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## Evading the European Media Freedom Act: Examining Public and Private Control of Media Organs in Hungary and Italy

*By Henry Barrett*

The state of media pluralism around the world stands at one of its most transformative points in modern history. The development of new technologies and the impact of social media platforms have radically reshaped society. Governments around the world have responded in kind. According to Freedom House, governments have [shifted](#) from open, *laissez-faire* internet exchange to 'greater government intervention in the digital sphere.' In 2023, global internet freedom [had declined](#) for the 13<sup>th</sup> consecutive year. Many point to the European Union as a bastion for '[third way](#)' media co-regulation—balancing China's authoritarian grip on expression and the United States' unrestricted accommodations for free speech. Whereas one might view the European Union as a leader in media pluralism with appropriate safeguards for personal privacy, several Member State national governments stand in direct violation of such values. By April 2024, the Liberties Media Freedom Report [declared](#) that media freedom and pluralism stand 'perilously close to the breaking point' within the European Union. The European Union has produced legislation—specifically the General Data Protection Regulation (GDPR), the Digital Services Act (DSA), and the European Media Freedom Act (EMFA)—to try to address degrading media freedom within the EU community. This article examines how said legislation—specifically the EMFA—does not sufficiently secure media pluralism guarantees in two Member State case studies, Hungarian public media and Italian private media. With the European Union historically [perceived](#) as a 'beacon of openness and liberal democracy,' Member State derogations from media pluralism present hypocritical complicating factors for such international standards of liberal democratic governance.

## Codifying EU Media Law

As enshrined in EU law, media pluralism and media freedom stand as one of the EU's core principles and as a fundamental right for all EU citizens. Importantly, Article 11 of the EU Charter of Fundamental Rights [states](#):

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.

To this end, three major media protection packages have made their debut on the EU institutional stage. Implemented in 2018, the EU General Data Protection Regulation (GDPR) [Regulation \(EU\) 2016/679](#) serves as unparalleled 'third-way' legislation intended to protect the personal data of EU citizens while still [bolstering](#) necessary information-related services such as journalistic free expression via Article 85. The Digital Services Act (DSA) [Regulation \(EU\) 2022/2065](#) represents a [novel avenue](#) for confronting levels of hate speech, terrorist propaganda, and disinformation that have plagued major social media platforms in recent years; the DSA would require tech companies to enact policies aggressively combating illicit content or face billions of euros in fines. And most recently, in 2024, the European Media Freedom Act (EMFA) [Regulation \(EU\) 2024/1083 formulates](#) strict protections for journalistic practices and seeks transparency in public media funding and editorial independence.

Such legislation from the EU institutions display a concerted effort to preserve media freedom at the supranational level. However, such practices do not reflect the 'on-the-ground' situation at the Member State level nor will these laws serve as a panacea for long-standing, entrenched, and anti-competitive media freedom violations in various EU Member States. Two Member State case studies—Hungary and Italy—expose the gaps in the attempted remedies of these media packages, specifically the EMFA. To date, the EMFA [represents](#) the European Union's foremost legislation on ensuring the integrity, independence, and durability of media freedom and media organizations. While the EMFA provisions would work to create a comprehensive future framework for media operations in a theoretical silo, this legislation arrives too late given the current state of affairs within the EU. As such, this piece will examine the disconnect between several of the more apparently robust Articles of the EMFA—Articles 4, 5, 6, 8-13, 22, and 25—and the media freedom environments in Hungarian public media and Italian private media. Whereas these measures might serve generally as substantive approaches to the reinforcement of media pluralism, they ultimately fail to address the deeply rooted and anti-competitive nature of leading Hungarian and Italian media organs.

## Exerting Control over Hungarian Public Media

Hungary's ruling Fidesz Party has openly and legally curtailed independent media since 2010 with an illiberal structure that will persist despite the aforementioned EU legislation. The illiberal structure's public media constriction in Hungary functions through entirely legal and open parliamentary procedures to control and restrict media content. In 2011, Fidesz [established](#) the Media Authority and Media Council in Cardinal Act CLXXXV and CIV. The Media Authority [serves](#) as an umbrella media regulatory commission made up of three central branches: the President, the Media Council, and the Office of the Media Council. The media laws [require](#) official registration with the Media Authority before commencing media services, stipulate morality clauses and unbiased content, impose sanctions upwards of €720,000, and [consolidate](#) all public broadcasting and advertising under one organization—the Media Services and Support Trust Fund (MTVA). As the Council of Europe [noted](#), the President of the Media Authority 'holds extensive and concentrated powers for nine years over all regulatory, senior staffing, financing and content matters across all media sectors.' Despite the EMFA's proposed intention of 'avoid[ing] the risk of... undue political influence on the media,' [EMFA Recital 73 of the Preamble] the Regulation will not effect any material change in this highly concentrated, ruling-party aligned state organization.

Technically, the appointment process of the President of the Media Authority entirely aligns with Article 5(2) EMFA requiring 'transparent and non-discriminatory procedures' for appointments to management boards of public media service providers. The Hungarian government [points](#) to the fact that a constitutionally-codified confirmation vote of a two-thirds majority in Parliament would attribute popular, universal consensus to Media Authority appointees. However, these claims only provide a rhetorical veneer of nonpartisan composition. A gerrymandered two-thirds parliamentary Fidesz supermajority [accommodates](#) a streamlined confirmation process for [pro-Fidesz](#) political appointees. As such, the Media Authority regulatory commission is singularly [composed](#) of allies of the Hungarian ruling party who [cannot](#)—nor would not—be recalled from their positions—another point of alignment with Article 5(2) EMFA. The first President of the Media Authority, Annamária Szalai, [was](#) a Fidesz MP. The second President—Mónika Karas—[served](#) as the defense attorney for two Fidesz-aligned media outlets. The third and current President—András Koltay—has [carried](#) a lead position in Mathias Corvinus Collegium, the Fidesz-affiliated think tank and educational institution.

With the European Union attempting to outline some basic standards for media pluralism, many of their responses have come far too delayed, particularly in the Hungarian case. In assessing the novel EU legal mechanisms for media pluralism, one does not see possible redress from the European supranational level. While the EMFA seeks transparency in

appointment processes, it does not carry any mechanism for fully ensuring nonpartisan government-appointees in regulatory bodies—nor could it given appointees are determined at the Member State level. One study [found](#) that by 2017, nearly 90% of all Hungarian media was already ‘directly or indirectly controlled by Fidesz.’ At the Prague European Summit 2024, European Commissioner for Values and Transparency Věra Jourová indicated that while the EMFA makes significant strides for establishing protections of editorial independence in public media and media ownership transparency, Hungarian media state capture is ultimately at the [whim](#) of the national government and fundamentally irreversible from the European level. Commissioner Jourová is correct in this assessment particularly given that much of the EMFA approaches media institutions with a ‘freedom from interference’ negative liberty approach [EMFA Recitals 15, 18 and 19].

The well-entrenched, intricate, and legalistic implementation of the Hungarian Media Authority will continue unaffected by the EMFA. Article 4(2) EMFA [outlines](#) the need for Member State self-restraint in intervening in editorial decisions in media organs and regulatory authorities to preserve editorial independence. This guideline falls entirely flat *à la hongrois*, the [now-purged](#) editorial boards of Hungarian media providers are composed of decision-makers who voluntarily align with the government position. As previously mentioned, Article 5(2) EMFA mandates transparent, open, and non-discriminatory appointment processes for the heads of public media providers. The procedure for appointing a new President of the Media Authority is entirely transparent and outlined in Hungarian law; however, the appointee him or herself has consistently come from a pro-Fidesz background in the media. Articles 8-13 EMFA shape the role of the newly-established European Board for Media Services. While an entirely respectable mandate, the Board however would be composed of respective Member State national regulatory authorities, effectively legitimizing the Hungarian Media Authority in European-level decision-making. Finally, Article 6(1) EMFA seeks to clarify and publicize the ownership structure of private media. In Hungary, it is not unknown that close Orbán allies Andrew Vajna owns TV 2—the [most-watched](#) television channel in Hungary in 2022—and Lőrinc Mészáros [owns](#) Hungary’s largest print media company, Mediaworks. Their outsized power over private media will not change with simple audience knowledge of the ownership of these companies. Already as of 2020, 74% of Hungarian voters [believed](#) that Hungarian media has a strong political bias and 66% believed it was ‘disconcerting that the media are increasingly concentrated in Fidesz’s hands.’ Even with the changes of the EMFA entering into force on 8 August 2025, Hungarian state capture of media capably evades EU media pluralism guarantees.

## Establishing Conflicts of Interest in Italian Private Media

To turn to the Italian case as it pertains to the EMFA, the concern over privately-owned, party-affiliated media dominating the advertising markets prompts major conflict of interest considerations. A number of party-aligned television channels controlled by one individual have dominated the media advertising market share in Italy over the past three decades—former Prime Minister Silvio Berlusconi and his Mediaset conglomerate. The top six most-viewed television channels from 2008 to 2017 [divided](#) across the state-run RAI and private Mediaset company—with RAI channels maintaining a plurality of viewers. However, because of legal limits on advertising spend in public channels, Mediaset has consistently captured disproportionate advertising market share. For example, in 2009, RAI and Mediaset respectively [maintained](#) 39.2% and 38.8% of the total television audience, but Mediaset held 63.7% of advertising spend to RAI's 25.5% the same year. European Commissioner for Values and Transparency Věra Jourová noted at the Prague European Summit 2024 that one of the EMFA's goals is to establish transparency concerning party-affiliated media channels and to promote fair competition in the media markets. And yet the problem arises in the Italian case where a private, partisan media outlet already controls a dominate market share and the EMFA regulatory efforts are only specific to public advertising spend.

The effort to assess fair competition in media markets [manifests](#) in Article 22 EMFA, and transparent public spending on media platforms is [codified](#) in Article 25 EMFA. Article 22 EMFA establishes a reporting mechanism regarding media market concentrations. Article 25 EMFA seeks proportionate, transparent, and objective measures for determining public-advertising spend on media platforms. With Article 22 EMFA, it is difficult to see a 'through-line' between a report on highly-concentrated media outlets and the actual remediation of said monopolizing force. Article 25 EMFA would successfully combat arbitrary Member State funding for a media company which might result in illegitimately awarded public monies. But while this provision would stymie willful ruling-party media clientelism, it is unable to address private advertising spend, which can serve as a source of indirect conflict of interest lobbying. In the Berlusconi case where he actually owned the media outlets, one study [found](#) that firms shifted their allocated advertising spend to Mediaset during Berlusconi's respective tenures as Prime Minister boosting Mediaset profits by 25% through his years as Prime Minister. Mediaset's growth in advertising market share between 1993 and 2011 was [marked](#) by major increases at the start of his third and fourth governments. While Mediaset saw a 25% increase in profits during the period of various Berlusconi governments from 1994 to 2011, RAI's profits [decreased](#) by 9% despite viewership [remaining](#) relatively consistent. The EMFA provisions do not provide any recourse for addressing such conflicts of interest or monopolizing tendencies in privately-owned media companies and resultant discretionary firm-by-firm advertising

spend. And with Mediaset functioning from a majority position in the media advertising market—the company [managed](#) on average 55% of television advertising revenue from 2019 to 2022—the possibility of retrofitting fair competition procedures is unlikely. As such, Article 22 EMFA’s competition guidelines are toothless and Article 25 EMFA is too narrowly tailored in the Italian case, considering the reality that Berlusconi’s Mediaset already controls both a strong television viewership and an even stronger advertising stake. While the proportionality and transparency measures are respectable from behind a ‘veil of ignorance,’ the Berlusconi media empire has already positioned itself as the controlling stake in advertising revenue, and private firms can continue to operate via indirect conflict of interest lobbying beyond the confines of EMFA regulation.

## Concluding Comments

The reality is that changes in the media landscape take place at the national level; the EU’s EMFA regulation can only do so much to secure Member State-specific media pluralism—particularly if editorial offices and ownership structures for these media organs have already been usurped. Even more concerning is the fact that these methods for state or partisan capture of media outlets serve as entirely replicable models for other nations—carrying grave connotations for the future of liberal democratic governance in constitutional democracies in the EU and around the world. In Hungary, Orbán’s efforts to control independent media and propagate his political agenda have irreversibly violated principles of media pluralism which—as the European Court of Human Rights once [noted](#)—stands as the ‘cornerstone of [a] democratic and pluralist society’ (Manole and Others v. Moldova, para 54). In Italy, Berlusconi’s media conglomerate Mediaset found avenues to solidify advertising control and financially benefit from firm advertising spend during his time as Prime Minister. While the EMFA prompts some important regulatory changes for the future state of media pluralism, it falls short of fully addressing the current state of Hungarian public media and Italian private media ecosystems. Such a topic provides context to the worldwide retreat of media pluralism, internet freedom, and free speech in liberal democratic societies; the backsliding of media pluralism—and liberal democratic principles writ large—is not confined to strictly authoritarian regimes but instead osmotically permeates throughout previously entrenched liberal democracies.