

Council of Europe Project  
“Safeguarding Freedom of Expression and Freedom of Media in Ukraine” (SFEM-UA)

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**LEGAL OPINION**

On the Draft Law of Ukraine №11321 (Law No. 4212-IX of 14 January 2025)  
"On Amendments to Certain Laws of Ukraine Regarding Strengthening  
Certain Guarantees for the Activities of Media and Journalists and Ensuring  
the Right of Citizens to Access Information"

The role and responsibility of the Council of Europe in protecting freedom of expression has been underlined in the "Reykjavik Principles for Democracy", the [Reykjavík Declaration – United around our values](#).

Funded within the Council of Europe Action Plan for Ukraine “Resilience, Recovery and Reconstruction” 2023-2026, the Project “[Safeguarding Freedom of Expression and Freedom of Media in Ukraine](#)” aims to address urgent needs of major stakeholders and media players in the country. The Project’s objective is “Enabling a pluralistic media environment in Ukraine through harmonisation of legal and policy frameworks in line with European standards” and it is built around three main components:

- (1) Alignment of Ukraine’s framework on media, freedom of expression and freedom of access to information with the European standards;
- (2) Effective implementation of the legal framework governing the protection of journalists, public broadcasting and regulatory authority in line with European standards;
- (3) Effective and efficient communication strategies governing a balanced media coverage and preventing information disorder.

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## I. Introduction

This Legal Opinion has been prepared within the framework of the Council of Europe Project “Safeguarding Freedom of Expression and Freedom of the Media in Ukraine” (“the Project”). The subject of the assessment is the compliance of the Draft Law of Ukraine “On Amendments to Certain Laws of Ukraine on Strengthening Certain Guarantees for the Activities of Media and Journalists and Ensuring the Right of Citizens to Access Information” (Draft Law No. 11321<sup>1</sup>) and the corresponding Law of Ukraine No.4212-IX, adopted by the Verkhovna Rada of Ukraine on January 14, 2025 (hereinafter referred to as the Law of Ukraine No.4212-IX of January 14, 2025) with the Council of Europe standards on the right to freedom of expression, as well as the relevant provisions of the legislative framework of the European Union in the light of Ukraine’s pre-accession commitments. The basis for the legal opinion are: the Draft Law No. 11321, Law of Ukraine No.4212-IX of January 14, 2025, 2025, and the accompanying documents attached.

The request for this legal opinion was received by the Council of Europe on 21 January 2025, from Mr Yaroslav Yurchyshyn, Chair of the Verkhovna Rada Committee on Freedom of Speech.

## II. Background

Transparency and accountability of public authorities are essential pillars of a democratic society. They ensure the efficient operation of government institutions, foster citizen participation in decision-making processes, and uphold the rule of law. In this context, journalists and media play a key role as intermediaries between society and the authorities, contributing to public information and controlling the actions of state institutions.

The Law of Ukraine No.4212-IX, adopted by the Verkhovna Rada of Ukraine on 14 January 2025, amended several norms of the laws of Ukraine that define the rights and obligations of journalists in the context of their professional activities and access to public information, namely:

- Articles 46 and 47 of the Law of Ukraine "On Local Self-Government in Ukraine",
- Articles 11-1 of the Law of Ukraine "On State Support for the Media, Guarantees of Professional Activity and Social Protection of Journalists",
- Articles 9, 42, 43, 51 and Section VIII "Final Provisions" of the Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine",
- Articles 25 of the Law of Ukraine "On Information",
- Articles 117 of the Law of Ukraine "On Media".

The adoption of the Law of Ukraine No.4212-IX of 14 January 2025, was an essential stage in improving access to information, ensuring transparency in the activities of local self-government bodies and the Verkhovna Rada of Ukraine, as well as strengthening the protection of the rights of journalists and persons performing the function of media. Several shortcomings in the current legislation and administrative practice caused the need to adopt this law:

- lack of transparency and accountability among state bodies, which failed to adequately publish documents (such as protocols, transcripts, records, and drafts) related to the decision-making process;
- inadequate protection of the rights of individuals performing media functions (including those working under civil law agreements with media outlets) to access information and participate in open government meetings, both in person and online;

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<sup>1</sup> Draft Law No. 11321 <https://itd.rada.gov.ua/billinfo/Bills/Card/44362>

- insufficient mechanisms for communication between media representatives, journalists, and government officials, which adversely affect access to timely and reliable information.

The adoption of the Law of Ukraine No.4212-IX on 14 January 2025, represents an important milestone in advancing transparency, accountability, and the protection of journalists' rights in Ukraine, its successful implementation will be crucial to achieving these goals in practice.

### III. Assessment

The amendments introduced by the Law of Ukraine No.4212-IX, were examined in the context of the Council of Europe standards for the protection of media and journalists, outlined in the European Convention on Human Rights<sup>2</sup>, the case law of the European Court of Human Rights, the Council of Europe Convention on Access to Official Documents<sup>3</sup>, Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors<sup>4</sup>, Recommendation Rec(2002)2 of the Committee of Ministers to member states on access to official documents<sup>5</sup>, the Council of Europe 12 Principles of Good Democratic Governance<sup>6</sup> and other standards.

Based on these standards, a conclusion was drawn regarding the alignment of the amendments introduced to various Ukrainian laws by the Law of Ukraine No.4212-IX of 14 January 2025, with international standards for protecting journalists and the media.

Below is an analysis of the amendments made by the Law of Ukraine No.4212-IX, with respect to each law/issue:

- 1) The amendments to the Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine"<sup>7</sup> ensure that everyone is guaranteed access to information and documents prepared and discussed within the committees of the Verkhovna Rada of Ukraine, namely:
  - agendas of committee meetings;
  - draft acts scheduled for consideration in committees (agendas of committee meetings and draft acts scheduled for consideration at such a meeting are published no later than twenty-four hours before the start of the committee meeting, which allows citizens and journalists to be present at the discussion of acts that interest them);
  - video recordings of open committee meetings on their webpages at the official website of the Verkhovna Rada of Ukraine (committees provide live broadcasts of open committee meetings on their webpages at the official website of the Verkhovna Rada of Ukraine on the Internet; video recordings of these broadcasts are uploaded to the respective committee's page on the official website within 24 hours after the meeting concludes and remain freely accessible indefinitely);
  - minutes and transcripts of each committee meeting, except for closed meetings (The relevant minutes and transcripts must be published on the respective committee's page on the official website of the Verkhovna Rada of Ukraine on the global Internet no later than the next working day after the minutes are signed, they must remain freely accessible indefinitely).

<sup>2</sup> [European Convention on Human Rights](#)

<sup>3</sup> [Council of Europe Convention on Access to Official Documents](#)

<sup>4</sup> [Recommendation CM/Rec\(2016\)4](#) of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors

<sup>5</sup> [Recommendation Rec\(2002\)2](#) of the Committee of Ministers to member states on access to official documents

<sup>6</sup> [Council of Europe 12 Principles of Good Governance](#)

<sup>7</sup> Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine" <https://zakon.rada.gov.ua/laws/show/116/95-%E2%F0#Text>

**Since the Law of Ukraine No.4212-IX of 14 January 2025, guarantees the publication of the information mentioned on the official website of the Verkhovna Rada of Ukraine, its implementation has a positive impact on ensuring free and 24-hour access to this information for everyone. Therefore, it complies with the current international standards outlined, among other things, in the Council of Europe Convention on Access to Official Documents and the Principle of Openness and Transparency (Council of Europe 12 Principles of Good Democratic Governance).**

- 2) Separately, the amendments to this law guarantee journalists, media workers, and representatives of public organizations the right to attend openly held meetings and other events of committees.

To implement this right, a provision has been added to Part 5 of Article 43 of the Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine"<sup>8</sup>, which provides that the agendas for open committee meetings must include an email address to facilitate journalists, media professionals, and representatives of public organizations in exercising their right to attend such meetings. Committees must ensure the right of journalists, media professionals, and representatives of public organizations to remotely attend open meetings held via video conference. Upon request, they shall provide the necessary hyperlink and access credentials at least one hour before the meeting begins.

- 3) Amendments to the Law of Ukraine "On State Support for Media, Guarantees of Professional Activity, and Social Protection of Journalists"<sup>9</sup> establish the aforementioned and other additional guarantees for the exercise of professional activities, specifically for media and journalists.

The possibilities of obtaining access to public information directly from primary sources have been expanded for journalists, namely:

- during personal visits to open events held by government entities;
- during visits to events held by government entities via videoconference;
- at personal receptions by officials and service personnel of government entities.

As mentioned in Recommendation Rec(2002)2 of the Committee of Ministers to member States on access to official documents<sup>10</sup> *“the gathering of information is an essential preparatory step in journalism and an inherent, protected part of press freedom. The participation of journalists and other media actors in public debate on matters of legitimate public concern must not be discouraged, for example by measures that make access to information more cumbersome or by arbitrary restrictions, which may become a form of indirect censorship”*.

**Thus, the Law of Ukraine No.4212-IX, provided journalists with additional instruments not only to obtain accurate and up-to-date information in real-time but also to find out answers to additional questions at a personal meeting.**

In this regard, in order to comply with the principle of legal certainty and uniform application of legislation, the relevant provisions must be also reflected in the amendments made to the Law of Ukraine “On Information”<sup>11</sup>. However, for the full and consistent implementation of these

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<sup>8</sup> Law of Ukraine "On Committees of the Verkhovna Rada of Ukraine" <https://zakon.rada.gov.ua/laws/show/116/95-%E2%F0#Text>

<sup>9</sup> Law of Ukraine "On State Support for Media, Guarantees of Professional Activity, and Social Protection of Journalists" <https://zakon.rada.gov.ua/laws/show/540/97-%D0%B2%D1%80#Text>

<sup>10</sup> Recommendation Rec(2002)2 of the Committee of Ministers to member states on access to official documents

<sup>11</sup> Law of Ukraine “On Information” <https://zakon.rada.gov.ua/laws/show/2657-12?lang=en#Text>

provisions in practice, it is also necessary to develop and introduce amendments that harmonize these norms with the rules for the accreditation of journalists with government bodies.

- 4) Additionally, amendments to the Law of Ukraine "On Local Self-Government in Ukraine"<sup>12</sup> have provided every citizen, including journalists, with expanded opportunities to access information held by local self-government bodies, in particular by:
  - Introducing the obligation to store the minutes of the council session for an unlimited period and publish them on the official website of the council;
  - Introducing the right of persons present at the council sessions to make sound recordings, film, photo and video recordings in a manner that does not interfere with the conduct of the meetings, except in cases of consideration of issues containing information with restricted access;
  - Introducing the obligation to publish on the official website of the local self-government body the draft agendas of the meetings of the council's standing committees, the conclusions and recommendations of the standing committees and the minutes of their meetings.

***As a result, both community residents and journalists now have enhanced opportunities to monitor and participate in the decision-making processes of local government bodies, using information published on the official website, free of charge and accessible at any time.***

- 5) Law of Ukraine No.4212-IX of 14 January 2025 introduced several amendments to Article 117 of the Law of Ukraine "On Media"<sup>13</sup> addressing the conditions and regulations for exempting media outlets and their employees from liability for disseminating prohibited information or information that is false and infringes on the rights and legitimate interests of third parties.

In general, these changes are aimed at resolving three issues, namely:

- the issue of exempting, along with media workers, journalists who perform work under a civil law contract for the media, from liability for the dissemination of prohibited information or information that is not true, violates the rights and legitimate interests of third parties;
- protection for media and journalists for the dissemination of information that is a transfer without distortion of the essence (and not a verbatim reproduction) of public speeches or messages of legal entities, state bodies, local self-government bodies, their officials and employees, people's deputies of Ukraine, candidates for elected positions;
- exemption from liability of entities in the field of online media, provided that such an entity has restricted access to prohibited information based on receiving a relevant complaint or order of the National Council or a resolution on the initiation of relevant proceedings by a court.

The "notice and takedown" procedure is an important tool of the European Union legislation for combating illegal content, ensuring a balance between freedom of expression and protecting individuals' rights. It is based on transparency, speed of response, and protection of the rights of all parties. In the European Union, this procedure is regulated by Article 14 of the E-Commerce Directive 2000/31/EC<sup>14</sup>, according to which a service provider, upon receiving a notification of

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<sup>12</sup> Law of Ukraine "On Local Self-Government in Ukraine" <https://zakon.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80#Text>

<sup>13</sup> Law of Ukraine "On Media" <https://zakon.rada.gov.ua/laws/show/2849-20#Text>

<sup>14</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32000L0031>

illegal content, is obliged to remove it or block access to such information in order to protect itself from liability. In 2022, the EU's Digital Services Act<sup>15</sup> entered into force, improving standards for content moderation.

The general approach to exempting media outlets and their employees from liability for disseminating prohibited or false information, as demonstrated in the European Court of Human Rights decisions in cases like *Delfi v. Estonia*<sup>16</sup> and *Sanchez v. France*<sup>17</sup>, is consistent: online media entities are obligated to monitor the content shared by users in the form of comments.

***The amendments to the Law of Ukraine No.4212-IX of 14 January 2025, do not introduce new regulations but merely expand the list of circumstances under which online media entities are required to restrict access to inaccurate information, as well as information whose dissemination is prohibited under Articles 36, 42, and 119 of the Law of Ukraine “On Media”.***

As in the previous version of the Article 117 of the Law of Ukraine “On Media”, the obligation to restrict access to such information arises for an online media entity within three working days from the moment of receipt of the relevant document (a complaint, an order of the National Council or a decision to open relevant proceedings by a court).

This addition is both logical and necessary, as Part 4 of Article 117 of the Law of Ukraine “On Media”<sup>18</sup> provides an exhaustive list of grounds for exemption from liability for the dissemination of inaccurate information or information whose dissemination is prohibited by law (if such information is shared by users in comment sections or through user-generated content on a website or web page of the media outlet). Recognizing the initiation of relevant court proceedings as a basis for exemption carries similar legal consequences to the filing of a complaint, which is already acknowledged by law as a valid ground for exemption. Overall, this amendment enhances legal clarity for online media entities, helping to prevent the dissemination of inaccurate information or information prohibited by law.

#### IV. Recommendations

The aforementioned highlights the importance of the adoption and implementation of the Law of Ukraine No.4212-IX of 14 January 2025, to strengthen guarantees for media and journalist activities and to uphold citizens' right to access information—both essential components of democratic governance. At the same time, further advancement of freedom of expression and protection of the right to information in Ukraine will require additional steps to improve administrative practices, including:

- Establishing mechanisms to monitor and ensure adherence to the requirements for publishing information (such as minutes, transcripts, and video recordings of meetings) on the websites of state and local government bodies while also improving the navigational accessibility of information on official websites;
- Introducing measures to enhance communication between journalists and officials, specifically by clarifying the obligation of officials to conduct personal meetings with journalists;

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<sup>15</sup> Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022R2065>

<sup>16</sup> European Court of Human Rights. (2015). *Case of Delfi v. Estonia* (Application No. 64569/09). Grand Chamber Judgment, 16 June 2015. <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2264569%2F09%22%5D%2C%22itemid%22:%5B%22001-155105%22%5D%7D>

<sup>17</sup> European Court of Human Rights. (2021). *Sanchez v. France* (Application No. 45581/15). Judgment, 2 September 2021. <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-224928%22%5D%7D>.

<sup>18</sup> Law of Ukraine “On Media” <https://zakon.rada.gov.ua/laws/show/2849-20#Text>



- Introducing mandatory, regular training for officials on ensuring access to information and effective communication with journalists.

## **V. Conclusions**

The amendments introduced by the Law of Ukraine No.4212-IX, represent a significant step forward in guaranteeing the rights of journalists and media professionals, as well as ensuring citizens' access to public information. These changes align with European standards for media freedom and the right to information, thereby reinforcing Ukraine's commitment to democratic values and its integration into the European legal and policy framework.

The law ensures greater inclusiveness by mandating the openness of committee meetings of the Verkhovna Rada of Ukraine, enabling citizens, journalists, and representatives of public organizations to participate in decision-making processes and access essential information. Additionally, the law enhances transparency by requiring the publication of agendas, minutes, transcripts, and broadcasts of meetings, thereby increasing the accountability and visibility of government activities at both central and local levels. The amendments to Article 117 of the Law of Ukraine "On Media" further clarify and expand the conditions under which media outlets and their employees are exempt from liability for disseminating prohibited or false information.

The implementation of this law is anticipated to contribute to the development of an independent and resilient media environment in Ukraine, protect journalists' rights, and empower civil society to engage more effectively in public affairs, all while upholding international and European standards for transparency, accountability, and freedom of expression.