Module 2: Legal and ethical framework

Training material to be shared with trainers only

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Trainer's overview

Module objective

The objective of this session is to provide participants with a practical understanding of the legal and ethical framework governing electoral communication and media coverage of elections. It examines how freedom of expression, media freedom and editorial independence interact with the right to free elections and the need to protect fairness and electoral integrity.

The module introduces the principal Council of Europe standards and helps participants translate them into proportionate national rules, regulatory decisions, professional practices and remedies. It does not prescribe a single model. The appropriate balance between legislation, regulation, co-regulation and self-regulation depends on the national context, the independence and reach of different media services, and the risks identified in a particular election.

> **CENTRAL MESSAGE**
>
> The central challenge is to protect fairness and meaningful opportunities for electoral contestants without unnecessarily restricting editorial independence or reducing the information available to voters.

Standards anchor

The principal framework for this module is Recommendation CM/Rec(2022)12, which updates Council of Europe standards for electoral communication across traditional media, online media and digital platforms. It is complemented by Recommendation CM/Rec(2007)15 and its Explanatory Memorandum, which specifically emphasise the need to balance editorial independence with appropriate rules safeguarding fairness, while the OSCE/ODIHR Handbook provides practical guidance for applying this balance without unnecessarily restricting editorial freedom.

Learning outcomes

- Identify the principal European legal and ethical standards applicable to electoral communication and media coverage of elections.
- Explain the relationship between freedom of expression, media pluralism and the right to free elections.
- Distinguish legislation, statutory regulation, co-regulation and professional self-regulation, and assess the appropriate role of each.
- Identify the responsibilities of public authorities, regulators, election management bodies, media, journalists, political actors, platforms and civil society.
- Apply legality, legitimate aim, necessity and proportionality when considering restrictions or regulatory responses.
- Recognise the principal ethical standards for election reporting and identify areas requiring national adaptation.

Session techniques and methods

- Introductory knowledge mapping and dilemma-based voting
- Short interactive presentations
- Standards and stakeholder mapping
- Small-group case analysis
- Facilitated plenary discussion
- National-context reflection

Indicative duration

Core version: 85 - 90 minutes. Extended version: 110 - 120 minutes. For a condensed 75-minute pathway, use the opening dilemma, shortened fundamental-rights and standards inputs, the proportionality framework, ethical synthesis and the 15-minute Croatia exercise. Provide the regulatory-architecture and roles tables as pre-reading, and omit the Iceland comparison, contemporary extensions and fuller stakeholder exercise.

Trainer preparation and scope

Before the session

TRAINER CHECKLIST

Identify the constitutional, electoral, media and administrative rules applicable in the country concerned.

Map jurisdiction separately for public service media, private broadcasters, online editorial media, online platforms, political advertising and personal-data targeting. In EU contexts, identify the Digital Services Coordinator, the authorities designated under Regulation (EU) 2024/900, the relevant data-protection authority and matters falling to the European Commission for VLOPs and VLOSEs.

Select one recent national example involving editorial independence, equality, access, political advertising or a regulatory remedy.

Prepare or distribute the separate participant exercise handout containing only the Croatia scenario, task and questions. If the Iceland comparison is used, include its scenario, task and questions as an optional second exercise. Do not share the outcomes, trainer debrief, trainer cautions or suggested answers with participants before the exercise has been completed.

Decide whether the Iceland comparison is useful for the audience and available time.

Scope and links with other modules

Module 2 establishes the legal and ethical architecture. It introduces fairness, equality, political advertising, disinformation, inclusion and monitoring only to the extent necessary to explain the framework. Their detailed application belongs in the later thematic modules. For EU member States, this module should identify the institutional layer created by the Digital Services Act and Regulation (EU) 2024/900, while leaving their detailed platform and political-advertising obligations to Module 6. Trainers should resist turning this session into a survey of every national rule.

Core messages that should remain constant

- Freedom of political expression and media freedom are starting points, not obstacles to electoral integrity.
- Fair elections require voters to receive sufficient, diverse and reliable information and contestants to have meaningful opportunities to communicate.
- Editorial independence does not remove all responsibilities, but restrictions must be clear, necessary, proportionate and independently administered.
- Formal equality is not always substantive fairness; identical treatment may sometimes reduce useful information.
- Different programme types and media categories may justify different obligations.
- Online editorial media, online platforms and VLOPs/VLOSEs are not interchangeable categories; the applicable duties and competent institutions must be mapped separately.
- Effective regulation requires an independent institution, fair procedures, timely decisions and proportionate remedies.

Opening dilemma: Should the regulator intervene?

SESSION METHOD *Individual vote followed by facilitated discussion* | **TIME** *8–10 minutes*

> **GUIDANCE FOR TRAINERS**
>
> Read the scenario aloud or display it. Ask participants to vote: no action, informal guidance, warning, corrective measure, sanction, or insufficient information.
>
> Do not resolve the case immediately. Record the reasons given and return to them after the proportionality section.

Scenario

A private television channel invites only the leading candidates to a prime-time debate. The law requires equal treatment of election candidates but does not explain whether this means identical airtime in every programme. Excluded candidates complain to both the election commission and the media regulator. The broadcaster argues that a debate involving every candidate would be unmanageable and less useful to voters.

Opening questions

- What interest is the rule intended to protect?
- Does equal treatment mean identical treatment?
- Does it matter that the broadcaster is private?
- What additional facts would you need before deciding?
- What is the least restrictive response capable of addressing the problem?

Fundamental rights framework

Freedom of expression and the right to free elections

SESSION METHOD *Interactive presentation* | **TIME** *12–15 minutes*

Election periods do not suspend freedom of expression. Political speech, public-interest journalism and open debate receive particularly strong protection. At the same time, free elections depend on conditions in which voters can form opinions without undue pressure and can obtain sufficient information about choices before them.

Article 10 of the European Convention on Human Rights protects the freedom to hold opinions and to receive and impart information and ideas without interference by public authority. Article 3 of Protocol No. 1 requires States to hold free elections under conditions ensuring the free expression of the opinion of the people. In electoral communication, these guarantees should be read together rather than treated as competing silos.

The State must refrain from arbitrary interference, but it may also need to establish safeguards supporting pluralism, media independence, meaningful political competition and effective remedies. Any intervention must remain compatible with the Convention and must not be used to shield authorities or incumbents from criticism.

Inter-related rights and responsibilities

Electoral communication involves three inter-related sets of rights and responsibilities. Voters have the right to receive sufficient, diverse and reliable information enabling them to form opinions freely and make an informed electoral choice. Candidates and political parties have the right to communicate their programmes and views to the electorate and to enjoy meaningful opportunities for media access under fair and non-discriminatory conditions. The media have the freedom to report on election campaigns, scrutinise political actors, select editorial formats and express opinions

without unjustified interference. These freedoms are accompanied by responsibilities relating to accuracy, fairness, transparency and respect for the rights of others.

These interests are mutually reinforcing but may also create tensions. A contestant's entitlement to meaningful access does not necessarily confer a right to appear in every programme or to receive identical coverage. Similarly, editorial independence does not permit arbitrary exclusion, concealed discrimination or disregard for applicable public-service and electoral obligations. The appropriate balance depends on the type of media service, the programme format, the applicable legal framework and the effect of the arrangement on pluralism and voters' ability to make an informed choice.

TRAINER PROMPT

Ask participants to name one situation in which the State should refrain from intervention and one in which failure to act could undermine a free election.

European standards and sources of rules

From binding rights to practical guidance

SESSION METHOD *Standards mapping* | **TIME** *12–15 minutes*

Participants should understand the status and function of each source. The European Convention creates binding obligations for States. European Court of Human Rights case law interprets those obligations. Committee of Ministers recommendations and Venice Commission guidance are not treaties, but provide authoritative standards for legislation, policy and practice.

The framework should cover the entire information environment while recognising differences between public service media, private broadcasters, print and online media, platforms and political actors. Rules should be reviewed regularly and developed in consultation with relevant stakeholders.

Why platforms require a different regulatory logic

The regulatory dilemma presented by online platforms is structurally different from that associated with broadcasting, rather than simply a larger version of it. Broadcast regulation generally addresses identifiable editorial decisions, such as whom to interview, whom to invite to a debate or whether to grant a right of reply, which may be assessed and corrected through relatively direct and timely remedies. Very large online platforms and video-sharing services influence electoral communication through recommender systems, content moderation at scale, political-advertising infrastructure and algorithmic amplification. These processes cannot normally be reduced to a single editorial act or corrected solely through a warning or right of reply.

Recommendation CM/Rec(2022)12 complements Recommendation CM/Rec(2007)15 by extending the relevant principles to the contemporary digital environment. It preserves editorial independence alongside the equal and fair treatment of political contestants, while providing that restrictions imposed by internet intermediaries should be applied transparently and without discrimination, using the least restrictive technical means possible. In applicable EU contexts, Articles 34 and 35 of the Digital Services Act translate this approach into systemic-risk assessment and mitigation duties for very large online platforms and search engines. The emphasis is therefore placed on due diligence, transparency, proportionality and the design of platform systems rather than on imposing broadcaster-style equal-time requirements on personalised information environments.

This module introduces this distinction only as part of the legal and institutional framework. Detailed treatment of platform risk assessments, recommender systems, political-advertising repositories, targeting and content-moderation practices belongs in Module 6.

Source	Practical relevance
European Convention on Human Rights	Article 10 protects expression and information; Article 3 of Protocol No. 1 protects free elections; Article 8 may be engaged by privacy and data use.
ECtHR case law	Explains legality, legitimate aims, necessity, proportionality, pluralism, political speech and safeguards against arbitrary interference.
CM/Rec(2022)12	Current overarching Council of Europe framework for electoral communication, including online advertising, financing, algorithms, moderation, microtargeting and media coverage.
CM/Rec(2007)15	Core principles for media coverage of election campaigns, including editorial independence, news, public service media, free airtime, advertising, polls, reply and reflection periods.
EU Digital Services Act (EU contexts)	Allocates platform oversight between national Digital Services Coordinators and the European Commission; VLOPs and VLOSEs are subject to enhanced due-diligence and systemic-risk obligations.
Regulation (EU) 2024/900 (TTPA)	For EU contexts, establishes transparency and targeting rules for political advertising and requires the designation and coordination of competent national authorities. Most provisions apply from 10 October 2025.
Venice Commission standards	Connect free suffrage with respect for fundamental rights, impartial election administration, stability of electoral law and effective appeal.
National framework	Constitution, election and media laws, regulator rules, public-service remit, campaign-finance rules, data protection, codes and jurisprudence.

Regulatory architecture: Choosing the appropriate instrument

SESSION METHOD *Instrument-matching exercise* | **TIME** *10–12 minutes*

Not every problem requires a new prohibition or sanction. The appropriate instrument depends on the harm, the actor involved, the reach and influence of the service, the urgency of the election timetable and the availability of less restrictive measures.

Instrument	Appropriate use
Legislation	Clear rights, duties, institutional mandates, minimum safeguards, transparency obligations, serious violations and remedies.

Instrument	Appropriate use
Independent regulation	Detailed rules, monitoring, guidance, complaints, corrective action and proportionate enforcement, especially for audiovisual media.
Co-regulation	Shared standards or oversight where industry participation and public accountability can be combined.
Self-regulation	Professional ethics, accuracy, correction, complaints, editorial independence and standards developed by media and journalists.
Internal editorial policies	Programme formats, verification, conflicts of interest, labelling, polls, social-media use and handling of candidate requests.
Non-restrictive responses	Guidance, dialogue, transparency, fact-checking, voter information, media literacy and rapid clarification.

Roles and responsibilities: Who should do what?

SESSION METHOD Stakeholder mapping and mandate discussion | **TIME** 10–12 minutes

Stakeholder	Core responsibilities
Government and legislature	Create a clear, rights-compliant framework; protect media freedom and safety; avoid interference; ensure institutional independence and adequate resources.
Media regulators	Act independently and impartially; issue clear guidance; monitor where mandated; decide complaints promptly; explain decisions; use proportionate remedies.
Election management bodies	Provide accurate and equal access to official information; clarify procedures; refer media matters to the competent authority; avoid jurisdictional overlap.
Courts and legal professionals	Provide timely and effective review; protect due process; interpret restrictions narrowly and consistently with human rights.
Public service media	Ensure independent, pluralistic and accessible election coverage; provide meaningful opportunities for contestants; serve voters' information needs.
Private media and journalists	Exercise editorial freedom responsibly; follow law and ethics; distinguish journalism from paid content; correct significant errors.
Political actors	Respect the rules; disclose sponsorship and spending; avoid intimidation, manipulation and misuse of public resources.

Stakeholder	Core responsibilities
Online platforms	Comply with applicable platform, advertising and data rules; provide transparency and accountability in advertising, curation and moderation; cooperate with competent authorities under clear safeguards.
Digital Services Coordinators (EU)	Coordinate national DSA enforcement and supervise intermediary services within their competence; receive complaints and cooperate with other DSCs, the European Board for Digital Services and the European Commission.
European Commission (EU VLOPs/VLOSEs)	Supervise the enhanced DSA due-diligence and systemic-risk obligations of designated VLOPs and VLOSEs; share competence with national authorities for other DSA obligations.
TTPA and data-protection authorities (EU)	Enforce the political-advertising transparency and targeting rules allocated under national designation; coordinate when a case engages advertising transparency, platform duties and personal-data processing.
Civil society and observers	Monitor implementation, document trends, inform the public and contribute evidence without assuming the regulator's adjudicative role.

Institutional independence

The body overseeing election-related media rules should be independent, trusted, competent and adequately resourced. Appointment procedures should be transparent and protect members against arbitrary removal. Decisions and supporting reasons should be public, subject to fair procedures and capable of timely review. The authority should be able to act promptly on complaints and, where its mandate allows, on violations detected independently.

PRACTICAL WARNING

Overlapping mandates between an election commission, media regulator, Digital Services Coordinator, authority designated under Regulation (EU) 2024/900, data-protection authority, European Commission and courts can cause contradictory decisions or delay. National adaptation should identify who leads, who supports and how cases are referred.

Applying restrictions: Legality, necessity and proportionality

SESSION METHOD *Decision framework* | **TIME** *12–15 minutes*

Before restricting electoral communication or directing a media outlet, the competent body should answer the following questions. A politically desirable outcome is not enough; the intervention must be legally and evidentially justified.

1. Legal basis: Is the rule accessible, sufficiently clear and foreseeable? Does the body have jurisdiction?
2. Legitimate aim: Which right or electoral interest is being protected?
3. Evidence and risk: What happened, what harm is reasonably likely, and how serious or urgent is it?

4. Suitability: Is the proposed measure capable of addressing the identified risk?
5. Necessity: Is a less restrictive but effective response available?
6. Balancing: What is the effect on political expression, editorial independence, pluralism and voters' access to information?
7. Differentiation: Does the programme type, media category, audience reach or public-service role justify a different obligation?
8. Procedure: Was the actor heard? Is the decision independent, reasoned, timely and reviewable?
9. Remedy: Is the response proportionate, practical during the campaign and directed at correcting the problem rather than punishing criticism?

KEY DISTINCTION

Equal treatment does not automatically require identical treatment. The relevant question is whether contestants receive fair and meaningful opportunities under clear and impartial criteria, while voters receive useful and pluralistic information.

Ethical framework: Professional responsibility beyond minimum legal compliance

SESSION METHOD *Facilitated synthesis* | **TIME** *8–10 minutes*

Law establishes minimum requirements. Ethical standards guide choices that legislation cannot sensibly regulate in detail. They are particularly important in newsrooms, online publishing and rapidly developing campaign situations.

- Accuracy and verification: verify significant claims and represent sources faithfully.
- Independence: disclose and manage political, financial and personal conflicts of interest.
- Fairness: provide relevant actors with a meaningful opportunity to respond; do not confuse fairness with mechanical neutrality.
- Transparency: distinguish editorial content, opinion, sponsored content and political advertising; disclose relevant methodology and sponsorship.
- Accountability: correct significant inaccuracies promptly and provide accessible complaints or response mechanisms.
- Responsible presentation: avoid manipulative editing, misleading headlines, decontextualised images and inflammatory framing.
- Respect for dignity, privacy and non-discrimination: report on candidates and communities without harassment, stereotypes or irrelevant intrusion.
- Service to voters: prioritise information that helps audiences understand choices, policies, records, procedures and consequences.

Ethical questions for newsrooms

- Why is this story, candidate or issue being selected?
- Are the criteria applied consistently and explainable?
- What relevant voice or fact is missing?
- Could the format mislead even if every individual statement is accurate?
- Is the audience clearly informed about who paid for or produced the content?

Equality and equity: the analytical distinction

For the purposes of the exercise, equality means giving each party or candidate the same amount of time or space. Equity means allocating access proportionally according to clear, reasonable and uniformly applied criteria. Neither formula is automatically correct in every setting. Strict equality may be appropriate for designated free airtime or where few contestants participate; an equitable model

may be more useful for editorial formats or crowded contests, provided significant viewpoints are heard and meaningful access is preserved.

TRAINER TRANSITION

Ask participants to identify whether the rule in the Croatia scenario requires equality, equity or merely fair and meaningful opportunity. Do not allow the terms to be used interchangeably.

Practical exercise: Croatia 2009-2010: equal treatment and editorial independence

SESSION METHOD *Small-group case analysis and plenary debrief* | **TIME** *20-25 minutes; 15-minute core version*

PARTICIPANT MATERIAL

Distribute the separate participant handout for this exercise. It reproduces the scenario, task and questions but excludes the outcome, debrief messages and trainer cautions presented below. Trainers should keep the following pages for their own use and should not display or distribute them until the participant discussion has concluded.

GUIDANCE FOR TRAINERS

Distribute the scenario without the outcome. Allocate groups to advise the regulator, broadcaster, excluded candidates, journalists' association or election observers. Require every proposed response to pass the proportionality test.

Scenario

Twelve candidates are contesting a presidential election. The election law requires the media to provide candidates with equal coverage and the same conditions of access. The public service broadcaster provides designated free airtime and organises debates involving all candidates.

A private television channel divides candidates into two groups using public opinion polls. It gives greater news coverage to the first group but offers separate debate programmes to both groups. Five candidates from the first group participate and one declines. Several candidates assigned to the second group complain of unequal treatment and decide not to participate in their debate.

The media regulator warns the broadcaster that it must treat all candidates equally. A journalists' association argues that dividing candidates into groups is necessary to produce informative and engaging programmes for voters.

Task

Advise the competent authority. Decide whether the broadcaster's approach complied with the applicable principles and what, if any, response would be lawful, necessary and proportionate.

SHORT EXTENSION PROMPT

A regional broadcaster stops covering the election entirely because it believes that giving identical news coverage to all twelve candidates is impracticable and fears breaching the law. Was the principal failure in the rule, its interpretation and enforcement, or the broadcaster's response?

Questions for discussion

1. What legitimate objective was the equal-coverage requirement intended to protect?
2. Does equal treatment require identical airtime for every candidate?
3. Should the same standard apply to news, interviews, debates and designated free airtime?
4. Should public service and private media have identical obligations?
5. Were opinion polls an appropriate basis for dividing candidates?
6. Were the criteria clear, objective, transparent and established in advance?
7. What effect could the restrictive interpretation have on voters' access to information?
8. What less restrictive response could address the candidates' concerns?
9. What remedy would protect both meaningful access and editorial independence?
10. Would the answer change if the smaller candidates were excluded entirely?

Croatia exercise: trainer debrief

Outcome and learning points

In the 2009-2010 Croatian presidential election, the State Election Commission and the Council for Electronic Media interpreted equal coverage restrictively. Regulatory bodies maintained that interviewing one candidate required equivalent airtime for all other candidates. The Council warned TV Nova following a complaint. TV Nova subsequently cancelled the second debate programme. The Croatian Association of Journalists criticised the intervention as interference with editorial policy.

The wider effect is important. According to the observation report, a regional television station decided not to provide election news because it could not realistically give identical treatment to all twelve candidates. A rule intended to expand electoral information therefore risked reducing it.

DEBRIEF MESSAGES

Equality provisions should be interpreted in light of their purpose, programme type and effect on voters.

Guaranteed access formats can be subject to stricter allocation rules than ordinary editorial news coverage.

Private media may retain wider editorial discretion than public service media, while remaining subject to transparent and non-discriminatory criteria.

A warning or sanction is not automatically proportionate merely because unequal airtime is demonstrated.

The regulator should consider corrective options that preserve useful coverage, such as transparent criteria, additional opportunities, a right of response or an alternative format.

Trainer caution

The case should not be used to argue that broadcasters may simply ignore smaller contestants. The analytical question is whether differentiated treatment was based on reasonable, transparent criteria and whether meaningful alternative access existed. Nor should restrictive over-interpretation be presented as the only regulatory risk: failure to monitor or enforce the rules, hidden bias and formally equal but qualitatively unequal coverage may be equally damaging. Detailed models of equal and equitable treatment are developed in Module 3.

Optional comparison - Iceland 2013: inclusion, usefulness and editorial choice

SESSION METHOD *Comparative plenary or second group exercise* | **TIME** *10–15 minutes*

PARTICIPANT MATERIAL

If this optional comparison is used as a separate exercise, distribute the Iceland section of the participant handout without the trainer's matched-pair method, contemporary extensions or other interpretative guidance.

Fifteen party lists contested the Icelandic parliamentary elections. Public service broadcaster RÚV sought to provide equal opportunities through constituency debates, party-leader debates and interviews. Some stakeholders nevertheless considered the debates overcrowded and insufficiently useful for comparing contestants, while election coverage in regular news remained limited.

Private Channel 2 concentrated on six parties polling above five per cent and organised separate debates for smaller parties. The two broadcasters therefore used different models: broad formal inclusion and poll-based editorial selection supplemented by alternative access.

MATCHED-PAIR METHOD

Present Croatia as a state-enforced restrictive interpretation and Iceland as a good-faith editorial or self-regulatory choice. The common mechanism is mechanical equality; the institutional source and available remedy are different.

Comparative questions

- Would the Croatian interpretation of equality improve or weaken coverage in a fifteen-party election?
- Which criteria may legitimately determine access to debates, interviews, news and free airtime?
- How should meaningful access be assessed when a programme cannot accommodate everyone effectively?
- Which obligations should differ between public service and private media?
- What evidence would show whether voters were better informed?

Optional contemporary extension

Georgia's 2024 parliamentary election provides a more recent example for an extended session. ODIHR reported that narrow interpretation of restrictive campaign provisions by the media regulator and courts led to sanctions against broadcasters and limited opposition parties' ability to campaign in the media. Use this only after checking the relevant national provisions and decisions; the example also involved wider problems of political bias and non-compliance, so it should not be reduced to a simple editorial-independence narrative.

Platform comparison: Romania and YouTube

For a contrasting platform example, trainers may use Romania and YouTube as discussion prompts. During Romania's 2024 presidential election, the European Commission issued TikTok a Digital Services Act data-retention order on 5 December; the Romanian Constitutional Court annulled the first round on 6 December; and the Commission opened formal DSA proceedings on 17 December concerning suspected failures to assess and mitigate election risks associated with recommender systems, political advertising and paid political content. The opening of formal proceedings did not constitute a finding that TikTok had violated the DSA.

By contrast, YouTube announced in June 2023 that it would stop removing certain false claims about past United States presidential elections. The platform reasoned that removing such content could restrict political speech without meaningfully reducing the risk of real-world harm. The two examples expose opposite sides of the regulatory dilemma: intervention may come too late to prevent systemic electoral harm, while overly restrictive moderation may unnecessarily limit political expression.

Platform dilemma - trainer prompt

Ask participants why a warning or right of reply may work for an individual broadcast programme but not for a recommender system. What proportionate and graduated measures could be used before election-related harm becomes irreversible? Could these include changes to recommender systems, increased transparency, political-advertising labels, restrictions on monetisation, preservation of relevant data or improved access for researchers and competent authorities? Finally, should a platform's own free-expression rationale receive the same weight as the editorial independence of a journalistic media outlet?

Training of trainers' guidance and assessment

Module-specific facilitation

Present legal standards as tools for resolving practical conflicts, not as a sequence of instruments to memorise. Begin with a dilemma and ask participants to identify the competing rights, legal basis, competent body and possible remedy before showing the proportionality framework. Common misunderstandings include treating equality as automatic identical airtime, assuming that harmful content is necessarily unlawful, and applying broadcast duties directly to platforms. Keep the distinction between Council of Europe standards, applicable EU law, national law, professional ethics and platform policy visible throughout.

Audience-specific application

Regulators should decide a complaint and justify a proportionate remedy. Judges and lawyers should test legality, necessity, procedural safeguards and review. Policymakers should redraft an ambiguous rule. Journalists should defend a workable editorial format. EMBs, observers and civil society should assess the effect on voters and electoral participation. In mixed groups, use the Croatia case with separate roles and require each group to state the limit of its authority.

Assessment and evaluation

Use the opening intervention dilemma as the entry diagnostic. Assess the participant's reasoning during the proportionality exercise and Croatia case, including whether the answer identifies the applicable rule, legitimate aim, evidence, less restrictive alternative and procedural safeguard. Use the key-takeaway task as the exit check.

Evidence of learning and trainer reflection

Participants meet the objective when they can distinguish law from ethics and platform policy, identify the competent actor, apply the proportionality sequence, and propose a remedy that protects voters without unnecessarily restricting editorial independence. Ask participants which step in their reasoning remained most uncertain. Trainers should note any national rule that requires verification before reuse.

Audience and national adaptation: Adjusting emphasis without duplicating the module

How to adapt the module

The module's core principles, learning outcomes and central case study should remain consistent across audiences. Adaptation should concern the emphasis, level of detail, questions posed, roles allocated and expected outputs - not the underlying standards. Trainers should select the professional perspective most relevant to the participants and use the same case to practise the decisions they would encounter in their own work. In mixed groups, participants should be assigned different stakeholder roles and required to negotiate a coordinated response.

Adapting training techniques

Training techniques should reflect the professional tasks participants perform in practice. Regulators should practise reaching and explaining proportionate decisions; judges and legal professionals should practise structured legal reasoning and review; policymakers should test the design and consequences of rules; journalists should make defensible editorial decisions under realistic time constraints; and civil society organisations and observers should distinguish evidence, assessment and advocacy. The same scenario may therefore be retained across audiences, but the participant's role, task, working method and expected output should change.

Audience	Recommended emphasis	Recommended training techniques
Media regulators	Emphasise jurisdiction, institutional independence, monitoring, reasoned decisions and proportionate remedies. Use the Croatia case as a mock regulatory decision in which participants determine jurisdiction, assess the evidence and draft the operative part of a decision.	Mock regulatory hearing; analysis of a complaint file; drafting a short decision; proportionality ladder; institutional-mandate mapping; peer review of proposed remedies.
Election management bodies	Emphasise mandate boundaries, official voter information, referrals and coordination with media regulators and other competent authorities. Use an institutional-mapping exercise resulting in a referral or coordination protocol.	Mandate-mapping exercise; election-day coordination simulation; referral-pathway design; response to a hypothetical candidate complaint; preparation of an inter-agency protocol.
Legal professionals and policymakers	Emphasise convention compatibility, legal certainty, differentiated obligations, proportionality, appeals and institutional design. Ask participants to review or redraft a legal provision and test it against the Croatia scenario.	Moot court or structured case hearing; comparative case-law analysis; legality and proportionality test; judgment-reasoning exercise; review of a disputed legal provision.
Journalists and media practitioners	Emphasise editorial independence, selection criteria, public/private distinctions, accuracy, fairness, labelling and complaints. Use a newsroom exercise in which participants design a workable debate or coverage format and explain their editorial criteria.	Newsroom simulation under time pressure; editorial conference; design of a candidate debate; headline or story-framing exercise; role-play between an editor and an excluded candidate; development of transparent editorial criteria.
Civil society and observers	Emphasise evidence, monitoring methodology, documentation, reporting and assessment of remedies. Ask participants to identify observable indicators, assess the effect on voters and formulate evidence-based findings without assuming the regulator's adjudicative role.	Monitoring-data interpretation; evidence-versus-assumption exercise; drafting an observation finding; stakeholder mapping; assessment of a complaint or remedy from the voter's perspective; development of monitoring indicators.

Where time is limited, trainers should adapt the perspective and exercise output rather than remove the fundamental-rights framework, proportionality test or distinction between equality and equity.

Using one case with different audiences

The Croatia case may be adapted by changing the professional role, task and expected output while retaining the same facts and underlying standards:

- Media regulators: decide the complaint, provide reasons and select a proportionate remedy.
- Judges: review the regulator's intervention for legality, procedural fairness, necessity and proportionality.
- Lawyers: represent the broadcaster, excluded candidates or regulatory authority and present arguments based on the applicable rights and standards.
- Policymakers and legislative drafters: identify the ambiguity in the "equal coverage" requirement and propose clearer wording that protects fairness without imposing mechanical equality.
- Journalists and editors: construct a workable debate and coverage format, establish transparent selection criteria and explain how excluded candidates would receive meaningful alternative access.
- Civil society organisations and election observers: assess the effects on pluralism, contestants' opportunities and voters' access to information, distinguish facts from conclusions and formulate an evidence-based finding.

For a mixed group, assign these roles to different teams and conclude with a simulated hearing or coordination meeting. Participants should compare the different mandates, identify areas of conflict or overlap and seek a response that protects fairness, editorial independence and informed voter choice.

National adaptation checklist

- Which constitutional and statutory rights govern electoral expression and media freedom?
- Which rules apply to public service media, private broadcasters, online editorial media, social-media platforms and other intermediary services?
- What do equal, equitable, balanced, impartial or fair coverage mean in national law?
- Which institution has jurisdiction over each actor and type of content?
- For EU contexts, which body is the Digital Services Coordinator, which authorities are designated under Regulation (EU) 2024/900, and which matters fall to the European Commission?
- How are cases involving political advertising, platform duties and personal-data targeting coordinated among authorities?
- Are appointments, budgets and dismissal protections sufficient for institutional independence?
- Can complaints and appeals be decided within the election timetable?
- Which remedies are available and are they proportionate and practically effective?
- How are paid content, political advertising, polls, silence periods and rights of reply treated?
- What ethical or self-regulatory mechanisms supplement the law?
- Where do national rules create gaps, overlaps or risks to editorial independence?

Completion: Key takeaways

- Freedom of expression, media freedom and free elections are mutually reinforcing foundations of electoral communication.
- No single regulatory model is suitable for every country or every category of media.
- The objective is meaningful fairness and informed voter choice, not mechanical uniformity in every programme.
- Restrictions must have a clear legal basis, pursue a legitimate aim and be necessary and proportionate.

- Public service obligations, private editorial freedom and the function of different programme formats must be distinguished.
- Independent institutions, fair procedures, timely review and corrective, proportionate remedies are essential.
- Ethical journalism and self-regulation remain indispensable even where detailed legal rules exist.

Assessment and reflection

- Name the four principal questions that must be answered before restricting election-related expression.
- Give one example where identical treatment could reduce substantive fairness or useful voter information.
- Identify one national rule or institutional practice that should be clarified before the next election.
- What would you change in your professional practice after completing this module?

Recommended resources

- Council of Europe, Recommendation CM/Rec(2022)12 on electoral communication and media coverage of election campaigns.
- Council of Europe, Recommendation CM/Rec(2007)15 on measures concerning media coverage of election campaigns.
- European Convention on Human Rights, Article 10 and Article 3 of Protocol No. 1; relevant ECtHR case-law guides and factsheets.
- Venice Commission, Code of Good Practice in Electoral Matters.
- Regulation (EU) 2022/2065 (Digital Services Act), for applicable EU contexts.
- European Commission, Guidelines for providers of very large online platforms and very large online search engines on the mitigation of systemic risks for electoral processes, C/2024/3014.
- Regulation (EU) 2024/900 on the transparency and targeting of political advertising, for applicable EU contexts.
- European Commission, Digital Services Act actions concerning TikTok and the 2024 Romanian presidential election.
- YouTube, “An update on our approach to US election misinformation”, 2 June 2023.
- OSCE/ODIHR, Handbook on Media Monitoring for Election Observation Missions.
- OSCE/ODIHR, Final Report: Croatia Presidential Election, 27 December 2009 and 10 January 2010.
- OSCE/ODIHR, Final Report: Iceland Parliamentary Elections, 27 April 2013.
- OSCE/ODIHR, Final Report: Georgia Parliamentary Elections, 26 October 2024, as an optional contemporary extension.

Trainer follow-up

After delivery, record which distinctions caused difficulty, whether the case reflected the participants’ national context, which legal sources require updating and which issues should be carried forward to Module 3.

Module 2: Legal and ethical framework

Training material to be shared with participants

CONTENTS

CROATIA 2009–2010: EQUAL TREATMENT AND EDITORIAL INDEPENDENCE 20

ICELAND 2013: INCLUSION, USEFULNESS AND EDITORIAL CHOICE..... 21

Croatia 2009–2010: equal treatment and editorial independence

WORKING METHOD **Small**-*group case analysis followed by plenary discussion* | **SUGGESTED TIME** *15–20 minutes*

Scenario

Twelve candidates are contesting a presidential election. The election law requires the media to provide candidates with equal coverage and the same conditions of access. The public service broadcaster provides designated free airtime and organises debates involving all candidates.

A private television channel divides candidates into two groups using public opinion polls. It gives greater news coverage to the first group but offers separate debate programmes to both groups. Five candidates from the first group participate and one declines. Several candidates assigned to the second group complain of unequal treatment and decide not to participate in their debate.

The media regulator warns the broadcaster that it must treat all candidates equally. A journalists' association argues that dividing candidates into groups is necessary to produce informative and engaging programmes for voters.

Task

Advise the competent authority. Decide whether the broadcaster's approach complied with the applicable principles and what, if any, response would be lawful, necessary and proportionate.

Questions for discussion

11. What legitimate objective was the equal-coverage requirement intended to protect?
12. Does equal treatment require identical airtime for every candidate?
13. Should the same standard apply to news, interviews, debates and designated free airtime?
14. Should public service and private media have identical obligations?
15. Were opinion polls an appropriate basis for dividing candidates?
16. Were the criteria clear, objective, transparent and established in advance?
17. What effect could the restrictive interpretation have on voters' access to information?
18. What less restrictive response could address the candidates' concerns?
19. What remedy would protect both meaningful access and editorial independence?
20. Would the answer change if the smaller candidates were excluded entirely?

Iceland 2013: inclusion, usefulness and editorial choice

WORKING METHOD *Comparative group exercise or facilitated plenary* | **SUGGESTED TIME** *10–15 minutes*

Scenario

Fifteen party lists contested the Icelandic parliamentary elections. Public service broadcaster RÚV sought to provide equal opportunities through constituency debates, party-leader debates and interviews. Some stakeholders nevertheless considered the debates overcrowded and insufficiently useful for comparing contestants, while election coverage in regular news remained limited.

Private Channel 2 concentrated on six parties polling above five per cent and organised separate debates for smaller parties. The two broadcasters therefore used different models: broad formal inclusion and poll-based editorial selection supplemented by alternative access.

Task

Compare the two approaches. Identify which model better protects meaningful access, editorial independence and voters' ability to understand the available choices. State what additional information you would need before reaching a conclusion.

Questions for discussion

21. Would a strict requirement of identical treatment improve or weaken coverage in a fifteen-party election?
22. Which criteria may legitimately determine access to debates, interviews, news and designated free airtime?
23. How should meaningful access be assessed when a programme cannot accommodate everyone effectively?
24. Which obligations should differ between public service and private media?
25. What evidence would show whether voters were better informed?
26. What safeguards should accompany poll-based selection?
27. Could alternative interviews or separate debates compensate for exclusion from the principal debate?

COUNCIL OF EUROPE

HUMAN RIGHTS, DEMOCRACY AND THE RULE OF LAW



DROITS DE L'HOMME, DÉMOCRATIE ET ÉTAT DE DROIT

CONSEIL DE L'EUROPE

MODULE 2
LEGAL AND ETHICAL FRAMEWORK

Purpose and learning outcomes

- Identify the main European legal and ethical standards
- Connect expression, pluralism and the right to free elections
- Distinguish law, regulation, co-regulation and self-regulation
- Map institutional and professional responsibilities
- Apply legality, necessity and proportionality
- Recognise ethical issues requiring national adaptation

CORE | 85–90 MINUTES | EXTENDED 110–120 MINUTES

Central regulatory challenge

Protect fairness and meaningful opportunities for contestants

while

preserving editorial independence and useful information for voters

The balance depends on the actor, programme, medium, risk and national framework.

Opening dilemma

A private channel invites only leading candidates to a prime-time debate. The law requires equal treatment but does not define identical airtime.

- NO ACTION
- GUIDANCE
- WARNING
- CORRECTIVE MEASURE
- SANCTION
- MORE FACTS

ACTIVITY | 8–10 MINUTES

Freedom of expression and free elections

ARTICLE 10 ECHR

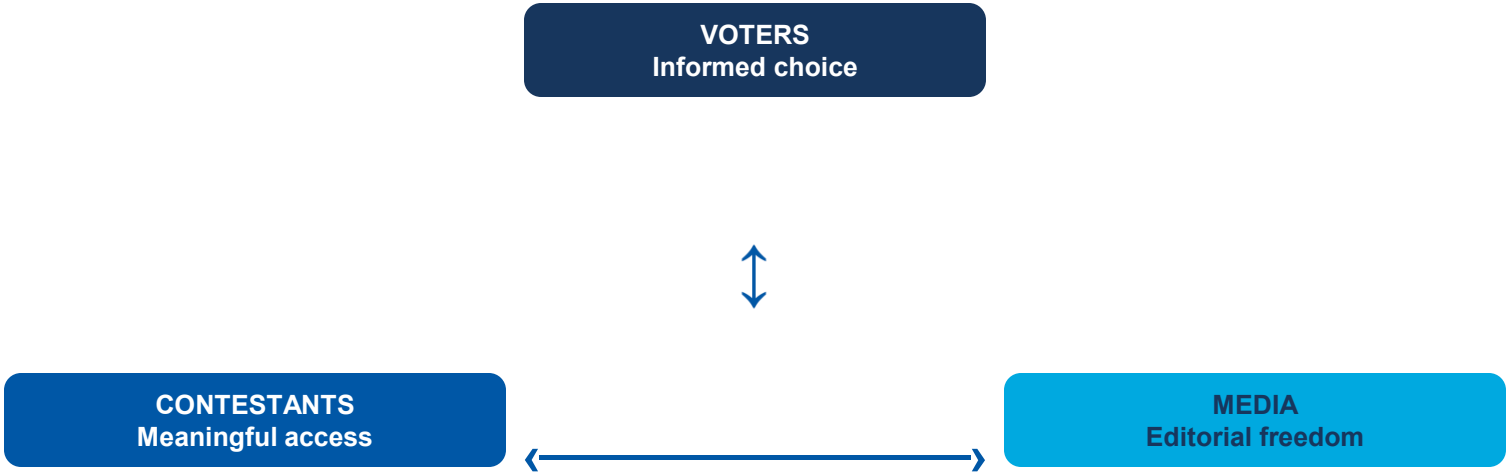
Freedom to hold opinions and to receive and impart information and ideas

PROTOCOL No. 1, ARTICLE 3

Free elections under conditions ensuring the free expression of the opinion of the people

Read the guarantees together. Election periods do not suspend political expression or journalism.

Interrelated rights and responsibilities



No interest automatically decides every case.

Sources of rules

ECHR	Binding State obligations	**ECtHR CASE LAW**	Interpretation of Convention rights
CM RECOMMENDATIONS	Authoritative standards for policy and practice	**VENICE COMMISSION**	Electoral principles and safeguards
EU LAW*	Additional duties in applicable EU contexts	**NATIONAL FRAMEWORK**	Enforceable rules, mandates and remedies

* Digital Services Act and Regulation (EU) 2024/900

Council of Europe standards

CM/REC(2022)12

Current overarching framework across traditional media, online media and platforms

CM/REC(2007)15

Detailed election-campaign principles for media coverage and editorial independence

The 2022 recommendation complements the 2007 text and extends the framework to the contemporary digital environment.

Different media, differentiated duties

PUBLIC SERVICE	Pluralistic, independent and accessible service
PRIVATE BROADCASTERS	Editorial freedom plus national election duties
PRINT AND ONLINE NEWS	Editorial responsibility and professional standards
PLATFORMS	System design, moderation and advertising duties
POLITICAL ACTORS	Sponsorship, spending and conduct rules

Why platforms require a different logic

BROADCAST	PLATFORMS AND VLOPs
Identifiable editorial decision	Personalised recommender systems
Discrete programme or item	Moderation and advertising at scale
Direct and timely correction	Systemic risk and due diligence

A warning or right of reply cannot by itself correct a system that serves different content to every user.

Choosing the appropriate instrument

LEGISLATION	Rights, duties, mandates and serious violations	**INDEPENDENT REGULATION**	Guidance, monitoring, complaints and remedies
CO-REGULATION	Industry participation with public accountability	**SELF-REGULATION**	Professional ethics, correction and complaints
EDITORIAL POLICIES	Formats, verification, labelling and conflicts	**NON-RESTRICTIVE ACTION**	Dialogue, transparency, voter information and literacy

ACTIVITY | INSTRUMENT MATCHING | 10–12 MINUTES

Institutional map

MEDIA REGULATOR	Broadcast and audiovisual rules
ELECTION BODY	Procedures, official information and referrals
COURTS	Timely review and due process
DSC / COMMISSION*	DSA supervision and systemic risks
TTPA / DATA AUTHORITIES*	Advertising transparency and targeting
CIVIL SOCIETY	Monitoring, evidence and public scrutiny

* EU contexts

Independent and effective oversight

- Transparent appointment and removal safeguards
- Adequate expertise and resources
- Clear jurisdiction and fair procedures
- Public, reasoned and timely decisions
- Effective review within the election timetable
- Corrective and proportionate remedies

Proportionality framework

1 LEGAL BASIS

2 LEGITIMATE AIM

3 EVIDENCE AND RISK

4 SUITABILITY

5 NECESSITY

6 BALANCING

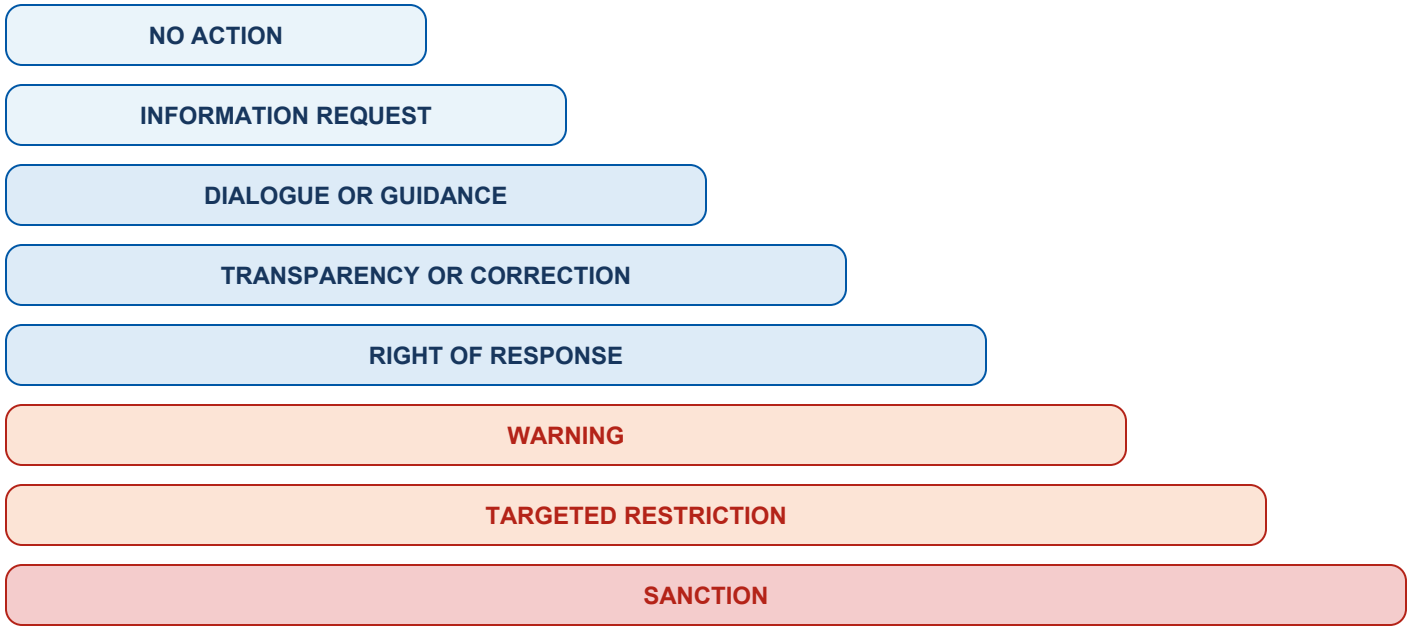
7 DIFFERENTIATION

8 PROCEDURE

9 REMEDY

Differentiation asks whether the medium, programme type, reach or public-service role justifies a different obligation.

Remedy ladder



Ethics beyond minimum compliance

ACCURACY	Verify significant claims	**INDEPENDENCE**	Disclose and manage conflicts
FAIRNESS	Offer meaningful response	**TRANSPARENCY**	Identify sponsorship and format
ACCOUNTABILITY	Correct significant errors	**RESPONSIBLE PRESENTATION**	Avoid manipulation and inflammatory framing
DIGNITY AND PRIVACY	Avoid stereotypes and irrelevant intrusion	**SERVICE TO VOTERS**	Explain choices, records and procedures

Newsroom questions

- Why was this story, candidate or issue selected?
- Are the criteria consistent and explainable?
- Which relevant voice or fact is missing?
- Could the format mislead even if each statement is accurate?
- Does the audience know who produced or paid for the content?

Equality and equity

EQUALITY

The same amount of time or space for every contestant

EQUITY

Access allocated through clear, reasonable and consistently applied criteria

The appropriate model depends on the format, number of contestants and purpose of the rule.

Croatia 2009–2010: the case

- Twelve presidential candidates
- The law required equal coverage and the same access conditions
- A private channel created two groups using opinion polls
- Both groups received separate debate opportunities
- Candidates in the second group complained and declined to participate
- The regulator warned the broadcaster

ACTIVITY | EXERCISE 1 | 15–20 MINUTES

Croatia: group task

Advise the competent authority

- What legitimate objective does equal coverage protect?
- Does equal treatment require identical airtime?
- Should news, debates and designated free airtime follow one standard?
- Were poll-based criteria clear, objective and established in advance?
- What effect could a restrictive interpretation have on voter information?
- Which response would be lawful, necessary and proportionate?

GROUP WORK | EXERCISE 1

Croatia: outcome and debrief

REGULATORY ACTION

Authorities interpreted equality restrictively and warned TV Nova.

BROADCASTER RESPONSE

TV Nova cancelled the second debate.

WIDER EFFECT

A regional station avoided election news because identical coverage appeared impracticable.

A rule intended to expand information risked reducing it.

Croatia: debrief messages

- Interpret equality in light of purpose, programme type and effects on voters
- Stricter allocation rules may suit guaranteed access better than ordinary news
- Private media may retain wider discretion than public service media
- Unequal airtime alone does not determine a proportionate remedy
- Transparent criteria, additional opportunities or a right of response may correct the problem

Iceland 2013: optional comparison

OPTIONAL OR EXTENDED

- Fifteen party lists contested the election
- Public broadcaster RÚV pursued broad formal inclusion
- Some stakeholders found debates overcrowded and less useful
- Private Channel 2 focused on six parties polling above five per cent
- Smaller parties received separate debates

OPTIONAL ACTIVITY | EXERCISE 2 | 10–15 MINUTES

Broadcast and platform remedies

OPTIONAL OR EXTENDED

PROGRAMME-LEVEL ISSUE	SYSTEM-LEVEL ISSUE
Warning	Risk mitigation
Correction	System transparency
Right of response	Advertising labels
Alternative access	Data preservation and research access

Select a remedy that matches the mechanism of harm.

One case, different professional tasks

REGULATORS	Decide the complaint and remedy	**EMBs**	Design referral and coordination
LAWYERS AND JUDGES	Argue or review legality and proportionality	**POLICYMAKERS**	Redraft the ambiguous equality rule
JOURNALISTS	Design a workable debate format	**CIVIL SOCIETY / OBSERVERS**	Draft an evidence-based finding

OPTIONAL OR EXTENDED

National adaptation checklist

OPTIONAL OR EXTENDED

- Which rules govern expression, elections and each media category?
- What do equal, equitable, balanced, impartial or fair mean nationally?
- Which institution has jurisdiction over each actor and content type?
- Can complaints and appeals be decided within the election timetable?
- Which remedies are available and practically effective?
- How do political advertising, data targeting and platform duties connect?
- Which ethical mechanisms supplement the law?

Assessment and reflection

- Name the four principal questions before restricting electoral expression
- Give an example where identical treatment could reduce substantive fairness
- Identify one national rule or institutional practice requiring clarification
- State one change you would make in your professional practice

Key messages

- Expression, media freedom and free elections reinforce one another
- Meaningful fairness matters more than mechanical uniformity
- Different media and programme formats may justify different duties
- Restrictions require clear law, evidence, necessity and proportionality
- Independent institutions and timely corrective remedies are essential
- Ethical journalism remains indispensable beyond legal compliance

END OF MODULE 2