

Event on Democratic Participation and Electoral Matters

25-26 April 2018

Questions to Member States' authorities

1. Has your country introduced any measures governing the use of media and social media in the context of election campaigns? These measures may include, but not be limited to:
 - i. the observance of election silence period,
 - ii. prohibition of disinformation (fake news)
 - iii. equal representation of candidates
 - iv. financial rules on campaigning and especially advertising limitations, awareness campaigns or bypassing the established financial limits.

If so, please briefly list such measures and explain possible exemptions for example for social media. If not, is your country currently considering introducing such measures in the future and for which media?

- i. Luxembourg has no law regarding the use of media or social media in the context of election campaigns. For each election, the “Service Information et Presse”, a service depending on the government, negotiates an agreement between the political parties and the government regarding the official media campaign. This agreement sets the terms of the media campaign in conventional media. These terms do not concern social media.

However, Luxembourg has a law regarding public opinion polls which prohibits to publish, to disseminate and to comment any public opinion poll up from the fifth day prior to the election day.

- ii. Luxembourg has a law which regulates disinformation in general. It states that all journalists have to check the accuracy and veracity of the published facts. Every misrepresentation of facts has to be corrected spontaneously as soon as it is known.
- iii. A law regarding public funding of political parties states that a political party only touches 100% of the public funding when it has a certain number of candidates of the under-represented sex on the candidates list. There is no specific rule for media or social media.
- iv. Political parties have to respect the rules of the law regarding public funding of political parties in order to touch any public funding. Furthermore, political parties touch under certain conditions a public funding in order to cover part of the expenses incurred by the election campaign such as postage costs.

2. Is there any existing case law in your country or relevant opinions of the electoral commission regarding the use of media, and of social media platforms, during election period? If so, please provide an overview.

No.

3. Has your country introduced any transparency or disclosure requirements for political entities advertising online in general and social media in particular? Do political digital ads have to be explicitly labelled with an imprint? Does the funding and provenance of these ads have to be clearly displayed?

No, Luxembourg has not introduced any particular transparency or disclosure requirements regarding online in general and social media. However, as mentioned before, political parties can benefit from a public funding for election campaign purposes. In order to touch this public funding, political parties have to provide to the competent authority a statement of all expenses incurred. Furthermore, political parties have to keep financial accounts displaying all revenues and expenses (including donations) which are subject to a control by the Court of Auditors.

4. In which way do you monitor the application of relevant provisions of national election laws or other above mentioned measures? Which authority covers political ads (i.e. advertising authority or other authorities)? Have you started to develop online archives of political adverts?

The "Service Information et Presse" is in charge of the application of the terms set down in the agreement between the political parties and the government regarding the dissemination of the political ads. Luxembourg has no online archives of political adverts.

In case of a dispute or an infringement to the impartiality of the public media, a complaint can be filed to the Luxembourgish independent audiovisual authority. This authority supervises the correct application of the regulatory texts by the audiovisual media services. Its supervisory missions cover traditional TV, VOD and national, regional and local radio.

5. Would you consider a possible role for National Statisticians to play in formal fact checking during elections, at least of certain materials where statistical data is at the core?

Yes.

6. Given the importance of freedom of expression in election campaigning and the democratic process, what is in your view the balance between formal regulation and self-regulation?

In Luxembourg, the balance between formal regulation and self-regulation is guaranteed by the fact that the organization of the election is regulated by law whereas political debates are self-regulated.

7. The use of third party data sources by political parties is increasing significantly - from companies such as Experian, Axion etc. These data sources are then linked to electoral registers. There are significant issues around transparency and whether the public are aware of this. What in your view can be done to make the public more aware of how data is used in campaigning?

At present, such issue has never occurred in Luxembourg. A state driven awareness campaign could foster the knowledge of the public on such a matter.

8. Has your national data protection authority issued guidance on personal data processing, including with regards to social media, in the context of election campaigns?

The national data protection authority has issued guidance on personal data processing in the context of election campaigns but not with particular focus on social media.

The guidance issued by the data protection authority relates to the use by political parties of the personal data contained in the electoral roll for electoral purposes.

9. Does the electoral commission in your country have any specific collaboration with data protection authorities with regard to the issues discussed above? Is this collaboration formalised in any way (e.g. through a Memorandum of Understanding or similar)?

No.