

Delegation of Belgium

**STATEMENT BY MR. STÉPHAN DE MUL,
HEAD OF THE ELECTIONS UNIT OF THE BELGIAN FEDERAL
PUBLIC SERVICE OF HOME AFFAIRS, AT THE
OSCE CHAIRMANSHIP EXPERT SEMINAR ON ELECTORAL
MANAGEMENT BODIES**

Vienna, 16 to 17 July 2009

Working Session II: Ensuring the integrity of elections

**1. Ensuring that the media observe democratic rules during the election process:
the situation in Belgium**

General principles

As noted in the ODIHR guide “International Standards and Commitments on the Right to Democratic Elections”, media access is of prime importance when elections are held, especially in these days of modern information technology.

States must afford all candidates and political parties sufficient opportunity on a fair and non-discriminatory basis to make their programme and opinions known to the voters, including through the State media. They must ensure fair media access and treatment for all candidates.

The media in Belgium

Belgium’s long history of free speech and cultural diversity is reflected in the wide range of media that exists, with around 30 newspapers, more than 15 national and regional television and radio stations, a widespread network of cable operators, and local television and radio stations. The Belgian media are of course divided along linguistic lines and media regulation mainly falls to the three Communities.

Each Community has a State broadcasting company funded and administered by the Community institutions. The membership of its board of directors corresponds to the representation of the various political parties in the Community parliament.

The RTBF (*Radio-télévision belge de la Communauté française*) is the State broadcasting company for the French Community and has two television channels and two main radio stations.

The most popular French-speaking channel however is the independent *RTL-TVI*, followed by the *La Une* State channel. French channels are also very popular in francophone Belgium, with *TF1* and *France 2* commanding a 27 per cent market share.

The most widely-read daily newspapers are *Le Soir*, *La Libre Belgique* and *La dernière Heure*.

On the Flemish broadcasting market, the State company *VRT (Vlaamse radio-en Televisie omroep)* is the largest with its two channels *Een* and *Canvas* drawing 35 per cent of the audience. The independent channel *VTM* is the most popular after the State channels. Dutch channels have a limited audience.

There are various daily newspapers, *Het laatste Nieuws*, *Het Nieuwsblad*, *Het Volk*, *De Morgen* and *De Standaard* being the best-known.

The German-speaking Community has one State radio station, *BRF (Belgischer Rundfunk der deutschsprachigen Gemeinschaft)*. There are around ten independent radio operators in the Community.

Grenz-Echo is the best-known daily newspaper.

Media regulation

Federal level

Article 19 of the Belgian constitution protects freedom of speech, while article 25 more specifically protects the freedom of the press. There are some restrictions on freedom of speech in the 1981 law on the prevention of acts of racism and xenophobia, which provides for sanctions against any promotional material with the intent to incite discrimination, hatred or violence against groups or individuals on the grounds of race, skin colour, nationality or ethnic origin. The 1995 law against Holocaust denial contains similar provisions. Most broadcasters have incorporated these provisions directly in their statutes and editorial codes.

The law on curbing election spending also impacts the obligations of the media in the three Communities. During the three months leading up to the day of the election, any public information campaign launched by a Minister in their area of responsibility is first subject to an opinion from the control commission of each federal, regional or Community parliament. This procedure aims to ascertain whether the public information campaign appears in whole or in part to promote a party or candidates. In any case there is a ban on including the name or a photograph of the Minister in the information campaign – only the function of the Ministry is named.

Otherwise, candidates and political parties are banned from placing paid advertisements on the television, radio, cinema or Internet during the three-month period. They are however allowed to advertise in the written press.

At Community level

There is no national legislation on media conduct during election campaigns. Each Community has its own regulations which however have common principles:

- Above all, a high level of self-regulation for election coverage;
- Allocation of free State media air time for candidates;
- A monitoring procedure to prevent or reduce any preferential media access; and
- A complaints procedure for the candidates.

The French Community regulator, the CSA (*Conseil supérieur de l'Audiovisuel*) issues recommendations for all the broadcast media during the three months of election campaigning, including some general principles and examples of good journalism practice. In particular, the CSA recommends restricting access for political groups whose manifestos or ideologies are not in line with the federal laws against racism and xenophobia. In accordance with the CSA recommendations, most broadcasters publish schedules for the media coverage of elections.

The CSA has also recommended that balanced and inclusive debates among the candidates of the main parties are broadcast and that the information is provided to the parties excluded from the debates for legal reasons. As well as making recommendations, the CSA can impose sanctions for infringements of the laws.

For each election, the RTBF draws up a detailed schedule allocating free air time to the political parties on the basis of their representation in parliament. Parties not represented in parliament receive limited access based on the number of candidates registered for the elections. Coverage of candidates in the news programmes and debates, on the basis of a decision by the RTBF, is in proportion to the representation of the political parties in the French Community Parliament.

In the Flemish Community, media coverage of elections is controlled by a combination of legal regulations and self-regulation, under the supervision of the regulator VRM (*Vlaamse Regulator voor de Media*). A decree about radio and television broadcasters obliges them to adopt a number of principles in their general editorial coverage, in particular the obligation to impartiality and non-discrimination in programmes (article 111 *bis* of the decree). The VRT is obliged to allocate free air time to the political parties represented in the Flemish parliament on a proportional basis. Media coverage of the elections by the VRT is also governed by a code of ethics and by internal directives specific to each election. These directives stipulate certain good practices, with obligations in relation to impartiality, pluralism and objectivity in particular.

The VRM has real powers enshrined in law. Where an infringement of the rules is determined, it can choose from a number of sanctions, including a warning, with an order to halt the violation, a mandatory statement by the party committing the violation, as appropriate, an administrative fine of up to €125,000, suspension or revocation of a broadcaster's licence and suspension or revocation of the broadcasting company as a legal entity.

The authority in the German-speaking Community is the *Medienrat* which has fewer competencies than its opposite numbers in the other Communities. It does not have the power to impose sanctions on the media for breaking the law, and although it receives complaints and gives opinions, it cannot impose any obligations on the media. The BRF has an internal self-regulation code for election campaigns. During that time, the BRF airs debates between candidates and gives free air time to political parties.

The biggest national newspapers cover the election campaign and candidates extensively. They can buy advertising space in the written press, but some newspapers refuse to publish advertisements for certain parties (e.g. *Vlaams Belang*). The Brussels commercial court ruled that newspapers have the right to refuse to publish advertisements for political parties whose aims clash with the editorial principles or statutes of the newspaper, but they may not refuse on commercial or practical grounds.

2. The responsibility of election officials

There is no electoral commission in Belgium and elections are organized by the Ministry of the Interior.

However, the entire electoral process is run by the principal polling offices which are always presided over by a judge from the judiciary. The other members are lay people appointed by the president.

These offices are responsible for:

- Accepting nominations;
- Appointing polling and counting station officials;
- Organizing polling day; and
- Distributing seats and appointing the elected representatives.

The political parties are invited to field observers for all the activities of these principal offices.

They must all swear an oath and are subject to severe penal sanctions in the case of violations of the legal regulations.

Finally, I should like to stress that as a transparency measure, all the reports of the principal polling offices were published on our website during the last European and regional elections on 7 June 2009. This means that any citizen can make the election calculations themselves and review any comments made by the witnesses during the election procedure.