



Doc. 14669 – Compendium of written amendments
22/01/2019

(Final version)

Media freedom as a condition for democratic elections

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A. Draft Resolution

1. The Parliamentary Assembly emphasises once again 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. These 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 the 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, 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.

Amendment 15

**Tabled by Mr Andrii LOPUSHANSKYI, Mr
Vladyslav GOLUB, Ms Olena SOTNYK, Mr
Boryslav BEREZA, Mr Serhii KIRAL**

In the draft resolution, paragraph 5, after the words: “human rights defenders” insert the word: “, activists”.

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 propaganda through social media.

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 and practical guidelines 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), the Code of Good Practice in Electoral Matters of the European Commission for Democracy through Law (Venice Commission) and the Guidelines on Media Analysis during Election Observation Missions, 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 recommends that member States 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:

Amendment 1
Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, paragraph 6, replace the word "propaganda" with "undue propaganda".

Amendment 10
Tabled by the Committee on Political Affairs and Democracy

In 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 11
Tabled by the Committee on Political Affairs and Democracy

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

- 8.1. promote a free, independent and pluralist media environment as an essential precondition for combating disinformation and propaganda;
- 8.2. avoid media concentration, also paying attention to the problem of cross ownership;
- 8.3. impose, where this has not already been done, on public and private broadcast media an obligation 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, alongside this obligation, appropriate penalties, by setting up the necessary monitoring and rectification mechanisms to ensure that this is applied 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 they 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 a rapid correction of that information and the right to seek redress in court;
- 8.6. 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;
- 8.7. 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;
- 8.8. ensure total transparency vis-à-vis the public when media are owned by political parties or politicians;
- 8.9. 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;

Amendment 2

Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, paragraph 8.1, replace the word "propaganda" with "undue propaganda".

Amendment 12

Tabled by the Committee on Political Affairs and Democracy

In 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;"

- 8.10. enhance the operational capacities of media regulators which must be independent of the political and economic powers; in this regard:
 - 8.10.1. ensure that the composition of these bodies is politically neutral and based on media expertise and competence;
 - 8.10.2. 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 propaganda on internet and social media for the smooth conduct of the electoral process, the Assembly recommends that member States:

Amendment 3
Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, paragraph 9, replace the word "propaganda" with "undue propaganda".

Amendment 13
Tabled by the Committee on Political Affairs and Democracy

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

- 9.1. refrain from disseminating or encouraging the dissemination on internet of statements, communications or news which they know or reasonably should know to be disinformation or propaganda;
- 9.2. develop specific regulatory frameworks for internet content at election times and include in those 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 the 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;

Amendment 4
Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, paragraph 9.1, replace the word "propaganda" with "undue propaganda".

- 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 propaganda on 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 which should 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 the election campaign, candidates and their platforms, to enable the electorate to make a more informed choice at the ballot box;
- 10.3. make a clear separation between the activities of the powers in office and the activities of representatives of political parties running for election, ensuring that no preferential treatment is given to the powers in office;
- 10.4. adopt strict internal rules and sanctions against 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 propaganda purposes; 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 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;

Amendment 5
Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, paragraph 9.6, replace the word "propaganda" with "undue propaganda".

Amendment 16
Tabled by Mr Jaak MADISON, Mr Simone BILLI, Mr Alberto RIBOLLA, Mr Martin GRAF, Ms Monika MÜHLWERTH, Mr Jiří KOBZA, Mr Marc BERNHARD, Mr Martin HEBNER, Mr Koloman BRENNER

In the draft resolution, paragraph 10.1, after the words "human dignity", insert the words ", national sovereignty".

Amendment 6
Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, paragraph 10.5, replace the word "propaganda" with "undue propaganda".

Amendment 7
Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, paragraph 10.6, replace the word "propaganda" with "undue propaganda".

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

Amendment 17

Tabled by Mr Jaak MADISON, Mr Simone BILLI, Mr Alberto RIBOLLA, Mr Martin GRAF, Ms Monika MÜHLWERTH, Mr Jiří KOBZA, Mr Marc BERNHARD, Mr Martin HEBNER, Mr Koloman BRENNER

In the draft resolution, paragraph 11.2., after the word "organisations", insert the words: "of all political affiliations".

- 11.3. support the research and development of appropriate technological solutions to disinformation and propaganda which users may apply as they wish to detect disinformation and propaganda.

Amendment 8

Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, paragraph 11.3, replace the word "propaganda" with "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 propaganda in general and in particular during election campaigns.

Amendment 9

Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, paragraph 13, replace the word "propaganda" with "undue propaganda".

Amendment 14

Tabled by the Committee on Political Affairs and Democracy

In the draft resolution, after paragraph 13, insert 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."