

Media and digital rights

Regulation in Ukraine

DSLU monthly digest on media and digital rights regulation in Ukraine provides an overview of the proposed and adopted legislation in the spheres of freedom of expression, media regulation, privacy and data protection, Internet regulation in general, and the activities of the National Broadcasting Council in the area of Media Law implementation.

Freedom of Expression and Media Regulation

[Draft Law #9623](#) on Amending the Criminal Code of Ukraine to Ensure the Freedom from Interference with the Private Life of a Person was the most significant draft piece of legislation submitted to the Parliament in August 2023. Therein, the authors proposed **decriminalizing the import, production, transportation, sale, or dissemination of pornographic materials in Ukraine** by amending Article 301 of the Code. Instead, they suggested the prohibition on the production, dissemination, and sale of two types of porn – **porn depicting the persons without their consent and so-called extreme porn** (violent porn, zoophilia, and necrophilia). It is important to note that **the prohibition on child porn remains in place**, as it is covered by another article of the Criminal Code (Article 301-1). The proposal envisages various types of sanctions for non-compliance, including fines of up to 415 000 UAH and imprisonment for up to 10 years for committing the crimes with aggravating circumstances. This legislative initiative, if adopted, can **lead to a more transparent market for those willing to engage in the porn industry**, which [already pays taxes into the Ukrainian budget](#). It can **also stop the abusive practice of holding people criminally liable for consensual work as webcam models or dissemination of pornographic content to their partners**, which was widespread under Article 301 of the Criminal Code. At the same time, it balances freedom of expression and public morals by banning the most outrageous types of content, though the wording of the mentioned exceptions [may require clarification](#) in the process of the law's adoption. The Parliamentary Committee on Law Enforcement Activities currently reviews the initiative.

Another important piece of legislation debated in the Verkhovna Rada of Ukraine and adopted in the first reading on 23 August 2023 was the [Draft Law #9610 amending the Law on National Minorities \(Communities\) of Ukraine](#). The text adopted in the first reading **allows broadcasting advertising in minority languages along with advertising in Ukrainian by local audio and audiovisual media** (that is, radio and television broadcasters broadcasting in one oblast) if such advertisement in non-Ukrainian does not exceed the volume and font size of the Ukrainian ad. The only exception is broadcasting ads in Russian, which remains banned for the duration of the aggression and 5 years after the aggressor-state status is lifted. The draft aims to implement specific [recommendations by the Venice Commission to Ukraine's current system of national minority protection](#) and is part of its EU candidacy conditions. However, **it is framed without considering the nature of television advertising and must be clarified** before the law is adopted.

In August, MPs proposed to supplement the Code of Ukraine on Administrative Offenses (CUAO) with a new provision **establishing administrative liability** between 5100 and 8500 UAH (17000 and 25500 UAH for repeated offenders) **for public performance, display, or demonstration in trade, dining, or service places of prohibited video clips, music, or other works of art** ([Draft Law #9547](#)). While the draft's name and explanatory note suggest that it targets [solely prohibited content related to Russia as the aggressor state](#), its wording remains unclear and should be amended to reflect the categories of prohibited content the prohibition targets. It should also carefully distinguish the cases of liability under the Law on Media from the CUAO cases to avoid double responsibility for the breaches of the same provisions where applicable. The Parliamentary Committee on Law Enforcement Activities currently reviews the initiative.

Returning to some of the initiatives analyzed in the previous edition of the digest, [Draft Law #9519](#), aimed at strengthening the liability for publishing the movements of the Armed Forces of Ukraine and their supplies from international partners during the martial law and [identified as having the potential to impact freedom of expression negatively](#), **was recommended for inclusion in the parliamentary agenda** on 8 August 2023, though without the recommendation for adoption in the first reading. **No progress on the Draft Law on the Use of English Language in Ukraine** ([#9432](#)), recommended for adoption in the first reading in July [without the amendments to the language quotas and the provisions on cinema voice-over](#), was tracked in August.

Privacy and Data Protection

The only piece of legislation submitted to the Parliament in the sphere of privacy and data protection was the aforementioned [Draft Law #9623](#). Its provisions, while decriminalizing pornography in general, prohibit sharing pornography without the consent of the person depicted on it, de facto covering the so-called revenge porn. [The Ministry for Digital Transformation of Ukraine has previously been working on this topic](#), and this prohibition's adoption will safeguard the privacy of revenge porn victims, the majority of them being female. [The norm might be improved before the second reading](#) to better reflect the trend in banning non-consensual sharing of nude images, which might not constitute pornography, or by adding such an aggravating circumstance as the dissemination of revenge porn with the motive of revenge. It can also cover the case of non-consensual receipt of pornographic images to solve the so-called dick pic phenomenon and combat harassment many women face from random males on social media.

No progress on [Draft Law #9396](#), eliminating prosecutorial discretion in temporary access to sensitive personal data and analyzed [in the previous digest](#), was reported in August.

Internet Regulation

On 18 August 2023, the Parliamentary Committee on Digital Transformation recommended [Draft Law #9463](#), [analyzed in the last digest](#), for adoption in the first reading and allowed the MPs to amend other legislative acts not covered by the initial draft on the stage of the second reading. [As a reminder](#), its provisions **implicitly legalize [website blocking by the sanctions orders](#)** by including the requirement of compliance with these orders as a prerequisite to providers' keeping their general authorization and introducing monetary penalties for non-compliance. The carve-out provided by the Committee may indicate the intention to amend the Law on Sanctions by introducing website blocking therein. While a demand for such legislative clarification [was repeatedly voiced by civil society](#), the Internet Association of Ukraine [had recently called for the exclusion of the respective norms](#) from the draft. **This piece of legislation requires further careful monitoring.**

National Broadcasting Council

The National Broadcasting Council published [6 new regulations for public consultation](#) on its website. Chief among them are [the Draft Regulation](#)

[on holding civil society organizations' conferences to elect local public audiovisual media supervisory boards](#), a key act to ensure their independence, and [the Draft of the new application forms](#) to better guide potential registrants and licensees.



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

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