

[RO] Audiovisual rules for the 2019 Presidential elections

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On 3 September 2019, the *Consiliul Național al Audiovizualului* (National Audiovisual Council - CNA) adopted Decision No. 781/2019 with regard to the rules which apply to the audiovisual electoral campaign for the election of the President of Romania in 2019 (see, *inter alia*, IRIS 2009-10/24 and IRIS 2014-10/30).

The elections will be held on 10 November 2019 (first round) and on 24 November 2019 (second round). As a first, the elections abroad, for Romanians living outside the country, will last 3 days for each round (8-10 November and 22-24 November, respectively). The audiovisual electoral campaign will start on 12 October at midnight and will end on 9 November at 7 a.m. local time, 24 hours before the opening of the voting sections, according to Article 1(1).

The candidates' access to public and commercial radio and television services is equal and free of charge [Article 2 (1)]. Broadcasters have to observe the principles of fairness, balance, and impartiality in relation to electoral opponents [Article 3 (1)]. According to paragraph (2), broadcasters have an obligation to ensure that during promotional electoral shows, as well as in the content of the commercials and other audiovisual materials offered by the candidates, the following conditions are met: a) the constitutional order, the public order, and the security of people and goods must not be endangered; b) there must not be incitement to hatred on the basis of political beliefs, race, religion, ethnicity, nationality, sex or sexual orientation, nor to violence; c) the material must not contain statements or images that may affect human dignity, the honour or privacy of a person, the right to one's own image or content that is contrary to good manners; d) the material must not contain criminal or moral charges against other candidates without being accompanied by relevant evidence, explicitly presented. Paragraph (3) provisions that the producers, presenters and moderators of electoral debates also have the following obligations: a) to ensure that the debate is maintained in the area of electoral issues; b) to intervene when guests violate, through behaviour or expression, the rules provided for in paragraph (2); if the guests do not comply with their requests, the moderator may decide to interrupt the microphone or stop the broadcast, as the case may be; c) to request explicit evidence when participants bring charges of criminal or moral accusations against other candidates, so that the public can form a correct

opinion. Paragraph 4 stipulates that if in debate programmes, the candidates, or the representatives of political parties, political alliances or electoral alliances that support candidates, do not show up, broadcasters will not postpone their antenna time; broadcasters have an obligation to broadcast the programme with those who did show up, for the initially scheduled duration; in case the absentees motivate their non-participation in the programme, broadcasters have the obligation to present their motivation during the respective show.

During the election campaign, candidates and representatives of electoral contenders cannot be producers, presenters or moderators of public and private broadcasters' programmes [Article 4 (1)]. Those candidates who hold public office may appear in programmes other than electoral ones, but strictly on issues related to the exercise of their functions. In these situations, broadcasters are required to ensure the equidistance and pluralism of opinions [Article 4 (2)].

According to Article 5 (1), public and commercial broadcasters will only allow electoral contenders access to a) electoral promotion programmes, b) electoral debates and c) informative programmes. Paragraph (2) stipulates that the live or recorded broadcasting of meetings and electoral meetings, candidates' press conferences or other campaign activities are considered as electoral promotion programmes. Paragraph (3): electoral audiovisual materials, other than electoral publicity spots, made available to broadcasters by candidates, can be broadcast only in the broadcasts of electoral promotion. Paragraph (4): broadcasters are required to specify the capacity in which people invited on shows express themselves: candidates, representatives of candidates, members of a political party or representatives of political or electoral alliances that support candidates, journalists, analysts, commentators, political consultants, etc.

Article 6 (1) stipulates that broadcasters can air electoral publicity spots only within the electoral programmes provided for in Article 5, paragraph (1) lit. a) and b), subject to the following conditions: a) electoral publicity spots will only be broadcast if they are accompanied by an appropriate marking structure; b) electoral publicity spots cannot last longer than 30 seconds and must be explicitly assumed, both in presentation and content, by the candidates; c) the distribution of electoral publicity spots must ensure that all candidates have equal conditions of access; d) publicity spots by some candidates cannot be inserted in the intervals of promotional shows allocated to other candidates; e) the content of electoral publicity spots must comply with the conditions imposed by Article 3, paragraph (2). Article 6 (2) provisions that electoral publicity spots do not constitute audiovisual commercial communication and that their distribution is free of charge. Article 6 (3) establishes that during the election campaign, except for electoral publicity spots, the dissemination of any forms of audiovisual commercial or non-commercial communication which contains references to political contenders is forbidden.

Article 7 (2) stipulates: 48 hours before polling day, it is forbidden to submit opinion polls, television polls or polls with electoral content carried out in the street. Paragraph (3): on voting day, it is forbidden to present polls conducted at the polls exit before voting ends.

Article 8 provisions that 24 hours before voting begins and until the polls are closed, it is forbidden to broadcast any messages or comments with electoral content, programmes, or electoral spots, as well as to invite or present electoral contenders in programmes, except for the situations provided for in Article 9.

Article 9 provides provisions on the right to reply and the right to rectification, which follow the general regime of these rights.

Decizia nr. 781 din 3 septembrie 2019 privind regulile de desfășurare în audiovizual a campaniei electorale pentru alegerea Președintelui României

http://cna.ro/IMG/pdf/Decizie_nr._781_din_03.09.2019_Alegeri_PRES_2019_CNA_.pdf

Decision no. 781 of 3 September 2019 with regard to the rules of the audiovisual electoral campaign for the election of the President of Romania

