

Council of Europe Project

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

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LEGAL OPINION

On Amendments to the Draft Law of Ukraine “On Amendments to Certain
Laws of Ukraine Regarding Media Activities: Strengthening Information
Sovereignty and Media Regulation”

Division for Co-operation on Freedom of Expression

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 by the Council of Europe Division for Co-operation on Freedom of Expression and the Council of Europe Project “Safeguarding Freedom of Expression and Freedom of the Media in Ukraine” (the Project) at the request of Mr Mykyta Poturaiev, Chair of the Parliamentary Committee on Humanitarian and Information Policy of Ukraine, sent on 22 January 2025. It assesses the amendments proposed by the Member of Parliament of Ukraine, Ms Olena Kondratiuk, for the second reading of the Draft Law of Ukraine titled “On Amendments to Certain Laws of Ukraine Regarding Media Activities”, Registration No. 12111, and their compliance with the Council of Europe and EU standards in the field of media.

Given Ukraine’s ongoing efforts to align its legal framework with European norms and obligations, it is essential to ensure that any amendments comply with fundamental principles of media freedom, proportionality, and legal certainty.

Although limited in number and addressing specific areas, these amendments to the Draft Law of Ukraine titled “On Amendments to Certain Laws of Ukraine on Media Activities” introduce important changes, particularly concerning the activities of foreign (media) services in Ukraine. While the objective of these amendments is to strengthen Ukraine’s informational sovereignty, there are concerns that they may lead to excessive restrictions on media freedom and potential non-compliance with international legal commitments, including those under the European Convention on Transfrontier Television (ECTT) and other Council of Europe and European Union standards.

II. Key Issues Identified in the Proposed Amendments

The review of the additional amendments to Draft Law No. 12111 is based on the international law and standards on freedom of expression and media freedom, notably Council of Europe standards in the field, as well as the EU audiovisual framework. Specifically, it relies on the following:

- Council of Europe European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)
- European Convention on Transfrontier Television (ECTT)
- Recommendation CM/Rec(2022)11 on principles for media and communication governance
- EU Audiovisual Media Services Directive (AVMSD).

2.1. Restriction on foreign media activity

The proposed amendment (No. 4) to Article 121 of the Law of Ukraine “On Media” requires the National Council of Television and Radio Broadcasting to refuse or revoke the registration of foreign linear media if they provide access to programmes in the language of the aggressor state without ensuring access in the state language.

This measure appears to disproportionately restrict foreign broadcasters, including media from EU Member States and states parties to the ECTT that may offer multilingual content, including content in the Russian language.

The provision contradicts Article 4 of the Law of Ukraine “On Media”, which safeguards the reception and retransmission of channels originating from EU Member States and those compliant with the ECTT. Moreover, Article 4 explicitly states that any restrictions on media freedoms must not only be based on law, but also be necessary in a democratic society and proportionate to the goal pursued, which might not be the case with the proposed measure.

Justification and proportionality of the proposed measure do not appear to be sufficiently demonstrated, as it imposes broad restrictions without clear evidence of necessity or the least restrictive means of achieving its objective. Additionally, the lack of a detailed assessment of potential impact adds to the concerns about compliance with international standards on media freedom and non-discrimination.

The proposal could lead to the revocation of international content providers that have no direct links to the aggressor state, thereby limiting the diversity of media accessible to Ukrainian audiences.

2.2. Regulation in relation to dubbing services

Amendments No. 1, 5 and 6 extend the scope of regulation to dubbing services which is highly uncommon in the European context.

The EU does not regulate dubbing specifically, but these services play a crucial role in EU audiovisual policy, particularly in enhancing accessibility and promoting cultural diversity. The Audiovisual Media Services Directive (AVMSD), the cornerstone of EU media regulation, mandates that at least 30% of on-demand service catalogues feature European works, indirectly encouraging dubbing and subtitling to increase cross-border circulation. Additionally, Creative Europe MEDIA

supports projects that facilitate subtitling and dubbing, fostering linguistic diversity and cultural exchange. Dubbing practices vary across EU Member States, and are shaped by cultural and economic factors. Rather than imposing restrictions, the EU focuses on positive policies that support multilingual content creation and ensure access to European audiovisual works across linguistic regions.

The first proposed amendment (No. 1) falls under the introductory provisions of the law, where the terms used in the law are defined. It proposes including the definition of a dubbing studio under point 58 and renumbering all subsequent points from the current '58–63' to '59–64' accordingly.

The amendment No. 5 refers to Article 124 of the law which stipulates “other restrictions on the activities of media entities during armed aggression”. The addition of the words “dubbing studio” to the provision “after the word “producer” means that media services will now also be restricted if they are dubbed by a studio associated with the aggressor state. Currently, the restriction applies only to producers (e.g., individuals or companies from the aggressor state). This change extends it to dubbing studios, meaning even if a film was produced elsewhere, if it was dubbed in the aggressor state, it could be restricted.

The amendment No. 6 introduces additional restriction to the provisions of Article 15¹ limiting “distribution and demonstration of films containing popularisation of the aggressor state bodies, Soviet state security agencies”. It adds “and/or dubbed (voiced) by legal entities of the aggressor state”. This means that even if content is produced outside the aggressor state, if it has been dubbed by a company based in the aggressor state, it will now fall under the same restrictions.

This could impact foreign distributors, even those with no direct connection to the aggressor state, if any part of their content was dubbed in that country. European and global media providers that offer content dubbed in Russia may now face restrictions in Ukraine, even if they also provide content dubbed or subtitled in Ukrainian and have no other affiliations with the aggressor state. This could affect major international broadcasters, streaming platforms, and film distributors. The amendments propose a significant expansion of Ukraine’s media restrictions, expanding the scope from production to dubbing services. This is highly unusual in the European context, as most media regulations focus on the origin of the production rather than where it was dubbed.

2.3. Obligations of the National Council for TV and Radio Broadcasting in enforcing distribution restrictions

Apart from some linguistic suggestions, whose meaning cannot be unequivocally determined from the translation, the amendments No. 2 and 3 strengthen the actions of the National Council for TV and Radio Broadcasting (National Council) towards platforms in cases where media service providers have been sanctioned with distribution restrictions. Instead of the National Council's current “right” to call on platforms to cease distribution, this amendment would impose an obligation on the Council to do so. These provisions seem justified.

III. Conclusion

While the intention behind the proposed amendments is to protect Ukraine’s information sovereignty, the measures proposed are overly broad and risk undermining media pluralism. Furthermore, they pose risks of non-compliance with international agreements that are crucial for Ukraine’s EU accession process.

It is recommended that these amendments be carefully reconsidered to align with international standards on media freedom and proportionality principles, ensuring that media regulation in Ukraine remains balanced and effective in safeguarding both national security and democratic freedoms.