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For more democratic elections

Committee Opinion[1]
Committee on Culture, Science, Education and Media
Rapporteur: Ms Zaruhi POSTANJYAN, Armenia, Group of the European People's Party

A. Conclusions of the committee

1. The Committee on Culture, Science, Education and Media welcomes the report prepared by Mr Jean-Charles Gardetto for the Committee on Political Affairs and Democracy. It is very timely, given the persistent problems underlined in past election observation reports and tendencies to political radicalisation in some member States in the wake of economic crises. The recent democratic movements in Arab countries and other parts of the world remind us that the right to free and democratic elections is a universal human right aimed at ensuring good governance, the rule of law and peace. Also for Europe, self-criticism and innovation are necessary approaches with respect to democratic elections.

2. Democracy and individual freedom are ancient philosophical concepts, which are deeply rooted in European culture. Parliaments must enact domestic legislation which guarantees democratic elections, but laws alone do not suffice. In order to implement philosophical concepts set in legislation, people need awareness and understanding which is achieved through adequate education and training.

3. Democratic elections provide legitimacy to parliaments and governments. The media have a key role in disseminating information, opinions and political discussions, in particular during election campaigns. Freedom of political debate and the access of political candidates and political parties to the media are fundamental requirements for any democratic election.

4. The committee wishes to underscore that democracy cannot exist without strong institutions and sound legislation, but it also cannot work without being based on democratic culture. Education – including higher education – and participation in civil society initiatives are decisive forces shaping the democratic development of societies.

5. Democratic participation, however, depends on both citizens' capacity and willingness to engage in democratic processes, such as elections. Whilst the capacity can be enhanced through adequate support policies, the willingness to engage depends largely on citizens' confidence in democratic institutions. Confidence in democratic institutions is therefore key to preventing voters' absenteeism and to ensuring sustainability of democratic systems at local, regional, national and European levels.

6. The committee aligns itself with the draft resolution adopted by the Committee on Political Affairs and Democracy. Therefore, the following amendments are proposed in support of the objectives of Mr Gardetto's excellent report.

1. *Reference to committee*: Decision by the Bureau, Reference 3629 of 25 January 2010. Reporting committee: Committee on Political Affairs and Democracy. See Doc. 13021. Opinion approved by the committee on 2 October 2012.

B. Proposed amendments

Amendment A (to the draft resolution)

At the end of paragraph 2, add the following sentence:

> *"In this respect, member States must fulfil their positive obligations under Article 3 of the Additional Protocol to the European Convention on Human Rights (ETS No. 9)."*

Amendment B (to the draft resolution)

Replace paragraph 8.1.8 with the following paragraph:

> *"ensuring freedom of political debate in the media and guaranteeing that electoral campaigns are open and accessible and allow genuine debate that is not only of interest to voters but also informative for their choices. This requires, inter alia, transparency and pluralism of all media as well as equal access of all candidates and political parties to, and impartiality of, the public service media. Any national regulations on election campaigns should strike a fair balance between freedom of expression and ensuring equal opportunities;"*

Amendment C (to the draft resolution)

After paragraph 8.1.11, add the following sub-paragraph:

> *"consolidating overall democratic culture through the implementation of the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education;"*

Amendment D (to the draft resolution)

In paragraph 10.3, after the word "organisations", insert the words "and non-governmental organisations".

C. Explanatory memorandum by Ms Postanjyan, rapporteur for opinion

1. Amendment A

Over a period of nearly 50 years, the European Court of Human Rights has established case law on the right to free elections under Article 3 of the Additional Protocol to the European Convention on Human Rights (ETS No. 9). This norm is the yardstick for free democratic elections throughout Europe. Therefore, it is important to recall expressly this Article 3 in the draft resolution, which aims at more democratic elections in Europe.

2. Amendment B

Paragraph 8.1.8 addresses important issues concerning election campaigns and media freedom. Freedom of expression and information through the media is a necessary condition for informed elections in a democracy. All recent election observation reports of the Parliamentary Assembly noted serious problems with regard to the freedom of political debate in the media. Paragraph 8.1.8 should therefore be strengthened as follows.

The obligation of member States under Article 10 of the European Convention on Human Rights (ETS No. 5) to ensure freedom of political debate in the media[2] should be recalled expressly.

It would be useful to spell out that access to the media is a right for all candidates and political parties, because an abstract right of access to the public service media may not be fully understood. Public service broadcasters have a special obligation regarding their impartiality and equal access for election campaigns. In addition, media ownership must be made transparent and the media environment must be pluralist. Those requirements should be recalled here.

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2. See also the Declaration of the Committee of Ministers on freedom of political debate in the media: https://wcd.coe.int/ViewDoc.jsp?id=118995.

In general, member States should not be encouraged to regulate "the role of private broadcasting media and the Internet, including websites, in election campaigns". As websites and blogs can be operated or used by political candidates and parties directly, it is difficult to imagine must-carry rules for Internet media or other restrictions concerning political advertising. Private broadcasters may be obliged to disseminate political advertising before elections in a similar manner to public broadcasters. However, private broadcasters may also run additional paid advertising including political advertising, as long as they respect the general advertising requirements, namely separation of advertising from editorial content, transparency of advertising and sponsoring, and limitation of advertising per day. Similar requirements apply to print media or political advertising in public places such as street posters. Therefore, it seems more helpful to address the regulation (and self-regulation) of election campaigns in a technology-neutral way, which encompasses all political advertising before elections irrespective of the medium used. In any case, a specific regulation of the Internet seems impossible and might be in conflict with Article 10 of the European Convention on Human Rights.

3. Amendment C

Democracy can only flourish with strong supportive institutions and laws and a democratic culture, which encompasses democratic values, ways of knowing and acting, ethical judgments, analytical competencies and skills of engagement. Education, which is a lifelong process, is a condition for rendering elections more democratic in so far as it contributes to the development of democratic culture in European societies. Educated citizens are better able to grasp the complexity of the democratic processes and better able to take actions to change things. Education for democratic citizenship[3] and, in particular, the modules on political participation and elections must be part of formal education in member States and also promoted through non-formal education as well as civil society initiatives.

4. Amendment D

Election observations greatly benefit from the work of non-governmental organisations. Prominent examples are the International Foundation for Electoral Systems (IFES) and the European Network of Election Monitoring Organizations (ENEMO). Therefore, it is important for the Assembly to increase its co-operation with those organisations in order to achieve synergies.

3. See Committee of Ministers Recommendation CM/Rec(2010)7 on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education: https://wcd.coe.int/ViewDoc.jsp?id=1621697.