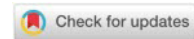


# NORMATIVE ANALYSIS OF THE EUROPEAN MEDIA FREEDOM ACT

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**Abstract:** The European Media Freedom Act (EMFA) constitutes the first binding EU legal framework systematically dedicated to the protection of media freedom and media pluralism. It was adopted after a long period in which EU media regulation remained fragmented: audiovisual services were regulated mainly through the AVMSD, while major online intermediaries were addressed through the DSA/DMA framework. The EMFA shifts the focus from isolated sector rules to a common set of directly applicable standards that target the conditions in which media operate in the internal market. The paper first explains this regulatory background and the reasons why a single EU regulation became politically and legally plausible. It then offers a normative analysis of the EMFA's main chapters, with attention to editorial independence, safeguards for journalists and sources, public service media standards, the new framework for regulatory cooperation, rules relevant for media market concentration, and the legal relationship between media service providers and VLOPs (very large online platforms). The analysis suggests that the EMFA introduces a new governance architecture and strengthens procedural guarantees at EU level, mainly through common standards and coordinated regulatory work. At the same time, many mechanisms still depend on national institutional arrangements and on the manner in which Member States apply and enforce the new rules. For that reason, the EMFA should be read as an important normative step, but not as a self-executing solution: its impact will largely be determined by implementation practice.

**Keywords:** *EU media law; European Media Freedom Act; regulatory cooperation; media pluralism; media freedom; very large online platforms.*

**Field:** Social Sciences

## 1. INTRODUCTION

Media freedom is regarded as one of the fundamental values necessary for the functioning of a democratic society. Rooted in freedom of expression, it enables the public to be provided with information on issues of general interest, ensures the plurality of opinions, and acts as a corrective to political power. For this reason, the level of media freedom is often perceived—both in theory and in practice—as an indicator of the overall democratic development of a society. Contemporary understandings of media freedom, however, go beyond its reduction to a purely individual right and increasingly point towards its institutional and systemic dimension.

Media freedom is today increasingly understood as an instrumental right, justified by the democratic function of media institutions rather than by their autonomy as such (Tambini, 2021, p. 147). This approach implies that safeguarding of media freedom cannot be limited to the mere prohibition of direct state interference in editorial policy, but must also include the creation and preservation of a broader normative and institutional framework within which the media can operate independently, pluralistically, and professionally. Within this perspective, media freedom is progressively constituted as an institutional guarantee of democratic pluralism, rather than as a mere extension of individual freedom of expression (Tambini, 2021, p. 138).

From an EU perspective, this approach was for a long time not accompanied by an adequate and unified regulatory framework. Media freedom initially relied primarily on non-binding instruments, after which regulatory attention shifted towards audiovisual services and subsequently towards digital services, while many issues of fundamental importance for the functioning of the media remained within Member States' regulatory competence. It is within this context that the European Media Freedom Act was adopted, as the first binding legal instrument of the European Union systematically dedicated to safeguarding media freedom and media pluralism. Its normative significance lies in the shift from an exclusive focus on individual freedom of expression towards the structural conditions necessary for the functioning of independent media systems (Lamour, 2025, p. 1371). Therefore, the paper first outlines the regulatory background against which the EMFA was adopted and then proceeds to a detailed normative analysis of the Regulation as a whole.

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## 2. REGULATORY BACKGROUND OF EMFA

As already noted, comprehensive regulation of the media at the EU level remained unattainable for a long time. The European Union relied primarily on fragmented, sector-specific instruments, while key issues of media freedom and pluralism largely remained within the regulatory competence of the Member States. Among recent developments in EU media law, a more substantial normative step occurred in 2010, when the Audiovisual Media Services Directive was adopted and functioned as the primary legislative framework governing the sector at that time (Directive 2010/13/EU). This Directive regulated traditional television broadcasting as well as on-demand services, thereby responding, for the first time in a systematic manner, to changes brought about by technological convergence.

The process of convergence, together with the growing influence of video-sharing platforms, led to the revision of the Directive in 2018 (Directive (EU) 2018/1808). Through these amendments, its scope was expanded, with specific regulatory implications for video-sharing platforms; at the same time, social networks and other online platforms continued to be regulated only partially and indirectly. In parallel, it became increasingly evident that issues related to the functioning of digital services required a distinct regulatory approach, separate from traditional media law. In this context, the European Union adopted the Digital Services Act (DSA) in 2022, aiming to introduce harmonized regulatory requirements applicable to digital services, including online marketplaces, social media platforms, application stores and other intermediary services (Regulation (EU) 2022/2065). In parallel, the Digital Markets Act (DMA) was adopted, focusing on the regulation of so-called gatekeepers, large digital platforms engaged in the provision of online search, application stores, and messaging services (Regulation (EU) 2022/1925). Through these instruments, the framework governing audiovisual media and digital services was largely completed, marking an important step forward in the governance of the digital environment.

Despite this regulatory development, a number of fundamental issues related to media freedom remained outside the scope of binding EU legislation. Print media and radio were not covered by the aforementioned directives and regulations, but even more importantly, core values of the media system continued to lack systemic protection at the Union level. Editorial autonomy, safeguards for journalistic sources, the independence of public service media, and transparency in media ownership and funding arrangements, as well as the influence of state and economic actors on the media, were not normatively addressed within the existing regulatory framework. In this sense, the core normative postulates of journalism remained outside the focus of both the AVMSD and the DSA/DMA package.

The need for a common legal framework was further reinforced by the unevenness of media regulation across Member States and by the different levels of protection of media freedom in practice. There was a clear need for EU-level harmonization to prevent fragmentation of the internal media market, as divergent national rules risk undermining editorial independence and the effective protection of journalists' work (Brogi, Borges, Carlini et al., 2023, p. 72). In such a fragmented regulatory landscape, the absence of common and effective safeguards contributed to situations in which editorial autonomy and journalists' safety were increasingly exposed to systemic risks in certain Member States. The murders of journalists in Malta and Slovakia served as a strong signal of systemic weaknesses in the existing framework, while contemporary reports continue to document widespread violence and pressure against journalists. Thus, the Liberties Media Freedom Report 2025 notes that physical violence against journalists has been recorded in numerous Member States, including Croatia, Germany, Greece, Italy, Slovakia and Slovenia, while in some countries incidents of violence were linked to the actions of police forces (Liberties Media Freedom Report, 2025, p. 7).

Within such a normative and social context, it became clear that a fragmented approach to media regulation could no longer respond to contemporary challenges. The need for a single, binding instrument at the EU level, capable of systematically addressing the fundamental issues of media freedom and pluralism, became increasingly apparent. The importance of addressing this issue was further highlighted in the context of the Conference on the Future of Europe, which subsequently prompted the European Commission to put forward, in September 2022, a legislative Proposal for a Regulation establishing a common framework for media services in the internal market (COM/2022/457 final). The proposal emphasized the necessity of reinforcing safeguards for media pluralism, journalistic independence and the resilience of media systems against political and economic pressure.

Following the legislative procedure and the exchange of positions between the EU institutions, the European Parliament and the Council adopted the final text of the European Media Freedom Act in April 2024. The Regulation formally entered into force in May 2024, while its application was deferred until 8 August 2025, in order to allow Member States sufficient time to adapt their institutional and organizational frameworks to the new obligations. As an EU regulation, the EMFA applies across all Member States

without requiring transposition into national law, with the aim of avoiding further disparities in the level of protection of media freedom and additional fragmentation of the internal market. In this sense, the EMFA also introduced a new governance architecture by transforming earlier coordination mechanisms under the AVMSD into a more structured and permanent framework of regulatory cooperation within the internal media market (Trevisan, pp. 196–197). At the same time, the Regulation lays down concrete and directly applicable rules governing the position of media service providers, regulatory authorities and platforms within the internal market.

### 3. NORMATIVE ANALYSIS OF EMFA

The European Media Freedom Act establishes, for the first time, a single and directly applicable set of rules governing media services across the European Union. Unlike earlier sector-specific instruments, the Regulation does not merely coordinate national systems, but substantively regulates key aspects of media freedom, media markets and regulatory cooperation at Union level. Its normative content is organized into four chapters: General Provisions; Rights and Duties of Media Service Providers and Recipients of Media Services; Framework for Regulatory Cooperation and a Well-Functioning Internal Market for Media Services; and Final Provisions. The following analysis examines these chapters in turn, focusing on their legal structure and regulatory implications.

**The General Provisions chapter** is significant as it determines the scope within which the Regulation applies, its relationship with other legal acts (which it complements rather than replaces), and provides precise, harmonized definitions. “This Regulation lays down common rules for the proper functioning of the internal market for media services and establishes the European Board for Media Services, while safeguarding the independence and pluralism of media services” (EMFA, Article 1). At the same time, In compliance with Union law, Member States may adopt more detailed or stricter rules in areas governed by the Regulation. Equally important is the section that contains the definitions of key concepts: media service – a service primarily intended to make programs or press publications available to the general public, under editorial responsibility, for the purpose of informing, educating, or entertaining; media service provider – a natural/legal person who professionally provides a media service and determines the selection and organization of its content; public service media provider – a media service that, under national law, operates under a public service remit and is financed through public funds in order to fulfil that remit; editorial responsibility – the effective control exercised over the selection and arrangement of programs or publications within a media service; intrusive surveillance software – software that exploits vulnerabilities of digital products for covert surveillance, including the collection or analysis of user data; audience measurement – the gathering and processing of data concerning the size and composition of an audience, for purposes such as advertising, pricing, and distribution planning; state advertising – promotional or informational messages disseminated by public authorities or entities under their control, in exchange for payment or other consideration; media literacy – the knowledge and skills enabling citizens to use media safely and critically, including the ability to distinguish facts from opinions (Article 2).

**The chapter Rights and Duties of Media Service Providers and Recipients of Media Services** addresses the duties of media service providers as well as the safeguards designed to secure the independent operation of public media services. It guarantees the right of recipients of media services to have access to pluralistic and editorially independent media content, while obliging Member States to create conditions for the protection of that right (Article 3). As for the rights of media service providers, the Regulation guarantees the freedom to carry out their activities without restrictions within the internal market, except for those permitted under EU law (Article 4). Member States are required to ensure respect for editorial freedom and independence of media service providers and must avoid interference in editorial policies or decision-making. In particular, Member States are prohibited from requiring the disclosure of journalistic sources or confidential communications, as well as from detaining, sanctioning, intercepting, or conducting surveillance of media service providers, members of their editorial staff, or persons associated with them for the purpose of obtaining such information, including through the use of intrusive surveillance software. However, the Regulation also provides for certain limitations, allowing Member States to require the disclosure of sources and impose sanctions on journalists under specific conditions: when such measures are laid down in national or EU law, when the principle of proportionality is respected, when a prevailing public interest exists, and when the measure is based on a decision of a judicial authority or an independent body.

The Regulation also provides for the possibility of Member States applying intrusive software in the context of investigations concerning particularly serious criminal offences. However, such surveillance

measures and the use of software-based technologies requires continuous oversight by a court or an independent regulatory authority, in accordance with EU law. The Regulation guarantees the right to judicial protection for journalists, editors, and other associated persons, as well as the right to seek assistance from regulatory or self-regulatory bodies in exercising that right. Article 5 introduces safeguards for the independent functioning of public media services. It enshrines editorial and operational independence, requiring Member States to ensure transparent, independent, and non-discriminatory procedures for the appointment and dismissal of management, accompanied by judicial protection. The financing of public media services must be based on pre-established, transparent, and objective criteria that secure stable and predictable funding. The implementation of these provisions is monitored by one or more independent bodies, whose findings must be made publicly available to ensure accountability. Finally, the Regulation outlines the duties of media service providers, primarily aimed at strengthening transparency and editorial independence. Providers are required to make publicly available information concerning their legal name, ownership structure, and any financial support received from state advertising or from third countries. All such information is entered into national databases maintained by competent authorities. Providers of media services that produce news and current affairs content are required to put in place safeguards ensuring editorial autonomy and to make transparent any existing or potential conflicts of interest (Article 6).

**The Framework for Regulatory Cooperation and a Well-Functioning Internal Market for Media Services** structures regulatory cooperation among national regulatory authorities, in coordination with the newly established European Board for Media Services, while also addressing the proper functioning of the internal market through mechanisms such as media concentration control and transparency of financing. The chapter can be divided into six sections: Independent Media Authorities, European Board for Media Services, Regulatory Cooperation and Convergence, Provision of and Access to Media Services in a Digital Environment, Requirements for Well-Functioning Media Market Measures and Procedures, and Transparent and Fair Allocation of Economic Resources.

In the Independent Media Authorities section, Member States must ensure the establishment of independent regulatory authorities responsible for implementing this chapter in coordination with other relevant bodies, and to provide these authorities with adequate resources. National regulatory authorities may, within a reasonable timeframe, request from any relevant natural/legal person the information and data necessary for the performance of their competences (Article 7).

A very significant part of the Regulation concerns the establishment, structure, independence, and tasks of the European Board for Media Services. The Regulation establishes the Board as the body replacing ERGA, with its independence from governments, institutions, persons, or bodies explicitly emphasized (Articles 8–9). The Board consists of members appointed by national regulatory bodies, elects a Chair and a Vice-Chair for one-year terms, establishes its internal procedural framework and adopts decisions supported by a two-thirds majority. The Commission is represented in the Board's work but without voting rights, and meetings may also be attended by experts and permanent observers (Article 10). In addition, the Board is supported by a Secretariat, which provides administrative and organizational assistance in the performance of its functions (Article 11). The Board takes decisions in the field of audiovisual media, continuing the work of the former ERGA, but for all matters outside this field it must consult representatives of the relevant media sectors, with the procedure for such consultation further detailed in the procedural rules (Article 12). The following article enumerates the tasks of the European Board for Media Services: it provides technical expertise to the Commission; supports coordination between national authorities and the dissemination of effective regulatory approaches; issues opinions on technical and factual matters; provides opinions on requests for cooperation and enforcement measures in cases of disagreement; issues assessments of national measures relating to media services originating outside the EU; upon request of a media service provider, participates with opinions in disputes with VLOPs; issues opinions on measures that significantly affect the operations of providers; provides opinions on draft assessments of national authorities; expresses views on media market concentrations; assists the Commission in preparing guidelines; mediates in disputes among authorities; promotes cooperation regarding standards for devices and user interfaces; coordinates measures toward services outside the EU that threaten public security; organizes structured dialogues with VLOPs, media, and civil society; exchanges practices regarding audience measurement and media literacy; and publishes an annual detailed report, which the Chair presents to the European Parliament upon invitation (Article 13).

The next section, Regulatory Cooperation and Convergence, concerns the collaboration of national regulatory authorities and their coordination to secure uniform application of the EMFA and the AVMS directive, particularly regarding cross-border issues and content originating outside the EU. Cooperation begins with a formal request, specifying the purpose and reasons for collaboration, which may only be

refused for the exhaustively listed grounds, with justification. If the authorities fail to reach an agreement on cooperation, the matter may be referred to the Board, which, in coordination with the Commission, issues opinions and recommendations for consideration by the authorities. In urgent cases, accelerated cooperation within a 14-day period is provided for (Article 14). The section also regulates the mutual cooperation of national regulatory authorities concerning the obligations of video-sharing platforms (for example, YouTube). In case of disagreements, the matter is referred to the Board, which issues recommendations and opinions, after which the authority receiving the request notifies the Board, the Commission, and the party concerned of the actions already undertaken or envisaged (Article 15). The Board promotes the exchange of experience among national regulators and assists the Commission in issuing guidelines and opinions on the application of the Regulation. In the case of guidelines relating to the AVMSD, the Commission additionally consults the Contact Board (Article 16). The section then addresses measures concerning media services outside the EU: at the request of at least two national authorities, the Board coordinates measures where such services target or reach audiences in the EU and pose a serious risk to public safety. The Board, together with the Commission, establishes criteria that national regulatory authorities take into account when performing their tasks (Article 17).

The next section concerns Provision of and Access to Media Services in a Digital Environment. Under these provisions, very large online platforms (VLOPs) are obliged to provide media service providers with opportunities to verify their status, legal and editorial independence, to comply with requests from regulatory authorities, to refrain from offering AI-generated content without human oversight, and to display relevant contact information. These platforms may also suspend their intermediary services, but only after providing a prior explanation for the refusal and allowing a 24-hour response period. The platforms are obliged to ensure the prioritized handling of complaints from media service providers and to engage in dialogue with them if providers consider themselves repeatedly and unjustifiably restricted. In cases where no agreement is reached, provision is made for mediation and other forms of out-of-court dispute resolution, and platforms are, at the same time, required to publish annually data on content restrictions, the reasons for their imposition, rejected or withdrawn statements, and dialogues conducted with media service providers (Article 18).

The Regulation also provides for a “structured dialogue” between VLOPs, media service providers, and civil society organizations to exchange experiences, promote the diversity of independent media, and monitor initiatives against harmful content, with the Commission being informed of these activities (Article 19). Finally, users are guaranteed the right to independently and easily adjust the settings of devices and interfaces through which they access media services, while manufacturers and developers must ensure the continuous and the clear recognisability of media service providers’ visual branding. Member States supervise the implementation of these obligations, and the Board encourages cooperation between media entities and standardization bodies to develop common standards for devices, interfaces, and digital signals (Article 20).

The Requirements for well-functioning media market measures and procedures section of the Regulation governs national measures, the evaluation of concentration levels in media markets, alongside measures aimed at safeguarding pluralism and editorial autonomy as conditions for a properly functioning media sector. National measures adopted by Member States must be justified, proportionate, and implemented within predetermined deadlines without unnecessary delay, while media service providers are granted access to an appeal procedure conducted by an independent regulator or a court. If a measure could significantly have an effect on the operation of the internal market, the Board or the Commission may issue a publicly available opinion, and national authorities are obliged to provide all necessary information for its preparation without delay (Article 21). Member States must put in place a framework for the assessment of media concentration where such concentration may have a significant impact on media pluralism and editorial independence. The framework should be based on transparent, objective, and proportionate rules, applied by clearly identified competent regulatory authorities and guided by predefined criteria and time limits.

The assessment considers the impact on pluralism and public opinion, measures to safeguard editorial independence, the economic sustainability of entities, findings from the annual Rule of Law report published by the Commission, and any obligations of the parties to preserve pluralism. If there is a suspicion of harmful effects from concentration, the national regulatory authority consults the Board, which issues an opinion and forwards it to the relevant national authority and the Commission, after which the national authority is obliged to adopt that opinion to the greatest extent possible (Article 22). In cases where no national assessment or consultation has been carried out and media concentration may affect the internal market, the Board may, either on its own initiative or at the request of the Commission, issue an opinion on its impact on pluralism and editorial independence (Article 23).

The final section is entitled Transparent and Fair Allocation of Economic Resources and addresses the rules for audience measurement and the allocation of public resources for state advertising purposes and media contracts. Audience measurement systems must be transparent, impartial, verifiable, and independently audited, while operators of these systems are obliged to provide media service providers and advertisers with free access to information regarding methodology and measurement results, with the possibility of the Commission's adoption of codes of conduct and the issuance of guidance (Article 24). The final article of this chapter addresses the use of public funds in relation to state advertising and media contracting. It stipulates that fund allocation must be carried out on the basis of predefined criteria that are transparent, objective, proportionate, and non-discriminatory, and published in advance and implemented through public procedures. Annual expenditures for state advertising in Member States must be distributed across the widest possible circle of media while respecting national and local specificities. Public authorities shall publish yearly data on state advertising expenditures, including the legal names of media and platforms receiving funds, information on their affiliation to business groups, and the amounts allocated. Regulatory authorities oversee and publicly report annually on this distribution and may request additional information from competent authorities to verify the completeness and legality of allocations (Article 25).

**Final Provisions** constitute the concluding chapter of the Regulation and concern its monitoring and evaluation. The Commission conducts an annual market monitoring exercise on media services across all Member States, assessing levels of concentration, risks of foreign interference, the state of pluralism and editorial independence, the impact of platforms, as well as the allocation of public funds for state advertising. The results of this monitoring are reviewed within the Board and the contact committee and are presented to the European Parliament (Article 26). The Commission must also conduct an evaluation of the Regulation by 8 August 2028, and subsequently every four years, submitting a report to the Council, the Parliament, and the European Economic and Social Committee. For this purpose, Member States and the Board make relevant information available, while the Commission, in its assessment, takes into account EU institutional documents and positions, monitoring findings, and other sources (Article 27). The last two articles address technical amendments and the entry into force and application of the Regulation, with specified deadlines for certain provisions. It should be noted that Article 20, concerning the right of users to adjust the provision of media services, will become applicable two years later, on 8 May 2027 (Articles 28–29).

#### 4. CONCLUSION

The normative analysis of the European Media Freedom Act indicates the objective that its adoption aimed at achieving – the creation of a common regulatory framework at EU level, covering the core standards relevant for the functioning of contemporary media systems. These standards primarily concern editorial independence, the protection of journalists and journalistic sources, mechanisms for ensuring media pluralism and transparency, as well as the interaction between the media sector and digital platforms. The need to regulate these issues emerged at a moment of intensified threats to media freedom in Europe, including political interference, media capture and growing risks to journalists, while the normative ambitions of the EMFA may be constrained by structural weaknesses affecting its effectiveness in practice (Horton & Assersen-Skadberg, 2026, pp. 3–4).

The General Provisions play an important role as they establish common conceptual foundations at the level of the Union. Precise and harmonized definitions contribute to reducing the differences that previously existed between national legal systems and enable the creation of a shared regulatory basis for a unified European media space.

The Rights and Duties of Media Service Providers and Recipients of Media Services represent the normative core of the EMFA. At this level, editorial autonomy of media service providers is, for the first time, explicitly protected under EU law, together with journalists' rights relating to the protection of sources and the prohibition of unlawful use of intrusive surveillance software. At the same time, a normative framework is established for strengthening public service media. The exceptions and limitations indicate an attempt to balance the protection of media freedom with legitimate public interests, but they also leave room for divergent interpretations in practice. Nevertheless, while the EMFA represents an important step in recognizing the risks of media concentration and platform dependence, it does not adequately address the implications that infrastructural and vertical platform power has for media pluralism and editorial independence (Seipp et al., 2024, p. 18).

The Framework for Regulatory Cooperation and a Well-Functioning Internal Market for Media Services regulates and strengthens cooperation between Member States through their regulatory

authorities, while also normatively defining the relationship between media services and online platforms. The setting up of the European Board for Media Services constitutes a significant step towards a more coordinated and unified approach to regulating the EU media space. However, the normative analysis shows that, although the EMFA strengthens procedural guarantees of independence for regulatory authorities, it largely relies on pre-existing national institutional arrangements, limiting its capacity to correct structural deficiencies in captured media systems (Trevisan, pp. 198–199).

The Final Provisions indicate that the EMFA is conceived as a regulatory framework whose actual reach will be demonstrated through practice. Monitoring and evaluation mechanisms suggest that the effects of the Regulation will depend primarily on its implementation at the level of the Member States, rather than solely on its normative content.

Taken as a whole, the EMFA represents an important normative step forward, but not a final solution to the problem of media freedom in the European Union. Its real impact will depend on consistent application, the institutional capacities of Member States, and the political will to effectively enforce the guarantees established by the Regulation. For this reason, the EMFA should be understood as the beginning of a new regulatory phase in European media law, rather than as the conclusion of that process.

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