

# European Media Policy



A newsletter from Nordicom

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# Media Freedom

## Much concern about erosion of media freedom

In recent months, the EU Commission has been increasingly concerned about the erosion of media freedom and pluralism in Europe, not least in Central and East European countries.

In April, the EU's Internal Market [Commissioner Thierry Breton highlighted “the worrying developments” in some member states](#), mentioning Poland, Hungary, Slovenia and the Czech Republic.

“The preservation of media freedom and pluralism is absolutely necessary and is the foundation of our democratic systems,” he emphasised.

The Commission later elaborated on this issue in its [2021 Report on the Rule of Law in the EU](#) published in July. The report consists of a Communication looking at the situation in the EU as a whole as well as chapters on each member state.

In the section on media pluralism and media freedom, the Commission describes a deteriorating situation in Europe with regard to freedom of expression, protection of the right to information and the journalistic profession, as well as the protection of journalists.

The Commission underlines that the response of several governments to the Covid-19 pandemic has had a bearing on this result, naming and shaming a number of member states, not only in Central and Eastern Europe; Spain, France, Germany, Portugal and Italy, for example, are mentioned too.

Among the areas of concern are political pressure and influence on the media, the independence of media regulators as well as the lack transparency of media ownership and the allocation of state advertising.

A relatively new target of EU criticism is Slovenia (which took over the EU Presidency on 1 July). According to press reports, Slovenia's prime minister, Janez Janša, has repeatedly and publicly attacked journalists and the country's main public media outlets.

In April, the Commission made it clear that [the Slovenian government cannot use EU state aid rules as an excuse to deprive the Slovenian Press Agency \(STA\) of funding](#).

Then, in June, the EU [Commission launched an infringement procedure against Hungary](#), as a result of the Hungarian Media Council's decision to reject opposition radio station Klubradio's application on the use of radio spectrum on highly questionable grounds.

The Polish government's campaign to push out foreign interests in the country's media is drawing criticism from Brussels too.

A recent amendment to the Polish Radio and Television Broadcasting Act has caused much controversy. The bill proposes only allowing companies majority-owned by entities from the European Economic Area to hold broadcast licences.

That would exclude US-based Discovery, owner of TVN, one of Poland's most popular television stations – often critical of the government – and its all-news subsidiary TVN24. The news channel's licence expires on 26 September.

EU Commission Vice President Věra Jourová promptly reacted: "The new draft Polish law on broadcasting concessions is yet another worrying signal for media freedom and pluralism in the country", she tweeted.

On 11 August – after a tumultuous voting session – the Sejm (the lower house of the Polish parliament) passed the bill, which is now heading to the senate, where the opposition holds a narrow majority. Then it must be signed by Poland's president, Andrzej Duda, to become law.

## Hopes pinned on Media Freedom Act

In the European Parliament, too, many are worried about recent media developments in Europe.

Is it enough to reprimand, name and shame member states contributing to the erosion of media freedom in Europe? What else could the EU do? These were questions raised [at a public hearing on this subject held by the EU Parliament's Culture Committee](#) in July.

This is a delicate issue, as media policy is a national competence and the EU Commission must tread cautiously so as not to overreach its powers.

Many seem to pin their hopes on the announced [European Media Freedom Act](#).

"We need a mechanism to increase transparency, independence and accountability around actions affecting control and freedom of the press", explained EU Commissioner Thierry Breton in April, stressing that the starting point for any action will be the Audiovisual Media Services Directive (AVMSD), with its rule on the independence of regulators.

"We could also reflect on how best to strengthen the governance of public media around a common framework to better prevent the risks of politicisation and to better ensure diversity and pluralism".

[The European Federation of Journalists \(EFJ\) welcomed this idea](#). "Effective action against the systemic political capture of the media will require both robust tools that

empower the EU, and the political courage to deploy them. We call on the European institutions to be ambitious in this regard”.

More on the concept of media capture in UNESCO’s 2020 publication [“Reporting Facts: Free from Fear or Favour”](#), which elaborates on this subject from an international perspective.

## Governments pledge to protect freedom of expression

At a major Council of Europe conference held on 10–11 June, ministers responsible for Media and Information Society agreed to carry out a number of actions to tackle the most pressing challenges to freedom of expression.

The Council of Europe has 47 member states, among them all EU members, including Hungary, Poland and Slovenia, as well as countries like Russia, Turkey and Ukraine.

The ministers adopted a [Final Declaration and four resolutions](#), one of which is on the impact of the Covid-19 pandemic.

Here, the ministers commit to remove all unnecessary obstacles to freedom of expression in times of crisis and to ensure access to official information. They also underline the need to ensure that existing laws and policies are not misused to silence critical voices.

Furthermore, the ministers confirm their commitment to develop media and information literacy skills amongst the public. “This is particularly important in crisis situations where the implications of misinformation can have particularly grave consequences”. ([More info and videos from the conference](#))

At a EU–US summit a few days later, similar pledges were made. The political leaders declared that they “intend to support democracy across the globe by defending media freedom [...] the ability of civil society and independent media to operate freely, and to protect and defend journalists in order to hold governments accountable.” ([EU–US summit statement](#))

Let’s hope all this is not just political blah-blah.

## Malta found responsible for murder of journalist

A public inquiry into the murder of Maltese journalist Daphne Caruana Galizia said that [the state should shoulder responsibility for her death](#). Journalist organisations and many European policy-makers are surely delighted with this outcome.

While the inquiry did not find proof of government involvement in the assassination, it created a “favourable climate” for anyone seeking to eliminate her to do so with the minimum of consequences, reports the *Times of Malta*.

The report also takes aim at the government’s too-close relationship with business, saying, “Daphne Caruana Galizia’s writing about the intimacy between big business and politics led to her assassination”.

EU policy-makers have been much concerned about this case. The Commission has repeatedly stressed the need for those responsible for Caruana Galizia’s assassination to be brought to justice. So has the European Parliament.

## Growing concern about safety of journalists

“The tragic murder of Dutch journalist Peter R. de Vries is the latest in a series of worrying attacks on European journalists in recent years”, said EU Commission Vice President Vera Jourová after the journalist’s death in July. She is not the only policy-maker increasingly concerned about the growing hostility against journalists.

“We condemn intimidation, harassment and violence against journalists, noting that women, and those in marginalised and vulnerable situations, are disproportionately targets, both online and offline”, [said the G7 Foreign and Development Ministers in their communiqué from their meeting in London in May](#).

In the Council of Europe, the issue has been much discussed too. At their Ministerial Conference in June, ministers responsible for Media and Information Society adopted a [Final Declaration and four resolutions](#), one of them on the safety of journalists.

Violence against journalists and other media actors constitutes an attack on democracy, the ministers said, pledging to make this problem a political priority.

The ministers asked the Council of Europe to prepare guidance for the drafting of national action plans on the safety of journalists and other media actors to be implemented by member states, and to carry out a comprehensive campaign at the European level to promote the protection of journalism and the safety of journalists.

The EU Commission is working on these problems too. Very soon it is expected to issue a Recommendation directed to the member states on the safety of journalists. The Recommendation will tackle physical and online safety issues drawing particular attention to gender- and minority-based attacks. The idea is to recommend what member states can do and how this will be monitored.

“Our task is to design a European standard for the protection of journalists”, explains Thierry Breton, EU Commissioner for Internal Market.

# SLAPPs: Calls for an EU Directive

An increasingly popular method of silencing criticism and intimidating snoopers journalists is SLAPPs (Strategic Lawsuits Against Public Participation), a form of legal harassment used not to win a case, but to scare the victim and burden them with endless paperwork and huge financial costs.

Many are worried about this development and are demanding action, among them the Council of Europe's Commissioner for Human Rights. ([Time to take action against SLAPPs](#))

The EU must do something about this, insist journalists and civil society spokespersons – Members of the European Parliament (MEPs) too.

In November 2020, the European Parliament adopted a [Resolution](#) in which MEPs condemn the use of SLAPPs to silence or intimidate investigative journalists and outlets. Now, Parliament's legal affairs (JURI) and civil liberties/justice (LIBE) committees are preparing a joint report on SLAPPs. Its Rapporteurs are MEPs Tiemo Wölken and Roberta Metsola.

The [draft report, published on 14 June](#), calls for an EU Directive to establish standards across the bloc, the creation of a fund to help victims defend themselves along with an awareness-raising campaign on the issue aimed at judges and the general public.

It also calls for judges to be allowed to make preemptive rulings to cut clearly malicious legal proceedings short and establish a one-stop shop to help journalists in their grievances.

So, what is the EU Commission doing about this? EU Commission Vice President Vera Jourová said she welcomes the Parliament report and participated in several of the committee meetings. The commissioner is also working on various anti-SLAPP measures.

It is not certain that the Commission will propose legislation. In May, Jourová said it may only be "soft policies", like a Recommendation, legal aid, training for judges, support for organisations helping journalists and the like. But in June, she said it might be a combination of legal and non-legal actions. By the end of this year, the EU Commission will adopt "an initiative" on this issue.

# Content Moderation

## EU Commission: Platforms must do more to tackle disinformation

Many believe that the EU's main instrument to fight falsehoods circulating on the Internet – the [Code of Practice on Disinformation](#) with self-regulatory industry standards to tackle it – is not enough and look forward to the proposed Digital Services Act (DSA), which will introduce a legal basis for sanctioning platforms.

But it could take two years or even longer before the DSA is adopted. In the meantime, the Commission has presented a [Guidance to strengthen the Code of Practice](#) to make it “a more effective tool for countering disinformation”.

The Guidance, published in June, calls for stronger commitments by the signatories and foresees a broader participation in the Code. Today, its signatories include Facebook, Google, Microsoft, TikTok and Twitter.

Based on a monitoring framework and clear performance indicators, signatories should reduce financial incentives for disinformation, empower users to take an active role in preventing its spread, better cooperate with fact-checkers across EU member states and languages, and provide a framework for access to data for researchers.

“Disinformation cannot remain a source of revenue. We need to see stronger commitments by online platforms”, said Thierry Breton, EU Commissioner for Internal Market.

The signatories should now update the Code of Practice and provide a first draft of the revised Code in the autumn.

## Terrorist content online: Contested law approved

On 28 April 2021, the EU's controversial [Regulation on dissemination of terrorist content online](#) was approved – without a vote – by the European Parliament. It was no doubt a sombre day for journalist and human rights groups as well as the MEPs who opposed the legislation.

They fought hard to have it rejected, fearing that the law could pose serious threats to fundamental rights and freedoms, not least freedom of expression and opinion. ([New rules adopted on terrorist content online](#))

In light of the criticism against it, a number of safeguards were added to the proposed legislation. For example, the text now states that “material disseminated for educational,

journalistic, artistic or research purposes or for awareness-raising purposes against terrorist activity should not be considered to be terrorist content”.

Under the new rules, digital platforms must remove “terrorist content or disable access to terrorist content in all member states as soon as possible and in any event within one hour of receipt of the removal order”.

These “removal orders” must come from the “competent authority” of each EU country and can be addressed to all member states.

Critics say that giving platform hosts such a short deadline would encourage them to use algorithms for their moderation, which could ultimately result in the removal of legal content like news. Also, the absence of judicial control and the transnational scope of the removal orders threaten freedom of expression and represent a danger for democracy, they say.

“Anti-terrorism legislation is again and again being abused for entirely different purposes such as to crack down on Spanish separatists and artists, French protesters or refugees in Hungary”, pointed out MEP Patrick Breyer. ([EU adopts law giving tech giants one hour to remove terrorist content](#))

## To ban or not to ban Taliban content?

It will be interesting to see how social media will deal with Taliban content once the new EU rules on terrorist content starts applying. At the end of August, they seemed to have problems with that.

Facebook’s and Twitter’s contradicting approaches vis-à-vis the Taliban social media accounts are a perfect illustration of the content moderation dilemma online platforms are facing, says the news service Euractiv. ([Facebook bans Taliban](#))

“The Taliban is sanctioned as a terrorist organization under US law and we have banned them from our services”, a Facebook spokesperson told Euractiv. At the same time, Twitter was allowing the group’s spokespersons to voice their opinions in the interest of giving access to information.

Adam Hadley, director of [Tech Against Terrorism](#), an organisation which is calling on tech companies to remove or restrict access to Taliban content, points out that the Taliban operates online with more freedom than other violent Islamist organisations affiliated with Al-Qaeda and the Islamic State because of the lack of international consensus over the its status as a terrorist organisation.

Hadley acknowledged the “difficult position” in which these platforms find themselves and considered Twitter’s approach “understandable”. “One could argue that the Taliban’s status as the new government of Afghanistan should prevent them from being sanctioned”, he added.



# Tech Regulation

## EU hits Apple in Spotify case

On 30 April, the [EU Commission informed Apple of its preliminary view that it distorted competition in the music streaming market](#) by abusing its dominant position for the distribution of music streaming apps through its App Store. The Swedish streaming service Spotify, which initiated the case against Apple, was surely thrilled.

“By setting strict rules on the App store that disadvantage competing music streaming services, Apple deprives users of cheaper music streaming choices and distorts competition”, explained EU Commissioner Margrethe Vestager, in charge of competition policy.

In particular, the Commission raised concerns on the 30 per cent fee Apple charges for the subscription of paid music streaming services.

Apple, Spotify and other parties can now respond. If the case is pursued, the EU could demand concessions and potentially impose a fine of up to 10 per cent of Apple's global turnover, although it rarely levies the maximum penalty, explained Reuters.

## EU–US tech alliance to fight growing China threat

After the United States got a new president in January, there was a surge of “let’s become friends again and join forces” euphoria in the EU – at least before the recent Afghanistan debacle.

At their summit on 15 June “to renew our Transatlantic partnership”, the leaders of the EU and the US declared that they plan to cooperate on the development and deployment of new technologies.

To provide a platform for cooperation, they launched a high-level [EU–US Trade and Technology Council \(TTC\)](#). Among the major goals of the TTC would be “to facilitate regulatory policy and enforcement cooperation and, where possible, convergence”.

In parallel with the TTC, they said they would establish an EU–US Joint Technology Competition Policy Dialogue that would focus on approaches to competition policy and enforcement and increased cooperation in the tech sector.

The main incentive for increased cooperation seems to be to fight a common enemy or competitor. EU and US officials agreed that China’s rise to technological power has created a sense of urgency to partner on tech and digital trade. ([Transatlantic tech talks team-up on China](#))

It is important that “standards comply and are consistent with our shared values and quite frankly so that China and other authoritarian regimes aren’t setting the ‘rules of the road’”, Gina Raimondo, US Secretary of State for Commerce, told EURACTIV after the summit.

But other than that, there isn’t much the EU and the US agree on. They still have to solve various disagreements, for example, on privacy and data flows.

And now Washington is growing increasingly skittish about the proposed EU Digital Markets Act (DMA), after MEP Andreas Schwab, the Parliament’s rapporteur on this legislation, suggested that the overhaul should only target US tech giants.

Nor is the EU exactly happy about the potential tsunami of refugees after the American pull-out from Afghanistan.

## Chinese media model next successful export?

Journalist unions seem worried about the growing influence of China too. In May, the International Federation of Journalists (IFJ) published a report outlining the findings of an international survey of journalist unions to explore the impact and influence of China’s global outreach strategy on the media ecosystem. ([The Covid-19 Story: Unmasking China’s Global Strategy](#))

The survey indicates the wide-ranging impact of China’s moves to extend its influence through global journalism unions and individual journalists, says the IFJ.

The most widely reported form of Chinese outreach was journalistic exchanges, with half the unions surveyed saying journalists from their countries had participated in exchanges or training schemes sponsored by Chinese entities. Overwhelmingly, these were described as a positive experience.

This “reveals a sophisticated and systematic strategy to ‘tell China’s story well’. Its success is such that some unions are now raising concerns that their governments could import China’s media model wholesale”, says the IFJ.

# New Digital Rulebook

## Differences within the Council

Discussions on the new digital rulebook proposed by the European Commission last December – consisting of the [Digital Services Act \(DMA\)](#) and the [Digital Markets Act \(DMA\)](#) – are beginning to heat up in the EU.

A reminder: the DSA introduces a series of EU-wide obligations for digital services, such as demands on very large platforms to prevent abuse of their systems, how to combat illegal content online and transparency measures.

The DMA establishes rules for platforms that act as “gatekeepers” in the digital sector to prevent them from imposing unfair conditions on businesses and consumers and to ensure the openness of important digital services.

In recent months, EU member states have discussed these proposals in the Council of Ministers. In June, the Slovenian ambassador to the EU told the news service Euractiv that the digital services package would be a main focus of his country’s EU Presidency (July–December 2021).

He said the Slovenian government had the ambition to broker a general approach on the legislation among the member states at the Competitiveness Council in November this year. ([Slovenia to speed up legislative agenda](#))

(This timetable may well have changed now that the Presidency has to deal with the Afghanistan crisis.)

With regard to the DMA, France, Germany and the Netherlands issued a [joint statement](#) in May calling for tighter rules in several areas and more involvement of national authorities in the enforcement mechanism. Some member states, however, want to avoid fragmentation in the EU and excessive burdens on national authorities.

The three countries’ proposal also calls for anti-merger measures, but there does not seem to be a consensus in the Council that the DMA is the right legislative tool for merger control provisions.

Another key discussion point in the Council has been the definition of gatekeeper, where a balance needs to be found between flexibility and legal certainty.

As for the DSA, content moderation seems to be a particularly controversial issue, as it could infringe on freedom of expression.

## Draft reports discussed in Parliament

The European Parliament has been working on the proposed digital rulebook too. At the end of May, Danish MEP Christel Schaldemose, who will pilot the file through Parliament, presented her [draft report on the Digital Services Act](#).

Among other changes, the report adds a provision for algorithm accountability, not only asking online platforms to disclose their internal mechanisms, but also allowing the EU Commission to scrutinise them to ensure the respect of fundamental rights.

Schaldemose also proposes turning off targeted ads and recommender systems. These mechanisms have recently come under criticism for constituting echo chambers, allegedly contributing to polarisation and the dissemination of fake news, explains the news service Euractiv. ([DSA/DMA parliamentary debates](#))

Conservative MEPs criticised some of the new measures, contending they would create an overly bureaucratic burden for small businesses. Furthermore, Green and leftist MEPs made the case for further strengthening the consumer protection provisions, calling for a complete ban of targeted advertising in favour of contextual ads.

In early June, the Parliament's rapporteur for the Digital Markets Act, German MEP Andreas Schwab, presented his [draft report on the DMA](#). In an [interview with the Financial Times](#), Schwab suggested tailoring the DMA to Google, Apple, Facebook, Amazon and Microsoft, with the potential addition of Alibaba.

Schwab considers these companies as posing the most challenges to a competitive digital market in Europe. He also called for increasing transparency requirements for gatekeepers on their advertising services.

# Media Economy

## EU Council supports plan for recovery of media sector

At a Council meeting in May, EU Ministers of Culture [approved conclusions to support the recovery and transformation of the European media sector](#).

The Council invites member states to take advantage of the Recovery and Resilience Facility – the EU's post-crisis financial instrument – and to invest in the acceleration of the digital transformation and green transition of the news media and audiovisual sectors.

At the same time, they underline that “support for the news media and audiovisual sectors must not undermine the principles of editorial independence, media freedom and artistic freedom”.

Ministers also call for efforts to make sure that the audiovisual industry can more easily reach European and international markets and audiences.

The conclusions respond to an action plan presented by the EU Commission in December 2020. The [Action Plan to support recovery and transformation of the media and audiovisual sector](#) puts forward a number of initiatives to sustain these sectors.

A planned MEDIA INVEST initiative will provide EUR 400 million to support investment in the audiovisual industry. News media will benefit from the loans and investments of the NEWS initiative.

## Creative Europe: New subsidies for media

In May, the European Parliament approved [the EU's new Creative Europe programme](#), which is now up and running. The total programme budget of EUR 2.4 billion over seven years has increased by 63 per cent compared with the previous one. Media organisations have reasons to be pleased.

“We welcome the European Parliament’s hard work for a strengthened and enhanced programme which includes for the first time news and journalism, media literacy, press freedom and quality journalism and a strong component for gender equality”, said Renate Schroeder, Director of the European Federation of Journalists (EFJ).

The largest slice of “Creative Europe” (EUR 1.4 billion) will go to the MEDIA strand that supports the development, promotion and distribution of European films and audiovisual works within Europe and beyond.

The new type of media support is available under another, cross-sectoral strand.

## Practical new tool to find EU subsidies

In July, the European Commission launched a practical guide to connect the media sector with EU funding: [an interactive mapping tool to facilitate access to information about financial support](#) mechanisms. Its purpose is to help media companies identify and apply for the most appropriate source of EU support among the programmes and instruments available to them.

The tool outlines the main EU-related support opportunities for the audiovisual and news media sectors, as of 2021. It covers funding streams beyond [Creative Europe](#), such as [Horizon Europe](#), [Digital Europe](#), [InvestEU](#) or the funding mechanisms included in the recovery package branded [Next Generation EU](#).

## Copyright

### France gets serious about copyright

On 13 July, France's competition authority fined Google EUR 500 million for not respecting interim measures imposed last year, which required Google to negotiate "in good faith" with press publishers over licensing fees.

The search engine giant must present a remuneration offer and provide publishers with the necessary information for them to assess this offer within two months or face a fine of up to EUR 900,000 per day.

France is one of the few countries to have already implemented the EU's new copyright rules, which grant press publishers the right to ask for remuneration when their content is displayed on online platforms.

"We hoped that the negotiation would be fruitful and that the actors would play the game. Google still does not seem to accept the law as it was voted, but it is not up to an actor, even a dominant one, to rewrite the law", the French authority's president, Isabelle de Silva, told reporters.

De Silva said she hoped [the decision to fine Google](#) would provide a blueprint for other EU countries that are currently adapting national law to the EU copyright reform, and "prevent Google, or other platforms, from reproducing this behavior".

Google is now appealing the case.

## Guidance on disputed Article 17

Two years ago – after a long and fierce lobbying battle – the EU adopted its [new Copyright Directive](#). The directive must be transposed by the member states into their national legal frameworks.

On 4 June, the EU Commission published its much-awaited [guidance on Article 17 of the new Copyright Directive](#), the most controversial part of the new rules. Critics still seem unhappy.

The Guidance provides for upload filters, a content recognition mechanism that automatically “earmarks” content that might “cause significant economic harm to rightsholders”.

In 2019, tens of thousands of people in Austria, Germany, Poland, Portugal and Sweden took to the streets to protest against automated upload filters, contending that such filters are prone to error and would automatically take down legal content, thereby limiting free speech.

Poland even challenged Article 17 at the European Court of Justice, arguing that it threatens freedom of expression.

In its Guidance, the Commission says that Article 17 would only apply to online service providers that make money from copyrighted work uploaded to their platforms by their users. Not-for-profit online encyclopaedias and educational bodies, open source software platforms and online marketplaces would be exempt. Nor should Article 17 apply to caricature, parody, criticism, review or quotation.

Furthermore, automated blocking of content should be limited to manifestly infringing uploads, and EU countries should provide a complaint and redress mechanism to service providers so their users can use it in the event of disputes, reports Reuters. ([EU clarifies revamped copyright rules](#))

Nonetheless, critical voices are still heard: “Clearly ‘earmarking’ content means preferring the economic interests of a few powerful actors over the fundamental rights of a whole generation. This is not just dangerous for freedom of expression and creativity online, it’s also existential for democracy and Europeans’ support to EU institutions”, said Julia Reda, former Member of the European Parliament who was much involved in the copyright reform. ([European Commission ignores civil society concerns](#))

# Surveillance / Artificial Intelligence

## AI: Facial recognition restricted but not banned?

On 21 April, the European Commission unveiled its long-awaited [proposal for rules for Artificial Intelligence](#), which, once adopted, will be directly applicable in all EU countries.

Although restricting the use of biometric identification in public spaces, a ban on facial recognition is not proposed, which many – including journalists – had hoped for.

The Commission proposes a risk-based approach, ranging from systems involving “unacceptable risks” – which will be banned – to those with “minimal risk”, which won’t be regulated.

All remote biometric identification systems are considered high risk and would be subject to certain rules. Their use in publicly accessible spaces for law enforcement purposes is prohibited “in principle”. But there are exceptions, for example, to search for a missing child, to prevent a terrorist threat or to “detect, locate, identify or prosecute a perpetrator or suspect of a serious criminal offence”.

Allowing exceptions is a slippery slope, many critics point out and call for an outright ban. In the European Parliament, for example, the EFA/Green group has been a vocal opponent of any form of facial recognition in public places. So are many civil society groups.

In June, the EU’s data protection agencies called for an even wider ban in a joint Opinion. ([EDPB & EDPS call for ban on use of AI](#))

Here, they demand a “general ban” on the practice that would include “recognition of faces, gait, fingerprints, DNA, voice, keystrokes and other biometric or behavioural signals, in any context”. They also consider that “the use of AI to infer emotions of a natural person is highly undesirable and should be prohibited”.

So, what are the prospects of getting through a ban in the EU negotiations on the AI Regulation?

In July, MEP Brando Benifei, who leads negotiations on the legislation in the European Parliament, [told Politico that he supports banning biometric recognition technologies](#). Almost all of his co-negotiators in the committee also support a ban, as do other committees.

But the future negotiations between the Council and the Parliament are likely to be heated, believes Politico. Many European countries, such as France, are keen to increase the use of facial recognition systems in law enforcement and intelligence. Still, Germany, which is more privacy-conscious, is an important power player in the Council and could convince a critical mass of countries to join ranks.



If anyone needed proof of the risks personal data entails if it would fall in the wrong hands, Afghanistan provides a dramatic example, wrote Euractiv recently.

[Many Afghans have been scrambling to delete their digital history](#), fearing that it could be used against them in the wake of the Taliban's takeover of the country. US military biometric devices are reported to have been seized by the Taliban during their advance through the country, meaning databases containing data such as the fingerprint, facial and iris scans.

## EFJ: Stop using Pegasus to spy on journalists!

In July, there was a big hullabaloo in the media when it was revealed that at least 180 journalists – as well as opposition politicians and human rights activists – have been spied upon using Pegasus software.

This spyware is used for hacking mobile devices to access messages, e-mails, calendars, phone records, and so on. The phone's microphone and camera can also be activated without the owner knowing.

The European Federation of Journalists (EFJ) said the leak – which revealed the involvement of the Hungarian government, among others – raises significant implications for journalists' security and the protection of their sources as well as raising concerns through the chilling effect such applications have on journalists beyond those immediately affected.

The federation called on the Hungarian government and other implicated governments to immediately stop using the spyware and to provide transparency about its application so far. ([Spyware Pegasus helped target investigative journalists in Hungary](#))

Good luck with that.

## Neuro-rights – next call for action?

Today's privacy issues are going to be peanuts compared to what's coming, writes Politico in a recent article on neurotechnology. ([Machines can read your brain](#))

Currently, this technology cannot decode thoughts or emotions. But with artificial intelligence, that might not be necessary. Powerful machine learning systems could make correlations between brain activity and external circumstances.

Although the technology is still nascent, it has spooked neuroscientists, philosophers, lawyers, human rights activists and policy-makers into calling for a human rights framework to address the dangers.

In July, Spain adopted a non-binding Charter for Digital Rights, meant to guide future legislative projects. “The Spanish approach is to ensure the confidentiality and the security of the data that are related to these brain processes, and to ensure the complete control of the person over their data”, said Paloma Llaneza González, a data protection lawyer who worked on the charter.

Already in 2019, the Organisation for Economic Co-operation and Development (OECD), approved (non-binding) guidelines on neurotechnology. Here, they call on all actors to safeguard personal brain data and other information gained through neurotechnology, for example, by ensuring “that means of obtaining consent adequate to protect the autonomy of individuals are in place”. ([Recommendation on Responsible Innovation in Neurotechnology](#))

The GDPR, the EU’s strict data protection regime, offers protection for sensitive data, such as health status and religious beliefs. But a study at the EDHEC Business School in Lille found that the law might not cover emotions and thoughts. ([Mental data protection and the GDPR](#))

# European Media Policy

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The Newsletter provides an update on policy developments at the European level. We concentrate on news from the European Union – current issues and trends in media policy, new proposals for legislation, debates in the European Parliament, recently taken or impending policy decisions and reactions among those concerned, new support programmes, EU studies in the field etc. There will also be some coverage of policy developments in the Council of Europe and at the international level. The newsletter is published three times a year.