

Media Pluralism in Albania and the Alignment of National Legislation with Emfa – Legal Analysis

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Abstract

In April 2024, the European Commission adopted the European Media Freedom Act, a new regulatory framework designed to safeguard media pluralism and independence across the EU. The regulation addresses key concerns such as media concentration, transparency in media ownership, the distribution of state advertising, and the sustainable funding and editorial independence of public service media. It also introduces mechanisms to disclose conflicts of interest and reinforce protections against political or economic interference.

In the context of Albania, this new legal framework gains particular relevance. Sixteen years after signing the Stabilisation and Association Agreement in 2006, Albania officially opened EU accession negotiations in July 2022 a significant milestone in its European integration path. However, according to the European Commission's annual reports, Albania remains at a moderate level of preparation in the area of freedom of expression and media independence, which is part of the first cluster chapter on fundamental rights.

The Albanian media landscape continues to face systemic challenges, including political and business interference, media concentration, lack of financial transparency, and limited independence of regulatory authorities. The proposed regulation addresses the issue of media concentration and focuses on the independence and sustainable funding of public service media, as well as transparency regarding media ownership and the distribution of state advertising.

Keywords: Freedom, Media Ownership, Pluralism.

Introduction

As a cornerstone of democratic societies founded on respect for human rights, freedom of expression includes the individual's right to receive and impart information and guarantees the media's ability to access and disseminate information thereby strengthening state accountability. The "privileged" position of the media in a democratic state is guaranteed precisely because in fact it makes state power more accountable, more transparent and more accessible to citizens, as well as enables oversight and judgment on how public authority is exercised and how public funds are managed.

Freedom of expression is addressed in Article 22 of the Constitution of the Republic of Albania, which also guarantees the freedom of the press, radio, and television. Also point 3 of this article stipulates the prohibition of prior censorship of communication means. Point 4 also provides that law may require authorization for the operation of television or radio stations.

Likewise, Article 10 of the European Convention on Human Rights stipulates that the freedom of expression guaranteed by the article does not prevent the state from requiring the licensing of television.

Meanwhile the written press in Albania has not faced restrictions, several legal attempts have been made to regulate the audiovisual media market. 26 years after the first media law, the audiovisual media market in our country, even after the transition to digital broadcasting, continues to be dominated by informality, non-implementation of the law, and a monopoly situation. The factors contributing to this situation are many, but the later clientelist ties of television channels with political parties, a weak regulatory authority often under strong political and operator pressure, are among them.

Sixteen years after the signing of the Stabilisation and Association Agreement in 2006, in July 2022, negotiations between EU and the Albania were officially opened.

In the 2024 Annual Report for Albania, the European Commission, in its assessment of freedom of expression as part of fundamental rights (Cluster 1),

¹emphasizes that Albania is between a certain level of preparation and a moderate level of preparation in the area of freedom of expression and has made no progress during the reporting period. The independence and pluralism of the media continued to be affected by high market concentration, overlapping business and political interests, lack of transparency in funding sources, high media ownership concentration, intimidation, and insecure working conditions for journalists. According to the Report, Albania should:

- Adopt amendments to the legal framework in order to:
 - (i) increase transparency in media ownership,
 - (ii) fully decriminalize defamation and align civil aspects of defamation with European standards, based on a structured and inclusive dialogue with media stakeholders.
- Ensure zero tolerance for intimidation and effective judicial prosecution of cases of attacks against journalists; guarantee the strengthening of the capacities of law enforcement bodies to address cases of violence, including those occurring on the margins of protests, and other criminal cases involving journalists, particularly by ensuring a high level of compliance with human rights in handling incidents involving journalists, through binding guidelines, data collection, and capacity-building measures;
- Improve the working conditions of Albanian journalists, particularly by strengthening the protection of journalists.

Albanian Legislation on Media Ownership

Media pluralism is a broad, essential, and important concept for an effective democracy. The case law of the European Court of Human Rights (ECtHR) is clear in emphasizing that “Article 10 of the Convention refers not only to the individual right to freedom of the media, but also imposes an obligation to guarantee the pluralism of opinions and cultural diversity in the interest of the proper functioning of the democratic system and the freedom of information for all. Moreover, pluralism is a general rule of European media policy.”

Recommendation No. R (99) of 1999 of the Committee of Ministers of the Council of Europe addressed to member states on measures to promote media pluralism provides several useful elements for defining this concept. In particular, the Explanatory Memorandum clarifies that “Media pluralism” refers both to the existence of a variety of autonomous and independent media outlets (structural pluralism) and to the diversity of communication forms and content, such as thoughts and opinions, made accessible to the public. Politically, media pluralism

¹ European Commission, Albania Report 2024, Brussels 30.10.2024, SWD(2024) 690 final, pg 7

ensures that a broad spectrum of political viewpoints is represented, which is essential for safeguarding democracy and preventing the dominance of a single narrative.

Within the European Union, the notion of pluralism, as a fundamental principle, is provided for in the Treaty of Lisbon as one of the core values of the EU. Furthermore, with the adoption of the European Media Freedom Act, approved by the European Parliament on March 13, 2024, it is emphasized that, considering the unique role of media services, the protection of media freedom and media pluralism as two of the main pillars of democracy and the rule of law constitutes an essential element of a well-functioning internal market for media services.²

In fact, going further, the EMFA specifies in Article 22, paragraph 1, the obligation of EU Member States to implement restrictive changes to media freedom to prevent media concentration in the hands of a few individuals.

Article 22 states: “Member States shall establish, in national legislation, substantive and procedural rules that allow for an assessment of concentrations in the media market, which may have a significant impact on media pluralism and editorial independence.”³

There is a well-established connection between the concept of media pluralism and market competition, a relationship that often gives rise to significant debate and misunderstanding. The primary point of misunderstanding lies in the contrast between *ex ante* and *ex post* intervention, between regulation and competition. Regulatory interventions, now defined also in the EMFA for both member states and candidate countries, protect competition and regulate the market according to the standards presented in this act. This protection of competition aims to prevent concentration in the audiovisual sector in the hands of a few individuals.

Ownership restrictions in audiovisual media have always been accompanied by intense debates, including in Albania. Law no. 97/2013 “On Audiovisual Media in the Republic of Albania,” approved by the consensus of all political forces regarding its content, at the time of approval, had simple and clear rules in this regard.

Compared to previous legal regulations, this law presents improvements in terms of media ownership by addressing the shortcomings observed in the practical implementation of previous laws. However, Decision no. 56/2016 of the Constitutional Court further complicated, not only from a legal perspective, the situation of media ownership in the Albanian audiovisual media market, reopening the legal debate on this issue once again.

This regulation, at the time of its approval, was provided for in Article 62 of the law.

² European Commission, European Media Freedom Act, Brussels 11.04.2024, Regulation (EU) 2024/1083

³ Article 22, European Commission, European Media Freedom Act, Brussels 11.04.2024, Regulation (EU) 2024/1083

Specifically:

- “1. National licenses for audio and audiovisual transmissions are granted only to joint stock companies registered in the Republic of Albania, which have as their sole activity the audiovisual field.
2. No natural or legal person, domestic or foreign, may own more than 40% of the total capital of the joint stock company that holds a national license.
3. A natural or legal person who holds shares in a company with a national license may not own more than 20% of the total capital in a second company that also holds a national license. For analog audio transmissions, participation of up to 10% is allowed in a third national company.
4. Such a person is not allowed to obtain a local or regional audio transmission license, nor a local or regional audiovisual transmission license.”

National licenses for program services are also subject to the conditions outlined above.

In the context of audiovisual broadcasting, the law distinguishes between two types of licenses: the transmission license which includes authorization for operating the network and serving as a program operator and the license for the audiovisual program service itself.

Point 10 of Article 62 addresses the issue of “fictitious ownership,” a practice encountered under previous legal frameworks. According to this provision, a shareholder is defined as the actual holder of shares as well as individuals related to them up to the second degree. To avoid ambiguity and ensure clarity, the most precise formulation would be: “...and the spouse, cohabitant, and persons related to them by blood or kinship up to the second degree.” However, even in its current form, the law clearly expresses the legislator’s intent: the shareholder includes not only the legal owner of the shares but also their immediate family members within the specified degree of kinship. The ownership restriction thus applies collectively to this entire group.

Point 12 of Article 62 introduces another important restriction: no holder of a national broadcasting license is permitted to broadcast more than 30% of the total advertising volume in the audiovisual broadcasting market.

Additional provisions safeguarding pluralism and fair competition include the legal framework governing the use of multiplexes, as stipulated in Article 63. Together, Articles 62 and 63 provide a clear and straightforward legal structure for addressing ownership restrictions in audiovisual media and issues directly linked to the broader concept of media pluralism.

On April 16, 2015, the Audiovisual Media Authority (AMA) issued a decision to initiate the procedure for granting five private national licenses for digital audiovisual broadcasting, using a “beauty contest” selection method. Under this

procedure, existing historical national analog operators and digital broadcasting operators with prior experience were invited to apply. This preferential treatment excluding an open competition was granted under the transitional provisions of the law during the shift from analog to digital broadcasting, valid until June 17, 2015.

Despite this, AMA's decision contained several legal violations. Specifically, 4 out of the 5 entities invited to apply for a national broadcasting license were in breach of Article 62, particularly the ownership restriction clauses. Had these licenses been granted, it would have constituted a flagrant violation of the law and would have facilitated the creation of a de facto monopoly, in direct opposition to the principle of media pluralism.

The decision to award the licenses was ultimately not finalized by AMA due to the absence of a legal quorum only 4 of the required 5 out of 7 members were present. Consequently, the entities turned to the Tirana First Instance Administrative Court, which, in February 2016, issued a decision granting the licenses. This legally debatable ruling, which AMA did not appeal, focused solely on procedural aspects of the application process. The court did not address the critical issue of ownership restrictions, thereby bypassing a fundamental element of the law.

At the same time, the Albanian Electronic Media Association (AEMA), in April 2016, submitted a request to the Constitutional Court with the object: "Declaration of incompatibility with the Constitution of point 3 of Article 62 of Law no. 97/2013, dated 03.04.2013 'On Audiovisual Media in the Republic of Albania.'"

To continue further, the EMFA specifies: In an assessment of concentrations in the media market, as foreseen in paragraph 1, the following elements shall be taken into account: The expected impact of the concentration in the media market on media pluralism, including its effects on the formation of public opinion and the diversity of media services and media offerings in the market, taking into account the online environment and the interests of the parties involved, connections to or activities in other media or non-media businesses.⁴

In this concept, EU Member States and candidate countries must consider the impact and concentration of the media market not only in terms of the concentration of media in the hands of a single person, but also in relation to the access of other businesses that may be owned by the same owner or shareholders.

Therefore, if we refer to the media concentration restrictions foreseen in Article 62, point 3 of Law no. 97/2013 "On Audiovisual Media in the Republic of Albania", which was later overturned by the Constitutional Court, we must understand that, following the adoption of the EMFA, media will no longer be considered just like any other business, and the states must adopt substantive and procedural rules to

⁴ Article 22 (b), European Commission, European Media Freedom Act, Brussels 11.04.2024, Regulation (EU) 2024/1083

assess market concentrations that may undermine pluralism and independence. Under these conditions, the Republic of Albania must consider new legal changes on media ownership limitations, which could raise issues, as changes to media concentration restrictions might not be effectively implemented due to the lack of retroactive effect of the adopted rules.

Nevertheless, it is up to the legislator to align, in principle, with the European Media Freedom Act. Meanwhile, in the case of identifying harmful impacts, states may:

- block the concentration,
- impose conditions for approval,
- require guarantees for the preservation of pluralism and editorial independence.

Article 21 of the EMFA specifies that: Legislative, regulatory, or administrative measures taken by a Member State, which may affect media pluralism or the editorial independence of media service providers operating in the internal market, must be properly justified and proportionate. These measures must be reasonable, transparent, objective, and non-discriminatory.⁵

In this approach, consequently, the Albanian state must take a step back to Article 62, point 3, of the law, which was repealed. This is because media ownership is currently highly concentrated in the hands of a few individuals in Albania, whereas the requirements based on EMFA stipulate that media service providers must operate within new parameters, presuming the principle of proportionality. Nevertheless, it is not yet known exactly how action will be taken, considering there is a Constitutional Court decision prohibiting media ownership restrictions, while the international standard requires states to undertake justified, non-discriminatory, and objective measures to avoid media capture and censorship of editorial activity. A further issue remains the element of the lack of retroactive legal effect, meaning the new rules to be adopted by member states must have a long-term perspective for change.

Decision No. 56, dated 27.07.2016 of the Constitutional Court of Albania

The Albanian Electronic Media Association requested the repeal of point 3 of Article 62 of Law No. 97/2013, dated 03.04.2013 “On Audiovisual Media in the Republic of Albania”, with the following content: “No natural or legal person,

⁵ Article 22 (b), European Commission, European Media Freedom Act, Brussels 11.04.2024, Regulation (EU) 2024/1083

domestic or foreign, may own more than 40 percent of the total capital of a joint-stock company that holds a national license for audio broadcasting or a national license for audiovisual broadcasting.”

The applicant talked that: “The public interest is protected not through restriction, but through alternative forms, such as mixed ownership or limitations based on real market data, as is currently occurring within the European Community through the *acquis communautaire*.”

The restriction sanctioned in point 3 of Article 62 of the law is not found in any European or regional legislation, except for France; thus, it represents a countertrend to the alignment of legislation with the European framework. Such a restriction is not found in any other field of high public interest, such as: education, healthcare, security, and pharmaceuticals. The application of a restrictive mechanism on ownership automatically places citizens who choose to engage in media activities in a different position compared to citizens who choose to engage in any other lawful economic activity.”

The interested party, AMA, summarized these arguments as follows: “The restrictive criterion set out in point 3 of Article 62 of the media law, regarding the percentage of shareholding, is not in coherence with changes in the media market. The restriction under judicial review was initially necessary to ensure diversity in the audio and audiovisual market, which is now guaranteed through a number of other mechanisms, such as the limitation on the number of licenses a commercial entity can hold, the limitation on the number of programs depending on the type of license it holds whether it is a license for digital transmissions or for providing audio or audiovisual program services as well as the restriction on the percentage of advertising.”

The Constitutional Court evaluated the claim regarding the violation of economic freedom as a result of the lack of public interest and the disproportionate intervention of the legislator, by reaffirming the standards of economic freedom developed in its jurisprudence. The court, based on its own jurisprudence, holds that media activity carried out by natural or legal persons is an economic activity of general interest, safeguarded by Articles 11 and 17 of the Constitution.

As a result, point 3 of Article 62 of the law under review, which limits the percentage of shares that may be held by natural or legal persons in the capital of joint-stock companies holding national licenses for audio or audiovisual broadcasting, constitutes a restriction of economic freedom.

Regarding the claim of violating the principle of proportionality, the claimant argued that the limitation on shareholders’ ownership is excessive, surpasses the legislator’s purpose of ensuring information diversity, and fails to achieve this purpose. It results in unintended consequences, such as the direct violation of the right to ownership of shares, the freedom of enterprise, the distortion of the normal decision-making processes of the respective companies, and the distribution of shares in media companies.

The interested party, Parliament, claimed that state intervention in economic freedom, through the provision under judicial review, is dictated by the situation of press freedom in the country, which has been assessed over the years by authoritative reports as “partly free.” The Parliament acted within its evaluative capacity in choosing a restriction tool deemed necessary and appropriate for the Albanian context. The intervention is proportional, as it does not affect all media, but only those holding a national license for audio or audiovisual broadcasting, which, due to their position and ability to transmit messages through both sound and image, exert a more immediate, stronger, and more powerful influence than the written media.

The interested party, AMA (Audiovisual Media Authority), argued that the law has already provided other mechanisms that guarantee the public interest aimed at by this restriction, namely avoiding monopolization and concentration, and that the limitation is therefore unnecessary.

In the present case, the Court observes that “the interests of AEMA (Albanian Electronic Media Association) are at stake, which defends and represents interests related to economic freedom, the right to information, and freedom of expression, all protected by the legislator.” From the perspective of balancing interests, three parameters of legislative intervention are assessed:

1. Necessity, the legislator must demonstrate a real need to intervene in limiting shareholding participation in companies holding national audiovisual broadcasting licenses, as an interference with economic freedom;
2. Unavoidability, the legislator must prove that the goal cannot be achieved through other means and that it has used the least harmful tool for the subjects whose economic freedom is being restricted;
3. Suitability, the legislator must justify that the intervention tool is effective and has brought about the expected and desired effects in practice.

In light of the above, the Court considers that AMA, as the monitoring and implementing body of the law, has broad competencies related to ensuring information diversity and preventing share concentration and media market dominance, and has the tools and instruments to effectively exercise these legal responsibilities. The argument presented by the representative of the Parliament in the plenary session, regarding the lack of AMA’s oversight capacity and effectiveness, cannot serve as a sufficient reason to limit AEMA’s economic freedom. The Court emphasizes that even if this is the practical situation, the argument of non-enforcement of the law cannot justify restricting the applicant’s economic freedom. On the contrary, the Court deems that strengthening AMA’s monitoring and sanctioning powers, and finding alternative administrative tools and mechanisms, would be a more effective approach to guarantee information

diversity, which is the ultimate objective of the legislator with the restriction established in point 3 of Article 62 of the law.

In light of the entire provision regulating ownership in terrestrial audio and audiovisual broadcasting, the Court concludes that “the entirety of Article 62 of the law, even without the restriction in point 3 (under judicial review), fulfills the constitutional interests of the legislator to avoid monopolization and concentration in the media market.”

The Constitutional Court assessed that:

“By choosing the harshest tool that of restriction by law the legislator demonstrates, as in other cases where this Court has been obliged to annul legal norms due to failure to respect the principle of proportionality, that the selection of the restrictive measure does not result from an analysis based on data, statistics, factual, economic, political, sociological and legal studies, depending on the situation, nor from arguments by the executive/legislator justifying why the specific tool was chosen over another, how many alternatives were considered, and what positive effect the effectively implemented tool has had in practice i.e., the *post factum* test.”

The Court emphasizes that the objective pursued by the provisions under judicial review is a legitimate one, but nevertheless, the legislator has the duty to balance interests, assess them objectively, avoid conflict by selecting the appropriate means to achieve them, and choose the restrictive tool that is necessary for the purpose, within the national context.

However, in the approach following the adoption of the European Media Freedom Act, the assessment of concentrations in the media market (Article 21 of Regulation 2024/1083) is one of the core pillars of the Act and constitutes the main mechanism for preventing the harmful impact of media concentrations on pluralism and editorial independence.

This article obliges EU Member States to adopt specific legal and procedural rules to evaluate any proposed concentration in the media market that is likely to significantly affect media freedom and the diversity of information sources. The evaluation is not merely economic (as typically done in competition law), but requires a detailed analysis of the impact of a merger or acquisition on public opinion formation, content diversity, the influence on online media, as well as the connections of the involved groups with other media or non-media sectors. Furthermore, the article stipulates that this process must take into account the European Commission’s annual Rule of Law Report, especially the parts concerning media freedom and pluralism.

States not only have the right but also the obligation to intervene if a concentration in the media market presents a risk to pluralism. Measures that may be taken range from rejecting the transaction, imposing conditions for approval, or obtaining detailed guarantees from the parties involved to preserve editorial independence

and media diversity. Moreover, when the concentration has cross-border impact or affects the internal market of the EU, the national decision must be accompanied by consultation and assessment by the European Board for Media Services (EMFA Board), which issues an opinion that must be taken seriously into account. This provision gives the EU a real tool to intervene in defense of pluralism, at a time when media concentrations have become a visible threat to democracy in many Member States.

Even from a comparative perspective, the Court found that “the restrictive model chosen by the Albanian legislator is not found in any of the regional European legislations, and therefore constitutes a countertrend to the alignment of national legislation with the European legal framework.”

The Court concludes that:

“Despite the importance of the legislator’s objective and the presence of public interest in a media system fundamentally based on the diversity of information, under the constitutional requirement for proportional legislative intervention, in this particular case the restrictive measure foreseen does not effectively serve the legislator’s goal, and in this regard is an inappropriate and unnecessary tool.”

In conclusion, the Court assessed that: “The tool chosen by the legislator to restrict ownership quotas of companies operating in the media sector does not bear a reasonable and proportionate link to the legitimate aim of the legislator in promoting diversity of information. Therefore, the Court finds that the legislator’s intervention is not in accordance with the principle of proportionality, and for this reason, point 3 of Article 62 of the media law must be annulled.”

It is important to note the dissenting opinion in this decision, which emphasized that:

“The constitutional principle of proportionality, in cases of limitation of human rights, imposes on the legislator the obligation to define the legal aim and the means for achieving it, while the Court reviews the restrictive measure and the degree of its severity. This review is conducted in terms of compatibility with the purpose and legitimate interest that the legislator seeks to achieve, and whether the imposed measure ‘significantly exceeds’ that aim as a mandatory measure. The Court does not assess whether the measure is appropriate or not. That remains within the legislator’s discretion and evaluative space. In this particular case, the legislator’s interest in transparency of the media and plurality of information was sufficiently important to intervene in Article 62 of the media law through point 3 under review. Even the majority accepted that the objective pursued by the provisions under review is a legitimate one [para. 47 of the decision]. By not agreeing with this conclusion, we consider that the claimant did not provide sufficient arguments to support the position that there were less severe means available to achieve the intended goal, which would have led the Court to conclude that this restriction was unnecessary.”

Contrary to the majority's reasoning, the restriction set out in Point 3 of Article 62 cannot be viewed or interpreted independently from the limitations established in Point 4 of the same article. The repeal of Point 3 would have a direct and immediate effect: it would allow for an increase in ownership concentration in media holding a national license for audio or audiovisual broadcasting from the currently permitted 40% + 20% ownership across different companies to a full 100% + 20% shareholding. Such a shift would significantly intensify media ownership concentration. Therefore, even from a structural and legal interpretation standpoint, a comparative reading of Points 3 and 4 of Article 62 should have led the majority to recognize the necessity of maintaining this restriction, rather than arguing for its removal.

Based on the arguments and analysis, we assess that the majority's position, which concluded that the restriction is unnecessary and ineffective, is supported more by evaluations related to the suitability and timeliness of the restriction's application matters which fall within the legislator's margin of discretion than by constitutional arguments. A similar stance has been taken in other comparable cases, where it has been emphasized: "The Constitutional Court is not competent to evaluate whether the legal regulation is the fairest or most suitable for achieving the legislator's stated objective. The Court's task is to assess whether the outer limits of the legislator's evaluative space have been exceeded."

The decision of the Constitutional Court of Albania to repeal point 3 of Article 62 of the law on audiovisual media which imposed a maximum cap of 40% for shareholding in nationally licensed media constitutes a regressive step in guaranteeing media pluralism and directly contradicts the standards established in the European Media Freedom Act (Regulation (EU) 2024/1083).

If we analyze the collision, we will observe a series of legal conflicts with the Constitutional Court's decision. Firstly, Article 21 of the EMFA requires Member States to implement effective rules for the assessment of media market concentrations, in order to guarantee pluralism and editorial independence. The ownership cap in the Albanian law, although debatable in form, was a clear *ex ante* measure to prevent the creation of monopolies. The repeal of this cap was justified by the Court on the grounds of the legislator's lack of detailed analysis, but was not replaced by any alternative mechanism, as required by the EMFA.

Thus, the Court's decision removes a safeguard without introducing another, leaving a serious regulatory gap in the oversight of media concentration one that is current and has also been acknowledged by the European Commission itself.

Secondly, the EMFA does not prohibit legal restrictions on ownership, but requires that any intervention be justified and proportional, supported by data and concrete analysis. The Albanian Constitutional Court emphasized the lack of such a study by the Parliament and considered the intervention inappropriate and unnecessary. However, in an Albanian reality where there is a lack of a powerful

regulatory authority (as the AMA itself acknowledges in its arguments), imposing a general legal cap is often the only practical way to curb concentration. The removal of this cap, in the absence of real supervisory capacities, poses a direct threat to media pluralism.

Thirdly, the decision also contradicts Article 6 and Article 22 of the EMFA, which are related to transparency in media ownership and interinstitutional cooperation in assessing concentrations. By treating the media merely as an economic activity and protecting it under the principle of freedom of enterprise, the Court has overlooked the special nature of the media as a bearer of public interest and as the foundation of pluralist democracy, as defined by the EMFA.

The Constitutional Court's decision represents an open clash with the spirit and structure of the European Media Freedom Act. It weakens the protection against the concentration of media power, threatens media freedom and pluralism in Albania, and hinders the country's progress in the process of alignment with the EU *acquis communautaire*. In the absence of functional mechanisms for assessing and supervising concentrations, as required by the EMFA, this decision risks leaving the Albanian media market in the hands of a few actors with strong economic and political influence.

Meanwhile, the European Commission highlights numerous problems in its 2024 monitoring report, where Albania has made no progress regarding the legal framework and alignment, while media concentration is one of the issues addressed by the Commission in all its monitoring missions. However, even when considering the current period, there is still no initiative for these necessary changes. The monitoring report states:

"No progress has been made in aligning the legislative framework with the EU *acquis* and European standards, including the Media Freedom Act. Furthermore, there has been no progress in addressing the major challenges hindering media independence, particularly the high concentration of the market and the lack of transparency regarding media ownership, funding sources, and economic interests, including public funds."⁶

The negative assessment in the 2024 Report for Albania concerning progress in aligning with the EU *acquis* and the European Media Freedom Act highlights a series of structural issues that are in clear contradiction with the key articles of Regulation (EU) 2024/1083. The lack of transparency regarding media ownership and funding sources, as well as the high concentration of the market, constitutes direct violations of Article 6 and Article 21 of the Act, which respectively require the full publication of ownership structures and the assessment of the impact of concentrations on media pluralism. Albania has yet to establish such a legal and functional mechanism to supervise this concentration, leaving room for dangerous influences on the formation of public opinion.

⁶ Pg. 38, European Commission, Albania 2024 Report, Brussels, 30.10.2024 SWD(2024) 690 final

Furthermore, the lack of clear rules for the distribution of public funds for the media contradicts Article 24 of the Act, which requires transparency and non-discrimination in the distribution of government advertisements. These funds in Albania are often used as a tool of political influence, undermining editorial independence and fostering clientelism. This also contradicts Article 7, which guarantees the protection of editorial offices from undue interference by owners or external actors. In this context, the failure to address these issues not only constitutes a technical non-compliance with EU standards, but also risks undermining the foundations of a free, independent, and pluralistic media landscape in Albania.

Conclusions

- Re-establishment of ownership limits in national media, not necessarily in the fixed form of 40%, but through a flexible formula sensitive to market dynamics and linked to the actual impact on media pluralism.
- Approval of a specific law for controlling media concentration, in accordance with Article 21 of EMFA, which should include: evaluation procedures, objective indicators for impact on pluralism, and the obligation for public reporting of decisions.
- Creation of a special unit within AMA for monitoring and analyzing the structure of the media market, with statistical, technical, and legal capacities to conduct independent assessments.
- Inclusion of a mandatory consultation mechanism with the European Media Services Board (EMFA Board) for cases of concentration with cross-border or significant national impact.
- Mandatory transparency for media ownership, through the creation of a public register of ownership and related interests (media, advertising, politics, other businesses).
- Obligation for the declaration of media financial sources, particularly related to public funding, government advertisements, large donations, and contracts with state or private institutions with significant influence.
- Revision of public financial support schemes for the media, to avoid favoring dominant actors and to support local, investigative, and independent media.
- Development of a clear methodology for assessing the impact of concentrations on pluralism, including factors such as: combined audience, editorial impact, control of the supply chain (production, distribution, advertising), etc.
- Implementation of alternative corrective measures, such as the separation of management and editorial structures from economic ownership (the “editorial firewall” model) in cases where concentration cannot be avoided.

- Promotion of other forms of media ownership, such as models of media owned by journalists, associations, cooperatives, or public foundations, to diversify the market structure.
- Revision of the law for AMA, to ensure its real institutional and financial independence, through independent procedures for appointing leaders, guaranteed funding, and protection from political pressures.
- Approval of a national strategy for media pluralism, with concrete objectives, measurable indicators, and an implementation calendar, as part of the commitments in the EU integration process.
- Public awareness of the importance of media diversity, through educational campaigns and inclusion of the topic in journalism and civic education programs.

Reference

1. The Constitution of Albania
2. Law no. 8221, dated 14.5.1997 "On public and private radio and television in the Republic of Albania"
3. Law no. 8410, dated 30.9.1998 "On public and private radio and television in the Republic of Albania"
4. Law no. 9742, dated 28.5. 2007 "On digital broadcasting in the Republic of Albania"
5. Law 97/2013 "On audiovisual media in the Republic of Albania"
6. Decision Informationsverein Lentia vs. Austria, November 14, 1993.
7. Council of Europe, Recommendation No. R (99) 1 of the Committee of Ministers for States Member for measures to promote pluralism in the media, 19 January 1999.
8. European Commission, Albania Report 2022, Brussels 12.10.2022, SWD(2022) 332 final <https://neighbourhood-enlargement.ec.europa>.
9. European Commission, Albania Report 2024, Brussels, 30.10.2024 , SWD(2024) 690 final https://enlargement.ec.europa.eu/document/download/a8eec3f9-b2ec-4cb1-8748-9058854dbc68_en?filename=Albania%20Report%202024.pdf
10. Rohrbacherova. Lucie (EPD), Simon. Eva (Liberties) "*Transparency of media ownership within the EMFA Proposal*" <https://epd.eu/wpcontent/>
11. Bushati. Endire Leskoviku. Migena, "*Kufizimet e pronësisë në median audiovizive*" Jus&Justicia 13/2016, ISSN 2223-8654
12. Nick Couldry, "Media, Shoqëria, Bota", 2020, ISBN 978-9928-4105-1-1
13. Instituti i Bankës Botërore, "E drejta per te treguar", 2003, ISSN 2025-5622