

SENATE OF THE PUBLIC

XVIII LEGISLATURE

Doc. XVIII-bis
n. 12

RESOLUTION OF THE 14TH PERMANENT COMMITTEE

(European Union policies)

(Rapporteur MASINI)

adopted at the sitting of 13 April 2022

ABOUT

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL ON TRANSPARENCY AND *TARGETING* OF POLITICAL
ADVERTISING (COM(2021) 731)**

pursuant to Rule 144(1a) and (6) of the Rules of Procedure

Communicated to the Presidency on 21 April 2022

The Commission,

considering that:

The proposal for a directive COM(2021) 731 aims to ensure the proper functioning of the internal market for political advertising, to ensure a fair and open democratic debate, also in the light of the new digital realities and previous attempts to manipulate public opinion (see COM(2020) 252), in view of the next elections to the European Parliament, scheduled for 2024;

The proposed action goes in the twofold direction of establishing a harmonised framework of rules on transparency of political advertising and related services, applicable to providers of political advertising services, and establishing rules to protect the *privacy* of individuals when using *targeting* and amplification techniques in political advertising, applicable to all data controllers and thus not only to providers of political advertising services;

The objectives of the proposal are to reduce legal fragmentation in this area, to remove obstacles and contain costs for cross-border services, to define strict transparency requirements for political advertising messages, to address the specific data protection risks arising from the use of certain targeting and content amplification techniques, and to ensure effective monitoring of the requirements in order to ensure free and fair elections in the EU;

noted that:

The regulation would apply to all elections, whether to the European Parliament, national, regional or local, including *referendums* and possible elections to establish the *leadership* of political parties;

The proposal claims to regulate only the aspects of transparency in political advertising and the use of *targeting* techniques, without interfering with national competences for the organisation of the electoral process, such as the legality of the content of political advertising and the election campaign periods during which advertising is allowed, or the nature of the participants in the democratic process;

considers that:

the proposal respects the principle of subsidiarity, as the objective of ensuring the proper functioning of the internal market for political advertising can be better achieved by action at EU level, allowing for the establishment of a harmonised and uniform framework for all Member States. Action at Union level is also

necessary given the cross-border nature of *online* services in the field of political advertising. Differences in national legislation on transparency in political advertising have created regulatory fragmentation, increasing compliance costs for service providers and geographically compartmentalising the dissemination of political advertising messages, preventing their transnational reach across the EU;

the proposal does not fully respect the principle of proportionality, since the legal basis of Article 114 of the Treaty on the Functioning of the European Union (TFEU), concerning the approximation of national legislation on the internal market, appears insufficient to justify EU intervention in national and local election campaigns and to impose obligations on national electoral candidates and political parties (*sponsors*). In this sense, the regulatory 'fragmentation' that is to be remedied is not so much a problem of the internal market as an expression of differences in national institutional systems (bicameral or unicameral, etc.), political traditions, and the practices and procedures of democratic life in each country;

the proposal should therefore be limited to providing minimum conditions to ensure the proper functioning of the cross-border market for political advertising products and services only, in order not to interfere in the conduct of national and local election campaigns, and in the political advertising choices of candidates and political parties;

the proposal should take the form of a directive rather than a regulation, in order to ensure that Member States have the widest margin of discretion in a sensitive area of law that can influence the course of national or local democratic life.

