

Council of Europe publishes recommendation on electoral communication

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On 6 April 2022, the Committee of Ministers of the Council of Europe adopted a recommendation to member states on electoral communication and media coverage of election campaigns. The recommendation not only lays down principles for electoral advertising, in particular online, but also updates a previous recommendation on the role of the media in election campaigns. The Council of Europe highlights, in particular, the importance of transparency in the use of communication in the run-up to elections, including regard to whether information has been paid for, and the sources and the extent of funding of electoral advertising. It urges the member states to take the principles laid down into account in their domestic legislation and to make adjustments where necessary.

The preamble to the recommendation stresses the fundamental role of political and electoral communication in ensuring a democratic debate and reaffirms that fair, free, trustworthy and reliable information is essential to guarantee the integrity of the electoral process. The recommendation, prepared by the Committee of Experts on Media Environment and Reform (MSI-REF) over a two-year period, was adopted in the context of increasing use of the Internet for communication, including electoral communication, and the dominance of a small number of platforms that are currently not subject to a specific level of regulation. The easy, constant availability of communication channels has led to permanent political communication, making it almost impossible to distinguish between electoral advertising/communication and information that is not part of an election campaign. The Internet also provides the opportunity for new forms of electoral advertising, such as personalised messages and so-called microtargeting, which are strongly linked to data collection and processing. These developments have made it necessary to adopt a new regulatory approach.

The appendix to the recommendation contains guidelines that begin by setting out the scope of the recommendation and relevant definitions. The guidelines apply very broadly to all types of political elections and votes such as referendums, and explain the differences between concepts such as “political advertising”, “political communication”, “election campaign” and “electoral communication”. The section on basic principles focuses not only on co-regulatory approaches, but also on the monitoring of compliance by relevant authorities, in

particular independent advisory bodies that support the authorities with their work. In the section on political advertising, the obligation to identify and categorise campaign leaders is emphasised. It is suggested that political parties and candidates, as well as online platforms, should be required to keep archives of all their campaign-related advertisements.

Transparency should apply as a core principle not only to electoral spending, but also to the financing of election campaigns. Member states should consider adapting current rules on spending limits for electoral advertising so they also include online communication. It is recommended that states prohibit or substantially limit foreign donations and financing of electoral advertising. The authorities should be empowered to gather and evaluate relevant information on financing, which should include technological aspects and new funding methods (e.g. cryptocurrencies). The use of algorithms, content moderation connected to political communication and the ranking of election advertising must also be transparent. The section on algorithms goes on to state that the integrity of services offered via platforms must be guaranteed by taking action against fake accounts and the use of bots, while the spread of political disinformation should be stopped. A number of regulatory options are also proposed, taking into account existing differences within the Council of Europe member states. For example, holding a day of reflection immediately before an election, during which no electoral advertising or poll results may be published, is only suggested as an option. Data protection and consent for certain types of (electoral) advertising are also covered in a separate section.

Finally, the recommendation lists the essential points that the media should take into account in their reporting of election campaigns. It reiterates the principles set out in Recommendation CM/Rec(2007)15, and proposes that, with due respect for their editorial independence, measures should also be taken to ensure that audiovisual media, in particular, cover election campaigns in a fair, balanced and impartial manner. Insofar as electoral advertising is permitted in these media, it should be made available to all parties and candidates on equal terms, while airtime should also be fairly allocated.

Along with this recommendation, the Committee of Ministers adopted two further recommendations. Together, taking into account recent developments in the online sector, they form a concise framework that the member states can use to modernise their media governance systems and extend their scope of application. Even though it is only advisory in nature, the recommendation can therefore make a valuable contribution to the standard-setting process.

Recommendation CM/Rec(2022)12 of the Committee of Ministers of the Council of Europe

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