting access to broadcasting time to different political views. Public media should serve the citizens and be designed by them and for them, with a limited political influence on the content.

9. How should public service media be organised so that they can best ensure the public service mandate?

Management boards and supervisory boards of the media should be elected in transparent and fair competitions. The financing of the media should be stable and regular. The financing should be mostly dedicated to concrete programs that comply and promote the public mission (education, information etc.)

10. Have you experienced or are you aware of obstacles to media freedom or pluralism deriving from the lack of independence of public service media in EU Member States?

- Yes
 No

If yes, please give specific examples.

The public television in Poland is always taken over by the ruling party. The ruling party (through the Minister of State Treasury) is appointing the Management Board, President of public television. This has an automatic impact on the program of the television. The public broadcaster becomes a pro-governmental media.

11. Are you aware of any problems with regard to media freedom and pluralism stemming from the lack of transparency of media ownership or the lack of rules on media ownership in EU Member States?

- Yes
 No

If yes, please give specific examples.

The media ownership is very difficult to track in Poland. Most of the media are with foreign capital. This fuels a debate on the need to re-polonize the media.

12. Please indicate any best practice on how to ensure an appropriate level of transparency and plurality of ownership in this area.

The easy access to the ownership structure via public register. Articles analyzing the ownership of media should be published by newspapers. It should be a matter of journalistic interest and public debate.

13. What is the impact of media concentration on media pluralism and free speech in your Member State? Please give specific examples and best practices on how to deal with potential challenges brought by media concentration.

Not an issue in Poland. Still there is an important media diversification.

14. Are you aware of any problems related to government or privately financed one-sided media reporting in the EU?

- Yes
 No

If yes, please give specific examples.

In Poland local government can publish "informatory bulletines". With the lapse of time those bulletines became regular newspapers, edited and published from local governments money. They become obviously a propaganda instrument for the local politicians.

15. Please indicate any best practice to address challenges related to government or privately financed one-sided media reporting while respecting freedom of speech and media pluralism.

In respect to local media, there should be a change in law. Moreover, litigation is an option to challenge the practice of editing newspapers by local governments.

C. Journalists and new media players

16. What is the impact of media convergence and changing financing patterns on quality journalism?

Due to lack of financial stability investigative journalism is rare. Information from abroad and correspondents from abroad are rare. Journalists are working on self-employment contract or on civil law agreements which is not granting them security. This impacts on the quality but also provokes, that many journalists leave the profession.

17. Have you ever experienced, or are you aware of, any limitation imposed on journalistic activities by state measures?

- Yes
 No

If yes, please give specific examples and further information, including justifications given by authorities and the position taken by journalists.

A large number of journalists working for the Polish Public TV has been moved to an outsourced company, which is not granting them employment stability and financial sustainability.

18. Please indicate any best practice that reconciles security concerns, media freedom and free speech in a way acceptable in a democratic society.

Grants and funds available for public and private media, which would be distributed for the realization of the public mission.

19. Have you experienced, or are you aware of, limitations related to privacy and data protection imposed on journalistic activities?

- Yes
 No

If yes, please give specific examples and further information.

Billings and geolocation of journalists is being checked within operation of police and prosecutor (or special agencies). Journalists are not informed about them being under surveillance. This can have an impact on revealing sources. In the case of Bogdan Wróblewski (Gazeta Wyborcza) the court in Warsaw found that such a practice is violation privacy of journalists and can be detrimental for the sources. However such practice continue. There is no obligation on the security services to inform about the surveillance even post factum.

20. Have you experienced, or are you aware of, problems linked to hate speech and threats directed towards individuals exercising journalistic activities?

Yes, hate speech is rising towards left oriented media. Recently on the stadium of Warsaw football team - Legia, during a game a banner was demonstrated saying that "Lis and Olejnik" (two journalists) deserve death. Gazeta Wyborcza is under constant attack by "Obłąd" - a metal group. The wording of the songs are humiliating and are hate speech towards Gazeta Wyborcza and journalists.

21. Are you aware of cases where fear of hate speech or threats, as described above, has led to a reluctance to report on certain issues or has had a generally chilling effect on the exercise of freedom of speech?

- Yes
 No

If yes, please give specific examples and further information.

22. Have you experienced, or are you aware of, problems concerning journalists' safety and security in the EU?

- Yes
 No

If yes, please give specific examples.

Occasionally during demonstrations, journalists are attacked by demonstrators. During the national day of independence in 2014 a transmission car of TVN (private station) was demolished by demonstrator. Occasionally there are debates about how to grant security of journalists.

23. Please indicate any best practice for protecting journalists from threats against their safety and security.

According to the ECtHR case law special space can be devoted to journalists (e.g. enabling them reporting). The practice of having yellow jackets and badges by journalists seems reasonable.

24. Have you ever experienced or are you aware of pressures put by State measures on journalistic sources (including where these sources are whistleblowers)?

- Yes
 No

If yes, please give specific examples.

Occasionally whistleblowers are facing criminal responsibility due to defamation. There are no special regulations, protecting whistleblowers in Poland.

25. How would pressures on journalistic sources be best addressed?

By legislative safeguards.

26. Please indicate any best practice for protecting the confidentiality of journalistic sources/whistleblowers.

Secrecy of journalistic profession, guaranteed by law (it is already in Polish criminal code) and in practice.

27. Have you experienced, or are you aware of, censorship (including self-censorship) in the EU?

- Yes
 No

If yes, please give specific examples.

There are two institutions in Polish law than can lead to censorship. 1. Pre-publication review (autoryzacja wypowiedzi prasowej): the journalists needs to ask for authorization of an interview by the person interviewed. If the journalist fails to ask, he faces criminal responsibility. There is no time frame to give consent. This leads to lack of consent by inetrviewies if they do not agree with the content. The ECtHR gave judgment finding that violation of art. 10 in such case. The institution is still in the press law. 2. Injunction (zabezpieczenie powództwa). In civil law suits for defamation there is a possibility to order the injunction of the press material. There is no time frame for the injunction, so it can last during all the proceedings for defamation, which are generally lenghty and can last couple of years. A case concerning injunction is pending with the ECtHR (Krzysztofciak v. Poland).

28. Have you experienced, or are you aware of, any obstacles to investigative journalism, which may include legal provisions in force or a lack of resources?

Investigative journalists often face criminal responsibility. Some of them have undergone a large number of defamation proceedings. Limited funding opportunities are available for journalists.

29. Do you consider that the level and intensity of investigative journalism, the number of journalists engaged in such activity, the resources available, the space in print and the time available in audiovisual media for the publication of results of investigations has changed over time?

- Yes
 No

If yes, please give specific examples.

There is a trend of limiting the financing of investigative journalism. Therefore, investigative texts are limited.

30. Please indicate any best practice facilitating investigative journalism

Funds for journalists, especially those which provides them with sustainable support for months of investigation.

D. Hate speech online

31. What would be the most efficient ways to tackle the trivialisation of discrimination and violence that arises through the spreading of hatred, racism and xenophobia, in particular online?

Greater engagement of internet service providers. Only their faster reaction to hate speech can bring results, as prosecution authorities often do not possess technical means and resources to cope with online hate speech in a complex manner.

32. How can a better informed use of modern media, including new digital media ('media literacy') contribute to promote tolerance? Please indicate any best practice.

All kind of tweets by "famous people", messages and movies address by celebrities can contribute. The most important is to target a very young audience. Too little is done in Poland to address the youngest generations.

E. Role of free and pluralistic media in a democratic society

33. How do developments in media freedom and pluralism impact democracy? Please explain.

Media act as watchdog for democracy, they inform society about the rest of the powers activity - executive, judiciary and legislative. Without information provided by the media electors will not be able to form an opinion and consciously choose in elections and contribute to democracy.

34. Who do you think is the most suited to help increase media literacy? Please rank and explain why.

| | The most important - 1 | 2 | 3 | 4 | 5 | 6 | 7 | The least important - 8 |
|--|----------------------------------|-----------------------|-----------------------|----------------------------------|-----------------------|----------------------------------|-----------------------|-------------------------|
| Family | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Friends | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| School | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Public authorities | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Media, including online providers | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Dedicated learning systems using e.g. radio, TV, mobile phones and the internet (please specify) | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Civil society | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other (please specify) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Other - please specify

Online applications which enable to assess content.

35. Please give specific good examples or best practices for increasing media literacy.

School and university lectures relying on journalistic material and besides of the content assessing credibility, usefulness of the content.

36. What would be concrete ways for free and pluralistic media to enhance good governance and transparency and thus foster citizens' democratic engagement (e.g. self-organisation for political purposes, participation in unions, NGOs, political parties, participation in elections)?

Engagement and promotion of campaigns (often run by NGOs) on political engagement. But media should concentrate on their watchdog and information role foremost.

37. What are best practices of free and pluralistic media contributing to foster an informed political debate on issues that are important for democratic societies (e.g. in terms of the nature of the content or in terms of format or platforms proposed)?

In Poland there is a new information internet platform, called "Medium Publiczne" which operates with funds provided by readers and a kind of subscription.

38. Which measures would you consider useful to improve access to political information across borders? Please indicate any best practice.

Cooperation within different national media, particularly public broadcasters.

39. Do you consider that social media/platforms, as increasingly used by candidates, political parties and citizens in electoral campaigns play a positive role in encouraging democratic engagement?

- Yes
 No

If yes, please give specific aspects and best practices that you would recommend.

A Polish platform mamprawowiedziec.pl have questionnaires before each election, where candidates can reply to most vital social, economic, environmental issues of the country. The questionnaires are drafted by a coalition of NGOs.

If no, please give specific aspects and examples of negative impacts, and possible alternatives to address them.

-

40. Do you consider that there are specific risks or problems regarding the role of platforms and social media — in relation to pluralism of the journalistic press or more generally — as regards the quality of the democratic debate and the level of engagement?

- Yes
 No

If yes, please give specific examples and best practices that you would recommend to address these risks or problems.

Reliability of information provided by non professional platforms. The role, responsibilities and duties of nonprofessional journalists operating in internet and eventual privileges they should be granted.

Contact

JUST-COLLOQUIUM@ec.europa.eu
