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ON

Three Key Aspects of the amendments package to the Law of Georgia on Broadcasting

The Council of Europe is implementing the project “Strengthening Media Freedom, Internet Governance and Personal Data Protection in Georgia” in the framework of the Council of Europe Action Plan for Georgia 2020-2023, aiming to address and support the need for legislative reforms and capacity-building in the audiovisual field, Internet, personal data protection and access to information in Georgia.

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1 INTRODUCTION

The Council of Europe is currently implementing the Project "Strengthening Media Freedom, Internet Governance and Personal Data Protection in Georgia" (the Project) aiming to support Georgia in addressing current needs in the field of media. The project is implemented in the framework of the Council of Europe Action Plan for Georgia 2020-2023.

On 3 November 2022, the Council of Europe was asked by the Parliament of Georgia, to provide an independent expert opinion of the draft amendments to the Law of Georgia on Broadcasting, concerning its correspondence to the EU 2018/1808 Audiovisual Media Services Directive and European standards.

Georgia's 2004 Broadcasting Law (as amended) sets out the main official systems for professional media regulation and self-regulation in the country. In terms of substance, these consist mainly of various standards set out directly in the Broadcasting Law, alongside far more detailed standards and rules set out in a Code of Conduct for Broadcasters adopted by the Communications Commission (ComCom) in 2009. Procedurally, the Code as well as the articles related to veracity and impartiality in the Law are applied directly by individual broadcasters through complaints made to and decided by them. This can be considered a type of self-regulation.[1]

In 2014, Georgia signed an Association Agreement with the European Union (EU) which provides, among other things, for Georgia to align its legislation with the EU Audiovisual Media Services Directive (AVMSD). Georgia has also been a member of the Council of Europe (CoE) since 1999 and, as such, is bound by the European Convention on Human Rights, including its guarantees of freedom of expression at Article 10. It is also a participating state in the Organisation for Security and Cooperation in Europe (OSCE) and has made commitments in that context.

Since June 2022, having been accepted on the preliminary track for membership of the EU, Georgia is now expected to make significant steps to align its audiovisual media services legislation by the end of 2022.

Accordingly, a Draft Law introducing amendments to the Law of Georgia on Broadcasting was submitted to the Parliament on 7 September 2022. However, the Draft Law was not subject to discussion or consultation with stakeholders prior to its adoption at first reading which took place on 20 September 2022. At its first reading session, the Parliament announced its plan to hold consultations with all interested stakeholders relating to specific provisions of the Draft Law prior to the second reading.

Consequently, through a request for expertise review and legal opinion on the Draft Law, addressed to the Council of Europe in early November 2022, the Parliamentary Commission highlights the following: "It is important for us to consider two factors in the process of adopting the draft law:

1. Inclusiveness of the discussion process to enable involvement of all actors.

[1] According the EU's definitions (see the "Better Regulation Toolkit": https://ec.europa.eu/info/sites/default/files/br_toolbox-nov_2021_en_0.pdf) it is not quite self-regulation as the Code was developed by the regulator, rather than the industry itself and the enforcement is by mechanisms set by individual media companies rather than collective bodies established by the industry. However, definitions vary and the key element in the Georgian case is that enforcement is largely done within the industry.

2. Maximum compliance with EU directives in terms of legal requirements based on the best EU practices and European standards."

While, a full analysis of the Draft Law will require sufficient time, in the interim, the Parliament requested (through the same communication), the Council of Europe provides an expedited analysis of three outstanding and urgent issues which have caused controversy with stakeholders:

1. Prohibition of advertisements and programmes containing hate speech and incitement to terrorism, as contained in Article 55(2) of the Draft Law;
2. Right of reply, as contained in Article 52(1); and
3. Right of appeal.

Thus, an analysis of the entire Draft Law (introduced amendments) will follow, although a few areas of concern have been identified in response to the urgent request by the authorities through this initial advice.

In view of the experts review for the purposes of this exercise, bilateral consultations have taken place with civil society organisations, ComCom, and representatives of nine major Broadcasters in Georgia.

2 EXECUTIVE SUMMARY

Whilst on superficial reading, the provisions of the Draft Law dealing with *hate speech*, *right of reply* and *appeals* seem to align with AVMSD, given the particular context of Georgia, there are risks to freedom of expression if they are enacted without further consideration and amendment[s] aimed at their improvement.

Administrative suspensions of decisions taken by the regulatory authority, ComCom, should continue as they are now due to the slow pace of judicial hearings in Georgia. This was the advice given by the Venice Commission in relation to ComCom's decisions under the Law on Electronic Communications[2]; and should also apply to decisions taken under the Broadcasting Law. However, to avoid misalignment with AVMSD, it is proposed that minor sanctions are not suspended; only potentially significant sanctions should be suspended, until such time as Georgia's judicial system works more efficiently.

The concept of hate speech is misunderstood by many stakeholders in Georgia. Although during the interview with ComCom, the regulator demonstrated an understanding of the European standards and interpretation of hate speech, they recognised that it was likely that complainants would ask for investigations of critical and/or offensive speech on the misunderstanding that this was hate speech. Other interviewed stakeholders do not believe ComCom will be able to withstand the pressure such complaints would cause and would prefer hate speech to be handled through co-regulation. It is

[2] Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the recent amendments to the Law on Electronic Communications and the Law on Broadcasting of Georgia - https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)011-e

recommended that the definition of hate speech be extended and clarified in Art. 56.2 of the Law and that it remains a matter for co-regulation under an improved co-regulatory mechanism.

Similarly, stakeholders argue against statutory regulation of the right of reply and point out that the current right of rebuttal is well-regulated under the existing self-regulatory mechanisms. The current correction and rebuttal provisions in the broadcasting law and the system for enforcing them are already largely in line with the AVMSD. It is therefore recommended that they be left in place and slightly amended to bring it closer to the Directive and international standards.

There are a number of additional issues which have been identified, but not analysed for the purposes of this particular *initial advice*, but which do not appear aligned with AVMSD and/or Council of Europe standards. The expertise on those additional issues will be provided in the framework of the Legal Opinion (over the entire Draft Law) expected by 20 December 2022.

3 SPECIFIC COMMENTS

The review of the Draft Law is based on the standards on freedom of expression and media freedom, notably Council of Europe standards in the field, as well as the EU audiovisual framework.

3.1 Prohibition of Hate Speech

A number of stakeholders interviewed for the purpose of this initial advice confirmed that the term 'hate speech' is widely used in Georgia to refer to critical and/or offensive comments, and its meaning is not limited to the strict definition set out in the AVMSD. The ECtHR case law has made clear that critical comments and the statement of controversial views are not in themselves hate speech.[3] This is supported by the recent Council of Europe Recommendation on Hate Speech which says, "freedom of expression is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population;."[4]

Furthermore, the definition refers to hateful statements that are based on characteristics pertaining to typically disadvantaged groups. So, for example, making a threatening statement about someone not based on their personal membership of a minority group, or personal characteristic as set out in the Charter of Fundamental Rights (The Charter) [5], is not hate speech. The statement may well be in breach of another Article in the Law or Code of Conduct but cannot be treated as hate speech. Hate speech is a criminal offence, not because it is offensive, but because it is dangerous as it is likely to lead to actual harm.

The current Article 56.2 of the Broadcasting Law states that, "Broadcasting of programmes containing the apparent and direct threat of inciting racial, ethnic, religious or other hatred in any form and the threat of encouraging discrimination or violence toward any group, is prohibited." This is similar to a prohibition on "hate speech", although falls short of the full list of protected attributes as set out in

[3] See for example **Gündüz v. Turkey** https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-61522%22]}
[4] See Preamble to CM/Rec(2022)16[1] on combating hate speech
[5] The Charter of Fundamental Rights of the EU, Article 21. **Non-discrimination** – forbids discrimination on grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or other belief, political opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

The Charter, and also is much wider than the narrow definition of "hate speech" which refers to the incitement of violence or hatred.[6] Article 56.2 is subject only to the self-regulatory mechanisms that all authorised audiovisual services in Georgia must have.

Art. 55(2) of the Draft Law mirrors the wording of Article 6.1 of AVMSD and lists the protected characteristics contained in Article 21 of the Charter. However, it provides an exception to the prohibition on hate speech "where this is necessary in connection with the content of the programme". This is insufficiently clear. It would not ensure, as ECtHR case law requires, that exceptions are only acceptably in rare cases, for example, in documentary programmes about extremist groups where a film of someone speaking hate speech might be justifiable.[7] Furthermore, provisions regarding exceptions should require that there must be a clear intention on the part of the programme to report on the hate speech and not disseminate it.

This wording in the Draft law should be amended to make it clear that "**exceptionally**, where this is necessary, in connection with the **context** of the programme and there is **no intention to disseminate the speech in question."** In no other circumstances would hate speech be justifiable.

The AVMSD requires Member States to "ensure by appropriate means" that hate speech is not broadcast. Therefore, either a statutory or co-regulatory means of regulating hate speech is needed. Currently in Georgia as there is no oversight or review by ComCom of the effectiveness of the required 'self-regulation' by broadcasters and therefore, it cannot at present be said that the existing self-regulatory mechanisms provide "the appropriate means" for Georgia.

There are two options for Georgia for the regulation of hate speech: either it is regulated by ComCom as the National Regulatory Authority, or it is subject to a properly established co-regulatory system that complies with AVMSD standards.[8] It should be noted in this regard that hate speech in advertising is subject to self or co-regulation in nearly all EU Member States.[9] Whoever takes responsibility for regulating hate speech in Georgia, either ComCom or a new co-regulatory mechanism, incidents of hate speech should be collated and reported on annually.

The Draft Law proposes that ComCom, as the NRA, takes responsibility for the regulation of hate speech. During the interview ComCom representatives understood the European interpretation of hate speech. Nevertheless, representatives of the civil society organisations and media outlets interviewed for the purpose of this initial advice cited examples of 'interpretation creep' by ComCom to extend the scope of broadcast content regulation over recent years. They have also stressed the high risk of political pressure on ComCom in view of the current political landscape and constituency of the Parliament.

To be clear, as well as being prohibited by AVMSD, hate speech is an unprotected category of speech according to international law and EU law, and amounts to a criminal offence in Georgia just like in EU member states. Indeed, the Georgian criminal code includes hate speech in Article 239(1). It is

[6] See Article 6.1(a) of AVMSD
[7] See for example, Jersild v Denmark https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57891%22]}
[8] The AVMSD sets out standards for co-regulation through the use of codes in Article 4a.
[9] In 2014, 26 out of the then 28 Member States self- or co-regulated advertising.

recommended that the Draft Law be further changed to require that any incident of hate speech is referred to the public prosecutor's office.

It is recommended that the definition of hate speech be extended and clarified in Art.56.2 of the Law and that it remains a matter for co-regulation under an improved co-regulatory mechanism.

In case the decision is made in favour of statutory regulation, the article should be amended to expressly state that critical and/or offensive speech is not to be considered hate speech. The law should also state that violations of this article should be referred to the Public Prosecutor for investigation under the Criminal Code (to make it clear that it is only the most serious, and dangerous speech which is covered)**.**

3.2 Right of Reply

There is no right of reply or correction in the Universal Declaration of Human Right, the International Covenant of Civil and Political Rights, or in the European Convention on Human Rights. This has resulted in a somewhat contradictory and inconclusive, as well as limited, history of case law in the European Court of Human Rights, though one which has upheld the principle of editorial freedom.[10] Some European states have statutory rights of reply or similar rights of correction while others handle right of reply through self-regulatory bodies. The Council of Europe has a clear understanding of the right and recommendations for its implementation, which have provided the basis for how it is handled in many countries and for the provisions in the AVMSD.

The Council of Europe position on the right of reply dates back to Resolution (74) 26 from July 1974. Key elements of that resolution are that this right is linked to damage to a person's "dignity, honour or reputation" and that it **can be exercised in response to "incorrect facts** relating to him which he has a justified interest in having corrected".[11] This resolution defined the **individual who can claim this right as either a natural or a legal person**. It also defined **redress as being able to take a variety of forms**, legal (in law) or otherwise, namely as complaints to press councils. In an appendix, it suggested minimum rules applicable to all media on the speed and prominence of any reply, exceptions notably related to the public interest and the information being proven to be accurate. It also established that disputes be brought before a tribunal with the power to order publication of replies when it upholds complaints.

In 2004, the Committee of Ministers adopted a recommendation aimed at updating the 1974 position in response to the technological changes in media industries. Recommendation (2004)16[1][12] recalled and repeated most of the 1974 resolution including the understanding of the individual and requirement for redress through a tribunal or other body. This recommendation noted additionally that the right of reply **should be available regardless of an individual's nationality or residence** and widened the scope of media to whom it would apply. It expanded the list of exceptions that could be

[10] For discussion of this contradictory history, see O'Fathaigh, R. (2012) "The Recognition of a Right of Reply under the European Convention", *Journal of Media Law*, 4:2, 322-332; O'Fathaigh, R. (2018) "Eker v. Turkey: The Right of Reply Under the European Convention" *European Human Rights Cases*, 2018, Issue 1, Available at SSRN: https://ssrn.com/abstract=3104627

[11] Resolution (74) 26 of the Committee of Ministers on the Right of Reply - the Position of the Individual in Relation to the Press. Paragraph 1 and Article 1. Available at: https://rm.coe.int/16805048e1#:~:text=In%20order%20to%20safeguard%20the,request%20to%20publish%20the%20reply.

[12] Recommendation Rec(2004)16[1] of the Committee of Ministers to member states on the right of reply in the new media environment. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805db3b6

grounds for refusal and included a provision suggesting that in order to "safeguard the effective exercise of the right of reply" media should make the details of a contact person available, and states should designate time periods for the obligatory maintenance of archives.

The position of the Council of Europe is reflected also in the European Convention on Transfrontier Television (ECTT) from 1989, in which Article 8 requires states to ensure a right of reply or "comparable legal or administrative remedies" to correct inaccurate facts or information.[13] The AVMSD, which is the successor to the Television without Frontiers Directive adopted in parallel to the ECTT, states that, "any natural or legal person, regardless of nationality, whose legitimate interests, in particular reputation and good name, have been damaged by an assertion of incorrect facts in a television programme must have a right of reply or equivalent remedies." This provision identifies **the crucial link between the right of reply and the assertion of incorrect facts**. It specifically notes reputational damage as a justification for seeking reply.

The ECTT also allows that "equivalent remedies" could be in place in lieu of a right of reply and there are a variety of ways states implement the right or its equivalent. The 2004 Council of Europe Recommendation clearly acknowledges in its recitals that "right of reply can be assured not only through legislation, but also through co-regulatory or self-regulatory measures."[14] It further states that disputes should be handled by "a tribunal or other body with the power to order the publication of the reply,"[15] which according to the explanatory memorandum "could be an ordinary court, an independent regulatory authority or a self-regulatory body whose members have agreed to abide by its decisions"[16]. **Council of Europe standards therefore require effective recourse for any person whose request for a reply has been denied and the ability to appeal to a body that can require the request to be fulfilled if found to be legitimate, however, they also allow for that to be done through a variety mechanisms**.

The OSCE Representatives on Freedom of the Media and the expertise produced by their office, have consistently recommended any right of reply be both limited to correcting inaccuracies and handled through self-regulatory bodies.[17] Within the context of EU law, namely the AVMSD, states also have flexibility in terms of how the right of reply is to be exercised as and the procedures used. The Directive does not prescribe a system. In Article 28 it requires Member States to ensure:

- the exercise of the right of reply or equivalent remedies is not hindered by unreasonable terms and that replies are transmitted within a reasonable time;
- the right and system to exercise it is applicable to all broadcasters;
- that time spans in any procedures are such that persons from other Member States can exercise that right

[13] Article 8 of the 1989 European Convention on Transfrontier Television and the accompanying Explanatory Report available at https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=132
[14] Recitals of the Recommendation Rec(2004) 16[1] supra note 3
[15] Paragraph 8 of the Recommendation Rec(2004)16[1] supra note 3
[16] Paragraph 33 of the "Explanatory Memorandum to the draft Recommendation on the right of reply in the new media environment" CM(2004)206 addendum 17 November 2004 available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016804b2fa2
[17] See for example: Legal Review of the Right of Reply as Prescribed by the Statute on Periodic Press and News Agencies of Slovakia (March 2019) available at: https://www.osce.org/files/f/documents/8/c/414362.pdf; Legal analysis of the draft law on mass media of the Republic of Uzbekistan (November, 2021) available at: https://www.osce.org/files/f/documents/8/c/414362.pdf; and earlier reactions to right of reply proposals "Latest amendments to Slovakia's draft Press Act an improvement but still fall short, says OSCE media freedom representative" (March 2008) available: https://www.osce.org/fom/49573

- that and procedures for resolving disputes over the right of reply or equivalent remedies can be subject to judicial review.

These can be seen as minimal criteria for any system in place, which could be within a self- or co-regulatory system or the competence of the regulatory authority. There is no requirement for a national regulatory authority to be responsible and the Directive in general encourages the use of co-regulation and self-regulation in Article 4a.

The right of rebuttal in Article 52 (2,3 & 4) of the current Georgian Law on Broadcastings is therefore already generally in line with both Council of Europe standards and the AVMSD. **The basic requirements are met by the existing provision, however, to make it more precise and mirror the AVMSD; and the 2004 Council of Europe's Recommendation more closely the following changes should be made to the existing provision:**

1. Insert "whose legitimate interests, in particular reputation and good name, have been damaged by an assertion of incorrect facts" following the phrase "a person concerned," in Article 52(2).
2. In paragraph 3 replace "shall not exist" with "can be refused" and add a point (g) "the correction or rebuttal would involve a punishable act, render the broadcaster liable to civil-law proceedings or transgress standards of public decency"
3. Add a 52(5) stating "The dissemination of opinions and ideas must remain outside the scope of the provisions in paragraphs 2,3 &4."

The location of the right in Article 52 in the current law places it under the purview of the self-regulatory system for enforcement purposes.[18] This is in line with the AVMSD and Council of Europe standards as long as that system can ensure publication of replies if needed in cases of dispute and can subject to judicial review.

The right of reply has always been contentious from a freedom of expression perspective. It can be an important tool through which citizens and business can protect themselves from damaging falsehoods. Previous experience has demonstrated that it can also be easily abused by powerful political and business elites.[19] At the root of abuse problems in other countries is an overly broad understanding of the right of reply that included opinion and interpretation without an accuracy requirement. It is therefore crucial to ensure the right is defined narrowly in connection with inaccuracies in line with the standards discussed above, and that implementation remains mainly in the hands of those with editorial responsibility, with effective recourse for complainants in cases of dispute.

The current Broadcasting Law seems to have a contradiction in relation to the process for appealing if a request for reply to a broadcaster has been refused. Article 52 states that the refusal of a broadcaster can be appealed to ComCom or the court, while Article 59(1) states that interpretations and decisions made by the self-regulatory mechanisms related to that article cannot be appealed to ComCom, the court or any other administrative body. **This should be clarified such that the process of decision and appeal of right of reply requests rest solely in a self-regulatory or co-regulatory**

[18] This is according to the violation response measures set out in Article 59[1]

[19] Slovakia and Slovenia are notable examples of where this has happened. See the multiple interventions of the OSCE Rep on Freedom of the Media in relation to Slovakia and on Slovenia, see Milosaljevič, M. (2012) *The Right of Reply and Correction: The Slovenia Experience* available at: http://eprints.lse.ac.uk/83274/

mechanism. The purpose of this right is to correct damaging inaccuracies and should be a quick and relatively straightforward procedure. More systematic or malicious falsehoods should be handled by courts under defamation law.

3.3 Right of Appeal

The Draft Law, Article 8(7) provides that legal acts of ComCom will not be suspended on an appeal to a court, unless the court decides otherwise. This is in line with the wording of Article 30.6 of AVMSD.

Nonetheless, this Article must be interpreted in line with the **Venice Commission/DG Human Rights and Rule of Law Opinion No. 1008 / 2020 of 22 March 2021 (the Opinion)**. 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 new Article 11 of the Law on Electronic Communications, which stipulated those decisions of the ComCom taken under Article 46 were to take immediate effect. The Opinion also noted the intention by ComCom to propose an amendment to the Broadcasting Law so that its decisions thereunder would also have immediate effect. That is the amendment under discussion here.

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 to Art. 11 be revoked and that there be a return to the general principle of domestic administrative procedure law that appeals have suspensive effect for appointment decisions taken by ComCom.

During the interview with Georgian broadcasters, it was stated by several representatives that an appeal from a decision by ComCom takes at least 1 year to be heard at first instance and can take years for final appeals to be heard. It was also clear that expedited applications for interim orders are not being properly considered and that applications are therefore almost never allowed.[21] There is at least one broadcaster with accumulated fines under appeal, immediate payment of which (pending a full appeal hearing) would be likely to cause the broadcaster to stop operations, and therefore interfere with freedom of expression.

Given the particular problems with the inefficiency of the Georgian judicial system, it is strongly recommended that in order to avoid the risk of undermining both freedom of expression and the property rights of broadcasting companies, Article 8(7) of the Draft Law is amended. Article 8(7) should be expanded to note that fines imposed under Articles 72 (1) and (2) of the Broadcasting Law – up to 1% of the broadcaster's annual income – will have immediate effect. It should also

[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

[21] Broadcasters reported that judgements nearly always followed ComCOm's own assessments and used ComCom's decision wording directly in their judgements.

allow that higher fines or decisions to suspend the authorisation of a broadcaster may be appealed, and the sanction suspended pending appeal.

This provision could be reviewed in three years' time to assess whether the Georgian judicial system has reached its efficiency level, whereupon the exceptions for more severe sanctions can be removed.

3.4 Overall Issues of Concern (to be furthered analysed)

The Draft Law is not aligned with the AVMSD in relation to video sharing platforms regarding the role of the regulator and implementation. There is a significant problem with applying the approach outlined in Article 14 of the Broadcast Law to video-sharing platforms and conflating audiovisual media services and video-sharing platforms into a new notion of "broadcasting".

It is important to get the regulatory process for video-sharing platforms right as envisaged by the AVMSD, if Georgia intends to continue its Euro-integration path because the Directive's approach is taken up and developed further in the recently adopted Digital Services Act.

- The means of appointment of members of the regulatory authority are likely to result in an authority which is not independent, as required by AVMSD. More information is required on the provisions for termination of appointment.

- The system of sanctions is disproportionate and limits ComCom's ability to take account of the specifics and context of both the violations and the business position of the audiovisual media service.

- There are significant issues with the definitions related to commercial communications and the applicability of the standards for them, as proposed in the Draft Law, which in the AVMSD are directed at all audiovisual media services and video-sharing platforms.

4 FINAL REMARKS

During the consultations with Georgian stakeholders, the Broadcasters stressed that they are currently engaged in finalising proposals for a robust co-regulatory mechanism which would meet EU requirements and avoid the statutory regulation, which they fear would result in misuse of power by the ComCom. In view of this, it is recommended that sufficient time be allocated to the legislative process related to adoption of the Draft Law, so that the broadcasters' proposals can be given due consideration and, if appropriate, be reflected in the Broadcasting Law. Given the concerns raised in this analysis, and the additional issues in the Draft Law and Broadcasting Law which have already been identified but which require further analysis, a prolonged timeline beyond 2022 is required for allowing the alignment of the Broadcasting Law with the European standards and the AVMSD.

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