Towards a European Code of Conduct for ethical campaigning

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This paper advocates a European Code of Conduct for ethical political campaigning that would more rigorously define what counts as moral or acceptable conduct, set standards for parties and candidates, and raise expectations for all actors to contribute to a less aggressive political scene.

BACKGROUND – SETTING THE BOUNDARIES FOR ACCEPTABLE CONDUCT

Election campaigns tend to be spirited affairs. Robust debate is part of a healthy democracy, and candidates very rarely limit their messages to matter-of-fact discussion of policy options. At times it gets personal, and entering the political arena usually means being prepared to fight. **But there are boundaries to what counts as moral or acceptable** conduct on the part of candidates, parties, media, and campaign organisations. In recent elections across Europe, those boundaries have shifted, become increasingly blurred, or have even been crossed.

Unethical campaign practices have especially proliferated online in recent years. In 2019, Twitter revealed that they had removed a network of bots (automated accounts that imitate real people) operated by the Spanish Popular Party during that year's Spanish General Election, which had been "falsely boosting public sentiment online in Spain" in favour of the party, in violation of the platform's terms and conditions.[1] During the 2019 General Election in the UK, the Conservative Party temporarily changed the name of its Twitter page to "Fact Check UK" and posted a series of tweets masquerading as an independent voice in the debate.[2]

But unethical campaigning can also take other forms where the boundaries are less clear, and it is not limited to online spaces. The 2021 Parliamentary Elections in Germany were marked by cases of **personal abuse directed against individual candidates and parties**. The Green Party lead candidate Annalena Baerbock was subject to smear campaigns and misogynistic comments.[3] A small right-wing party also received significant media attention for their placards reading "Hang the Greens".[4]

These examples illustrate that democratic elections are increasingly faced with unethical campaign practices – and that preventing them is not straightforward. They are not used by radical fringe forces alone; traditional 'mainstream' parties are guilty too. They contribute to a hostile atmosphere through personal abuse, but generally do not cross the line into hate speech or other illegal content. They may exploit digital tools to artificially increase their reach or impersonate others.

While there are clear legal rules for many aspects of traditional, offline campaigns (like placard placement or TV party broadcasts), it is "mostly up to private companies to define the conditions for digital campaigns."[5] When it comes to abuse, personal attacks, and the use of disinformation there are no legal standards, blurring the lines between freedom of expression and unacceptable bullying or manipulation. In other words, the landscape, tone and techniques of political campaigning have changed, but the rules have not.[6] Despite being a crucial part of our democratic life, **election campaigns remain largely unregulated** when it comes to ethical behaviour.[7]

'Election integrity' is a subject that receives considerable policy attention, mostly in connection with cybersecurity, disinformation and threats to the rule of law or media freedom. But the integrity of elections also depends on the integrity of candidates. This paper will outline what ethical campaigning should look like, discuss existing initiatives that seek to promote it, and lay out the steps towards improving this aspect of European democratic debate. And, as it is difficult to apply blanket solutions to such a multifaceted problem, it will attempt to identify a process to arrive at a code of ethics at the EU level that is realistic, practical and ultimately enforceable.

STATE OF PLAY – FIRST STEPS TOWARDS A SET OF STANDARDS

Honesty, transparency, decency

Precisely which actions may be considered ethical or unethical in a political campaign may be subject to some interpretation, but there are **general standards and principles** that have been established in the literature and in practice. The PRO-RES project,[8] for example, established ethical guidelines for policymakers, advisers and researchers trying to influence politics. Its principles do not directly refer to elections, but paired with existing campaigning initiatives, they can contribute to a solid framework for campaign ethics.[9]

Ethical campaigning supports free, open contestation and pluralistic political processes.[10] An ethical campaign would be one in which candidates and parties **avoid deliberately using false, misleading or manipulative content**; party manifestos are evidence-based, and parties not only refrain from spreading disinformation themselves, but distance themselves from it when it emerges in the debate.

In digital campaigns, ethical conduct may also include renouncing manipulative tactics such as the use of **bots or astroturfing**.[11] Although negative campaigning and personal attacks on opponents are part of the political process, campaigning becomes unethical when the **personal integrity** of a candidate is infringed, or arguments include **racist, anti-Semitic or violent content**.[12]

Ethical campaigning also requires not only a minimum degree of **transparency**, but the labelling of any party- or campaign-affiliated account, post, or article. Links to affiliated organisations or advertisement partnerships with private companies are to be indicated clearly. In the spirit of an evidence-based political discourse, the **use of properly-cited sources** is important. Finally, ethical campaigning supports the integrity and legitimacy of political processes and does not contribute to any attempts to **prevent and discourage eligible voters** from casting their ballots.

Each of these principles is easy to subscribe to in theory. Their enforcement in practice is often more difficult, as they are partly **subjective in nature and not formally codified**. However, obtaining a declaration of principle

from candidates is a good first step in enforcing positive change. Such a statement can contribute to boosting "public trust and confidence in political parties and fulfil the heightened legal and ethical standards to which voters hold parties and candidates accountable."[13]

From PR stunt to pledge

During the German elections in 2017, the Green party and SPD candidate Martin Schulz called for a "fairness agreement",[14] but the idea was not taken up by any party. Peter Tauber, then Secretary General of the CDU, even called the idea a "cheap PR stunt",[15] mockingly suggesting that it is "remarkable that apparently the SPD has to oblige itself to a fair election campaign."[16]

Four years later, all but one of the largest parties in the *Bundestag* signed pledges for the fair conduct of the 2021 election campaign, indicating a rising awareness of the issue.[17] Still, it took a push from civil society to really start the discussion.[18] And despite the fact that each of the parties now recognised the importance of such a document, they were **still not able to agree on a unified approach**. Instead, each party developed its own statement.

Even though the individual documents overlap on many issues, not all of them share the same level of commitment. All parties agreed to conduct a fair "competition of arguments" based on facts, not spread disinformation, and take action against hate speech and discriminatory messages. But their commitments regarding microtargeting or the use of bots differed.[19] Many parties did not shy away from including political messages from their election manifestos in the pledges, thus blurring the line between an ethical code of conduct and a campaign document. There was also one conspicuous absence: the far-right Alternative for Germany (AfD).

Among other examples, the only transnational self-commitment project so far is the "Pledge for Election Integrity", launched in 2019 by the Transatlantic Commission on Election Integrity. The Pledge offers a concise statement, which candidates for any political office can sign, focusing mainly on disinformation and fair digital campaigning. It calls on "all democratic parties, as well as candidates themselves, to commit to take no action to aid and abet those who seek to undermine our democracies."[20] Unlike national efforts, such as the German examples, signatories to the Pledge are individual candidates rather than political parties. However, despite the open-ended nature of the Pledge, in practice it is not open to any candidate in any election: when signing up, the candidate is asked to select a particular election or national context from a drop-down list with limited options.[21]

So far, only about 350 individuals have signed the Pledge. Although signatures from individual candidates are important to personalise the commitments, this suggests that such a code needs **backing from entire parties and their leaderships** to have a sizeable outreach. For lasting impact, it also needs a long-term approach that does not restrict signatories to singular elections.

Each of the above examples reflects candidates and campaigners becoming more aware of the need to signal their commitment to ethical campaign standards. However, each of them has limitations. Most notably, **radical or populist parties are generally absent from such initiatives**, although three AfD candidates signed the Transatlantic Pledge. It is also clear that the existence of these commitments on a party basis did not prevent widespread unethical behaviour during the German election campaign, especially as much of the questionable material came from independent organisations without any official connection to a particular party.[22] Each of the existing examples are limited in time or connected explicitly to a particular election and were not promoted to the extent that the general public was aware of them. In the case of the Transatlantic Pledge, the low number of signatories suggests that even many candidates themselves may not have known of its existence. Finally, they provide no means through which their voluntary commitments can be enforced.

All these weaknesses point towards the need for an agreement that would ultimately lead towards enforceable regulation – preferably coordinated at the European level. While there may be sporadic efforts towards establishing campaigning guidelines in some member states, the debate needs a European push to achieve a stronger codification of ethical standards across the EU. By uniting disparate national efforts, an EU-level agreement would harmonise standards across the continent, and potentially create a spill-over effect to national, regional, and local levels that have not yet considered the topic. Implementing a set of common European standards for ethical campaigning would also **help secure the integrity of the European Parliament elections**, bringing them under a single set of guidelines rather than leaving each country's politicians to work out separate – but inevitably rather similar – rules. Finally, the Commission can function as a neutral intermediary between political parties and campaigners from across the continent to ensure balance in the drafting and implementation of such an agreement.

PROSPECTS – WORKING TOGETHER TO DRAFT COMMON RULES

Self-regulation and co-regulation

The concept of applying **voluntary codes of conduct** to address complex challenges is not new, especially in fields that, like unethical campaigning, are not simply or strictly divided into legal and illegal. In such circumstances, codified guidelines are required. But jumping straight into strict and inflexible regulation may risk introducing a chilling effect on the freedom of expression.

The European Commission has overseen numerous initiatives on such issues through coordination and dialogue with stakeholders, seeking to establish **self-regulatory commitments**. Self-regulation can serve as a 'backstop' to address urgent issues informally while legislation is being developed. **Co-regulation** goes further and can be used to explore the appropriateness

and potential weaknesses of regulatory ideas in practice before committing them to formal legislation.[23]

The **Code of Practice** on disinformation is one example that can serve as inspiration for a future European Code of Conduct on ethical campaigning.[24] The Code, a self-regulatory mechanism introduced in 2018, was negotiated by the Commission with social media platforms (including Facebook, Google and Twitter) and advertising agencies, who worked together to ensure that the commitments were fair and realistic. It has increased dialogue between the Commission and tech companies and provides some much-needed guidelines for the platforms to know what is expected of them.

However, it is important to also learn from the Code's mistakes. Its results and self-regulatory nature are widely considered to be insufficient.[25] The Digital Services Act thus lays out a path for the Code to move from self-regulation to co-regulation: from a system whereby signatories police themselves in line with generally approved principles to one where they **help shape the drafting of specific legislation that will ultimately apply to them**. All stakeholders have an incentive to demonstrate their good faith and ability to meet the commitments, so that when they do become law (and infringements can be punished) they have already adapted their business models and working cultures. It also seeks to ensure ownership and wide acceptance of the ultimate regulation, as all stakeholders had the opportunity to participate actively in its formulation.

The PRO-RES project

Other initiatives also deal with integrity and ethics in politics, and should be consulted in drafting guidelines for campaigners. The PRO-RES project, for example, designed a **guidance framework for policymakers and advisers** that encourages them to "seek evidence for their decisions from research that has been conducted ethically, responsibly and with integrity."[26] In the centre of this framework is the STEP Accord (Scientific, Trustworthy, and Ethical evidence for Policy), which outlines principles for responsible, transparent, independent and evidence-based research and policymaking.

Most of these principles are also applicable to ethical campaigning and can therefore lead the way to a comprehensive code of conduct. Furthermore, the project introduces a comprehensive toolbox and resources for ethical research, which can help with the implementation of the code and guide parties and individual candidates or campaigns in applying its principles.

Towards a Code of Conduct for Ethical Campaigning

The Commission's Democracy Action Plan foresees EU measures to address many aspects of election integrity and promoting and sustaining democracy. As part of these efforts, the Commission is preparing a legislative package that includes initiatives on transparency in political advertising, the European elections and the statute and financing of European political parties and foundations.[27] This important work to support the

formal channels of democracy should be complemented by a Code of Conduct for ethical campaigning. The Code should be established through co-regulation in cooperation with prospective signatories (European political parties), experts and civil society, and should draw on existing expertise, such as the PRO-RES project, to determine suitable measures for ensuring ethical conduct. Taking previous initiatives such as the German parties' commitments as examples, it can and should be drafted and implemented ahead of the 2024 European Parliament elections, at least in a first, experimental form. To this end, the Commission should issue a call for parties and campaigners to signal their interest in participating in the drafting process as soon as possible.

Co-regulation will allow commitments to be drafted in a **spirit of cooperation and dialogue**, and to be adjusted or adapted where necessary. But in the end, voluntary commitments are insufficient. By making it clear that the end goal is proper regulation, signatories will be incentivised to take the process seriously. And while radicals will likely not sign up to an entirely voluntary Code, they must be given the opportunity to join in the co-regulation stage so that they cannot claim it was imposed unfairly.

A co-regulatory approach to crafting a Code of Conduct for ethical campaigning is not only appropriate given the challenges of identifying proportionate and realistic measures in this complex field. It also allows flexibility to adapt to circumstances. Democracy is not fixed: expectations, norms and methods shift over time.[28] Any regulation emerging from the process must therefore be continuously monitored and revised, in dialogue with the Code signatories, to ensure that it remains relevant and makes a strong and lasting impact.

Without a codified set of standards for appropriate conduct by candidates and parties, political campaigns across Europe are likely to continue to be subject to manipulative practices, personal abuse and disinformation. A Code of Conduct for ethical campaigning may not resolve these issues overnight, but it would **set the boundaries more clearly** and indicate the expectations that candidates should be bound to – an important step on the path towards fairer, less divisive and ill-tempered politics.

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1 Twitter (2019), "Disclosing new data to our archive of information operations" (accessed 12 October 2021).

2 Perraudin, Frances (2019), "Twitter accuses Tories of misleading public with 'factcheck' foray", The Guardian, 20 November 2019 (accessed 21 October 2021).

3 Kovalčíková, Naďa and Melanie Weiser (2021), "Targeting Baerbock: Gendered Disinformation in Germany's 2021 Federal Election", Berlin: GMFUS.

4 Haak, Jessica (2021), "Ist das noch Wahlkampf, oder muss das weg? Negativkampagnen gegen die Grünen im Vergleich", Zahlen zur Wahl (accessed 12 October 2021).

5 Jaursch, Julian (2021), "Selbstverpflichtungen für einen fairen digitalen Wahlkampf", Bundeszentrale für Politische Bildung, 23 August 2021.

6 Bland, Archie (2016), "How did the language of politics get so toxic?", The Guardian, 31 July 2016.

7 Bagg, Samuel and Isak Travnik (2019), "An Adversarial Ethics for Campaigns and Elections", in: Perspectives on Politics, Vol. 17(4), p. 3.

8 One of the authors of the paper was part of this project, which ran from 2018-2021. More information here.

9 The following section builds on the general PRO-RES principles and transfers them into the campaigning context, making connections with existing campaigning frameworks.

10 Bagg, Samuel & Isak Travnik (2019), "An Adversarial Ethics for Campaigns and Elections", in: Perspectives on Politics, Vol. 17(4), p. 3.

11 'Astroturfing' refers to the practice of setting up campaigns or organisations that masquerade as independent 'grassroots' movements, but in reality are supported and organised by an 'official' channel such as a political party or government.

12 Althaus, Marco (2005), "Über und unter der Gürtellinie: Negative Campaigning und die professionelle Ethik des Angriffs", in: Lars Rademacher (ed.), Politik nach Drehbuch, von der politischen Kommunikation zum Politischen Marketing, Münster: Lit, p. 124ff.

13 Thomas, Paul G. et al. (2014), "A code of ethics or code of conduct for political parties as a potential tool to strengthen electoral democracy in Canada", Quebec: Elections Canada.

14 Jacobsen, Lenz (2017), "Was ist schon fair?", Zeit Online, 16 March 2017.

15 Tauber, Peter (2016), "Ehrlicheit ist eine bürgerliche Tugend", Blog Peter Tauber, 31 December 2016.

16 Jacobsen, Lenz (2017), "Was ist schon fair?", Zeit Online, 16 March 2017.

17 The CDU/CSU, SPD, Greens, FDP and Die Linke (the pledge of Die Linke is no longer available online).

18 See, for example, the initiatives of the organisation D64 or the initiative Campaign Watch.

19 Jaursch, Julian (2021), "Selbstverpflichtungen für einen fairen digitalen Wahlkampf", Bundeszentrale für Politische Bildung, 23 August 2021; Barthelmes, M. (2021), "Wahl-Watching", Hamburg: Leibniz Institut für Medienforschung.

20 Transatlantic Commission for Election Integrity (2021), "The Pledge for Election Integrity" (accessed 14 October 2021).

21 Currently, the only available options are "EU" (for the 2019 European Parliament elections), the US, Georgia, Canada, and Germany, with a version for France under preparation.

22 Haak, Jessica (2021), "Mehr als eine Plakatkampagne – Wie sich #GruenerMist bei Facebook und YouTube ausbreitet", Zahlen zur Wahl (accessed 12 October 2021).

23 European Economic and Social Committee (2021) "Definitions, Concepts and Examples" (accessed 21 October 2021).

24 European Commission (2018), "Code of Practice on Disinformation", Brussels. Other examples include the Product Safety Pledge for consumer products sold online through third-party sellers, the Memorandum of Understanding against the sale of counterfeit goods on the internet, and the Code of Conduct against illegal hate speech.

25 European Commission (2020), "Study for the assessment of implementation of the Code of Practice on Disinformation", Brussels.

26 PRO-RES (2021), "Project homepage" (accessed 14 October 2021).

27 European Commission (2020), "Commission Work Programme 2021: A Union of vitality in a world of fragility", Brussels, COM/2020/690 final.

28 Stratulat, Corina (2021), "Forging a new democratic frontier in Europe", Brussels: EPC.