Council of Europe Opinion on Ukrainian new media law

IRIS 2023-5:1/15

Andrei Richter
Comenius University (Bratislava)

Following the adoption of the draft Law "On the Media" by the Ukrainian Parliament on 13 December 2022 (see IRIS 2023-1/6), the Directorate General of Human Rights and Rule of Law of the Council of Europe (CoE) published an Opinion (based on the expertise of two CoE experts) on the correspondence of the new Law with the EU 2018/1808 Audiovisual Media Services Directive (AVMSD) as well as with CoE standards. The Opinion was prepared within the CoE Project "Safeguarding Freedom of Expression and Freedom of Media in Ukraine", aimed at supporting the Ukrainian media community in addressing needs under the situation of the current war.

The Directorate General's Opinion states that "[t]o the extent that the Law covers the topics contained in AVMSD, it largely aligns with the Directive, and the same applies regarding its compliance with Council of Europe standards." Still, it points out certain problematic elements and recommends they are addressed by the Parliament.

In relation to the media regulator, the National Council, the Opinion notes that the conflict of interest provisions "do not go far enough and should be extended to ensure" that its members and their close relatives "do not have *any* direct financial interest in a licensee or registered entity in the media sector."

According to the Opinion, the new Law provides "severe restrictions on freedom of expression" as to the possibilities of dissemination of media content if owned and/or managed by subjects affiliated with a state acknowledged by the Parliament as an aggressor state, both for the period decided by the Parliament and for five years after Parliament has revoked that status.

The Opinion reiterated the concerns of the Director General of Human Rights and Rule of Law of the Council of Europe "about violations of the right to freedom of expression" and his earlier remarks "that what may be justifiable under human rights law in emergency situations, including war, may be considered disproportionate looking at the longer term." The Opinion recommends that after the end of the armed aggression, the Parliament examines the likelihood of threats to national security, territorial integrity or public safety from the former aggressor state, or the extent to which the relevant restrictions act to prevent disorder or crime. It suggests a more nuanced approach, rather than blanket

© European Audiovisual Observatory (Council of Europe) 2026

prohibitions at that time, in which instance the National Council may need to be given greater discretion to assess the risks on a case-by-case basis.

The Opinion also refers to an existing practice where registration of foreign linear media is refused by the national media regulator for violations of the European Convention on Transfrontier Television (ECTT). It concludes that "[t]his solution is not inconsistent with the ECTT, according to which States are to guarantee freedom of reception and should not restrict the retransmission on their territories of any programmes originating from parties to the Convention which comply with the terms of the Convention."

Council of Europe, Opinion of the Directorate General Human Rights and Rule of Law, Information Society and Action against Crime Directorate, Information Society Department, prepared on the basis of the expertise by Council of Europe experts: Eve Salomon and Tanja Kerševan on the Law "On Media" of Ukraine. DGI (2023)03, Strasbourg, 24 February 2023.

https://rm.coe.int/dgi-2023-03-ukraine-tp-law-on-media-2751-9297-4855-1-2753-6081-2551-1/1680aa72df

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026