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Resolution 2254 (2019)[1]

Media freedom as a condition for democratic elections

Parliamentary Assembly

1. The Parliamentary Assembly recalls that free elections are a pillar of every democratic society. The electorate cannot be said to have genuine freedom of choice if that choice is not a well-informed one; consequently, the right to freedom of information and media freedom are essential preconditions of the right to free elections, in accordance with Article 3 of the Protocol to the European Convention on Human Rights (ETS No. 9). The media must be free to inform the public, without being subject to any political, economic or other pressure, and with due regard for professional ethics.

2. The professional media are subject to various obligations designed to ensure balanced and impartial coverage of elections and fair participation in the election process of all candidates and political parties.

3. Alongside the professional media, new media players have arrived on the scene: social media. They are having an increasing impact on the public, including during election campaigns: they enable political parties and candidates to pass on their messages "directly" to the electorate, and are a means for their supporters to disseminate those messages.

4. In many countries, social media are not subject to the general regulations governing the media or to the specific rules that apply at election times. Moreover, the particular nature of online communication makes it difficult to apply to social media the principles which the professional media must respect. Most attempts at regulation have failed to yield convincing results of compliance; other attempts have been heavy-handed and have amounted to censorship. Furthermore, sites which have been closed down can respond by creating "mirror sites" beyond national borders, which makes the sanctions adopted by domestic authorities less effective. There is also a lack of self-regulation by social media, which often disregard the conventions that have been widely accepted by the professional media.

5. Given the existing legal gaps, the various forms of malevolent online communication endanger the smooth and fair conduct of the electoral process and, ultimately, of democracy itself. Today, there is sufficient proof that autocratic regimes and anonymous stakeholders or interest groups use social media to manipulate public opinion with false news, co-ordinated disinformation campaigns, and trolls or bots to attack not only candidates in the opposing camp, but also human rights defenders, activists, civil society groups and journalists. Furthermore, even though recent research seems to show that social media users are exposed to more diverse information sources than those not using online sources, "filter bubbles" and "echo chambers" may hamper the potential benefits of such positive exposure, compartmentalise information flows and undermine internet users' ability to think critically, thus reinforcing prejudices.

6. In order to respond effectively to these problems, member States should guarantee the right to information through independent media; in addition, they should implement effective strategies to protect the electoral process and democracy from the threat of information manipulation and undue propaganda through social media.

1. *Assembly debate* on 23 January 2019 (5th and 6th Sittings) (see Doc. 14669, report of the Committee on Culture, Science, Education and Media, rapporteur: Ms Gülsün Bilgehan; and Doc. 14809, opinion of the Committee on Political Affairs and Democracy, rapporteur: Ms Olena Sotnyk). *Text adopted by the Assembly* on 23 January 2019 (6th Sitting).

7. In this context, the Assembly reiterates the obligations deriving from Article 10 of the European Convention on Human Rights (ETS No. 5) 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 No. 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, as well as 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).

8. Accordingly, the Assembly calls on member States to review, where necessary, their regulatory frameworks governing media coverage of election campaigns, in order to bring them into line with Council of Europe standards, ensuring in particular that they:

8.1. promote a free, independent and pluralist media environment as an essential precondition for combating disinformation and undue propaganda;

8.2. avoid media concentration, also paying attention to the problem of cross ownership;

8.3. oblige, where this is not already the case, public and private broadcast media to cover election campaigns fairly and impartially, making sure that opposition parties benefit from balanced media coverage in current affairs and information programmes, and introduce, along with this obligation, appropriate penalties by setting up the necessary monitoring and rectification mechanisms to ensure implementation in practice;

8.4. limit to a strict minimum the use made of measures restricting freedom of expression, which must not only be provided for by law and have a legitimate aim, but also be necessary in a democratic society; this means that such measures should not be arbitrary or politically motivated;

8.5. guarantee for any party or candidate having been the victim of false information broadcast by the media, including on the internet, the right to rapid correction of that information and the right to seek redress in court;

8.6. clearly distinguish between the campaign activities and information activities of public and private media to ensure equity among political competitors, as well as a conscious and free choice for voters;

8.7. adopt strict rules on media coverage of government activities to avoid media coverage of ceremonies attended or organised by the government resulting in preferential treatment and undue advantages for the parties in power and their candidates during elections;

8.8. guarantee, where political parties and candidates have the right to purchase advertising space for election purposes, equal treatment in terms of conditions and rates charged; in this context, there should be a requirement for paid political advertising to be readily recognisable as such;

8.9. ensure total transparency with regard to the public when media are owned by political parties or politicians;

8.10. guarantee the editorial independence of public service media, putting an end to any attempts to influence them or transform them into governmental media: the use of public service media to promote a specific political party or candidate must be classified as illegal misuse of public funds;

8.11. enhance the operational capacities of media regulators which must be independent of the political and economic powers; in this regard:

8.11.1. ensure that the composition of these bodies is politically neutral and based on media expertise and competence;

8.11.2. seek to reinforce their role so that they can contribute more effectively to addressing the challenges posed by the use of social media as a vehicle of political communication and to counter information disorder.

9. Concerning more specifically the risks posed by disinformation and undue propaganda on the internet and social media for the smooth conduct of the electoral process, the Assembly calls on member States to:

9.1. refrain from disseminating or encouraging the dissemination on the internet of statements, communications or news which they know or can reasonably be expected to know to be disinformation or undue propaganda;

9.2. develop specific regulatory frameworks for internet content at election times and include in these frameworks provisions on transparency in relation to sponsored content published on social media, so that the public can be aware of the source that funds electoral advertising or any other information or opinion;

9.3. establish clear legal liability for social media companies which publish illegal content harmful to candidates or violate essential rules of media communication during election times;

9.4. ensure that sanctions provided for in relation to unlawful content are not diverted to force self-censorship of opponents' opinions and critical views, and limit the application of extreme measures such as the blocking of entire websites, IP addresses, ports or network protocols to the most serious cases, in full compliance with the strict conditions set out in Article 10 of the European Convention on Human Rights;

9.5. provide specific training for electoral management bodies and media regulators, so that their members can gain a better understanding of the new media environment, with a view to enhancing implementation of regulations on political communication via social media;

9.6. encourage all stakeholders – including internet intermediaries, media outlets, civil society and academia – to develop participatory initiatives to enable the general public to have a better understanding of the danger of disinformation and undue propaganda on the internet, and to seek together appropriate responses to these phenomena.

10. The Assembly calls on professionals and organisations in the media sector to:

10.1. develop self-regulation frameworks that contain professional and ethical standards relating to their coverage of election campaigns, including respect for human dignity and the principle of non-discrimination;

10.2. ensure comprehensive and analytical coverage of election campaigns and of candidates and their platforms, to enable the electorate to make a more informed choice at the ballot box;

10.3. clearly distinguish between the activities of those in power and the activities of representatives of political parties running for election, ensuring that no preferential treatment is given to those in power;

10.4. adopt strict internal rules and dissuasive penalties for journalists and editors to prevent them from accepting money and other benefits in return for positive coverage of a candidate;

10.5. avoid disseminating messages based on unverified information or rumours designed to cause a scandal or for purposes of undue propaganda; if such messages are deemed to be important or urgent, their dissemination should be accompanied by a warning that the information has not been verified;

10.6. expose any attempt to manipulate information during the election campaign in the professional media or on social media platforms and, in this context, establish strong and close co-operation within the profession in order to combat disinformation and undue propaganda.

11. The Assembly calls on internet intermediaries to:

11.1. develop initiatives offering users fact-checking services and tools to flag up misleading information, and review their advertising models to ensure that they do not adversely impact diversity of opinions and ideas;

11.2. co-operate with civil society and organisations of all political affiliations specialising in the verification of content to ensure that all information is confirmed by an authoritative, third-party source;

11.3. support the research and development of appropriate technological solutions which users may apply to detect disinformation and undue propaganda.

12. The Assembly calls on the European Federation of Journalists (EFJ) to promote among its members awareness of the issues addressed in this resolution and to facilitate the pooling of experience and good practices relating to the coverage of election campaigns. In this connection, the Assembly calls on the EFJ to promote among its members effective collaboration regarding fact-checking and myth-busting, particularly at election time.

13. The Assembly calls on the European Broadcasting Union (EBU) to continue to promote its guidelines and editorial principles and to encourage European public service media to fully apply them, keeping in mind their particular role during election campaigns as an independent source of impartial, accurate and relevant information and of a diverse range of political opinions. In this context, the EBU should support active co-operation between its members to combat disinformation and undue propaganda in general, and in particular during election campaigns.

14. 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.