

The EU Should Not Turn a Blind Eye to Hungary's Media Capture

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The independent media space in Hungary has recently shrunk further. After the hostile takeover of the biggest independent news website, Index.hu, one of the last remaining independent radio stations, Klubrádió, is now likely to lose its license. Besides smaller outlets, only RTL Hungary and the Central Media Group remain independent. As a result, Hungary has fallen to its lowest ever position (89th) in the latest World Press Freedom Index.

Over the last decade, the Hungarian media market has been heavily distorted in favor of a dominant pro-government narrative. The ruling Fidesz party has turned most previously independent media outlets into propaganda instruments funded with public money. Furthermore, part of the remaining critical media is still dependent on the government due to its influence on the advertising market.

Critical voices have been gradually silenced by political or economic means, or by a legal argument. After bleeding it out by withdrawing state-funded advertising and pressuring commercial advertisers to stay away, the government's allies infiltrated Index's complex ownership and management structure, and fired the editor-in-chief, which resulted in the break-up of the editorial team. The fate of the newspaper Népszabadság was simpler—it was abruptly closed by investors allied to Prime Minister Viktor Orbán back in 2016. Now Klubrádió is struggling to survive due to a ruling from the Media Council that “the station had repeatedly violated the Media Law.”

Orbán has claimed that “We would never sink so low as to silence those with whom we disagree,” but the reality is that Hungary has become a classic example of media capture. At the same time, ironically enough, he still claims that he has to govern while facing huge oppositional media pressure.

In illiberal regimes such as the one in Hungary, it is not necessary to imprison or physically harass critical journalists. Due to media owners' conflicts of interests and often under direct political pressure, they are unable to provide balanced, fact-based information to monitor the actions of those in power. Employees of independent media outlets are also regularly smeared as political activists, “Hungary haters,” foreign agents, traitors, or “Soros propagandists.”

More recently, using the coronavirus pandemic as a pretext, the government amended the Criminal Code to include as a separate and severely punishable offence the dissemination of fake news about the coronavirus. After a member of the Momentum opposition party was detained for disseminating “scaremongering” news,

the “fake news law” can have a huge chilling effect on freedom of speech, leading to self-censorship on a massive scale.

Clientelism and Unfair Competition

The media environment reflects Orbán’s overall approach, demonstrated by the fact that the government rewrote the constitution eight times to capture the state’s referees, to create a grossly uneven playing field and to restrict civil society, the opposition, and the independent media. An institutional environment with weakened checks and balances made it easy for Orbán’s party, Fidesz, to create an extremely centralized media system. The Economic Competition Authority and the politically captured Media Council played significant roles in the expansion of pro-government media.

The concentration of media ownership shifted into higher gear in 2018 when more than 470 pro-government outlets were merged into a nonprofit media conglomerate called the Central European Press and Media Foundation (KESMA). It represents an unprecedented centralization of media in the hands of pro-Fidesz oligarchs. Today, around 500 government-controlled outlets ensure that Fidesz dominates political discourse based on Eurosceptic conspiracy theories. Local newspapers now parrot exactly the same central messages published by the national pro-government media.

A clientelistic network of media ownership plays a significant role. The government wields power informally, using powerful individuals and companies aligned with Fidesz to silence critical outlets. Orbán’s cronies use the revenue generated in their government-supported businesses for the acquisition and operation of media outlets. At the same time, most of the media are being suffocated as the government withholds state advertising. And the creation of KESMA has made it even harder for the few remaining independent media companies to operate now that they face a single, giant competitor.

The EU Can and Should Act

Not only will the Orbán regime will keep using such authoritarian informal tactics against independent media, but other governments in the EU are taking note of this—and of the EU’s failure to prevent it. In Poland, the ruling Law and Justice (PiS) party has been promising the “repolonization” of the media for years, which could soon impact what is a diverse media market. According to PiS, a draft law on limiting foreign ownership of Polish media has been prepared and is “just waiting for a political decision” since 2017. However, the government has put it on hold mainly due to U.S. diplomatic pressure.

So far, despite some efforts, in practice the EU institutions have failed to prevent backsliding in democracy and rule of law in the likes of Hungary and Poland. As the coronavirus crisis makes it even harder for the media to inform citizens, a stronger stance on this issue from the EU is more important than ever. It has to go beyond monitoring and promoting the rule of law in member states like Hungary where the government is systematically limiting dissenting voices and silencing critics.

Instead of emphasizing the importance of a new “preventive tool for early detection of challenges,” the EU can and should use its legal toolkit in a systemic and effective manner to stop the Hungarian authorities from further undermining the independent media. Although media freedom is not one of its explicit competences, the European Commission has significant responsibility in competition law and state aid, two areas that have been abused by Fidesz to silence the media.

Brussels should not only step up against unlawful state aid and media concentration, it should also bring more infringement actions regarding the Article 7 procedure, given that violations of press freedom and media pluralism are among the major concerns listed under its scope. So far, the only successful legal action in the context of media freedom was launched against Hungary's advertising tax, which the EU Commission conducted at the request of RTL, the only media portfolio that remained in foreign (German) hands. It should be noted that this was also based on the rules governing state aid.

Accelerated infringement actions with applications for interim measures should be also systematically considered. Furthermore, the European Court of Justice should prioritize these infringement actions to prevent further harm by governments before its rulings are issued.

Earlier this month, the U.S.-funded Radio Free Europe/Radio Liberty resumed its operations in Hungary (after Romania and Bulgaria), which is needed more than ever since the collapse of the Soviet Union. This should be another warning to the EU that weak institutions in Central-Eastern Europe provide a favorable environment for media capture that should be addressed in an effective manner.

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