

EUDAIMONIA comparative table of institutional design obligations

<p><b>Electronic communications (Directives 2018/1971 and 2018/1972) and audiovisual media services (Directive 2010/13 (AVMSD), as amended by Directive 2018/1808)</b></p>	<p><b>Obligations flowing from EU primary law and/or secondary legislation</b></p>		<p><b>European media freedom Act (Regulation 2024/1083)</b></p>
<p>Legal form ?</p>	<p>Obligation to designate a functionally independent competent authority for each task laid down in Dir. 2018/1972 – national regulatory authorities play principal role (art. 5 Dir. 2018/1972)</p> <p>Authorities need to be legally distinct from, and functionally independent of, any natural or legal person providing electronic communications networks, equipment or services and structurally separate from State ownership interests in electronic communications networks, equipments or services (art. 6(1))</p> <p>National regulatory authorities (NRAs) need to be politically</p>	<p>One or more functionally independent national regulatory authorities, bodies, or both. Member States shall ensure that they are legally distinct from the government and functionally independent of their respective governments and of any other public or private body (art. 30(1) AVMSD – in practice, need to be effectively independent (Recital 53)</p> <p>Possibility to set up regulators with oversight over different sectors (including communications, Recital 53 and art. 30(1))</p> <p>NRA competences and powers as well as the ways of making them accountable are clearly defined in law (art. 30(3))</p>	<p>National regulatory authority or body designated pursuant to Art. 30 Directive 2010/13 (art. 2(13)).</p> <p>“Independent authority or body” competent to provide assistance to media service providers (art. 4(8)).</p> <p>NRAs subject to the requirements of art. 30 of Dir. 2010/13 (art 7(2)); should have adequate financial, human and technical resources to carry out their tasks (art. 7(3)).</p> <p>Establishment of a European Board for Media (art.</p>

	<p>independent as well (art. 8)</p> <p>Cooperative arrangements necessary between NRAs and other competent authorities (art. 5(2))</p> <p>NRAs must have separate annual budgets which are made public and autonomous spending power (art. 9(1))</p> <p>Adequate technical, financial and human resources for NRAs and other competent authorities(art. 6(2))</p> <p>Adequate financial and human resources to enable NRAs to actively participate in and contribute to BEREC (art. 9(3))</p>	<p>Adequate financial and human resources and enforcement powers to carry out their functions effectively + annual budget to be made public(art. 30(4) AVMSD and Recital 53)</p>	<p>8(1)), which is fully independent (art. 9).</p>
<p>Composition ?</p>	<p>Head or collegiate members of NRA and their alternates, shall be appointed for a term of office of at least three years from among persons of recognised standing and professional experience, on the basis of merit,</p>	<p>Conditions and the procedures for the appointment and dismissal of the heads of and members of the collegiate body need to be established by law, including the duration of the mandate. transparent, non-discriminatory</p>	<p>The Board is composed of representatives of NRAs (art. 10).</p>

	<p>skills, knowledge and experience and following an open and transparent selection procedure – continuity of decision-making needs to be ensure (art. 7(1) Dir. 2018/1972)</p> <p>Dismissal during their term only if they no longer fulfil the conditions required for the performance of their duties which are laid down in national law before their appointment – public and reasoned decision, open to judicial review (art. 7(2) and (3) Dir. 2018/1972)</p> <p>NRA need to act independently and objectively in the organisation of staff (art. 8(1)) – ability to recruit their own staff (Recital 37)</p>	<p>procedures guaranteeing the requisite degree of independence (art. 30(5) AVMSD)</p> <p>Conditions for performing functions laid down in advance by national law - dismissal only when no longer able to fulfil those functions – dismissal needs to be justified, notified in advance and made public (art. 30(5))</p>	
<p>Process ?</p>	<p>Tasks undertaken by national regulatory and other competent authorities in an easily accessible form (art. 5(3) Dir. 2018/1972) + Commission notification of</p>	<p>Exercise of powers impartially and transparently and in accordance with the objectives of the AVMSD, in particular media pluralism, cultural and linguistic diversity,</p>	<p>NRAs must be entrusted with the development of national media ownership databases (art. 6(2)).</p>

	<p>those tasks (art. 5(4))</p> <p>Exercise of NRA and other competent authorities' powers exercise their powers impartially, transparently and in a timely manner (art. 6(2))</p> <p>NRAs shall not seek or take instructions from any other body in relation to the exercise of the tasks assigned to them under national law implementing Union law (art. 8(1))</p> <p>NRA needs sufficient technical, human and financial resources to participate in BEREC (art. 9(3) and 10) and take place in information exchange in that framework (Dir. 2018/1971)</p> <p>Minimum NRA tasks outlined in art. 5 Dir. 2018/1972, including binding dispute resolution tasks (art. 26) – cross-border dispute resolution</p>	<p>consumer protection, accessibility, non-discrimination, the proper functioning of the internal market and the promotion of fair competition (art. 30(2) AVMSD)</p> <p>No outline of minimum powers to implement the provisions of the Directive– powers need to be defined by law (art. 30(4))</p> <p>In no way, right to an effective judicial remedy may be precluded (Recital 47)</p> <p>Information exchange possibilities within the framework of the European Regulators' Group for Audiovisual Media (ERGA) (art. 30(4) and 30(a)(1))</p>	<p>NRAs may request other NRAs to cooperate, including by exchanging information or by means of mutual assistance (art. 14).</p> <p>They may also request other NRAs to take necessary and proportionate actions for the effective enforcement of the obligations imposed on video-sharing platform (art. 15(1)).</p> <p>Legislative, regulatory or administrative measures liable to affect media pluralism or the editorial independence of media service providers must be justified and proportionate; they must be reasoned, objective and non-discriminatory (art. 21).</p>
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	<p>at BEREC level, which issues opinion (art. 27)</p> <p>NRAs and other competent authorities shall have powers, in accordance with national law limits, to impose penalties including, where necessary, fines and non-criminal predetermined or periodic penalties. Penalties need to be appropriate, effective, proportionate and dissuasive (art. 29(1)). No minimum penalty levels prescribed, however undertakings' behaviour may be factor to consider in some circumstances (art. 29(2))</p> <p>Information exchange between NRAs and other competent authorities as well as national competition authorities (art. 11 Dir. 2018/1972)</p>		
<p>Modus operandi (accountability, judicial review) ?</p>	<p>NRA needs to publish annual public report, inter alia, on the state of the electronic communications market, on the decisions they</p>	<p>Supervision over NRAs or bodies remains possible in accordance with national constitutional law, as long as effective independence is</p>	<p>Right to appeal available to media service provider subject to regulatory or administrative</p>

	<p>issue, on their human and financial resources and how those resources are attributed, as well as on future plans (Art. 8(2) Dir. 2018/1972)</p> <p>Member States need to collect information on the general subject matter of appeals, the number of requests for appeal, the duration of the appeal proceedings and the number of decisions to grant interim measures (art. 31(3))</p> <p>NRA financial autonomy shall not prevent supervision or control in accordance with national constitutional law. Any control on the budget of the national regulatory authorities shall be exercised in a transparent manner and made public (art. 9(2))</p> <p>(Judicial or non-judicial) sufficiently specialised appeal bodies need to provide for effective (non-</p>	<p>safeguarded (art. 30(2))</p> <p>Right to an effective judicial remedy (Recital 47)</p> <p>Non-suspensive (unless interim measure) effective appeal mechanisms before an appeal body, which may be a court, independent of the parties involved in the appeal (art. 30(4)) – without prejudice to competence divisions between national courts (Recital 55)</p>	<p>measure liable to affect media pluralism or the editorial independence of media service providers; appeal before an independent body (art. 21(2)).</p>
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	<p>suspending) review of NRA decision. If appeal is granted before non-judicial body, subsequent appeal before a court must be possible (art. 31) Only those bodies have the power to suspend or overturn decisions of the national regulatory authorities (art. 8(1))</p>		
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