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DIRECTORATE GENERAL OF DEMOCRACY AND HUMAN DIGNITY
(DGII)

ARMENIA

JOINT OPINION

ON

**THE DRAFT LAWS ON AMENDING AND SUPPLEMENTING THE
“LAW ON MASS MEDIA” AND THE CIVIL CODE**

**Adopted by the Venice Commission
at its 140th Plenary session
(Venice, 11-12 October 2024)**

On the basis of comments by

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I. Introduction

1. By letter of 12 July 2024, Mr Grigor Minasyan, Minister of Justice of Armenia, requested an opinion of the Venice Commission on the draft laws amending and supplementing the “Law on Mass Media” (“draft law”) and the Civil Code of Armenia ([CDL-REF\(2024\)032](#)).

2. Mr Christoph Grabenwarter, Mr Cesare Pinelli, Mr Jan Velaers, members of the Commission, and Mr Andrei Richter, expert of the Directorate General of Democracy and Human Dignity (DGII), Council of Europe, acted as rapporteurs for this Opinion.

3. On 19 and 20 September 2024, a joint delegation of the Venice Commission and DGII composed of Mr Pinelli and Mr Richter, accompanied by Mr Vahe Demirtshyan from the Commission’s Secretariat, visited Yerevan and had meetings with representatives of the Ministry of Justice and of the Human Rights Defender, Members of Parliament representing the ruling party and the opposition, representatives of the Public Relations and Information Center of the Prime Minister’s Office, the chairman of the TV and Radio Commission, the chairman of the Council of Public Broadcaster, as well as with civil society and international organisations. The Venice Commission and DGII are grateful to the Armenian authorities and the Council of Europe Office in Yerevan for the excellent organisation of this visit.

4. This Opinion was prepared in reliance on the English translation of the draft law. The translation may not accurately reflect the original version on all points.

5. This Opinion was drafted on the basis of comments by the rapporteurs and the results of the meetings on 19 and 20 September 2024. Following an exchange of views with Mr Karen Karapetyan, Deputy Minister of Justice of Armenia, it was adopted by the Venice Commission at its 140th Plenary Session (Venice, 11-12 October 2024).

II. Background

A. Overview of the draft amendments

Purpose of the draft amendments to the Law “On Mass Media”

6. According to the explanatory note, the proposed amendments seek to strengthen the framework of media self-regulation in Armenia, emphasising the media’s pivotal function in a democratic society. This perspective recognises the media not solely as a conduit for information dissemination but as a “public watchdog”, an essential guardian of human rights and an influencer of public opinion. However, the explanatory note also highlights that the efficacy of such a self-regulatory system is contingent upon the media outlets’ commitment to adopting self-regulation and the public’s awareness and understanding of the system’s role and operational mechanisms.

Media self-regulation

7. The key change in the draft law, according to the explanatory note, is the enforcement of the media self-regulation which is a component of social responsibility, and will help the media to be editorially independent and free from the control of the state and owners, not to be only profit-seeking structures but to bear a certain accountability to the society, taking into account the informational needs and demands of different groups of the public.

8. As mentioned in the explanatory note, the mass media self-regulation system should be of primary significance in establishing socially responsible and ethical journalism; the existence of an effectively functioning self-regulation system derives from both the interests of the journalists’ community, the public (media consumers) and the state. Therefore, the establishment of the mass media self-regulation system may become an effective mechanism for solving the

problems of unfair journalism, non-compliance with the norms of journalistic ethics, and the spread of misinformation.¹

9. The draft law defines the concept of media self-regulation within the Law “On Mass Media” as an integral component of the social responsibility of the media. The objective of this definition is to ensure the quality of media activities free from state intervention, thereby reinforcing the independence and accountability of the media sector. It is also proposed to establish a code of ethics and create a self-regulatory body for evaluating media outlets. This would encompass mechanisms for enforcing the provisions of the code of conduct, ensuring that media entities adhere to established ethical standards. The draft law also envisages to establish a procedure for the recognition of self-regulatory bodies within the Law “On Mass Media” by certification of conformity with the aim to provide a clear legal framework for the establishment and operation of such bodies.

10. The draft law introduces provisions that promote the fulfilment of self-regulation obligations. For example, media outlets with a self-regulation system should be guaranteed the right to accreditation in state and public institutions “without any preconditions”. With the aim to enhance transparency and trust in the media, the draft law also recommends establishing grounds that would allow for the distinction and public identification of media entities that operate under recognised self-regulatory bodies in accordance with the law.

Media Council

11. One of the principal changes introduced in the draft law is the establishment of the Media Council, which will be an independent, membership-based, non-commercial organisation composed of representatives of recognised self-regulatory bodies, officially established upon state registration. Its activities will be governed by the law and its statute (by-laws), which will outline the grounds and procedures for terminating membership. The Council's functions will include recognising individual self-regulatory bodies, periodically (re-)confirming their status, and ensuring their compliance with international standards. Additionally, the Media Council will maintain a public register of “subjects of public awareness” – those media undertakings that accept one or another self-regulation mechanism. Furthermore, the allocation of state subsidies and grants to “implementers of media activities” will be contingent upon their recognition as subjects of public awareness by the Media Council.

New definitions

12. The draft law also proposes introducing and restating the key concepts defined in the Law “On Mass Media” to align them with current international standards. This entails updating definitions and frameworks to reflect contemporary global norms in media regulation and practice. The draft law stipulates definitions for the following concepts: media activities, mass media, implementer of media activities, journalist, subject of public awareness, code of ethics, self-regulatory bodies, and recognised self-regulatory bodies.

13. Finally, the draft law foresees the establishment of mechanisms to facilitate the recognition of the self-regulatory bodies during a transitional period.

Draft law supplementing and amending the Civil Code

14. To promote recourse to self-regulatory bodies in matters concerning protection from defamation and insult, pre-judicial measures are provided for in the Civil Code. Specifically, the proposed amendments to the Civil Code stipulate that, when determining the amount of

¹ See the explanatory note, [CDL-REF\(2024\)032](#), page 9.

compensation for insult and defamation, the court shall also “take into account” whether the plaintiff has applied to a self-regulatory body “recognised” under the Law “On Mass Media.” Furthermore, the one-month period for initiating court proceedings in such cases shall commence either from the acceptance of the opinion of the relevant self-regulatory body or from the expiration of the period allocated for the examination of the application.²

B. National Legal Framework

The Constitution of Armenia

15. The legal framework concerning media freedom in Armenia is primarily established by the Constitution,³ which enshrines the fundamental principles of freedom of expression and media independence. Article 42 of the Constitution guarantees the right to freedom of expression, including the right to seek, receive, and impart information. Furthermore, it mandates the state to promote independent public television and radio, thereby encouraging pluralism and diversity in news, cultural, educational, and entertainment content.

16. The right of everyone (including journalists) to access information is protected under Article 51 of the Constitution and further detailed in the Law on Freedom of Information, which was adopted in 2003. This Law establishes the procedures for public information requests and obligates public authorities to publish certain information proactively and respond to written requests within five days, with a possible extension to 30 days if required.

The current Law “On Mass Media”

17. The key piece of legislation governing media in Armenia is the Law on Mass Media, which was enacted in 2003 (hereinafter “the 2003 Law on Mass Media”). The Law governs relationships concerning the collection, preparation, and dissemination of mass information within the Republic of Armenia, with the objective of guaranteeing the constitutional right of individuals to freely seek, receive, and impart information and ideas without interference, regardless of borders. It contains a series of definitions provided to clarify the terms used in the Law. It prohibits censorship, and expressly declares freedom of mass information and media activities. It further prohibits the dissemination of information that advocates for criminally punishable acts, violates individual privacy, or is obtained through video recording where the subject was not informed or had a reasonable expectation of privacy. Article 5 of the Law safeguards the protection of journalistic sources, stipulating that disclosure of such sources is permissible only by court order during criminal proceedings for grave crimes, and only when the public interest in law enforcement outweighs the interest in the protection of sources, with all other public interest measures having been exhausted. The Law also provides for the requirement of accreditation for journalists, enabling them to gather and disseminate information regarding the activities of state and local self-government bodies. Additionally, it regulates the right to rebuttal and reply and sets forth liability rules for media operators.

18. However, the 2003 Law on Mass Media Law appears outdated in light of the significant changes in the media landscape, particularly following the global spread of the Internet and the rise of social networks. The digital shift has had substantial effects in Armenia, notably during the Covid-19 pandemic and the 2020 Nagorno-Karabakh war. During these periods, an unprecedented level of disinformation and “hate speech” prompted the authorities to temporarily restrict the independence of journalists and freedom of expression through decrees and legislative measures. These developments highlighted the challenges in applying the 2003 Law

² The current formulation of this provision is as follows: “A claim for the protection of rights in accordance with the procedure established by this article may be submitted to the court within one month after the insult or defamation becomes known to the person, but no later than within six months from the moment of the insult or defamation”.

³ <https://www.president.am/en/constitution-2015/>

on Mass Media consistently and proportionately within the current Armenian legal framework. Consequently, in 2022 Council of Europe experts recommended that, rather than amending certain provisions of the existing legal text, a new comprehensive law be introduced to regulate and safeguard the rights to freedom of expression and information.⁴

The Criminal and Civil Codes

19. The Criminal Code of Armenia also includes provisions aimed at protecting journalists' professional rights. Article 237 penalises those who obstruct journalists in the performance of their duties or who coerce them regarding their publications, with penalties including fines or imprisonment. Additionally, Article 208 imposes fines for restricting access to information, and Article 222 provides penalties for refusing to provide information to media representatives during elections.

20. Libel and defamation were decriminalised in Armenia in 2010, and these matters are now addressed under Article 1087.1 of the Civil Code. This provision allows individuals to seek retractions and compensation for offenses related to defamation and insult. According to the new Criminal Code, adopted in 2021, the insult of the Human Rights Defender (Article 494) and the insult of a military servant by another military servant (Article 524) are classified as criminal offenses and may be punishable by imprisonment or alternative sanctions.

C. Political Background

21. Since Armenia's accession to the Council of Europe in 2001, the Armenian media sector has encountered systemic and recurring challenges. The 2018 "Velvet Revolution" initiated a series of reforms that have brought the media sector into closer alignment with the Council of Europe's standards on freedom of expression. Notably, certain segments of the media, particularly independent online outlets, have demonstrated their capacity to fulfil their democratic functions. However, the current legislative and institutional framework, inherited from the past, suffers from significant shortages, also reflected by major international observers.⁵

22. The Parliamentary Assembly of the Council of Europe (PACE) noted in its 2022 report that the media landscape in Armenia has become more diverse since 2018. However, the report also highlighted the ongoing issue of polarisation within the Armenian media.⁶ Armenia improved its ranking in international assessments of press freedom. In the 2024 World Press Freedom Index by Reporters Without Borders, Armenia was ranked 43rd out of 180 countries, marking a 37-position improvement since 2018. While this ranking acknowledged the media's diversity, it also noted that most broadcast and print media, affiliated with major political and commercial interests, continue to face pressure concerning their editorial policy.⁷ Similarly, Freedom House, in its 2024 Freedom in the World report, rated Armenia as "partly free", but recognised that independent and investigative outlets operate relatively freely in Armenia, and generally publish online. Small independent outlets often provide robust coverage, challenging the narratives of state broadcasters and other establishment media. By comparison, most print and broadcast outlets are affiliated with political or larger commercial interests.⁸

⁴ TECHNICAL PAPER: Armenia's Media Sector Needs Assessment Report – 2022. Overview of the National Legislative Framework Covering Media Freedom, Freedom of Expression, Public Service Media and its compliance with Council of Europe standards, prepared by the Council of Europe experts Dr Krisztina Rozgonyi and Shushan Doydoyan, page 7.

⁵ TECHNICAL PAPER: Expert review on the Draft Amendments to the Law on Mass Media and Code of Administrative Offences of the Republic of Armenia, prepared by the Council of Europe experts Krisztina Rozgonyi, Joan Barata and Shushan Doydoyan, page 4.

⁶ Report No. 15432 of the Parliamentary Assembly of the Council of Europe, 10 January 2022, para 118, available at: [Doc. 15432 - Report - Working document \(coe.int\)](#).

⁷ 2024 World Press Freedom Index by Reporters Without Borders, available at: [2024 World Press Freedom Index – journalism under political pressure | RSF](#).

⁸ Freedom House 2024 Freedom in the World report, available at:

23. Together with positive changes, both international assessments emphasised the persistent challenges facing Armenian media, including ongoing legal actions and violence against journalists, as well as the influence of political and business interests over print and audiovisual media, which adversely affect democracy and open public discussion in the country.⁹ These factors, particularly the editorial bias in favour of the owners' interests, have been identified as significant contributors to the polarisation of the Armenian media landscape, with the print media being especially affected.¹⁰

D. International Legal Framework

24. The basic principles of freedom of expression have been outlined in the case-law of the European Court of Human Rights (ECtHR)¹¹ under Article 10 ("Freedom of Expression") of the European Convention on Human Rights and have been reiterated in several Opinions of the Venice Commission.¹² Very similar principles are also contained in Article 19 of the International Covenant on Civil and Political Rights (ICCPR), as interpreted by the UN Human Rights Committee.¹³

25. The Venice Commission has underlined the importance of an effectively functioning and independent self-regulatory body in the media sphere involving all relevant stakeholders of the media community and capable of ensuring an effective and respected system of media accountability in the online media field through self-regulation.¹⁴

26. The Venice Commission has also stated that journalists' associations provide the paradigm for self-regulation of journalists and set the framework of ethical rules that journalists must respect when they seek to reveal the truth.¹⁵

27. In order to address the problem of malicious or irresponsible media behaviour on the Internet, the Venice Commission has encouraged the setting-up of an effectively functioning and independent self-regulatory body involving all relevant stakeholders of the media community and capable of ensuring an effective and respected system of media accountability in the online media field through self-regulation.¹⁶

28. The ECtHR has underlined that freedom of the press and other news media afford the public one of the best means of discovering and forming an opinion of the ideas and attitudes of political leaders. It is incumbent on the press to impart information and ideas on political issues and on other subjects of public interest. Not only does it have the task of imparting such

<https://freedomhouse.org/country/armenia/freedom-world/2024>.

⁹ 2024 World Press Freedom Index by Reporters Without Borders, available at: [2024 World Press Freedom Index – journalism under political pressure | RSF](#).

¹⁰ Report No. 15432 of the Parliamentary Assembly of the Council of Europe, 10 January 2022, para 118, available at: [Doc. 15432 - Report - Working document \(coe.int\)](#).

¹¹ See the case-law of the ECtHR starting from *Handyside v. United Kingdom*, 5493/72, 7 December 1976, §49, *Prager and Oberschlick v. Austria*, no. 15974/90, 26 April 1995, para 38; *Steel and Morris v. the United Kingdom*, no. 68416/01, paras 85 et seq.; *Axel Springer AG v. Germany* [GC], 7 February 2012, no. 39954/08, paras 85-88 and 89-95; *Ruokanen and Others v. Finland*, no. 45130/06, 6 April 2010, paras 35 et seq.; *Mouvement raëlien suisse v. Switzerland* [GC], no. 16354/06, 13 July 2012, para 48, etc.

¹² Venice Commission, [CDL-PI\(2020\)008](#), "Compilation of Venice Commission Opinions and Reports Concerning Freedom of Expression and Media".

¹³ UN Human Rights Committee, General Comment No. 34, CCPR/C/GC/34, <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

¹⁴ Venice Commission, [CDL-AD\(2020\)013](#), Albania - Opinion on draft amendments to the Law n°97/2013 on the Audiovisual Media Service, para 72.

¹⁵ Venice Commission, [CDL-AD\(2010\)053rev](#) Opinion on the warning addressed to the Belarusian association of journalists on 13 January 2010 by the Ministry of Justice of Belarus, para 58.

¹⁶ Venice Commission, [CDL-AD\(2020\)013](#), Albania - Opinion on draft amendments to the Law n°97/2013 on the Audiovisual Media Service, para 72.

information and ideas: the public also has a right to receive them (see, for example, *Handyside v. the United Kingdom*, 1976, para 49, and *Lingens v. Austria*, paras 41-42).

29. In its General Comment No 34 (§13) the UN Human Rights Committee has underlined that “[a] free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society. The Covenant embraces a right whereby the media may receive information on the basis of which it can carry out its function. The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. The public also has a corresponding right to receive media output”.

30. The Committee also reiterated its observation in General Comment No. 10 that “because of the development of modern mass media, effective measures are necessary to prevent such control of the media as would interfere with the right of everyone to freedom of expression”. The state should not have monopoly control over the media and should promote plurality of the media.¹⁷ Consequently, states parties should take appropriate action, consistent with the Covenant, to prevent undue media dominance or concentration by privately controlled media groups in monopolistic situations that may be harmful to a diversity of sources and views.

31. Lastly, the Committee has stated that care must be taken to ensure that systems of government subsidy to media outlets and the placing of government advertisements¹⁸ are not employed to the effect of impeding freedom of expression.¹⁹ Furthermore, private media must not be put at a disadvantage compared to public media in such matters as access to means of dissemination/distribution and access to news.²⁰

32. The latest and most relevant Council of Europe documents specifically emphasise that member states bear distinct obligations with regard to self-regulation,²¹ especially enabling appropriate funding of self- and co-regulation mechanisms and access to financial support schemes, in order to secure their independence and financial sustainability.²² Moreover, states are to create a generally favourable environment to and a high level of public awareness about the potential role of self-regulatory mechanisms such as ombudspersons and press/media councils equipped with stable, meaningful powers in enhancing the media’s commitment to verification and quality control in the digital age.²³ As noted by the Committee of Ministers, “self-regulation as the most appropriate mechanism for ensuring that media professionals perform in a responsible and professional way needs to be made more effective in times of crisis”.²⁴

33. The 2024 European Media Freedom Act (EMFA)²⁵ serves as an important modern reference point in establishing European standards, though Armenia is not bound by it. The EMFA entered

¹⁷ Concluding observations on Guyana (CCPR/CO/79/Add.121), para. 19; concluding observations on the Russian Federation (CCPR/CO/79/RUS); concluding observations on Vietnam (CCPR/CO/75/VNM); concluding observations on Italy (CCPR/C/79/Add. 37).

¹⁸ Concluding observations on Lesotho (CCPR/CO/79/Add.106), para. 22.

¹⁹ Concluding observations on Ukraine (CCPR/CO/73/UKR).

²⁰ Concluding observations on Sri Lanka (CCPR/CO/79/LKA); and concluding observations on Togo (CCPR/CO/76/TGO), para. 17.

²¹ TECHNICAL PAPER: Armenia’s Media Sector Needs Assessment Report – 2022, Directorate General of Human Rights and Rule of Law, prepared by the Council of Europe Experts, Dr Krisztina Rozgonyi and Shushan Doydoyan.

²² Declaration Decl(13/02/2019)2 by the Committee of Ministers on the financial sustainability of quality journalism in the digital age.

²³ Recommendation CM/Rec (2022)4 of the Committee of Ministers to member States on promoting a favourable environment for quality journalism in the digital age.

²⁴ Guidelines of the Committee of Ministers of the Council of Europe on protecting freedom of expression and information in times of crisis (26 September 2007), p. 25.

²⁵ [Regulation - EU - 2024/1083 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/Regulation/EU/2024/1083-EN-EUR-Lex/europa.eu)

into force on 7 May 2024, with its rules fully applying as from 8 August 2025, subject to certain exceptions. The EMFA introduces new measures to promote media pluralism and independence, prevent political interference in editorial decisions, and ensure transparency in media ownership. Notably, it seeks to protect journalists from disclosing their sources and sets requirements for transparency in the allocation of state advertising. Against this background, and in addition to other relevant international standards, the EMFA will serve as an additional benchmark for assessing the draft law.

34. On 2 May 2018 the United Nations Special Rapporteur on Freedom of Opinion and Expression, the Organisation for Security and Co-operation in Europe Representative on Freedom of the Media, the Organisation of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information adopted a Joint Declaration on Media Independence and Diversity in the Digital Age,²⁶ emphasising, *among others*, that media outlets and online platforms should enhance their professionalism and social responsibility, including potentially by adopting codes of conduct and fact-checking systems, and putting in place self-regulatory systems or participating in any existing systems, to enforce them.

35. According to the Media Self-Regulation Guidebook of the OSCE, media self-regulation is a joint endeavour by media professionals to set up voluntary editorial guidelines and abide by them in a learning process open to the public. By doing so, the independent media accept their share of responsibility for the quality of public discourse in the nation, while fully preserving their editorial autonomy in shaping it.²⁷

E. Scope of the Opinion

36. In this Opinion, the Venice Commission will address all modifications introduced by the amendments to both the 2003 Law on Mass Media and the Civil Code, in light of international standards and best practices, particularly those concerning freedom of expression, media freedom, and the right to access information.²⁸ Additionally, the Opinion may consider certain issues that, while not directly arising from the legislative amendments, are nonetheless present in the 2003 Law on Mass Media and are related to the matters governed by the amendments. The Venice Commission delegation was informed in Yerevan that more comprehensive reforms of the media sector in Armenia are expected to begin soon, and these issues could be considered by the authorities in the context of potential broader legislative reforms.

37. The Venice Commission also emphasises that the fact that this Opinion does not explicitly address other aspects of the draft amendments should not be interpreted as an endorsement by the Venice Commission or as an indication that these aspects will not be raised in the future.

III. Analysis

A. Definitions

²⁶Joint Declaration on Media Independence and Diversity in the Digital Age: The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, para 7 (b).

²⁷ [The Media Self-Regulation Guidebook | OSCE](#), Chapter 1.

²⁸ It should be noted that the 2024 explanatory note (Rationale), submitted for the Joint Opinion, bears similarities to the 2022 Concept Note, also developed by the Ministry of Justice, which was reviewed in 2023 by Council of Europe experts in the Advisory Paper of the Directorate General of Human Rights and Rule of Law. Some recommendations from this review were incorporated into the draft law, while other suggestions were apparently not adopted.

1. “Media activities”

38. Article 1 of the draft law describes “media activities” as activities carried out for the purpose of providing information and ideas of public significance to the public on a regular basis and under the editorial responsibility of the implementer of media activities. In this regard, the editorial responsibility shall be manifested through exercising effective oversight, which may be expressed by defining the editorial policy, implementing the editorial process or engaging staff or an employee vested with editorial functions.

39. The Updated Armenia’s Media Sector Needs Assessment Report - 2022 of the Council of Europe urged the Armenian legislator to focus on the essence of the media activity and not to include a prescriptive list of different media types (print, broadcast, etc.) but rather, a general definition of media activities, embracing all present and future formats. Such a definition must focus on the essence of the activity: dissemination of information; ideas and opinions under editorial responsibility or control; on matters of public interest and to the general public (or a part of it) through any technical means of diffusion or distribution.²⁹

40. The Committee of Ministers of the Council of Europe has specified that the term “media” refers to those responsible for the periodic creation of information and content and its dissemination over which there is editorial responsibility, irrespective of the means and technology used for delivery, which are intended for reception by, and which could have a clear impact on, a significant proportion of the general public.³⁰ Moreover, the Committee of Ministers considers the exercise of editorial control over the content as one of the main features of the media.³¹

41. Furthermore, the EMFA defines “media service”—similar to the notion of “media activities” contained in the draft law—as a service “where the principal purpose of the service, or a dissociable section thereof, consists in providing programs or press publications, under the editorial responsibility of a media service provider, to the general public, by any means, in order to inform, entertain, or educate”.³² In turn, “editorial responsibility”, according to the EMFA, means “the exercise of effective control both over the selection of programs or press publications and over their organisation, for the purposes of providing a media service, regardless of the existence of liability under national law for the service provided”.³³

42. The Venice Commission emphasises that independent media must acknowledge their share of responsibility for the quality of public discourse within a society, while fully retaining their editorial autonomy in shaping that discourse. Editorial responsibility must be intrinsically linked to editorial independence, which is a fundamental element of the media's role and a direct corollary of the right to freedom of expression and the right to hold opinions, as well as to receive and impart information, as enshrined in Article 10 of the European Convention on Human Rights. A number of existing Council of Europe standards provide guidance designed to preserve and promote editorial freedom or independence. The reverse of the medal is media’s own editorial control or oversight over content and responsibility for editorial decisions.³⁴

²⁹ TECHNICAL PAPER: Armenia's Media Sector Needs Assessment Report – 2022, Directorate General of Human Rights and Rule of Law, prepared by the Council of Europe experts Dr Krisztina Rozgonyi and Shushan Doydoyan, page 21.

³⁰ Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns, Preamble.

³¹ Recommendation CM/Rec(2011)7 of the Committee of Ministers to member states on a new notion of media.

³² European Media Freedom Act, Article 2(1).

³³ Ibid., Article 2(8).

³⁴ Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns, para 29.

43. The Venice Commission observes that the draft law's broad and general definition of the term "media activities" (including "editorial responsibility") is all-encompassing. This comprehensive approach allows for the inclusion of various categories of media, while ensuring that some form of effective oversight by an editorial authority is maintained.

44. Consequently, the Venice Commission finds that the definition of "media activities" in the draft law aligns with international standards.

2. "Mass media"

45. According to Article 1(1)(2) of the draft law, mass media is defined as "any means of communication used to provide information and ideas of public significance to the public on a regular basis under editorial responsibility." According to the explanatory note, "it is necessary to distinguish mass media from other means of informing the public so that it is clear to the general public which websites or entities disseminating information adhere to journalistic ethics rules and have legally recognised self-regulatory bodies".

46. The Venice Commission underscores that the concept and definition of mass media are fluid, and, in this context, the definition in the 2003 Law on Mass Media³⁵ has become outdated. However, it should be noted that, compared to the 2022 Concept Paper, the draft law no longer includes mandatory membership in a self-regulatory body as a requirement for media to be considered as such. This approach aligns with the recommendations of the Council of Europe.³⁶

47. Furthermore, the 2022 Media Sector Needs Assessment Report of the Council of Europe emphasised that the new Law should not prescribe a list of specific media types (print, broadcast, etc.), but instead provide a general definition of media activities that encompasses all current and future formats. The definition should focus on the core of the activity: the dissemination of information, ideas, and opinions under editorial responsibility or control, concerning matters of public interest, and directed at the public through any technical means of diffusion or distribution.³⁷

48. Recommendation CM/Rec(2022)11³⁸ provides that "media" includes providers of services that meet the following criteria, or a combination thereof, as outlined in Recommendation CM/Rec(2011)7 on a new notion of media: (a) they intend to operate as a media outlet; (b) they aim to produce and disseminate content; (c) they exercise editorial control over content and adhere to professional standards; and (d) they seek outreach and are subject to public expectations.³⁹ This definition encompasses print, broadcast, and online media, including audio and video streaming services.

49. In the past, the Venice Commission has addressed the definition of mass media in various contexts. Depending on the circumstances and specific factors, the Commission's position has varied. Recently, the Venice Commission did not object to the broad definition of mass media in

³⁵ Article 3 (1) of the 2003 Law on Mass Media: 1) mass media (hereinafter - media) - dissemination of information available to an unlimited number of people, the main purpose of which is to ensure the constitutional right of a person to freely, regardless of state borders, seek, receive and disseminate information and ideas.

³⁶ ADVISORY PAPER 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: Krisztina Rozgonyi and Shushan Doydoyan, page 14.

³⁷ TECHNICAL PAPER: Armenia's Media Sector Needs Assessment Report – 2022, Directorate General of Human Rights and Rule of Law, prepared by the Council of Europe experts Dr Krisztina Rozgonyi and Shushan Doydoyan, page 21.

³⁸ Recommendation CM/Rec(2022)11 of the Committee of Ministers to member States on principles for media and communication governance.

³⁹ Recommendation CM/Rec(2011)7 of the Committee of Ministers to member States on a new notion of media

Article 3(2) of a draft law on the Media of Kyrgyzstan,⁴⁰ which defined mass media as encompassing periodical printed publications, news agencies, TV channels, radio channels, television programs, radio programs, video programs, newsreel programs, and other forms of periodic distribution of mass information under a permanent name, including websites on the Internet.^{41,42} The Venice Commission has also raised concerns about the use of overly narrow definitions concerning “mass information”.⁴³

50. In light of the above, the Venice Commission finds that, given the rapid evolution of the types and forms of mass media, the approach should focus on defining the criteria and essence of the media, rather than enumerating specific types. This includes emphasising the presence of editorial responsibility or control. Moreover, the current focus in the draft law on “media” as the provider of information and ideas “on a regular basis” is neither in line with the above Recommendations, nor with the European Media Freedom Act. Democratic societies face a structural transformation of the public sphere, necessitating the modernisation of media and communication governance to encompass both traditional media and digital platforms. Such modernisation shall be reflected in the laws to ensure a level playing field, provide adequate protection from undue interference, and clearly delineate the duties and responsibilities of these actors, in accordance with the standards and values of the Council of Europe. In this context, while the definition of “media” in the draft law incorporates most of the elements from Committee of Ministers Recommendation CM/Rec(2011)7 on a new notion of media, full compliance could be achieved by directly reproducing the definition as set out in the Recommendation which could be addressed either through the current amendments or within the framework of the forthcoming comprehensive media sector reform, of which the Venice Commission delegation was informed during its visit to Yerevan.

51. The Venice Commission therefore recommends revising the definition of “mass media” to ensure full compliance with Committee of Ministers Recommendation CM/Rec(2011)7 on a new notion of media.

3. “Journalist”

52. According to Article 1(1)(4) of the draft law, “journalist is a natural person implementing media activities or a natural person engaged by the implementer of media activities in professional activities or on a regular basis for seeking, collecting, obtaining, preparing, disseminating, and editing information”.

53. The Council of Europe Committee of Ministers Recommendation No. R(2000)7 defines a journalist as “any natural or legal person who is regularly or professionally engaged in the collection and dissemination of information to the public via any means of mass communication”.⁴⁴

54. Since 2000, it has increasingly been recognised that a more flexible approach to the status of journalists is necessary. According to Recommendation CM/Rec(2016)4 of the Committee of Ministers, “the definition of media actors has expanded as a result of new forms of media in the

⁴⁰ Venice Commission, [CDL-AD\(2023\)040](#), Kyrgyzstan - Opinion on the Draft Law of the Kyrgyz Republic about the media.

⁴¹ Ibid, para 38.

⁴² Regarding the same Article 9, the OSCE Interim Opinion on Kyrgyzstan considered the reference to “collection, processing, and distribution of information-based communications and materials” overly broad, as it fails to narrow down the types of media covered by the law. See, OSCE Interim Joint Opinion on the Draft Law of the Kyrgyz Republic on the Mass Media (as of 13 May 2023), para 21.

⁴³ Venice Commission [CDL-AD\(2022\)009](#), Azerbaijan - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Law on Media, para. 11.

⁴⁴ Recommendation No. R(2000)7 of the Committee of Ministers to Member States on the Right of Journalists not to Disclose their Sources of Information.

digital age. It therefore includes others who contribute to public debate and who perform journalistic activities or fulfil public watchdog functions”.⁴⁵

55. The UN Human Rights Committee General Comment No. 34 has defined journalism as “a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere, and general State systems of registration or licensing of journalists are incompatible with paragraph 3” [of Article 19, ICCPR].⁴⁶

56. The Venice Commission emphasises that the definition of “journalist” has significant implications for the individuals involved. Therefore, this concept should be defined and interpreted broadly, extending the media’s democratic oversight of authorities and other power holders to encompass the widest possible range of journalistic activities. This includes any individual engaged in seeking and disseminating information within the “free exchange of opinions and ideas”⁴⁷ which upholds the public’s right to receive such material and be adequately informed.

57. In this context, the Venice Commission has found the definition of a “journalist” which would exclude, among others, journalists who do not have an employment or individually based contractor agreement (thus excluding most freelancers) overly restrictive. The Commission has underlined that among several disadvantages, journalists not covered will not be able to register in the Media Register and will not be accredited. Therefore, it stressed to broaden the definition and define it in line with the “public watchdog” role.⁴⁸

58. Furthermore, the digital communication opportunities of today mean that journalism can no longer be viewed as the exclusive domain of news organisations. Consequently, the distinction between a “professional journalist” employed by a news outlet and other individuals producing journalistic content has become increasingly blurred. Therefore, such privilege should be based on functional criteria—such as the dissemination of information and ideas in the public interest—rather than a formal definition of a journalist.⁴⁹ Moreover, the term “professional activity” remains ambiguous, as it is not clear whether they refer exclusively to full-time work or also encompass part-time or occasional activities. Additionally, the definition leaves uncertainty as to whether the activity must be carried out for profit. The Venice Commission concurs with the authorities’ observation in their additional comments that the draft law provides a broader and more general definition of the terms “media activities” and “journalist” compared to the current formulation. However, the Commission considers that this wording could benefit from further refinement in light of the aforementioned findings and current international standards.

59. The Venice Commission therefore recommends providing further clarity on certain aspects of the definition of “journalist”, primarily by focusing on functional criteria—such as the dissemination of information and ideas in the public interest—and on the term “professional activity” in case it remains in the draft law.

⁴⁵ Recommendation CM/Rec(2016)4 of the Committee of Ministers to Member States on the Protection of Journalism and Safety of Journalists and other media actors, para 4.

⁴⁶ Human Rights Committee, General Comment no. 34, para 44.

⁴⁷ ECtHR, Gillberg v. Sweden [GC], no. 41723/06, para. 95, 3 April 2012.

⁴⁸ Venice Commission Azerbaijan, [CDL-AD\(2022\)009](#), Azerbaijan - Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Law on Media, para 46.

⁴⁹ [Joint Declaration on media Independence and Diversity in the Digital Age](#), by the United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, adopted on 2 May 2018.

4. “Implementer of media activities”, “Subject of public awareness”, “Code of Ethics”

60. According to Article 1 (1)(3) of the draft law, “implementer of media activities” is a legal or natural person, including an individual entrepreneur, whose professional activity is aimed at implementing media activities, and who bears editorial responsibility for the presented content, as well as intends to act as an implementer of media activities. In this context, the existence of the intention to act as an implementer of media activities may be expressed, inter alia, through the circumstances of application of working methods specific to the implementer of media activities, self-awareness, as well as adherence to the rules of professional ethics complying with international standards, including through the existence of self-regulatory bodies, the circumstances of being a member of a recognised self-regulatory body or having such a self-regulatory body.

61. According to Article 1 (1) (6) of the draft law, “subject of public awareness” is an implementer of media activities that is a member of a self-regulatory body recognised in accordance with this Law or has such a body, as well as meets the requirements prescribed by Article 11 and part 2 of Article 12 of the 2003 Law on Mass Media.⁵⁰

62. According to new Article 6.1 (5) of the 2003 Law on Mass Media, incorporated by Article 3 of the draft law, in case of allocating subsidies and grants from the State Budget to implementers of media activities, the condition that an implementer of media activities is a subject of public awareness shall be defined as a mandatory requirement.

63. The notion “implementer of media activities” directly corresponds to the definition of “media service provider” in EMFA, that is, “a natural or legal person whose professional activity is to provide a media service and who has editorial responsibility for the choice of the content of the media service and determines the manner in which it is organised”.⁵¹

64. As regards the term “subject of public awareness”, the Venice Commission notes that it lacks clarity and precision when applied to a member of a self-regulatory body. Moreover, it remains unclear which entity is responsible for designating an “implementer of media activities” as a “subject of public awareness.” While the Law does not explicitly address this matter, it is likely that the Media Council will assume this role. The 2003 Law on Mass Media, however, fails to clearly define the legal implications of being an “implementer of media activities” or a “subject of public awareness”. To ensure transparency and legal certainty, it is advisable that the law explicitly stipulate the potential implications of these designations.

65. Regarding public funding of the media, the EMFA provides only limited regulation, focusing on safeguards for the independent functioning of public service media providers. According to recital no. 27, public service media providers are particularly vulnerable to the risk of interference, due to their institutional proximity to the state and reliance on public funding. To address this, the EMFA requires states to ensure that the funding procedures for public service media providers are based on transparent and objective criteria. These procedures must guarantee that public service media providers receive sufficient financial resources to fulfil their public service mandate, while safeguarding their editorial independence.⁵²

⁵⁰ The 2003 Law on Mass Media Law lays down certain measures in Article 11 on the transparency of media ownership, in particular it stipulates submitting data of mass media (name of the mass media, name of the legal entity, name of the responsible person, date and number of the given edition, etc) on each edition of a mass media outlet released on a physical medium or with a domain or hosting registered on the Internet. Publication of funding sources is required for all types of media under Article 12 of the 2003 Law and must be made public on the official web site of a given media outlet by 31 March of each subsequent year.

⁵¹ [Regulation - EU - 2024/1083 - EN - EUR-Lex \(europa.eu\)](#), Article 2 (2).

⁵² *Ibid.*, Article 5(3).

66. According to new Article 6(1) of the draft law, a media entity must qualify as a “subject of public awareness” to be eligible for subsidies and grants from the state budget. In other words, merely recognising a self-regulatory body is not sufficient. As stipulated in Article 1(1)(6) of the draft law, additional legal requirements must be met for an entity to be considered a “subject of public awareness”, in comparison to recognition of a self-regulatory body.

67. The Venice Commission agrees that to promote the membership of well-functioning self-regulating bodies, the state may use incentives such as funding schemes and grants or tax privileges to media adhering to well-functioning self-regulating bodies, which meet certain qualitative criteria. The condition is however that these privileges are not already guaranteed to everyone, based on the provisions of the Constitution or the international human rights treaties on freedom of expression and on freedom to receive information, and that they are granted in compliance with the principle of non-discrimination.

68. Furthermore, the Commission acknowledges that financial support for media is undoubtedly a positive measure and contributes to media pluralism.⁵³ However, the legal framework governing “subjects of public awareness” remains vague or entirely absent, leaving uncertainty as to which standards the Venice Commission shall refer to for its assessment. While it may be proportionate to limit state subsidies and grants to entities classified as subjects of public awareness, the absence of clear regulations complicates the proper assessment of this provision.

69. According to Article 1(6) of the draft law, code of ethics is a document on norms of journalism ethics drawn up in accordance with international standards by or with the participation of implementers of media activities, journalists, specialised organisations, civil society representatives (including code of journalism ethics, rules of conduct, code of professional ethics, etc.).

70. The Venice Commission has mentioned that the “public interest” safeguard afforded by Article 10 of the ECHR to journalists is subject to the proviso that they act in good faith in order to provide accurate and reliable information in accordance with the ethics of journalism.⁵⁴ Furthermore, the editor/newspaper should be liable for the act of a journalist doing his job in accordance with the ethics of journalism.⁵⁵

71. The Parliamentary Assembly of the Council of Europe has found that such codes are a voluntary expression of professional diligence by quality-conscious journalists and media outlets to correct their mistakes and to make themselves accountable to the public,⁵⁶ therefore it has invited media outlets, their staff and their organisations to increase voluntary adherence to their codes of ethics and their mechanisms for analysing breaches of such codes, with a view to providing adequate redress for those affected by such breaches. The Committee of Ministers of the Council of Europe has called on media organisations, in co-operation with national associations of journalists, trade unions and independent civil society organisations, to draw up and adopt a shared code of good practice on transparency to rebuild trust and healthy relationships with the public and with media content contributors. Such codes should be subject to appropriate compliance mechanisms.⁵⁷

72. Hence, the Venice Commission finds that in a world in which the individual is confronted with vast quantities of information circulated via traditional and electronic media and involving an ever-

⁵³ Venice Commission, [CDL-AD\(2005\)017](#), Opinion on the compatibility of the laws “Gasparri” and “Frattini” of Italy with the Council of Europe standards in the field of freedom of expression and pluralism of the media, para 178 and paras 184-186.

⁵⁴ Venice Commission, [CDL-AD\(2013\)038](#), Opinion on the legislation on defamation of Italy, paras 24-27, see also ECtHR, *Fressoz and Roire v. France*. Application No. 29183/95. Judgement of 21 January 1999, para 54.

⁵⁵ *Ibid.*, para. 66.

⁵⁶ Resolution 2066 (2015) on Media responsibility and ethics in a changing media environment, para 2.

⁵⁷ CM/Rec(2022)4, para. 2.1.2.

growing number of players, compliance with journalistic ethics acquires added importance⁵⁸ and thus codes of ethics serve to publicly outline the functions, rights, and responsibilities of journalists, thereby offering clear principles to guide them in the proper exercise of their profession. The Venice Commission holds that the drafting of a code of ethics should typically fall within the purview of self-regulatory bodies, comprised of journalists and media actors themselves. Consequently, matters concerning journalistic ethics should remain exclusively within the domain of self-regulation. In light of this, the Venice Commission supports the enshrinement of these principles in law.

73. In conclusion, the Venice Commission recommends that the draft law be amended to provide greater clarity regarding the definitions of “implementer of media activities” and “subject of public awareness”. In particular, it should explicitly define the legal and practical implications that may arise from being designated as one of these categories.

5. “Self-regulatory bodies” and “Recognised self-regulatory bodies”

74. According to Article 1 (1) (8) and (9) of the draft law, “self-regulatory bodies are collegial bodies or persons engaged by implementers of media activities, established voluntarily by implementers of media activities for ensuring compliance with the provisions of the code of ethics. Recognised self-regulatory bodies are self-regulatory bodies having obtained certification of conformity as prescribed by this Law”.

75. The specifics of media self-regulation in Europe are traditionally guided by a number of the Council of Europe Resolutions and Recommendations, duly listed and briefly explained in the “Advisory Paper of the Directorate General Human Rights and Rule of Law”.⁵⁹ Media self-regulation, along with adherence to journalistic ethics, is regarded as an effective mechanism for strengthening the independence of journalists and enabling them to resist undue pressure, whether political or commercial, thereby fostering public trust in the media.⁶⁰

76. Similarly, the EMFA establishes common rules to ensure the smooth functioning of the internal market for media services and creates the European Board for Media Services, while prioritising the protection of media independence and pluralism. Central to this framework is the relevance of media self-regulation, particularly in relation to what the EMFA defines as “quality media services”.⁶¹ These services are characterised by their editorial freedom, their fulfilment of the vital “public watchdog” role, the provision of reliable and trustworthy information, their independence, adherence to ethical and journalistic standards, commitment (for the public service media) to self-regulation, and impartiality. This concept draws on the notion of “quality journalism,” as outlined by the Council of Europe in its Recommendation of the Committee of Ministers to member States on promoting a favourable environment for quality journalism in the digital age.⁶²

⁵⁸ ECtHR, *Stoll v. Switzerland*. Application No. 69698/01. Judgement of 10 December 2007, para 104.

⁵⁹ “ADVISORY PAPER OF THE DIRECTORATE GENERAL HUMAN RIGHTS AND RULE OF LAW, prepared on the basis of the expertise by Council of Europe experts Krisztina Rozgonyi and Shushan Doydoyan on the (Draft) Concept Note: “Institutional formation of a system of self (co)-regulation of mass media” p. 10-11.

⁶⁰ Recommendation CM/Rec(2018)1, para 3.

⁶¹ An opposite to the “quality media” is the “rogue media”, which apparently includes media service providers that are state controlled, be it financially or editorially, by “certain third countries” and creates tensions in the application of the free media rules within the EU. The “rogue” ones present or are interrelated with the foreign information manipulation and interference (FIMI), pose a serious and grave risk to public security and/or European values, they have problematic ownership, management and/or financing, do not enjoy editorial independence from certain countries, nor adhere to co-regulatory or self-regulatory national mechanisms governing editorial standards within the EU.

⁶² Recommendation CM/Rec(2022)4 of the Committee of Ministers to member States on promoting a favourable environment for quality journalism in the digital age.

77. The Venice Commission underlines that an essential element in ensuring the quality and professionalism of media services is the establishment of robust, inclusive, and widely accepted media ethics. This is particularly important for news and current affairs content, which encompasses a broad range of political, societal, and cultural topics at the local, national, and international levels.⁶³ Media self-regulation serves as an effective safeguard of editorial integrity and is fundamental to maintaining the high standards and professionalism necessary for quality media services. It strengthens trust in media by guaranteeing that these services operate in an ethical, independent, and impartial manner, upholding their essential role in democratic society.

78. Moreover, the Advisory Paper emphasised the importance of legislative recognition as the primary legal tool to support the development of a self-regulation system. This approach focuses on state-guaranteed incentives—offering support, encouragement, and privileges—enshrined in legislation for media outlets that participate in a well-functioning system of self-regulation.⁶⁴ The Venice Commission acknowledges that the drafters of the law generally followed this advice.⁶⁵

79. Moreover, the Venice Commission observes that the 2003 Law on Mass Media does not yet adequately regulate the functioning of the media self-regulation framework, including the definition of various media content types and the assessment of content accuracy and reliability. The Venice Commission underscores that the development of a comprehensive media literacy policy is essential for fostering public understanding of the role of media self-regulation in a democratic society. Moreover, appropriate legislative regulation is a crucial step toward achieving this objective.

80. The Council of Europe Recommendation on promoting a favourable environment for quality journalism in the digital age emphasises the need for effective voluntary self-regulatory mechanisms in the media, such as ombudspersons and press/media councils. It highlights that the public must have access to transparent and efficient complaints mechanisms to report breaches of journalistic standards, including online, and to obtain corrections of inaccurate information. These complaints should be handled by independent bodies with stable financing and the authority to enforce corrections, adjudications, and apologies.⁶⁶ The draft law, however, does not provide for such a complaint mechanism, leaving it to the statute (by-laws) of the Media Council or other self-regulatory bodies.

81. Furthermore, the Venice Commission notes a lack of coordination between self-regulation and the national regulatory authority (NRA) in broadcasting, which is crucial for fair media governance. The Constitution mandates the NRA to ensure media freedom, independence, and plurality. In Armenia, the Commission on Television and Radio (CTR) acts as the NRA, overseeing audiovisual media and operating independently. Article 7 of the EMFA encourages NRAs to consult or coordinate with self-regulatory bodies for better regulation and media market functioning. During the meetings of the delegation of the Venice Commission in Yerevan this approach was accepted by the Armenian counterparts. The Venice Commission finds that the formal endorsement of this cooperation in legislation would be beneficial.

82. As regards the definition of “recognised self-regulatory bodies,” it should be highlighted that the certification of conformity is to be issued by the Media Council in accordance with the 2003 Law on Mass Media (new Article 6.1(3) of the draft law). Furthermore, Article 4(1) and (2) of the

⁶³ EMFA, Recital 14.

⁶⁴ *Ibid.*, p.16.

⁶⁵ Similar to the Explanatory note, the Advisory Paper draws attention to the positive example set by the national Law on Audiovisual Media. This law grants regulatory privileges to participants in licensing competitions who have adhered to self-regulation practices, including the voluntary adoption of an internal Ethics Code and agreement to its enforcement. These incentives not only promote self-regulation but also strengthen ethical standards and professionalism within the media industry in Armenia, in line with broader European principles.

⁶⁶ Recommendation CM/Rec(2022)4 of the Committee of Ministers of the Council of Europe on promoting a favourable environment for quality journalism in the digital age.

draft law provides that, during a transitional period, a commission on the recognition of self-regulatory bodies and the formation of the Media Council shall be established. Among its tasks, the Commission is to develop and publish model provisions for a code of ethics, model standards for the establishment and functioning of self-regulatory bodies in line with internationally accepted norms, and the procedures governing its activities. Once the Media Council is established, new Article 6.1 (3) (cf. Article 3 of the draft law), stipulates that the functions of the Media Council, including the recognition of self-regulatory bodies, shall be defined by its statute (for more details see below).

83. The Venice Commission emphasises that self-regulation is a voluntary initiative, enabling economic operators, social partners, and CSOs to adopt common guidelines among themselves and for themselves. These entities bear responsibility for developing, monitoring, and ensuring compliance with these guidelines.⁶⁷ The Venice Commission further notes that, although the essence of a self-regulatory body lies in its voluntary nature and its bottom-up establishment by those engaged in media activities, it is consistent with international standards for the State to provide an opportunity for such bodies to be “recognised.” The State may also develop “co-regulatory schemes and mechanisms” in cooperation with self-regulatory bodies that meet criteria established by the State for a well-functioning self-regulatory system, such as representativeness, accountability, and independence.⁶⁸ Accordingly, in this context, the Venice Commission concludes that the existence of “recognised self-regulatory bodies” does not, in itself, contradict international standards.

84. Another related issue is that these regulations apply exclusively to Armenian media, with no mention of foreign entities engaged in media activities within Armenia, which may not be subject to a self-regulation framework. Given that media activities, including those conducted by foreign entities, play a crucial role in shaping public opinion, the absence of any reference in the draft law to these foreign actors suggests that their rights and responsibilities will remain unchanged, despite their significant influence in the media sector and the corresponding need for transparency. The Venice Commission holds that such transparency cannot be achieved solely through bilateral agreements adopted by governments. Therefore, it is essential that the draft law includes explicit references to the status of foreign media actors.

85. The Venice Commission, therefore, recommends that the draft law explicitly sets out requirements ensuring the transparency and self-regulation of foreign media actors. Additionally, it recommends that the draft law formalise the cooperation between media self-regulatory bodies and the national regulatory authority.

B. Accreditation of journalists

86. According to Article 2 of the draft law, Article 6(1) of the 2003 Law on Mass Media shall be complemented by a new paragraph as follows: “Accreditation of journalists of subjects of public awareness or journalists that are subjects of public awareness shall be carried out without preconditions defined by the procedure for accreditation of journalists within that body”.

87. Article 6 of the 2003 Law on Mass Media sets the framework for accreditation. The media may request accreditation for a journalist from state bodies, which must grant it within five days in accordance with the law and their procedures. Lack of an established procedure cannot justify denying accreditation. Rejection is allowed if the journalist fails to meet the requirements of Article 11(2) or Article 12(2) of the 2003 Law on Mass Media.⁶⁹ Additional grounds for denial or

⁶⁷ Directive (EU) 2018/1808, recital no. 14.

⁶⁸ “ADVISORY PAPER OF THE DIRECTORATE GENERAL HUMAN RIGHTS AND RULE OF LAW, prepared by Council of Europe experts Krisztina Rozgonyi and Shushan Doydoyan on the (Draft) Concept Note: “Institutional formation of a system of self (co)-regulation of mass media”, p. 20.

⁶⁹ The 2003 Law on Mass Media Law lays down certain measures in Article 11 on the transparency of media ownership, in particular it stipulates submitting data of mass media (name of the mass media, name of the legal

termination of accreditation may be outlined in the state body's accreditation procedure. The government of the Republic of Armenia defines the model procedure for accreditation in the state administration bodies of the Republic of Armenia.

88. According to 2003 Law on Mass Media, the procedures for accrediting journalists in state bodies shall define the media requirements (e.g., type of media, distribution area, circulation) under which a journalist is accredited, the rules for organising the work of accredited journalists to ensure efficiency, and any requirements specific to the body's activities. The accreditation procedure must not include provisions that: limit an accredited journalist's right to attend meetings or events, except when closed; prevent timely notification of events; create unequal conditions for journalists; or restrict their legal right to obtain information.

89. The 2003 Law on Mass Media stipulates that the accreditation of a journalist may be terminated either upon the request of the media provider that submitted the journalist's accreditation or by the accrediting state body. The state body may terminate accreditation on its own initiative only if, within one year of issuing a written warning for violating the rules under Article 6(6) of the 2003 Law on Mass Media, the journalist commits another violation. Under Article 6(6), an accredited journalist must organise their work in accordance with the body's accreditation procedure and work rules. Violation of these procedures is a ground for terminating accreditation.

90. According to Article 6 of the 2003 Law on Mass Media, work conditions for all accredited journalists in any state body must support their activities and be non-discriminatory within reasonable limits. Media information should be provided to all accredited journalists simultaneously, with timely notice of the exact time and place of planned events. The Ministry of Foreign Affairs of the Republic of Armenia defines the accreditation procedure specific for foreign journalists operating in Armenia under foreign legislation. The establishment of an accreditation procedure cannot serve as a basis for denying a journalist access to information in accordance with the law.

91. Taking into account the existing regulation in Article 6 of the 2003 Law on Mass Media, the purpose of the new provision appears to be the facilitation of journalists' accreditation by exempting them from preconditions established by state bodies, organisations, or their officials. However, it remains unclear what is meant by the term "preconditions" in the context of this amendment. Article 6 implies that accrediting bodies or organisations can establish accreditation procedures and internal regulations, which may potentially include such preconditions. The preconditions referred to in the draft law may also correspond to factors such as the "type of media product, dissemination territory, number of issues, etc." as listed in Article 6 of the 2003 Law on Mass Media. This point, however, requires further clarification, particularly in light of the explicit provision in Article 6(2), which mandates that these bodies or organisations must ensure "equal conditions for all applicants." Accordingly, the Venice Commission finds this provision overly vague and in need of additional specification.

92. The 2003 Law on Mass Media lacks clarity regarding the specific consequences of accreditation, the advantages it confers, and the potential disadvantages faced by journalists who either do not seek or fail to obtain accreditation. It is essential that these consequences are explicitly outlined within the draft law itself, rather than being left to the discretion of accrediting bodies or organisations. In this regard, the Venice Commission stresses that accreditation must never be a prerequisite for exercising journalistic activities, which are protected by freedom of expression and the right to access information, enshrined in Articles 42 and 51 of the Armenian

entity, name of the responsible person, date and number of the given edition, etc) on each edition of a mass media outlet released on a physical medium or with a domain or hosting registered on the Internet. Publication of funding sources is required for all types of media under Article 12 of the 2003 Law and must be made public on the official web site of a given media outlet by 31 March of each subsequent year.

Constitution, Article 10 of the European Convention on Human Rights, and Article 19 of the International Covenant on Civil and Political Rights.

93. Moreover, it appears that neither the 2003 Law on Mass Media, nor the Government Decision “On Approving an Exemplary Procedure for the Accreditation of Journalists in State Administrative Bodies of the Republic of Armenia”, adopted on 4 March 2004, provides for a complaint mechanism in cases where accreditation is denied or revoked. The Venice Commission considers that, if such an accreditation process is established at the legislative level, it must include the possibility of an effective appeal mechanism.

101. With regard the broader concept of accreditation of journalists in general, the Venice Commission notes that, “the establishment of a general accreditation procedure for attending events organised by State authorities, in all circumstances, constitutes an unnecessary and disproportionate interference with the right of journalists and media outlets to access information of public interest.”⁷⁰ However, the Venice Commission emphasises that this does not preclude the possibility of restricting access to such events on reasonable grounds, such as safety and security considerations or space limitations, provided that such restrictions are necessary and proportionate.⁷¹ In such cases, giving priority to accredited journalists may be justified.

102. Furthermore, the Venice Commission observes that, with the exception of the accreditation of foreign correspondents, accreditation schemes for journalists in Europe are typically self-regulatory and not subject to requirements or conditions imposed by State authorities. Accreditation by state or local government bodies falls within the scope of the right to freedom of expression and information. While accreditation procedures may sometimes be established by law, it is often questionable whether they serve a legitimate aim or are strictly necessary to protect the objectives outlined in Article 10(2) of the European Convention, particularly in the context of a democratic society. Moreover, the UN Human Rights Committee has clarified that only limited accreditation schemes are permissible, in case this is necessary to provide journalists with privileged access to certain places and/or events and provided that such schemes are applied in a non-discriminatory manner and in accordance with Article 19 and other provisions of the ICCPR.⁷² In other words, accreditation should not serve as a tool to restrict the media’s right to access information; its primary function is technical, aimed at ensuring sufficient space for media representatives at a given venue, such as for a press conference, or addressing similar logistical concerns.⁷³

94. In addition, the right of journalists to access information is guaranteed by Article 51 of the Constitution and further elaborated in the 2003 Law on Freedom of Information. Article 9 of this Law establishes the rules for public information requests and obliges public authorities to proactively publish certain information, as well as to respond to written requests within five days, with a possible extension of up to 30 days if necessary. To the extent that this regulation implements Article 51 of the Constitution, which enshrines the right of everyone (including journalists) to access information, it is incompatible with any accreditation mechanism that grants public authorities the discretionary power to accredit journalists seeking to seek, collect and disseminate information on their activities.

95. The broader issue of journalist accreditation, however, falls outside the scope of this Opinion. It may necessitate consideration in a separate Opinion and be incorporated into the

⁷⁰ TECHNICAL PAPER: Expert review on the Draft Amendments to the Law on Mass Media and Code of Administrative Offences of the Republic of Armenia, prepared by the Council of Europe Experts Krisztina Rozgonyi, Joan Barata and Shushan Doydoyan, pages 5 and 6.

⁷¹ Ibid.

⁷² UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Letter OL KGZ 3/2023, 20 June 2023, page 2.

⁷³ OSCE, Interim Joint Opinion on the Draft Law of the Kyrgyz Republic on the Mass Media, para 28.

comprehensive media sector reform, of which the Venice Commission delegation was informed during its visit to Yerevan.

96. The Venice Commission therefore recommends reviewing in order to clarify the term “preconditions” in relation to the accreditation of journalists in the draft law. Additionally, the specific consequences of accreditation, including the advantages it offers and the potential disadvantages for non-accredited journalists, should be clearly outlined in law and under no circumstances should accreditation be used to restrict the media’s right to access information. The Commission also recommends providing for the possibility of an effective appeal mechanism in cases where accreditation is denied.

C. Media Council

97. Article 3 of the draft law amends the 2003 Law on Mass Media by adding a new Article 6.1, as follows:”

“Article 6.1. Media Council and recognition of self-regulatory bodies

1. *The Media Council shall be a membership-based professional, independent and self-regulated non-commercial organisation formed by representatives of recognised self-regulatory bodies on a voluntary basis. The Media Council shall be considered as established from the moment of its state registration as prescribed by law. State registration of the Media Council shall be conducted by the Agency for State Register of Legal Entities. Besides the documents prescribed by law for the registration of the Media Council, information about the members of the Council shall be submitted as well. The name of the organisation must include the words "self-regulatory organisation" or the abbreviation "SRO".*

2. *Activities of the Media Council shall be regulated by this Law, the legislation of the Republic of Armenia and its Statute. The Statute of the Media Council shall define the grounds and procedure for terminating its membership.*

3. *Functions of the Media Council, which shall include, inter alia, recognition of self-regulatory bodies and periodic reconfirmation of their status by certifying the compliance of self-regulatory bodies, their operating procedures and codes of ethics with international standards, as well as observance of the requirements of operating procedures, shall be defined by the Statute. The periodicity of reconfirming the status of a recognised self-regulatory body shall be defined by the Statute of the Media Council.*

4. *The public register of subjects of public awareness shall be maintained by the Media Council.*

5. *In case of allocating subsidies and grants from the State Budget to implementers of media activities, the condition that an implementer of media activities is a subject of public awareness shall be defined as a mandatory requirement.”*

98. Article 4 of the draft law sets forth the transitional provisions and contains the following:

“Article 4. 1. This Law shall enter into force one month after the day of its official promulgation.

2. Actions conducted before the formation of the Media Council after the entry into force of this Law:

(1) based on requests submitted by non-commercial organisations registered in the Republic of Armenia and having carried out rights protection activities in the fields of protection of freedom of speech, freedom of the media during the last 10 years as of the moment of entry into force of this Law, a commission on recognition of self-regulatory bodies and formation of the Media Council (hereinafter referred to in this Article as “the Commission”) shall be formed within a period of three months with one representative from each organisation. The notice on submission and examination of requests for the

purpose of forming the Commission shall be published on the website of the Ministry of Justice at least 30 days before the deadline for submission of requests;

(2) the Commission shall develop and publish the model provisions of the code of ethics, model standards for formation and activities of self-regulatory bodies based on internationally accepted standards, as well as the procedure for activities of the Commission within a period of 6 months after its formation;

(3) after performing the actions prescribed by point 2 of this part, the Commission shall, within a period of one year, on the basis of applications submitted by representatives of self-regulatory bodies, examine the compliance of self-regulatory bodies functioning in the Republic of Armenia, their operating procedures and codes of ethics with the defined standards and requirements, and in case of their compliance, as well as observance of the requirements of their operating procedures, the implementer of media activities who joins that body or has such a body, who concurrently meets the requirements prescribed by Article 11 and part 2 of Article 12 of the Law,⁷⁴ will be considered a subject of public awareness. The relevant list shall be drawn up and published by the Commission as a Public Register of Subjects of Public Awareness, which shall be transferred to the Media Council after its formation as prescribed by point 4 of this part;

(4) within six months after performing the actions prescribed by points 2 and 3 of this part, the Commission shall take all preparatory actions necessary for the formation of the Media Council by representatives of recognised self-regulatory bodies, including convene the founding meeting of the Media Council, in which the representatives of all recognised self-regulatory bodies shall have a right to participate. The founding meeting of the Media Council shall have quorum, where it is attended by more than half of the persons having the right to participate in the meeting. Activities of the Commission shall terminate from the moment of formation of the Media Council.”

99. The Venice Commission observes that while the amendment introducing Article 6.1 outlines certain principles regarding the Media Council, particularly in relation to its composition, the proposed framework remains overly general and lacks the necessary specificity. Significant elements are deferred to future legislative acts and to the statute (by-laws) of the Media Council, which has yet to be drafted. Furthermore, as previously noted, the model standards for the self-regulatory bodies—anticipated to constitute the Media Council—have not been developed. This absence impedes a thorough assessment of whether the Media Council’s composition, activities, and functions are aligned with international standards. Nevertheless, based on the current legal framework, as well as meetings of the delegation of the Venice Commission in Yerevan, the Commission is in a position to draw certain conclusions regarding its compliance with such standards.

100. The Venice Commission underlines that the Media Council should take responsibility for developing and publishing its own policy guidelines. These guidelines should primarily aim to limit the Media Council’s discretion in interpreting legal provisions related to illegal media content and in applying its sanctioning powers. The guidelines should be regularly updated to reflect recent developments in case law, particularly from the Constitutional Court of Armenia and the European Court of Human Rights (ECtHR). They must be clear, ensuring a predictable and coherent interpretation of the general principles set out in the law, while also enabling media operators to

⁷⁴ The 2003 Law on Mass Media Law lays down certain measures in Article 11 on the transparency of media ownership, in particular it stipulates submitting data of mass media (name of the mass media, name of the legal entity, name of the responsible person, date and number of the given edition, etc) on each edition of a mass media outlet released on a physical medium or with a domain or hosting registered on the Internet. Publication of funding sources is required for all types of media under Article 12 of the 2003 Law and must be made public on the official web site of a given media outlet by 31 March of each subsequent year (Article 12(2)).

fully exercise their freedom of expression without fear of a chilling effect caused by vague legal concepts.⁷⁵

101. In this context, the Venice Commission finds that the commission responsible for the recognition of compliance of self-regulatory bodies and the formation of the Media Council appears to possess limited discretionary powers. The criteria guiding its evaluations are grounded in international standards on the one hand, and the transparency and data submission requirements set forth in Articles 11 and 12 of the law on the other. At first glance, these criteria appear sufficiently precise to safeguard against arbitrary decisions by the commission in the course of its assessments. Additionally, the exclusion of state authorities from involvement in the composition of the commission seems to bolster its independence and impartiality.

102. Nevertheless, despite these safeguards, the overall system raises concerns with respect to its compatibility with the principle of freedom of information. The notion of the “subject of public awareness,” upon which the system is predicated, seems to conflict with this principle. While fostering public awareness is undoubtedly important for promoting transparency and trust among the citizenry, the challenge lies in determining such awareness *ex ante* for each media operator. The very concept of this form of preventive oversight raises legitimate concerns as to whether it may unduly restrict freedom of information, particularly given the indeterminate nature of the outcomes it seeks to achieve in enhancing public awareness.

103. Moreover, it is unclear why non-commercial civil society organisations should replace media entities and associations in drafting principles of a code of ethics for journalists and overseeing its enforcement. Similarly, it is unclear why the rules for the formation of media self-regulation bodies should be determined by representatives of these organisations. In this context the Venice Commission recalls that the Council of Europe Committee of Ministers has recommended that “media organisations, in cooperation with national associations of journalists, trade unions, and independent civil society organisations, should draw up and adopt a shared code of good practice”.⁷⁶

104. Although, in their additional comments the authorities clarified that the transitional commission's role is to set ethical guidelines and apply international best practices, and that it will consist of neutral, conflict-free experts, ensuring impartiality, and that relying – in its composition - solely on the media representatives could lead to conflicts of interest and impede reform efforts, the Venice Commission, still finds that the composition of the commission, which completely excludes actors from the media field, appears inconsistent with its core functions—namely, setting ethical guidelines for the media, the recognition of media self-regulatory bodies and the establishment of criteria for the formation of the Media Council. If the primary objective of the draft law is to establish a system of media self-regulation, it seems unreasonable to exclude media actors from the process of determining the formation criteria for the Media Council, which is intended to oversee future self-regulation of media activities. While non-commercial civil society organisations dedicated to the protection of freedom of information may be represented within the commission, an authentic self-regulation requires that the subjects meant to regulate themselves be involved from the outset and setting the design of the process. Excluding them from this foundational process could seriously undermine their role, as they would not have participated in defining the criteria and principles for the Media Council.

105. Additionally, this mechanism appears tailored to regulate traditional media, such as print and broadcast outlets, rather than online platforms and social networks. The requirement of a

⁷⁵ Venice Commission, [CDL-AD\(2015\)015](#), Opinion on Media Legislation (Act CLXXXV on Media Services and on the Mass Media, Act CIV on the Freedom of the Press, and the Legislation on Taxation of Advertisement Revenues of Mass Media) of Hungary, paras 27 and 32.

⁷⁶ Recommendation CM/Rec(2022)4 of the Committee of Ministers of the Council of Europe on promoting a favourable environment for quality journalism in the digital age, para 2.1.2..

minimum of 10 years of activity for participation in the commission may unjustly exclude organisations focused on digital media rights⁷⁷, which have become increasingly dominant in the past decade. The social networks are not subject to the same limitations and rules that typically govern journalists and traditional media outlets. The issue of liability for such platform owners, which is one of the most pressing issues affecting Armenian society in the media sector, is entirely distinct from that of newspaper owners and requires specific regulatory measures that go beyond self-regulation, as recent developments in EU law have shown.

106. As regards funding, particularly subsidies and grants from the state budget, the Venice Commission notes that the EMFA provides safeguards to ensure the independent functioning of public service media providers. While primarily applicable to public service media, these safeguards may also be relevant here. Recital 27 of the EMFA highlights the vulnerability of public service media to interference due to their proximity to the state and reliance on public funding. Article 5(3) requires states to ensure transparent and objective funding procedures, which must guarantee sufficient resources while protecting editorial independence.

107. The Venice Commission reiterates that the regulations concerning self-regulatory bodies remain vague or even non-existent, and it is unclear which standards the responsible authorities will rely upon when developing model standards. In conclusion, while it may be proportionate to allocate state subsidies and grants exclusively to subjects of public awareness, the lack of clarity surrounding these regulations makes it difficult to provide a more detailed assessment.

108. Furthermore, the explanatory note states that the adoption of the draft law will “not lead to changes in the State Budget revenues and expenditures.” This raises concerns about the sustainability of the proposed scheme and the feasibility of implementing the activities outlined in the draft law. The Venice Commission has considered state financial support as a positive measure which constitutes a good contribution to media pluralism⁷⁸ and underlines that effective self-regulation requires adequate financial and technical resources to function properly.⁷⁹

109. Consequently, the Venice Commission recommends that future legislative acts, the statute (by-laws) of the Media Council, and the model standards for self-regulatory bodies, which are yet to be drafted, fully comply with international standards. The Venice Commission further recommends that the responsibility for the establishment of media self-regulation bodies, including the Media Council, primarily be entrusted to media organisations themselves, ensuring also broader participation from representatives of digital media. Additionally, the Commission recommends that adequate financial resources be allocated to guarantee the effective functioning of media self-regulation mechanisms.

D. Amendments to the Civil Code

110. Article 1087.1 of the Civil Code of Armenia regulates the procedure and conditions for compensating damage to honour, dignity, or business reputation. According to Part 11 of this Article, when determining compensation for defamation or insult,⁸⁰ the court shall consider the

⁷⁷Such as those rights exercised by, for example, online outlets that produce and disseminate content, exercise editorial control, and follow professional standards akin to traditional media, while operating primarily or exclusively in the digital environment.

⁷⁸ Venice Commission, [CDL-AD\(2005\)017](#) Opinion on the compatibility of the laws “Gasparri” and “Frattini” of Italy with the Council of Europe standards in the field of freedom of expression and pluralism of the media, paras 178 and 184-186.

⁷⁹ For instance, in Austria, the Press Council, a self-regulatory body for the press sector with its own by-laws, is funded through annual grants for press self-regulation provided by KommAustria, the national regulatory authority, which is comparable to the CTR in Armenia.

⁸⁰ The amounts are stipulated in Article 1087.1(7) and (8), where the compensation for insult is up to approximately 7,000 euros, and for defamation, it is up to 14,000 euros.

(1) specific circumstances of the case, including the method and extent of the dissemination of the insult or defamation, (2) as well as the financial status of the offender.

111. According to the amendments to Article 1087.1 (11) of the Civil Code, a new third circumstance has been added for the court to consider: “(3) the plaintiff’s application to a self-regulatory body, recognised in accordance with the Law “On Mass Media,” which is competent to provide a relevant opinion regarding the defendant, in order to mitigate the damage caused to the plaintiff’s honour, dignity, or business reputation”.

112. Furthermore, according to amended Article 1087.1 (13) of the Civil Code, “*Under the procedure established by this Article, a claim on the protection of right may be filed with the court within one month after the person has become aware of the insult or slander. Where the person has applied to the self-regulatory body recognised in accordance with the Law “On mass media” which is competent to provide a relevant opinion with regard to the given respondent, the established one-month period shall be calculated after acceptance of the opinion of the relevant self-regulatory body, or the expiry of the period defined for examining the application. The claim defined by this part may be filed with the court not later than within eight months from the moment of the insult or slander.*”^{81 82}

113. The decriminalisation of insult and defamation in 2010 in Armenia and introduction of civil liability as well as the provision for compensation for moral damages has led to a marked increase in legal actions against the media and journalists, with a significant portion of these cases involving public officials suing for defamation and insult. As noted in a Technical Paper prepared by Council of Europe experts in June 2021, this trend among public officials is likely to result in journalists refraining from criticising the actions of public authorities. The experts emphasise that, while the complainants may view judicial proceedings as the sole avenue for restoring their rights, extrajudicial mechanisms, such as those provided by the Information Disputes Council (IDC) or the Media Ethics Observatory, should be preferred. These mechanisms would better promote self-regulation within the media sector.⁸³

114. In this context, the Venice Commission considers such amendments to be proportionate, as they underscore the importance and role of self-regulatory bodies and takes into account the necessity for longer time limits, in cases where an application for an opinion has been made. The Venice Commission encouraged the creation of such bodies, particularly for the purpose of monitoring compliance with journalistic ethics, among other objectives.⁸⁴

115. However, the Commission finds that the phrase “the court shall consider” contained in Article 1087.1(11) is ambiguous. It could imply that the ruling of the Media Council serves merely as a factor the judge may take into account without being bound by it, or alternatively, it could suggest that the ruling of the Media Council is binding on the court. If the latter interpretation is intended, this raises concerns about the compatibility of the provision with the principle of judicial

⁸¹ The current formulation of this provision is as follows: “A claim for the protection of rights in accordance with the procedure established by this article may be submitted to the court within one month after the insult or defamation becomes known to the person, but no later than within six months from the moment of the insult or defamation”.

⁸² These amendments are similar to the Irish Defamation Act, which also provides that, in determining whether the publication of the relevant allegation was fair and reasonable, the court should take into account various relevant factors. This includes, in the case of periodical publications, whether the media outlet was a member of the Press Council at the time of publication and the extent to which it complied with the Press Council’s Code of Standards, as well as the decisions of the Press Ombudsman and the Press Council.

⁸³ TECHNICAL PAPER: Expert review on the Draft Amendments to the Law on Mass Media and Code of Administrative Offences of the Republic of Armenia, prepared by the Council of Europe experts Krisztina Rozgonyi, Joan Barata and Shushan Doydoyan, p. 12.

⁸⁴ Venice Commission, [CDL-AD\(2020\)013](#), Albania - Opinion on draft amendments to the Law n°97/2013 on the Audiovisual Media Service, para. 72. In this opinion, the Venice Commission encouraged to support the setting-up of an effectively functioning and independent self-regulatory body in order to address the problem of irresponsible media behaviour on the internet.

independence and impartiality, which requires judges to exercise their functions free from external influence.

116. Consequently, the Venice Commission concludes that the proposed amendments to the Civil Code are in accordance with international standards. However, to ensure consistency with the principles of judicial independence and impartiality and an appropriate balance between self-regulation and judicial oversight, the Commission recommends adopting language that clearly establishes the advisory nature of the decisions made by the relevant self-regulatory body, demonstrating that such decisions are not binding on the courts.

IV. Conclusion

117. By letter of 12 July 2024, Mr Grigor Minasyan, Minister of Justice of Armenia, requested an opinion of the Venice Commission on the draft law amending and supplementing the “Law on Mass Media” and the Civil Code of Armenia. This request underscores the Armenian authorities’ commitment, which is welcome by the Commission, to addressing legislative gaps and enhancing media freedom and regulation in accordance with international standards.

118. Recognising the central role of states in safeguarding media freedom and pluralism, the Council of Europe has highlighted their obligation to establish comprehensive legal and policy frameworks to uphold these principles. Such frameworks should ensure a diversity of media outlets, reflecting differences in purpose, function, and geographical scope.⁸⁵ The Venice Commission stresses that these obligations are critical for fostering a media environment conducive to inclusive, open and democratic debates and the protection of human rights and freedoms.

119. In this context, the Venice Commission reiterates the importance of creating an independent and effectively functioning self-regulatory scheme for the media sector, comprising all relevant stakeholders which is essential for maintaining media accountability through self-regulation. Nevertheless, the Commission emphasises that participation in a self-regulatory body must never be a prerequisite for engaging in media activities. Freedom of expression and the right to receive information, as enshrined in Article 10 of the European Convention on Human Rights and Article 19 of the International Covenant on Civil and Political Rights, must remain paramount.

120. The Venice Commission underlines that the current legislative and institutional framework governing the media in Armenia, contains significant shortcomings, as noted by international experts.⁸⁶ In this regard, the Venice Commission welcomes the Armenian authorities’ initiative to support the self-regulation of media, considering that formal recognition of self-regulatory bodies is essential for the effective operation of media accountability mechanisms.

121. Furthermore, the Venice Commission finds that the proposed amendments have the potential to strengthen the media’s critical role in a democratic society, serving as a “public watchdog” and a key defender of human rights. The Venice Commission views the emphasis placed on ethical codes and operational self-regulatory bodies as a positive development. However, while some new definitions introduced in the draft law are in line with international standards, others require further clarification. Additionally, certain provisions remain vague due to a lack of comprehensive regulation in the draft law or the absence of corresponding rules, making it difficult to draw final conclusions on these aspects.

⁸⁵ Recommendation CM/Rec(2018)1 of the Committee of Ministers to member States on media pluralism and transparency of media ownership, Appendix “Guidelines on media pluralism and transparency of media ownership”, paras 2.1 and 2.2.

⁸⁶ See also, TECHNICAL PAPER: Expert review on the Draft Amendments to the Law on Mass Media and Code of Administrative Offences of the Republic of Armenia, prepared by the Council of Europe experts Krisztina Rozgonyi, Joan Barata and Shushan Doydoyan.

122. The Venice Commission notes that, although the draft law does not explicitly address the issue of combating disinformation, it underscores the potential of a robust media self-regulation system, together with the adoption and enforcement of internationally accepted ethical standards, including those for digital media, to indirectly mitigate the spread of disinformation.

123. Furthermore, given the severe polarisation in the Armenian media sector, as confirmed during the Venice Commission's visit to Yerevan, it is crucial to ensure, as far as possible, the participation of all stakeholders—particularly media representatives—in both the discussions and public debate surrounding the draft law, as well as in the future self-regulatory bodies, whether in the form of a Media Council or a transitional commission. In this context, the Venice Commission recalls that, according to its Rule of Law Checklist,⁸⁷ the law-making process must be “transparent, accountable, inclusive, and democratic”. To meet this standard, the public should have access to draft legislation, at least when it is submitted to Parliament, and must be afforded a meaningful opportunity to provide input.⁸⁸ This includes the ability to participate in public affairs by influencing the process through public debate, dialogue with their representatives, or by organising themselves effectively.⁸⁹

124. The Venice Commission thus makes the following recommendations:

- Revising the definition of “(mass) media” to ensure its full compliance with the Committee of Ministers Recommendation CM/Rec(2011)7 on a new notion of media.
- Providing further clarity on certain aspects of the definition of “journalist”, primarily by focusing on functional criteria—such as the dissemination of information and ideas in the public interest—and on the term “professional activity” in case it remains in the draft law.
- Amending the draft law to provide clarity of the terms “implementer of media activities” and “subject of public awareness”. In particular, it should explicitly define the legal and practical implications of these designations.
- Explicitly setting out in the draft law requirements ensuring the transparency and self-regulation of foreign media actors; also, formalising in the law the cooperation between media self-regulatory bodies and the national regulatory authority.
- Clarifying the term “preconditions” in relation to the accreditation of journalists in the draft law. Additionally, the Venice Commission recommends that consequences of accreditation, including the advantages it offers and the potential disadvantages for non-accredited journalists, be clearly outlined and under no circumstances should accreditation be used to restrict the media's right to access information. The Commission also recommends providing for the possibility of an effective appeal mechanism in cases where a journalist's accreditation is denied.
- Future legislative acts, the statute (by-laws) of the Media Council, and the model standards for self-regulatory bodies, which are yet to be drafted, should fully comply with international standards. The Commission further recommends that the primary responsibility for the establishment of media self-regulation bodies, including the Media Council, primarily be entrusted to media organisations themselves, ensuring also broader participation from representatives of digital media. Additionally, adequate financial resources should be allocated to guarantee the effective functioning of media self-regulation mechanisms.

⁸⁷ Venice Commission, [CDL-AD\(2016\)007](#) rev, Rule of Law Checklist.

⁸⁸ Venice Commission, [CDL-AD\(2016\)007](#), op. cit., Benchmarks A.5.iv.

⁸⁹ UN Human Rights Committee, General Comment No. 25 (1996), Article 25 (Participation in Public Affairs and the Right to Vote), para 8.

- As regards the amendments to the Civil Code, to ensure consistency with the principles of judicial independence and impartiality and an appropriate balance between self-regulation and judicial oversight, the Venice Commission recommends adopting language that clearly establishes the advisory nature of the decisions made by the relevant self-regulatory body, demonstrating that such decisions are not binding on the courts.

125. The Venice Commission remains at the disposal of the Armenian authorities for further assistance in this matter.