[RO] CNA Decisions for the referendum on redefining the family

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On 20 September 2018, the Consiliul Naţional al Audiovizualului (National Audiovisual Council, CNA) adopted Decision No. 441/2018 on the rules for the audiovisual coverage of the campaign for the national referendum on the revision of the Constitution concerning Article 48 (1) of the Romanian Constitution, scheduled in Romania for 6 and 7 October 2018. On 2 October 2018, the CNA adopted Decision No. 454/2018 for the modification of Decision No. 441/2018 (see inter alia IRIS 2004-3/33, IRIS 2005-1/34, IRIS 2008-10/27, IRIS 2009-1/29, IRIS 2009-6/28, IRIS 2009-10/24, IRIS 2011-3/29, IRIS 2011-9/31, IRIS 2012-6/30, IRIS 2014-5/27, IRIS 2014-10/30, and IRIS 2016-10/25).

The Law on the Review of the Constitution and the corresponding campaign in audiovisual media concerned an amendment of Article 48 (1) of the Romanian Constitution, which shall be amended to read as follows: "The family is founded on the freely agreed marriage between a man and a woman, on their equality and on the right and duty of parents to ensure the raising, education and institutionalization of children". The actual form of Article 48 rules that "The family is based on a freely agreed marriage between spouses." The modification of the Constitution was demanded through a citizens' initiative, signed by 3 million people. The subject of marriage between persons of the same sex is very sensitive in Romania, a country with a Christian Orthodox majority which has a rather conservative view on this matter. The very idea of the modification of the Constitution in this respect, after a national referendum, triggered huge polemics and contradictory debates.

The campaign in audiovisual media for the national referendum ended on 5 October 2018 at 7.00 a.m. local time, 24 hours before voting started. In its decision prior to the referendum, the CNA had made some general statements about the requirements such campaigns in audiovisual media have to comply with.

The CNA stated first of all that the questions at the heart of the campaign for the national referendum could be addressed through informative programmes and debates, with due respect for the rules of correct information and pluralism of opinions. In this regard, broadcasters are obliged to reflect equally divergent views and, during debates, must ensure equal chances for partisans and

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opponents of the subject of the referendum. If one of the persons invited does not participate, broadcasters are obliged to mention this fact. Furthermore, the CNA stated that the absence of the point of view of one of the parties did not exonerate the moderator from ensuring impartiality.

In cases where criminal or moral allegations are made in the informative programmes and debates, the point of view of the persons concerned should also be disseminated, as a rule, within the same programme or, exceptionally, in subsequent broadcasts. In addition, broadcasters have to grant persons involved their right to reply and right of rectification.

According to the decision, broadcasters may not air opinion polls, debates and comments or any public consultations on the subject of the referendum from the end of the referendum campaign until the closing of the polls. The opinion polls carried out by the specialised institutions must be broadcast in compliance with the rules laid down in the Audiovisual Code. Voice interviews conducted by broadcasters cannot be presented as representative of public opinion or of a particular social or ethnic group and are obliged to reflect divergent views. Within the aforementioned period of time, it is also forbidden to present and broadcast invitations to vote for or against the subject of the referendum, or inducements to vote or not to vote. Concerning the last point, a modification was adopted on 2 October 2018, through Decision No. 454/2018, which changed the wording of Decision No. 441/2018 only to „inducements to vote for or against the proposed subject of the referendum". In other words, this means that from now on, it is forbidden to invite someone to vote for or against the question raised by the referendum, but it is allowed to invite people to go and cast their votes, which could boost the participation rate.

According to Decision No. 441/2018, broadcasters are obliged to record the broadcasts for the referendum under the conditions established by Decision No. 412/2007 of the CNA on the obligations of radio broadcasters to record radio and television programmes, as subsequently amended and supplemented. These records shall be retained for 30 days after the official communication of the results of the referendum and shall be made available to the CNA at its request. Furthermore, according to the CNA, broadcasters are obliged to provide the data requested by the control personnel of the CNA on the conduct of the campaign for the national referendum, within the terms and conditions communicated.

Finally, the CNA stated that failures to comply with the provisions of the Audiovisual Law, the Audiovisual Code and the corresponding CNA Decision shall trigger the application of the sanctions provided for by the Audiovisual Law No. 504/2002, with further modifications and completions.

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Decizia C.N.A. nr. 441 din 20.09.2018 privind reflectarea pe posturile de radio şi de televiziune a referendumului naţional pentru revizuirea Constituţiei din 6 şi 7 octombrie 2018

http://www.cna.ro/IMG/pdf/Decizie_CNA_nr._441_din_20_septembrie_2018-referendum.pdf

C.N.A. Decision No. 441 of 20.09.2018 with regard to the coverage on the radio and television stations of the national referendum for the revision of the Constitution of 6 and 7 October 2018

Decizia C.N.A. nr. 454 din 02.10.2018 pentru modificarea Deciziei C.N.A. nr. 441 din 20.09.2018 privind reflectarea pe posturile de radio şi de televiziune a referendumului naţional pentru revizuirea Constituţiei din 6 şi 7 octombrie 2018

http://www.cna.ro/IMG/pdf/Decizie_nr._454_privind_modificarea_Deciziei_CNA_nr._441-_sedinta_din_02.10.2018_.pdf

C.N.A. Decision No. 454/2018 of 02.10.2018 for the modification of the C.N.A. Decision No. 441 of 20.09.2018 with regard to the coverage on the radio and television stations of the national referendum for the revision of the Constitution of 6 and 7 October 2018

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