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Media freedom as a condition for democratic elections

Committee Opinion¹

Committee on Political Affairs and Democracy

Rapporteur: Ms Olena SOTNYK, Ukraine, Alliance of Liberals and Democrats for Europe

A. Conclusions of the committee

1. The Committee on Political Affairs and Democracy welcomes the report by the Committee on Culture, Science, Education and Media, and is fully conscious of the need to promote the right to freedom of information and media freedom, especially in the context of free and fair elections, including the freedom of voters to form an opinion. The committee agrees that the authorities have a duty of neutrality as regards the media, which must be free to inform the public, without being subject to any political, economic or other pressure, and with due regard for professional ethics. All member States must promote a free, independent and diverse media and communication environment, which is key to addressing misinformation and undue propaganda and ensuring the effectiveness of the right to free elections.
2. The committee wishes to reaffirm the importance of the Code of Good Practice in Electoral Matters of the European Commission for Democracy through Law (Venice Commission), as a standard-setting document, which has provided significant assistance, since 2002, for the legislators of several member States to improve their electoral legislation. It also points to the 2009 [Guidelines on media analysis during election observation missions](#), the 2013 [Report](#) and the 2016 [Guidelines for preventing and responding to the misuse of administrative resources during electoral processes](#), as well as the 2010 [Guidelines on political party regulation](#), issued jointly by the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR).
3. Finally, the committee wishes to clarify the term “propaganda” throughout the resolution, point to the need to clearly distinguish between campaign activity and information activity of public and private media, and promote a thorough discussion on the links between media freedom, elections and democracy, also in the framework of the 2019 World Forum for Democracy.

B. Proposed amendments

Amendment A (to the draft resolution)

In paragraphs 6, 8.1, 9, 9.1, 9.6, 10.5, 10.6, 11.3, 13, replace the word “propaganda” with the words “undue propaganda”.

1. Reference to committee: [Doc. 14210](#), Reference 4268 of 23 January 2017. Reporting committee: Committee on Culture, Science, Education and Media. See [Doc. 14669](#). Opinion approved by the committee on 21 January 2019.



Amendment B (to the draft resolution)

Replace paragraph 7 with the following paragraph:

In this context, the Assembly reiterates the obligations deriving from Article 10 of the [European Convention on Human Rights](#), and the standards contained in numerous Council of Europe texts, including the following recommendations of the Committee of Ministers: [Recommendation CM/Rec\(2007\)15](#) on measures concerning media coverage of election campaigns, [Recommendation CM/Rec\(2007\)3](#) on the remit of public service media in the information society, [Recommendation Rec\(2004\)16](#) on the right of reply in the new media environment, [Recommendation CM/Rec\(2007\)2](#) on media pluralism and diversity of media content, and most recently [Recommendation CM/Rec\(2018\)1](#) on media pluralism and transparency of media ownership, as well as [Recommendation Rec\(2000\)23](#) on the independence and functions of regulatory authorities for the broadcasting sector, and [Recommendation R\(97\)20](#) on hate speech, along with [General Policy Recommendation No. 15](#) on combating hate speech, issued by the European Commission against Racism and Intolerance (ECRI) and the [Code of Good Practice in Electoral Matters](#) of the European Commission for Democracy through Law (Venice Commission). It also points to the 2009 [Guidelines on media analysis during election observation missions](#), the 2013 [Report](#) and the 2016 [Guidelines for preventing and responding to the misuse of administrative resources during electoral processes](#) and the 2010 [Guidelines on political party regulation](#), all three issued jointly by the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR)."

Amendment C (to the draft resolution)

In paragraph 8, replace the word "recommends that member States" with the words "calls on member States to".

Amendment D (to the draft resolution)

After paragraph 8.5, insert the following paragraph:

"provide for a clear distinction between campaign activity and information activity of public and private media to ensure equity among political competitors as well as a conscious and free choice for voters;"

Amendment E (to the draft resolution)

In paragraph 9, replace the words "recommends that member States" with the words "calls on member States to".

Amendment F (to the draft resolution)

After paragraph 13, add the following paragraph:

"Finally, the Assembly believes that the Council of Europe World Forum for Democracy could offer an adequate platform to discuss different aspects related to media freedom, information and democracy challenges in the digital age, with the participation of media outlets, social media players, journalists' associations, civil society organisations, internet users and policy makers."

C. Explanatory memorandum by Ms Olena Sotnyk, rapporteur for opinion

1. I congratulate the Committee on Culture, Science, Education and Media for its report on "Media freedom as a condition for democratic elections" and wish to pay tribute to the rapporteur, Ms Gülsün Bilgeham, who left our Assembly last year after more than 15 years of valuable work in defence of democracy, human rights and the rule of law.

2. The report rightly addresses the problem of the technological and social shift towards new media, online media and social media, which is having an impact on the whole democratic decision-making process, notably around elections, and raises specific challenges that the current regulations do not fully address. Furthermore, media coverage related to electoral processes must be regulated in such a way as to reduce information disorder and hate speech.

3. There is concern that social media is undermining the quality of information and that disinformation people receive has a potential to weaken democracy. Furthermore, as stressed in a 2017 Council of Europe report on “Information disorder: toward an interdisciplinary framework for research and policy making”, which was presented to our committee in June 2018, there is a lack of meaningful debate, with internet users being split into “filter bubbles” of like-minded people who are locked in echo chambers that reinforce their own biases.

4. The Parliamentary Assembly already noted its concern over the influence of online media on elections in [Resolution 2143 \(2017\)](#) “Online media and journalism: challenges and accountability”. According to a report by Freedom House, manipulation and disinformation tactics damage citizens’ ability to choose their leaders based on factual news and authentic debate. Over the last few years, the practice has become significantly more widespread and sophisticated, with bots, undue propaganda producers, and fake news outlets exploiting social media and search algorithms to ensure high visibility and seamless integration with trusted content. These actions are destroying trust, polluting the information space and attempting to destroy public discourse and democratic institutions.

5. A number of OSCE/ODIHR final election observation reports highlight the overall lack of investigative and analytical coverage in the media reporting of elections. In view of my experience of election observation campaigns, frequent media bias in favour of incumbents, particularly with regard to public service media, is also one of the challenges identified by the election observation missions which the Assembly regularly contributes to. In response to undue propaganda and disinformation, there is a need for good quality journalism, and it is advisable to support initiatives and training courses aimed at enhancing the overall quality of election-related reporting. At the last committee meeting on 11 December 2018, I pointed to the dishonest propaganda which was disseminated during the elections in Brazil and deemed it essential to educate critical minds. Restrictions on internet freedom are doomed to fail as users will always find new ways to disseminate information and fake news.

6. Media pluralism and independence are not enough to guarantee a well-informed electorate. It is also essential that the receiver of the information is capable of decoding it. Civic education, including media education, can be of great help, and member States should develop school curricula which reflect this concern. In this regard, the Committee on Culture, Science, Education and Media is currently preparing a report on “Media education in the new media environment”.

7. I would also like to point out that in paragraph 6 of the explanatory memorandum, the rapporteur refers to the Venice Commission’s Code of Good Practice in Electoral Matters, which was an initiative of our Assembly, and defines it as “practical guidelines”. We must strongly reaffirm the Code as a “standard-setting document”, which has provided significant assistance, since 2002, for the legislators of a number of member States to improve their electoral legislation. It is the most detailed legal instrument on electoral matters and is used by the Assembly Bureau’s ad hoc committees for the observation of elections as a basis for their work. The Code stresses in particular that “media failure to provide impartial information about the election campaign and candidates is one of the most frequent shortcomings arising during elections”.

8. On 11 December 2018, our committee adopted a report prepared by Dame Cheryl Gillan on “Updating guidelines to ensure fair referendums in Council of Europe member States”,² which has been debated during the January 2019 part-session, and which suggests that the Code should be updated to take account of changes arising from the growth of the internet and social media. Currently, the Venice Commission, through its Latin America Sub-Committee, is also studying the role of social media and the internet in democratic development, which our Assembly should carefully follow.

9. The committee is also preparing a report on “Setting minimum standards for electoral systems in order to offer the basis for free and fair elections” (rapporteur: Mr Hendrik Daems), which will include media freedom and elections in its analysis. Another report on “Democracy hacked: how to respond?” (rapporteur: Mr Frithjof Schmidt) is addressing the most pressing issues, such as election security and society’s resistance to misinformation. As stressed by our President, Ms Liliane Maury Pasquier, on the 2018 International Day of Democracy, “our societies must protect democratic processes of opinion-forming, especially during elections. In the face of new realities, it is up to us as elected representatives to formulate bold proposals with new ideas for the future”.

2. [Doc. 14791](#). See also [Resolution 2251 \(2019\)](#).

10. I would like to suggest the following six amendments to the draft resolution:
- a. The word “propaganda” is used throughout the report (including in the draft resolution) as referring to something negative and dishonest, which should be absolutely avoided at all times. While the term may be slightly pejorative, it is a form of communication that attempts to achieve a response that furthers the desired intent of the propagandist.³ As such, it cannot always be avoided in politics and put on the same level as disinformation. The term could therefore be qualified as “undue propaganda” in the resolution.
 - b. It is important to make a clear distinction between standard-setting documents, such as the Committee of Ministers Recommendations, the ECRI General Policy Recommendation and the Venice Commission’s Code of Good Practice in Electoral Matters, and practical guidelines. The amendment also points to the three sets of guidelines which were issued jointly by the Venice Commission and OSCE/ODIHR, namely the 2009 [Guidelines on media analysis during election observation missions](#), the 2013 [Report](#) and the 2016 [Guidelines for preventing and responding to the misuse of administrative resources during electoral processes](#), as well as the 2010 [Guidelines on political party regulation](#).
 - c. Since the text under consideration is a resolution and not a recommendation, the Assembly should call on member States, and not recommend, to take action.
 - d. Member States should be called on to provide for a clear distinction between campaign activity and information activity of public and private media to ensure equity among political competitors as well as a conscious and free choice for voters. This is outlined in the Venice Commission’s [Guidelines for preventing and responding to the misuse of administrative resources during electoral processes](#).
 - e. The same as amendment c.
 - f. I believe the World Forum for Democracy would represent an excellent platform to discuss different aspects related to media freedom, information and democracy, gathering media outlets, social media players, journalists’ associations, civil society organisations, internet users and policy makers.

3. Garth S. Jowett and Victoria O'Donnell, *Propaganda and Persuasion*, 1999.