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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Conclusions of the Council and of the Member States on securing free and fair European elections
– Outcome of proceedings

Delegations will find attached the final version of the above-mentioned Conclusions, as adopted by the Council on 19 February 2019.

Conclusions of the Council and of the Member States on securing free and fair European elections

THE COUNCIL AND THE MEMBER STATES, IN THE REMIT OF THEIR RESPECTIVE COMPETENCES¹,

I. A Union of values: protecting our democracies in the digital age

1. STRESSING that the Union is founded on the values of respect for democracy, rule of law and fundamental rights. The Treaties emphasise the central role of citizens in European democracy. European citizens are directly represented at EU level and elected to the European Parliament by a free and secret ballot.
2. RECALLING the importance of increasing and improving even further citizens' participation in the democratic life of the EU as expressed in the Council conclusions on the EU Citizenship Report 2017².
3. UNDERLINING that free, reliable and pluralistic media underpin effective and healthy democracy. In the same vein, open, secure and accessible internet and online platforms can facilitate participatory, transparent and effective democracy.
4. UNDERLINING that threats to our electoral processes can take several forms, including hybrid and cyber threats and disinformation. Therefore, a holistic, comprehensive approach and decisive action are needed in countering such antagonistic and subversive threats.
5. UNDERLINING the need to address cybersecurity with a coherent approach at national, EU and global level³, and the need to increase the resilience of electoral processes in the EU and the preparedness of participants in democratic debates to withstand cyber threats, while bearing in mind that the organisation and the legal framework of national elections fall within the sole competence of Member States and that as regards the European Parliament elections, according to Article 8 of the Electoral Act⁴, subject to the provisions of this Act the electoral procedure shall be governed in each Member State by its national provisions.

¹ Having regard in particular to principles enshrined in Article 3 (6), 4 and 5 TEU.

² Adopted by the Council at its 3533rd meeting held on 11 May 2017, 9080/17

³ Council conclusions on the Joint Communication to the EP and the Council: Resilience, Deterrence and Defence: Building strong cybersecurity for the EU, 14435/17

⁴ Act concerning the election of the members of the European Parliament by direct universal suffrage (OJ L 278, 8.10.1976, p.5)

6. ACKNOWLEDGING that the spread of disinformation brings new challenges that have a profound impact on the democratic process. Member States, EU institutions, agencies or bodies need to address these challenges in a coordinated manner and in cooperation with international partners, as appropriate.
7. RECALLING that political parties at European level contribute to forming European political awareness and to expressing the political will of citizens of the Union, as stated in the Treaty on European Union and the Charter of Fundamental Rights.
8. STRESSING that the right to freedom of association at all levels, such as in political and civic matters, and the right to freedom of expression, which includes the freedom to hold opinions and to receive and impart information and ideas without interference from public authorities and regardless of frontiers, are fundamental rights of every citizen of the Union.
9. RECALLING the importance of guaranteeing to citizens an open public sphere and of ensuring a level playing field for political campaigning and electoral processes that citizens can trust.
10. WELCOMING the measures and recommendations presented by the Commission on 12 September 2018 in its elections package, as well as the actions outlined in the Action Plan against Disinformation (referred further as "the Action Plan") to secure free and fair European elections.
11. WELCOMING the provisional agreement on the legislative proposal to address situations in which European political parties or associated foundations take advantage of infringements of data protection rules with a view to deliberately influencing or attempting to influence the outcome of European Parliament elections and noting the need for its swift adoption.

II. Developing a European response to securing free and fair European elections - a call to enhance synergies

12. UNDERLINING that pan-EU cooperation and a comprehensive approach are necessary steps in ensuring the electoral security and legitimacy – both in terms of public trust and legal procedures – of the 2019 European Parliament elections, that election periods have proven to be particularly strategic and sensitive for online circumventing of conventional safeguards and that any threats, including those posed by cyber-attacks, disinformation and other subversive or malicious activities, have to be reflected in the elections risk management.
13. STRESSING that urgent action is needed to protect the Union and the Member States, their bodies and policies from targeted disinformation campaigns, which are likely to increase in the run up to the 2019 European Parliament elections.
14. ACKNOWLEDGING that the sources and phenomena of disinformation can be identified inside and outside the Union and are originating from a range of state and non-state actors. In this regard, efforts should target malign actors, notably Russian sources as set out in the Action Plan, that increasingly deploy disinformation strategies. Threat analyses and intelligence assessments shall guide the action against disinformation.
15. HIGHLIGHTING the importance of establishing and supporting national election cooperation networks, to enable the quick detection of threats to the European Parliament elections and the rapid, effective and secure sharing of information, in full respect of data protection requirements, between authorities with competences in electoral matters and authorities working in related fields.
16. WELCOMING the Commission's initiative to support Member States' efforts by creating a European election cooperation network, which held its first meeting on 21 January 2019, as it provides a forum for exchange of information and practices among Member States authorities, in particular in view of the 2019 European Parliament elections.
17. INVITE the Commission to convene the European election cooperation network on a regular basis in particular to counter disinformation campaigns and other interferences in the upcoming elections to the European Parliament in a comprehensive manner, to build synergies and to share expertise and good national practices, including by jointly identifying threats and gaps.

18. CALL on the Commission and the High Representative to timely deliver on their intention to set up the Rapid Alert System, as referred to in the Action Plan. In view of the 2019 European Parliament elections, it will facilitate sharing of relevant information between Member States through the national contact points for the Rapid Alert System. These national contact points should closely cooperate with the national election networks at the appropriate level where disinformation concerns elections. Also, the outcome of the work of the Rapid Alert System should be shared with the European election cooperation network.
19. INVITE the Commission, in its Report on the 2019 European Parliament elections, to pay particular attention, on the basis of the input provided by Member States and other relevant actors, to preparedness and resilience to withstand interference in elections.
20. INVITE the Commission and the Member States to further enhance their strategic communication on European values and policies, in order to consolidate the trust of European citizens in the Union and its institutions, and engage them in the democratic process.

III. Strengthening citizens' resilience and critical thinking

21. UNDERLINING that, against a background of fragmented media landscapes and threats to national security, professional media play a key role in the gathering, verification, production and dissemination of information and thus are indispensable to public discourse. In this context, whistle-blowers play an important role in aiding the work of journalists and the independent press. Furthermore, the role of independent public service media in safeguarding democracy, pluralism, social cohesion and cultural and language diversity remains vital. Moreover, many private media actors deliver content which is also in the public interest.⁵
22. UNDERLINING the importance of a high quality of general education across the Union, and in particular the importance of digital and media literacy. This can help citizens to evaluate flows of information from online media, social networks and similar sources and form their own opinion notably in their role as voters. Stressing, in this regard, the relevance of the Media Literacy Week of 18-22 March 2019.

⁵ Council conclusions on the strengthening of European content in the digital economy 14986/18

23. CALL ON the Commission and the responsible authorities in the Member States to strengthen the European media ecosystem in order to secure the sustainable production and visibility of independent and professional journalism as a way to empower citizens, protect democracy and to effectively counter the spread of disinformation.⁶
24. INVITE the Commission and Member States to promote and support media and digital literacy in order to further develop a critical approach among citizens towards distributed or promoted media content⁷. This could include, guidelines for citizens to detect and avoid disinformation, targeted campaigns to raise awareness of the negative effects of disinformation, support for cross-border exchanges of best practices amongst media literacy practitioners as well as the development of practical tools for the promotion of media literacy for the public.⁸
25. CALL on the Commission and the Member States to promote, in cooperation with actors from the private and public sector, including media, online platforms and information technology providers and civil society, awareness-raising activities aimed at protecting the integrity of the electoral process.
26. CALL on the Commission, the High Representative and the Member States to support all competent structures to detect, analyse and expose disinformation targeted at the European Parliament elections. Against this background, INVITE the Commission to work with Member States authorities in line with the Action Plan to facilitate the establishment of a network of multidisciplinary independent fact-checkers and academic researchers to detect and expose disinformation across different social networks and digital media.

⁶ Council conclusions on the strengthening of European content in the digital economy 14986/18

⁷ Including as set out in Council recommendation of 22 May 2018 on key competences for lifelong learning.

⁸ Council conclusions on the strengthening of European content in the digital economy 14986/18; Council conclusions of 30 May 2016 on developing media literacy and critical thinking through education and training.

IV. Protecting our data and systems: ensuring the application of the General Data Protection Regulation (GDPR) and enhancing cybersecurity for the European Elections

27. RECALLING the obligation to respect the EU rules on data protection also when personal data is being processed in an electoral context, the specific competence of data protection authorities to monitor and enforce these rules, and welcoming the European Data Protection Board guidelines and the guidance provided by the Commission to support such compliance by all actors involved.
28. BEING MINDFUL that national authorities with competence for electoral matters, including data protection authorities, require appropriate resources, including technical equipment and trained personnel, to resist cyber incidents and attacks, and to enforce the applicable legislation.
29. UNDERLINING, having regard to the provisional agreement referred to in paragraph 11, the importance of the national data protection authorities, in compliance with Union and national law, immediately and proactively informing the Authority for European Political Parties and European Political Foundations of their decisions finding that a natural or legal person has infringed applicable rules on the protection of personal data where it follows from that decision or there are otherwise reasonable grounds to believe that the infringement is linked to political activities by a European political party or foundation with a view to influencing the elections to the European Parliament – given that, in this regard, the Authority may only act if it is informed of a decision of the competent national data protection authority establishing such an infringement.
30. CALL on Member States to assess cyber threats in the electoral context, to envisage appropriate measures to address them and to take steps needed to preserve the integrity of their electoral systems and infrastructure such as testing them ahead of the European Parliament elections. In this regard, a relevant test could be a EU level table top exercise. Member States can take into account the Compendium on Cyber Security of Election Technology developed by the NIS Cooperation Group established by Directive (EU) 2016/1148.

V. Encourage greater online transparency, accountability and integrity

31. RECOGNISING the need, in line with the applicable rules, to foster and facilitate the transparency of paid online political advertisements and communications including on their advertising purpose, the methods by which they are targeted to citizens, and their funding.
32. HIGHLIGHTING the need to continue the cooperation with social media platforms in order to assess whether voluntary self-regulatory mechanisms are adequate and sufficient for protecting the fundamental rights of citizens and effectively addressing the challenge of online disinformation.
33. CALL ON Member States and online platforms, to intensify their efforts, to promote transparency of the election-related online activities. Welcoming the progress made implementing the Code of Practice, CALL on online platforms to invest the necessary resources to deal with election-related online activities, in a responsible, accountable and consistent manner, including by ensuring transparency and accountability with regard to data processing and data analysis for political purposes; identifying and eliminating bots used for information manipulation purposes; eliminating algorithmic biases that promote disinformation and distort public debate; removing illegal content online; and providing access to data for the purposes of research aimed at identifying relevant vulnerabilities, while ensuring media freedom and that no advertisements are removed due to political considerations, in full compliance with data protection rules.
34. INVITE the Commission to continue, in cooperation with European Regulators Group for Audiovisual Media Services (ERGA) and other relevant actors, the systematic monitoring of the implementation of the Code of Practice on Disinformation and regularly inform the Council and Member States of its findings, especially with a view to the 2019 European Parliament elections.⁹

⁹ Council conclusions on the strengthening of European content in the digital economy 14986/18

VI. Countering hybrid threats and strengthening the external cooperation on electoral matters

35. RECOGNISING that public communication and awareness raising can mitigate the negative effects of disinformation, hybrid threats and malicious cyber activities and can have a deterrent effect on the potential perpetrators.
 36. ACKNOWLEDGING the need to give full effect to the development of the measures provided in the Framework for a Joint EU Diplomatic Response to Malicious Cyber Activities in order to prevent, deter and respond, when necessary, to malicious cyber activities at a strategic level.
 37. ACKNOWLEDGING the need for dialogue between relevant international experts to exchange best practices for resilient electoral systems.
 38. INVITE the Commission and the High Representative, complementary to existing cooperation mechanisms, to explore options for further cooperation with relevant international actors, such as the G7 or NATO, where appropriate and in full respect of the EU institutional framework.
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