



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

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ASSESSMENT OF THE POSITION

of the National Union of Journalists of Ukraine (NUJU)
on Draft Law on Amendments to Certain Laws of Ukraine on Media Activities
(Registration No. 12111)

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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1. Introduction

This document provides an assessment of the position of the National Union of Journalists of Ukraine (NUJU) on the proposed amendments to the Law of Ukraine “On Media” under the Draft Law on Amendments to Certain Laws of Ukraine on Media Activities (Registration No. 12111). The NUJU’s position paper, sent to the Chairman of the Parliamentary Committee on Humanitarian and Information Policy of Ukraine, Mykyta Poturaiev, underscores specific concerns regarding various (that is sixteen) amendments in the abovementioned Draft Law.

In general, the issues the NUJU raises do not overlap with those discussed in the Council of Europe legal opinion LEX_25_1 from 10 January 2025, prepared by the Division for Co-operation on Freedom of Expression within the Project “Safeguarding Freedom of Expression and Freedom of Media in Ukraine”. NUJU’s emphasis is more on practical implications for Ukrainian journalists and media outlets rather than legal compliance with European standards what was the focus of the LEX_25_1 opinion.

In particular, they point to issues potentially affecting editorial independence. According to NUJU, defining media entities - which include individual persons - based on editorial control may expose editors to undue legal risks while exempting media founders from liability. Another issue of concern are financial burdens on journalists and media outlets, as restrictions on refunds of registration fees and reduced periods for paying fines could impose excessive financial burdens especially on small and independent media organisations. Additionally, the doubling of registration and licensing approval periods creates delays that may hinder media operations.

The analysis below highlights areas where NUJU’s concerns appear valid, as well as instances where their interpretation may require further consideration.

2. Key issues

In general, NUJU expresses concerns regarding the amendments that may introduce - or fail to resolve - procedural uncertainty, regulatory gaps, excessive restrictions, and unclear definitions.

According to them, the main issues are the following:

- (a) The role of the National Council for Television and Radio Broadcasting of Ukraine (“National Council”) in extending applicability (scope) of media law provisions based on external requests lacks clear guidelines (Article 2).

The amendments caused procedural gaps that could lead to legal uncertainty and potential inconsistencies in decision-making. Specifically, while the proposed changes allow for decisions to be made not only at the National Council’s initiative but also upon requests from individuals or legal entities, the lack of clear procedural guidelines raises several issues. There is no established framework outlining the process for submitting and reviewing appeals, decision timelines, applicant participation, notification mechanisms, or avenues for appeal. NUJU fears that this absence of procedural clarity could lead to arbitrary or non-transparent decision-making, affecting both media service providers and regulatory predictability.

- (b) The removal of explicit licensing requirements in the Strategy Implementation Plan weakens regulatory transparency (Article 9).

Additionally, NUJU raises concerns about the removal of provisions related to the Strategy Implementation Plan, which previously obligated the National Council to determine licensing terms and organise competitions for broadcasting licenses. According to NUJU, if these provisions are removed, there is a risk that the National Council's role in ensuring a structured, competitive, and transparent licensing process could be weakened.

(c) Excessive and disproportionate regulatory burden, coupled with a weakening of the rights of regulated entities in relation to the regulator (Articles 52, 60, 63, 66, 100, 101).

In sum, the proposed changes introduce longer administrative timelines (such as those related to registration and refunds of registration fees), reduce operational flexibility (through limitations of license modifications and doubled periods for registration), increase regulatory powers regarding collection of data (affecting all media and foreign media in particular), and increase the burden financial penalties (reduced timeframes for paying fines).

As regards extended registration and processing periods, the timeframes for submitting preliminary applications (Articles 63 & 66) and processing registration applications (Article 63) are doubled from 30 to 60 days, delaying media entities' ability to commence operations.

The National Council is granted the authority to extend application reviews indefinitely when requesting additional information (Article 63), creating potential uncertainty and excessive procedural delays.

Registration fees are non-refundable if an applicant withdraws their application or if registration is denied (Article 63), imposing unnecessary financial costs on media entities.

The timeframe for paying fines is reduced from 60 to 45 days (Article 101), increasing financial pressure on the already struggling media organisations.

The National Council is granted expanded authority to request any information from applicants (Article 63), without a clear limitation on the scope of such requests.

Foreign linear media are required to submit extensive documentation within a deadline set by the regulator, without guaranteed minimum timeframes or an option for extension (Article 66).

The period for the National Council to issue an injunction is doubled from 30 to 60 days (Article 100), prolonging regulatory uncertainty for media entities.

(d) Absence of definition of “specialised print media”, raising concerns about selective enforcement and undue regulatory burdens (Article 63).

The term “specialised print media” is introduced in the proposed amendment to Part 1 of Article 63 but is not explicitly defined in the law. In the current law there is one mention of specialised print media. First, in Article 111 on the Law “On Media”, referring to responsibility of print media entities, where “specialised print media intended for an adult audience and having restrictions on distribution among children” appears in one of the provisions defining significant violations of the law. Additionally, Article 3 of the Law of Ukraine “On State Support of Media, Guarantees of Professional Activity and Social Protection of Journalists” defining grounds and conditions for providing state targeted support to media entities, “specialised scientific print media published by scientific institutions and higher education institutions” are listed among the media outlets eligible

for state subsidies. The broader term “specialised media” is also absent from existing legislative definitions, creating ambiguity about which print media entities might fall under this classification. NUJU's comment focuses on the lack of a clear definition for “specialised print media” in the law, which could according to them lead to arbitrary classification and unintended regulatory consequences. Without specific criteria to determine what qualifies as “specialized print media,” there is a risk that the National Council or other authorities could apply the category arbitrarily, potentially forcing more media entities into a regulated framework. This could lead to an unjustified expansion of mandatory registration requirements, affecting publications that previously operated unregulated.

(e) Liability risks end editorial control (Article 15).

NUJU's comment on Article 15 suggests that despite the amendments, the legislative definition of print media entities remains problematic because it focuses on individuals who exercise editorial control rather than on the founders and owners of media organisations. According to NUJU, the definition could apply to editors, editorial boards, and journalists - the individuals responsible for selecting, organising, and disseminating information - rather than to those who legally and financially control media entities.

Their concern appears to be that holding individuals with editorial control accountable, instead of media founders or owners, could create legal loopholes. For example, founders of print media organisations could evade responsibility, while editors and journalists could face increased legal pressure.

This approach fails to align with other parts of the law, which recognise legal entities as media owners and regulate their ownership structure.

NUJU argues that legal persons (companies) should also be explicitly included in the definition of print media entities, as they are in other sections of the law dealing with registration, licensing, and liability.

3. Evaluation

While NUJU raises important concerns, highlighting practical industry/profession-related concerns beyond the legal analysis, some issues require further clarification. The key points are outlined below.

- 1) There is a possibility of over-interpretation of the concept of editorial control. Namely, the definition of editorial control in the Law “On Media” (Article 1, para 1(47)) states that it refers to a media entity's decisive influence over the creation, selection, organisation, and dissemination of content. However, NUJU seems to extend this definition too broadly, assuming that only individual editors and journalists exercise editorial control, while in reality, media owners, managers, and corporate entities also play key roles. The concern that the law excludes founders from liability may be partially overstated, given that the law already imposes obligations on media owners in various sections, and editorial control does not necessarily exclude legal or corporate responsibility. The real issue seems to be the lack of clarity in defining the legal liability of print media founders versus those responsible for content decisions.
- 2) The NUJU's concern regarding the lack of clarity due the introduction of terms that are not defined in the law is valid (Article 63, parts 1&2). If media entities are incorrectly classified

as specialised print media, they could face additional state-imposed obligations, including registration mandates, compliance requirements, and legal liabilities. Media entities failing to comply with registration obligations due to this ambiguity may become subject to sanctions or operational restrictions, which NUJU views as a mechanism for potential state pressure. NUJU's concern is legitimate in that the lack of a definition creates legal uncertainty and potential regulatory overreach. However, their interpretation might assume the worst-case scenario, as the proposed amendment does not explicitly expand registration obligations but rather adds a category that was previously overlooked.

- 3) Certain objections, such as those related to licensing modifications (Article 60), may require a more nuanced analysis of the balance between public policy objectives and industry interests. Taking a position on issues like the extent or pace at which the state should allow license adjustments falls beyond the scope of this assessment.

4. Conclusion

NUJU's concerns provide a valuable perspective on the practical implications of the Draft Law, complementing the analysis of its compliance with European standards. For example, the omission of provisions related to the Strategy Implementation Plan (Article 9), combined with the lack of procedural safeguards for handling external appeals (Article 2), could result in a less predictable and potentially discretionary approach to media regulation. Another exemplary concern is pointing to the legal uncertainty due to undefined terminology which causes risks of overbroad classification and regulatory burden, leading to increased state control and legal sanctions (e.g., Article 63, parts 1 & 2).

Other objections require further legal examination (Article 15) or assessment against the key policy objectives to determine their validity within the broader media policy and regulatory context (Articles 52, 60, 63, 66, 100, 101). While some of those amendments might simply aim to streamline regulatory procedures, others may introduce substantive new barriers for the media.

In light of the concerns raised in the NUJU's position paper, it is recommended that the legislator:

- Ensures the clarity of regulatory procedures regarding the National Council's decision-making authority and appeal mechanisms.
- Explicitly defines "specialised print media" in Article 63, establishing clear criteria to ensure legal clarity.
- Considers introducing safeguards against arbitrary classifications, including a requirement for justification and an appeal mechanism for disputed classifications.
- Reviews liability frameworks to ensure they do not place disproportionate pressure on editors while maintaining accountability.
- Mitigates excessive financial burdens and timelines, particularly those related to registration fees and fines.
- Evaluates whether extended approval timelines serve a legitimate regulatory function or unnecessarily hinder media operations.