

**Inventarisatie regelgeving opiniepeilingen**

In het algemeen overleg van 9 december 2010 heb ik uw Kamer toegezegd te inventariseren op welke wijze in andere (EU-)landen wordt omgegaan met de publicatie van opiniepeilingen in verkiezingstijd.<sup>1</sup>

Aan alle EU-lidstaten, Zwitserland, Noorwegen en Canada is gevraagd of het betreffende land wet- en/of (informele) regelgeving heeft betreffende de publicatie van opiniepeilingen in verkiezingstijd en/of op de verkiezingsdag. Indien van toepassing is tevens gevraagd naar de scope, reikwijdte en handhaving van die regelgeving. Het ministerie van BZK heeft 18 reacties ontvangen.<sup>2</sup> Hoewel Bulgarije, Frankrijk en Canada niet hebben gereageerd op het verzoek, is van deze 3 landen de reeds bij het ministerie van BZK bekende informatie meegenomen in de resultaten.<sup>3</sup>

LAND	FORMELE WETGEVING	INFORMELE AFSPRAKEN	PERIODE BEPERKING <sup>4</sup>
België	Nee	Nee	N.v.t.
Bulgarije	Ja	Nee	Vanaf één dag voorafgaand aan verkiezingsdag
Canada	Ja	Nee	Verkiezingsdag
Denemarken	Nee	Nee	N.v.t.
Duitsland	Ja	Nee	Verkiezingsdag
Finland	Nee	Nee	N.v.t.
Frankrijk	Ja	Nee	Vanaf één dag voorafgaand aan verkiezingsdag
Griekenland	Ja	Nee	Vanaf vijftien dagen voorafgaand aan verkiezingsdag
Hongarije	Ja	Nee	Verkiezingsdag
Ierland	Ja	Nee	Vanaf 14.00 uur voorafgaand aan verkiezingsdag
Italië	Ja	Nee	Vanaf twee weken voorafgaand aan verkiezingsdag
Letland	Ja	Nee	Verkiezingsdag
Oostenrijk	Nee	Ja	Verkiezingsdag
Roemenië	Ja	Nee	Vanaf twee dagen voorafgaand aan verkiezingsdag
Slovenië	Nee	Nee	N.v.t.
Slowakije	Ja	Nee	Verkiezingsdag
Spanje	Ja	Nee	Vanaf vijf dagen voorafgaand aan verkiezingsdag
Tsjechië	Ja	Nee	Vanaf drie dagen voorafgaand aan verkiezingsdag
Verenigd Koninkrijk	Nee	Nee	N.v.t.
Zweden	Nee	Nee	N.v.t.
Zwitserland	Nee	Nee	N.v.t.
<b>TOTAAL = 21</b>	<b>13 x ja; 8 x nee</b>	<b>1 x ja; 20 x nee</b>	

In totaal hebben 14 landen wetgeving of informele regelgeving die de publicatie van opiniepeilingen/exit-polls beperken. Oostenrijk is het enige land dat informele regels toepast: per verkiezing sluit de Oostenrijkse Kiesraad herenakkoorden af met de verschillende

<sup>1</sup> Tweede Kamer 2010-2011, 31 142, nr. 27.

<sup>2</sup> Er is geen reactie ontvangen van Bulgarije, Canada, Cyprus, Estland, Frankrijk, Litouwen, Luxemburg, Malta, Noorwegen, Polen en Portugal.

<sup>3</sup> *Election Code of Bulgaria* via OCSE, Opinion No. 607/2010: CDL-REF(2011)008, 21 February 2011 en CDL-REF(2011)013, 21 June 2011; *Canada Elections Act* via [www.elections.ca/legislation](http://www.elections.ca/legislation); *Loi n° 77-808 du 19 juillet 1977, modifié par Loi n° 2002-214 du 19 février 2002: Loi relative à la publication et à la diffusion de certains sondages d'opinion* via [www.commission-des-sondages.fr](http://www.commission-des-sondages.fr).

<sup>4</sup> In alle gevallen eindigt de periode van beperking met het sluiten van de stembureaus. Voor Canada en Oostenrijk gelden verschillende sluitingstijden, de beperking geldt dan tot sluiting van de laatste stembureaus.

vertegenwoordigers van de media. De meest voorkomende beperking (6 van de 14) is de beperking tot het publiceren van opiniepeilingen/exit-polls op de verkiezingsdag zelf. Uit de enquêtes kan overigens niet worden afgeleid dat in de landen waar wet- of regelgeving ontbreekt, op de verkiezingsdag opiniepeilingen of exit-polls worden gepubliceerd.

In 8 landen is de beperking van de publicatie van opiniepeilingen onderwerp van politieke discussie of een rechtszaak (geweest). In 5 landen<sup>5</sup> is de beperking van de publicatie van opiniepeilingen door een uitspraak van het Constitutionele Hof opgeheven of ingekort wegens strijd met de vrijheid van meningsuiting. Om dezelfde reden is in Denemarken in 2009 in het parlement een voorstel over het beperken van de publicatie van opiniepeilingen op de verkiezingsdag afgewezen. Ook in Slowakije en Ierland zijn in aanloop naar het ontwerp van nieuwe wetgeving de huidige wettelijke beperkingen onderwerp van discussie.

Vrijwel alle landen die antwoorden hebben gegeven op de door het ministerie van BZK gestelde vragen geven aan dat, waar van toepassing, media, politieke partijen en andere organisaties zich aan de wet dan wel informele afspraken houden.

Uit de inventarisatie komt tevens naar voren dat in 6<sup>6</sup> van de 14 landen waar de publicatie van opiniepeilingen is beperkt, voorwaarden zijn verbonden aan de wijze waarop opiniepeilingen gepubliceerd moeten worden. Hierbij moet gedacht worden aan het verplicht vermelden wie de peiling heeft uitgevoerd, wie de opdrachtgever is, wat de omvang van de (initiële) groep ondervraagden is, wat de foutmarge is en wat de gebruikte methode is. Hierover bestaat ook een aanbeveling van de Raad van Europa.<sup>7</sup>

Bijgevoegd treft u aan de 18 ingevulde enquêtes in alfabetische volgorde.

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<sup>5</sup> In Slovenië is de beperking opgeheven. In Canada, Frankrijk, Hongarije en Bulgarije is de beperking ingekort.

<sup>6</sup> Het betreft hier Bulgarije, Canada, Frankrijk, Hongarije, Roemenië en Spanje.

<sup>7</sup> Council of Europe, *Recommendation No. R (99) 15 of the Committee of Ministers to Member States on measures concerning media coverage of election campaigns*, 9 September 1999.

## **BELGIË**

### **Questionnaire on rules and regulations concerning the publication of electoral opinion polls:**

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

No.

2. If so:
  - a. To whom does the law apply?
  - b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - c. Which authority is responsible for upholding the law/sanctioning?  
The Election Officer during the advance voting period and the Election

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

## DENEMARKEN

### Questionnaire on rules and regulations concerning the publication of electoral opinion polls:

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

The conduct and publication of opinion polls or exit polls are not regulated by law in Denmark. Consequently, such polls can be carried out and published right up to (or even on) Election Day.

2. If so:
  - a. To whom does the law apply?
  - b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - c. Which authority is responsible for upholding the law/sanctioning?

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

There are no such agreements as mentioned above.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

Please see the answer below.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

In Denmark the mayor television channels and mayor newspapers make their own opinion polls during elections and exit polls on Election Day. The numbers of opinion polls on electoral matters are increasing.

Opinion polls during the election period and exit polls on the Election Day are often a subject to discussion in the Danish parliament Folketinget, and in the public in general, especially when national elections are held.

In 2009 there was a proposal in the Danish parliament to prohibit publication of exit polls on the Election Day. The proposal set off a political debate on the proposals interference with the right to freedom of speech and freedom of press. The proposal was not passed.

## **DUITSLAND**

### **Questionnaire on rules and regulations concerning the publication of electoral opinion polls:**

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

**No** concerning the publication of opinion polls during election time.

**Yes** concerning the publication of exit polls = of results of electoral surveys conducted on election day asking individuals how they have voted.

The following responses refer to the national parliamentary elections and the election of the German Members of the European Parliament. By and large the same rules apply to Land and municipal elections.

2. If so:
  - a. To whom does the law apply?  
  
*The relevant law applies for everybody.*
  - b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)  
  
*Inadmissibility of publication of the results of exit polls before the end of polling hours and corresponding sanctions.*
  - c. Which authority is responsible for upholding the law/sanctioning?

*The Federal Returning Officer*

***Please add relevant sections of the law***

#### **Federal Elections Act**

##### **Section 32**

**(Inadmissible Electioneering and Collection of Signatures, Inadmissible Publication of Electoral Survey Results)**

(1) During polling hours, no influence may be exerted on voters by word, sound, writing or image and no signatures may be collected in or around the building in which the polling station is located as well as directly in front of the entrance to the building.

(2) The publication of results of surveys conducted among voters after they have cast their votes shall be inadmissible before the end of polling hours.

##### **Section 49a**

**(Administrative Offences)**

- (1) An administrative offence shall be committed by any person who
  1. contrary to the provisions of Section 11, refuses an honorary post on insubstantial grounds or evades the responsibilities of such office without sufficient excuse or,
  2. contrary to the provisions of Section 32 paragraph (2), publishes the results of opinion polls of voters' decisions after voting before the voting period has expired.
- (2) A person may be punished with an administrative fine of up to five hundred Euro for committing an administrative offence within the meaning of paragraph (1), no. 1 or with a fine of up to fifty thousand Euro for committing an administrative offence within the meaning of paragraph (1), no. 2.
- (3) Administrative authority within the meaning of Section 36 paragraph (1), no. 1 of the Administrative Offences Act shall be
  1. for administrative offences pursuant to paragraph (1), no. 1,

- a) the Constituency Returning Officer, if a person eligible to vote unjustifiably refuses to accept the office of Electoral Officer, Deputy Electoral Officer or Member of the Electoral Board or of the Constituency Electoral Committee,
  - b) the Land Returning Officer, if a person eligible to vote refuses to accept the office of a member of the Land Electoral Committee or evades the responsibilities of such office without sufficient reason,
  - c) the Federal Returning Officer, if a person eligible to vote refuses to accept the office of a member of the Federal Electoral Committee or evades the responsibilities of such office without sufficient reason,
2. for administrative offences pursuant to paragraph (1), no. 2, the Federal Returning Officer.

## **European Elections Act**

### **Section 4**

(Application of the Federal Elections Act)

Unless stipulated otherwise by this act, the election of the members shall be in accordance with the provisions of Sections 2 to 7 of the Federal Elections Act concerning

the electoral bodies,  
the franchise voting right,  
the preparations for the election,  
the poll, [= > *Section 32 of the Federal Elections Act*]  
the establishment of the election result,  
the by-elections and repeat elections  
as well as the provisions of Article 49a of the Federal Elections Act on Regulatory Offences and the provisions of Article 54 of the Federal Elections Act on Time Limits and Dates,

each in the current version.

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
- a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?
5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

In Germany, results (partial results) of exit polls (surveys conducted on election day asking individuals how they have voted) are not allowed to be made public before the end of polling hours. This is intended to protect others who have not yet voted from being influenced by such surveys.

Electoral opinion polls are thus in principle permitted, but Section 32 (2) of the Federal Elections Act limits when poll results may be published.

The general consensus is that this provision is compatible with the principle of general, free and equal elections as stated in Article 38 (1) of the Basic Law. It is also compatible with the freedom of expression protected by Article 5 of the Basic Law, because the prohibition on early publication is not directed against the expression in itself, but rather serves to protect a legitimate legal interest, i.e. free elections.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

No.

## FINLAND

### Questionnaire on rules and regulations concerning the publication of electoral opinion polls:

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

No. Nevertheless according to the Election Act it is prohibited to give speeches, display or distribute printed or written exhortations or otherwise influence or try to influence the voters' electoral freedom in the polling station or in the immediate vicinity.

2. If so:
  - a. To whom does the law apply?

Everyone.

- b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)

See above.

- c. Which authority is responsible for upholding the law/sanctioning?

The Election Officer during the advance voting period and the Election Committee on Election Day.

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

The subject has not been particularly topical in connection with the last elections.



## GRIEKENLAND

### **Questionnaire on rules and regulations concerning the publication of electoral opinion polls:**

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

Yes (Article 7 of Law 3603/2007, Regulations on polling issues).

2. If so:
  - a. To whom does the law apply?

The law sets restrictions on actions of free public and private radio and television stations, providers of pay television and radio services, any type of press and magazine, political parties and candidates.

- b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)

The law regulates that "fifteen (15) days prior to the conduct of parliamentary elections, European Parliament elections and referendums, as well as until the 19:00 hour of the day of the election, publication of opinion polls regarding the voting intentions of electors are forbidden. The aforementioned categories (2a) -to whom the law applies- are not allowed to publish or transmit any poll regarding political trends, opinions and preferences of the public opinion, or any economic or social subject".

Violation of the provisions entails imprisonment of at least six (6) months, a penalty that cannot be altered or suspended, and fine of 30.000€-300.000€ (according to the same law).

- c. Which authority is responsible for upholding the law/sanctioning?

General Secretariat of Information- General Secretariat of Communication.

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?  
No.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

The bodies obliged to do so, being aware of the aforementioned law on force, refrain from publishing such data during the period of prohibition. The freedom of press (regarding the publishing of opinion) is being restricted; however it ensures the avoidance of influencing the rest of the public opinion.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

No, for the time being, there is no consideration regarding adoption or amendment of laws and/or agreements, since there is sufficient and effective regulation existing.

## HONGARIJE

### Questionnaire on rules and regulations concerning the publication of electoral opinion polls:

1. Does your country have laws/regulations concerning the publication of *opinion* polls during election time and/or on election day?

Yes. The issue is regulated by the uniform Act C of 1997 on Electoral procedure.

2. If so:
  - a. To whom does the law apply?

Procedural rules on opinion polls apply to everyone who can be a part of such action (the persons/companies conducting opinion polls, media and/or parties that publish such data etc.)

- b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)

Opinion polls can be conducted and published without restrictions except on the ballot day until 19.00 o'clock (this is the general time of closing of the voting). Some of the restrictions on ballot day are explicitly enumerated by law, others are indirect: in Hungary the electoral system applies the so-called "campaign silence". This means, that on ballot day no campaign activity is allowed until 19.00 PM. Publishing opinion polls would be a violation of the campaign silence, therefore it is prohibited to publish them in that timeframe. The only information broadcasted until 19.00 on ballot day are the bulletin reports of the National Election Office about the participation level of voters.

- c. Which authority is responsible for upholding the law/sanctioning?

Various types of election committees depending on the case itself are responsible for maintaining these rules. (i.e.: if an opinion poll has been cast on national level during the campaign silence period, the case falls within the scope of adjudging media campaign by the National Election Committee. If an opinion poll researcher tries to enter a polling station and question the voters, then it's up to the "ballot counting committee" [=polling station committee] to take action to restore the legal order of elections.

#### ***Please add relevant sections of the law***

Act C of 1997 on Electoral procedure:

##### Article 8

(2) On polling day, public opinion researches may be made subject to the following conditions:

- a) the *public* opinion poll shall be anonymous, and based on voluntary participation;
- b) the public opinion researchers may not enter the *building* where the polling-station is located, may not in any way harass voters, and may ask only those stepping out of the polling station.

...

##### **Campaign period**

###### Article 40

- (1) The election campaign shall last from the call for the election to the beginning of polling day.
- (2) From 0:00 hours to 19:00 hours on polling day it is prohibited to run any election campaign.

## **Infringement of the campaign silence period**

### **Article 41**

*Any influencing of the will of the voters; so, especially services provided free of charge for voters by the candidate or the nominating organization (organised transportation to the polling station; supplying food and drinks), distributing party badges, flags, party symbols, tokens containing the candidate's photograph or name, placement of election posters (hereinafter referred to as "posters"), providing information in electronic or other form suitable for influencing the voters' will, shall be deemed infringement of the campaign silence period.*

## **Legal remedy regarding media campaign**

### **Article 44/A**

(1) Objections regarding the participation of the media in the election campaign (so especially with respect to violating the basic principles of the electoral procedure, the publication of political advertisements) will be adjudged

- a) regarding periodicals not distributed nationally or local provision of programs, by the competent local election committee of the seat or address of the publisher or the program provider,
- b) regarding regional provision of programs, by the competent regional election committee of the seat or address of the program provider,
- c) regarding periodicals distributed nationally, news agencies or nationwide provision of programs, by the National Election Committee.

(2) If the election committee sustains the objection, in addition to the legal consequences set forth under Article 78 (1), it may oblige the editorial staff of the periodical, the program provider or news agency to publish its resolution or the operative clause thereof

- a) within three days regarding daily newspapers and news agencies,
- b) the same way in the next issue regarding periodicals,
- c) within three days regarding program providers, in the period of the day and on as many occasions when and as many times the announcement violating the law was broadcast at the same time of the day, as well.

(3) In the objection it is enough to indicate the program item producing the evidence of violation, it shall not be attached; the evidence indicated will be obtained by the election committee ex officio.

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?
5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

In practice the rules on opinion polls themselves are well respected, nevertheless due to the ever increasing importance of digital media the bigger issue of the "campaign silence" rule (which affects the rules on the publishing of opinion polls too) is becoming rather obsolete. The campaign silence period used to be 2 days long (for the whole of the election weekend), but recently it has been shortened to the closing of polling stations on election day.

Originally it was not allowed to publish opinion polls 8 days ahead of election day, however, in 2007 this provision has been repealed by the Constitutional Court, as prohibiting the publication of opinion polls for such a long period of time conflicts with the freedom of speech and press. After that the electoral regulation has been changed so that the publication of opinion polls is only prohibited on election day until 19.00 o'clock.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

See above, the issue has already been reconsidered and reformed once. Nevertheless, many experts and politicians take position for abolishing the institution of "campaign silence" completely, but for the sake of calm voting on polling day the publication of opinion polls is still not allowed on election day until 19.00 o'clock.

## IERLAND

### **Questionnaire on rules and regulations concerning the publication of electoral opinion polls:**

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

Yes.

2. If so:
  - a. To whom does the law apply?

The BAI (*Broadcasting Authority of Ireland*) Broadcasting Code on Election Coverage constitutes statutory, legally-binding regulation with which all broadcasters must comply in their coverage of elections. Coverage of opinion polls falls under the general provisions of the Code.

- b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)

A broadcasting moratorium prohibits broadcast media (radio and TV) from publishing poll results from 2pm on the day before polling day until polling stations close.

- c. Which authority is responsible for upholding the law/sanctioning?

Since May of this year, complaints about infringement of this, or any other Code, should be directed in the first instance to broadcasters. The complainant can refer a complaint to the BAI if they are dissatisfied with the response. Where a complaint is upheld by the BAI, broadcasters are issued with a notification of non-compliance. In addition, the decision of the BAI must also be broadcast. Repeated non-compliance can result in suspension or termination of a licence to broadcast, in the case of commercial and community radio and television broadcasters. The Broadcasting Act 2009 also provides the BAI with the option of issuing a monetary fine. However, the mechanism for this is not currently in place.

***Please add relevant sections of the law***

#### **3. Complaints**

Any viewer or listener should in the first instance refer a complaint directly to the relevant broadcaster if they are dissatisfied with the manner in which a broadcaster is complying with this Code. Complaints may also be made to the Broadcasting Authority of Ireland. Further information is available on [www.bai.ie](http://www.bai.ie).

#### **8. Moratorium**

Radio and television broadcasters shall observe a moratorium on coverage of an election. The moratorium will operate from 2pm on the day before the poll takes place and throughout the day of the poll itself until polling stations close. Electioneering and/or references to election issues and/or references by any on-air personnel, (including guests) to the merits or otherwise of the election candidate(s) and their policies shall not be broadcast while the moratorium is in operation.

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?

- d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?
5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

Compliance with the moratorium is high, with breaches generally as a result of accidental scheduling errors.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

The moratorium is a regular subject of discussions in advance of elections, referenda taking place. The BAI has recently shortened the moratorium period. It now commences at 2pm prior to the day of the election and ends at 10pm on the day of the election. Previously, it commenced at Midnight on the day before the election.

The BAI has recently completed a consultation on amendments to this code such that it will apply also to coverage of referenda. Responses to date have both supported and opposed the application of a moratorium. The current code and the one to shortly replace it are intended as interim codes. A broader code on Fairness, Impartiality and Objectivity in News and Current Affairs will be issued for consultation later this year. This will invite views on a range of issues, including the practice of applying a moratorium.

## ITALIÈ

### **Questionario sulle regole e sui regolamenti relativi alla pubblicazione di sondaggi elettorali:**

1. Il vostro paese ha leggi / norme relative alla pubblicazione di sondaggi durante lo svolgimento delle elezioni e / o il giorno delle elezioni?

Sì. La materia è regolata dall'art. 8 della legge 22 febbraio 2000, n. 28 e dagli articoli 15 della delibera n. 42/08/CSP (Autorità per le Garanzie nelle Comunicazioni) del 4 marzo 2008 e 23 della delibera n. 34/08/CSP (Autorità per le Garanzie nelle Comunicazioni) del 29 febbraio 2008.

2. Se è così:

- a. A chi si applica la legge?

La legge si applica alle elezioni per la Camera dei deputati e per il Senato della Repubblica, nonché per le elezioni regionali, provinciali e comunali.

- b. Che cosa disciplina specificamente? (Restrizioni, eccezioni, requisiti, sanzioni)

Nei quindici giorni precedenti la data della votazione e fino alla chiusura delle operazioni di voto, è vietato rendere pubblici o comunque diffondere i risultati, anche parziali, di sondaggi demoscopici sull'esito delle elezioni e sugli orientamenti politici e di voto degli elettori.

- c. Quale autorità è responsabile per far rispettare la legge / sanzionare?

L'Autorità per le Garanzie nelle Comunicazioni.

3. Esistono nel vostro Paese regole informali o "accordi tra gentiluomini" sulla pubblicazione dei sondaggi durante lo svolgimento delle elezioni e / o il giorno delle elezioni?

No.

4. Se è così:

- a. Chi o quale autorità stabilisce gli accordi o è parte degli accordi?

- b. A chi si applicano gli accordi?

- c. L'accordo è applicabile per diversi anni o solo per un certo periodo elettorale?

- d. Che cosa disciplinano specificamente? (Restrizioni, eccezioni, requisiti, sanzioni)

- e. Se l'accordo contiene sanzioni, esiste un'autorità responsabile della missione ?

5. Si prega di descrivere in breve come la (restrizione della) pubblicazione dei sondaggi elettorali funziona in pratica. Soprattutto come si relaziona rispetto alla libertà di espressione / di stampa e il libero uso di internet.

Il divieto si concretizza nell'impossibilità di pubblicare e diffondere, sia su Internet che su quotidiani e periodici, nei quindici giorni precedenti la data della votazione e fino alla chiusura delle operazioni di voto, i risultati, anche parziali, dei sondaggi elettorali effettuati.

6. C'è nel vostro paese, come nei Paesi Bassi, un'attuale discussione politica o sociale sul tema? Se è così, si sta pensando di adottare o modificare leggi e/o (informalmente) gli accordi? Se no, perché?

No.

## LETLAND

### Questionnaire on rules and regulations concerning the publication of electoral opinion polls:

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

Yes.

2. If so:
  - a. To whom does the law apply?

To broadcasting organisations.

2. If so:
  - b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)

Inclusion of the results of public opinion polls regarding popularity of political organisations, associations of political organisations as well as voters association or individual deputy candidates in programmes of broadcasting organisations till the time when polling stations are closed.

2. If so:
  - c. Which authority is responsible for upholding the law/sanctioning?

The National Council of Electronic Mass Media. If the Council finds infringement of the law, one draws up a protocol and sends it to the Administrative Court.

#### ***Please add relevant sections of the law***

#### **Laws of the Republic of Latvia:**

#### **1) On Pre-election Campaign Before the Saeima Elections and Elections to the European Parliament**

##### **Section 14.**

It is prohibited to include the results of public opinion polls regarding popularity of political organisations, associations of political organisations or individual deputy candidates in programmes of broadcasting organisations on the Saeima election day until 8 o'clock in the evening and on the European Parliament general election day until 10 o'clock in the evening.

##### **Section 17.**

Officials of broadcasting organisations who have not observed the requirements of this Law shall be held liable in accordance with law.

#### **2) Law On Pre-election Campaign Before the Local Government Elections**

##### **Section 14.**

It is prohibited to include the results of public opinion polls regarding popularity of political organisations, associations of political organisations or voters associations in programmes of broadcasting organisations on the election day until 10 o'clock in the evening.

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)



- e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?
5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

Both laws restricting publication of the results of public opinion polls on election day stipulate that the law's provisions shall not apply to a recount of facts in news broadcasts and direct reporting.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

There are amendments to the Law on National Referendum and Initiation of Legislation elaborated, which provide for regulation of campaigning before a referendum.

Int. al. these amendments stipulate that during the campaign period before a referendum, in case broadcasting organisations publish the results of public opinion polls regarding the referendum question, they should indicate the following data: the entity contracting and paying for the public opinion poll; the organisation carrying out the opinion poll; the time of the opinion poll; general population for the poll; the number of respondents; admissible error limit. Similarly to election laws, these amendments provide to prohibit the publication of the results of public opinion polls regarding the referendum question until 10 o'clock in the evening.

## OOSTENRIJK

### Questionnaire on rules and regulations concerning the publication of electoral opinion polls:

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

No. Due to the fact that Austrian polling places close at very different times (usually ranging from late in the morning in small villages to 5 p.m. in the afternoon in large municipalities), there are no exit polls or public opinion polls on election results in Austria. The Federal Ministry of the Interior's internal election projection usually allows a relatively clear picture of the election outcome from the early afternoon onwards. Representatives of Austrian mass media (TV, radio, newspapers) get access to election projection data but have to declare not to release any results before the closing of the last polling stations (at 5 p.m.).

2. If so:
  - a. To whom does the law apply?
  - b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - c. Which authority is responsible for upholding the law/sanctioning?
3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

Yes, gentlemen's agreements.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?

On the occasion of every (nation-wide) election, the Austrian Federal Electoral Board (Election Commission) decides whether or not to conclude gentlemen's agreements with representatives of Austrian mass media not to release any figures of the election projection before the last polling stations have closed at 5 p.m. Over the past decades, Austrian mass media have always received access to the Ministry's internal election projection and, at the same time, have entered into the said agreements.

- b. To whom do the agreements apply?

Representatives of Austrian mass media (TV, radio, newspapers). The agreements are individually signed.

- c. Is the agreement applicable for several years or just for a certain election period?

It is only applicable for one (nation-wide) election.

- d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)

The agreements are usually short and define the obligations of media representatives.

- e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

No specific sanctions are stipulated in the signed declaration but media representatives are regularly informed about one possible sanction in additional talks: Since there is no legal obligation to inform the media about the Ministry's internal (!) election projection, the free access can be immediately cut in case of any misuse of the projection data. This, however, has only been done on rare occasions (and for a short time). A media group in the Federal Ministry of the Interior is tasked with guarding the commonly agreed "silence" on election day by permanently observing the news coverage on TV, the radio, and in printed and online newspapers.

***Please add relevant sections of the rules or agreements***

See attachment for example of agreement.

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

See 4.e.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

No debates on this topic.

## OOSTENRIJK - BIJLAGE

SEP 18 2008 11:57 AM LINDNER, TINA

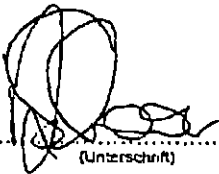
**BM.I**  REPUBLIK ÖSTERREICH  
BUNDESMINISTERIUM FÜR INNERES  
SEKTION III-REG-1

*Sie werden ersucht, die nachstehende Erklärung ohnehmöglich, spätestens jedoch bis 24. September 2008, 12.00 Uhr, auszufüllen, auszudrucken, händisch zu unterfertigen und mittels Telefax an das Bundesministerium für Inneres, ++43 1 53126 2110 zu retournieren.*

### Erklärung

*Der/Die/Das KURIER ONLINE verpflichtet sich, dass die anlässlich der Nationalratswahl 2008 vom Bundesministerium für Inneres auf elektronischem Weg weitergegebenen Daten keinesfalls vor Schließung des letzten Wahllokales (voraussichtlich 17.00 Uhr) veröffentlicht werden oder dass keinesfalls eine auf diese Daten basierende Hochrechnung vorzeitig der Öffentlichkeit zugänglich gemacht wird.*

Wien, am 18. September 2008  
(Ort)

  
.....  
(Unterschrift)

## ROEMENIË

### Questionnaire on rules and regulations concerning the publication of electoral opinion polls:

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

Yes.

2. If so:
  - a. To whom does the law apply?

The law provides for the staff of the candidates, for the mass-media, and for others who might have an interest in presenting these polls.

- b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)

The law n° 35/2008 regulates the publicity of this information and how it is managed. Specifically:

#### **Art. 38-1**

- (1) During the electoral period, the presentations of election oriented public opinion polls must also include the following information:
  - a) the name of the institution having made the public opinion poll;
  - b) the date on which or the interval in which the poll was carried out and the used methodology;
  - c) the proportion of the sample and the maximum margin of error;
  - d) who requested and who paid for the poll to be carried out.
- (2) The television voting or the inquiries made on the street among the electors must not be presented as representative for the public opinion or for a certain social or ethnic group.
- (3) With 48 hours before the election day the presentation of public opinion polls, television votes or inquiries made on the street shall be forbidden.

#### **Art. 38-2**

- (1) Public opinion polls may be carried out, at the exit from the polls, by the institutes for public opinion poll or the trading companies or non-governmental organisations whose object of activity includes the carrying out of public opinion polls and which are accredited by the Central Electoral Bureau, by decision, in this respect. The poll operators of such institutions shall have access, based on the accreditation of the institution for which they work, in the protected area of the polling station, stipulated in article 41 (10), yet without having access inside the polling station.
- (2) On the election day, the public opinion polls made at the exit from the polls must not be presented before the close of poll.

- c. Which authority is responsible for upholding the law/sanctioning?

Neglecting the provisions of article 38 holds for offense and can be sanctioned by the National Audiovisual Counsel of Romania if it regards the mass-media.

## CHAPTER XIII

### Minor offences and infractions

**Art. 50** – There shall be considered minor offences, if not infractions, the following deeds:

- (h4) the non-observance of dispositions of article 38-1;

#### **Art. 51**

- (2) The finding of the minor offences stipulated in article 50 and the punishment provided for in paragraph (1) shall be operated by:
  - g) The National Council of the Audio-visual, that shall take notice or be notified by those interested in the deed stipulated in art 50 h3) or the deed stipulated in art 50 (h4) in case it has been committed by broadcasters.

3. Are there in your country any informal rules or “gentlemen’s agreements” concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
- a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

In Romania, we experienced the publication of opinion polls by some media institutions or on the Internet (blogs, forums etc.) during the Election Day. For these law violations, media institutions responsible have been fined, according to the law. However, these incidents were rather marginal and did not impede on the freedom of speech/freedom of the press and the free use of internet.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

Currently, there are no discussions on this subject in Romania.

## SLOVENIË

### Questionnaire on rules and regulations concerning the publication of electoral opinion polls:

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

From 1994 till March 2011 - Yes.

From March 2011 - No.

2. If so:
  - a. To whom does the law apply?

From 1994 till March 2011 the law applied to all (the persons, voters, media, corporations, etc.).

- b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)

From 1994 till March 2011 the law stated: "It is forbidden to publish results of opinion polls within the last 7 days before the election day". In March 2011 the Constitutional Court of Slovenia ruled that this law was unconstitutional. It violates freedom of speech. See Constitutional court decision nr. U-I-67/09 and nr. Up-316/09 from 24 March 2011.

- c. Which authority is responsible for upholding the law/sanctioning?

Until March 2011 it was Inspectorate at the Ministry of Interior. Since March 2011 publication of opinion polls is allowed and there is no such body.

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

There is a discussion on the subject. The public, the experts and the lawyers all agree that publication of the polls should be allowed. It is allowed by freedom of speech. Whenever we allow one person to express his or her opinion, we should also allow group of people to express opinion. And that is what opinion poll is: an expression of opinion of a group of people.

In addition to the decision of the Slovenian constitutional court, at least two other constitutional courts in Europe ruled that a ban on publication of opinion polls violates the freedom of speech. See decisions of constitutional courts of Bulgaria and Hungary (decision 6/2007 (II. 27.) AB).

## SLOWAKIJE

### **Questionnaire on rules and regulations concerning the publication of electoral opinion polls:**

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on Election Day?

Yes. Any law that governs the various types of elections establishes a moratorium on publication of opinion polls. Election surveys (i.e. those that take place on Election Day, for example: Exit poll) may be disclosed only after the official end of the election, after conclusion of all the polling stations.

2. If so:
  - a. To whom does the law apply?

On any subject which deals with election survey, according to wording of the law.

*"It is forbidden to publish the results of electoral opinion polls on the day of polling for the period up to the end of polling."*

- b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - c. Which authority is responsible for upholding the law/sanctioning?
3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on Election Day?

No

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years of just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

Restriction of the publication of opinion polls on Election Day monitors that voters were not influenced in their decisions.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

At the present time is in progress discussion and its results will be incorporated to the draft of the electoral code.



## SPANJE

### **Questionnaire on rules and regulations concerning the publication of electoral opinion polls:**

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

Yes.

2. If so:
  - a. To whom does the law apply?

To those who carry out electoral polls.

- b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)

#### **A) Organic Law 5/1985 on the general electoral regime.**

##### **Section VIII. Electoral polls**

##### **Article 69**

Between the day when elections are called and the polling day of any kind of elections, *the following regime is to be applied as regards electoral polls:*

1. Those who carry out polls or surveys must, under their responsibility, give the following data which also has to be included in any publication of those polls or surveys:
    - a. Name and address of the organization or entity, public or private, or of the individual who had carried out the poll, as well as the name and address of who had entrusted them with the carrying out of the poll.
    - b. Technical characteristics of the poll, which have to, necessarily, include: *sampling system used, sample size and its margin of error, representativeness level (NB how representative the poll is), selection method of those polled and the data when the field work took place.*
    - c. Complete text of the questions asked and the number of persons who did not answer to each one of those questions.
  2. The Central Electoral Commission (NB Permanent, superior, and permanent, electoral administration body) safeguards the published polls' data and information do not include deliberated falsifications, suppressions or modifications, as well as watches over the strict observance of the specification mentioned in the previous paragraph and over the respect of the prohibition in this article's paragraph 7.
  3. The Electoral Commission may gather, from those who had carried out a poll, complementary technical information in order to undertake the checking considered as appropriate.
- This information cannot include data which, according to the legislation in force, is considered as data for the company/firm, or its client, own/internal use.
4. Media which had published or disseminated a poll, violating this Law's provisions, are obliged to publish and disseminate, in a three days time, the rectifications required by the Central Electoral Commission, giving notice about its source and the reason of the rectification, and that information has to be published or programmed in the same news program or pages where the rectified information had been made public.

5. If the poll/survey which is intended to modify had been disseminated in a publication with a periodicity do not allow for the publication of the rectification in the three days following its reception, the corresponding communication medium director must publish, at his/her expense, that rectification informing about this circumstance, in the indicated period, in another medium of the same territorial scope and of similar spreading.

6. The Central Electoral Commission Resolutions adopted with regard to polls and surveys are notified to those concerned as well as they are published. These Resolutions can be appealed before the Administrative jurisdiction, as it is regulated in this jurisdiction Law, without being compulsory to lodge a previous appeal.

7. During the five days before polling day it is prohibited to publish, or to disseminate or to reproduce, electoral polls via any media.

8. In case an organization under the authority of a Public Administration carries out electoral polls on voting intention during the electoral period (NB between the calling of the elections and the beginning of the electoral campaign -15 days-), the results of those polls, when this is requested by political parties running for elections, must be given to the political formations running for elections in the territorial scope of the poll in a 48 hours time since the request had been formulated.

(NB Central Electoral Commission. Instrucción 26 04 1993).

When an organization under the authority of any of the Public Administrations carries out an electoral poll on voting intention during the electoral period, that organization shall immediately inform the Central Electoral Commission so that the CEC may inform the political formations/parties so that their general representatives may request those polls/surveys to the aforementioned organization.)

#### **Article 145 Offences with regard to electoral polls.**

Those who infringe the normative in force with regard to electoral polls shall be punished with the penalty of imprisonment of three months to one year, a twelve to twenty four months fine and the special disqualification, one to three years, from exercising a profession, an occupation or business.

#### **B) Election day exit polls.**

According to the Central Electoral Commission doctrine it is possible to carry out election day exit polls ("sondeos israelitas o a pie de urna") under the condition that the questions about the electors' voting options have to be raised in the vicinity of the polling stations. (CEC Agreements 07 06 1999, 07 05 2003 and 05 05 2011).

The result of these election day exit polls can only be published or disseminated once polling stations close at 20:00.

c. Which authority is responsible for upholding the law/sanctioning?

See above.

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:

- a. Who or which authority made the agreements or is party to the agreements?
- b. To whom do the agreements apply?
- c. Is the agreement applicable for several years or just for a certain election period?

- d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?
5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

Legislation in force is correctly enforced.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

Before Organic Law 2/2011, of modification of the Organic Law 5/1985 on the general electoral regime: Article 69.7 "During the five days before polling day it is prohibited to publish and to disseminate electoral polls via any communication medium".

After Organic Law 2/2011, of modification of the Organic Law 5/1985 on the general electoral regime: Article 69.7 "During the five days before polling day it is prohibited to publish **or** to disseminate **or to reproduce** electoral polls via any communication medium".

## TSJECHIË

### **Questionnaire on rules and regulations concerning the publication of electoral opinion polls:**

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

Yes.

2. If so:

- a. To whom does the law apply?

Everyone.

- b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)

No results of pre-election and election polls may be published in any manner within the period beginning with the third day before the date of elections and ending with the close of the voting. Sanctions - fine up to 30 000 CZK for natural persons, up to 500 000 CZK for legal entities.

- c. Which authority is responsible for upholding the law/sanctioning?

Regional authorities.

Relevant Sections:

e.g. Sec. 16 par 3 of the Law on Elections to the Parliament of the Czech Republic (247/1995 Coll.):

„No results of pre-election and election polls may be published in any manner within the period beginning with the third day before the date of elections to the Parliament of the Czech Republic and ending with the close of the voting.”

Sec. 16 par 5 of the same Act: „A natural person who publishes results of pre-election and election opinion polls within the period beginning with the third day before the date of elections to the Parliament of the Czech Republic and ending with the close of voting shall be guilty of transgression. Such transgression is punishable by a fine up to the amount of CZK 30,000. The transgression proceedings are governed by a special law.

Sec. 16 par. 6 of the same Act: „A legal entity that publishes results of pre-election and election opinion polls during a radio or television broadcast or in the press within the period beginning with the third day before the date of elections to the Parliament of the Czech Republic and ending with the close of voting shall be guilty of other administrative delict. Such delict is punishable by a fine of up to CZK 500,000, which shall be imposed by the district office having jurisdiction over the seat of the legal entity.”

*(Czech Republic has an Act for each type of elections - regional, local, European and national Parliament; all Acts on elections contain this provision)*

3. Are there in your country any informal rules or “gentlemen’s agreements” concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:

- a. Who or which authority made the agreements or is party to the agreements?

- b. To whom do the agreements apply?

- c. Is the agreement applicable for several years or just for a certain election period?

- d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)

- e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

Every voter can submit an action in court if he has suspicion that a breach of this restriction has influenced the result of the elections. The court, then, can decide that the election process or a part of it shall be repeated in the relevant constituency or in the whole territory of the state.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

The existing regulation works, therefore the same regulation was adopted in the draft of the new Electoral Code which we are working on at the moment.

## VERENIGD KONINKRIJK

### **Questionnaire on rules and regulations concerning the publication of electoral opinion polls:**

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?  
  
No.
2. If so:
  - a. To whom does the law apply?
  - b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - c. Which authority is responsible for upholding the law/sanctioning?  
The Election Officer during the advance voting period and the Election
3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?  
  
No.
4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?
5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.
6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

## ZWEDEN

### **Questionnaire on rules and regulations concerning the publication of electoral opinion polls:**

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

No.

2. If so:
  - a. To whom does the law apply?
  - b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - c. Which authority is responsible for upholding the law/sanctioning?  
The Election Officer during the advance voting period and the Election

Not relevant.

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

Not relevant.

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

Not relevant. No limitations exist.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

There is no public debate in Swedish society on this subject at the moment.

## ZWITSERLAND

### Questionnaire on rules and regulations concerning the publication of electoral opinion polls:

1. Does your country have laws/regulations concerning the publication of opinion polls during election time and/or on election day?

No.

2. If so:
  - a. To whom does the law apply?
  - b. What does it specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - c. Which authority is responsible for upholding the law/sanctioning?

3. Are there in your country any informal rules or "gentlemen's agreements" concerning the publication of opinion polls during election time and/or on election day?

No.

4. If so:
  - a. Who or which authority made the agreements or is party to the agreements?
  - b. To whom do the agreements apply?
  - c. Is the agreement applicable for several years or just for a certain election period?
  - d. What do they specifically regulate? (restrictions, exceptions, requirements, sanctions)
  - e. If the agreement contains sanctions, is there an authority responsible for upholding the agreement?

5. Please describe in short how the (restriction of the) publication of electoral opinion polls works out in practice. Especially how it relates to the freedom of speech/freedom of the press and the free use of internet.

6. Is there in your country, as in the Netherlands, current political or societal discussion on the subject? If so, are you considering to adopt or amend laws and/or (informal) agreements? If not, why?

There is no debate in Switzerland in this issue, for a number of reasons. These are (in my opinion):

- We have 3 linguistic communities (German, French and Italian - I do not count the very tiny Rhaeto-Romanic community) and a nationwide poll would be costly, while a regional poll would not provide a complete picture.
- Our media are regional, there is no national media. Even in a same linguistic community, there is not really a media covering all cantons (provinces) - apart from the public service radio and TV broadcaster (*actually, the public service radio and TV broadcaster is one of the few media which mandates electoral opinion polls. These are then commented by all media*).
- Our so-called "direct democracy" means that we vote four times a year as average on referenda. Therefore, the political evolution of public opinion is quite well documented through the referenda outcomes and it allows a simple forecasting of the next federal elections.
- Similarly, our 26 cantons (provinces) hold their local elections in an uncoordinated way and every year sees some elections going on. This provides another political barometer.
- Turnout for elections is always lower than for referenda. It shows that the citizens do not see elections as the highlight of the democratic life, for them referenda are the highlight. There is indeed more polling for referenda than for elections.
- The fact that we have many political parties and that some are not present all over the country makes electoral polling harder and costlier.

The need for political opinion polls is therefore relatively meagre, which explains why there is no debate.