



# Media law and policy in selected Black Sea region countries

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# Media law and policy in selected Black Sea region countries

Andrei Richter



# Foreword

It is a widely acknowledged fact that the status of ‘EU candidate’ is a strong incentive for a country to develop its legislation in line with the *acquis communautaire*. This is mainly because candidate countries are obliged to incorporate the *acquis* into their national legal order by the date of their accession to the EU and to apply it from that date.<sup>1</sup> In addition, membership of regional or international organisations also encourages an approximation of laws in many fields.

The author of this publication, Andrei Richter (Comenius University, Bratislava), has looked at five countries - the Republic of Armenia, Georgia, the Republic of Moldova, the Republic of Türkiye, and Ukraine - that share a number of characteristics: geographically, they are all located in the Black Sea region; politically, they are members of the Council of Europe and the Organisation for Security and Cooperation in Europe; and, crucially, none of them is a member of the European Union, but they all aspire to join the organisation. As regards freedom of expression, these countries share criticism by international organisations regarding often-similar shortcomings in the regulation of their audiovisual media. And, as mentioned before, all five countries have committed themselves to incorporate the EU media *acquis* into their legislation.

This report examines media legislation in these five countries. It begins with an overview of their media landscape through the assessments of independent media analysts, as published in the reports of the Organisation for Security and Co-operation in Europe’s Office for Democratic Institutions and Human Rights (OSCE-ODIHR) Election Observation Missions in 2020-2023. It also analyses their constitutional guarantees with regard to the principle of freedom of expression and provides a comparative overview of the state of legal regulation of the audiovisual media with regard to national regulatory authorities, public service media (both in terms of governance and independence), elections, media ownership and disinformation. It also describes the assessment by the World Press Freedom Index and the EU, and concludes with some final remarks.

Strasbourg, September 2023

Maja Cappello  
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<sup>1</sup> <https://eur-lex.europa.eu/EN/legal-content/glossary/acquis.html>.

# Table of contents

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<b>1. An overview .....</b>	<b>1</b>
1.1. Media landscape.....	1
1.2. Constitutional guarantees .....	4
1.3. Audiovisual statutes.....	5
<hr/>	
<b>2. Elements of AV media regulation.....</b>	<b>8</b>
2.1. National regulatory authorities .....	8
2.2. Public service media: Governance and political independence .....	12
2.3. Audiovisual media and elections .....	17
2.4. Media ownership regulation .....	19
2.5. Disinformation and the media .....	24
<hr/>	
<b>3. Assessment by international organisations.....</b>	<b>27</b>
3.1. Press Freedom Index .....	27
3.2. Evaluation by the EU .....	28
<hr/>	
<b>4. Conclusions.....</b>	<b>31</b>

## Tables

Table 1.	Media landscape at a glance .....	3
Table 2.	Adoption of key audiovisual statutes to align with the AVMSD.....	7
Table 3.	Profile of national regulatory authorities.....	11
Table 4.	Profile of PSM governance .....	16
Table 5.	Ranking of the countries regarding media freedom .....	27
Table 6.	Ranking of the countries regarding their legislative framework for media freedom .....	28

# 1. An overview

The five countries in this review – the Republic of Armenia, Georgia, the Republic of Moldova, the Republic of Türkiye, and Ukraine – are united by several criteria. They all are member states of both the Council of Europe and the Organization for Security and Co-operation in Europe. They are not member states of the European Union, but aspire to join the organisation: three of them (Moldova, Türkiye and Ukraine) are candidate countries, Georgia is designated as a potential candidate country,<sup>2</sup> and Armenia has committed “to gradually approximate its legislation in the relevant sectors with that of the European Union”.<sup>3</sup> They all are in the Black Sea region and are active in various regional associations, including the Organization of the Black Sea Economic Cooperation.<sup>4</sup>

They have often been criticised by international organisations for often similar flaws in the regulation of their audiovisual media, at least from the freedom of expression viewpoint. One other common feature is that their audiovisual media regulation landscapes have rarely been reviewed, at least inter-comparatively or with regard to the standards of the EU and other international commitments. At the same time, all five countries have pledged to align relevant law with EU standards and are active in their cooperation with the European institutions.

## 1.1. Media landscape

This subchapter is based on the assessments by independent media analysts as published by the reports of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE ODIHR) Election Observation Missions in 2020-2023. These snapshot results, which stem from the same methodology,<sup>5</sup> permit qualitative comparison of the media situation in the countries.

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<sup>2</sup> See: [https://european-union.europa.eu/principles-countries-history/joining-eu\\_en](https://european-union.europa.eu/principles-countries-history/joining-eu_en).

<sup>3</sup> See: EU-Armenia Comprehensive and Enhanced Partnership Agreement (CEPA), which entered into force on 1 March 2021, [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22018A0126\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22018A0126(01)&from=EN).

<sup>4</sup> See: <http://www.bsec-organization.org>.

<sup>5</sup> See: <https://www.osce.org/odihr/elections/92057>.

Armenia, Georgia, Moldova, Türkiye, and Ukraine have audiovisual media of differing scale but not dissimilar in as far as the general environment is concerned.<sup>6</sup> This is true for both the public and private media systems.

The media landscape in **Armenia** is considered by the OSCE ODIHR to be “diverse”, it counts 50 broadcasters, including six TV channels with nationwide outreach. Television remains “the most important source of political information, especially outside the capital”.<sup>7</sup> The OSCE ODIHR report notes that public television, financed from the state budget and through advertisements, continues to be perceived as having a pro-government editorial policy. At the same time, the longstanding political affiliation of various private broadcasters is noted in the latest report on Armenia, while financial means from political parties and/or politicians are channelled to them through various methods. This is perceived though as a de facto accepted status quo that ensures the political diversity of the television environment.<sup>8</sup>

The media landscape in **Georgia**, according to the latest OSCE ODIHR report, “has significantly deteriorated over the last year”. Still, it is “diverse but strongly dependent on business or political interests and largely mirrors the polarisation between governing and opposition parties”. It comprises 106 television channels, including 14 national broadcasters.<sup>9</sup> Television continues to be “the main source of information” for the majority of inhabitants, although online media are catching up, mostly in towns. The editorial policies of the private national television channels, according to the report, are shaped by partisan alignments and agendas.<sup>10</sup>

As many as 56 television stations, including 13 with nationwide coverage, and a growing number of online media outlets are active in **Moldova**, the latest OSCE ODIHR report notes.<sup>11</sup> Media outlets are “in dependence on financing by political and economic interests”. This results in a reduction of political pluralism, and also influences the agenda of public debate and undermines the watchdog function of the media. Interference with editorial autonomy results in self-censorship by journalists and renders media self-regulation attempts ineffective. Independent news production and investigative journalism rely significantly on international funding.<sup>12</sup> Although the latest report does not provide an assessment in this regard, a report from several months earlier qualifies

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<sup>6</sup> The media landscape in Ukraine has undergone significant changes following the start, on 24 February 2022, of the large-scale military aggression of the Russian Federation in the country, and the subsequent introduction of martial law in Ukraine.

<sup>7</sup> See: OSCE ODIHR, Republic of Armenia, Early Parliamentary Elections, 20 June 2021, ODIHR Election Observation Mission Final Report, Warsaw, 27 October 2021, p. 17, [https://www.osce.org/files/f/documents/5/4/502386\\_0.pdf](https://www.osce.org/files/f/documents/5/4/502386_0.pdf).

<sup>8</sup> OSCE ODIHR, Election Observation Mission, Georgia, Local Elections, 2 and 30 October 2021, ODIHR Election Observation Mission Final Report, Warsaw, 8 April 2022, p. 20, [https://www.osce.org/files/f/documents/3/a/515364\\_0.pdf](https://www.osce.org/files/f/documents/3/a/515364_0.pdf).

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> OSCE ODIHR, Election Observation Mission. Republic of Moldova, Early Parliamentary Elections, 11 July 2021, Final Report, Warsaw, 22 December 2021, p. 17, <https://www.osce.org/files/f/documents/0/5/508979.pdf>.

<sup>12</sup> Op.cit., p.17-18.



the media landscape in Moldova as “overall diverse”, with television the primary source of political information.<sup>13</sup>

There are 134 private national television broadcasters in **Türkiye**. The media landscape there is described by the OSCE ODIHR as “diverse yet polarized”.<sup>14</sup> Its 2023 report speaks of existing concerns that an overwhelming majority of broadcast and online media apparently show a strong bias favouring the ruling elites. While online media and social networks are perceived to be more independent compared to the traditional media, the report notes particular concerns about the established practice of blocking websites and individual pages, as well as formal requests for content removal from websites and social networks that can be issued by as many as 25 administrative and judicial bodies.<sup>15</sup> A point omitted in the still-interim report, but included in the latest, final report is that television is the main source of information, and that with growing Internet penetration, social networks have become an important source of news, primarily in urban areas.<sup>16</sup>

The media landscape in **Ukraine** is described in the most recent pre-war report of the OSCE ODIHR as “diverse but characterized by a high concentration of politically vested ownership at both national and regional levels”. The main source of news for citizens was judged to be social networks, followed closely by television and news websites. As a result, national and especially regional TV channels have become more economically dependent on their owners, who often use the media outlets they own to promote their political interests.<sup>17</sup> With the start of the full-scale Russian aggression on 24 February 2022, Ukraine’s media landscape underwent significant changes.<sup>18</sup>

**Table 1. Media landscape at a glance**

Country	Media landscape	Main source of news	Number of national channels	OSCE ODIHR report published in:
Armenia	“diverse”	television	6	2021
Georgia	“diverse, but...”	television	14	2022

<sup>13</sup> OSCE ODIHR, Limited Election Observation Mission. Republic of Moldova, Presidential Election, 1 and 15 November 2020, Final Report, Warsaw, 26 February 2021, p. 17, <https://www.osce.org/files/f/documents/1/5/479972.pdf>.

<sup>14</sup> OSCE ODIHR, Election Observation Mission. Republic of Türkiye, General Elections, 14 May 2023. Interim Report (22 March – 25 April 2023), 28 April 2023. Part XI. Media, [https://www.osce.org/files/f/documents/1/3/542502\\_0.pdf](https://www.osce.org/files/f/documents/1/3/542502_0.pdf).

<sup>15</sup> Ibid.

<sup>16</sup> OSCE ODIHR, Election Observation Mission. Republic of Turkey, Early Presidential and Parliamentary Elections, 24 June 2018, Final Report, Warsaw, 21 September 2018, p. 17, [https://www.osce.org/files/f/documents/9/4/397046\\_0.pdf](https://www.osce.org/files/f/documents/9/4/397046_0.pdf).

<sup>17</sup> OSCE ODIHR, Limited Election Observation Mission, Ukraine Local Elections, 25 October 2020, Final Report, Warsaw 29 January 2021, p. 24, [https://www.osce.org/files/f/documents/3/e/476974\\_1.pdf](https://www.osce.org/files/f/documents/3/e/476974_1.pdf).

<sup>18</sup> See Richter A., “[UA] Efforts to counteract information aggression”, IRIS 2022-5:1/8, <https://merlin.obs.coe.int/article/9485>.

<b>Moldova</b>	“overall diverse”	television	13	2021
<b>Türkiye</b>	“diverse, yet...”	television	134	2023, 2018
<b>Ukraine</b>	“diverse, but...”	social networks	27*	2021

Source: OSCE ODIHR reports referred to in the subchapter.

\*This figure corresponds to the situation prior to the full-scale aggression in Ukraine, its source being the National Council on Television and Radio Broadcasting: “Кожен із 27 загальнонаціональних телеканалів забезпечує в ефірі не менше ніж 75% української мови” (Each of the 27 national TV channels provides content that is at least 75 % Ukrainian-language), 27 June 2021, see: <https://www.nrada.gov.ua/kozhen-iz-27-zagalnonatsionalnyh-telekanaliv-zabezpechuye-v-efiri-ne-menshe-75-ukrayinskoyi-movy/>.

## 1.2. Constitutional guarantees

The five countries analysed in this publication adhere in their national constitutions to the principle of freedom of expression.<sup>19</sup>

In addition, the Constitution of Armenia (Art. 42) guarantees freedom of the media, as well as “the activities of independent public television and radio offering diversity of informational, educational, cultural and entertainment programmes”.

The Constitution of Georgia provides for freedom of the media (Art. 17, para 3), the rights to access and freely use the Internet (Art. 17, para 4), and the independence of the public broadcaster from state agencies and its freedom from political and substantial commercial influence (Art. 17 para 6).

The Constitution of Moldova prohibits censorship of public media (Art. 34, para 5).

The Constitution of Türkiye additionally stipulates “freedom of the press and information” and a ban on censorship (Art. 28).

The Constitution of Ukraine also prohibits censorship (Art. 15).

The Constitutions of Armenia (Art. 196-197), Georgia (Art. 17 para 7, Art. 52 para 1d), and Türkiye (Art. 133) specify the role and function of the audiovisual media regulator. The Constitution of Ukraine (art. 85, 106) refers to the appointments to such a regulator.<sup>20</sup>

<sup>19</sup> Constitutions of: Republic of Armenia (art. 42), <https://www.president.am/en/constitution-2015/>; Georgia (Art. 17), <https://matsne.gov.ge/en/document/view/30346?publication=36>; Republic of Moldova (Art. 32), <https://presedinte.md/eng/constitutia-republicii-moldova>; Republic of Türkiye (Art. 26), <https://acikerisim.tbmm.gov.tr/handle/11543/3196>; and Ukraine (Art. 34), <https://zakon.rada.gov.ua/laws/show/en/254%D0%BA/96-%D0%B2%D1%80#Text>.

<sup>20</sup> See section 2.1. of this publication.

### 1.3. Audiovisual statutes

Audiovisual law has recently undergone significant transformation in the five countries analysed.

The current **Armenian** statute On Audiovisual Media<sup>21</sup> was adopted in 2020 and replaced the 2000 Statute on Television and Radio, reportedly taking as a model the EU Audiovisual Media Services Directive (AVMSD).<sup>22</sup>

In **Georgia**, the Parliament adopted in late 2022 sweeping amendments to the statute on broadcasting,<sup>23</sup> reportedly to ensure compliance of national legislation with the AVMSD. Most of the amendments relate to the definitions of the key notions of the statute, the activity of the audiovisual (AV) media regulatory authority, “authorisation” procedures for activities in the sphere of AV media services (for non-linear services), regulation of AV media services on demand, availability of transfrontier AV media services, activity of video-sharing platforms, content regulation (accuracy of facts, right of reply, a ban on hate speech according to a wide spectrum of criteria, a ban on calls for terrorism), transparency of ownership, and regulation of European works.<sup>24</sup> A legal review of these amendments provided by Council of Europe experts tabled 64 major recommendations to promote alignment with European standards, including the AVMSD. The legal opinion suggested, among other things, improvements in these areas: guarantees for the independence of the audiovisual media regulatory authority; the right of appeal and the effect of the decisions of the media regulatory authority; complaints-handling system; sanctions and accountability related to video-sharing platforms; licensing and authorisation, including suspension and reinstatement of AV media services; right of reply; provisions related to hate speech and incitement to terrorism; sanctions related to violations of the rules for protection of minors.<sup>25</sup>

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<sup>21</sup> ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ ՕՐԵՆՔԸ ՏԵՍԱՍՈՂԱԿԱՆ ՄԵԴԻԱՅԻ ՄԱՍԻՆ (Law of the Republic of Armenia on Audiovisual Media), Art. 32, <http://www.parliament.am/legislation.php?sel=show&ID=7300>.

<sup>22</sup> Consolidated text: Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (codified version) (Text with EEA relevance), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02010L0013-20181218>.

<sup>23</sup> The Law on Broadcasting of Georgia establishes rules for obtaining licenses for frequencies and sets the legal basis for the establishment of the public broadcaster. It also provides that both public and private broadcasters should ensure pluralistic and non-discriminatory coverage of all relevant views in their news programmes. See OSCE ODIHR, Election Observation Mission, Georgia, Local Elections, 2 and 30 October 2021, Final Report, Warsaw, 8 April 2022, p. 21, [https://www.osce.org/files/f/documents/3/a/515364\\_0.pdf](https://www.osce.org/files/f/documents/3/a/515364_0.pdf).

<sup>24</sup> *მაწყობლობის შესახებ“ საქართველოს კანონში ცვლილების შეტანის თაობაზე* (On amendments to the law of Georgia on broadcasting), Law of the Republic of Georgia, N 242 of 22 December 2022, see (in Georgian): <https://matsne.gov.ge/ka/document/view/5649707?publication=0>.

<sup>25</sup> Legal Opinion on the Law of Georgia on Broadcasting proposes its revision in line with European standards, prepared by the Council of Europe Directorate General of Human Rights and Rule of Law, Information Society Department, 21 February 2023, <https://rm.coe.int/eng-georgia-legal-opinion-law-on-broadcasting-feb2023-2777-8422-2983-1/1680aac48e>.

**Moldova's** 2018 Audiovisual Media Services Code<sup>26</sup> also aligns broadcasting standards with the AVMSD. The Code *inter alia* sets content requirements regarding impartiality and balance in news and current events, including talk shows.<sup>27</sup> Several noteworthy legal changes occurred in the regulation of the AV sector in Moldova at the end of 2021 and in 2022. The Audiovisual Media Services Code, in particular, was amended to introduce new levels of parliamentary control over the audiovisual media regulator and the public service broadcaster. Additional regulation was adopted to restrict disinformation and propaganda in linear broadcasting.<sup>28</sup>

In **Türkiye**, where the Law on the Establishment and Services of Radio and Television Enterprises entered into force in 2011,<sup>29</sup> other regulatory changes recently took place. In 2019 the Regulation on Radio, Television, and On-Demand Broadcasting Services Provided on the Internet entered into force.<sup>30</sup> Issued by the Radio and Television Supreme Council, it is applicable to national and foreign broadcasters offering radio, television, and on-demand broadcasting services via the Internet.<sup>31</sup> A circular issued by the President of Türkiye in January 2022, which in particular addressed the audiovisual media, including social media and platforms, sought to “protect the youth from bad habits and ignorance and protect the national culture against alienation and degeneration”. The circular apparently used broad definitions and sanctions thus permitting its arbitrary interpretation by the authorities, having, as a result, a further restrictive effect on freedom of expression and media in Türkiye.<sup>32</sup> The Türkiye Report for 2022 of the Directorate-General for Neighbourhood and Enlargement Negotiations of the European Commission<sup>33</sup> recommended Türkiye revise its legislation, in particular the Internet law and the Radio and Television Supreme Council (RTÜK) law so as to ensure their compliance with European standards and their implementation “in a manner which does not curtail freedom of expression”.

**Ukraine** recently adopted the brand-new statute “On the Media” which entered into force on 31 March 2023.<sup>34</sup> It encompasses all forms of media, but first and foremost

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<sup>26</sup> *Codul serviciilor media audiovizuale al Republicii Moldova în Republica Moldova* (Code of the Republic of Moldova on the Audiovisual Media Services in the Republic of Moldova), №174 of 8 November 2018, [https://www.legis.md/cautare/getResults?doc\\_id=33713&lang=ro](https://www.legis.md/cautare/getResults?doc_id=33713&lang=ro).

<sup>27</sup> OSCE ODIHR, Election Observation Mission, Republic of Moldova, Early Parliamentary Elections, 11 July 2021, Final Report, Warsaw, 22 December 2021, p. 19, <https://www.osce.org/files/f/documents/0/5/508979.pdf>.

<sup>28</sup> See sections 2.1, 2.2 and 2.5 of this publication.

<sup>29</sup> Law “On the Establishment of Radio and Television Enterprises and their Media Services”, No. 6112, 15 February 2011, <http://www.lawsturkey.com/law/law-on-the-establishment-of-radio-and-television-enterprises-and-their-media-services-6112>.

<sup>30</sup> *Radyo, Televizyon ve İsteğe Bağlı Yayınların İnternet Ortamından Sunumu Hakkında Yönetmelik*, Official Gazette of 1 August 2019, 30849.

<sup>31</sup> See Várkonyi G.G., “[TR]: Regulation on radio, television, and optional broadcasting services provided on the internet entered into force”, IRIS 2019-8:1/36, <https://merlin.obs.coe.int/article/8667>.

<sup>32</sup> Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), “Türkiye Report 2022”, 12 October 2022, p. 36-37, [https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022_en).

<sup>33</sup> Op.cit., pp. 35-37.

<sup>34</sup> *Закон України Про медіа* (Statute of Ukraine “On the Media”), 13 December 2022, No. 2849-IX, <https://zakon.rada.gov.ua/laws/show/2849-IX#Text>.

audiovisual media, thus replacing the 1994 Statute on Television and Radio Broadcasting and the 1997 Statute on the National Council on Television and Radio Broadcasting. The new statute aims to follow the AVMSD and incorporates a number of its provisions, such as those on European works, works created by independent producers, and a list of designated events.

**Table 2. Adoption of key audiovisual statutes to align with the AVMSD**

Country	Title of the statute	Year of adoption	Latest amendments
<b>Armenia</b>	“On Audiovisual Media”	2020	22.03.2023
<b>Georgia</b>	“On Broadcasting”	2004	22.12.2022
<b>Moldova</b>	“Code on Audiovisual Media Services”	2018	23.12.2022
<b>Türkiye</b>	“On the Establishment of Radio and Television Enterprises and their Media Services”	2011	06.12.2019
<b>Ukraine</b>	“On the Media”	2022	24.02.2023

## 2. Elements of AV media regulation

Below, a comparative review is provided of the state of legal regulation of audiovisual media in the five countries analysed, which are key non-Balkan candidates for membership of the European Union. As part of the alignment process, their authorities have committed to adopting legislation in the audiovisual field that is in line with the EU AVMSD.

All five are member states of the Council of Europe (CoE). Three countries (Moldova, Türkiye and Ukraine) have signed and ratified the CoE Convention on Transfrontier Television (ECTT),<sup>35</sup> while Armenia, Georgia and Türkiye are additionally members of the European Audiovisual Observatory (EAO).<sup>36</sup>

### 2.1. National regulatory authorities

Since 2018, Article 30 of the revised AVMSD provides that EU member states must designate one or more independent regulatory authorities for the audiovisual sector and specifies requirements and substantive safeguards to guarantee their independence. The concept of such independence was further explained in two recent EAO publications.<sup>37</sup>

In **Armenia**, the NRA is the Commission on Television and Radio (CTR), which oversees the activities of the AV media service providers, network and multiplex operators and distributors of AV programmes (to operators). It is designated by law as an independent body which shall only obey the law. “Unlawful influence on and intervention” in its activities is inadmissible.<sup>38</sup> Still, the criteria for selecting candidates for the oversight bodies in the AV sector and for the public service media (PSM) were found,

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<sup>35</sup> European Convention on Transfrontier Television (ETS No. 132), entry into force 1 May 1993, see: <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=132>.

<sup>36</sup> See <https://www.obs.coe.int/en/web/observatoire/about>.

<sup>37</sup> See Cappello M. (ed.), “The independence of media regulatory authorities in Europe”, IRIS Special, European Audiovisual Observatory, Strasbourg, 2019, <https://rm.coe.int/the-independence-of-media-regulatory-authorities-in-europe/168097e504>, and Cabrera Blázquez F.J., Denis G., Machet E., McNulty B., “Media regulatory authorities and the challenges of cooperation”, IRIS Plus, European Audiovisual Observatory, Strasbourg, December 2021; Introduction, <https://rm.coe.int/iris-plus-2021en2-media-regulatory-authorities-and-the-challenges-of-c/1680a55eb1>.

<sup>38</sup> ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ ՕՐԵՆՔԸ ՏԵՍԱԼԱՆՂԱԿԱՆ ՄԵԴԻԱՅԻ ՄԱՍԻՆ (Law of the Republic of Armenia on Audiovisual Media), Art. 32, <http://www.parliament.am/legislation.php?sel=show&ID=7300>.

in a recent legal review by an OSCE expert, to be “very open, vague and open to interpretation”.<sup>39</sup>

In **Georgia**, the law provides that the NRA for media services and video-sharing platforms (as well as electronic communications) is the Communications Commission (ComCom), an institution independent of any state agency. “Unlawful influence on and intervention” in its activities is again inadmissible, and “a decision made as a result of such influence and intervention is deemed void.”<sup>40</sup> The Council of Europe directorates, though, in their 2023 opinion, based on legal analysis by independent experts, pointed to a number of shortcomings in the law and concluded that the ComCom “cannot be said to be independent according to the criteria laid down by AVMSD and the Council of Europe’s standards on the independence of regulatory authorities”. Another “key point” in the criticism was a possibility for the Commissioners to serve for 12 years, which was considered “exceptionally long”.<sup>41</sup>

The NRA in **Moldova**, the Audiovisual Council (CA), is an “autonomous public authority”, “organizationally independent from any other entity”.<sup>42</sup> It is bound by the national Audiovisual Media Services Code to be “a guarantor of the public interest in the audiovisual field”. Its mission consists in “contributing to the development of audiovisual media services” in line with the principles of the Code, but also international norms, standards and best practices in the field. The public interest is defined as “ensuring a pluralistic and objective information for the population”, which is above “political, economic, commercial, ideological or other interests”.<sup>43</sup> The Code was amended in September 2021 regarding, *inter alia*, the dismissal of members of the NRA, which can now happen at any time on the basis of an annual performance review by Parliament. This, indeed, happened already in November 2021, when the ruling majority of the Parliament dismissed all of the members appointed by the previous majority.<sup>44</sup> A legal analysis of these amendments by an OSCE expert warned against putting in the hands of the parliamentary majority the decision to dismiss and replace CA members “based on mere convenience and political criteria” thus allowing for an erosion of “the independence and the proper performance of managerial decisions” by the members of

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<sup>39</sup> Organization for Security and Co-operation in Europe, The Representative on Freedom of the Media, Legal Analysis of the Law of the Republic of Armenia “On Audiovisual Media” (Adopted on 16 July 2020), commissioned by the Office of the OSCE Representative on Freedom of the Media and prepared by Dr. Joan Barata Mir, an independent media freedom expert, February 2021, p. 16, <https://www.osce.org/files/f/documents/0/a/493522.pdf>.

<sup>40</sup> Law of Georgia on broadcasting, Art. 5-6, <https://matsne.gov.ge/en/document/view/32866?publication=66>.

<sup>41</sup> A Legal Opinion on the Law of Georgia on Broadcasting proposes its revision in line with European standards, prepared by the Council of Europe Directorate General of Human Rights and Rule of Law, Information Society Department, 21 February 2023, p. 7-8, <https://rm.coe.int/eng-georgia-legal-opinion-law-on-broadcasting-feb2023-2777-8422-2983-1/1680aac48e>.

<sup>42</sup> *Codul serviciilor media audiovizuale al Republicii Moldova în Republica Moldova* (Code of the Republic of Moldova on the Audiovisual Media Services in the Republic of Moldova), N 174 of 8 November 2018, Art. 74, [https://www.legis.md/cautare/getResults?doc\\_id=33713&lang=ro](https://www.legis.md/cautare/getResults?doc_id=33713&lang=ro).

<sup>43</sup> *Op.cit.*, Art. 73.

<sup>44</sup> “Parliament dismisses full leadership of Audiovisual Council”, InfoTag, 12 November 2021, <https://www.infotag.md/politics-en/295356>.



the Council.<sup>45</sup> In the opinion of the European Commission, such regulation “is not aligned with the EU AVMSD which states that appointment and dismissal procedures must ‘guarantee the requisite degree of independence’ [of the NRA]”.<sup>46</sup>

In **Türkiye**, the Radio and Television Supreme Council (RTÜK) is the NRA responsible for overseeing broadcast media and online media with audiovisual content. According to the Law on the Establishment of Radio and Television Enterprises and their Media Services, the composition of the RTÜK reflects political party representation in the parliament.<sup>47</sup> The 2023 OSCE ODIHR report notes particular concerns over the independence and impartiality of the body, alleging disproportionate and selective sanctions that have mainly targeted opposition media outlets in recent years. According to the authorities, though, the report notes, the RTÜK takes its decisions in an impartial manner and in line with the law.<sup>48</sup> The latest EU report appraising the situation with regard to the regulator expressed concerns relating to the RTÜK’s independence and neutrality, as its members continue to be elected by the parliament in proportion to the political party groups, without consultation of civil society or professional media organisations in the process.<sup>49</sup> In the view of other observers, “[t]here is no good track-record of the regulator in terms of its independence, transparency and professionalism”.<sup>50</sup> They report that the RTÜK suspends and imposes fines on independent television and radio channels for their broadcasting content on the vague grounds of the content being “contrary to the national and moral values of society, general morality and the principle of family protection”. In 2021, it levied 71 administrative fines against independent channels critical of the government, while no fine was levied that year against pro-government media. The RTÜK also imposed 102 bans on broadcasts, as provided for by the courts upon request by legal and physical entities.<sup>51</sup> In February 2022, the RTÜK requested that the Deutsche Welle (DW) Turkish, Euronews Turkish and Voice of America (VoA) news sites

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<sup>45</sup> Organization for Security and Co-operation in Europe, The Office of the Representative on Freedom of the Media, Legal Analysis on the Law on Amendment of the Code of Audiovisual Media Services of the Republic of Moldova, commissioned by the OSCE Representative on Freedom of the Media, from Dr. Joan Barata Mir, December 2021, <https://www.osce.org/files/f/documents/3/2/509792.pdf>.

<sup>46</sup> European Commission. Analytical Report following the Communication from the Commission to the European Parliament, the European Council and the Council, Commission Opinion on the Republic of Moldova’s application for membership of the European Union, Brussels, 1 Feb., 2023 SWD(2023) 32 final, p. 25, see:

[https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD\\_2023\\_32\\_%20Moldova.pdf](https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD_2023_32_%20Moldova.pdf).

<sup>47</sup> Law “On the Establishment of Radio and Television Enterprises and their Media Services”, No. 6112, 15 February 2011, Art. 35, <http://www.lawsturkey.com/law/law-on-the-establishment-of-radio-and-television-enterprises-and-their-media-services-6112>.

<sup>48</sup> OSCE ODIHR, Election Observation Mission, Republic of Türkiye, General Elections, 14 May 2023. Interim Report (22 March – 25 April 2023), 28 April 2023, Part XI. Media. [https://www.osce.org/files/f/documents/1/3/542502\\_0.pdf](https://www.osce.org/files/f/documents/1/3/542502_0.pdf).

<sup>49</sup> Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), “Türkiye Report 2022”, 12 October 2022, p. 77, [https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022_en)

<sup>50</sup> Asli Tunç, “Monitoring EU Guidelines in Turkey: Instruments of political propaganda and censorship”, South East European Media Observatory, 21 June 2015, <https://mediaobservatory.net/radar/monitoring-eu-guidelines-turkey-instruments-political-propaganda-and-censorship>.

<sup>51</sup> Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), “Türkiye Report 2022”, 12 October 2022, p. 38, 96, [https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022_en).



apply for a licence within 72 hours. All three international media outlets replied that they would not abide by this decision. In April 2022, the regulator said it would no longer require Euronews to obtain a license, since the news channel had removed certain content. And in June 2022, the RTÜK decided to ban access to the Turkish-language websites of VoA and DW.<sup>52</sup> Observers say that the focal points of RTÜK-related criticism are as follows: the decisive role of political parties, especially the political power relating to the election of RTÜK members; the possibility that the RTÜK may not be capable of resisting political pressures; lack of autonomy due to the fact that it is not a constitutional organisation; affiliation with the executive body not as a council but as an organisation.<sup>53</sup>

The **Ukrainian** NRA for all the media – the National Council of Television and Radio Broadcasting (NCTRB) – is a constitutional, permanent, collegial supervisory and regulatory public authority. Since 2023, its activities have been regulated by the Law on the Media, which stipulates that the NCTRB is guided by the principles of “the rule of law, legality, independence, objectivity, predictability, legal certainty, competence, professionalism, collegiality in the consideration and resolution of issues, the validity of the decisions made, openness and publicity.”<sup>54</sup> This law introduced a refined procedure and basis of appointment of members of the NCTRB, by both parliament and the President, which was described by the Council of Europe directorates as “a helpful model for other European countries”. Found to be particularly commendable was the procedure that prescribes that the President selects the four new members from a shortlist proposed by media NGOs and unions and vetted by an appointed five-person Commission.<sup>55</sup>

**Table 3. Profile of national regulatory authorities**

Country	Name	Composition	Appointed by:	Term of service (years)	Publishes an annual report
Armenia	Commission on Television and Radio	7	Parliament	6 (up to two terms)	Yes
Georgia	Communications	5	Parliament (but selected by	6 (up to	Yes

<sup>52</sup> Ibid.

<sup>53</sup> Önen, S.M. & Imik Tanyildizi, N. “The Administrative Control of Broadcasting of the Turkish Radio Television Corporation (TRT): Can the British Broadcasting Corporation (BBC) provide a Model?” *TODAY’S Review of Public Administration*, Volume 4 No 3 September 2010, p. 134,

[https://www.researchgate.net/publication/293099538\\_The\\_Administrative\\_Control\\_of\\_Broadcasting\\_of\\_the\\_Turkish\\_Radio\\_Television\\_Corporation\\_TRT\\_Can\\_the\\_British\\_Broadcasting\\_Corporation\\_BBC\\_provide\\_a\\_Model](https://www.researchgate.net/publication/293099538_The_Administrative_Control_of_Broadcasting_of_the_Turkish_Radio_Television_Corporation_TRT_Can_the_British_Broadcasting_Corporation_BBC_provide_a_Model).

<sup>54</sup> Закон України Про медіа (Statute of Ukraine “On the Media”), 13 December 2022, No. 2849-IX, Art. 1 and 71, <https://zakon.rada.gov.ua/laws/show/2849-IX#Text>.

<sup>55</sup> Council of Europe, Opinion of the Directorate General Human Rights and Rule of Law, Information Society and Action against Crime Directorate, Information Society Department, prepared on the basis of expertise by Council of Europe experts: Eve Salomon and Tanja Kerševan on the Law “On Media” of Ukraine, DGI (2023)03, Strasbourg, 24 February 2023, p. 7, <https://rm.coe.int/dgi-2023-03-ukraine-tp-law-on-media-2751-9297-4855-1-2753-6081-2551-1/1680aa72df>.

	Commission		President)	two terms)	
<b>Moldova</b>	Audiovisual Council	7	Parliament	6 (one term only)	Yes
<b>Türkiye</b>	Radio and Television Supreme Council	9	Parliament	6	Yes
<b>Ukraine</b>	National Council of Television and Radio Broadcasting	8	President (4) and Parliament (4)	5 (up to two terms)	Yes

Internationally, the audiovisual media regulators of all five countries participate in the European Platform of Regulatory Authorities (EPRA), a forum for informal discussion and the exchange of views between media authorities in the broadcasting field in Europe,<sup>56</sup> as well as in the Black Sea Broadcasting Regulatory Authorities Forum,<sup>57</sup> and other groupings.<sup>58</sup>

## 2.2. Public service media: Governance and political independence

The main standards for public service media (PSM) governance in the region have been set by the Council of Europe's Committee of Ministers through a set of consistent recommendations. In the past years, the EU has also produced PSM-related legislation and recommendations on the evolution of the sector.<sup>59</sup> The recommendations of and assessments by international organisations "have been particularly influential in the development of public service broadcasting" in the Transcaucasian region,<sup>60</sup> but also, more recently, in Moldova and Ukraine.

**Armenia** was the first country in the South Caucasus to introduce, in its Law on Television and Radio, particular norms establishing a national PSM; later they were incorporated in the Law on Audiovisual Media. The PSM include the First Channel of the Public Television of Armenia,<sup>61</sup> currently supplemented by a 24-hour TV news channel and

<sup>56</sup> See: <https://www.epra.org/organisations>.

<sup>57</sup> See: <https://www.braf.info/EN/Home>.

<sup>58</sup> See: Cabrera Blázquez F.J., Denis G., Machet E., McNulty B., "Media regulatory authorities and the challenges of cooperation", *IRIS Plus*, European Audiovisual Observatory, Strasbourg, December 2021. <https://rm.coe.int/iris-plus-2021en2-media-regulatory-authorities-and-the-challenges-of-c/1680a55eb1>.

<sup>59</sup> See, in detail, Cabrera Blázquez F.J., Cappello M., Talavera Milla J., Valais S., "Governance and independence of public service media", *IRIS Plus*, European Audiovisual Observatory, Strasbourg, February 2022, <https://rm.coe.int/iris-plus-2022en1-governance-and-independence-of-public-service-media/1680a59a76>.

<sup>60</sup> See, e.g. Abashina E., "Public service media in Transcaucasian countries", *IRIS Extra*, European Audiovisual Observatory, Strasbourg, 2016, <https://rm.coe.int/1680783348>.

<sup>61</sup> <https://www.1tv.am/en/>.

a satellite TV channel serving Armenia's significant diaspora.<sup>62</sup> While the law provides certain stable guarantees regarding PSM governance, public remit and editorial independence, some of the provisions were found by international experts "quite problematic in terms of applicable international standards".<sup>63</sup> For example, the law provides that funding of the public broadcasters from the state budget may not be less than the amount of budget funding for the previous year.<sup>64</sup> The OSCE expert, when reviewing the law for the Representative on Freedom of the Media, noted that "[e]stablishing by law the budget of a public service body on the mere basis of considering the previous year's budget as a minimum amount is completely insufficient and almost arbitrary in order to guarantee that public service media receive adequate and sufficient funds to properly perform their activities".<sup>65</sup>

The **Georgian** Public Broadcaster (GPB)<sup>66</sup> and the regional Ajara Public Broadcaster are governed in accordance with the national Law on Broadcasting. The law stipulates that the GPB is a legal entity "that is independent from the state government and is accountable before the public ... not subordinate to any state agency".<sup>67</sup> It is funded by the state budget and operates two television channels with a relatively narrow audience.<sup>68</sup> The law established a safeguard to allow for PSM sustainability by prescribing that the allocated amount should not be less than 0.14% of the country's gross domestic product in the previous year.<sup>69</sup> It also regulates the composition and procedures of the oversight bodies, including the Board of Trustees (GPB) and Council of Advisors (in Adjara).

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<sup>62</sup> Interview with Hovhannes Movsisyan, Director General of Armenia Public TV, EBU, 21 March 2023, <https://www.ebu.ch/news/2023/03/interview-with-hovhannes-movsisyan-director-general-of-armenia-tv>.

<sup>63</sup> Organization for Security and Co-operation in Europe, The Representative on Freedom of the Media, Legal Analysis of the Law of the Republic of Armenia "On Audiovisual Media" (Adopted on 16 July 2020), commissioned by the Office of the OSCE Representative on Freedom of the Media and prepared by Dr. Joan Barata Mir, an independent media freedom expert, February 2021, p. 16, <https://www.osce.org/files/f/documents/0/a/493522.pdf>.

<sup>64</sup> ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ ՕՐԵՆՔԸ ՏԵՍԱԼԱՌՂԱԿԱՆ ՄԵՂԻԱՅԻ ՄԱՍԻՆ (Law of the Republic of Armenia on Audiovisual Media), Art. 29, <http://www.parliament.am/legislation.php?sel=show&ID=7300>.

<sup>65</sup> Organization for Security and Co-operation in Europe, The Representative on Freedom of the Media, Legal Analysis of the Law of the Republic of Armenia "On Audiovisual Media" (Adopted on 16 July 2020) Commissioned by the Office of the OSCE Representative on Freedom of the Media and prepared by Dr. Joan Barata Mir, an independent media freedom expert, February 2021, p. 16, <https://www.osce.org/files/f/documents/0/a/493522.pdf>. See also: "OSCE Media Freedom Representative: "Moldovan public service broadcaster and media regulatory authorities should be free from political interference", 14 January 2022, press release: <https://www.osce.org/representative-on-freedom-of-media/509924>.

<sup>66</sup> <https://1tv.ge/lang/en/>.

<sup>67</sup> Law of Georgia on broadcasting, Art. 15, <https://matsne.gov.ge/en/document/view/32866?publication=66>.

<sup>68</sup> OSCE Office for Democratic Institutions and Human Rights, Election Observation Mission, Georgia, Local Elections, 2 and 30 October 2021, Final Report, Warsaw, 8 April 2022, p. 20, [https://www.osce.org/files/f/documents/3/a/515364\\_0.pdf](https://www.osce.org/files/f/documents/3/a/515364_0.pdf).

<sup>69</sup> Law of Georgia on broadcasting, Art. 33, <https://matsne.gov.ge/en/document/view/32866?publication=66>.

The “Moldova 1” and “Moldova 2” television programmes operate as part of the National Public Broadcasting Institution “Teleradio-Moldova”;<sup>70</sup> there is also a regional PSM, “Gagauziya Radio Televizionu”. With the 2021 amendments to the Audiovisual Media Code, the number of members in the oversight body of “Teleradio-Moldova”, the Council on Oversight and Development, decreased from nine to seven (three proposed by the parliamentary factions, in proportion to the majority and the opposition, and four proposed by civil society organisations). Candidatures are submitted to the relevant parliamentary commission which, after hearings, makes a “reasoned decision” on their approval or rejection and reports to the plenary of the parliament for the final vote.<sup>71</sup> A legal opinion on the amendments by the OSCE expert found the submission of an annual report of the Council to the parliament “a good accountability tool since it facilitates a proper oversight and exchange about the ways the public service media institutions have interpreted and implemented their role and remit”. However, he noted, “this must not give the Parliament the power to alter one of the basic pillars of public service governance: independence based on clear mandates of high-level bodies’ members”.<sup>72</sup>

In **Türkiye**, the Turkish Radio and Television Corporation (TRT)<sup>73</sup> operates some 15 TV channels, including in Kurdish and Arabic.<sup>74</sup> The 1982 Constitution, the Turkish Radio and Television Law (no. 2954) and other related legislation entrust the TRT corporation, as an “autonomous” and “impartial” public corporate body, with undertaking any kind of broadcasting activities on news, culture, science, art, entertainment and similar subjects.<sup>75</sup> The practice, though, points to TRT’s autonomy not as a PSM but rather “as a public economic enterprise”<sup>76</sup>. Observers note that TRT is “explicitly undermined by the government’s influence over appointments to the board of directors”: ... “[N]o news critical of the government is likely to make it into the news broadcasts [of TRT].”<sup>77</sup> The latest EU report on Türkiye noted no changes to TRT’s editorial policy, which reflects the

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<sup>70</sup> <https://trm.md/>.

<sup>71</sup> *Codul serviciilor media audiovizuale al Republicii Moldova în Republica Moldova* (Code of the Republic of Moldova on the Audiovisual Media Services in the Republic of Moldova), №174 of 08 November 2018, Art. 45, [https://www.legis.md/cautare/getResults?doc\\_id=33713&lang=ro](https://www.legis.md/cautare/getResults?doc_id=33713&lang=ro).

<sup>72</sup> Organization for Security and Co-operation in Europe, The Office of the Representative on Freedom of the Media, Legal Analysis on the Law on Amendment of the Code of Audiovisual Media Services of the Republic of Moldova, commissioned by the OSCE Representative on Freedom of the Media from Dr. Joan Barata Mir, December 2021, p. 15, <https://www.osce.org/files/f/documents/3/2/509792.pdf>.

<sup>73</sup> <https://www.trt.net.tr/>.

<sup>74</sup> Turkish public broadcaster TRT moves farther from objective coverage with new appointees, IPI, 15 July 2021, <https://ipi.media/turkish-public-broadcaster-trt-moves-farther-from-objective-coverage-with-new-appointees/>.

<sup>75</sup> Önen, S.M. & Imik Tanyildizi, N., “The Administrative Control of Broadcasting of the Turkish Radio Television Corporation (TRT): Can the British Broadcasting Corporation (BBC) provide a Model?”, *TODAŞE’s Review of Public Administration*, Volume 4 No 3, September 2010, p. 121-147, [https://www.researchgate.net/publication/293099538\\_The\\_Administrative\\_Control\\_of\\_Broadcasting\\_of\\_the\\_Turkish\\_Radio\\_Television\\_Corporation\\_TRT\\_Can\\_the\\_British\\_Broadcasting\\_Corporation\\_BBC\\_provide\\_a\\_Model](https://www.researchgate.net/publication/293099538_The_Administrative_Control_of_Broadcasting_of_the_Turkish_Radio_Television_Corporation_TRT_Can_the_British_Broadcasting_Corporation_BBC_provide_a_Model).

<sup>76</sup> Op.cit., p. 139.

<sup>77</sup> Asli Tunç, “Monitoring EU Guidelines in Turkey: Instruments of political propaganda and censorship”, South East European Media Observatory, 21 June 2015, <https://mediaobservatory.net/radar/monitoring-eu-guidelines-turkey-instruments-political-propaganda-and-censorship>.

government's official lines.<sup>78</sup> The company itself notes that it does not receive funds from the government, however, the majority of its budget is publicly funded by fees levied on the purchase of electronics, including televisions and radios, and fees levied on utility bills.<sup>79</sup> There are also fast-growing revenues from advertising.<sup>80</sup>

The National Public Broadcasting Company of **Ukraine** (UA:PBC)<sup>81</sup> operates *UA:Pershyi, Kultura*, and 24 regional TV channels. The Law on the Public Media provides for financing of the national PSM from the state budget with the amount being not less than 0.2 percent of annual budget expenses,<sup>82</sup> although international organisations frequently criticise the authorities for failing to provide the prescribed amount.<sup>83</sup> While the latest OSCE ODIHR report noted high praise for the political impartiality of the public broadcaster, it continues to be underfunded, which compromises its ability to perform its role as a PSM effectively.<sup>84</sup>

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<sup>78</sup> Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), "Türkiye Report 2022", 12 October 2022, p.37-38, [https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022_en).

<sup>79</sup> Ian J. Lynch, "Turkey's public broadcaster must regularly disclose financial information in U.S.", *Ahval News*, 24 March 2020, <http://ahval.co/en-78373>.

<sup>80</sup> "TRT's resources to the AKP administration", *Turkey Posts English*, 6 May 2023, <https://turkey.postsen.com/business/267942/TRT's-Money-Into-the-Pockets-of-AKP-Members.html>.

<sup>81</sup> <https://corp.suspilne.media/>.

<sup>82</sup> *Про суспільні медіа України* (On public media), Law of Ukraine, 17 April 2014 року, N 1227-VII, Art. 14, <https://zakon.rada.gov.ua/laws/show/1227-18#Text>.

<sup>83</sup> See, e.g. "OSCE Representative on the Freedom of the Media calls on Ukrainian authorities to reinstate broadcasts by public service broadcaster UA:PBC and urgently resolve funding problems", Press release, 25 September 2018, <https://www.osce.org/representative-on-freedom-of-media/397358>; "OSCE Media Freedom Representative Désir calls on Ukrainian Government not to cut budget of public service broadcaster", Press release, 31 March 2020, <https://www.osce.org/representative-on-freedom-of-media/449404>.

<sup>84</sup> OSCE ODIHR, Ukraine Local Elections, 25 October 2020 ODIHR Limited Election Observation Mission Final Report, Warsaw 29 January 2021, p. 24, [https://www.osce.org/files/f/documents/3/e/476974\\_1.pdf](https://www.osce.org/files/f/documents/3/e/476974_1.pdf).

**Table 4. Profile of PSM governance<sup>85</sup>**

Country	Name of the governing body	Composition / term of service (yrs)	Appointed by:	Annual public report	Supervised by another body (other than Parliament):
<b>Armenia</b>	Council of the Public Broadcaster	7 / 6 (up to two terms)	Prime Minister (through competition process)	Yes	Commission on Television and Radio
<b>Georgia</b>	Board of Trustees	9 / 6 (one term only)	Parliament, incl. through nomination of the Public Defender (2) and by Adjara (1).	Yes	N/A
<b>Moldova</b>	Council on Oversight and Development	7 / 6 (one term only)	Parliament (incl. 4 members from the civil society)	Yes	N/A
<b>Türkiye</b>	Board of Directors	9 / 5	President	N/A	Radio and Television Supreme Council, Communications Directorate of the Presidency
<b>Ukraine</b>	Oversight Board	9 members from civil society + a member from every parliamentary faction / 5 (up to two terms)	Civil society organizations and parliamentary factions	Yes	National Council of Television and Radio Broadcasting

Aside from Türkiye,<sup>86</sup> the legislation in the other four countries contains various prohibitions on politicians and civil servants being eligible for membership of the oversight bodies of the PSM.

<sup>85</sup> Profiles of PSM governance in Armenia and Georgia are based on the legal data provided in: "Survey on Governance and Independence of PSM", attached to: Cabrera Blázquez F.J., Cappello M., Talavera Milla J., Valais S., "Governance and independence of public service media", *IRIS Plus*, European Audiovisual Observatory, Strasbourg, February 2022, <https://rm.coe.int/psm-tables/1680a59a2d>; Profiles related to Moldova, Türkiye and Ukraine are provided based on the current laws that regulate PSM in the countries and legal reviews.

## 2.3. Audiovisual media and elections

Political communication in the media during election campaigns plays a central role in the democratic process, and such communication goes hand in hand with the concept of freedom of expression and information under consolidated European and national jurisprudence.<sup>87</sup>

In line with the law, the Central Election Commission of **Armenia**, through a public lottery, allocates 30 minutes of free airtime on public television and 60 minutes on public radio, both during prime time, to each contesting party or alliance at the national election. In addition, each contesting party or alliance has the right to purchase up to 60 minutes of airtime on public television, and up to 90 minutes on public radio. In 2021, 32 private broadcasters, including 26 regional broadcasters, provided contestants with an opportunity to buy paid ads.<sup>88</sup> The Commission for Television and Radio (CTR) oversees all broadcasters during the official campaign, including through its own monitoring. The CTR interpreted the requirement in the Electoral Code placed on all broadcasters to provide “impartial and non-judgmental information” in a manner that allowed for a more comprehensive coverage of candidates, rather than a formalistic emphasis on equal amounts of coverage for each candidate, which was considered “a welcome step” by the OSCE ODIHR.<sup>89</sup> Broadcasters, monitored by the OSCE ODIHR during the latest national elections campaign period, and in particular public television, decreased their coverage of the government and the prime minister, while dedicating their coverage mostly to contesting parties and alliances.<sup>90</sup>

The Election Code of **Georgia** requires the broadcast media to respect the principle of impartiality and fairness, and it also contains detailed provisions regulating the media during the pre-election campaign period. Broadcasters are obliged to allocate free airtime to candidates, to organise debates between them and to provide equal conditions for paid campaign advertisements under the supervision of the NRA.<sup>91</sup> Media monitoring, conducted by the OSCE ODIHR, though, showed that many private national channels displayed either clear support for the ruling party and negative coverage of the opposition, or conversely a clear bias against the incumbent. The public broadcasters provided generally neutral coverage of the campaign of the main candidates.<sup>92</sup>

The Election Code of **Moldova**, supplemented by a Central Election Commission regulation, requires fair, accountable, balanced and impartial media coverage of

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<sup>86</sup> “TRT’s resources to the AKP administration”, *Turkey Posts English*, 6 May 2023.

<sup>87</sup> Cappello M. (ed.), “Media coverage of elections: the legal framework in Europe”, *IRIS Special*, European Audiovisual Observatory, Strasbourg, 2017, <https://rm.coe.int/16807834b2>.

<sup>88</sup> OSCE ODIHR, Election Observation Mission, Republic of Armenia, Early Parliamentary Elections, 20 June 2021, Final Report, Warsaw, 27 October 2021, p. 17, [https://www.osce.org/files/f/documents/5/4/502386\\_0.pdf](https://www.osce.org/files/f/documents/5/4/502386_0.pdf).

<sup>89</sup> Op.cit., p. 18.

<sup>90</sup> Op. cit., p. 19.

<sup>91</sup> OSCE ODIHR, Election Observation Mission. Georgia, Local Elections, 2 and 30 October 2021, Final Report, Warsaw, 8 April 2022, p. 22, [https://www.osce.org/files/f/documents/3/a/515364\\_0.pdf](https://www.osce.org/files/f/documents/3/a/515364_0.pdf).

<sup>92</sup> Op.cit., p. 23.



contestants' campaigns. However, the law or regulations do not define such coverage, leaving it to the discretion of the Audiovisual Council (CA). The OSCE ODIHR finds this lack of sufficient guidance "at odds with international standards", noting that a prior ODIHR recommendation on this issue remains unaddressed. By law, contestants are granted access to political advertising under equal conditions, while broadcasters with nationwide coverage provide free airtime for political advertising and organise debates or may rebroadcast debates organised by the national public broadcaster.<sup>93</sup> In practice, the OSCE ODIHR monitoring revealed that public TV was rather balanced in its coverage of the latest major candidate campaigns "with a predominantly neutral or positive tone" of reporting. At the same time, some private TV channels displayed "an explicit bias" in both the amount of coverage and its tone.<sup>94</sup> It seems that the concerns of the OSCE ODIHR were again not addressed by the provisions on media coverage in the new Election Code<sup>95</sup> which replaced, in 2022, the earlier one.<sup>96</sup>

The legal framework in **Türkiye** obliges media to provide impartial coverage of the campaign and guarantees equal opportunities for the candidates. The public Turkish Radio and Television Corporation is required to provide two 10-minute slots of free airtime to political parties and each presidential candidate in the last week of the campaign, and grants additional time to all parties with parliamentary groups. All candidates are entitled to purchase airtime for political advertisements under equal conditions on public and private media.<sup>97</sup> The OSCE ODIHR media monitoring results of the 2023 elections, though, show that "public broadcasters clearly favoured the ruling parties and their candidates, despite constitutional guarantees of impartiality".<sup>98</sup>

The conduct of the **Ukrainian** media during an election campaign is regulated by the Election Code, which requires both public and private media to offer unbiased and balanced coverage of electoral candidates although it does not contain quantitative airtime requirements for coverage of candidates or for paid political advertisements. The current Election Code abolished previous provisions on free airtime for all elections and requires all political advertising to be paid from the electoral funds of the candidates.<sup>99</sup> The OSCE ODIHR media campaign monitoring showed that of the 10 reviewed national

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<sup>93</sup> OSCE ODIHR, Election Observation Mission, Republic of Moldova, Early Parliamentary Elections, 11 July 2021, Final Report, Warsaw, 22 December 2021, p. 19, <https://www.osce.org/files/f/documents/0/5/508979.pdf>.

<sup>94</sup> Op.cit., p. 20.

<sup>95</sup> Codul Electoral (Election Code), Nr. 325 of 8 December 2022, [https://www.legis.md/cautare/getResults?doc\\_id=134589&lang=ro](https://www.legis.md/cautare/getResults?doc_id=134589&lang=ro).

<sup>96</sup> Codul Electoral (Election Code), Nr. 138 of 21 November 1997, [https://www.legis.md/cautare/getResults?doc\\_id=122633&lang=ro](https://www.legis.md/cautare/getResults?doc_id=122633&lang=ro).

<sup>97</sup> OSCE ODIHR, Election Observation Mission, Republic of Türkiye, General Elections, 14 May 2023, Interim Report (22 March – 25 April 2023), 28 April 2023, Part XI. Media, [https://www.osce.org/files/f/documents/1/3/542502\\_0.pdf](https://www.osce.org/files/f/documents/1/3/542502_0.pdf).

<sup>98</sup> International Election Observation Mission, Türkiye, General Elections, 14 May 2023, Statement of Preliminary Findings and Conclusion (15 May 2023), p. 3, 17, <https://www.osce.org/files/f/documents/6/2/543543.pdf>.

<sup>99</sup> OSCE ODIHR, Limited Election Observation Mission, Ukraine Local Elections, 25 October 2020, Final Report, Warsaw 29 January 2021, p. 25, [https://www.osce.org/files/f/documents/3/e/476974\\_1.pdf](https://www.osce.org/files/f/documents/3/e/476974_1.pdf).



and regional channels, only public TV provided “mostly neutral and equal coverage” of political contestants, while the rest allocated a substantial amount of positive coverage to political forces associated or directly affiliated with their owners.<sup>100</sup> Contrary to the Election Code, a large number of unmarked promotional materials, intended to resemble news programming, were present during prime time on the majority of private TV channels monitored by the OSCE ODIHR. This practice, its report notes, “distorted the presentation of political platforms to voters”.<sup>101</sup>

## 2.4. Media ownership regulation

Media pluralism, proclaimed in the Charter of Fundamental Rights of the European Union,<sup>102</sup> includes programming variety on the part of media players and an effective presence of a multitude of media owners so as to avoid an excessive concentration of the market. Media pluralism, and related issues of transparency of media ownership, including transparency of finance, structure, control or influence, have been widely explored by legislation and case-law both at the national and European levels.<sup>103</sup>

In **Armenia**, Art. 15 (2) of the Law on Audiovisual Media<sup>104</sup> enumerates categories of subjects and persons that may not be founders or shareholders of private broadcasters. It includes, *inter alia*, deputies of the parliament and affiliated persons, political parties, members of their governing bodies and affiliated persons, or foundations of political parties. Broadcasters are obliged to disclose their founders and shareholders (Art. 19(2); however, there is no sanction for not complying with this requirement, nor any other legal mechanism to enforce it.<sup>105</sup> Article 18 contains a few “anti-monopoly guarantees”. In particular, legal or natural persons may not be founders of, nor participants in, more than two television stations in the national capital. In the view of the OSCE expert, the fact that the law, “without any context or explanation, limits only a very limited amount of media concentration situations focusing only on one type of transmission system raises serious doubts regarding the rationale and adequacy of such a provision”.<sup>106</sup>

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<sup>100</sup> Op.cit., p. 27.

<sup>101</sup> Op.cit., p. 28.

<sup>102</sup> Charter of Fundamental Rights of the European Union, Art. 11: “The freedom and pluralism of the media shall be respected”, see [https://eur-lex.europa.eu/eli/treaty/char\\_2012/oj](https://eur-lex.europa.eu/eli/treaty/char_2012/oj).

<sup>103</sup> See: Cappello M. (ed.), “Media ownership - Market realities and regulatory responses”, *IRIS Special 2016-2*, European Audiovisual Observatory, Strasbourg, 2016, <https://rm.coe.int/media-ownership-market-realities-and-regulatory-responses/168078996c>.

<sup>104</sup> ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ ՕՐԵՆՔԸ ՏԵՍԱԼՍՈՂԱԿԱՆ ՄԵԴԻԱՅԻ ՄԱՍԻՆ (Law of the Republic of Armenia on Audiovisual Media), <http://www.parliament.am/legislation.php?sel=show&ID=7300>.

<sup>105</sup> OSCE ODIHR, Election Observation Mission. Republic of Armenia, Early Parliamentary Elections, 20 June 2021, Final Report, Warsaw, 27 October 2021, p. 17, fn 65, [https://www.osce.org/files/f/documents/5/4/502386\\_0.pdf](https://www.osce.org/files/f/documents/5/4/502386_0.pdf).

<sup>106</sup> OSCE, The Representative on Freedom of the Media, Legal Analysis of the Law of the Republic of Armenia “On Audiovisual Media” (Adopted on 16 July 2020), commissioned by the Office of the OSCE Representative on Freedom of the Media and prepared by Dr. Joan Barata Mir, an independent media freedom expert, February 2021, p. 4, <https://www.osce.org/files/f/documents/0/a/493522.pdf>.

In **Georgia**, the Broadcasting Law sets quite stringent rules on this for broadcasters, prohibiting anyone from owning more than one general over-the-air television channel per service area and also prohibiting a multiplex operator from transmitting “more than five television broadcasters owned by one person or by a person interdependent with that person”.<sup>107</sup> The Broadcasting Law also provides restrictions on the type of persons who may not hold a licence for broadcasting, including: an administrative body, except for a higher educational institution; an official of an administrative body or other officer; a legal person interdependent with an administrative body; a political party or its official; a legal person registered offshore or a foreign entity (unless foreseen by an international treaty with Georgia) (Article 37).<sup>108</sup> The Law requires broadcasters to submit a “declaration of compliance” which, among other things, identifies not only the applicant but also the beneficial owners of an applicant for a licence or authorisation to undertake broadcasting activities.<sup>109</sup> It provides for the annual updating and publication by broadcasters of the declaration of compliance, as well as information about any ownership they have of any other broadcasting or print media outlet or news agency, or indeed any other enterprise, as well as reporting by license holders of any significant changes in the ownership to the NRA.<sup>110</sup>

**Moldova** mandates that broadcast media ownership is restricted. In particular, a person may not provide more than two TV channels, there are bans on ownership of broadcasters by political parties, unions, public and elected officials, etc. The broadcast media must also be transparent, with the owners of outlets listed in a register released by the NRA.<sup>111</sup> Nonetheless, even with this regulation, “several outlets have owners with either foreign ties to Russia or murky ties to Moldova’s own political elite that create opportunities for hidden influence”.<sup>112</sup> To guarantee media pluralism in Moldova, the European Commission suggested that the concentration of media ownership and non-transparent media financing be properly tackled.<sup>113</sup>

The latest EU report on **Türkiye** notes that the Broadcasting Law neither ensures fair competition, nor prevents monopolisation. The ownership of the Turkish media outlets undermines the independence of editorial policies as it lacks transparency, and a few existing holding groups are close to the authorities. Measures need to be taken to

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<sup>107</sup> Law of Georgia on broadcasting, Art. 60, <https://matsne.gov.ge/en/document/view/32866?publication=66>.

<sup>108</sup> Op.cit., Art.37.

<sup>109</sup> Op.cit., Art. 37-1.

<sup>110</sup> Op.cit., Art. 61 and 62.

<sup>111</sup> *Codul serviciilor media audiovizuale al Republicii Moldova în Republica Moldova* (Code of the Republic of Moldova on the Audiovisual Media Services in the Republic of Moldova), №174 of 8 November 2018, Art. 21, 28, [https://www.legis.md/cautare/getResults?doc\\_id=33713&lang=ro](https://www.legis.md/cautare/getResults?doc_id=33713&lang=ro).

<sup>112</sup> Emily Dumont, Jonathan Solis, and Lincoln Zaleski, “Moldova: Profile of Media Ownership and Potential Foreign Influence Channels”, William & Mary’s Global Research Institute, p. 5, <https://docs.aiddata.org/reports/media-resilience/mda/Moldova-Profile-of-Media-Ownership-and-Potential-Foreign-Influence-Channels.pdf>.

<sup>113</sup> Communication from the Commission to the European Parliament, the European Council and the Council, “Commission Opinion on the Republic of Moldova’s application for membership of the European Union”, Brussels, 17 June 2022 COM(2022) 406 final. p. 9-10, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Republic%20of%20Moldova%20Opinion%20and%20Annex.pdf>.

ensure that the state advertising budget is fairly distributed, accountable and transparent.<sup>114</sup> The report also confirms that in the area of audiovisual policy, “pro-government mainstream media continue to dominate the information space”. It quotes independent researchers as saying that the 40 largest media organisations are controlled by companies operating in industry and trade, predominantly belonging to owners affiliated with the government. “Their commercial ties with the government obstruct media independence, lead to self-censorship and limit the scope of public debate,” the report says.”<sup>115</sup>

Indeed, such researchers report that the media scene has long suffered from a lack of transparency of ownership, “which leaves journalists unclear on what is acceptable to write about and citizens unclear on which media outlets to trust”. Even regulators have no credible periodic records on media ownership.<sup>116</sup>

In **Ukraine**, the Law on the Media provides detailed demands with regard to the issue of transparency of media property and its end beneficiaries, including the role of the NRA and penalties for violations.<sup>117</sup> Specific bans are imposed on entities from the aggressor state owning media entities in Ukraine during the current state of martial law.<sup>118</sup> The 2021 “law on de-oligarchisation” qualified an oligarch as an individual who simultaneously meets at least three criteria, including exerting “a significant influence on the media”.<sup>119</sup> This law provides for certain business and political restrictions, as well as significant transparency requirements for the oligarchs.<sup>120</sup> As a result of its entry into force, at least one major media proprietor in the country returned the 10 TV terrestrial and satellite licenses that belonged to his company, to the public authorities.<sup>121</sup>

Following the adoption of a specific “de-oligarchisation” legislation by Ukraine in 2021, the commitment to eliminate the excessive influence of vested interests in economic, political and public life also became an objective in Georgia and Moldova. Georgia has prepared a draft statute and Moldova both a draft statute and later an action

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<sup>114</sup> Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), “Türkiye Report 2022”, 12 October 2022, p.38, [https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022_en).

<sup>115</sup> Op.cit, pp. 35-36.

<sup>116</sup> Asli Tunç, “Monitoring EU Guidelines in Turkey: Instruments of political propaganda and censorship, South East European Media Observatory”, 21 June 2015, <https://mediaobservatory.net/radar/monitoring-eu-guidelines-turkey-instruments-political-propaganda-and-censorship>.

<sup>117</sup> Закон України Про медіа (Statute of Ukraine “On the Media”), 13 December 2022, No. 2849-IX, Art. 25, 26, and 27, <https://zakon.rada.gov.ua/laws/show/2849-IX#Text>.

<sup>118</sup> Op.cit., Art. 120, 121.

<sup>119</sup> “Ukrainian parliament adopts law on oligarchs”, *Ukrinform*, 23 September 2021, <https://www.ukrinform.net/rubric-politics/3320877-ukrainian-parliament-adopts-law-on-oligarchs.html>.

<sup>120</sup> Про запобігання загрозам національній безпеці, пов’язаним із надмірним впливом осіб, які мають значну економічну та політичну вагу в суспільному житті (олігархів) (On the prevention of threats to national security associated with the excessive influence of persons who have significant economic or political weight in public life (oligarchs)), Law of Ukraine, N 1780-IX, 23 September 2021, <https://zakon.rada.gov.ua/laws/show/1780-IX#Text>.

<sup>121</sup> Заява Ріната Ахметова щодо активів Медіа Група Україна (Statement by Rinat Akhmetov as to the property of Media Group Ukraine), 22 June 2022, <https://mgukraine.com/press-center/news/890-zayava-rinata-ahmetova-shchodo-aktiviv-media-grupa-ukrajina>.

plan which, together with the Ukrainian statute, were reviewed by the Venice Commission of the Council of Europe in June 2023.<sup>122</sup>

As defined in the Ukrainian statute, which served as a model in the other two cases, an "oligarch" (or "a person who wields significant economic and political weight in political life") is a person who meets three of the four criteria set out in the statute, including the criterion of "exercising significant influence over mass media", which is defined in Article 4 of the statute as an owner or a founder, or as having been an owner, founder, beneficial owner or controller at the time of the adoption of the statute, who lost this status during the grace period (the first six months) to another person who does not enjoy an "impeccable business reputation", as formally defined by the statute (this includes persons subject to national or international economic sanctions).<sup>123</sup>

The consequences of being designated as an oligarch include being entered in a public register and being subject to several restrictions, such as being prohibited from financing political parties and election campaigns and participating in large-scale privatisation. Oligarchs are also subject to additional public scrutiny, including an obligation to file a declaration of assets and interests, while public officials are required to disclose any communication with the listed oligarchs by filing a special "declaration of contacts". The Ukrainian government decided to launch the register of oligarchs three months after the Venice Commission issued its final opinion. However, the final opinion recommended that the statute should not be implemented as it was difficult to reconcile with the principles of political pluralism and the rule of law, as it had the potential of being abused for political purposes. In particular, it noted that the statute could infringe rights under Article 10 of the ECHR.<sup>124</sup>

The draft statutes on de-oligarchisation in Georgia and Moldova are not dissimilar to the one adopted in Ukraine. Therefore, the conclusions of the Venice Commission recommend that the drafts should not be adopted. The Venice Commission noted that a "central issue" in the three legal acts is the need to strengthen media pluralism, including

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<sup>122</sup> See Georgia - Final Opinion on the draft law on de-oligarchisation, adopted by the Venice Commission at its 135th Plenary Session (Venice, 9-10 June 2023), CDL-AD(2023)017-e, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)017-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)017-e); Ukraine - Opinion on the Law on the prevention of threats to national security, associated with excessive influence of persons having significant economic or political weight in public life (oligarchs), adopted by the Venice Commission at its 135th Plenary Session (Venice, 9-10 June 2023), CDL-AD(2023)018-e, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)018-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)018-e); Republic of Moldova - Final Opinion on limiting excessive economic and political influence in public life (de-oligarchisation), adopted by the Venice Commission at its 135th Plenary Session (Venice, 9-10 June 2023), CDL-AD(2023)019-e, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)019-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)019-e).

<sup>123</sup> *Про запобігання загрозам національній безпеці, пов'язаним із надмірним впливом осіб, які мають значну економічну та політичну вагу в суспільному житті (олігархів)* (On the prevention of threats to national security associated with the excessive influence of persons who have significant economic or political weight in public life (oligarchs)), Statute of Ukraine, N 1780-IX, 23 September 2021, <https://zakon.rada.gov.ua/laws/show/1780-IX#Text>.

<sup>124</sup> Ukraine - Opinion on the Law on the prevention of threats to national security, associated with excessive influence of persons having significant economic or political weight in public life (oligarchs), adopted by the Venice Commission at its 135th Plenary Session (Venice, 9-10 June 2023), CDL-AD(2023)018-e, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2023\)018-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)018-e).

through the enforcement of competition law and merger control procedures, and to ensure transparency of media ownership, in line with the Recommendation of the Committee of Ministers of the Council of Europe on Media Pluralism and Transparency of Media Ownership.<sup>125</sup> Such ownership information should cover all media actors and be easily available and accessible to the public.

On 13 June 2023, the Georgian Parliament adopted the draft law "On de-oligarchisation" in the second reading (there should also be a third reading). The draft defines an "oligarch" as a natural person who meets the following criteria: a) participates in political life, b) exerts influence on media services, and c) possesses significant economic resources (Art. 1). The decision to include a person in the register of oligarchs is taken by the Anti-Corruption Bureau on the basis of specific criteria set out in the statute. In this regard, "exerting influence on media services" means that the person is (directly or indirectly) the owner/co-owner of the share in the audiovisual media service provider or radio broadcaster or has exerted influence on media services in Georgia during the past year (Art. 2).<sup>126</sup>

Moldova's Action Plan on de-oligarchisation, adopted by the National Commission on European Integration under the President of Moldova on 26 May 2023, aims in particular to "counteract the phenomenon of excessive concentration of mass media in the hands of a single owner and the manipulation of public opinion in favour of a narrow political group". It provides for the "consolidation of the internal normative framework regarding the application of international restrictive measures, by expanding the possibilities of intervention of the competent state authorities and making their intervention more efficient, as well as eliminating some gaps identified in the implementation process of the existing legal provisions" only until May 2024. The new measures would include an amendment to Moldova's Audiovisual Media Services Code to lower the threshold for a "dominant position in the formation of public opinion" from 35 per cent to 25 per cent.<sup>127</sup>

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<sup>125</sup> Recommendation CM/Rec(2018)1[1] of the Committee of Ministers to member States on media pluralism and transparency of media ownership, [https://www.coe.int/en/web/freedom-expression/committee-of-ministers-adopted-texts/-/asset\\_publisher/aDXmrol0vvsU/content/recommendation-cm-rec-2018-1-1-of-the-committee-of-ministers-to-member-states-on-media-pluralism-and-transparency-of-media-ownership](https://www.coe.int/en/web/freedom-expression/committee-of-ministers-adopted-texts/-/asset_publisher/aDXmrol0vvsU/content/recommendation-cm-rec-2018-1-1-of-the-committee-of-ministers-to-member-states-on-media-pluralism-and-transparency-of-media-ownership).

<sup>126</sup> დე-ოლიგარქიზაციის შესახებ (On de-oligarchisation) Law of Georgia, see the draft of the Statute for the second reading on 13 June 2023 (in English): [https://venice.coe.int/webforms/documents/?pdf=CDL-REF\(2023\)010rev-e](https://venice.coe.int/webforms/documents/?pdf=CDL-REF(2023)010rev-e).

<sup>127</sup> *Plan de măsuri pentru limitarea influenței excesive a intereselor private asupra vieții economice, politice și publice (deoligarhizare)* (Plan of measures to limit the excessive influence of private interests on economic, political and public life (deoligarization). Adopted by the National Commission on European Integration on 26 May 2023, published on 8 June 2023, [https://presedinte.md/app/webroot/uploaded/plan\\_CNIE\\_ro\\_08.06.2023.pdf](https://presedinte.md/app/webroot/uploaded/plan_CNIE_ro_08.06.2023.pdf).

## 2.5. Disinformation and the media

**Armenia** claims to be the first among the countries of the EU Eastern Partnership<sup>128</sup> to develop a national strategy to combat disinformation, including through better access to information. It was presented for public discussion in 2022 by the Public Relations and Information Center of the Prime Minister's Office and the Freedom of Information Center with the support of the Center for International Private Enterprise.<sup>129</sup> The draft strategy<sup>130</sup> and action plan<sup>131</sup> are still under consideration by the government of Armenia,<sup>132</sup> although following a public discussion they were to be formally approved in 2022.<sup>133</sup> During the COVID-19 pandemic, the government issued a decree prescribing that the public dissemination of information that leads to, or is capable of, causing panic must be accompanied with a reference to the official source. A week later, following the concerns expressed by national and intergovernmental organisations, the government amended this provision by allowing alternative and foreign sources to be used in reporting under certain conditions.<sup>134</sup>

In **Georgia**, a project titled Information Integrity Program aims to build a platform for stakeholders to coordinate efforts in countering disinformation and strengthen the capacity of local actors to put out fact-based messages and diagnose, track, and respond to disinformation.<sup>135</sup> In existence since 2020, the program, despite significant assistance from Western donors, does not yet appear to have led to tangible results.<sup>136</sup> During the latest election campaign, for example, the authorities piloted an Information Protection Centre designed to combat disinformation about the election administration in the media and on social networks. The Centre produced “at times unbalanced reporting targeted against specific media, opposition parties and CSOs”, the OSCE ODIHR concluded at the time. Following acknowledgement of erroneous findings, the Center lost donor assistance.<sup>137</sup> Another failed initiative of the authorities was an attempt to pass a law “On

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<sup>128</sup> [https://www.eeas.europa.eu/eeas/eastern-partnership\\_en](https://www.eeas.europa.eu/eeas/eastern-partnership_en).

<sup>129</sup> The draft of the national strategy for combating disinformation has been submitted for public discussion, 7 July 2022, <http://www.foi.am/en/news/item/2274/>.

<sup>130</sup> National Strategy Against Disinformation 2022-2024, Freedom of Information Center of Armenia, Yerevan, 2022; See: [http://www.foi.am/u\\_files/file/DOCs%202022/Strategy\\_FOICA\\_CIFE\\_ENG.pdf](http://www.foi.am/u_files/file/DOCs%202022/Strategy_FOICA_CIFE_ENG.pdf).

<sup>131</sup> Roadmap for 2023-2025 Strategy Against Disinformation, see [http://www.foi.am/u\\_files/file/DOCs%202023/Roadmap%20for%202023-2025%20Strategy%20against%20Disinformation.pdf](http://www.foi.am/u_files/file/DOCs%202023/Roadmap%20for%202023-2025%20Strategy%20against%20Disinformation.pdf).

<sup>132</sup> The draft of the national strategy for combating disinformation has been submitted for public discussion, 7 July 2022, <http://www.foi.am/en/news/item/2274/>.

<sup>133</sup> The model of the RA National Strategy for Combating Disinformation was presented in Brussels, 2 June 2022, <http://www.foi.am/en/news/item/2252/>.

<sup>134</sup> See Richter A. “[AM]: Restrictions on access to Covid-19 information adopted, then amended”, IRIS 2020-6:1/5, <http://merlin.obs.coe.int/newsletter/download/259/pdf/en>.

<sup>135</sup> See: <https://www.devex.com/jobs/chief-of-party-georgia-information-integrity-program-744360>.

<sup>136</sup> See: Mikheil Benidze, “I Defend Democracy in Georgia by Tackling Disinformation. Here’s What That Means”, Global Citizen, 13 May 2022, <https://www.globalcitizen.org/en/content/mikheil-benidze-georgia-information-integrity/>.

<sup>137</sup> OSCE ODIHR, Election Observation Mission, Georgia, Local Elections, 2 and 30 October 2021, Final Report, Warsaw, 8 April 2022, p. 11, [https://www.osce.org/files/f/documents/3/a/515364\\_0.pdf](https://www.osce.org/files/f/documents/3/a/515364_0.pdf).



the transparency of foreign influence”, which considered that “agents of foreign influence” included broadcasters. In March 2023, the bill was adopted in its first reading, but following mass street protests it was rejected in the second reading.<sup>138</sup>

In **Moldova** the policy on restrictions of alien disinformation has on/off development. Currently the country bans news, information and analysis with military and political content if produced outside the EU, the USA, Canada and the states parties to the ECTT.<sup>139</sup> These provisions, adopted as part of a set of amendments to the Audiovisual Code under the informal title “Law on counteracting disinformation and propaganda” were designed to counter Russian propaganda about the war in Ukraine. Additionally, the amendments defined disinformation as “intentional dissemination of false information, created with the aim of inflicting harm to a person, a social group, an organisation or to the security of the state”. The amended Code now includes a total ban on “disinformation and propaganda about military aggression”, including of audiovisual content that “condones wars of aggression and denies evidence of military crimes or crimes against humanity”, in audiovisual media services.<sup>140</sup> The EU notes that Moldova “has put sustained effort into fighting disinformation”,<sup>141</sup> but is of the opinion that further efforts are needed.<sup>142</sup>

In turn, the EU’s “**Türkiye** Report 2022” noted the circulation of false information and propaganda on social and mainstream media in the national information environment: “Türkiye did not restrict the operations of Russian media outlets in the context of the Russian aggression against Ukraine.” In addressing disinformation, the EU suggested as a crucial element, that the country “does not restrict further the freedom of media, but that it implements, in an objective and proportionate manner, any legal framework aimed at preventing the spread of false information”.<sup>143</sup> Still, the framework

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<sup>138</sup> Richter A., “[GE]: Transparency of foreign influence bill tabled”, IRIS 2023-4:1/30, <https://merlin.obs.coe.int/article/9700>.

<sup>139</sup> See more: Andrei Richter, “Sanction law against Russian and Belarusian audiovisual media”, *IRIS Extra 2022*, European Audiovisual Observatory, Strasbourg, 2022, p. 19-22, <https://rm.coe.int/iris-extra-2022-sanction-law-against-russian-and-belarusian-audiovisua/1680a8ff9f>.

<sup>140</sup> *Codul serviciilor media audiovizuale al Republicii Moldova în Republica Moldova* (Code of the Republic of Moldova on the Audiovisual Media Services in the Republic of Moldova), №174 of 8 November 2018, [https://www.legis.md/cautare/getResults?doc\\_id=33713&lang=ro](https://www.legis.md/cautare/getResults?doc_id=33713&lang=ro)

<sup>141</sup> Commission Staff Working Document, “Analytical Report following the Communication from the Commission to the European Parliament, the European Council and the Council Commission Opinion on the Republic of Moldova’s application for membership of the European Union”, Brussels, 1 February 2023 SWD(2023) 32 final, p. 4, [https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD\\_2023\\_32\\_%20Moldova.pdf](https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD_2023_32_%20Moldova.pdf).

<sup>142</sup> Communication from the Commission to the European Parliament, the European Council and the Council, “Commission Opinion on the Republic of Moldova’s application for membership of the European Union”, Brussels, 17 June 2022, COM(2022) 406 final, p. 9-10, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Republic%20of%20Moldova%20Opinion%20and%20Annex.pdf>.

<sup>143</sup> Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), “Türkiye Report 2022”, 12 October 2022, [https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022_en).

changed in October 2022, as dissemination of false information was criminalised, and this was found by the OSCE to be “contrary to international standards”.<sup>144</sup>

**Ukraine** has tested a number of approaches and instruments to stop disinformation and achieved certain successes, alongside failures, in the process. A toolbox includes: demands for conformity of broadcasts with the ECTT, the provision of lists of channels that are “fit” for re-broadcasting, restriction of broadcasts from and of the “aggressor state”, sanctions against certain foreign and domestic individuals and companies, criminal prosecution of individual propagandists, and a total ban on propaganda of the “Russian totalitarian regime” and “the Russian terrorist state”.<sup>145</sup>

In the view of the European Commission, “Ukraine has found an overall good balance between the preservation of media freedom and measures against pervasive Russian hybrid and massive disinformation attacks, being multiplied by some local media outlets”.<sup>146</sup>

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<sup>144</sup> International Election Observation Mission, Türkiye, General Elections, 14 May 2023, Statement of Preliminary Findings and Conclusion (15 May 2023), p. 17, <https://www.osce.org/files/f/documents/6/2/543543.pdf>.

<sup>145</sup> See more: Andrei Richter, “Sanction law against Russian and Belarusian audiovisual media”, *IRIS Extra 2022*, European Audiovisual Observatory, Strasbourg, 2022, p. 7-19, <https://rm.coe.int/iris-extra-2022-sanction-law-against-russian-and-belarusian-audiovisua/1680a8ff9f>.

<sup>146</sup> Communication from the Commission to the European Parliament, the European Council and the Council, “Commission Opinion on Ukraine’s application for membership of the European Union”, Brussels, 17 June, 2022 COM(2022) 407 final, p. 12, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Ukraine%20Opinion%20and%20Annex.pdf>.



## 3. Assessment by international organisations

### 3.1. Press Freedom Index

The World Press Freedom Index is probably the most authoritative instrument to evaluate the standing of the five analysed countries in relation to freedom of the media. It is an annual global ranking of countries compiled and published, since 2002, by Reporters without Borders (RSF), an international non-governmental organisation safeguarding freedom of expression and freedom of information. It is based upon the organisation's assessment of the countries' records in the previous year. The purpose of the Index is to compare the level of freedom enjoyed by journalists and media in 180 countries of the world. The tables below point to the place the five countries occupy in the Index, wherein the most advanced country as to media freedom is ranked 1<sup>st</sup>, while the least protective of media freedom occupies the 180<sup>th</sup> spot.

**Table 5. Ranking of the countries regarding media freedom**

Country/Year	2021	2022	2023
<b>Armenia</b>	63	51	49
<b>Georgia</b>	60	89	77
<b>Moldova</b>	89	40	28
<b>Türkiye</b>	153	149	165
<b>Ukraine</b>	97	106	79

Source: Reporters without Borders, <https://rsf.org/en/index>; The Index is a snapshot of the situation during the calendar year (January-December) prior to its publication year.

According to the latest RSF report, the general situation with media freedom is “satisfactory” in Armenia and Moldova, “problematic” in Georgia and Ukraine, and “very serious” in Türkiye. Over the last three years it has improved in Armenia, Moldova and Ukraine, and worsened in Georgia and Türkiye.

From 2022, RSF has also evaluated the legal framework for freedom of the media, scoring: the degree to which journalists and media are free to work without censorship or

judicial sanctions, or excessive restrictions on their freedom of expression; their ability to access information without discrimination and to protect sources; the level of impunity for those responsible for acts of violence against journalists. The assessment is largely based on the responses of press freedom experts (including journalists, researchers, academics and human rights defenders) to a RSF questionnaire.<sup>147</sup> This framework allows to compare the legal regulation in the countries under this review from the perspective of media freedom.

**Table 6. Ranking of the countries regarding their legislative framework for media freedom**

Country/Year	2022	2023
<b>Armenia</b>	45	48
<b>Georgia</b>	32	47
<b>Moldova</b>	21	14
<b>Türkiye</b>	133	146
<b>Ukraine</b>	36	26

Source: Reporters without Borders, <https://rsf.org/en/index>; The Index is a snapshot of the situation during the calendar year (January-December) prior to its publication year.

In its latest assessment of the situation in the five countries, RSF took positive note of the adoption of the new media law in Ukraine, was critical of the changes in Georgia's electronic communication law, and pointed to certain audiovisual legal developments in Moldova and Türkiye.<sup>148</sup>

Over the two-year period the legal framework for media freedom, according to RSF, improved in Moldova and Ukraine, while conditions in Armenia, Georgia and Türkiye worsened.

## 3.2. Evaluation by the EU

A similar type of evaluation has been provided in the reports of the European Union. The latest available EU report on **Armenia** notes the lack of major developments regarding freedom of expression and the media. It states that “[a]lthough criticism of the government and public officials is tolerated in general, and there are no restrictions on the use of the internet, a number of issues still remained taboo”. The report points to

<sup>147</sup> Methodology used to compile the World Press Freedom Index 2023, <https://rsf.org/en/methodology-used-compiling-world-press-freedom-index-2023>.

<sup>148</sup> See: The World Press Freedom Index 2023, <https://rsf.org/en/index>.

“insufficient” media independence and a lack of developments regarding “pluralism in the broadcasting media and transparency of media ownership”.<sup>149</sup>

In the view of the EU, **Georgia** has “some level of preparation” in the area of information society and media, and has taken some steps to align its legislation with the EU acquis, including progress towards alignment with the AVMSD.<sup>150</sup> The country enjoys a “vocal pluralistic media environment”, which still needs to be protected, including in the courtrooms ... “[c]ourt proceedings and investigations against opposition media owners have become frequent”. The EU notes as well that “recent verdicts have a chilling effect on critical media reporting”.<sup>151</sup>

**Moldova** has also achieved “some level of preparation” in the area of digital transformation and media, although the EU observes a need to amend the laws on freedom of expression and access to information, and notes that “best media practice needs to be more widespread”.<sup>152</sup> This means, in particular, that media can generally report freely, while legislation on access to information and freedom of expression “is largely in line with international standards”, although more needs to be done to ensure full implementation of the law.<sup>153</sup> The framework for fundamental rights and freedom of expression generally follows European and international standards. Moldova has made important progress in terms of freedom of the media.<sup>154</sup>

The “**Türkiye** Report 2022” by the European Commission notes that the country continues to be at “an early stage” in the area of freedom of expression, while “the serious backsliding” observed there in recent years continues. This is a result of the “[r]estrictive measures implemented by state institutions and increasing pressure with judicial and administrative means”, including criminal cases brought against and convictions of

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<sup>149</sup> High Representative of the European Union for Foreign Affairs and Security Policy, “Implementation of the European Neighbourhood Policy in Armenia Progress in 2014 and recommendations for actions,” Joint Staff Working Document, Brussels, 25 May 2015 SWD(2015) 63 final, p. 5, [https://eeas.europa.eu/archives/docs/enp/pdf/2015/armenia-enp-report-2015\\_en.pdf](https://eeas.europa.eu/archives/docs/enp/pdf/2015/armenia-enp-report-2015_en.pdf).

<sup>150</sup> Commission Staff Working Document, “Analytical Report following the Communication from the Commission to the European Parliament, the European Council and the Council Commission Opinion on Georgia’s application for membership of the European Union”, Brussels, 1 Feb., 2023 SWD(2023) 31 final, p. 27, [https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD\\_2023\\_31\\_Georgia.pdf](https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD_2023_31_Georgia.pdf).

<sup>151</sup> Communication from the Commission to the European Parliament, the European Council and the Council, “Commission Opinion on Georgia’s application for membership of the European Union”, Brussels, 17 June 2022 COM(2022) 405 final. p. 10, 16, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Georgia%20opinion%20and%20Annex.pdf>.

<sup>152</sup> Commission Staff Working Document, “Analytical Report following the Communication from the Commission to the European Parliament, the European Council and the Council Commission Opinion on the Republic of Moldova’s application for membership of the European Union”, Brussels, 1 February 2023 SWD(2023) 32 final, p. 25, [https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD\\_2023\\_32\\_%20Moldova.pdf](https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD_2023_32_%20Moldova.pdf).

<sup>153</sup> Communication from the Commission to the European Parliament, the European Council and the Council, “Commission Opinion on the Republic of Moldova’s application for membership of the European Union”, Brussels, 17 June 2022 COM(2022) 406 final, p. 9-10, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Republic%20of%20Moldova%20Opinion%20and%20Annex.pdf>.

<sup>154</sup> Op.cit., p. 15.

journalists and social media users.<sup>155</sup> The report adds: “The implementation of criminal laws relating to national security and anti-terrorism continued to contravene the ECHR and other international standards.” It recommends the authorities “revise criminal legislation, in particular the anti-terror law, the Criminal Code, the data protection law, the internet law and the Radio and Television Supreme Council (RTUK) law to ensure these comply with European standards and are implemented in a manner which does not curtail freedom of expression”.<sup>156</sup>

**Ukraine**, by contrast, is “moderately prepared” in the domain of digital transformation and media. The EU report points to the ongoing work “to ensure full independence of the [media] regulator” following entry into the force of the Law on the Media.<sup>157</sup> An earlier EU report points out that Ukrainian citizens benefit from freedom of expression, while media freedom has “improved significantly in recent years, especially thanks to online media”.<sup>158</sup>

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<sup>155</sup> Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), “Türkiye Report 2022”, 12 October 2022, pp. 6-7, 35-36, [https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022\\_en](https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2022_en).

<sup>156</sup> Ibid.

<sup>157</sup> Commission Staff Working Document, “Analytical Report following the Communication from the Commission to the European Parliament, the European Council and the Council Commission Opinion on Ukraine’s application for membership of the European Union”, Brussels, 1 Feb., 2023 SWD(2023) 30 final, p. 33, [https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD\\_2023\\_30\\_Ukraine.pdf](https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD_2023_30_Ukraine.pdf).

<sup>158</sup> Communication from the Commission to the European Parliament, the European Council and the Council, “Commission Opinion on Ukraine’s application for membership of the European Union”. Brussels, 17 June, 2022 COM(2022) 407 final, p. 12, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Ukraine%20Opinion%20and%20Annex.pdf>.

## 4. Conclusions

The audiovisual media landscape in the five countries analysed in this publication is characterised as diverse. With the exception of Ukraine, which is under martial law, it is highly polarised and subject to considerable political and business pressure. Again, with the exception of Ukraine, where social media are increasingly the principal source of information for the population, television remains the most popular news media.

Freedom of expression and in some cases specifically freedom of the media are guaranteed by the national constitutions. In all five countries (with the exception of Türkiye) audiovisual law has recently undergone significant transformations designed to promote alignment with the standards of the EU – first and foremost the AVMSD.

Experts advice on how the governance of the audiovisual sector should enable its independence and service of the public good notes in particular the flaws in the appointment procedures of the NRAs. They also suggest improvement of the financial stability and editorial autonomy of the PSM in the region. Obviously, the PSM systems of the five countries are still transitioning from state broadcasters to the model of independent PSM organisations. Meanwhile, according to OSCE ODIHR monitoring, already at the current stage, the national PSM of the region (again with the exception of Türkiye) are proving quite neutral and balanced in their coverage of the latest election campaigns.

Non-transparent financing is noted as a key problem in enabling media pluralism, and attention is drawn to efforts to limit media concentration in the hands of oligarchs being made in Ukraine, Georgia and Moldova.

All five countries are paying significant attention to the issue of false information in the audiovisual media, though with differing levels of success thus far. Unsurprisingly, Ukraine is considered the country with the widest possible spectrum of counter-disinformation laws and policies.

As to the general evaluation of legal trends in the media field in the five countries, according to RSF, the situation appears to have improved in Moldova and Ukraine, while legal conditions for media freedom in Armenia, Georgia and Türkiye have worsened. In turn, European Commission experts note that Georgia and Moldova have achieved “some level of preparation” for their alignment with EU standards in the area of digital transformation and media, Ukraine is “moderately prepared”, while there is a lack of developments in Armenia and backsliding in Türkiye.

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