



Opinion on

'The Report of the High Level Group on Media Freedom and Pluralism:

A free and pluralistic media to sustain European democracy'

Signatory organizations:

Center for Independent Journalism (CIJ)

Hungarian Civil Liberties Union (HCLU)

Hungarian Europe Society (HES)

Mertek Media Monitor (Mertek)

South East European Network for Professionalization of Media (SEENPM)

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The signatories of this letter of consultation are specialized civil organisations with a long history of commitment to the freedoms of speech and press and extensive professional experience in this area. Said organizations were very pleased that, partly in response to the situation of the Hungarian media, the European Commission has set up the working group entitled High Level Group on Media Freedom and Pluralism, under the leadership of Chairperson Vaira Vīķe-Freiberga. We also welcome the fact that the European Commission has released the working group's report for public consultation. Following the logic of the recommendations laid down in the Report, the undersigned civil organisations articulate their own observations and suggestions in the present letter. Several of the signatories are currently also involved in organising the Hungarian campaign for the European Citizens' Initiative for Media Pluralism, whose objectives - preventing excessive concentrations of ownership in media markets, ending the possibility unilateral governmental and party influence over national broadcasting authorities - mesh with the goals pursued by the Freiberga Group.

Above all, we would like to point out that the Tavares Report initiated by the European Parliament, which evaluated the state of democracy and rule of law in Hungary, has also shown that we are generally facing systemic problems in the public law and political realms: problems pertaining to the democratic quality of the constitutional order and concerning violations of the principle of separation of powers point to concerns that are far too comprehensive to illustrate with individual examples, no matter how grievous those may be. We encounter similar systemic problems in the areas within our specialised range of expertise, that is the media system, media pluralism and the freedoms of speech and press.

For a nuanced assessment of the prevailing media situation, we would like to point to historical particularities in Central and Eastern European development, above all the functional anomalies of democratic institutions, the difficulties in engendering a diversity of opinions, an increasing contraction of the opportunities available in media markets, and the attempts by successive governments to gain ground in all segments of the media. Journalists and editors in Central and Eastern European member states are still prone to engage in self-censorship - in large part due to the lingering legacies of the communist era - as soon as they face governmental pressure. Media regulations harmonised at the European level, including a wider application of the recommendations and common minimum rules laid out in the Freiberga Report, could still constitute guarantees for media pluralism and press freedom in our region.

We will release our letter of consultation to the Hungarian public today.

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, in particular the rights of free movement and to representative democracy. The link between media freedom and pluralism and EU democracy, in particular, justifies a more extensive competence of the EU with respect to these fundamental rights than to others enshrined in the Charter of Fundamental Rights.

Recommendation 2: To reinforce European values of freedom and pluralism, the EU should designate, in the work programme and funding of the European fundamental rights agency, a monitoring role of national-level freedom and pluralism of the media. The agency would then issue regular reports about any risks to the freedom and pluralism of the media in any part of the EU. The European Parliament could then discuss the contents of these reports and adopt resolutions or make suggestions for measures to be taken.

Recommendation 3: As an alternative to the mechanism suggested in the previous recommendation, the EU could establish an independent monitoring centre, ideally as part of academia, which would be partially funded by the EU but would be fully independent in its activities.

Recommendation 5: For improving the functioning of the Single Market, further harmonisation of EU legislation would be of great benefit. Currently, the existence of divergences between national rules can lead to distortions in the framework of cross-border media activities, especially in the online world. It would be particularly important to adopt minimum harmonisation rules covering cross-border media activities on areas such as libel laws or data protection.

Recommendation 9: Media freedom and pluralism should play a prominent role in the assessment of accession countries. A free and pluralist media environment must be a pre-condition for EU membership.

Recommendation 10: The EU should raise the issue of journalistic freedom in all international fora where human rights and democracy are discussed, including as part of trade/partnership agreements and in the context of provision of aid.

An important lesson of the debates surrounding the Hungarian media regulations is that apart from a few details, the European Union is unable to influence member states' media regulations with legal and/or other formal instruments. Assessments of the Hungarian media laws, both at the European and the international level, have unequivocally concluded that numerous elements of the statutes involved violate the freedom of the press. Nevertheless, the European Union's authority only extended to reviewing the laws in terms of their compliance with the Audiovisual Media Services

Directive. At the same time, the Council of Europe was also unable to wrest anything but a rather feeble compromise from the Hungarian government.

If individual member states distort the structure and performance of their national media markets, then that will also impede the functioning of the unified internal media market. The powers given to institutions at the European level fall short of controlling precisely those member state legal instruments that are most capable of exerting a long-term influence over the media market and the structure of the media system. These include above all regulations concerning market entry, restrictions on media concentration, and – related to the aforementioned – regulations of member states' media authorities. Unfair procedures for media entry, or media concentration restrictions that lack transparency and are discriminative, cause such damage in the functioning of media markets as is liable to influence the selection of available media providers, to impair pluralism, and to simultaneously distort the business decision-making latitude of European media corporations and to jeopardize investments in media markets. Especially in small markets devoid of well-capitalized media corporations that operate independently of politics, the resultant distortions are very difficult to remedy subsequently. In fact, the distortions may become legally reinforced as interested political forces introduce legislative provisos to cement them, and subject the relevant legal acts to supermajority-requirements, or appoint media oversight officials whose term in office may span several parliamentary cycles. The Hungarian example convincingly illustrates how domestic civil, professional, and political resistance may by itself be insufficient to redress the problematic situation that emerges as a result of the abovementioned practices.

Our position is that community legal solutions need to be designed to regulate media markets and the independence of media authorities. Content regulation must not lead to over-regulation and one must correspondingly be especially mindful of the fact that on account of vast changes in the technological, economic, and consumer environment, the role of legal regulations will inevitably decline. On the whole, at the European and the member state level alike, we would prefer media content regulations with a narrow scope, and we also would like for such regulations to be sufficiently clear and unequivocal.

We therefore agree unreservedly with the expansion of the European Union's margin of appreciation with regard to media. We support any ideas that seek to provide for the monitoring of member states' media policies in order to ensure an ongoing tracking of the adherence to the Copenhagen Criteria even after EU accession. At the same time, we emphasize that the review of member states' legal environments as proposed in the monitoring scheme laid out in the Second Recommendation is insufficient. It would be advisable to extend monitoring activities to a wider range of subject matters. Legal monitoring by itself is inefficient and it can usually be carried out after the damage is done. Regular and deep monitoring of the state of individual media markets could

forecast potentially sinister developments and thus make them avertable. Specifically, we propose to review on an ongoing basis the state of press ethics, of business ethics, monitoring potential distortions of the advertising market and ownership relations of media corporations, as well as the social prestige of journalism and the level of trust citizens evince towards the media.

Civil organizations active in the member states could provide efficient assistance in operating such monitoring schemes.

Recommendation 4: All EU countries should have independent media councils with a politically and culturally balanced and socially diverse membership. Nominations to them should be transparent, with built-in checks and balances. Such bodies would have competences to investigate complaints, much like a media ombudsman, but would also check that media organisations have published a code of conduct and have revealed ownership details, declarations of conflicts of interest, etc. Media councils should have real enforcement powers, such as the imposition of fines, orders for printed or broadcast apologies, or removal of journalistic status. The national media councils should follow a set of European-wide standards and be monitored by the Commission to ensure that they comply with European values.

The Hungarian NGOs and experts express their serious concern regarding Recommendation 4. We are afraid that in its current form this paragraph may prove counterproductive regarding freedom and pluralism of the media in Hungary.

After several consecutive round-table discussions, the signing Hungarian NGOs and experts formulated the following comments:

1. It should be clarified whether the recommendation refers to self-regulatory bodies or media regulators. The functions and powers of the two bodies should be clearly separated. The term “Media Council” is understood in the Hungarian language as reference to regulatory authority.

Regarding Regulatory Authorities:

A: Competences

2. With the cease of scarcity of frequencies, the role of the media authorities decreases. New technology provides better circumstances for pluralism than ever before. We believe that this situation provides good opportunities for self-regulation of the market. Many Central-Eastern-European examples show that governmental authorities can not only safeguard pluralism, but also suppress pluralism. In Hungary, the distribution of national frequencies in all cases suffered from serious legal mistakes which could not be effectively remedied despite court review of the decisions. The authority decisions also carried the

suspicion of political corruption. For this reason, in general, we recommend to diminish the competences of authorities, rather than enlarge them.

3. Removal of journalistic status and deleting from the registry should not be among any sanctions, even those applied by courts. The whole existence of such thing, as 'journalistic status', is questionable in our times. Such status is not given away on a legal, or anyhow formal, basis, so it cannot and should not be removed by any institution.
4. We recommend that imposing fines in content issues, or ordering apologies should be the competence of the courts or they should be a result of a mediatory process in the self-regulatory framework.
5. Regulatory authorities' powers should be limited to electronic media, and should not, or just very narrowly extend to the printed press in any case. Online and print media should be in general terms supervised only by self-regulation and the ordinary courts.
6. Compliance with European values should be clarified as the European Court of Human Rights held that there is a margin of appreciation for Member States in certain freedom of expression issues, e.g. in cases of depiction of sex or violence. Procedural fairness could be, however, standardised and monitored at European level (see also at Recommendation 6.).

B: Membership

We would like to raise attention to the Hungarian experience that the regulatory authorities' operation in Hungary always reflected political interest, even when their membership constitution was regulated apparently with painstaking political correctness. There is a widely held scepticism regarding the possibility that any media council's membership can be defined precisely enough to effectively exclude political bias in its constitution, and operation. Guarantees for transparency and independent monitoring should be mission critical issues to address when designing the legal framework of these bodies.

Regarding Self-regulation:

7. We are of the opinion that self-regulation should be a growingly important form of media regulation. With regard to the cease of scarcity in the electronic media, the practice of self-regulation should be extended from the printed press to the electronic media as well.
8. Self-regulatory bodies should not operate on a clearly voluntary basis. They should be empowered by soft legal underpinning, guaranteeing transparency and accountability in their operations.
9. However, self-regulatory bodies should not have "strong enforcement powers", should not have the right to impose fines, order apologies or remove journalistic status except as a result of a mediatory process with mutual agreement of the respective complainant and media outlet.

10. Self-regulatory bodies should not follow European-wide standards and not be subject to EU Commission monitoring, apart from the field of procedural fairness.

Further, we would like to raise the attention of the respected HLG that investigation of complaints is not a tool to reinforce media pluralism or freedom. We hope that the Recommendation will not shift its focus to the representation of the consumers' interests.

Recommendation 6: A network of national audio-visual regulatory authorities should be created, on the model of the one created by the electronic communication framework. It would help in sharing common good practices and set quality standards. All regulators should be independent, with appointments being made in a transparent manner, with all appropriate checks and balances.

We welcome the idea of a European-wide network of audio-visual regulatory authorities in case this means a harmonisation of best practices and quality standards. Supervising the operation of the national regulatory authorities, in terms of transparency, independence and respect for pluralism, would be beneficial. We would support the idea of a supra-national European media authority as well.

Recommendation 11: Any new regulatory frameworks must be brought into line with the new reality of a fluid media environment, covering all types of journalistic activities, regardless of the transmission medium.

As a result of technological progress, various types of media are becoming increasingly indistinct from one another. While previously the legislator could easily find justifications for adopting stricter content regulations for television, and radio, today the technological, economic, and media consumption grounds for such regulations gradually lose their potency. For us, it follows unequivocally that the legal burdens on previously strictly regulated media must be eased. The fundamental conceptual flaw of the effective Hungarian media laws is that they follow a logic that runs afoul of this trend: they seek to approximate the scope of regulations applicable to print and online media to that of broadcast media.

Our position is that media laws aimed specifically at regulating media content will increasingly become relegated to the background, and that regulatory issues involving human dignity or hate speech must be resolved in the framework of traditional civil or criminal law. Self-regulation can adequately supplant the effective forms of media law regulations in any type of media. We would, however, agree with a type of state oversight scheme whose goal would be – rather than to apply sanctions – to monitor, to put on the public agenda, and to debate the media presence of those social phenomena that the regulation seeks to address.

With regard to the regulation of media markets our conviction is that the currently used instruments for developing a plural media system need to be gradually phased out of the regulatory environment. The reason is that these instruments fundamentally sought to increase the diversity of media supply. Media supply is sufficiently diverse already, however, in all platforms and all forms of media. The smaller the state's margin of appreciation in shaping the media market, the smaller the risk that it will distort the public sphere through its interventions. Considering media consumption patterns, this does not necessarily imply that media consumers will have access to diverse and comprehensive information. That is why media policies must focus on the consumer side of the issue, and primarily seek to promote instruments that raise the awareness of media consumers.

Recommendation 12: In order to give complete transparency as to how individualised a service is, services that provide heavily personalised search results or newsfeeds should provide the possibility for the user to turn off such personalisation, temporarily for an individual query, or permanently, until further notice.

Recommendation 13: Channels or mechanisms through which media are delivered to the end user should be entirely neutral in their handling of this content. In the case of digital networks, Net Neutrality and the end-to-end principle should be enshrined within EU law.

The recommendation with regard to net neutrality touches a really important part of access to information and free speech. However the reasoning behind is quiet controversial.

1. The quality of the sources and the number of homogeneous sources of unverified opinion does not increase media pluralism. However we don't believe that responsible journalism and the freedom of expression is in close relation with regard to the possibility to spread any kind of information. The opportunity to step into the new media market and the low barriers of entry media market creates the possibility to everyone to spread information. The ethical question of responsible journalism relies on freedom of expression; however exercising the right to free expression does not put a pressure on the speaker to follow criteria of ethical journalism.
2. Search engine and newsfeed optimization is not an issue heavily influencing political speech; it is the mean of advertising and marketing. Individuals looking for public debate or information are not the victims of search engines; they visit websites on purpose and these websites are linked to each other. However, this possibility in the Recommendation 12 would help the ones who are already concerned about the wide range of sources they get information from.
3. The report highlights the importance of net neutrality, however considers merely as competition issue. Even though at the European level competition issues are

more effectively enforced over against basic human rights, we believe that the aspect of freedom of expression should be highlighted as well. Competition law is inadequate to address citizen rights issues related to network blocking, filtering, etc. The importance of network neutrality is a really important issue in the online free speech discourse: namely, that all internet sites should be equally accessible for all web users. The technical power to control the content is a great danger on access information, which has a negative impact on democracy.

This is a policy issue, where basic rights like freedom of information and freedom of expression should be considered equally as competition issues. While the former covers the user perspective, the latter covers the industrial perspective. The EU should intervene from both perspectives.

Recommendation 14: There should be streamlining and coordination of support and funding for quality journalism, as already exists in several EU countries. Europe-wide awards should be made available for talented journalists and those having made significant breakthroughs. An additional study should be commissioned on possible new forms of funding for quality and investigative journalism, including making use of new technologies such as crowdfunding.

Additional financial support to quality journalism and investigative reporting is pivotal, especially because of the crisis of traditional business models in media with the highest effect on such long format genres as investigative reporting. Grants are to be given to journalists on a competitive basis. Granting schemes must be flexible and be administered by local media NGOs and/or professional organizations. Awards for best journalistic performances should be supported. Co-funding schemes with crowdfunding platforms should be considered to support new independent forms of funding investigative journalism.

Recommendation 15: Any public funding should only be available for media organisations which publish a code of conduct easily accessible to the public (including on their site).

Recommendation 16: Any public funding to media organisations should be given on the basis of non-discriminatory, objective and transparent criteria which are made known in advance to all media.

Recommendation 26: There should be a provision of state funding for media which are essential for pluralism (including geographical, linguistic, cultural and political pluralism), but are not commercially viable. The state should intervene whenever there is a market failure leading to the under-provision of pluralism, which may be considered as a key public good.

We endorse the notion that media corporations ought to have access to public funds only under the condition that the media outlet in question regulates the rules of its professional and ethical conduct and its complaints procedures in a publicly available document, monitored or created by a self-regulatory body or other industry-wide umbrella initiative. Such a solution would incentivize the spread of self-regulatory mechanisms and offers the possibility of flexible adaptation to the particularities of various media outlets and to potential changes in their respective media landscapes.

At the same time it must be ensured that the organization charged with allocating public funds have the requisite competence to assess whether the self-regulation framework in question satisfies basic content-related and quality requirements. In determining the scheme for distributing public funds, it is important to consider that only a steady funding framework that provides a reliable source of income for media organizations is capable of enhancing and developing media pluralism. In designing the system, it is advisable to distinguish between public and privately-owned media corporations, and within the latter category also between for-profits and non-profits.

The Hungarian experience has shown that concentrating all the available public funds available for supporting the entire media market in a single organization is not a good solution. At the same time, proper legal safeguards must be in place to ensure the independence of decision-makers, and adequate institutional preconditions must be provided to ensure that professional considerations prevail.

The current system in place in Hungary makes no distinction between support for non-profit media institutions and for-profit media companies that pursue public service objectives. One consequence is a tangled system of subsidies which, in its present form, fails to promote media pluralism.

Apart from public subsidies for content production the Hungarian media market is currently also substantially influenced by the state's role as a procurer of advertisements. As far as the state's engagement in media financing is concerned, therefore, its role as supporter of content production and its position as an advertiser must be clearly separated and subject to transparent review. In the context of media pluralism, the problem of publicly funded advertising has thus far elicited scant attention it was primarily touched in the context of competition. In light of the prevailing Hungarian conditions we find it important that a proper regulatory framework clearly illuminate the role of the state in the advertising market.

Recommendation 17: In order to build up cadres of professional journalists competent to operate in a rapidly changing media landscape, or to offer them the possibility to do investigative journalism, journalistic fellowships should be offered to both entry-level and mid-career candidates who could take leave from their media organisations. Universities and research centres should set up positions for journalists in residence

under such fellowships to be funded by the EU. The selection of the journalists would be done by the academic and scientific institutions themselves. The fellowships would be particularly valuable for investigative journalism, or for training journalists to mediate between complex subjects such as science, technology, finance or medicine and the wider public.

Fellowships, study tours and exchange programmes are to be granted to practicing journalists. The selection procedure should be done through news organizations instead of universities and research centres. University or college level educational programmes are to be launched in specialized reporting (health, environment, reporting diversity, human rights, science & technology, education, culture, agriculture, etc.). Universities should be encouraged to set up dual degree diploma programmes (e.g. journalism plus health care).

Recommendation 19: Media literacy should be taught in schools starting at high-school level. The role media plays in a functioning democracy should be critically assessed as part of national curricula, integrated either with civics or social studies.

Recommendation 20: To evaluate the manner in which media consumption patterns are changing, as well as their social impact, comprehensive longitudinal studies are needed at the EU level. More broadly, the EU should provide sustainable funding for academic research and studies on the changing media environment, in order to provide a solid academic basis for policy initiatives in this field.

We agree that freedom of the media and media pluralism in the new media environment are difficult to conceive of without aware and competent consumers that use media proactively. We believe, however, that developing this attitude must begin earlier than the high-school level suggested in the Recommendation. Media literacy should become part of the educational curriculum already for pre-schoolers aged 5-6, obviously with age-appropriate educational tools. In addition to the state's institutional resources, media literacy could also be promoted with the substantial involvement of the civil sphere, provided that adequate resources are made available.

Hungarian experience shows that the lack of a link between media policies and educational policies considerably encumbers the development and mainstreaming of media literacy.

In the new, rapidly changing media environment media literacy becomes part of general literacy, and hence children and youths are no longer the only ones on whom efforts to spread such literacy must focus. Programs aimed at raising the awareness of media consumers must be able to involve parents and older generations as well.

Recommendation 21: All EU countries should have enshrined in their legislation the principle of protection of journalistic sources, restrictions to this principle only being acceptable on the basis of a court order, compatible with the constitution of that country.

The principle of protecting journalistic sources should be guaranteed, possibly at the EU level, in a way which allows only a limited number of exceptions in serious and legally defined crime cases. The EU should rely on the practice of the European Court of Human Rights, which offers proper standards for source protection. The legal framework should reflect the fact that nowadays not all sources are physically met by the journalists thus the principle must include the protection of digital environment of the respective journalist in legal cases (e.g. passwords, anonymous leak channels, social networks).

Recommendation 22: Access to public sources and events should depend on objective, non-discriminatory and transparent criteria. This ought to be notably the case with regard to press conferences, with electronic means used to broaden out these events to a wider audience where practically possible.

1. The freedom of information ensures the right to obtain and disseminate data of public interest. Anyone is entitled to request public data, but this tool is by definition mostly used by journalists. There is always a risk that in the national legislation restrictive provisions may be introduced as we can see it happening in Hungary these days. Therefore, some minimum standards might be necessary to prevent governments from closing or severely limiting on freedom of information. It shall be pointed out that regulation on public documents is covered by the FOI Act and the Fundamental Law. The access to data of public interest is guaranteed by two methods. On the one hand, everyone in Hungary has the right to submit freedom of information requests and turn to the court in case of refusal. On the other hand, data holders shall publish certain information on their websites without receiving any requests thereupon. However, the “proactive publishing obligation” is limited to certain topics such as the legal provisions on the activity of the given public body, official name and address etc.
2. Even if reasonable access is provided to public data, the format of it can be a limitation as well. Huge loads of numerical data, for example, in terms of public funds or state procurements might be provided in a formally satisfying but, for journalistic purposes, practically useless format. Though it may be very difficult to address this issue legally, a potential legal framework should attempt to prescribe minimum requirements of user-friendliness of provided public data.
3. The case of press conferences differs from the legal situation described above. First of all, press conferences were not considered as public events since the access to information was guaranteed to the official representatives of the media only. However, this approach has been revised due to the changes in the definition of press or journalist. One of the greatest limitations to access to data

of public interest is the controversial and ambiguous regulation on the publicity of court trials regarding audio-visual recordings.

Recommendation 23: Member States should ensure that appropriate instruments are put in place for identifying those responsible for harming others, even in the online space. Any internet user-data collection necessary for this purpose should be kept confidential and made available only by a court order.

This recommendation does not take into account that media are diverse, and that the effect of different types of media are variant. A harmful speech aired in a television should not regulate as a comment on the internet. The possibility to reply, to get into a discourse determines the necessity of regulation. It should also take into account who or what is harmed by a speech. The level of critiques which should be borne properly stands out of the decisions of the European Court of Human Rights.

Court order and proper data protection are the safeguards of exercising freedom of speech.

First of all regarding the responsibility of press we agree with opinions go on record as decriminalizing journalists' trespass Europe-wide. Criminal steps against libellous and defamatory statements imply inappropriate restriction on journalists' activity and freedom of speech. All the effects expected as consequence of criminal means are reachable also with the means of civil law, by appropriate compensation for damages. The Hungarian media regulation also pointed out the fact that parallel sanctions of criminal law, civil law, media law and information law enhance the mechanism of self-censorship. The standard European regulation should clear out that there is no need to enforce more parallel sanctions against one type of violation, moreover there is no special need for proper means of media law or media authority. Nevertheless the restrictive prescriptions of journalists' attitude should be precise, obvious and definite to journalists and editors, too general principle-like regulation should be avoided.

On the grounds of the numerous wrong precedents of the Hungarian judicial practice should be also noticed that the responsibility for comments and user generated contents is not unequivocally regulated by the community law. Vainly foreclose the Directive on Electronic Commerce the liability of the service provider for the transmitted or temporarily stored contents regarding the case of non-commercial communication the legal position is not obvious. Hungarian court has already impeached service providers by right of that Hungarian act that implements the E-commerce Directive. The current practise restricts inappropriately the freedom of communication on the internet and sorely jeopardizes the freedom of internet. According to our opinion it should be cleared unequivocally even on European level that for any user generated content including comments the user is liable. The service provider should only be responsible for the taking down of injurious content in a process with adequate assurance.

Recommendation 24: Compulsory damages following court cases should include an apology and retraction of accusations printed with equal positioning and size of the original defamation, or presented in the same time slot in the case of radio or TV programmes. In addition to this and to a legally-imposed right of reply, it should become accepted as responsible practice among news media to also publish retractions and corrections of wrong and unverified information on the simple request of citizens providing justifications to the contrary. Any such retractions and corrections should be published with the same relevance as the original coverage when the correction of the potential harm done by such false information so justifies. Any public funding should be conditional on the inclusion of such provisions in the code of conduct of the media organisation.

We agree with this initiative with some limitations. In terms of apologies, the right to reply and corrections careful distinction should be made between facts and opinions. While it is crucial to prescribe this for media outlets when facts are wrong, opinions normally should not be forced to be corrected. Also, place and size [of the corrections] behave differently in linear or in non-linear media environments. In linear (typically digital) media environments the original publication can and should be marked, too with a note that the respective article or audio-visual piece has later been corrected and be linked to the correction (for archives' and search engines' sake) and the correction must be published individually, too.

Recommendation 25: To ensure that all media organisations follow clearly identifiable codes of conduct and editorial lines, and apply the principles of editorial independence, it should be mandatory for them to make them publicly available, including by publication on their website.

To inform the public about the ethical and/or professional principles a media outlet follows is essential. Without letting the public know about it, the respective media outlet could not be accountable to those principles. It is suggested that they should inform the public about it not just on their websites but everywhere in their publishing information. Also, we suggest, that this transparency should be spread to media owners and publishers all through the ownership chain to be able to address the issue of potential conflicts of interests of owners as well. As nowadays the publishing business is shrinking, media owners' business portfolios are gradually becoming more complex and other business interests and/or political interest get mixed with their publishing profile, the latter becoming a subservient to the first. To prevent this, transparency in ownership should be addressed.

Recommendation 27: Any public ownership of the media should be subject to strict rules prohibiting governmental interference, guaranteeing internal pluralism and placed under the supervision of an independent body representing all stakeholders.

We would like to emphasise that this subject calls for greater attention. In several countries of the European Union, the public service media is subject to direct governmental interference. Instead of ensuring pluralism of the media, it restricts the pluralism of opinions, in other words, distorts the marketplace of ideas.

The European Union has already dealt with the issue of public service media, under the aegis of competition law and state aid, and issued the Communication from the Commission on the application of state aid rules to Public Service Broadcasting. It appears, however, that this soft law instrument is not consequently applied, and its application is not monitored.

We are aware that operating a public service media is currently regarded as falling in the realm of sovereignty of the individual Member States, as expressed in the Amsterdam Protocol. But we assert that enforcement of the European competition law and the law on state aid would not extend the existing competences of the European Union, but it would help to achieve pluralism and freedom in the media throughout Europe.

The principles enshrined in the Communication, along with the requirements on state aid in general, would ensure transparency of funding and operation of public service media. We believe that enforcement of these rules would lessen the chances of political interference. Therefore, we recommend that the rules already given in the Communication are enforced by the Commission. Governments should be made accountable to respect these rules, especially those of financial prudence and transparency. Paying respect to the principles of financial rationality would ensure a great deal of independence to these media institutions and contribute to the fulfilment of their public duty. Monitoring these requirements would be far easier than monitoring the fulfilment of public service mission, where content should be analysed and waded with the national public service codes.

We welcome the recommendation to ensure organisational independence and internal pluralism and recommend that detailed guarantees are provided to ensure these principles.

We would like to highlight the Hungarian example where a formal independence is granted to the public service institution, while in reality all decisions are taken by a body that is closely controlled by the government-dominated Media Authority. Under the new media law in 2010, all assets and staff of the three public service media companies and of the Hungarian News Agency were transferred to the *Media Support and Asset Management Fund (Műsorszolgáltatás Támogató és Vagyonkezelő Alap, hereafter: MTVA)*. MTVA is not the owner of these companies, but is entitled to pass all decisions

relating to public service media programming. MTVA performs programme production, employs the employees and concludes all the necessary contracts for external production. MTVA is not a company, neither a governmental authority, is not transparent and not accountable. MTVA's director is employed by the Media Council, its financial management is done by the Media Council (§ 108. (13), 136 (10, 14, 16, 17 Mttv.). MTVA receives all the incomes and the state funds for public service media activity (§ 136 (3-4) Mttv.) via the Media Council and receives also the commercial revenues.

The media companies' ownership rights are theoretically exercised by the Public Service Fund (Közszolgálati Közalapítvány) and its Board (Kuratórium) (§85-94). The Public Service Body (§95-97) is responsible for the Code of Conduct. Although there is a seemingly coherent set of plural and independent institutions, including even the Public Service Budget Council (§108), these do not have any powers over MTVA: their powers affect only the individual companies which have remained not more than channels of the same public service media.

A government-influenced and non-transparent state-media is contrary to the interests of the public, and is harmful for democracy. This distortion can be observed in several new and even in some old Member States. Therefore, beyond welcoming the new recommendations on pluralism and independence of the publicly owned media, we recommend that

- the already existing European rules on public service media are consequently enforced;
- detailed guarantees are formulated to prohibit government interference and to ensure internal pluralism.

Recommendation 28: The provision of funding for cross-border European media networks (including such items as translation costs, travel and coordination costs) should be an essential component of European media policy. Support for journalists specialised in cross-border topics should be included in such funding.

Cross-border reporting on EU matters (e.g. the use of EU funds in new member states) are to be encouraged through grants, exchange programmes, internships, and fellowships supported by the European Commission and/or member states.

Recommendation 29: Attention is called to national journalism schools and university professors for the possibility of applying to the Jean Monnet programme to support curricula and teaching on coverage of European issues. The Commission should be especially pro-active in informing journalism schools of this possibility and consider this area one of the priorities in the selection procedure under such a programme.

Good practices on curriculum development on European issues should be exchanged, and the practical, hands-on aspect of journalism training should be emphasized by combining classroom work with specific reporting projects and assignments.