

Artificial Intelligence and Media Freedom: From the ‘Brussels’ to the ‘Strasbourg’ Effect?

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ABSTRACT: Artificial intelligence (AI) poses both challenges and opportunities for media freedom in Europe. The interplay between EU legislation – including the Media Freedom Act, the AI Act, and the Regulation on political advertising – and the European Charter and ECHR seeks to protect media pluralism and democracy amid rapid digital transformation. AI’s growing role in content creation and distribution raises concerns over autonomy and editorial independence, but EU law aims to ensure transparency, AI literacy, and safeguards against undue influence. Cooperation between the EU and the Council of Europe through frameworks like the AI Convention reinforces a safe approach to innovation, promoting digital strategic autonomy for the EU

KEYWORDS: artificial intelligence; media freedom; Council of Europe; European Union; ECHR

SUMMARY: 1. AI and media freedom in the EU approach to the digital sector – 2. Media freedom and AI technologies in the media industry – 3. The EU legal framework on media freedom and AI – 4. Towards a ‘Strasbourg’ effect? – 5. Conclusion: the case for joining forces.

1. AI and media freedom in the EU approach to the digital sector

This paper will outline how the regulation of AI under EU law, not solely in the AI Act, can allow the emergence of an EU approach to digital strategic autonomy. The media industry and its high reliance on AI is an example where primary and secondary sources of EU law interact and shape an approach to regulation that is crucial for EU digital strategic autonomy. Such an approach can be strengthened by the interaction between the EU and the Council of Europe framework, in particular on AI.

The relationship between media freedom, pluralism, and AI emerged in particular in recent years.¹ The importance of a media industry that is free and plural is increasingly considered as a fundamental characteristic of a democratic society.² Artificial intelligence, on the other hand, is increasingly used in

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¹ A. MUNORIYARWA, M.F. DE-LIMA-SANTOS, *Generative AI and the Future of News: Examining AI’s Agency, Power, and Authority*, in *Journalism Practice*, 19, 2025, 2177.

² R. MASTROIANNI, *Freedom of pluralism of the media: an European value waiting to be discovered?*, in *Media Laws*, 2022, 100. C. SCHEPISI (a cura di), *Unione europea, pluralismo e libertà dei media nell’era digitale*, Napoli, 2025.

the media industry to generate and distribute content, and the automatization of this process poses important questions to the freedom and pluralism of media.³

This paper aims to address the following research question: how, in the example of media freedom and pluralism, AI regulation can shape an approach that is distinctive of the EU, and whether this approach, through the interaction and cooperation between the EU and the Council of Europe, can contribute to the consolidation of EU digital strategic autonomy.

To address the question, it will be necessary to discuss the application of primary legislation, as well as the use of the legal basis (mostly art. 114 TFEU) to adopt several legal instruments that are still within a transitory regime. Such a regime, in the coming years, will increase uncertainty on the application of EU legislation and of the legal framework in the field of AI and media freedom. On the other hand, it will be important to discuss the application of AI in the media industry, as in examples such as in media content distribution, in fact-checking, and in content moderation, and its impact on media freedom. The application of EU legislation, both at primary and secondary levels, also happens in a field where, for obvious reasons, there is very little *specific* case law.⁴ Such a case law falls outside the scope of this work, as at present this analysis is mainly focused on the primary and secondary sources of EU legislation.

In general, EU law requires that the life cycle of AI-based products and services should embed an approach that protects and promotes media freedom and media pluralism, by providing tools that can enhance the respect of this pluralism.⁵ At the same time, the tools should not be so restrictive that they constitute a permanent barrier to the development of an innovative media industry. The development of an AI that reaches this balance will eventually contribute to the EU's digital strategic autonomy. To reach this goal, it is important to assess the potential role of the Council of Europe in promoting the EU approach to AI (as long as such an approach is compatible with the one of the Council of Europe). There might be mutual benefits, but also mutual challenges, in the cross-fertilisation between two largely overlapping but distinct European legal orders.

2. Media freedom and AI technologies in the media industry

The media industry is rapidly changing, especially after the advent of the World Wide Web and the transition to the digital sphere.⁶ The main source of income of media outlets is no longer (with few exceptions) the daily purchase but rather the alternative between a monthly (or yearly) subscription and

³ *Guidelines on the responsible implementation of artificial intelligence systems in journalism*, 30 April 2025, <https://rm.coe.int> (last visited 31/01/2026).

⁴ However, there is an impressive body of *general* case law, both from the Court of Justice of the EU and from the European Court of Human Rights on media freedom, that can help and guide the interpretation of these very new pieces of EU legislation. See D. VOORHOOF, T. MCGONAGLE, *Freedom of Expression, the Media and Journalists: Case-law of the European Court of Human Rights*, 2017, <https://rm.coe.int> (last visited 31/01/2026).

⁵ See in general, T. BLAGOJEV *et al.*, *Monitoring Media Pluralism in the European Union*, 2025, <https://cadmus.eui.eu> (last visited 31/01/2026). At p. 21, the Report also explicitly mention the risks for the use of AI in journalism.

⁶ J.P. SIMON, M. BOGDANOWICZ, *The Digital Shift in the Media and Content Industries*, in *JRC Scientific and Policy Reports*, 2012.

advertising.⁷ The need to attract investors that are willing to spend resources on media outlets is forcing media companies to change their business models to produce a larger amount of content that should be, at the same time, shared and promoted not only on the web but into a variety of social media outlets, which requires, in turn, a variety of different approaches.⁸ Also, the traditional media industry is challenged by the competition of freelance media personalities (e.g., individuals whose YouTube channel or Instagram account has more than several hundred thousand, if not several millions, of subscribers).⁹ This does not mention the fact that traditional and more authoritative media outlets have considerably more expenses compared to freelance media personalities, which makes their traditional business model even less sustainable.¹⁰

The need to produce more content that can be shared on multiple platforms to compete with multiple actors itself justifies the reliance on AI, which allows media outlets to automatise production of content and to tailor it to the need to the different platforms.¹¹ To this, it should be added that AI technology is provided on a pay-per-use basis, which makes it difficult for media outlets to develop proprietary AI systems as the costs are a magnitude higher than the cost of a subscription.¹²

By joining the elements of the high competition, the increase in the costs, in the number of contents to be produced and in the number of platforms where the content is to be shared, it can be understood the degree of potential dependency of media industry and of journalists on AI.¹³ This dependence has been defined in scholarship as “infrastructural reliance” as the media platform are unwilling, and perhaps legitimately so, to build and develop their own AI infrastructures, but they rely intensively on the one provided by other actors, as Microsoft, Google and OpenAI.¹⁴

⁷ E. BROGI, H. SJØVAAG, *Good practices for sustainable news media financing*, 2024, <https://rm.coe.int> (last visited 31/01/2026).

⁸ J. HENDRICKX, J. VÁZQUEZ-HERRERO, *Dissecting Social Media Journalism: A Comparative Study Across Platforms, Outlets and Countries*, in *Journalism Studies*, 25, 2024, 1053.

⁹ E.g. MrBeast, one of the freelance media personalities with more subscribers on YouTube, has 464 million subscribers, while the YouTube account of the Financial Times has 1.39 million. If we restrict our search to Italian media industry, Luis Sal (renowned Italian YouTube personality) has 1.88 million subscribers on YouTube, while *Il Corriere della Sera* (the most reputable and diffused traditional Italian newspaper) has 487k subscribers (as of 31 January 2026).

¹⁰ M. SAVAGE, *Social media creators to overtake traditional media in ad revenue this year* in *The Guardian*, 10 June 2025, [theguardian.com](https://www.theguardian.com) (last visited 31/01/2026).

¹¹ A. NANZ, A. BINDER, J. MATTHES, *AI in the Newsroom: Does the Public Trust Automated Journalism and Will They Pay for It?*, in *Journalism Studies*, 2025, 1.

¹² *Ivi*, 6-7.

¹³ T. HOLLANEK, D. PETERS, E. DRAGE *et al.*, *AI, journalism, and critical AI literacy: exploring journalists' perspectives on AI and responsible reporting*, in *AI & Society*, 2025. F.M. SIMON, *Escape me if you can: How AI reshapes news organisations' dependency on platform companies* in *Digital Journalism*, 2024, 149-170. F.M. SIMON, *Uneasy bedfellows: AI in the news, platform companies and the issue of journalistic autonomy*, in *Digital journalism*, 2022, 1832. N. HELBERGER, M. VAN DRUNEN, S. ESKENS, M. BASTIAN, J. MOELLER, *A freedom of expression perspective on AI in the media –with a special focus on editorial decision making on social media platforms and in the news media* in *European Journal of Law and Technology*, 2020, ejlt.org (last visited 30/01/2026). P. PARCU, M.A. ROSSI, *Policy changes to strengthen the protection of media freedom and media pluralism in the EU*, in P. PARCU, E. BROGI (eds) *Research Handbook on EU Media Law and Policy*, 2020, 427.

¹⁴ M.Z. VAN DRUNEN, *Safeguarding media freedom from infrastructural reliance on AI companies: The role of EU law*, in *Telecommunication Policy*, 49, 2025.

Such a relationship can, in turn, be an important factor of innovation, but can also affect the freedom and the pluralism of the media industry.¹⁵

The media industry, and especially journalists, play an important role in a democratic society, which is one of promoting and sharing content that is reliable and authoritative.¹⁶ The monopoly, or rather oligopoly, on the sources of production of content is giving the upper hand to AI companies and social media platforms to potentially restrict and influence access to the main sources of media content distribution. A recent example, in this sense, is the refusal by Meta Platforms to accept requests for political advertising following the entrance into force of EU legislation in the field.¹⁷

The use of AI technologies in the distribution and sharing of content is an undeniable opportunity, but it is also becoming, with time, an important challenge. It is thus important to understand to what extent this relatively new interaction is regulated by EU law and also how the EU regulatory approach can contribute to its own strategic autonomy.

3. The EU legal framework on media freedom and AI

In the following section, a recognitive analysis of the regulation applicable to media freedom and pluralism and to AI in the EU legal framework is hosted. As this area is developing certainly at a high pace, the reader should be aware of the fact that the framework is changing at an unprecedented pace.

3.1. EU primary law

The Treaties themselves do not focus on media freedom, and there is no explicit legal basis that authorises the EU institutions to act to protect it. There is, however, an interesting recognition of the value provided by public funding to the media industry that is relevant to this analysis and is contained in Protocol no 29 to the Lisbon Treaty “on the system of public media broadcasting”.

This Protocol is interesting as, since its inception, it defines “that the system of public broadcasting in the Member States is directly related to the democratic, social and cultural needs of each society and to the need to preserve media pluralism”. This consolidates the assumption that media freedom and pluralism are a precondition for democracy within the EU legal order.¹⁸

This Protocol adds that the provisions of the Treaties, and in particular the ones on State aid and on public procurement, should be understood as not preventing the Member States “from providing funding to public service broadcasting and insofar as such funding is granted to broadcasting organisations for the fulfilment of the public service remit [...]”.

¹⁵ *Ivi*, 6.

¹⁶ T. DODDS, R. ZAMITH, S.C. LEWIS, *The AI turn in journalism: Disruption, adaptation, and democratic futures*, in *Journalism*, 2025, journals.sagepub.com (last visited 31/01/2026).

¹⁷ *Ending Political, Electoral and Social Issue Advertising in the EU in Response to Incoming European Regulation*, 25 July 2025, about.fb.com (last visited 31/01/2026).

¹⁸ See in this sense also the initiative promoted by Reporters Sans Frontières under the name of *Paris Charter on AI and Journalism*, 10 November 2023, <https://rsf.org> (last visited 31/01/2026). On AI and democracy see O. POLLICINO, P. DUNN, *Intelligenza artificiale e democrazia: opportunità e rischi di disinformazione e discriminazione*, Milano, 2024.

What can be understood from a teleological interpretation of this Protocol is that the pursuit of the objectives of the EU, including the ones about the single market, can be limited to protect the media broadcasting services that are fulfilling a public service within the Member States.

This should not be considered as an exact rule, but rather, in particular in light of the legal value of Protocols, an approximation that can help in the interpretation of the EU Treaties and of primary legislation.¹⁹

3.2. EU fundamental right instruments

While the Treaties offer limited guidance on the matter, the same can not be said for fundamental rights instruments that either play the role of primary sources of EU law or that find their way to display legal effects through other provisions of the Treaties.

The Charter of Fundamental Rights of the European Union acknowledges the respect of ‘freedom and pluralism of media’ within its Art. 11, paragraph 2, on freedom of expression and information.²⁰ This second paragraph, according to the Charter Explanations, extends paragraph 1 to media freedom and pluralism and is based on the case law on television of the Court of Justice.²¹

In the *Stichting Collectieve* case (expressly recalled in the Explanations of the Charter), the Court of Justice already in the early '90s maintains that “The maintenance of the pluralism [...] is connected with freedom of expression, as protected by Article 10 of the European Convention on Human Rights and Fundamental Freedoms, which is one of the fundamental rights guaranteed by the Community legal order”.²²

Now the exercise of media freedom and pluralism focuses considerably less on television and much more on the digital sphere, although this will take some time to reach the EU courts.²³ A recent example of case law (2024) on media freedom, the *Real Madrid* case, is about the limitations and the financial sanction imposed for the publication of an article that appeared in the newspaper *Le Monde* in December 2007.²⁴ In that judgement, the Court of Justice maintained that “Article 11 of the Charter constitutes one of the essential foundations of a pluralist, democratic society, and is one of the values on which, under Article 2 TEU, the European Union is founded”.²⁵

Article 10 of the European Convention of Human Rights, although not an EU instrument, also has a content that is very similar to that of art. 11 of the Charter and has nurtured a case law of the European

¹⁹ On the legal value of Protocols see e.g. L. PECH, *The European Union's Lisbon Treaty: Some thoughts on the 'Irish Legal Guarantees'*, in *EJIL Talk!*, 28 September 2008, ejiltalk.org (last visited 31/01/2026).

²⁰ Art. 11, *Charter of Fundamental Rights of the European Union*: “1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. 2. The freedom and pluralism of the media shall be respected”.

²¹ Judgment of the Court of 25 July 1991, case C-288/89, *Stichting Collectieve Antennevoorziening Gouda and others v Commissariaat voor de Media*.

²² Case C-288/89, para 23.

²³ On recent case law on media freedom see R. MASTROIANNI, *I nuovi confini della libertà di informazione nel diritto dell'Unione europea*, in *Rivista AIC*, 2025, 233.

²⁴ Judgment of the Court (Grand Chamber) of 4 October 2024, case C-633/22, *Real Madrid Club de Fútbol and AE v EE and Société Éditrice du Monde SA*.

²⁵ Case C-633/22, para 49.

Court of Human Rights that is also founded on the role of media pluralism and freedom within the EU society.²⁶

There is however another, non-binding, fundamental rights instrument that is particularly interesting for our analysis, and it is the Declaration on Digital Rights and Principles for the Digital Decade.²⁷ This soft-law instrument translates the vision of the EU for digital rights and represents an important update to the existing body of legislation on media freedom and pluralism, as it refers explicitly to new phenomena as artificial intelligence and the divide between the ‘online’ and the ‘offline’ environment.²⁸ This Declaration explicitly mentions, in its Chapter IV, the participation in the public digital sphere as one of the characteristics of the EU approach to the digital environment. In particular, it states that access to multiple sources of information represents a key to a healthy online environment: “Access to diverse content contributes to a pluralistic public debate and effective participation in democracy in a non-discriminatory manner”.²⁹ The Declaration also explicitly mentions the role of very large online platforms in granting support to the democratic debate online, as well as safeguarding fundamental rights online, and in particular media freedom and pluralism.³⁰

The framework of the fundamental rights instrument, both binding and non-binding, explicitly recognising the role and the importance of media freedom and pluralism in the digital environment and its interaction with AI, is thus particularly lively. There are, however, several challenges, in particular in terms of enforcement at the national level, that this primary framework fails to address and that might be better implemented at the level of secondary legislation.

3.3. EU secondary law

Multiple sources of secondary EU law capture the intersection between AI, media freedom, and pluralism. These acts are largely adopted under the same legal basis, Art. 114 TFEU, either alone or in conjunction with Art. 16 TEU.³¹

²⁶ Art. 10.1, *European Convention of Human Rights*: “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises”.

²⁷ *European Declaration on Digital Rights and Principles for the Digital Decade*.

²⁸ A. ADINOLFI, *Evoluzione tecnologica e tutela dei diritti fondamentali: qualche considerazione sulle attuali strategie normative dell’Unione*, in *Quaderni Aisdue*, 2023, 321. E. CELESTE, *Digital Constitutionalism, EU Digital Sovereignty Ambitions and the Role of the European Declaration on Digital Rights*, in *New Directions in Digitalisation*, 2025, 255.

²⁹ *European Declaration on Digital Rights and Principles for the Digital Decade*, para 12.

³⁰ *European Declaration on Digital Rights and Principles for the Digital Decade*, para 15: “Online platforms, particularly very large online platforms, should support free democratic debate online. Given the role of their services in shaping public opinion and discourse, very large online platforms should mitigate the risks stemming from the functioning and use of their services, including in relation to misinformation and disinformation campaigns, and protect freedom of expression. We commit to: a) continuing safeguarding all fundamental rights online, notably the freedom of expression and information, including media freedom and pluralism [...]”.

³¹ On the use of legal basis see E. LONGO, *Grounding Media Freedom in the EU: The Legal Basis of the EMFA* in *Rivista italiana di informatica e diritto*, 7, 2025, 14. P. DE PASQUALE, *Dalla flessibilità delle basi giuridiche alla normazione integrata: tecniche legislative funzionali alla rigidità del riparto di competenze nell’UE*, in *Il Diritto dell’Unione europea*, 1, 2025, 1.

The first one is the Media Freedom Act (MFA), whose main provisions recently became directly applicable,³² that provides a general framework at the EU level to make sure that media services provided within the EU digital single market are delivered in a way that preserves media freedom and protects democracy.³³

The key provisions of the MFA turn around Art. 4, on the rights of media service providers, and Art. 6, on the duties.³⁴ Art. 4, in particular, being on the rights of media service providers, translates into obligations for the Member States to protect and promote media freedom at the national level.³⁵ A little bit further in the text of the MFA (that is not as conspicuous as the AI Act), we find Art. 18, which is about the functionalities that providers of very large online platforms (VLOPs) should grant to their users. In this provision is explicitly provided that VLOPs should not include content generated with artificial intelligence without previously disclosing to the users.³⁶ This rule reinforces the explicit obligation for online platforms to disclose all the contents that are AI-generated in other EU legal acts.³⁷ However, the provision goes even further, as it obliges the VLOPs not to display AI content that has not been subjected to human review or editorial control. It is unclear to what degree the VLOPs have already started to comply with this obligation, as the majority of them mainly apply, so far, transparency obligations.

Article 22 of the MFA is also important for our analysis, as it provides for the creation, at the national level, of rules to avoid media concentrations.³⁸ These rules should also allow the EU and the MSs to monitor the media industry and to potentially understand when reliance on certain technology, including AI infrastructure, is producing a potential distortion of competition in the relevant market.

The AI Act, although more general, is also an important piece of legislation for AI and media freedom.³⁹ The risks posed by an AI system to media freedom should surely be taken into account not only in the risk management system under Art. 9 of the Regulation, but also for the fundamental rights impact assessment in Art. 27 of the same Regulation (both for high-risk AI system ex Art. 6 of the Regulation).⁴⁰ However, for the object of this paper is perhaps more important the sometimes neglected Article 4, on AI literacy. This Article provides that the “AI systems shall take measures to ensure, to their best extent, a sufficient level of AI literacy of their staff and other persons dealing with the operation and use of AI systems on their behalf”. This is not a banal statement, seen from a media freedom perspective. The AI

³² As of 8 August 2025, with certain exceptions in Art. 29 of Regulation (EU) 2024/1083.

³³ Regulation (EU) 2024/1083 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU.

³⁴ M.C. ORISTANO, *L’Unione europea e la tutela dei diritti fondamentali nel settore dei media alla luce dello European Media Freedom Act*, in *Eurojus*, 4, 2025, 16.

³⁵ On Art. 4 obligations towards EU Member States see L. MALFERRARI, *New and reinforced rights for media service providers under Article 4 European Media Freedom Act*, in *Rivista Italiana di Informatica e Diritto*, 7, 2025, 1.

³⁶ Art. 18.1 e), Regulation (EU) 2024/1083.

³⁷ E.g. Art. 50 of Regulation (EU) 2024/1689.

³⁸ Art. 22.1, Regulation (EU) 2024/1083: “1. Member States shall lay down, in national law, substantive and procedural rules which allow for an assessment of media market concentrations that could have a significant impact on media pluralism and editorial independence”.

³⁹ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence.

⁴⁰ On the fundamental rights impact assessment see: A. COSENTINI, O. POLLICINO, G. DE GREGORIO *et al.*, *Assessing the Impact of Artificial Intelligence Systems on Fundamental Rights*, 2025, <https://ssrn.com> (last visited 31/01/2026).

Act is, in fact, introducing an obligation for media service providers to make sure that their staff are trained in the use of AI and that they are able to recognise and evaluate the risks that are posed by their use.⁴¹ AI literacy is, in fact, one of the most important actions that can be taken, still at a relatively contained cost, especially compared to that of a potential lawsuit.

The last piece of legislation to be analysed is the Regulation on the transparency of political advertising.⁴² This legislation has the ambition to fight against the external influence in the realm of national and EU elections, and to disclose the source of funding of the political and social advertising that are showed also in the media industry, including online.⁴³

This Regulation, which became directly applicable very recently,⁴⁴ mentions fundamental rights, and in particular, media freedom and pluralism, since its inception.⁴⁵ In an attempt to substantiate this very ambitious commitment, the Regulation also establishes rules for the targeting and ad-delivery techniques in online political advertising.⁴⁶ These provisions explicitly restrict the collection of personal data for political advertising, and establish also transparency obligations that should disclose how these targeting and ad-delivery techniques work.⁴⁷ These transparency obligations should, in particular, disclose to what extent an artificial intelligence system has been used in the targeting or ad-delivery technique.⁴⁸ This Regulation proves to be very important for the EU's strategic autonomy, since, in a situation where they can only limit control of the foreign influence on the digital sphere, it is crucial to have transparency on the sources of funding and on the use of AI.

However, the online media platforms did not stand still and refused to comply with the obligations in the Regulation. Meta Platforms, in particular,⁴⁹ decided to openly oppose this Regulation since its negotiation phase, and since June 2025, they have openly renounced political advertising in the EU territory, a decision recently enforced.⁵⁰

This behaviour undoubtedly represents a defeat for the EU approach to regulation in the field of AI and media freedom. In this way, the group that manages, among others, Facebook and WhatsApp has hinted that they are ultimately not interested in an important source of funding coming from the EU. At the same time, they suggest that they can afford not to comply with the EU legislation, and that, for

⁴¹ T. HOLLANEK, D. PETERS, E. DRAGE *et al.*, *AI, journalism, and critical AI literacy: exploring journalists' perspectives on AI and responsible reporting*, cit., 3.

⁴² Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on the transparency and targeting of political advertising.

⁴³ L. LIONELLO, *La reazione europea alle interferenze nei processi elettorali: il nuovo regolamento relativo alla trasparenza e al targeting della pubblicità politica*, in C. SCHEPISI (a cura di), *Unione europea, pluralismo e libertà dei media nell'era digitale*, Napoli, 2025, 277.

⁴⁴As of 10 October 2025, ex Art. 30 of Regulation (EU) 2024/900.

⁴⁵ Recital (65), Regulation (EU) 2024/900: "When complying with their obligations under this Regulation, providers of political advertising services should pay due regard to fundamental rights, and other rights and legitimate interests. Providers of political advertising services should in particular pay due regard to freedom of expression and information, including media freedom and pluralism".

⁴⁶ Art. 18, Regulation (EU) 2024/900.

⁴⁷ Art. 19, Regulation (EU) 2024/900.

⁴⁸ Art. 19.1 c), Regulation (EU) 2024/900.

⁴⁹ However, similar concerns have been raised by Microsoft (who stopped political advertising in the EU since 2019) and Google.

⁵⁰ *Backlash as new EU political ad rules kick in*, 10 October 2025, <https://www.politico.eu> (last visited 31/01/2026).

them, this non-compliance is even to a certain extent convenient. It is perhaps not by chance that Meta Platform is the online platform that has the most advanced system of self-regulation of content moderation, which resembles that resembles the one of a national judiciary, chaired by its Oversight Board.⁵¹

This move by Meta Platform can, however, also be interpreted as being on the right track for the EU: a defensive reaction from one of the largest online platforms suggests the unwillingness to disclose the sources of political advertising or to perform such a collection.

There is, however, a similar development related to another proposal of the European Commission that should also be considered here.

In 2022, the European Commission proposed a Regulation on preventing and fighting sexual abuses, which is currently being negotiated by the Parliament and the Council.⁵² This Proposal, in its initial form, provides for the establishment of a Coordinating Authority in each of the EU Member States to fight against child abuse.⁵³ These Authorities have the power to request that the national judicial authorities intervene to detect and remove the online content that can be connected with child abuse.⁵⁴ This proposal, however, has been understood in several EU Member States (and in particular in Germany) as threatening the privacy of the citizens: this has triggered an enormous e-mail campaign that has eventually convinced some EU Member States to vote against the Regulation, a fact that most likely will make its adoption.⁵⁵ This last example, although not directly related to the use of AI in the media industry, has very similar consequences and implications to the Meta Platform *affair*: an EU legislation that pursues a legitimate aim (fighting child abuse) gets misunderstood at the political level, and it becomes untenable. Ultimately, either the proposed piece of legislation is abandoned, or it becomes obsolete.⁵⁶

Considered altogether, the lesson for the EU is that if there is a need to promote its own approach, it cannot be only achieved through hard law, but mostly through negotiation and moral suasion. In this case, the example of soft law in other areas of EU law can pave the way to a more balanced approach.⁵⁷

4. Towards a 'Strasbourg' effect?

⁵¹ D. WONG, L. FLORIDI, *Meta's oversight board: A review and critical assessment*, in *Minds and Machines*, 2023, 261.

⁵² Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse, COM (2022)209.

⁵³ Art. 25, Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse.

⁵⁴ Art. 7, Proposal for a Regulation of the European Parliament and of the Council laying down rules to prevent and combat child sexual abuse.

⁵⁵ *One-man spam campaign ravages EU 'Chat Control' bill*, 8 October 2025, <https://www.politico.eu> (last visited 31/01/2026).

⁵⁶ Something similar happened with the proposal for a Directive of the European Parliament and of the Council on adapting non-contractual civil liability rules to artificial intelligence (AI Liability Directive) COM (2022) 496 final. It was perceived as overlapping with the AI Act and the Commission was accused of hyper regulation. In early 2025 the Commission announced the intention to abandon the proposal. The proposal on the digital euro is also currently subjected to this fate.

⁵⁷ M. ELIANTONIO, E. KORKEA-AHO, U. MÖRTH (eds), *Research Handbook on Soft Law*, 2022, Cheltenham. P.L. LÁNCOS, N. XANTHOULIS, L. ARROYO JIMÉNEZ (eds) *The Legal Effects of EU Soft Law*, Cheltenham, 2023. M. ELIANTONIO, A. VOLPATO, S. RÖTTGER-WIRTZ (eds), *Global Standards and EU Law*, Cheltenham, 2025.

The trajectory of this paper started with the assumption that, in light of the role that media freedom and pluralism undertake within EU democracy, and in light of the importance that AI has in the online media industry, the realm of media freedom is a compelling example of how the EU's approach to AI regulation can foster its own strategic autonomy in the digital realm. It has also emerged, in particular in the last part of Section 3, that an EU approach that is based solely on hard law encounters limitations in the ambition of large online media platforms to self-regulate themselves, as well as in the initiative of civil society and in the public debate.⁵⁸ The accusations moved to the EU institutions are accordingly two main ones: hyper-regulation and excessive intrusion in the private dimension.

These accusations are very different. While the latter is purely political, and as such, the bigger role is played by the democratic debate within the EU institutions, the first one is legal in nature and can be dealt with by regulatory instruments. The claim that the EU is hyper-regulating the technological sector might be widely exaggerated, but it has some truth in it.⁵⁹

In order to address this claim, the EU needs to take seriously the requests that come to simplify the regulatory framework, but it is also equally, if not more important, to engage in an activity to mainstream its own regulatory approach within other legal orders. The EU has been an example in economic integration around the globe: certain CARICOM Member States recently decided to implement free movement of persons in a move that mimics the EU internal market.⁶⁰ It can equally lead the way in the approach to technology. This is not only about the so-called 'Brussels effect', that is a solid and serious approach that, however, relies largely on unilateral decisions, but through a multilateral effort that not only involves the EU, which can perhaps be called the 'Strasbourg effect'. It is in Strasbourg in fact, that the Council of Europe is located.⁶¹ The Council of Europe has been studying AI since the mid 2010 and, since 2022, has been working on a Convention on AI and Human Rights, Democracy and the Rule of Law.⁶²

This Convention has been opened for signature on 9 September 2024, and it has been signed by the European Commission, on behalf of the EU, on that very day.⁶³ At present, together with the EU, which has signed the Convention on behalf of its Member States, 16 more States that are either Contracting

⁵⁸ I. NENADIĆ, R. CARLINI, O. SPASSOV, *A decade of digital transformation: Pluralism between the media and digital platforms*, in E. BROGI, I. NENADIĆ, P. PARCU (eds) *Media Pluralism in the Digital Era: Legal, Economic, Social, and Political Lessons Learnt from Europe*, Routledge, 2024, 17, 25-26.

⁵⁹ The number of legal acts proposed or adopted since 2015 under the legal basis of Art. 114 TFEU (alone or in conjunction with other Articles) is unprecedented, and spans from data protection to cryptoassets and digital euro to artificial intelligence.

⁶⁰ *Barbados, Belize, Dominica and St. Vincent and the Grenadines Ready for Full Free Movement on 1 October 2025*, 30 September 2025, [Caricom.org](https://caricom.org) (lastly accessed 12/10/2025).

⁶¹ The Council of Europe is famous for having promoted the *European Convention of Human Rights* and its court, the European Court of Human Rights. However, it has so far been engaged in the promotion of more than 200 Conventions on a variety of subjects.

⁶² *Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law*, Council of Europe Treaty Series n. 225.

⁶³ Council Decision (EU) 2024/2218 of 28 August 2024 on the signing, on behalf of the European Union, of the *Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law*.

Parties or Observers of the Council of Europe have also signed.⁶⁴ Some of these States are candidate countries to enter the EU, and might have joined the Convention under these auspices.⁶⁵ Others, however, are not EU Member States and might not necessarily associate the EU approach to AI.⁶⁶ Although under the old administration, even the United States signed the AI Framework Convention, and so far, the new administration has not taken explicit action against it.

The AI Framework Convention is an international instrument that, according to authoritative scholarship, can not be exactly superimposed with the EU legislation in place.⁶⁷ However, there are legal innovations that allow for this Convention to become a vehicle to contribute to mainstreaming an approach to AI that can help the EU to enhance its strategic autonomy.

The AI Framework Convention has two main legal innovations: one is Chapter III on “Principles related to activities within the lifecycle of artificial intelligence systems”,⁶⁸ and the other is Chapter V on “Assessment and mitigation of risks and adverse impacts”.⁶⁹ Among the principles related to the life cycle of AI systems, it should be mentioned Article 13, which is the new “Principle of safe innovation”.⁷⁰ Chapter V, on the other hand, deals with the two legal tools that characterise the EU approach to AI in the AI Act and that are summarised under a single article, Article 16 on “Risk and impact management framework”.⁷¹

An interpretation that can be suggested in light of the reading of Article 16 is that the instrument brings together the risk management system and the fundamental rights impact assessment under the AI Act. This approach is further developed into a version that the Committee on Artificial Intelligence, which promoted the Convention, calls “risk and impact assessment of artificial intelligence (AI) systems from the point of view of human rights, democracy and the rule of law (HUDERIA)”.⁷² In any case, it is undeniable that Article 16 shares many common points with at least the content of art. 27 of the AI Act, and it is known that the AI Framework Convention has been negotiated during the same period as the AI Act, an indication of conceptual convergence and likely mutual influence.⁷³

⁶⁴ So far, Andorra, Georgia, Iceland, Liechtenstein, Montenegro, Norway, Republic of Moldova, San Marino, Switzerland, Ukraine, United Kingdom, Canada, European Union, Israel, Japan, United States of America, Uruguay have signed the AI Framework Convention.

⁶⁵ E.g. Georgia, Montenegro, Moldova and Ukraine.

⁶⁶ E.g. Canada, Switzerland, United Kingdom, Israel.

⁶⁷ J. ZILLER, *The Council of Europe Framework Convention on Artificial Intelligence vs. the EU Regulation: two quite different legal instruments*, in *CERIDAP*, 2, 2024, 202.

⁶⁸ Arts. 6 to 13, *AI Framework Convention*.

⁶⁹ Art. 16, *AI Framework Convention*.

⁷⁰ The substance of the Article is about the possibility, for State parties, to use sandboxes as regulatory experiments. See para 60, Explanatory Report to the *Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law*.

⁷¹ Para 105, Explanatory Report to the *Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law*.

⁷² See Committee on Artificial Intelligence, *Methodology for the Risk and Impact Assessment of Artificial Intelligence Systems from the Point of View of Human Rights, Democracy and the Rule of Law*, 28 November 2024, www.coe.int/ (last visited 12 October 2025).

⁷³ See also recital (5) of Council Decision (EU) 2024/2218: “[...] the personal and material scope of the Convention and the substantive provisions of the Convention coincide to a large extent with Regulation (EU) 2024/1689 [...]”.

Despite of course these similarities, the EU legislation on AI and the AI Framework Convention are different legal instruments. However, they are adopted under a similar approach, that is, the one that the innovation developed in the EU should be safe and should not undermine democracy, fundamental rights, and the rule of law.

This common approach, despite some differences, is the one that should convince the EU to ratify the Convention.

The AI Framework Convention is, at the present stage, to be ratified by the States that have already signed it, and it will enter into force after the ratification of 5 signatories, at least three of which should be Council of Europe Member States.⁷⁴ The AI Framework Convention is an international agreement that is necessary, for the EU, to attain the objective of harmonising national legislation in the field of AI.⁷⁵ International agreements in the field of competences that are shared between the EU and its Member States⁷⁶ can be concluded as ‘EU only’ agreements or as ‘mixed’ agreements, concluded by the EU and Member States.⁷⁷ If the agreement is concluded as ‘EU only’, the EU will exercise the powers deriving from membership in the AI Framework Convention, including the power to vote in the Conference of the Parties,⁷⁸ on behalf of all of the Member States.⁷⁹ If one or more of the EU Member States decides to ratify autonomously the AI Framework Convention, then it will trigger the possibility that all of the other EU Member States will have in turn to ratify it, slowing considerably down the ratification process, if not making it impossible.⁸⁰ To maximise the effectiveness of the AI Framework Convention for the EU and its Member States, thus crucial to ratify the AI Framework Convention as soon as possible as an ‘EU only’ agreement, following the procedure for international agreements in art. 218 of the TFEU.⁸¹ This ratification will, in turn, make it more likely that the ‘Brussels’ effect (the EU approach) is mainstreamed in Strasbourg by the Council of Europe.

5. Conclusion: the case for joining forces

In the introduction of this paper, it was claimed that the EU’s approach to the regulation of the use of AI in the media industry has radical implications for media freedom and pluralism. These implications are expressed in the attempt to limit and to control, as much as possible, the relationship of dependency

⁷⁴ Art. 30, *AI Framework Convention*.

⁷⁵ See recitals (4) and (5), Council Decision (EU) 2022/2349 of 21 November 2022 authorising the opening of negotiations on behalf of the European Union for a *Council of Europe Convention on artificial intelligence, human rights, democracy and the rule of law*.

⁷⁶ In the case of the *AI Framework Convention*, it is extremely difficult to determine if the EU has exclusive competence or not. The Council decision on the opening of the negotiations itself says that it should be negotiated as an EU only agreement but also contemplates the possibility that other Member States will subsequently ratify it. See recitals (6) and (9), Decision (EU) 2022/2349.

⁷⁷ P. CONCONI, C. HERGHELEGIU, L. PUCCIO, *EU Trade Agreements: To Mix or Not to Mix, That Is the Question*, in *Journal of World Trade*, 55, 2021, 231.

⁷⁸ Art. 23, *AI Framework Convention*.

⁷⁹ Art. 216.2 TFEU: “Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States”.

⁸⁰ P. CONCONI, C. HERGHELEGIU, L. PUCCIO, *op.cit.*, 242.

⁸¹ J. HELISKOSKI, *The procedural law of international agreements: A thematic journey through Article 218 TFEU*, in *Common Market Law Review*, 57, 2020, 79.

that media platforms develop towards the owners of AI infrastructures, as well as in the automation of key aspects of their own daily work. At the same time, the use of AI in the media industry can contribute to reducing the costs and increasing the opportunities, hence very often the pluralism, of the media space. Ultimately, a media industry that develops a healthy relationship with AI infrastructures is necessary for the development of EU democracy and for the democratic space of the EU Member States. The promotion and the protection of EU democracy is equally a fundamental part of the EU strategy to advance its autonomy and independence in the digital sector.

However, in order to foster this approach to EU digital strategic autonomy, the EU lawmakers should join the binding regulatory effort with the ability to persuade the media industry, and in particular online platforms, to comply autonomously with its own regulatory framework. This is possible only if the EU approach, which is characterised by the idea that innovation should not happen at the cost of fundamental rights and democracy, consolidates at the international level as the alternative to an approach that promotes innovation at all costs. This approach can be successful only if other legal orders choose to embrace and support this approach. This is what is happening, with, of course, certain differences, at the level of the relationship between the EU and the Council of Europe.

That is why it seems important for the EU and its Member States to ratify the AI Framework Convention. By actively mainstreaming the EU approach through the AI Framework Convention, it becomes for the EU a little less difficult to promote its own regulatory approach and to resist the temptations to abandon an approach based on safe innovation, which many large online platforms (like Meta and X) are at present actively opposing.

Essays