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prepared on the basis of the expertise by Council of Europe experts:

Eve Salomon and Tanja Kerševan

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The Law “On Media” of Ukraine

This opinion is prepared withing the Council of Europe Project “Safeguarding Freedom of Expression and Freedom of Media in Ukraine”, aimed at supporting the Ukrainian media community in addressing needs under the situation of the war in Ukraine. The Project is part of the framework of the Council of Europe’s Action Plan for Ukraine, namely the “Resilience, Recovery and Reconstruction (3Rs)”, which is to be implemented for the period of 2023-2026.

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1. Introduction

The Council of Europe is currently implementing the Project “Safeguarding Freedom of Expression and Freedom of Media in Ukraine” aimed at supporting the Ukrainian media community in addressing current needs, especially under the current situation of the war in Ukraine. The Project is part of the framework of the Council of Europe’s Action Plan for Ukraine, namely the “Resilience, Recovery and Reconstruction (3Rs Package)”, which is to be implemented for the period of 2023-2026.

One of the project’s outcomes is the enhanced alignment of Ukraine’s media and freedom of expression legal framework in line with European standards.

In view of the recent adoption of the Law “On Media” of Ukraine (by the Parliament on 13 December 2022 and signed by the President on 29 December 2022), the Head of the Verkhovna Rada Committee of Ukraine on Humanitarian and Information Policy, in his letter of 14 February 2023 requested to the Council of Europe a review of this Law. This request has been processed by the Division for Co-operation on Freedom of Expression, Information Society Department, DG I.

The present review provides an expert opinion on the correspondence of the newly adopted Law “On Media” with the EU 2018/1808 Audiovisual Media Services Directive.¹ The experts prepared an overall assessment of the compatibility of the Law with the EU and the Council of Europe standards,² and looked for issues that have not been completely addressed or not addressed at all.

Like the previous legal opinion, which referred to the draft Law on Media, the version of 25 July 2022, the present opinion does not review whether all the requirements of the AVMSD have been addressed in the Law on Media, adopted on 13 December 2022, since the Law itself does not cover all topics contained in the Directive (most prominently those provisions concerning advertising and commercial communication).

In view of this, the review is construed into two parts; (a) general comments on the adopted law; (b) identified areas of concern and recommendations.

The focus of the review is on the following areas:

- Definitions
- Jurisdiction
- Scope (including print and online media)
- Content obligations (Hate speech, AV works, protection of minors)
- Media Literacy
- Co-regulation
- Licensing/registration
- The National Council
- Local public audiovisual media
- Video-sharing platforms.

The experts prepared this review based on an unofficial translation. They checked the compliance of the adopted law with AVMSD and Council of Europe’s standards as well as its alignment with previous recommendations from the Legal Opinion of September 2022 over the draft law of July 2022. To prevent possible inconsistencies/confusion due to the unofficial translation, the experts sought additional clarifications from the drafters of the law. To this aim, an online meeting was organised between the authors of this review and two members of the group of drafters on 10 February 2023.

¹ [Directive \(EU\) 2018/1808](#) of the European Parliament and of the Council of 14/11/2018 amending Directive 2010/13/E (Audiovisual Media Services Directive)

² This expert opinion is based on to the following non-exhaustive list of relevant standards: Council of Europe European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR); European Convention on Transfrontier Television (ECTT); Council of Europe Convention on Cybercrime; Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108+). The list of the key Council of Europe standards on freedom of expression and media freedom are referred to in the in the Appendix.

2. Executive Summary

This Opinion examines the correspondence of the recently adopted Law of Ukraine “On Media” (“the Law”) to the EU 2018/1808 Audiovisual Media Services Directive (“AVMSD”)³ and Council of Europe standards.⁴

The Law is a significant improvement over the Draft Law “On Media” No 2693-d commented through the Technical Paper: Expert Opinion on Ukraine’s of the Council of Europe Experts in September 2022 (“the Legal Opinion”).

To the extent that the Law covers the topics contained in AVMSD, it largely aligns with the Directive, and the same applies regarding its compliance with Council of Europe standards. Nevertheless, points of non-alignment are identified below and recommended to be addressed.

Definitions

To the extent transposed by the Law, the definitions of audiovisual media services (“AVMS”), programmes, and video-sharing platforms (“VSPs”) are in accordance with the AVMSD.

Jurisdiction

The grounds for claiming jurisdiction over non-domestic media services have been modified. The provisions on registration of foreign audiovisual services no longer apply to services under the jurisdiction of EU Member States **and are thus not in breach of the AVMSD’s country of origin principle.**

The recommendation in the Legal Opinion regarding disputes on jurisdiction over services other than TV, VOD, or VSP, has been implemented by adding references to treaties other than the European Convention on Transfrontier Television (“ECTT”).⁵

As regards derogation from freedom of reception of programmes transmitted via foreign audiovisual media services (i.e., radio, TV, VOD and VSP), the derogation grounds follow the principles set by AVMSD.

Scope

The scope of the media law is broad and covers, besides broadcasting, on-demand media services and video-sharing platforms, also print and online media, and electronic communications operators. **This is unusual, but not prohibited within AVMSD and Council of Europe standards. Much of the specific regulation regarding online and print media is restricted to the period of armed aggression, and up to five years thereafter.**

Content Obligations

The recommendation in the Legal Opinion to delete the reference to Russian “Nazi” totalitarian regime has been actioned. In addition, as recommended in the Legal Opinion, the penalties for hate speech are greater than those for discrimination and harassment.

However, there is a problem with lack of alignment of the Law with AVMSD with regard to hate speech in that not all of the characteristics protected under Article 21 of the Charter of Fundamental Rights of the European Union are subject to the prohibition of hate speech. They are all subject to prohibitions of discrimination or harassment, but they should also be included for hate speech.

³ Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU ([Audiovisual Media Services Directive](#)).

⁴ The detailed list of relevant standards is provided in the Appendix of this document.

⁵ European Convention on Transfrontier Television (ETS No. 132) and Protocol revising the Convention (ETS No. 171), ratified by Ukraine on 26 March 2009, with entry into force on 1 July 2009.

The article on **protection of minors now aligns with AVMSD and Council of Europe standards in relation to audiovisual media services**. However, it must be noted that by applying the provisions to registered online media, Ukraine is applying a higher standard to online harms than is the case in other Council of Europe, and certainly EU member States. It will have to be seen how this is monitored and how the standards are enforced.

The only minor outstanding point is that the scheduling restrictions for 16+ films do not take effect until a year after the adoption of the Law, which seems a long time, and which is technically not compliant with Article 7.2 of the ECTT.⁶

Audiovisual Works

Changes have been made which ensure the Law now aligns with AVMSD and, for the most part, prevailing European practice. The one exception is to impose the share of European AV works on a weekly rather than an annual basis. As the drafters explained, this is particularly important in the current context for the purpose of ensuring an appropriate volume of Ukrainian content.

Right of Reply

The provisions relating to the right of reply are set out in greater detail than in many other comparable European laws, but **they do not contradict the requirements of AVMSD or breach Council of Europe standards.**

Media Literacy

The provisions for the national development of media literacy skills are in line with Article 33a of AVMSD, as well as with Council of Europe guiding instruments. The National Council for TV and Radio Broadcasting (The National Council) has responsibility to develop and implement projects, publications and other activities, with other organisations, to improve media literacy.

Co-Regulation

The scope of “co-regulation” as set out in the Law is very different from that envisaged in AVMSD. In fact, it might be better to refer to it as “joint regulation”, as the words in the original Ukrainian language version of the law infer.

“Co-regulation” here refers to the different media creating Codes jointly with the National Council to expand on certain provisions in the Law. Then, either the National Council or individual media organisations can refer complaints or questions of interpretation to a panel of experts who will review the problem in the light of the relevant Code. Any recommendations made by the experts will be taken into account by the National Council when making their determination.

Although the system is not the same as that envisaged by AVMSD, it is not in breach of AVMSD or CoE standards and may, over time, develop into an excellent model of AVMSD-type co-regulation.

Licensing/Registration

In the adopted version, the Ukrainian legislator eliminated the main shortcomings of the Draft Law and found a way to safeguard the effective regulation of retransmission of foreign services without jeopardising the EU country-of-origin principle. **However, for a full assessment of the implications, the Law of Ukraine "On the Foreign Broadcasting System of Ukraine" should be taken into account.**

⁶ All items of programme services which are likely to impair the physical, mental or moral development of children and adolescents shall not be scheduled when, because of the time of transmission and reception, they are likely to watch them.

The grounds for refusal to register and cancellation of registration of foreign linear media include, among others, violations of the ECTT. This solution is not inconsistent with the ECTT, according to which States are to guarantee freedom of reception and should not restrict the retransmission on their territories of any programmes originating from parties to the Convention which comply with the terms of the Convention.

The National Council

The procedure and basis of appointment of members of the National Council, by both Parliament and the President, are very greatly improved and, through the involvement of sector-relevant civil society organisations, represent a helpful model for other European countries. However, **there is still some room for improvement to provide additional safeguards on the independence of the members (in line with AVMSD and CoE standards), especially in the following areas.**

The conflict-of-interest provisions do not go far enough and should be extended to ensure that members of the National Council and their close relatives (spouses and dependent children) do not have *any* direct financial interest in a licensee or registered entity in the media sector.

The consideration of ensuring a representative gender balance amongst members of the National Council should be considered at every step of the appointments process, from the initial consideration of applicants (by either the Parliamentary Committee or the President's Commission) to the eventual vote by Parliamentarians or the appointment by the President.⁷

It is commendable that the Law has been adopted with a process that requires the President to select new members from a shortlist that has been proposed by media NGOs and unions, and vetted by an appointed five-person Commission which organises the application process and considers the nominations.

It is understood that the President will issue a Decree setting out the procedure for appointment of this Commission, and media observers in Ukraine will be expecting this Decree to ensure that members of the Commission are themselves free from political and industry interests. **If such provisions are included, the statutory nomination and appointment processes for members of the National Council will be compliant with EU and Council of Europe standards, although, as ever, the effectiveness of the process will only be proven by the actual independence of the members who are appointed.**

Local Public Audiovisual Media

The fundamental recommendations made in the Legal Opinion have been addressed.

Video-Sharing Platforms

Although with differences in wording, the key obligations of VSPs as stipulated by AVMSD are integrated correctly. From the wording of the unofficial translation, it is however not clear whether provisions of Directive 2000/31/EC (i.e. Article 3 and Articles 12 to 15) are applied as stipulated in AVMSD, Art.28a.5.

It is recommended that the Law is amended to require VSPs to limit foreign media services when the National Council calls on them to do so, rather than to actively monitor and limit them themselves.

Restrictions Relating to the Armed Aggression

The provisions endure without review for the period in which the Parliament acknowledges a certain state as an aggressor state, and for five years after Parliament has removed that status. During the five years following the aggression, the restrictions will be reviewed annually.

⁷ See Recommendation [CM/Rec\(2013\)1](#) of the *Committee of Ministers* on gender equality and media.

Furthermore, it should be noted that, the restrictions on freedom of expression contained in Section IX of the Law are within the derogations permitted by Art. 10.2 and Art. 15 of the European Convention on Human Rights⁸ (“ECHR”) for the period during which Ukraine is subject to armed aggression.

There are, however, two issues of concern.

Art. 126 generally requires considerable transparency about why a person has appeared on the list, but an exception is made if there are legal grounds for not disclosing the reason. As the reasons are all set out in the Article, **it is unclear why there should ever be exceptions and the overall reasons should be transparently disclosed.**

The transitional provisions provide that those names that are already on the List at the date of enactment of the Law are to remain on the List and do not need to be re-evaluated under the criteria in Article 126.2. **However, as inclusion on the List represents a severe restriction to freedom of expression, there should be a full re-evaluation of every person currently listed, even if they have been on the existing List for some time.**

Penalties

The Law provides that the payment of a financial penalty is suspended pending a court appeal. Article 30.6 AVMSD requires that “Member States shall ensure that effective appeal mechanisms exist at national level. The appeal body, which may be a court, shall be independent of the parties involved in the appeal. Pending the outcome of the appeal, the decision of the national regulatory authority or body shall stand, unless interim measures are granted in accordance with national law”

The Law is not aligned with AVMSD on this point, but alignment might create challenges over the respect for Article 6 of the ECHR, given the specific situation in Ukraine. Therefore, the retention of the suspension of penalties could be justified at this time; however, in the long term it would be advisable to reinforce efforts for an effective implementation of the right to meaningful and timely judicial review.

Other Amendments

“The Law of Ukraine on State Support of Media, Guarantees of Professional Activity and Social Protection of Journalists”

As amended, the law says that a journalist must have their status confirmed “by a document issued by a media entity, professional or creative union of journalists”. This removes “citizen journalists” and bloggers/vloggers from the definition of journalist, and the protections and rights which the law offers. **Consideration should be given to extending the definition of journalist to include self-employed journalists who are not (yet) associated with a media entity or union.**

“The Law of Ukraine on All-Ukrainian Referendum”.

The requirements and prohibitions are a good example of regulation of election communications. The previous draft version of the Law extended these provisions to the Electoral Code, but these do not appear in the adopted Law. **It is recommended to extend these provisions to all relevant Ukrainian legislation covering elections, especially the Electoral Code.**

⁸ Convention for the Protection of Human Rights and Fundamental Freedoms, published 4 Nov. 1950

3. General Comments

Context

The new Law “On Media” has been a long-lasting priority for the Government of Ukraine.

As a country aspiring to join the European Union, Ukraine must align its national laws, rules and procedures in order to give effect to the body of EU law contained in the “*acquis communautaire*,” which includes the AVMSD. Also, as a Member of the Council of Europe, Ukraine is obliged to adhere to its standards too. The Committee of Ministers and the Parliamentary Assembly of the Council of Europe have developed a number of recommendations and declarations to clarify, establish and develop principles, requirements, and minimum standards regarding the effective protection of rights enshrined in Article 10 ECHR, including aspects related to the provision of audiovisual media services and their regulation.

In the Member States of the Council of Europe, freedom of expression and freedom of information are protected by Article 10 of the European Convention on Human Rights (ECHR) and related case law of the European Court of Human Rights (ECtHR) which establish the binding norms for the protection of human rights within the context of the Council of Europe (CoE). The wording of this article is similar to the provisions of Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and is consistent with different constitutional and legal systems in Europe.

Besides being essential human rights that protect individuals when holding opinions and receiving and imparting information and ideas of all kinds, the exercise of freedom of expression and freedom of information is also connected with the proper functioning of a pluralistic democracy, as upheld through a number of ECtHR judgments.⁹

Freedom of expression and freedom of information are not absolute and may be subject to certain restrictions, conditions, and limitations. Article 10.2 of the ECHR provides that freedom of expression *may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

However, such constraints are exceptional and must respect a series of requirements. The ECtHR uses a three-part test to determine whether a state’s interference with freedom of expression is legitimate: (1) the interference (meaning “formality”, “condition”, “restriction” or “penalty”) is prescribed by law; (2) the interference is aimed at protecting one or more of the following interests or values: national security; territorial integrity; public safety; prevention of disorder or crime; protection of health; morals; reputation or rights of others; preventing the disclosure of information received in confidence; and maintaining the authority and impartiality of the judiciary; (3) the interference is necessary in a democratic society to adequately protect one of those aims, according to the idea of proportionality.

The previous Ukrainian key law for the field of media was long outdated despite numerous revisions. The law covered only traditional television and radio and did not provide a robust basis for effective media regulation. Until the adoption of the new law, for more than a decade no significant amendments have been made in terms of bringing the law in line with European standards on audiovisual media legislation.

As part of the EU–Ukraine Association Agreement, Ukraine committed to gradually approximating its legislation to the then version of AVMSD by 2019. In the last decade, there were several attempts to revise the law in accordance with the requirements of AVMSD, among others in December 2019 and in a revised version in July 2020, but none of the legislative initiatives were considered by the Parliament.

⁹ *Lingens v. Austria*, Application No. 9815/82, Judgment of 8 July 1986, and *Handyside v. The United Kingdom*, Application No. 543/72, Judgment of 7 December 1976.

The Russian unjustified war of aggression (not taking place only on the battlefields) showed that Ukrainian legislation did not have adequate instruments to contradict and fight the disinformation and propaganda of war and was too outdated to adequately address other the challenges of a convergent communication environment.

The draft media law of July 2022 version (which these experts reviewed in the Legal Opinion) differed from previous legislative attempts in terms of the scope of regulation and enhanced powers of the National Council. Following its extensive amendments and final adoption by the Verkhovna Rada on 13 December 2022, president Volodymyr Zelensky signed it into law on 29 December 2022. Its adoption before the end of 2022 was undertaken as one of the urgent measures toward the fulfilment of one of the requirements within the framework of granting Ukraine the status of a candidate for EU membership (as communicated from the Commission to the European Parliament) June 2022).¹⁰ The newly adopted law is due to come into force on 31 March 2023.

Public criticism

Following the call of two trade unions of Ukrainian journalists, National Union of Journalists of Ukraine (NUJU) and Independent Media Trade Union of Ukraine (IMTUU), raising multiple provisions of the Law “On Media” as problematic, the International and European Federations of Journalists (IFJ and EFJ) issued a statement on the newly adopted media law and called on the Ukrainian government to “revise the new legislation and to start a broad inclusive dialogue with journalists’ unions and the media sector”. reform it. The IFJ-EFJ statement was published on 17 January 2023. The main points of concern were the political dependence of the Ukraine’s regulatory authority the National Television and Radio Broadcasting Council (NTRBC), as well as the widening of the scope of regulation to print and online media and of the spectrum of extrajudicial sanctions against the media. They specifically pointed to the right of “the state media regulator” to fine media outlets, revoke their licenses, and temporarily block certain publications without a court ruling (for up to two weeks). Accordingly, the statement refers to the new law as containing “provisions which threaten freedom of the press and the right of citizens to access credible, pluralist and independent information.”¹¹

On the other hand, Reporters without Borders (RSF) welcomed the “long-awaited new media law”. In their on line statement (11 January 2023),¹² they assessed that “the new media law harmonises Ukrainian legislation with European law and makes it easier to identify who are the real owners of the media”. According to RSF, the law was generally welcomed by Ukrainian journalists. They also noted that improvements were made before its final adoption, but underlined that they expect an additional effort from the authorities to complete this reform, in order to safeguard the media regulator’s total independence, as soon as the constitutional constraints linked to the current war are lifted. Namely, to fundamentally change the process for appointing members of the national regulator, and in doing so, the parliament would need to first amend the country’s constitution. This is however not possible as long as the martial law established in response to Russia’s invasion is still in effect.

General assessment as regards the alignment with the AVMSD and CoE standards

This opinion does not assess whether **all** the aims of the AVMSD have been met in this draft law as the law does not itself cover all topics contained in the Directive, most prominently those provisions concerning advertising and commercial communication.

The report is therefore limited in the examination of the text in relation to **alignment with AVMSD in relation to the topics covered**. Nevertheless, the provisions of the law that aim to incorporate the AVMSD into the national legislation represent a major improvement compared to the draft law referred to in the Legal Opinion and are aligned with the AVMSD.

¹⁰ Communication from the Commission to the European Parliament and the Council, Brussels, 17.6.2022 COM(2022) 407.

¹¹ EFJ, 2023: EFJ and IFJ [call](#) on the Ukrainian government to reform the media law.

¹² RSF, 2023: RSF [hails](#) Ukraine’s adoption of new media law, despite war with Russia, <https://rsf.org/en/rsf-hails-ukraine-s-adoption-new-media-law-despite-war-russia>

The same is true for Council of Europe standards.

Points of non-alignment are all listed in the Executive Summary and discussed in detail in below Chapter which contains those Identified Areas of Concern and Recommendations to address them.

4. Identified Areas of Concern and Recommendations

This chapter provides the detailed review of the new law as well as **recommendations** and **where necessary**. It specifically deals with the following core issues: definitions, jurisdiction, and scope, including as regards print and online media; licensing/registration; independence of regulatory authority; co-regulation; local public service broadcasting; European and independent productions; video sharing platforms; media literacy, and content obligations and restrictions, including those related to war.

Definitions

The EU Member States must ensure that every obligation as laid out in the Directive is met. Any differences must incorporate the minima set out in the Directive and comply with its objectives.

In the adopted version of the law, the deviations identified in previous draft versions were corrected and there are no inconsistencies worth pointing out anymore. For example, the definition of programmes in Art.1.1.42 does not contain advertising elements anymore. It was also re-worded in a way that allows the inclusion of songs and instrumental works “for the purposes of audio media”.

The definition of video-sharing platforms was amended so that it now contains key elements from the definition in the AVMSD, i.e. “essential functionality” and “principal purpose /.../ in order to inform, entertain or educate”.

Jurisdiction

The grounds for claiming jurisdiction over non-domestic media services have been modified. The provisions on registration of foreign audiovisual services no longer apply to services under the jurisdiction of EU Member States and are thus not in breach of the AVMSD’s country of origin principle.

The recommendation in the previous Legal Opinion regarding disputes on jurisdiction over services other than TV, VOD, or VSP, has been implemented by adding references to treaties other than the European Convention on Transfrontier Television (ECTT).¹³ The Legal Opinion pointed out that resolution of jurisdiction disputes for services other than linear and non-linear AVMSs could not be achieved through procedures and means determined by ECTT and AVMSD.

As regards derogation from freedom of reception of programmes transmitted via foreign audiovisual media services (i.e. radio, TV, VOD and VSP), the adopted law also refers to the “European Convention on Transfrontier Television, other international treaties of Ukraine, ratified by the Verkhovna Rada of Ukraine, and this Law”. This allows for broader grounds than the ones proposed then by the draft law. For broadcasting services (both radio and TV) originating in EU Member States, the derogation grounds specified in detail in Article 4.6 follow the principles set by AVMSD.

Scope

While the former (broadcasting) law covered only linear television and radio, the adopted Law “On Media” extends the scope to several other services and providers, both the ones covered by the AVMSD and others, most notably print and online media.

¹³ European Convention on Transfrontier Television (ETS No. 132) and Protocol revising the Convention (ETS No. 171), ratified by Ukraine on 26 March 2009, with entry into force on 1 July 2009.

This is unusual but not prohibited within AVMSD and CoE standards, especially due to the fact that the specific regulations regarding online and print media is restricted to the period of armed aggression, and up to five years thereafter.

The legislator also decided to include radio broadcasting, linear and non-linear, under the definition of audiovisual services. This may appear unusual, but the definitions of television broadcasting and on-demand audiovisual media services (now) contain the elements stipulated by AVMSD and therefore we can conclude they are aligned with the AVMSD (see 4.1 *Definitions*).

The law applies to the following subjects:

1. Providers of audiovisual linear services:
 - Radio broadcasting
 - Television broadcasting (linear AVMS, as envisaged by the AVMSD)
2. Providers of non-linear audiovisual services:
 - On-demand audio media service;
 - On-demand audiovisual media service (non-linear AVMS, as envisaged by the AVMSD)
3. Special types of entities:
 - National Public Television and Radio Broadcasting Company of Ukraine
 - audiovisual media services of foreign broadcasting
 - local public AVMSs and AVMSs of communities
 - TV Channel "Rada" or its successor (parliamentary broadcasting)
4. Providers of the non-audiovisual services:
 - Print media
 - Online media
5. Providers of non-media services bringing AVMSs to the audiences:
 - Audiovisual service providers (ASPs)
 - Providers of electronic communications services for broadcasting with the use of radio frequency spectrum (e.g. DVB-T2 providers)
6. Video Sharing Platform Providers (VSPs, as envisaged by the AVMSD)

The weak point of the framework setting the material scope is that it depends on standards that are yet to be determined within the framework of the envisaged co-regulation. For example, Article 2.11 specifies that “when deciding whether a person who disseminates information via the Internet is an entity in the field of online media,¹⁴ the National Council shall apply the criteria established by the co-regulatory body.”

Content Obligations

Areas of particular attention include hate speech, protection of minors, AV works and the right of reply.

Hate and Discriminatory speech

The recommendation in the Opinion to delete the reference to Russian “Nazi” totalitarian regime in Art. 36.1.(12) has been actioned.

¹⁴ And thus subjected to regulation.

However, there are problems with lack of alignment of the Law with AVMSD with regard to hate speech.

Art.36.1 (2) prohibits statements inciting hatred, hostility or cruelty towards individuals or groups of individuals on national, racial or religious grounds. As the Ukrainian criminal code now stands, these are the only protected characteristics included in the offence of hate crime. **Although the criminal code should be amended to widen the protected characteristics, in advance of that, the media law should be changed as a minimum to correspond to the requirements of AVMSD relating to hate speech in audiovisual media services.**

Article 6.1(a) of AVMSD prohibits incitement to violence or hatred directed against a group of persons or a member of a group based on any of the grounds referred to in Article 21 of the Charter of Fundamental Rights of the European Union. Article 21 of the Charter prohibits any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

Art. 36.1 (3) prohibits incitement of discrimination or harassment on the grounds of ethnic and social origin, citizenship, race, religion and beliefs, age, sex, sexual orientation, gender identity, disability or other grounds. **These same grounds should be included in Art. 36 .1.(2).**

As recommended in the Legal Opinion, there are different penalties for a violation of Art 36.1.(2) and Art. 36.1(3), with higher penalties levied for incitement to hatred.

Protection of Minors

Article 42, Protection of Minors, has been amended in line with the recommendations in the Legal Opinion, namely:

- There has been a separation, with different timing restrictions, for programmes that are suitable only for 16+ and for 18+.
- Art.42.10 specifies that the identification of a child without parental consent may only occur in exceptional cases.

The article now aligns with AVMSD and CoE standards in relation to audiovisual media services.

The only minor outstanding point is that the scheduling restrictions for 16+ films do not take effect until a year after the adoption of the Law, which seems a long time. This is not technically compliant with Article 7.2 of the ECTT.¹⁵

It must, in addition, be noted that by applying the provisions to registered online media, Ukraine is applying a higher standard to online harms than is the case in other CoE, and certainly EU countries. It will be interesting to see how this is monitored and how the standards are enforced.

Audiovisual works

Despite the prevailing practice in the EU, which is to impose the share of European AV works on an annual rather than a weekly basis, Ukraine opted for a weekly quota. As the drafters explained, this is particularly important in the current context for the purpose of ensuring an appropriate volume of Ukrainian content.

¹⁵ All items of programme services which are likely to impair the physical, mental or moral development of children and adolescents shall not be scheduled when, because of the time of transmission and reception, they are likely to watch them.

In comparison with the previous version, the legislator made a few important improvements. The prescribed quota of European AV works in Art.39 has been reduced to at least 50% (previously 55%) “of the total weekly volume of broadcasting, which is determined without taking into account news, broadcasts of sports events and sports competitions, advertising, television sales.” Given the weekly basis, this is however still more demanding than the AVMSD requirements.

Also, in the definition of independent producers, the defining criteria have been modified. The limit of up to 90% of the volume of content supplied in three years has been reduced to 50%, which is guaranteeing greater independence of producers than the previous solution.

Right of Reply

Although the provisions relating to the right of reply are set out in great detail in the law (Art.43), they do not contradict the requirements of AVMSD or breach Council of Europe standards.

Media Literacy

The definition of media literacy in Art.1 of the Law “On Media” is limited to “skills and knowledge enabling the users to use media services effectively and safely.”

The responsibility for the conception and implementation of the state policy on media literacy is entrusted “to the central executive body that ensures the formation and implementation of the state policy in the information sphere” (i.e. the Government).

On a practical level, responsibility is granted to the National Council, which is expected to, independently or in cooperation with the government, local communities, educational institutions, and public bodies, develop and implement projects, exhibitions, printed and electronic publications, websites, audiovisual products, games, and other activities to improve media literacy. The provision stipulating that the Implementation Plan of the Action Strategy of the National Council contains “main tasks of the National Council in the field of media literacy” (Article 9) gives sufficient grounds to the National Council to develop a more detailed plan of activities and implement them accordingly, so that Ukraine can report to the European Commission on the accomplished goals in promotion and development of media literacy skills in line with the provisions of Article 33a of AVMSD, as well as with Council of Europe guiding instruments.

The duty to implement effective media literacy tools is also imposed on VSPs, which is in accordance with Article 28b of AVMSD.

Co-regulation

Article 92. Content, subject and purpose of joint regulation

The scope of “co-regulation” as set out in the Law is very different to that envisaged in AVMSD. In fact, it might be better to refer to it as “joint regulation”, as the words in the original Ukrainian language version of the law infer.

“Co-regulation” here refers to the different media creating Codes jointly with the National Council to expand on certain provisions in the Law. Then, either the National Council or individual media organisations can refer complaints or questions of interpretation to a *panel of experts* who will review the problem in the light of the relevant Code. Any recommendations made by the experts will be taken into account by the National Council when making their determination.

The Law extends the topics to be covered by co-regulation to include European works, VSPs and advertising distribution.

Article 93. Establishment of joint regulatory bodies

The proposals regarding the joint (co-)regulation of video-sharing platforms include the consideration of issues that are not within the responsibility of VSPs, namely (2), (4), (6), and (7) of Art. 92.2. These should be deleted.

Article 93.3(3) requires applicants for the joint regulatory bodies to have been operating for at least three years. In the case of video-sharing platforms, this may rule out all new providers. **It would be better to encourage any new market entrant to be part of the working group so consideration should be given to removing this three-year requirement for new platforms, especially if a VSP enters the Ukrainian market.**

Licensing/registration

The Law "On media" requires licences for terrestrial services, i.e. radio and TV broadcasting, and services of operators using radio spectrum (e.g. DVB-T2 providers). Licenses are granted under the beauty contest (competitive) procedure for 10 years and can be renewed.

For all other audiovisual media that do not use radio spectrum, audiovisual service providers (operators), and VSPs, registration is required. This applies to entities registered in Ukraine or to entities that fit within the jurisdiction criteria of Art.2.9-12 (e.g. editorial decisions, the use of radio frequencies or satellite capacities or uplinks, percentage of staff, content distribution etc.).

Print media and online media can be registered on a voluntary basis. The incentive is the provision of Art.63.4 stipulating that "state authorities and local self-government bodies have the right to provide state grants and other types of state support exclusively to registered media, as well as to order works and services from them".

Also, those print media that target the Ukrainian territory/audience from a country that is by parliamentary decision recognised as an aggressor country must be registered on an obligatory basis. The criteria for establishing their intended focus are defined in Art.2.13 (i.e. location of users, advertising, language, main audience, policies, domain names). This applies during the validity of such decree and the following five years after its revocation.

In parts of the country with a status of territories with a special broadcasting mode (as defined by the National Council) one-year temporary broadcasting licences can be issued on a non-competitive basis if no martial law or state of emergency is imposed.

As noted above (in section 4.2 *Jurisdiction*), the previous (draft) rules on retransmission implied de-facto licensing of foreign audiovisual media services, including from the EU. This contradicted Article 3 of the AVMSD (which provides specific procedures to be applied in cases where a Member State wishes to adopt measures against an audiovisual media service provider under the jurisdiction of another Member State) and the norms of ECTT, but the new law proposed solution (Art.66) significantly improves the situation and does not risk to be in breach of the country of origin principle, which is one of the cornerstones of the EU audiovisual framework.

In the new law, the Ukrainian legislator eliminated the main shortcomings and found a way to safeguard the effective regulation of retransmission of foreign services without jeopardising the EU country-of-origin principle (Art.66). However, for a full assessment of the implications, the Law of Ukraine "On the Foreign Broadcasting System of Ukraine" should be taken into account.

The grounds for refusal to register and cancellation of registration of foreign linear media (Art.67) now include, among others, violations of ECTT. This solution is not inconsistent with the ECTT, according to which States are to guarantee freedom of reception and should not restrict the retransmission on their territories of any programmes originating from parties to the Convention which comply with the terms of the Convention.

The National Council

The procedure and basis of appointment of members of the National Council, by both Parliament and the President, are greatly improved. However, there is still some room for improvement to provide additional safeguards on the independence of the members, especially in the following areas.

Article 74. Requirements for members of the National Council

Art. 74.2.(6) contains restrictions on those who can be members of the National Council based on conflicts of interests with the regulated sector. It prohibits the following: anyone who “is the ultimate beneficial owner, key participant or owner of substantial participation of licensees or registrants in accordance with this Law, as well as licensees or registrants in the field of electronic communications”. When considering European standards, it does not go far enough.¹⁶ **To avoid conflicts of interest, members of the National Council should not hold *any* interest in a media company (not just a substantial interest) or related companies (e.g. media buying companies, advertising agencies, or infrastructure providers). Furthermore, their close relatives (spouses and children) should also not hold such interests.**

Article 74.3 – third paragraph – says: “A member of the National Council shall, within one month from the date of appointment, resign from the supervisory or management bodies of legal entities that are licensees and registrants in accordance with this Law, as well as legal entities licensed or registered as providers of electronic communications networks and/or services, and resign from any other positions.” **This does not include a requirement to divest any financial or other interest in such legal entities, and it is recommended that it should.**

Article 74.4 says, “A member of the National Council may not hold a representative mandate and be a member of a political party”. **This article is recommended to slightly be amended in order to clearly read that,** “A member of the National Council may not hold a representative mandate **or** be a member of a political party”. The Article makes clear that members must suspend *or* resign party membership, so this may be a typing or translation mistake.

Article 75. Principles of selection and appointment of members of the National Council

This should include as a principle the desirability of ensuring a representative gender balance amongst members.

Article 76. Appointment of Members of the National Council by the Verkhovna Rada of Ukraine

Article 76.7 **Gender balance should also be taken into consideration by the Committee when preparing their assessments of the candidates** for consideration by Parliament.

The third paragraph of Article 76.8 states, “Voting in the Verkhovna Rada of Ukraine on the appointment to vacant positions of members of the National Council shall be open, for each candidate in the sequence determined by the previous ranking vote”, **but there is no provision for a previous ranking vote (there was in the previous draft of the law, but it has not been carried over into the final version.). Therefore, this paragraph should either be deleted, or an initial ranking vote reinstated into the process.**

Article 76.9 also refers to the **preliminary ranking vote**, and this should either be deleted, or the process reinstated.

¹⁶ See Committee of Ministers Rec 2000(23) on the independence and functions of regulatory authorities for the broadcasting sector, which says: “The rules governing regulatory authorities for the broadcasting sector, especially their membership, are a key element of their independence. Therefore, they should be defined so as to protect them against any interference, in particular by political forces or economic interests. /.../ For this purpose, specific rules should be defined as regards incompatibilities in order to avoid that /.../ members of regulatory authorities exercise functions or hold interests in enterprises or other organisations in the media or related sectors, which might lead to a conflict of interest in connection with membership of the regulatory authority.”

Article 76.9 refers to consideration of gender composition of the National Council if candidates receive the same number of votes. **Gender balance should also be considered well before this and be a consideration when voting in the first instance.**

Article 77. Procedure for Appointment of Members of the National Council by the President of Ukraine

It is understood that any limitations on the Constitutional power of the President to appoint four members of the National Council would be contentious and subject to opposition in Parliament. Furthermore, no changes to the Ukrainian Constitution are permitted during a period of martial law, as is the case now. Therefore, it is commendable that the Law has been adopted with a process that requires the President to select new members from a shortlist that has been proposed by media NGOs and unions and vetted by an appointed five-person Commission which organises the application process and considers the nominations.

It is understood that the President will issue a Decree setting out the procedure for the appointment of this Commission, and media observers in Ukraine will be expecting this Decree to ensure that members of the Commission are themselves free from political and industry interests. **If such provisions are included, the statutory nomination and appointment processes for members of the National Council will be compliant with EU and Council of Europe standards, although, as ever, the effectiveness of the process will only be proven by the actual independence of the members who are appointed.**

It is noted that both the Commission and the President take account of the gender composition of the Council, which is good.

Article 80. Early termination of powers of a member of the National Council

The grounds for early termination are all compliant with European normative standards. However, termination can only happen in certain circumstances by order of the Court: In sub paragraphs 3,5,7, and 8, termination is decided by the Court (on application from the Chair or 3 members of the National Council). These grounds are:

- does not meet the requirements for appointment set out in Article 74;
- incapacity on health grounds;
- non-participation without good reason for at least 3 months; or
- failure to submit a declaration of contacts as required by the Law of Ukraine "On Prevention of Threats to National Security Associated with the Excessive Influence of Persons with Significant Economic and Political Weight in Public Life (Oligarchs)".

There are pros and cons to this process, as it may take some time for the Court to consider an application from the National Council to remove a member – and the process for appointment of a replacement member will be put on hold – but it is part of a system of checks and balances.

The alternative method, whereby the term of a member could be terminated earlier by the National Council would make it easier for members to be arbitrarily dismissed.

In either case, there is the possibility of appeal to the Court. So, on balance, the process of decision by the Court (on application from the Chair or 3 members of the National Council), is acceptable.

Article 86. Meetings of the National Council

The quorum for meetings remains at 6, which is high for a total number of 8 members. **In the past this has caused procedural problems. This is a practical issue, ultimately for decision by Parliament, as it is not precisely covered by EU or CoE standards.**

Local Public Audiovisual Media

The fundamental recommendations made in the Opinion have been addressed, namely:

- there is now a procedure (Article 31.3) for appointing those members of the Supervisory Board who are selected by the Deputy Factions if there are more Deputy Factions than vacancies. Furthermore, the number of members has been reduced to 9 (from 13), which is a more sensible number.
- the recommendation to stagger the terms of members of the Supervisory Board has been accepted. Article 31.12 provides that members representing the Deputy Factions serve for a 3-year term, whereas members representing creative unions of journalists and public associations serve for 4 years.

There are, however, two additional relatively minor recommendations:

Article 31.4 enables members of the Supervisory Board to continue in post after the expiration of their term of office until a replacement member has been appointed, for up to one year. This effectively extends the terms of office to 4, or 5 years, and removes any sense of urgency to ensure new Supervisory Board members are appointed in good time. **It is recommended to reduce the length of possible extension to 3, or maximum 6 months.**

Article 31.11 can be deleted as it is superseded by Article 31.12 (31.11 appoints members for 4 years, whereas 31.12 distinguishes between the length of terms of members representing different interest groups).

Video-sharing platforms

Although with differences in wording, the key obligations of video-sharing platforms (VSPs) as stipulated by AVMSD are incorporated into the Law correctly. From the wording of the unofficial translation, it is however not clear whether provisions of the Electronic Commerce Directive 2000/31/EC (i.e. Article 3 and Articles 12 to 15) are applied as stipulated in AVMSD, Art.28a.5.

Namely, VSP providers deemed to be established in Ukraine (when they have a parent undertaking or subsidiary undertaking established on the territory of Ukraine or when they are part of a group and another undertaking of that group is established on the territory of Ukraine) should be exempted from liability for storage or transmission of information of third parties. They also should not be expected to monitor the information that they transmit/store nor to actively seek facts/circumstances indicating illegal activity.

Nevertheless, Art.124.5 requires VSPs to restrict access to foreign linear media services from, or associated with the aggressor State. It further says the National Council can make requests to restrict access. Since VSPs do not exercise editorial control over the media shared, all that they can reasonably be expected to do is to have measures in place to restrict access or remove such material once they have notice of it.

It is therefore recommended that Law “On Media” is amended to require VSPs to limit foreign media services when the Council calls on them to do so, rather than to actively monitor and limit them themselves.

Restrictions Relating to the Armed Aggression

Article 118. Effect of the provisions of this Section in time

The provisions endure without review for the period in which the Parliament acknowledges a certain state as an aggressor state, and for five years after Parliament has revoked that status. During the five years following the aggression, the restrictions will be reviewed annually. There is no doubt that the restrictions amount to a severe restriction on freedom of expression. The question is whether they are proportionate in the circumstances.

When meeting with the Working Group to discuss proposed amendments to the draft Law, prior to adoption of the Law in Parliament, the Director General of Human Rights and Rule of Law of the Council of Europe, highlighted concerns about violations of the right to freedom of expression. He stressed that what may be justifiable under human rights law in emergency situations, including war, may be considered disproportionate looking at the longer term.

Article 10 of the ECHR provides for the right of freedom of expression. However, it is not an absolute right, and may be subject to restrictions in the interests of national security, territorial integrity or public safety, or for the prevention of disorder or crime¹⁷. Furthermore, Article 15 ECHR allows for a derogation from the rights of the Convention in times of war.¹⁸

The view of experts is that the restrictions on freedom of expression contained in Section IX of the Law could be within the derogations permitted by Art. 10.2 and Art. 15 of ECHR for the period during which Ukraine is subject to armed aggression.

The Law also provides for the restrictions to remain for up to a further 5 years after the end of the aggression, with annual reviews. When considering the proportionality of retaining the restrictions after the end of the armed aggression, **the Parliament will need to have close regard to the likelihood of threats to national security, territorial integrity or public safety, or the extent to which the restrictions act to prevent disorder or crime. A more nuanced approach, rather than blanket prohibitions, may be called for at that time, in which instance the National Council may need to be given greater discretion to assess the risks on a case-by-case basis. However, this may be necessary in the future in order to remain compliant with ECHR standards.**

Article 124. Other restrictions on the activities of media entities during armed aggression

Art.124.5 requires VSPs to restrict access to foreign linear media programmes from or associated with the aggressor State. **It also says the National Council can make requests to restrict access. This is unclear. As VSPs do not exercise editorial control over the media shared, all they can reasonably be expected to do is to have measures in place to restrict access or remove such material once they have notice of it.**

Article 126. List of persons who pose a threat to national security

This article is a significant improvement on the previous version analysed in the initial Opinion, primarily as it does not give the National Council the power to decide who goes on the list (which should not be the job of a media regulatory authority). It also removes from the list people who may have been charged or suspected of a criminal offence but who have not been convicted. There are, however, two points of concern:

Article 126 generally requires considerable transparency of why a person has appeared on the list, but an exception is made if there are legal grounds for not disclosing the reason. **As the reasons are all set out in the Article, it is unclear why there should ever be exceptions. While there may be security reasons why the full circumstances behind a case should not be revealed, the overall reasons should be transparently disclosed.**

The transitional provisions provide that those names that are already on the List at the date of enactment of the Law are to remain on the List and do not need to be re-evaluated under the criteria in Article 126.2. **As inclusion on the List represents a severe restriction to freedom of expression, there**

¹⁷ Article 10.2 ECHR

¹⁸ Derogation in time of emergency

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

should be a full re-evaluation of every person currently listed, even if they have been on the existing List for some time.

Other Provisions

There are some additional provisions the authors of this opinion would like to point to.

Article 101. Penalty

Article 101 provides that the payment of a financial penalty is suspended pending a court appeal. Article 30.6 AVMSD provides that, “Pending the outcome of the appeal, the decision of the national regulatory authority or body shall stand, unless interim measures are granted in accordance with national law.”

It is understood that it is a general practice of Ukrainian law that penalties are suspended until appeals have been exhausted (or after 20 days of a judgement if no appeal is forthcoming). However, the European Commission made this amendment to AVMSD specifically to deal with situations where regulated companies were taking advantage of the system and in some cases avoiding paying fines for years.

Nonetheless, regard should be given to the Venice Commission/DG Human Rights and Rule of Law Opinion No. 1008 / 2020 of 22 March 2021¹⁹. This Opinion referred to Article 6 of the European Convention on Human Rights: “In the determination of his civil rights and obligations [...], everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

The Opinion looked at the effect of a new Electronic Communications Law in the Republic of Georgia, which stipulated that certain decisions by the Georgian regulatory authority were to take immediate effect, and not suspended pending appeal.

The Opinion noted that the Georgian judicial system worked very slowly due to a large backlog of cases. It states, “Member states are required to organise their judicial systems in such a way that their courts are able to guarantee everyone’s right to a final decision on disputes concerning civil rights and obligations within a reasonable time”.²⁰

As a result, the Opinion recommended that the amendment be revoked and that there be a return to the general principle of domestic administrative procedural law that appeals have suspensive effect for decisions taken by the Georgian regulator.

In Ukraine, it can at times take over a year for an appeal to be heard by the Court, and it is understood that if a Court overturns a fine which has been paid, it can be extremely difficult to get repayment from the State. This would suggest that suspending penalties until an appeal has been heard makes sense in the Ukrainian context. However, the new system of co-regulation, once in place, is likely to mitigate much of the risk of a decision by the National Council to be appealed and possibly overturned by a Court.

In conclusion, the Law is not aligned with AVMSD on this point, but alignment might create challenges over the respect for Article 6 of the ECHR given the specific Ukrainian situation. Therefore, the retention of the suspension of penalties could be justified at this time; however, in the long term it would be advisable to reinforce efforts for an effective implementation of the right to meaningful and timely judicial review.

¹⁹ Venice Commission/DG Human Rights and Rule of Law Opinion No. 1008 / 2020 of 22 March 2021

²⁰ ECtHR Comingersoll S.A. v. Portugal [GC], No. 35382/97, § 24, 6 April 2000; ECtHR Lupeni Greek Catholic Parish and Others v. Romania [GC], No. 76943/11, § 142, 29 November 2016

Article 110. Responsibility

This article refers to the responsibility of entities in the field of audiovisual media. It is good to see a different treatment of hate speech (Art.36.1.(2)), a gross offence, and discrimination/harassment (Art.36.1.(3)), a significant offence, as previously recommended in the initial Opinion (September 2022).

Amendments to other Laws

Amendments to "The Law of Ukraine on State Support of Media, Guarantees of Professional Activity and Social Protection of Journalists" as amended says that a journalist must have their status confirmed "by a document issued by a media entity, professional or creative union of journalists". This removes "citizen journalists" and bloggers/vloggers from the definition of journalist, and the protections and rights which the law offers.

Consideration should be given to extending the definition of journalist to include self-employed journalists who are not (yet) associated with a media entity or union.

Amendments to "The Law of Ukraine on All-Ukrainian Referendum": The requirements and prohibitions are a good example of regulation of election communications. The previous draft version of the Law extended these provisions to the Electoral Code, but these do not appear in the adopted Law.

It is recommended to extend these provisions to all relevant Ukrainian legislation covering elections, especially the Electoral Code.

5. Standards

The analysis is provided from the perspective of the following standard-setting documents of the Council of Europe:

- Recommendation CM/Rec(2022)16[1] of the Committee of Ministers to member States on combating hate speech
- Recommendation CM/Rec(2022)11 of the Committee of Ministers to member States on principles for media and communication governance
- Recommendation 2168(2020) of the Parliamentary Assembly on threats to media freedom and journalists' security in Europe;
- Recommendation CM/Rec(2018)2 of the Committee of Ministers to member States
- on the roles and responsibilities of internet intermediaries
- Appendix to Recommendation CM/Rec(2018)2 Guidelines for States on actions to be taken vis-à-vis internet intermediaries with due regard to their roles and responsibilities
- Recommendation CM/Rec(2018)1 of the Committee of Ministers to member states on media pluralism and transparency of media ownership;
- Recommendation 2111(2017) of the Parliamentary Assembly on political influence over independent media and journalists;
- Resolution 2179(2017) of the Parliamentary Assembly on political influence over independent media and journalists;
- Recommendation CM/Rec(2016)5 of the Committee of Ministers to member states on internet freedom;
- Recommendation CM/Rec(2016)4 of the Committee of Ministers to member states on the protection of journalism and safety of journalists and other media actors; ▪ Recommendation CM/Rec(2015)6 of the Committee of Ministers to member states on the free, transboundary flow of information on the Internet;
- Recommendation 2075(2015) of the Parliamentary Assembly on media responsibility and ethics in a changing media environment;
- Resolution 2066(2015) of the Parliamentary Assembly on media responsibility and ethics in a changing media environment;
- Resolution 2035(2015) of the Parliamentary Assembly on the protection of the safety of journalists and of media freedom in Europe;
- Recommendation 1998(2012) of the Parliamentary Assembly on the protection of freedom of expression and information on the Internet and online media; ▪ Resolution 1877(2012) of the Parliamentary Assembly on the protection of freedom of expression and information on the Internet and online media;
- Recommendation CM/Rec(2011)7 of the Committee of Ministers to member states on a new notion of media;
- Recommendation 1897(2010) of the Parliamentary Assembly on respect for media freedom;
- Recommendation 1855(2009) of the Parliamentary Assembly on the regulation of audio-visual media services;
- Recommendation CM/Rec(2009)5 of the Committee of Ministers to member states on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communications environment;

- Declaration of the Committee of Ministers on the role of community media in promoting social cohesion and intercultural dialogue (11 February 2009);
- Declaration of the Committee of Ministers on the independence and functions of regulatory authorities for the broadcasting sector (26 March 2008);
- Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns;
- Recommendation CM/Rec(2007)11 of the Committee of Ministers to member states on promoting freedom of expression and information in the new information and communications environment;
- Recommendation CM/Rec(2007)2 of the Committee of Ministers to member states on media pluralism and diversity of media content;
- Declaration of the Committee of Ministers on protecting the role of the media in democracy in the context of media concentration (31 January 2007); ▪ Declaration of the Committee of Ministers on freedom of political debate in the media (12 February 2004);
- Recommendation 1589(2003) of the Parliamentary Assembly on freedom of expression in the media in Europe;
- Recommendation Rec(2000)23 of the Committee of Ministers to member states on “The Independence and Functions of Regulatory Authorities for the Broadcasting Sector”
- Recommendation No. R(99)1 of the Committee of Ministers on measures to promote media pluralism.