



# **SAFEGUARDS FOR FREE EXPRESSION OF VOTERS' WILL**



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GEORGIAN  
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Georgian Young Lawyers' Association

**SAFEGUARDS FOR FREE  
EXPRESSION OF VOTERS' WILL**

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## INTRODUCTION

The present text puts an emphasis on the time frames and conditions of conducting an election campaign, seeking to draw a line between the conduct of an election campaign and free expression of voters' will. In the study, we have analyzed the legislation of 17 of the 27 member countries of the European Union<sup>1</sup> (Bulgaria, Hungary, Malta, Poland, Greece, Latvia, Lithuania, Estonia, Slovenia, Austria, Portugal, Romania, Slovakia, Czech Republic, Germany, Croatia, Spain).

The review shows that the countries use various mechanisms for achieving a balance between ensuring a free electoral environment and conducting a campaign. This mechanism mainly involves the following: restrictions on conducting an election campaign on the polling day and on the day before; a ban on the publication of the results of opinion polls and exit polls on election day and several days before elections; regulations on the process of mobilization of voters, in particular, establishing a certain radius around polling stations on the polling day.

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<sup>1</sup> Member countries of the European Union are Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, and Spain, and Sweden. Countries, European Union, website of the European Union, accessible at: [https://europa.eu/european-union/about-eu/countries\\_en](https://europa.eu/european-union/about-eu/countries_en), accessed on: 02/04/2020.

## THE CAMPAIGN SILENCE PERIOD AND BAN ON CAMPAIGNING (CANVASSING)

### *Essence of the campaign silence period*

The campaign silence period implies a ban on conducting an election campaign for a certain period of time, so that citizens will be given time to reflect.<sup>2</sup> During this period, it is not allowed to convince voters into voting for a specific candidate or political party. It is regarded as a mechanism with a cooling off effect, which is supposed to ensure the reduction of tension after a heated campaign and prevention of conflicts.<sup>3</sup>

The so-called campaign silence period is in place in **13** of the **17** countries studied: **Bulgaria, Hungary, Malta, Poland, Greece, Lithuania, Latvia, Estonia, Slovenia, Portugal, Romania, Spain, and Croatia.**

The campaign silence period is limited to the polling day only in Estonia, while in the remaining 12 countries it is imposed some time (24 or 48 hours) before the elections.

The Constitutional Court of Hungary has deliberated on the campaign silence period<sup>4</sup> and noted that this mechanism guarantees undisturbed expression of voters' will and the conduct of elections in a calm environment.<sup>5</sup> The Court paid particular attention to the duration of the campaign silence period and, as it imposed a general ban for a brief period of time, deemed it to be a restriction proportional to freedom of expression.<sup>6</sup>

There is an argument that the campaign silence period no longer makes any sense and is ineffective in a situation where there is a high likelihood that electoral messages will be disseminated by social media.<sup>7</sup>

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<sup>2</sup> Campaign Silence, ACE, the Electoral Knowledge Network, November 15, 2006, website of ACE Project, accessible at: <http://aceproject.org/electoral-advice/archive/questions/replies/699408090>, accessed on: 14/01/2020.

<sup>3</sup> Ibid.

<sup>4</sup> Decision 6/2007 (II.27) AB, the Constitutional Court of Hungary, website of the Constitutional Court of Hungary, accessible at: [https://hunconcourt.hu/uploads/sites/3/2017/11/en\\_0006\\_2007.pdf](https://hunconcourt.hu/uploads/sites/3/2017/11/en_0006_2007.pdf), accessed on: 14/01/2020.

<sup>5</sup> Ibid, p. 4.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

### *Restrictions imposed on the media during the campaign silence period*

During the campaign silence period, restrictions are imposed on the media in 9 states (Bulgaria, Hungary, Malta, Greece, Lithuania, Latvia, Portugal, Slovakia, Croatia). Violations entail administrative liability in 5 states (Bulgaria, Hungary, Latvia, Portugal, Croatia) and criminal liability in 3 states (Malta, Greece, Lithuania). Violation of the campaign silence period is considered a minor offense in 1 state (Slovakia). In 3 states (Malta, Greece, Lithuania), cases of violations are litigated by a prosecutor, in 3 more states (Bulgaria, Hungary, Portugal) – by the election administration, in 1 state (Slovakia) – by the Ministry of Culture, and in 1 more state (Croatia) – by the Agency for Electronic Media. Latvia has not designated a concrete individual responsible for imposing liability.

In Georgia, the election campaign begins 60 days prior to the polling day.<sup>8</sup> On the polling day, it is prohibited to broadcast any paid and/or free political advertising on TV or radio.<sup>9</sup> Violation of this requirement entails a fine in the amount of GEL 1,500.<sup>10</sup>

### *Ban on campaigning during the campaign silence period*

The ban on campaigning at polling stations or in their vicinity during the campaign silence period is in place in 13 countries: Bulgaria, Hungary, Malta, Poland, Greece, Lithuania, Latvia, Portugal, Romania, Austria, Estonia, Czech Republic, and Germany. Five states (Hungary, Lithuania, Latvia, Portugal, Austria) impose administrative liability for the violation of election silence, while another 5 of them (Malta, Poland, Greece, Portugal,<sup>11</sup> Estonia) impose criminal liability. Romania regards the violation as a minor offense, while 3 states (Bulgaria, Czech Republic, Germany) have not determined concrete sanctions.

**Seven** countries have prohibited election campaigning within a concrete radius of polling stations. These countries include **Bulgaria, Hungary, Malta, Portugal, Romania, Lithuania, and Latvia**. Of these, Bulgaria, Malta,

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<sup>8</sup> Election Code of Georgia, Article 45, paragraph 1.

<sup>9</sup> Ibid, Article 51, paragraph 16.

<sup>10</sup> Ibid, Article 83, paragraph 1.

<sup>11</sup> The legislation of Portugal provides for both criminal and administrative liability.

Lithuania, and Latvia have prohibited campaigning **within 50 meters** of polling stations, Hungary – **within 150 meters**, and Portugal and Romania – **within 500 meters**.

With regard to the so-called perimeter mechanism, it's interesting to look at a judgment of the U.S. Supreme Court in the case of *Burson v. Freeman* (1992),<sup>12</sup> in which the Court ruled that dissemination or display of campaign materials, as well as solicitation of votes for any person or political party, within a 100-feet (approximately 30 meters) radius of a polling place may be restricted on election day.<sup>13</sup> The Court noted that the state had a compelling interest in protecting the right to vote freely without intimidation and electoral fraud.<sup>14</sup>

In 2018, the Court examined one more case – *Minnesota Voters Alliance v. Mansky*. The Court deliberated on whether the legislation of Minnesota, which prohibited voters from wearing apparel displaying a political candidate's name or slogan while inside a polling place, violated freedom of expression.<sup>15</sup> The Court noted that the legislation of Minnesota defined the term "political" too broadly,<sup>16</sup> so it found the ban unconstitutional,<sup>17</sup> although it indicated that it was possible to prohibit certain electoral activities at a polling place within the limits of reasonableness.<sup>18</sup> The Court gave examples to highlight the limits of reasonableness, though it added that beyond them the state also has the right to impose other restrictions.<sup>19</sup> For instance, the ban may extend to visible display of information that advocates for or against a candidate, a candidate's logo or name, or buttons,

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<sup>12</sup> *Burson v. Freeman*, 504, U.S. 191 (1992), Justia, US Supreme Court, p. 193, the website of the U.S. Supreme Court, accessible at: <https://supreme.justia.com/cases/federal/us/504/191/case.pdf>, accessed on: 14/01/2020.

<sup>13</sup> *Ibid*, p. 210.

<sup>14</sup> *Ibid*, p. 211.

<sup>15</sup> *Minnesota Voters Alliance v. Mansky*, 16-1435, 585 US (2018), p. 9, the website of the U.S. Supreme Court, accessible at: [https://www.supremecourt.gov/opinions/17pdf/16-1435\\_2co3.pdf](https://www.supremecourt.gov/opinions/17pdf/16-1435_2co3.pdf), accessed on: 16/04/2020.

<sup>16</sup> *Ibid*, p. 13.

<sup>17</sup> *Ibid*, p. 19.

<sup>18</sup> *Ibid*, p. 18.

<sup>19</sup> *Ibid*.

hats, or shirts containing such information.<sup>20</sup>

In **6** countries examined as part of this study (Estonia, Greece, Czech Republic, Austria, Poland, Germany), the radius for the restriction of campaigning at polling stations has not been specified.

In Georgia, it is prohibited to conduct election campaigning at a polling station on the polling day.<sup>21</sup> Failure to comply with this ban entails a fine of GEL 2,000.<sup>22</sup>

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<sup>20</sup> Ibid.

<sup>21</sup> Election Code of Georgia, Article 45, paragraph 11.

<sup>22</sup> Ibid, Article 79.

## OPINION POLLS AND EXIT POLLS

### *Opinion polls*

An opinion poll is an occasion when people are asked questions to discover what they think about a subject.<sup>23</sup> It is usually prohibited to inform voters about the results of an opinion poll several days before elections.<sup>24</sup> The time frames are different. In Bulgaria, Latvia, and Slovenia, their publication is prohibited during 24 hours before elections, and in Romania – during 48 hours before elections. In the Czech Republic, this regulation becomes effective three days before elections, and in Spain – five days before elections. In Portugal and Croatia, this restriction only applies to the election day.

The Constitutional Court of Hungary has made an interesting explanation about the dissemination of results of opinion polls.<sup>25</sup> The petitioner had challenged a norm which prohibited the disclosure of opinion poll results in the period of eight days preceding the election day.<sup>26</sup> The Court noted that although the purpose of this ban might be the undisturbed conduct of the pre-election process, this goal could also be achieved without such a strict restriction.<sup>27</sup> For this reason, the Court found this regulation unconstitutional.<sup>28</sup>

The Constitutional Court of Slovenia has also deliberated on this issue.<sup>29</sup> The petitioners had challenged a norm which prohibited the publication of opinion poll results in the period of seven days before voting day.<sup>30</sup> The

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<sup>23</sup> Cambridge Dictionary, accessible at: <https://dictionary.cambridge.org/dictionary/english/opinion-poll>, accessed on: 24/04/2020.

<sup>24</sup> Musial-Karg M., The Election Silence in Contemporary Democracy, Questions about the Sense of Election Silence in the Age of Internet, Adam Mickiewicz University, p. 101, the website of Researchgate, accessible at: <https://tinyurl.com/y8rqfzjf>, accessed on: 29/01/2020.

<sup>25</sup> Decision 6/2007 (II.27) AB. Constitutional Court of Hungary.

<sup>26</sup> Ibid, p. 6.

<sup>27</sup> Ibid, p. 8.

<sup>28</sup> Ibid.

<sup>29</sup> U-I-67/09, Up-316/09, 24 March 2011, Republika Slovenija Ustavno Sodisce, the website of the Constitutional Court of Slovenia, accessible at: <https://tinyurl.com/ycsg4beb>, accessed on: 14/01/2020.

<sup>30</sup> Ibid, p. 2.

Court explained that the purpose of the restriction was to create a calm environment for voters,<sup>31</sup> although the media were obliged to inform people and, conversely, the voters had the right to be informed.<sup>32</sup> The Court argued that the restriction failed to achieve its goal, as the election campaign ended on the day before the elections and it was still possible to influence the voters.<sup>33</sup> The Court noted that plurality in the mass media was crucial in a democratic society, so that voters had the opportunity to form their own opinions on the basis of different opinion polls.<sup>34</sup> Ultimately, the regulation was declared unconstitutional.<sup>35</sup>

In Georgia, it is prohibited to publish opinion poll results with regard to elections, except for the possible number of voters in elections and the number of voters participating in elections on polling day, within 48 hours before polling day and until 8 PM on polling day.<sup>36</sup> In this case, the violation entails a fine in the amount of GEL 1,500.<sup>37</sup>

### *Exit polls*

Exit polls make it possible to identify voters' preferences after they have cast their votes.<sup>38</sup> At the same time, based on the principle of the secrecy of the vote, individuals have the right not to disclose this information.<sup>39</sup> Publication of exit poll results before the end of election day may exert an influence on those people who have not yet cast their votes by the time of publication of the results.

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<sup>31</sup> Ibid, p. 6.

<sup>32</sup> Ibid, p. 7.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid, p. 8.

<sup>35</sup> Ibid.

<sup>36</sup> Election Code of Georgia, Article 50, paragraph 5.

<sup>37</sup> Ibid, Article 82.

<sup>38</sup> Cambridge Dictionary.

<sup>39</sup> Code of Good Practice in Electoral Matters, Guidelines and Explanatory Report, European Commission through Law (Venice Commission), adopted by the Venice Commission at its 52<sup>nd</sup> Session (Venice 18-19 October, 2002), CDL-AD(2002)023rev2-cor, Strasbourg, 25 October 2018, p. 22, the website of the Venice Commission, accessible at: <https://tinyurl.com/y8ch6t8g>, accessed on: 28/01/2020.

Ten of the states studied (Bulgaria, Poland, Greece, Latvia, Slovenia, Portugal, Spain, Czech Republic, Romania, and Slovakia) have adopted regulations that prohibit the publication of the results of both exit polls and opinion polls. The legislation of 4 of them (Bulgaria, Latvia, Czech Republic, Slovakia) provides for administrative liability, while the laws of 5 countries (Portugal, Spain, Poland, Greece, Slovenia) provide for criminal liability. One country (Romania) regards the violation as a minor offense.

Three states (Hungary, Germany, Croatia) have imposed restrictions on the dissemination of exit poll results. Two of them (Germany, Croatia) have specified an administrative penalty, while 1 of them (Hungary) has not specified the concrete type of liability. In 4 of the states studied, cases of violations are litigated by an election commission, in 7 states – by a prosecutor, in 3 states – by a relevant council, in 1 state – by the Federal Returning Officer, and in the remaining 1 – by the Agency for Electronic Media.

In Georgia, it is prohibited to publish exit poll results within 48 hours before polling day and until 8 PM on polling day.<sup>40</sup> Violation of this requirement entails a fine in the amount of GEL 1,500.<sup>41</sup>

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<sup>40</sup> Election Code of Georgia, Article 50, paragraph 5.

<sup>41</sup> Ibid, Article 82.

## MOBILIZATION OF VOTERS AND THE PERIMETER

„Get Out the Vote” (GOTV) – This is the name of the campaign that aims to increase the turnout of party supporters at polling stations by means of encouraging and helping them.<sup>42</sup> Mobilization of people with the aim of voting is one of the challenges in Georgia. The main purpose of this mechanism is to establish the identity of citizens who turn out at polling stations and, on the basis of this information, to control their will.<sup>43</sup> According to the Code of Good Practice in Electoral Matters adopted by the Venice Commission, the lists of voters should be published,<sup>44</sup> but the lists of those who turn out at polling stations should not.<sup>45</sup> The reason for this is that failure to turn out at a polling station may be indicative of a political choice.<sup>46</sup>

There is no single universal definition of control over voters’ will. It is “chiefly practiced through deploying spies right on the precincts to record the rate of supporters shown up at the polling place”.<sup>47</sup> Forms of control also include mobilization of large numbers of people near polling stations,<sup>48</sup> gathering of voter data and mapping of political preferences,<sup>49</sup>

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<sup>42</sup> ACE, The Electoral Knowledge Network, Campaign Silence, the website of Ace Project, accessible at: <http://aceproject.org/electoral-advice/archive/questions/replies/699408090>, accessed on: 14/01/2020.

<sup>43</sup> “GYLA’s Statement Regarding Control over Voters’ Will”, the Georgian Young Lawyers Association, October 21, 2017, the website of the Georgian Young Lawyers Association, accessible at: <https://tinyurl.com/ych5m73u>, accessed on: 15/06/2019.

<sup>44</sup> Code of Good Practice in Electoral Matters. Guidelines and Explanatory Report, European Commission through Law (Venice Commission), adopted by the Venice Commission at its 51st and 52nd sessions (Venice, 5-6 July and 18-19 October 2002), CDL-AD (2002) 23, Strasbourg, 30 October 2002, p. 14, the website of the Venice Commission, accessible at: <https://rm.coe.int/090000168092af01>, accessed on: 02/06/2020.

<sup>45</sup> Ibid, p. 22.

<sup>46</sup> Ibid.

<sup>47</sup> Election Observation Mission of May 19, 2019, Monitoring Report of Pre-Election Environment, Election Day and Post-Election Period, GYLA, p. 4, the website of the Georgian Young Lawyers Association, accessible at: <https://rb.gy/a5jfs6>, accessed on: 24/04/2020.

<sup>48</sup> International Election Observation Mission, Georgia – Parliamentary Elections, Second Round, 30 October 2016, Statement of Preliminary Findings and Conclusions, p. 2, the website of the OSCE, accessible at: <https://tinyurl.com/y8tetgt3>, accessed on: 07/05/2020.

<sup>49</sup> Georgia Presidential Election, 28 October and 28 November 2018, ODIHR Election Observation Mission Final Report, p. 2, the website of the OSCE, accessible at: <https://tinyurl.com/yd5rqz8v>, accessed on: 07/05/2020.

and tracking of voters.<sup>50</sup> These practices create discomfort for voters and a feeling of being controlled, which decreases the likelihood of their making an independent and free choice,<sup>51</sup> and also creates a fear of retribution in voters.<sup>52</sup> In the states we have studied, control over voters' will is prohibited in various forms, which is discussed in detail below. This ban is applied by Bulgaria, Hungary, Malta, Greece, Austria, and Germany. All of them except the latter impose certain sanctions for violations. In Georgia, no such regulation is in place.

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<sup>50</sup> Ibid, p. 3.

<sup>51</sup> "The GYLA and the ISFED still name the control over voters' will as the challenge of the second round", Netgazeti, accessible at: <https://netgazeti.ge/news/370880/>, accessed on: 24/04/2020.

<sup>52</sup> International Election Observation Mission, Georgia – Presidential Election, 28 October 2018, Statement of Preliminary Findings and Conclusions, p. 2, the website of the OSCE, accessible at: <https://tinyurl.com/ycfymuoo>, accessed on: 07/05/2020.

## SPECIFIC COUNTRIES

### Bulgaria

**Campaign silence period:** The elections of the National Assembly are scheduled by the President not later than 60 days in advance of polling day.<sup>53</sup> The election campaign opens 30 days in advance of polling day<sup>54</sup> and ends 24 hours in advance of polling day.<sup>55</sup> During this period, it is prohibited to canvass, whether orally and in writing, as well as through campaign meetings and media service providers.<sup>56</sup> Violation of this norm entails administrative liability – a fine of BGN 2,000 or more but not exceeding BGN 5,000<sup>57</sup> (from about 1,022 to 2,560 euros). The election administration is responsible for responding to violations.<sup>58</sup>

It is prohibited to display canvassing materials at a polling site as well as **within 50 meters** from the entrance of a polling station on polling day and until the end of voting.<sup>59</sup> In the event of displaying such materials, the election commission is supposed to remove them, where necessary with the assistance of the authorities of the Ministry of Interior.<sup>60</sup>

**Opinion polls and exit polls:** A public opinion poll may be conducted from the day of promulgation of the legal act scheduling the elections until polling day, including on polling day.<sup>61</sup> However, it is prohibited to make opinion poll results public during a period commencing 24 hours in advance of polling day and ending with the closing of the polls.<sup>62</sup> Complaints are adjudicated by the Central Election Commission (CEC) and District Election Commissions (DECs).<sup>63</sup> Violation of the norm entails administrative liability

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<sup>53</sup> Election Code of Bulgaria, Article 4.1, the website of Legislationline, accessible at: <https://tinyurl.com/vsh9ves>, accessed on: 14/01/2020.

<sup>54</sup> Ibid, Article 175.

<sup>55</sup> Ibid, Article 182, section 4.

<sup>56</sup> Ibid, Article 181, section 1.

<sup>57</sup> Ibid, Article 480, section 2.

<sup>58</sup> Ibid, Article 496.

<sup>59</sup> Ibid, Article 184, section 1.

<sup>60</sup> Ibid, article 184, section 2.

<sup>61</sup> Ibid, Article 205, section 1.

<sup>62</sup> Ibid, Article 205, section 4.

<sup>63</sup> OSCE/ODIHR Limited Election Observation Mission, Republic of Bulgaria, Early Parliamentary

– a fine from BGN 2,000 to BGN 5,000<sup>64</sup> (from about 1,022 to 2,560 euros).

An exit poll on polling day can be conducted outside the polling station, but this must not interfere with the election process.<sup>65</sup> The results of the exit poll are to be announced after 8 PM on polling day.<sup>66</sup> Complaints can be submitted to the CEC and DECs.<sup>67</sup> Violation of the norm entails administrative liability – a fine from BGN 2,000 to BGN 5,000<sup>68</sup> (from about 1,022 to 2,560 euros).

## Hungary

**Campaign silence period:** The election campaign in Hungary starts from the 50<sup>th</sup> day before the voting until the end of voting on the voting day.<sup>69</sup> The election day is scheduled by the President.<sup>70</sup> The election campaign may involve the use of posters, political advertisements, and election rallies. The latter are prohibited on the day of voting.<sup>71</sup>

During 48 hours before the voting, public service media content providers<sup>72</sup> and other media outlets<sup>73</sup> may not broadcast political advertisements. Complaints regarding violation of these requirements by the media are adjudicated by the National Election Commission.<sup>74</sup> In the event of violation, administrative liability is imposed. The sanctions include both

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Elections, 26 March 2017, Interim Report (22 February – 8 March 2017), p. 7, the website of the OSCE, accessible at: <https://tinyurl.com/y8wbudjf>, accessed on: 16/04/2020.

<sup>64</sup> Election Code of Bulgaria, Article 475, section 1.

<sup>65</sup> Ibid, Article 204, section 1.

<sup>66</sup> Ibid, Article 204, section 3.

<sup>67</sup> OSCE/ODIHR Limited Election Observation Mission, Republic of Bulgaria, Early Parliamentary Elections, p. 7.

<sup>68</sup> Election Code of Bulgaria, Article 475, section 1.

<sup>69</sup> Act XXXVI of 2013 on Electoral Procedure (last modified by Act CCVII of 2013), Section 139, the website of Legislationonline, accessible at: <https://www.legislationonline.org/documents/id/18702>, accessed on: 16/01/2020.

<sup>70</sup> Constitution of Hungary, Article 9, section 3, subsection “e”.

<sup>71</sup> Act XXXVI of 2013 on Electoral Procedure (last modified by Act CCVII of 2013), Section 145.1

<sup>72</sup> Ibid, Section 147.3.

<sup>73</sup> Ibid, Section 147. 4A.

<sup>74</sup> Ibid, Section 151, subsection 1.

ordering the violator to cease the violation<sup>75</sup> and imposition of a fine,<sup>76</sup> the maximum amount of which may be 50 times<sup>77</sup> the monthly minimum wage,<sup>78</sup> and in the case of a natural person – 5 times the monthly minimum wage.<sup>79</sup>

No election campaign activities (any activity that aims to influence the voters' will) may be pursued on election day in public areas **within 150 meters** of the entrance to a polling station.<sup>80</sup> Complaints about such activities are to be adjudicated by election commissions.<sup>81</sup> An election commission can order the violator to stop the violation, abolish the election procedure or a part of it affected by the violation, and order it to be repeated.<sup>82</sup> An election commission has the right to impose an administrative fine on a person.<sup>83</sup> The maximum amount of the fine for natural persons may be 5 times the monthly minimum wage, and in other cases – 15 times the monthly minimum wage.<sup>84</sup>

**Opinion polls and exit polls:** An exit poll may be conducted after a voter leaves the polling station, so that this does not in any way harass him/her.<sup>85</sup> The results may only be published after the end of voting.<sup>86</sup> The maximum amount of the fine for natural persons can be 5 times the monthly minimum wage, and in all other cases – 15 times the monthly minimum wage.<sup>87</sup> The issue is adjudicated by election commissions.<sup>88</sup>

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<sup>75</sup> Ibid, Section 218, subsection 2.

<sup>76</sup> Ibid, Section 152, subsection 2.

<sup>77</sup> Ibid, Section 152, subsection 3.

<sup>78</sup> The minimum monthly wage in Hungary is €487.1. Hungary raises the national minimum wage, accessible at: <https://countryeconomy.com/national-minimum-wage/hungary>, accessed on: 16/04/2020.

<sup>79</sup> Act XXXVI of 2013 on Electoral Procedure (last modified by Act CCVII of 2013), Section 219, subsection 2.

<sup>80</sup> Ibid, Section 143.

<sup>81</sup> Ibid, Section 218.

<sup>82</sup> Ibid, Section 218, subsection 2.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid, Section 219, subsection 2.

<sup>85</sup> Ibid, Section 150.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid, Section 219, subsection 2.

<sup>88</sup> Ibid, Section 219, subsection 1.

## **Malta**

**Campaign silence period:** As a rule, the election campaign in Malta starts 60 days before elections and ends 24 hours before the voting.<sup>89</sup> No public meeting or public demonstration may be held on the day immediately preceding the polling day and on the polling day.<sup>90</sup> This restriction extends to the polling station as well as to the adjacent territory. An individual who violates this norm may be subjected to a fine not exceeding 232 euros and 94 cents.<sup>91</sup> During the same period, it is also prohibited to address the public by means of the media.<sup>92</sup> An individual who violates this norm may be subjected to a fine not exceeding 1,164 euros and 69 cents or to imprisonment for a term not exceeding six months, or to both sanctions at the same time.<sup>93</sup> Such criminal cases are adjudicated by a magistrate judge.<sup>94</sup>

**Control over voters' will:** Within a distance of **50 meters** from the polling place:

- No one, other than a person waiting to vote, may loiter;<sup>95</sup>
- No one may make political propaganda;<sup>96</sup>
- The election commission or the police may order the closure of any club, shop or other public establishment if, in their opinion, such closure is necessary to maintain public order or to prevent undue influence on voters during voting.<sup>97</sup>

In addition to the aforementioned restrictions, no one may congregate during voting in any street, square or other place leading from the place

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<sup>89</sup> Republic of Malta, Early Parliamentary Elections, 3 June 2017, OSCE/ODIHR Election Assessment Mission Final Report, p. 9, the OSCE website, accessible at: <https://www.osce.org/odihr/elections/malta/348671?download=true>, accessed on: 03/04/2020.

<sup>90</sup> General Elections Act of Malta, Article 65, the website of the Justice Services of Malta, accessible at: <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8824&l=1>, accessed on: 03/04/2020.

<sup>91</sup> Ibid, Article 111.

<sup>92</sup> Ibid, Article 114, section 1.

<sup>93</sup> Ibid.

<sup>94</sup> Ibid, Article 115, section 2.

<sup>95</sup> Ibid, Article 66.

<sup>96</sup> Ibid, Article 66.

<sup>97</sup> Ibid, Article 66.

of residence of any voter to any polling place, in such numbers or in such manner as to be likely to intimidate any voter or to obstruct his/her approach to or from a polling place, or to lead to a breach of the peace.<sup>98</sup>

A person who fails to comply with these rules or with a lawful order of an Assistant Commissioner may be subjected to a fine in the aforementioned amount.<sup>99</sup> Such criminal cases are adjudicated by a magistrate judge.<sup>100</sup>

## Poland

**Campaign silence period:** The elections are scheduled by the President no later than 90 days before the expiration of the powers of the legislature.<sup>101</sup> The election campaign starts from the day of announcement of the date of elections and ends 24 hours before the voting day.<sup>102</sup> After this, it is prohibited to campaign, including the convening of meetings, organizing marches and demonstrations, giving speeches, and distributing materials.<sup>103</sup> Violation of this requirement entails a fine,<sup>104</sup> and the proceedings are conducted based on the criminal procedure.<sup>105</sup>

Election campaigning in the polling station and in its vicinity is prohibited.<sup>106</sup> Violation of this norm entails a fine,<sup>107</sup> and the proceedings are conducted based on the criminal procedure.<sup>108</sup>

**Opinion polls and exit polls:** From 24 hours before the vote until the end

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<sup>98</sup> Ibid, Article 67.

<sup>99</sup> Ibid, Article 111.

<sup>100</sup> Ibid, Article 115, section 2.

<sup>101</sup> Constitution of Poland, Article 98, section 2, the website of Constitute Project, accessible at: [https://www.constituteproject.org/constitution/Poland\\_2009?lang=en](https://www.constituteproject.org/constitution/Poland_2009?lang=en), accessed on: 10/04/2020.

<sup>102</sup> Election Code of Poland, Act of 5 January, 2011, Journal of Laws 31 January, 2011, Article 104, the website of Legislationline, accessible at: <https://tinyurl.com/thnmr7y>, accessed on: 14/01/2020.

<sup>103</sup> Ibid, Article 107.1

<sup>104</sup> Ibid, Article 498.

<sup>105</sup> Ibid, Article 516.

<sup>106</sup> Ibid, Article 107, section 2.

<sup>107</sup> Ibid, Article 494, section 1, subsection 4.

<sup>108</sup> Ibid, Article 516.

of voting, it is prohibited to disseminate the results of pre-election surveys.<sup>109</sup> Violation of this ban entails criminal liability – a fine from 500,000 to 1 million zlotys<sup>110</sup> (from about 109,000 to 750,000 euros).

It is prohibited to disseminate the results of exit polls until the end of voting.<sup>111</sup> This violation entails the same liability as the previous one.<sup>112</sup>

The enforcement of the electoral legislation is monitored by the National Election Commission.<sup>113</sup>

## Greece

**Campaign silence period:** The campaign begins 12 days before the expiration of the parliamentary term.<sup>114</sup> The elections are scheduled by the President and are held within 30 days of the expiration of the parliamentary term.<sup>115</sup>

On the day before elections, it is prohibited to conduct election activities,<sup>116</sup> including delivering speeches, hanging posters, distributing publications, and broadcasting electoral messages.<sup>117</sup> Whoever inside a polling station or around it acts in any way in favor or against a candidate on the polling day may be punished with imprisonment from three months to three years and deprivation of positions specified by the Criminal Code from one

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<sup>109</sup> Ibid, Article 115, section1

<sup>110</sup> Ibid, Article 500.

<sup>111</sup> Ibid, Article 115, section 1.

<sup>112</sup> Ibid, Article 500.

<sup>113</sup> Republic of Poland, Parliamentary Elections, 13 October 2019, ODIHR Limited Election Observation Mission Final Report, p. 7, the website of the OSCE, accessible at: <https://tinyurl.com/yb2rdayw>, accessed on: 24/04/2020.

<sup>114</sup> Presidential Decree 96/2007. Codification in a single text of the legislation for the election of Members of Parliament, Article 31, section 3, the website of Legislationonline, accessible at: <https://tinyurl.com/qwczvta>, accessed on: 16/01/2020.

<sup>115</sup> Constitution of Greece, Article 53, section 1, the website of Constitute Project, accessible at: [https://www.constituteproject.org/constitution/Greece\\_2008?lang=en](https://www.constituteproject.org/constitution/Greece_2008?lang=en), accessed on: 20/04/2020.

<sup>116</sup> Presidential Decree 96/2007. Codification in a single text of the legislation for the election of Members of Parliament, Article 48, section 2.

<sup>117</sup> Ibid, Article 48.2

to three years.<sup>118</sup>

No message may be broadcast **by the media** on the day before elections and on election day.<sup>119</sup> Violation of this norm entails criminal liability – imprisonment or a fine.<sup>120</sup>

**Opinion polls and exit polls:** The results of exit polls may not be published or broadcast in any way before 7 PM on election day.<sup>121</sup> Violation of this norm entails criminal liability – imprisonment for at least six months and a fine from 29,347 to 293,470 euros.<sup>122</sup>

During 15 days before the elections and until 7 PM of the polling day, free public and private television and radio stations, providers of paid television and radio services, newspapers and magazines, and political parties and candidates are prohibited from disseminating or broadcasting the results of opinion polls which were conducted on political trends, opinions and preferences of the public, political parties, political positions and persons, or other economic and social issues.<sup>123</sup> Violation of this norm entails criminal liability – imprisonment for at least six months and a fine from 29,347 to 293,470 euros.<sup>124</sup>

## Lithuania

**Campaign silence period:** The date of elections is announced by the President not later than six months prior to the expiration of the powers of the Seimas members.<sup>125</sup> Election campaign, irrespective of its methods, forms and measures, is prohibited 30 hours before the beginning of an election and on election day until the closing of the polls.<sup>126</sup> However, posted cam-

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<sup>118</sup> Ibid, Article 117. 4c.

<sup>119</sup> Ibid, Article 45, section 3.

<sup>120</sup> Ibid, Article 119, section 3.

<sup>121</sup> Ibid, Article 49.2.

<sup>122</sup> Ibid, Article 49.4.

<sup>123</sup> Ibid, Article 49.1.

<sup>124</sup> Ibid, Article 49.4.

<sup>125</sup> Law on Elections to the Seimas, Republic of Lithuania. Article 6, section 2, the website of Legislationline, accessible at: <https://tinyurl.com/r84tycd>, accessed on: 14/01/2020.

<sup>126</sup> Ibid, Article 56, section 1.

paign materials may remain during the silence period.<sup>127</sup> Violation of these norms entails criminal liability – community service, a fine, or a custodial sentence for a term of up to four years.<sup>128</sup>

The media are obliged to respect campaign silence.<sup>129</sup> The Central Election Commission and Constituency Election Commissions (equivalents of PECs) report on violations of these norms by the media<sup>130</sup> and send the case to a district court.<sup>131</sup>

During the period when election campaign is prohibited, no visual and audio election campaign material may be displayed in a polling station or **within 50 meters** around a polling station.<sup>132</sup> All disputes concerning the imposition of administrative sanctions are considered by the Central Election Commission.<sup>133</sup>

## Latvia

**Campaign silence period:** The pre-election campaign begins 120 days before the polling day.<sup>134</sup> It is inadmissible to conduct the campaign on the election day and the day before the election day.<sup>135</sup> During this pe-

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<sup>127</sup> Republic of Lithuania, Parliamentary Elections, 9 October 2016, OSCE/ODIHR Needs Assessment Mission Report, p. 8, the website of the OSCE, accessible at: <https://tinyurl.com/r82tdjs>, accessed on: 08/04/20.

<sup>128</sup> Lietuvos Respublikos administracinių nusižengimų kodeksas (TAR, 2015-07-10, Nr. 2015-11216), 93 straipsnis, the website of Infolex, legal acts adopted by the institutions of the Republic of Lithuania, accessible only in Lithuanian at: <http://www.infolex.lt/ta/336765>, accessed on: 06/07/2020.

<sup>129</sup> Republic of Lithuania, Parliamentary Elections, 9 October 2016, OSCE/ODIHR Election Assessment Mission Final Report, p. 15, the website of the OSCE, accessible at: <https://www.osce.org/files/f/documents/6/8/296446.pdf>, accessed on 08/04/2020.

<sup>130</sup> Republic of Lithuania, Parliamentary Elections, 9 October 2016, OSCE/ODIHR Needs Assessment Mission Report, p. 9.

<sup>131</sup> Ibid.

<sup>132</sup> Republic of Lithuania, Law on Elections to the Seimas. Article 56, section 1, the website of Legislationonline, accessible at: <https://tinyurl.com/r84tycd>, accessed on: 08/04/2020.

<sup>133</sup> Ibid, Article 51, section 13.

<sup>134</sup> Pre-election Campaign Law, Republic of Latvia. Section 1, Legal Acts of the Republic of Latvia, accessible at: <https://likumi.lv/ta/en/en/id/253543-pre-election-campaign-law>, accessed on: 08/04/2020.

<sup>135</sup> Ibid, Section 32, subsection 1.

riod, the placement of materials of pre-election campaign in radio and television programs is prohibited,<sup>136</sup> with the exception of dissemination of information about a meeting of a political party or a candidate with voters.<sup>137</sup> On the election day and during 30 days before the election day, it is prohibited to place paid campaign materials, save for the aforementioned exceptions, in radio and television programs.<sup>138</sup> On the election day, as well as during 60 days prior to the election day, electronic mass media are prohibited to distribute broadcasts or interviews prepared (or led) by persons who have been nominated as candidates or by those associated with a political party.<sup>139</sup>

The chairman of a polling station commission is obliged not to allow the conduct of campaigning **within 50 meters** of the entrance of the polling station.<sup>140</sup>

Violation of the aforementioned norms entails administrative liability, specifically, a warning or a fine of up to 70 euros for natural persons and up to 2,000 euros for legal persons.<sup>141</sup>

**Opinion polls and exit polls:** From 24 hours prior to election day until the end of voting, it is prohibited to publish opinion poll results.<sup>142</sup> Violation of this norm entails the same liability as in the previous case.<sup>143</sup>

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<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

<sup>138</sup> Republic of Latvia, Parliamentary Elections, 6 October 2018, ODIHR Election Assessment Mission Final Report, p. 11, the website of the OSCE, accessible at: <https://www.osce.org/odihr/elections/latvia/409344?download=true>, accessed on: 04/04/2020.

<sup>139</sup> Pre-election Campaign Law, Republic of Latvia, Section 12, subsection 6.

<sup>140</sup> The Saeima Election Law, Article 19, section 1, 06 June 1995, Legal Acts of the Republic of Latvia, accessible at: <https://likumi.lv/doc.php?id=35261>, accessed on: 08/04/2020.

<sup>141</sup> Latvian Code of Administrative Violations, Article 204<sup>2</sup>, section 1, Legal Acts of the Republic of Latvia, accessible only in Latvian: <https://likumi.lv/ta/id/89648-latvijas-administratīv-parkapumu-kodekss>, accessed on: 04/04/2020. Note: The applicable Code is in force until July 1, 2020.

<sup>142</sup> Republic of Latvia, Parliamentary Elections, 6 October 2018, ODIHR Election Assessment Mission Final Report, p. 11.

<sup>143</sup> Latvian Code of Administrative Violations, Article 204<sup>2</sup>, section 1.

## Estonia

**Campaign silence period:** The President calls the parliamentary elections at least three months before election day.<sup>144</sup> The election campaign begins 45 days before the elections and ends one day before the polling day.<sup>145</sup> Election campaigning in polling places is prohibited.<sup>146</sup> Violation of the norm entails criminal liability – a fine of up to 400 euros.<sup>147</sup>

## Slovenia

**Campaign silence period:** The election campaign begins not earlier than 30 days before the voting<sup>148</sup> and is supposed to end not later than 24 hours before the election day.<sup>149</sup> Violation of this norm entails criminal liability: a fine from 800 to 1,200 euros for the organizer of the election campaign,<sup>150</sup> from 150 to 300 euros<sup>151</sup> for the individual responsible for organizing the campaign,<sup>152</sup> and from 120 to 200 euros for citizens.<sup>153</sup>

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<sup>144</sup> Riigikogu Election Act, Article 2, section 2, legislation of Estonia, accessible at: <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/513012020003/consolidate>, accessed on: 16/02/2020.

<sup>145</sup> Estonia Parliamentary Elections, 3 March 2019, ODIHR Needs Assessment Mission Report, p. 7, the website of the OSCE, accessible at: <https://www.osce.org/odihr/elections/estonia/409202?download=true>, accessed on: 20/04/2020.

<sup>146</sup> Riigikogu Election Act. Article 5, section 3.

<sup>147</sup> Penal Code of Estonia, Article 168, section 1. The Code says that the maximum amount of the fine equals 100 fine units, although the Code also explains that 1 fine unit is equal to 4 euros. See Article 47, section 1, legislation of Estonia, accessible at: <https://www.riigiteataja.ee/en/eli/522012015002/consolidate>, accessed on: 04/04/2020.

<sup>148</sup> Zakon o volilni in referendumski kampanji (ZVRK), 2. Člen, available only in Slovenian with latest updates, the Legal Information System of the Republic of Slovenia, accessible at: <http://www.pisrs.si/Pis.web/preglejPredpisa?id=ZAKO4749#>, accessed on: 08/04/2020.

<sup>149</sup> Ibid.

<sup>150</sup> Ibid, 32.1. Člen.

<sup>151</sup> Ibid, 32.2. Člen.

<sup>152</sup> For the purposes of the law, if the organizer of the election campaign is a natural person, he/she will also be the individual responsible for organizing the campaign. However, if the organizer of the campaign is a legal person, for example, a political party, then the individual responsible for organizing the campaign should be designated from among the members of this organization. An email received from the Ministry of Public Administration of Slovenia on May 5, 2020.

<sup>153</sup> Zakon o volilni in referendumski kampanji (ZVRK), 32.3. Člen.

During the campaign silence period, it is prohibited to hang or place new posters.<sup>154</sup> In the case of violation, the organizer of the election campaign may be subjected to criminal liability in the form of a fine from 700 to 1,000 euros,<sup>155</sup> while the individual responsible for organizing the campaign and a citizen may be subjected to a fine from 150 to 200 euros.<sup>156</sup>

The police monitors the implementation of these rules.<sup>157</sup>

**Opinion polls and exit polls:** It is prohibited to publish the results of opinion polls from 24 hours before the elections to the closing of the polls on the polling day.<sup>158</sup> Violation of this norm will lead to criminal liability – the media will be subjected to a fine from 350 to 650 euros.<sup>159</sup>

## Portugal

**Campaign silence period:** The election campaign begins on the fourteenth day before the election day and ends at midnight on the day before the elections.<sup>160</sup> On the election day and the day before, it is prohibited to conduct election propaganda,<sup>161</sup> i.e. all activities that aim to directly or indirectly promote candidates, political parties, and their members.<sup>162</sup> The prohibition also extends to dissemination of campaign content on the Internet.<sup>163</sup> Anyone who engages in election propaganda by any means during this period will be punished by a prison term of up to six months and

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<sup>154</sup> Ibid, 10.2. Člen.

<sup>155</sup> Ibid, 33.1. Člen.

<sup>156</sup> Ibid, 33.3. Člen.

<sup>157</sup> Ibid, 40.1. Člen.

<sup>158</sup> Ibid, 5. Člen.

<sup>159</sup> Ibid, 35. Člen.

<sup>160</sup> Law Governing Elections to the Assembly of the Republic, Portugal, 16 May 1979, Article 53, the website of Legislationline, accessible at: <https://tinyurl.com/y8h72k82>, accessed on: 14/01/2020.

<sup>161</sup> Ibid, Article 141.2.

<sup>162</sup> Ibid, Article 61.

<sup>163</sup> Portugal Parliamentary Elections, 6 October 2019, ODIHR Needs Assessment Mission Report, p. 7, the website of the OSCE, accessible at: <https://tinyurl.com/yblmvo5e>, accessed on: 30/04/2020.

a fine of between 500 and 5,000 escudos<sup>164</sup> (from about 2.49 to 24.94 euros).

All propaganda, which implies the display of symbols, initials, signs, badges, or stickers of any type, is prohibited within **500 meters** from polling stations.<sup>165</sup> No one may reveal who they voted or are going to vote for within 500 meters from a polling station.<sup>166</sup> Anyone who violates these norms will be punished by a prison term of up to six months and a fine between 1,000 and 10,000 escudos<sup>167</sup> (from about 4.99 to 49.88 euros).

On the election day, media agents may obtain images of polling stations,<sup>168</sup> though the obtained materials may only be transmitted after all the polling stations have closed.<sup>169</sup> During election campaigns no sanctions whatsoever may be imposed on media outlets or their agents for acts that are part of the campaign.<sup>170</sup> If their actions incur any liability, this issue should be decided on after election day.<sup>171</sup> In the event of failure to fulfill the said obligations, media outlets will be subjected to a fine between 1,000 and 10,000 escudos<sup>172</sup> (from about 9 to 90 euros). The issue of imposition of liability is considered by the National Election Committee.<sup>173</sup>

**Opinion polls and exit polls:** It is prohibited to publish the results of opinion polls from the end of the election campaign to the closing of the polls.<sup>174</sup> Only specially accredited interviewers may conduct an opinion

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<sup>164</sup> Law Governing Elections to the Assembly of the Republic, Portugal, 16 May 1979, Article 141, section 1.

<sup>165</sup> Ibid, Article 92.

<sup>166</sup> Ibid, Article 82.

<sup>167</sup> Ibid, Article 141, section 2.

<sup>168</sup> Ibid, Article 93, section 2.

<sup>169</sup> Ibid, Article 93, section 4.

<sup>170</sup> Ibid, Article 58, section 2.

<sup>171</sup> Ibid.

<sup>172</sup> Ibid, Article 168.

<sup>173</sup> Portugal Parliamentary Elections, 4 October 2015, OSCE/ODIHR Needs Assessment Mission Report, p. 8, the website of the OSCE, accessible at: <https://tinyurl.com/y8cb3jnk>, accessed on: 05/05/2020.

<sup>174</sup> Lei n.º 10/2000 de 21 de Junho, Regime jurídico da publicação ou difusão de sondagens e inquéritos de opinião, Artigo 10, the website of the Regulatory Entity for the Social Communication, accessible at: <http://www.erc.pt/pt/fs/lei-n-102000>, accessed on: 20/04/2020.

poll on election day in the area adjacent to a polling station.<sup>175</sup> Complaints about violation of these norms are adjudicated by the National Election Committee.<sup>176</sup> For violation of these norms, the law provides for a fine from 1 million to 10 million escudos (from about 9,051 to 90,511 euros) for natural persons and from 5 million to 50 million escudos (from about 45,255 to 452,556 euros) for legal persons.<sup>177</sup>

## Romania

**Campaign silence period:** The election day is scheduled at least 90 days prior to the day of voting by a decision of the government.<sup>178</sup> The election campaign is supposed to begin 30 days prior to the day of voting<sup>179</sup> and to end 24 hours before the beginning of the voting.<sup>180</sup> Continuation of the election propaganda after the official end of the campaign is a minor offense,<sup>181</sup> which is punishable by a fine ranging from 1,000 to 2,500 lei<sup>182</sup> (from about 207 to 518 euros). The punishment is imposed by a policeman.<sup>183</sup>

**Campaigning at a polling station:** The competences of the chairperson of the precinct election commission extend to a distance of **500 meters** around the polling station.<sup>184</sup> Exerting an influence on voters to vote or not to vote for a concrete political party is a minor offense<sup>185</sup> punishable

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<sup>175</sup> Ibid, Artigo 11.

<sup>176</sup> Ibid, Artigo 13.

<sup>177</sup> Ibid, Artigo 17.

<sup>178</sup> Law No. 35\* of 13 March 2008 for the election to the Chamber of Deputies and the Senate and for the amendment and completion of Law No. 67/2004 for the election of local public administration authorities, of Law No. 215/2001 on the local public administration, and of Law No. 393/2004 on the Statute of local electees, Article 7, section 1, the website of Legislationonline, accessible at: <https://tinyurl.com/y6wuns9w>, accessed on: 04/04/2020.

<sup>179</sup> Ibid, Article 7, section 2.

<sup>180</sup> Ibid, Article 7, section 2.

<sup>181</sup> Ibid, Article 50, section “o”.

<sup>182</sup> Ibid, Article 51, section 1.

<sup>183</sup> Ibid, Article 51, section 2 a.

<sup>184</sup> Ibid, Article 41, section 10.

<sup>185</sup> Ibid, Article 50, section “o”.

by a fine from 1,000 to 2,500 lei<sup>186</sup> (from about 207 to 518 euros). The punishment is imposed by the chairperson of the relevant election commission.<sup>187</sup>

**Opinion polls and exit polls:** It is prohibited to publish the results of public opinion polls, television votes, or inquiries made in the street during a period of 48 hours before the election day.<sup>188</sup> This action is a minor offense punishable by a fine from 4,500 to 10,000 lei<sup>189</sup> (from about 930 to 2,068 euros). The punishment is imposed by the National Council of the Audiovisual.<sup>190</sup>

It is prohibited to publish the results of exit polls before the closing of the polls.<sup>191</sup>

## Spain

**Campaign silence period:** The elections are announced by a Royal Decree.<sup>192</sup> They are held between 30 and 60 days after the expiration of the powers of the previous Congress.<sup>193</sup> The election campaign begins on the 38<sup>th</sup> day from the calling of elections,<sup>194</sup> and its duration is 15 days.<sup>195</sup> The election campaign is supposed to end at zero hours of the day before the polling day.<sup>196</sup>

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<sup>186</sup> Ibid, Article 51, section 1.

<sup>187</sup> Ibid, Article 51, section 2 b.

<sup>188</sup> Ibid, Article 38<sup>1</sup>, section 3.

<sup>189</sup> Ibid, Article 51, section 1.

<sup>190</sup> Ibid, Article 51, section 2 g.

<sup>191</sup> Ibid, Article 38<sup>2</sup>, section 2.

<sup>192</sup> Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General, Artículo ciento sesenta y siete, Agencia Estatal, Boletín Oficial del Estado, accesible at: <https://boe.es/buscar/act.php?id=BOE-A-1985-11672&p=20190625&tn=0>, accessed on: 21/04/2020.

<sup>193</sup> Constitution of Spain, Section 68, paragraph 6, the website of Constitute Project, accessible at: <https://tinyurl.com/y9a3p2ft>, accessed on: 21/04/2020.

<sup>194</sup> The Electoral Law of General Electoral Regime of Spain, Article 51.1, the website of Legislationonline, accessible at: <http://www.legislationonline.org/documents/action/popup/id/21440>, accessed on: 14/01/2020.

<sup>195</sup> Ibid, Article 51.2

<sup>196</sup> Ibid, Article 51.3

**Opinion polls and exit polls:** A public opinion poll may start from the day of calling the elections.<sup>197</sup> However, it is prohibited to disseminate its results by any means of communication during five days before the elections.<sup>198</sup> Oversight on this process is ensured by the Central Election Committee.<sup>199</sup> Violation of these norms entails criminal liability – imprisonment from three months to one year or a fine from 12 months to 24 months.<sup>200</sup>

## Austria

**Campaign silence period:** The elections are scheduled 28 days prior to the election day on the basis of a decree of the federal government.<sup>201</sup> Austria does not regulate the rules of the election campaign in detail.<sup>202</sup> The campaign may start at any time<sup>203</sup> and even continue on election day.<sup>204</sup> Accordingly, there is no campaign silence period in Austria in the same form as in other countries.

All kinds of campaigning at polling stations and within a concrete distance from them (within a radius specified by the municipal elections autho-

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<sup>197</sup> Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General, Artículo 69, sección 1.

<sup>198</sup> Ibid, Artículo 69, sección 7.

<sup>199</sup> Ibid, Artículo 69, sección 2.

<sup>200</sup> Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal, Artículo 145, Agencia Estatal, Boletín Oficial del Estado, accessible at: <https://www.boe.es/buscar/act.php?id=BOE-A-1995-25444>, accessed on: 06/04/2020. The minimum daily fee equals 2 euros and the maximum daily fee is 400 euros, except for fines imposed on legal entities, in which case the minimum daily fee will be 30 euros and the maximum daily fee will equal 5,000 euros. For computational purposes, when the duration is fixed by months or years, it will be understood that a month equals 30 days and a year equals 360 days.

<sup>201</sup> Federal Law on National Council Elections, 1992. Section 1, paragraph 1 (2), the website of Legislationonline, accessible at: <https://tinyurl.com/y7duwm2j>, accessed on: 16/01/2020.

<sup>202</sup> Republic of Austria, Early Parliamentary Elections, 15 October 2017, OSCE/ODIHR Election Assessment Mission Final Report, p. 9, the website of the OSCE, accessible at: <https://www.osce.org/odihr/elections/austria/370866?download=true>, accessed on: 06/04/2020.

<sup>203</sup> Ibid.

<sup>204</sup> Republic of Austria, Early Parliamentary Elections, 29 September 2019, ODIHR Needs Assessment Mission Report, p. 8, the website of the OSCE, accessible at: <https://www.osce.org/odihr/elections/austria/429095?download=true>, accessed on: 06/04/2020.

ties<sup>205</sup>) are forbidden on election day.<sup>206</sup> The bans extend to posting of public notices and distributing of election propaganda or lists of candidates.<sup>207</sup> Violation of these bans is punishable by administrative sanctions – a fine in the amount of 218 euros and, in the event of non-payment, a prison sentence of up to two weeks.<sup>208</sup> The district commissions are responsible for studying the violations.<sup>209</sup>

**Control over voters' will:** All gatherings are prohibited in the vicinity of polling stations on election day.<sup>210</sup> In this case, too, the radius is determined by the municipal elections authorities. The same liability applies here as in the previous case.<sup>211</sup> The district commissions are responsible for studying the violations.<sup>212</sup>

## Slovakia

**Campaign silence period:** The elections of the National Council are announced by the Chairperson of the National Council no later than 110 days before the day of their holding.<sup>213</sup> The official election campaign begins on the day of publishing the decision on holding the elections and ends 48 hours before the election day.<sup>214</sup> If print media outlets breach the cam-

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<sup>205</sup> The law defines the municipal elections authority as an institution composed of the mayor of the municipality or a permanent deputy appointed by him/her, as well as of the municipal returning officer in the relevant district and nine assistants. The municipal returning officer is defined as a person who is responsible for the conduct of elections in a concrete district and who formally announces the results. Federal Law on National Council Elections, 1992, Section 8, the website of Legislationline, accessible at: <https://tinyurl.com/y7duwm2j>, accessed on: 05/05/2020.

<sup>206</sup> Ibid, Section 58, subsection 1.

<sup>207</sup> Ibid.

<sup>208</sup> Ibid, Section 58, subsection 3.

<sup>209</sup> Ibid.

<sup>210</sup> Ibid, Section 58, subsection 1.

<sup>211</sup> Ibid, Section 58, subsection 3.

<sup>212</sup> Ibid.

<sup>213</sup> 180/2014 Z.z. ZÁKON, o podmienkach výkonu volebného práva a o zmene a doplnení niektorých zákonov, článok 56, časť 1, official text available in Slovak, the Automated Legal Information System, accessible at: <https://www.noveaspi.sk/products/lawText/1/82251/1/2>, accessed on: 06/04/2020.

<sup>214</sup> Slovak Republic, Parliamentary Elections, 5 March 2016, OSCE/ODIHR Needs Assessment

paign silence period, complaints against the media outlets are dealt with by the Ministry of Culture.<sup>215</sup> If the fact of violation is established, which is a minor offense,<sup>216</sup> the media outlets are subjected to a fine from 1,000 to 10,000 euros.<sup>217</sup>

**Opinion polls and exit polls:** The media are prohibited from publishing opinion poll results in the last 14 days before elections.<sup>218</sup> This process is controlled by the Broadcasting and Retransmission Council, which can impose<sup>219</sup> administrative sanctions.<sup>220</sup>

### Czech Republic

**Campaign silence period:** The date of elections is set by the President<sup>221</sup> no sooner than 30 days prior to the expiration of the term of the chambers of the Parliament.<sup>222</sup> The campaign begins on this day and ends on the day when the final results are announced.<sup>223</sup> Accordingly, there is no campaign

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<sup>215</sup> Mission Report, p. 6, the website of the OSCE, accessible at: <https://www.osce.org/odihr/elections/220776?download=true>, accessed on: 06/04/2020.

<sup>216</sup> Slovak Republic, Presidential Election, 16 and 30 March 2019, ODIHR Election Assessment Mission Final Report, p. 13, the website of OSCE, accessible at: <https://www.osce.org/odihr/elections/slovakia/426149?download=true>, accessed on: 01/05/2020.

<sup>217</sup> Act 300/2005 Coll. of 20 May 2005 Criminal Code of Slovakia, Section 10, the website of Legislationline, accessible at: <https://tinyurl.com/ycwgafpz>, accessed on: 05/05/2020.

<sup>218</sup> Ibid.

<sup>219</sup> Slovak Republic, Parliamentary Elections, 5 March 2016, OSCE/ODIHR Election Assessment Mission Final Report, p. 13, the website of the OSCE, accessible at: <https://www.osce.org/odihr/elections/slovakia/235591?download=true>, accessed on: 09/04/2020.

<sup>220</sup> 308/2000 Z.z. ZÁKON, o vysielaní a retransmisií a o zmene zákona č. 195/2000 Z.z.o telekomunikáciách, článok 5, časť 1 (h), Legislative Herald of Slovakia, accessible at: <https://tinyurl.com/rp9s2nc>, accessed on: 09/04/2020.

<sup>221</sup> Ibid, článok 64, časť 1. The law provides for the following types of sanctions: a notice of violation, suspension of a TV program, a fine, revocation of a broadcasting license.

<sup>222</sup> Constitution of the Czech Republic, Article 63, section 1, subsection f, the website of Constitute Project, accessible at: [https://www.constituteproject.org/constitution/Czech\\_Republic\\_2013?lang=en](https://www.constituteproject.org/constitution/Czech_Republic_2013?lang=en), accessed on: 06/04/2020.

<sup>223</sup> Ibid, Article 17, section 1.

<sup>224</sup> Act No. 275 of 27 September 1995 on Elections to the Parliament of the Czech Republic and on the Amendment of Certain Other Laws, Section 16.3, the website of Legislationline, accessible at: <https://tinyurl.com/wnhsgl>, accessed on: 06/04/2020.

silence period in the Czech Republic.<sup>224</sup>

Any election agitation is forbidden in polling stations and **in their immediate vicinity** on election day.<sup>225</sup> Chairpersons of precinct election commissions are responsible for the order at the polling stations and in their immediate vicinity. Their instructions concerning the order in the course of the voting are binding on all persons present.<sup>226</sup>

**Opinion polls and exit polls:** It is prohibited to publish the results of pre-election and election opinion polls between the third day before the election day and the closing of the polls.<sup>227</sup> Violation of this requirement<sup>228</sup> entails an administrative fine from CZK 10,000 to CZK 100,000<sup>229</sup> (from about 362 to 3,630 euros). In the event of violations, the fines are imposed by the Council for Radio and Television Broadcasting.<sup>230</sup>

## Germany

**Campaign silence period:** The day of the elections is determined by the Federal President.<sup>231</sup> The elections are held no sooner than forty-six months and no later than forty-eight months after the expiration of the term of the Bundestag.<sup>232</sup> There is no official campaign period, and par-

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<sup>224</sup> Czech Republic, Parliamentary Elections, 20-21 October 2017, Presidential Election, January 2018, OSCE/ODIHR Needs Assessment Mission Report, 5-7 June, 2017, p. 8, the website of the OSCE, accessible at: <https://www.osce.org/odihr/elections/czech-republic/333691?download=true>, accessed on: 06/04/2020.

<sup>225</sup> Act No. 275 of 27 September 1995 on Elections to the Parliament of the Czech Republic and on the Amendment of Certain Other Laws, Section 16, paragraph 9.

<sup>226</sup> Ibid, Section 20.

<sup>227</sup> Ibid, Section 16g, subsection 1, e.

<sup>228</sup> Ibid.

<sup>229</sup> Ibid, Section 16g, subsection 4.

<sup>230</sup> Czech Republic, Parliamentary and Presidential Elections, 2017-2018, OSCE/ODIHR Needs Assessment Mission Report, p. 10, the OSCE website, accessible at: <https://tinyurl.com/y82o7y6g>, accessed on: 01/05/2020.

<sup>231</sup> Federal Elections Act of Germany, Section 16, the website of Legislationline, accessible at: <https://tinyurl.com/qrp8ylz>, accessed on: 14/01/2020.

<sup>232</sup> Basic Law of Germany, Article 39, section 1, the website of Constitute Project, accessible at: <https://tinyurl.com/srx7tob>, accessed on: 07/04/2020.

ties can campaign at any point ahead of the elections.<sup>233</sup> Candidates are to be registered not later than 6 PM on the sixty-ninth day before the elections.<sup>234</sup> In practice, the election campaign begins following the candidates' registration.<sup>235</sup>

During the polling hours, no influence may be exerted on voters by word, sound, writing or image, and no signatures may be collected **in front of and around polling stations.**<sup>236</sup>

**Opinion polls and exit polls:** The publication of results of exit polls is inadmissible before the end of the polling hours.<sup>237</sup> Violation of this requirement entails an administrative fine of up to 50,000 euros.<sup>238</sup> The Federal Returning Officer is responsible for imposing the fine.<sup>239</sup>

## Croatia

**Campaign silence period:** The elections are scheduled on the basis of the President's decision and are held no sooner than 30 days after this decision enters into force,<sup>240</sup> while the slates of nominated candidates must be submitted to the State Electoral Commission within 14 days at the latest.<sup>241</sup> The election campaign begins on the day of submission of the slates and ends 24 hours before the election day.<sup>242</sup> From this time until the closing of the polls on election day, it is prohibited to disseminate campaign materi-

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<sup>233</sup> Federal Republic of Germany, Elections to the Federal Parliament (Bundestag), 24 September, 2017, OSCE/ODIHR Election Expert Team Final Report, p. 4, the OSCE website, accessible at: <https://tinyurl.com/wv798kj>, accessed on: 07/04/2020.

<sup>234</sup> Federal Elections Act of Germany, Section 19.

<sup>235</sup> Federal Republic of Germany, Elections to the Federal Parliament (Bundestag), 24 September, 2017, OSCE/ODIHR Election Expert Team Final Report, p. 4.

<sup>236</sup> Federal Elections Act of Germany, Section 32.

<sup>237</sup> Ibid, Section 32, subsection 2.

<sup>238</sup> Ibid, Section 49a, subsection 2.

<sup>239</sup> Ibid, Section 49a, subsection 3 (2).

<sup>240</sup> Croatian Parliamentary Elections Act, June 9 2015, Article 5, the website of Legislationonline, accessible at: <https://tinyurl.com/senkn2g>, accessed on: 07/04/2020.

<sup>241</sup> Ibid, Article 22.1.

<sup>242</sup> Ibid, Article 28.

als and candidates' statements and interviews by means of the media.<sup>243</sup> Violation of the requirements of the law by the media can lead to an administrative fine of up to 130,000 euros or termination of a broadcasting license.<sup>244</sup> The process is monitored by the Agency for Electronic Media.<sup>245</sup>

**Opinion polls and exit polls:** It is prohibited to publish early, unofficial election returns in the media on election day until the closing of the polling stations.<sup>246</sup> The sanction<sup>247</sup> and the monitoring body are the same as in the previous case.<sup>248</sup>

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<sup>243</sup> Ibid.

<sup>244</sup> Republic of Croatia, Parliamentary Elections, 8 November 2015, OSCE/ODIHR Election Assessment Mission Final Report, p. 13, accessible at: <https://tinyurl.com/t6ng7gt>, updated on: 08/04/2020.

<sup>245</sup> Ibid.

<sup>246</sup> Croatian Parliamentary Elections Act, June 9 2015, Article 28.

<sup>247</sup> Republic of Croatia, Parliamentary Elections, 8 November 2015, OSCE/ODIHR Election Assessment Mission Final Report, p. 13

<sup>248</sup> Ibid.