[RO] Rules for the audiovisual electoral campaign for the presidential election

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Eugen Cojocariu
Radio Romania International

On 11 September 2014, the National Audiovisual Council - CNA (Consiliul Naţional al Audiovizualului) adopted Decision No. 528 (Decizia nr. 528/2014 privind regulile de desfăşurare în audiovizual a campaniei electorale pentru alegerea Preşedintelui României) with regard to the rules of the audiovisual electoral campaign for the election of the President of Romania (see IRIS 2009-10/24 and IRIS 2011-3/29). The presidential elections are convened on 2 November (first round) and 16 November 2014 (second round).

The electoral campaign lasts 30 days, from 3 October 00.00, until 1 November 07.00 (24 hours before the opening of the voting process) [Art. 1(1)]. The access of the presidential candidates to the public and private radio and television services is free of charge [Art. 2(1)]. The candidates, their representatives, and the representatives of political parties and alliances, as well as electoral alliances have access to the radio/TV services only in electoral promotion programmes, electoral debates, and information programmes [Art. 5(1)].

In connection with the coverage on the electoral campaign, the broadcasters have to observe the principles of equity, balance, and impartiality [Art. 3(1)]. The broadcasters are required to ensure that the electoral programmes observe the following rules:

- The electoral promotion shows, the electoral advertisements, and the other programmes made available by electoral competitors must not endanger the constitutional order, the public order, and the security of persons or property.

- The programmes shall not incite to hatred based on race, religion, nationality, sex or sexual orientation.

- They shall not contain statements that undermine human dignity, the right to one’s image or which are contrary to morality.

- The programmes shall not contain criminal or moral accusations against other candidates or electoral competitors without being accompanied by relevant evidence, which must be explicitly presented [Art. 3(2)].

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According to Art. 3(3), the producers, presenters and moderators of electoral debates have to ensure that the debate sticks to electoral themes. They must also intervene when their guests breach the rules stipulated in Art. 3(2). If the guests do not comply with these requirements, the moderators may interrupt them. They must also require explicit evidence when the participants bring criminal or moral accusations against some of their competitors, so that the public can form a correct opinion [Art. 3(3)].

During the election campaign, the candidates and their representatives cannot be producers, presenters or moderators of public or private broadcasting programmes [Art. 4 (1)]. The candidates and the representative of the electoral competitors who hold public office, may appear in programmes other than electoral programmes, which are strictly related to issues on the exercise of their functions. In these situations, the broadcasters are required to ensure the equality and the diversity of the opinions [Art. 4 (2)].

Live broadcast or recorded rallies, campaign meetings, press conferences or other campaign activities of candidates are considered as electoral promotion programmes [Art. 5(2)]. Audiovisual election materials, other than electoral advertisements made available to the broadcasters by the candidates, can only run in election promotion programmes [Art. 5 (3)].

Broadcasters are required to identify the invited persons in their programmes as:

Candidates, representative of a political party, political/electoral alliances that support candidates, journalist, analyst, commentator, political consultant etc. [Art. 5 (4)].

According to Art. 6 (1), the public and private broadcasters may broadcast election advertisements only during electoral programmes [Art. 5 (1)] under the following conditions:

Electoral advertisements will only run, if they are appropriately marked. The ads may not be longer than 30 seconds and have to be clearly assumed by the electoral competitors. The access to broadcast electoral ads should be granted to all candidates equally. During electoral debates, only electoral ads of candidates who are participating in the relevant programme can be broadcast. The content of the electoral ads has to observe the provisions of Art. 3(2). The electoral advertisements are not considered as commercial ads and their release is free of charge [Art. 6(2)].

During the election campaign it is forbidden to broadcast (except for election ads) any form of audiovisual commercial or non-commercial communication containing references to the candidates or their representatives [Art. 6 (3)]. 48 hours before the election day it is prohibited to present electoral surveys or sociological

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inquiries on the street [Art. 7 (2)]. On the elections day, it is prohibited to present exit polls before voting closes [Art. 7 (3)]. 24 hours before the voting begins and before the close of voting, it is strictly forbidden to broadcast any messages or comments about the elections, election broadcasts, and election commercials, as well as to invite or present in the programmes electoral competitors or their representatives, except as determined in Art. 9.

According to Art. 9, the persons whose rights or freedoms have been damaged by the release of incorrect facts during an electoral programme shall be entitled to reply. Also persons who are affected by inaccurate information shall be entitled to reply.

Since the entry into force of Decision No. 528, monitoring of compliance with the provisions regarding accurate information and pluralism of the Audiovisual Election Code is performed weekly, and broadcasters are required to address in the following week any breaches of the code.

According to Art. 13, the broadcasters must record the electoral programmes and keep the records during the entire electoral campaign, as well as 30 days after the official disclosure of the elections results.

According to Art. 14, the breaches of Decision No. 528 will be sanctioned under the provisions of the Audiovisual Law No. 504/2002 and of Law No. 370/2006. If the breaches occur after the end of the electoral campaign, the CNA will analyse the possible incidents as quickly as possible. The provisions of Decision No. 528 shall accordingly apply to the campaign to be held for the second round of the presidential elections (Art. 15).

Decizia nr. 528 din 11.09.2014

http://www.cna.ro/IMG/pdf/DECIZIE_CNA_528_2014.pdf

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