

**The Free European Media Conference  
Gdansk, 17-18 March 2022**

**Keynote address – Patrick Penninckx**

Ladies and Gentlemen, dear Friends, it is good to see you back for real, despite the war which is raging in our neighbouring country, Ukraine. I propose that we take one minute of meditation and reflection to honour the victims of this atrocious war.

Thank you.

Dear organisers, EFJ, City of Gdansk, the Pomorskie Region and this wonderful museum which was awarded the European Museum Prize, dear friends,

24 February was a sad day for Ukraine and for Europe. The launch of a 'special military intervention' on Ukrainian soil. For the unwarned public, it could have sounded like a brief aesthetic surgery after which you leave the hospital before anyone notices. But. The World noticed.

The following day, on 25 February, the Russian Federation was suspended from the Council of Europe in an unprecedented rapid decision by its Committee of Ministers. Two days ago, on a warm spring day in Strasbourg, the flag of the Russian Federation was taken down from the parvis of the Palace of Europe, after a unanimous opinion of the Parliamentary Assembly of the Council of Europe and a unanimous decision of the 46 remaining States of the Organisation. I call it the Marioupol Resolution.

Yesterday, while we were debating, The Committee of Ministers [decided](#) to suspend all relations with Belarus as a result of the country's active participation in the aggression of the Russian Federation against Ukraine.

The result is that Russian citizens will – after a transition period – no longer have access to the protection offered by the European Convention of Human Rights, as being a party to the Convention is pegged to Russia's membership of the Organisation. I can tell you that this reflection took a prominent place in the debates and that strong voices were raised to continue cooperation with voices which are independent from the Putin regime. Those anti-war Russians who were called 'scum and traitors' this morning by the Russian President.

Dear Friends, some two years ago, we faced a major global health crisis, one resulting in massive human, economic and social costs. The media sector was hit particularly hard, and many journalists lost their jobs.

And yet, it would have been hard to imagine then – as it is now – that only two years later, we would be facing another unprecedented crisis, with one Council of Europe member state deciding to wage war on another.

Some of us ask “When did it go wrong?” or “Why did it go wrong?”. As our Russian colleague reminded us yesterday: there is not one single event but a series of insidious events that surreptitiously led to the final act.

The Russian aggression on Ukraine, is in flagrant violation of everything our Organisation stands for. The tragedy also once again underscores the crucial role of the media, in particular in times of war. Media becomes part of warfare. We discussed yesterday the difference between journalism and propaganda and some believe that during war we should be playing with different rules. I would be cautious about this and I will give you a few examples later on.

We see the formidable effort of many Ukrainian and other media to deliver reliable information to the public: information that can help protect civilians against existing threats, information that attests to the grim reality of war, information that brings this war to the attention of the international community.

We see the equally powerful, albeit much more sinister efforts of the Russian state to subdue the domestic media and enforce on them the official narrative. This includes restricting permissible sources, shutting down independent media outlets and even prohibiting the use of the terms war and peace.

I wonder if brandishing Tolstoy’s *Voyna i mir* has become a criminal offense. These actions, along with further criminalisation of so-called false information and blocking of social media, have deprived people in Russia of credible, unbiased information. The crackdown on dissenting voices seems complete.

Also Ukraine has introduced new content restrictions for the print and broadcast media, prohibiting denial of the armed aggression of the Russian Federation in Ukraine. The Ukrainian National Council of Television and Radio Broadcasting suspended the retransmission of more than seventy Russian TV channels, and several other countries followed suit. Finally, one of the European Union’s measures taken in response to the Russian aggression consisted of banning the state-owned channels Russia Today and Sputnik, a sanction described yesterday by Vice-President Jourova as responding to security risks, but also one that is

temporary and can be repealed once no longer necessary. The European Court of Human Rights has always implored that restrictions to Freedom of Expression should be lawful, restricted in time and necessary in a democratic society.

Public discourse in wartime has raised a number of questions also among online platforms, especially social media platforms where the information war is being fought. Meta, for example, somewhat relaxed its policy on hate speech to allow expressions of self-defence reacting to the invasion of Ukraine. The policy only applies to Ukraine and is to provide to the Ukrainians a channel to express their fury and resistance at the invading forces. Although initially there were worrying reports that direct incitement to violence would also be allowed, Meta is now saying it will not tolerate Russophobia, harassment or calls for violence against the Russians on their platform. I find it nevertheless particularly worrying that - once again - a private company is determining an incredibly sensitive issue which should be assessed by an independent oversight body, and preferably courts.

The complexities surrounding this, or indeed any war, are impossible to sketch in this address, nor is that my intention. Only with time will we be able to assess the magnitude of its consequences, including the consequences of the information war fought largely in the digital battle space. What is without doubt, is that “free media and politics are challenged”.

And while we contemplate, consolidate, and collaborate to retain free Ukrainian media and help Ukrainian journalists, pre-existing problems – those affecting media independence and viability, those impoverishing diversity, and those compromising journalists’ safety or, indeed, our trust in information – persist. Persist and call for urgent responses. The debate yesterday on the Polish media situation was particularly revealing in this regard.

Another worrying development, unfortunately, is that on 10 March, the Polish Constitutional Court delivered a new judgment again declaring Article 6§1 of the Convention incompatible with the Polish Constitution, and giving new reasons for this. That is why, yesterday the Secretary General sent a second letter to the Minister, requesting that the Polish Government provide additional explanations.

In these troubled times, it is vital that we rise to the challenge of our shared, collective responsibility for implementing the Convention. I sincerely hope that this dialogue with the Polish authorities will enable us to move forward in the right direction.

After this long introduction, I will focus on three issues which, I think, require our continued focus and attention, and more than anything, political will at the highest levels. Only political engagement can lead to proper support structures and response mechanisms. We often state that Freedom of Expression is a cornerstone for our democratic societies, but I also see that freedom of expression requires a democratic society in which to cherish and bloom.

The issues I wish to address are **safety, sustainability and credibility**. Another important issue is literacy, but my colleague Urska Umek will speak about that in the first panel today.

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To start with **safety**: we know that one of the preconditions for enabling the media to perform its important function of public watchdog is that journalists can express their opinions without fear for their safety. This goal seems further away today than it has in decades. A camera operator<sup>1</sup> has been killed, along with four other people, when the Russian military forces shelled a television tower in Kyiv. Six journalists and media workers have been killed since the beginning of the aggression, as many as reported for the year 2021 on European soil, and the toll is likely to increase significantly.

But the downward trend is not new, as evidenced by the alerts on the Council of Europe's Platform for the safety of journalists. Last year, the Platform recorded 282 alerts, an exponential rise on previous years.

I cannot stress enough that attacks against journalists, which have intensified in several states during the pandemic, constitute the most serious violations of human rights. Such attacks not only target the concerned individuals but deprive others of their right to receive information. They undermine public debate, which is at the heart of pluralist democracy.

This concern requires serious political attention and coordinated action across Europe – and wider. Why am I repeating this? As we know, international standards exist, they have been meticulously crafted and mutually reinforced through instruments of several international organisations.

Adeline informed us yesterday of the United Nations *Plan of action on the safety of journalists and the issue of impunity*. The Council of Europe's *Recommendation on the protection of journalism and safety of journalists and*

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<sup>1</sup> Yevhenii Sakun, he was working for the Ukrainian television station LIVE when he was killed.

*other media actors* is a comprehensive overview of standards, many of which binding on states by virtue of the case law of the European Court of Human Rights. The European Commission last year adopted a *Recommendation on the protection, safety and empowerment of journalists* with further concrete actions to be taken by member states, which is largely inspired by the Council of Europe recommendation of 2016.

While international instruments and standards can be influential, regulation and policy implementation are within the domain of individual countries, and it is at this level that our efforts need to be focused.

For our part, the Council of Europe is intensifying the dialogue with the partners of the Platform for the safety of journalists, including the EFJ as one of the, if not the, most productive partner in producing alerts, aiming for increased political engagement by both the Committee of Ministers, our decision-making body, and individual member states.

Furthermore, at last year's conference, our member states' ministers responsible for media and information society committed to adopt national action plans for the safety of journalists, targeted to their countries' specific situations and risks faced by journalists working there.

The third avenue of our work is ensuring better compliance with the rulings of the European Court of Human Rights. The Organisation's supervision mechanism for the implementation of judgments can produce effective and long-term effects, but shows that especially where general measures are needed, such as improving regulatory frameworks, results are slow. The Organisation's support to overcome this situation includes updating the Implementation Guide to the Recommendation on the safety of journalists, supporting states with more concrete examples of good practices and other useful resources.

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Secondly, I wish to say a few words about the importance of a **financially sustainable media environment**, one of major challenges for journalism, and especially the production of quality journalism. Traditional, advertising-based media business models have been thoroughly disrupted in the past decade. Both traditional and digital publishers are facing severe financial problems, and across the globe, media are increasingly concentrated in the hands of just a few companies.

States as the ultimate guarantors of media pluralism have **an obligation** to ensure a diverse media offer. In the current circumstances this includes support to ensure the financial sustainability of journalism.

State support to media is a double-edged sword, as we know. It requires strong safeguards to avoid compromising editorial independence of the beneficiaries and preserving the integrity of journalism. It requires careful consideration of what kind of support can best help improve sustainability. And, from a political perspective, it also requires a basic level of trust in the media as a producer of a public good: one that cannot be compensated for the full value of its service on the competitive market but whose benefits should be enjoyed by all.

The economic downturn caused by the outbreak of Covid-19 and the parallel increased demand for accurate and reliable news sources has revealed the urgent need for support. I would say it has also provided justification for wider systemic changes and regulatory interventions. Indeed, states across Europe provided support packages. However, in many countries the economic support was limited to lockdown periods and in others it created risky financial dependences and concerns about discriminatory allocation.

Again, this cannot be attributed to a lack of implementable standards. The Council of Europe has consistently highlighted in its instruments the importance of transparency and non-discrimination in media funding, it has called for support schemes in the form of tax cuts, provisions for non-profit journalism, media development measures or indeed, direct subsidies, all of it subject to robust safeguards for the protection of media independence.

Just yesterday, the Committee of Ministers adopted the Recommendation on promoting a favourable environment for quality journalism in the digital age, a set of legal, administrative and practical guidelines aimed at ensuring sustainable funding for quality media, building trust in journalism, and promoting media literacy.

We have also discussed yesterday the European Media Freedom Act, the future legislative instrument of the European Union, which is to provide rules helping to fix the broken media markets and support healthy ones. A number of issues that need addressing were mentioned, from transparency to allocation of state resources, support to public service media and reinforcement of governance models. It is my hope that the Act will take inspiration from numerous standards our Organisation has developed throughout decades, but also that these issues

fill finally receive the appropriate attention from the national legislatures in the coming years.

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Last but not least, allow me to shortly mention the issue of **credibility and trust**, one that continues to dominate the discussions on media and communication and has only intensified in the past weeks. In this era of post-truth and in many respects **post-democracy**, when New-speak and disinformation not only threaten the reliability of information, but also present security threats, it is more difficult than ever to find the right balance between free speech and censorship, between engaging in counter-narratives and imposing sanctions, between prioritising individual rights or national security.

The sheer volume of false, manipulative content, which includes large-scale campaigns aimed at subverting democratic processes, requires diversified strategies. One is creating conditions to produce quality content and providing people access to authoritative, credible information. As mentioned, this requires a financially stable and sustainable media environment. It also requires an audience appreciative of quality journalism and aware of the dangers of disinformation.

Furthermore, online platforms as the largest distributors of content, carry enormous responsibilities to deal with illegal and harmful content. That said, their regulation of content should respect human rights and the rule of law. The Council of Europe continues to provide guidance in that respect, through the development of guidelines for countering disinformation through fact-checking and platform design solutions. We also very much welcome the efforts of other organisations, notably the European Union, to create a safe digital space and ensure the integrity of information online.

And finally, sanctions can be used against purveyors of disinformation. We should be mindful, though, that legitimate concerns for information integrity do not result in regulation which itself undermines freedom of expression. We have seen such examples during the pandemic. In some states, legislation and practices seeking to prevent disinformation and panic resulted in vaguely framed restrictions, wholesale blocking of websites, non-judicial takedown requests and broadcast bans.

Such extreme restrictions can only be justified in exceptional circumstances, especially when one's right to freedom of expression is used for ends which are

contrary to the text and spirit of the European Convention on Human Rights. However, also in such cases the criteria for restrictions need to be clearly determined in law and accompanied by procedural safeguards.

I would add that the pursuit of truth can be somewhat counterproductive if weaponised against particular voices and viewpoints. In this connection, I have full trust in credible, trustworthy media and their relentless journalists, many of whom are right now once again risking their lives to deliver accurate and timely news from the Ukrainian battlegrounds.

I offer my heartfelt thanks and admiration to them and conclude by saying that we have taken a number of urgency measures, to provide safety and security for journalists in Ukraine and provide tools for effective combatting disinformation. We will continue to work with independent journalists and their associations, whether they be in Ukraine, Belarus, Russia and the rest of Europe. we will continue to work with the EFJ and other platform partners and have foreseen - eventhough small -budget for the cooperation.

I thank you for your attention.