

MODERNIZE MEDIA LAWS TO COPE WITH DIGITAL CHANGE

STANDARD SETTING DOCUMENT

This document is part of a series of Standard Setting Documents prepared by Maharat Foundation to stimulate public discourse on media law reform in Lebanon in line with freedom of expression. This comes within the framework of the "Media Reform to Enhance Freedom of Expression in Lebanon" project, implemented in collaboration with Legal Agenda and Media and Journalism Research Center, with the support of the European Union.

1 Key messages

- The rapid digitization of media content and fast-growing technology platforms have transformed the process of content distribution online and how content is consumed and shared, sparking discussions about adapting legal frameworks to address the challenges and opportunities posed by these changes.
- The areas covered by revisiting the update of media-related laws include (1) Regulation of media content on digital platforms, (2) Author's rights in the digital age, (3) Protection of media freedom and plurality, (4) Data protection and privacy.
- When regulating electronic platforms regarding media content, the aim of policies is to make digital platform service providers assume more responsibility for the content they publish and strive for greater transparency and fairness. As Europe has begun issuing legislation regulating content, especially the revised Audiovisual Media Services Directive (AVMSD) and the Digital Services Act (DSA), which aim to protect minors from harmful content online, combat hate speech and public incitement to commit terrorist offenses, with utmost importance to platform requirements regarding transparency and accountability, Lebanon is urged to engage with representatives of these platforms to initiate this discussion in line with Lebanese realities and contexts.
- Creating authors' rights in the digital age has sparked a new conflict in the European Union, with the new rules heavily criticized as incentives for online surveillance and potential restrictions on the right to access information. Lebanon must keep pace with these discussions in any amendment to copyright and intellectual property protection laws, given the careful considerations regarding the impact of copyright on potential barriers to freedom of expression and information exchange.
- Protecting media freedom and plurality is a budding area for new legislation in the European Union with the proposed European Media Freedom Act (EMFA). Core considerations regarding the need for new legal and regulatory safeguards ensuring editorial independence, transparency of media ownership, and enhancing the independence of national regulatory authorities for the media are relevant considerations in the Lebanese context.
- Data protection and privacy online are advanced in the European Union with the General Data Protection Regulation (GDPR), which aims to enhance transparency and accountability in data processing and protect individual rights to privacy. However, the new rules for privacy and personal data protection must be carefully balanced regarding their impact on freedom of expression; thus, the legal update process needed by Lebanon should accompany suitable and well-designed exceptions for journalistic privileges.
- When considering law updates, the protection of fundamental freedoms online must be balanced with other legitimate public policy objectives, with extreme care in delineating the boundaries of state intervention.

2 Summary of the main recommendations



To the authorities:

- Lebanon is called upon to initiate a serious discussion about updating its laws regarding issues such as platform content usage, copyright and intellectual property rights, protection of freedoms and media plurality, and safeguarding information and privacy, ensuring that these laws align with global legal principles regarding freedom of expression.
- Lebanon needs policies aimed at activating infrastructure that keeps pace with the digital revolution and equips the necessary human capacities for it.
- Regulating the media sector in general and the digital sector in particular requires independent national bodies with specified powers and the ability to plan and keep up with global discussions occurring with rapid digital changes.
- It is essential to establish communication channels with digital platforms regarding media content to enhance content that respects human rights and contributes to ensuring the development and sustainability of the media sector.
- Encouraging innovation and competition in cultural and creative sectors and incentivizing digital institutions as an economic pillar are necessary steps.



To the media sector:

- Qualifying journalists to keep pace with building the digital media sector and ensuring its success and sustainability.
- Introducing a digital media education course into educational curricula in schools and universities.



To the international community:

- Engaging with the European group to keep abreast of developments in European laws in the digital field and benefit from their experiences and expertise.

The advent of the digital technology era has created new legal needs that did not exist before. Websites and platforms, regardless of their names, have become part of the public domain. Therefore, freedom of expression and publication in all its forms has become available to everyone without any legal or technical barriers.

However, modernizing media laws doesn't come from the "void", but is closely linked to international legal standards related to freedom of expression and freedom of the press. According to these standards, freedom of opinion and expression is considered a fundamental right for every individual and a necessity for human dignity and development. They form the basic pillars of democracy, rule of law, peace, stability, sustainable and comprehensive development, and participation in public affairs. Several obligations fall on states to respect, protect, and promote the right to freedom of opinion and expression.

The digital transformation of communications and media has led to questioning the law in several aspects, particularly the protection of individuals' fundamental rights, such as freedom of expression, privacy, and data protection. Traditional legal mechanisms for protecting citizens are also endangered due to the unique system of global corporations operating in the digital environment, especially online platforms, which perform quasi-public functions in a transnational context, thus competing with public authorities.

Among the issues that arise in this environment are: regulating the content of digital platforms, copyright in the digital age, protecting media freedom and diversity, and safeguarding data and personal life. Updating legislation in this field should align with international legal standards for freedom of expression by carefully balancing the competing legitimate claims of individuals and others rights holders regarding public policies.

List of Standards



- 1- Regulation of digital platforms related to media content should focus on well-defined areas such as protecting minors from harmful content online, combating online hate speech, and platform requirements regarding transparency and accountability. Concurrently, emphasis should be placed on ensuring that national regulatory bodies overseeing the implementation of new rules function as independent, professional, and accountable public entities.
- 2- Careful balance should be struck between the copyright holder's rights in the digital age and the impact of copyright as a potential impediment to freedom of expression.
- 3- Safeguarding media freedom and diversity should benefit from new legal and regulatory tools that ensure editorial independence, transparency of media ownership, and the independence of national regulatory authorities for the media.
- 4- Data protection and privacy in the digital age should ensure individual privacy protection and strike a balance between these legal provisions and appropriately designed exemptions for journalistic privileges.

This paper is part of the project "**Media Reform to Enhance Freedom of Expression in Lebanon**," in collaboration with Legal Agenda and Media and Journalism Research Center, supported by the European Union. It is based on two research papers on the subject prepared by Dr. Ali Rammal titled "How to Modernize Media Laws to cope with Digital Changes?" and Dr. Krisztina Rozgonyi titled "How to Modernize Media Laws to cope with Digital Changes".

The **first paper** presented the reality of media laws in Lebanon and highlighted the limited protection provided by Lebanese laws for privacy and personal data. The widespread use of the internet has facilitated various criminal activities and created new avenues for data collection. Moreover, operating systems and software themselves contain vulnerabilities that facilitate the theft of data protected by intellectual property rights.

It can be concluded that there is not enough attention paid to protecting personal data. The current legislation views data from an economic opportunity perspective, as evident from the amalgamation of electronic transactions regulation and data protection under a law titled "Electronic Transactions and Personal Data," rather than focusing solely on data protection.

The law contains numerous provisions allowing public authorities to access personal data without clear criteria. Concerning data available to the Ministry of Telecommunications, it has the right to collect and share data with governmental entities, including the Ministries of Interior and Defense, without user consent. Moreover, the law seeks to concentrate powers in the hands of the executive authority, while the issue of protecting citizens' personal data does not seem clear and does not align with international standards.

The **second paper** presented the advanced European legislation in this field. The European Union has endeavored to adopt legislative, regulatory, and policy measures aimed at addressing digital threats such as misinformation, illegal and unethical data exploitation, transparency deficiencies, and risks to freedom of expression.

In response to growing concerns about the state of media freedom and pluralism, the European Union recently proposed a new regulation (the European Media Freedom Act) that includes provisions to safeguard against political interference in editorial decisions and surveillance. It emphasizes the independence and stable funding of public media outlets, as well as the transparency of these outlets and how advertising revenues are allocated.

The European legislation also addresses regulating online media content concerning hate speech and protecting minors, as well as combating the viral spread of fake news on social networks and addressing copyright violations on video-sharing platforms. Data protection has been considered a fundamental right, and the law mandates a certain degree of transparency and accountability in processing this data through legal controls covering its use, collection, analysis, storage, or any other processing.

European countries have sought, through the development of their media laws, to ensure freedom of expression and create a conducive environment for its evolution. Since the Lebanese constitution guarantees freedom of expression, the development of Lebanese media law, including publishing law and audiovisual law, should adhere to these principles.

- Lebanon is urged to initiate a comprehensive discussion on updating its laws regarding platform content moderation, copyright and intellectual property rights, freedom of expression, media plurality, and the protection of information and privacy. These laws should align with global legal principles on freedom of expression and respond to the challenges and opportunities presented by the digital age while keeping pace with technological advancements.
- The discussion should primarily focus on regulating online platforms related to media content in specific areas such as protecting minors from harmful online content, combating online hate speech, and establishing rules regarding the transparency and accountability of these platforms.
- Ensuring the independence and functioning of national regulatory bodies overseeing the enforcement of new rules as independent, professional, and accountable public entities is crucial.
- Careful consideration should be given to safeguarding authors' rights in the digital age to protect rights holders without impeding freedom of expression.
- Guaranteeing the protection of data and individual privacy in the digital age while striking a balance between legal provisions and well-designed exemptions for journalistic privileges is essential.
- All media outlets should benefit from new legal and regulatory tools ensuring editorial independence, transparent media ownership, and the independence of national regulatory authorities for the media.
- In any development of media-related laws, the focus should be on achieving a balance between protecting individual rights and the public interest sought by journalists when disclosing information.
- The spirit of updating laws should aim to encourage innovation and competition in creative sectors and incentivize digital enterprises as an economic foundation that creates employment opportunities.

On the Governance level

- Qualifying students in media and journalism faculties to work in the digital environment and encouraging them to take initiatives in this field is essential. This can be achieved by integrating digital courses at the school and university levels and developing educational programs about the boundaries of using private data.
- Introducing a course on internet ethics on the universities and school levels can also be beneficial. This course would educate students about responsible internet usage, including topics such as online privacy, cybersecurity, digital citizenship, and ethical considerations when interacting with online content.
- By implementing these measures, students will be better prepared to navigate the digital landscape, understand the ethical implications of their actions online, and contribute positively to the digital sphere as future media professionals.

On the Media and educational institutions level

- Communicating with the European group to stay updated on the development of European laws in the digital field and leveraging their experiences and expertise.
- Engaging with global platforms to protect citizens' data and support local digital institutions.

On the international level



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