

Media and digital rights

Regulation in Ukraine

Digital Security Lab Ukraine launches a monthly digest on media and digital rights regulation in Ukraine. Herein, our experts will provide an overview of the proposed and adopted legislation in the spheres of freedom of expression, media regulation, privacy and data protection, and Internet regulation in general. DSLU will also include a separate section on the activities of the National Broadcasting Council in the area of Media Law implementation.

Events and highlights

On 27 July, Verkhovna Rada of Ukraine [dismissed Oleksandr Tkachenko, the Minister for Culture and Information Policy](#). His First Deputy Minister, [Rostyslav Karandziej, was appointed interim](#) on 28 July. It is, therefore, still being determined whether the Ministry will remain intact in its current form and whether information policy will be one of its priorities: this is highly dependent on the next appointee.

Additionally, on 27 July, [martial law was extended for another three months](#) by the President and the Parliament. This means that at least until 15 November 2023, additional restrictions on media freedoms, such as the “united marathon”, [applicability of the aggression-related exceptions under the Law on Media](#), [extraordinary website blocking powers by the National Center for Operational Management of Electronic Communications Networks \(NCON\)](#), will be retained.

Freedom of Expression and Media Regulation

In July, the most heated topic was the submission by the President of Ukraine to the Parliament of [the Draft Law on the Use of English Language in Ukraine \(#9432\)](#). Its norms are predominantly aimed at putting an obligation of English knowledge of a certain level on certain public officials and enhancing its role in public life (education, healthcare, etc.). However, it also established an obligatory requirement to run English-language movies in cinemas in English with Ukrainian subtitles and excluded programs in English from the general volume of programs to count the Ukrainian language quotas on TV. These norms sparked controversy, with their opponents citing the possibility of destroying the dubbing industry and potentially causing harmful

effects to the use of Ukrainian. On 24 July, the Parliamentary Committee on Humanitarian and Information Policy [approved the adoption of the Draft in the first reading without the controversial norms cited above](#) and dismissed the alternative draft prepared by the MPs from the Holos faction ([#9432-1](#)).

Another draft law bearing potential effects on freedom of expression was the proposal by the MPs from various factions **to strengthen the criminal liability for publishing the movements of the Armed Forces of Ukraine and their supplies from international partners during the martial law** before this information was published by the official sources, [introduced earlier in March 2022](#). This [Draft Law #9519](#) does not amend the elements of the crime, limiting itself to enlarging the sanctions for the violation. For instance, if this publication is made with aggravating circumstances (such as submitting the information to the aggressor-state officials or if such submission led to severe consequences), it would be punishable by 10-15 years or even life imprisonment. The punishment for ordinary breaches also substantially raises – the lightest possible sentence is five years imprisonment. **The prospects of its adoption are unclear** since all but one MPs who submitted the draft belong to the opposition factions (European Solidarity and Holos), and the Parliamentary Committee on Law Enforcement Activities is currently reviewing it. Its adoption **may negatively impact freedom of expression**, as even unintentional dissemination of the described types of information may lead to criminal liability involving disproportionate sanctions.

Privacy and data protection

The only piece of legislation which was considered in the Parliament in July and related to privacy was [Draft Law #9396](#), amending the Criminal Procedure Code of Ukraine. It proposes **to eliminate the provision allowing the prosecutor to temporarily access objects and documents which contain sensitive personal data (such as health information, bank information, and Internet traffic data) in a criminal proceeding during martial law without the court's consent** and solely based on the prosecutor's order, [which was adopted in March 2022](#) in the wake of the full-scale invasion. On 24 July, the Committee on Law Enforcement Activities recommended including it in the Verkhovna Rada's agenda for further adoption. Its adoption **may have a positive impact** in providing additional safeguards for journalists and civil society actors in criminal proceedings. The possibility of applying these measures solely under the prosecutor's order will remain under Article 615 of the Criminal Procedure Code – but only if there is an objective impossibility by the investigative judges to perform their duties. Thus, these provisions'

application will likely be limited to the territories where the courts are not functioning, for instance, in the occupied territories and territories of active combat.

Internet Regulation

On 5 July, the President signed [the Law of Ukraine on Consumer Rights Protection](#), which will enter into force in one year (on 7 July 2024) or after the martial law is lifted, whichever of these two circumstances occurs later. This Law aims to update the consumer protection system in line with the EU legislation on the matter. As regards the Internet, it introduces **additional anti-spam provisions**, guaranteeing the right to unsubscribe from commercial messages if the buyer had previously agreed to receive them, and **provides the possibility for blocking websites of sellers** if they fail to publish accurate information on their name and location and this makes any inspection impossible. The authority empowered with the right to contact Internet service providers with requests for website blocking is the State Service on Food Safety and Consumer Protection. **The procedural details of this website blocking mechanism shall be set out by the Cabinet of Ministers** in the period of 6 months after the law enters into force (that is – not earlier than in the period between July 2024 and January 2025).

Another law adopted on 13 July was the Law on the Use of Unmanned Air Vehicles (UAV) by Law Enforcement and Combatting UAVs Illegal Use ([#8185](#)). The text adopted in the first reading contained the possibility of imposing Internet shutdowns by the military and law enforcement units to ensure national security and public order for a limited period and in separate regions of Ukraine to eliminate risks and harm to human life. However, **this overbroad norm was excluded from the final version of the text**. Currently, [the adopted text](#) contains the rules on the use of drones for law enforcement and their competencies to strike them down to prevent the commission of crimes or threats to persons' lives or health and provides no additional limitations neither on the use of drones for reporting outside the border zones nor for shutting the Internet down in different areas of Ukraine. It was signed by the President on 31 July.

One important draft law submitted in the Parliament on 6 July is [Draft Law #9463](#). Its provisions, while initially aiming at changing certain terminology in the Law on Electronic Communications, also **implicitly legalize the practice of blocking websites under the sanctions orders** by including the requirement of compliance with these orders as a prerequisite to providers' keeping their general authorization (the name for the registration procedure

in the respective law). Simultaneously, the Law on Sanctions is not amended to finally include website blocking as a type of sanction. Non-compliance with the National Security and Defense Council's requirement to block a particular website under the sanctions regime is proposed to result in a penalty of 34000 UAH (roughly 900 USD) for the provider, and the repeated violation in one calendar year will cost the provider 68000 UAH (1800 USD). **While [civil society actors have long asked to clarify the use of sanctions in the legislation](#), the respective amendments should include the introduction of website blocking as a sanction to the Law on Sanctions** rather than remain based on the vague norm allowing to impose “other sanctions principles of which application correspond to the principles of sanctions application under the respective law”. The draft is currently being considered by the Parliamentary Committee on Digital Transformation and has not been recommended for adoption yet.

National Broadcasting Council

The media regulator continued its work on implementing the Law on Media. Among the highlights of its work in July are:

- the creation of the [List of aggressor state non-linear audiovisual media services](#) and the inclusion of two Russian VOD services in it (IVI and [Tvigle](#));
- the first-ever registration of the Ukrainian VOD service ([1+1 Video](#));
- the first-ever registration of a Telegram channel as online media ([Vid Sela Do Mista](#));
- the announcement of [the competition for the new MX-7 network](#) used for digital broadcasting.

While not adopting any new implementing acts in July, the National Broadcasting Council also put out several new regulations for public consultations on its website. The chief among them are [the Draft List of territories with the special broadcasting regime](#), which will influence the scope of temporary broadcasting licenses issued by the Council, and [the Draft Model Statute for local public audiovisual media](#). The entire list of acts open for public consultation [can be accessed here](#).

Digital Security Lab Ukraine is a non-government organization aiming to create a human-rights-centered digital environment in Ukraine. We work toward achieving this goal by providing digital security support for high-risk Ukrainian human rights and media organizations and by contributing to policy development in the field of human rights on the Internet through conducting legal monitoring, research and analysis, advocacy, and awareness-raising campaigns.

Contact us: dslua@dslua.org

