

Political Online Campaigns in Central Europe:

Wild and Waiting for the Regulation

Final report of the Project
“Making political finance and
advertisement in the Visegrad
region more transparent”

© June 2023



Political Online Campaigns in Central Europe:

Wild and Waiting for the Regulation



Transparency International Slovakia
K-Monitor Közhasznú Egyesület Hungary
Fundacja Odpowiedzialna Polityka Poland
KohoVolit.eu Czechia

Michal Piško, Ľuboš Kostelanský, Ján Ivančík,
Noémi Fanni Molnár, Sándor Léderer,
Robert Lech, Sylwester Oracz, Michal Škop



Contents

Executive Summary	2	Hungary	20
Poland	4	1. Definition of the political advertising actors	20
1. General Media Environment	5	2. Requirements for the transparency of political advertising	21
2. Definition of political advertising actors	6	3. Legislation regarding the targeting of political advertising	23
3. Legislation on political advertising	6	4. Reporting of political advertising	23
4. Reporting of political advertising and sanctions for violation of rules	7	5. Control authority in the field of political advertising and its competence	24
5. Control authority in the field of political advertising and its competence	7	6. Sanctions for violation of rules in the field of political advertising	24
6. Political advertisements in social media – EU regulation	8	7. Case study	25
7. General rules for paid political advertisement on internet platforms	9	8. Recommendations	26
8. Case study – Direct observation of election campaign	10	Slovakia	29
9. Overview of policy reform in political spending and ads transparency	12	1. Definition of the political advertising actors	29
Czechia	14	2. Requirements for the transparency of political advertising	32
1. Definition of the political advertising actors	14	3. Legislation regarding the targeting of political advertising	33
2. Requirements for the transparency of political advertising	15	4. Reporting of political advertising	35
3. Legislation regarding the targeting of political advertising	16	5. Control Mechanisms of political advertising	36
4. Reporting of political advertising	16	6. Sanctions for violation of rules in the field of political advertising	37
5. Control authority in the field of political advertising and its competence	16	7. Risks factors and recommendations	38
6. Sanctions for violation of rules in the field of political advertising	17	Project partners position on the Proposed EU Regulation on the Transparency and Targeting of Political Advertising	40
7. Case studies	17	1. Developments to welcome	40
8. Recommendations	18	2. Disappointing elements	41
		3. Questions to be clarified	41
		4. Will the regulation threaten free speech?	42
		About the project	43

Executive Summary

The project “Making political finance and advertisement in the Visegrad region more transparent”, supported by the Visegrad Fund, maps shortcomings and unfair practices in the field of paid online political advertising in the Central European area. It plays an important role in shaping public opinion, influencing the behaviour of voters and, ultimately, in shaping the democratic process. The project was implemented in the period from May 2022 to June 2023 by four non-governmental organizations – Transparency International Slovakia, Political Accountability Foundation Poland, Whom to vote Czechia and K-Monitor Public Benefit Association Hungary. This report summarizes the results of their work, building on an interim report from December 2022.

The analysis focuses on the transparency and targeting of political advertising in the Visegrad region, takes note of the existing legal framework, evaluates practice, tries to identify areas for improvement and suggests appropriate ways of solving them. Both positive and negative practices in the field of paid online political advertising were mapped by the organizations against the background of current elections that took place in individual countries during the monitored period. Researchers from the organizations looked at the topic through the lens of the upcoming EU regulation on transparency and targeting principles of political advertising. Conclusions and findings were communicated not only to interested stakeholders, but also to the general public.

The Central European environment is quite heterogeneous in terms of rules for political advertising, setting them only in the context of elections and not in general. It can be concluded that countries struggle with a number of problems that directly affect the level of democracy. The draft European legislation has so far met with a positive response in the V4 countries. The new rules will have a fundamental impact on the situation, while they have the potential to improve the quality of the environment. It can be expected that the implementation will be difficult for individual national authorities, which until now apply the rules on political advertising in a rather formalistic way.

None of the Visegrad countries has a separate legal regulation for the field of political online advertising. In countries such as the Czech Republic and Slovakia, political parties and candidates must keep separate campaign accounts through transparent accounts (they do not apply to municipal elections in the Czech Republic). In the case of paid advertising, parties and candidates are obliged to label political advertising, including posts on social networks. However, the control of these requirements by the state is insufficient. The worst situation is probably in Hungary, where the transparency of political advertising financing is a long-term unresolved problem. National legislation fails to make transparent the expenditures of the government and other political actors in the advertising market, which leads to the distortion of political competition.

The analysis also includes the common position of the organizations regarding the proposal of the new European regulation. The organizations welcome the fact that the Commission has shown its willingness to regulate political advertising and its targeting and has drawn up a proposal in November 2021 to create a single market for political advertising in the Union. They consider the broad definition of the term “political actor” to be positive, so that the scope of the regulation will include, for example, elected or non-elected government officials. The fact that not only large platforms, such as Facebook, but every provider of political advertising services will be required to report regularly will make the increase in control possible. Parliament’s amendment, which obliges the Commission to establish and operate a publicly accessible archive at the European level, is welcome.

While the transparency notice, with its broad range of information about ads, is a big step forward, it’s all that will be publicly available by law. Only so-called interested entities will be able to request additional data about advertisements. The lack of detailed data can prevent stakeholders (and the public) from gaining a complete and accurate overview of the political advertising market and thus of the dynamics of political competition. While the proposal states in principle that political views, opinions and editorial content will not be considered political advertising, several civil society organizations have warned that the regulation’s broad substantive scope covering unpaid content could harm democracy and undermine freedom of expression.

Poland

In the diversified media landscape in Poland, a distinct division along political lines could be observed. Television remains the main source of information, however, Internet platforms grew in importance during the last four years. The most used social media were YouTube, Facebook, Instagram and TikTok. Facebook remains the most important platform for political ads.

During the official campaign, a special body - an election committee - has to be established in order to register and then promote candidates who run for office.

Several acts regulate the election campaign and set a list of requirements the campaign should fulfill in order to be considered legal and to bring legitimised results. However, there are no separate regulations addressing campaign and campaign finance on the Internet, the National Election Commission stated that general rules should apply accordingly.

Each political party and election committee are due to report on their budget and spendings to the NEC or the respective election commissioner. Reports should be approved by those two institutions or certain financial penalties may apply to the party or the committee. Civil Society Organisation have the right to submit objections to the NEC/commissioner on financial reports from election committees - those should be taken into consideration during the report verification process.

The NEC and election commissioners have the authority to monitor, supervise and approve campaign spendings. Nevertheless, due to a number of gaps in legislation, the competences and the executive power of these institutions are rather limited.

Campaign in the Internet is not specifically regulated, hence, internal rules of Internet advertising platforms are the only ones applicable, thus making control of campaign finance rather problematic and inefficient.

Regulation on the transparency and targeting of political advertising proposed by the European Commission was positively assessed by the Polish Government and the Parliament.

General rules imposed by Internet media platforms with regards to financing political campaigns leave a number of gaps which make it difficult to precisely identify the sponsor of the ad, the beneficiary or the exact amount of funds allocated to the advertising campaign. This makes monitoring of online election campaigns cumbersome, imprecise and not transparent enough.

During the observation of two local campaigns, the Foundation reviewed official financial reports submitted by election committees. Data on spendings on campaigns in social media included in reports, has been confronted with the data on spendings available on social media platforms, like Facebook. This exercise showed a number of discrepancies, which were reported to the oversight institutions (election management bodies). It also showed the lack of accessibility of certain data in platforms' ad libraries, thus confirming the need for more precise regulation to be implemented.

The implementation of the EU Regulation on transparency and targeting of political advertising, while needed, will require a comprehensive approach from the government and should address a number of recommendations formulated by citizen or-

ganisations. The Regulation should improve the availability of precise data from social media platforms to monitoring organisations but should also not limit free and open discussion and infringe on people’s right to free speech.

1. General Media Environment

In the diversified media landscape in Poland, a distinct division along political lines could be observed. Television remains the main source of information, however, Internet platforms grew in importance during the last four years. The most used social media were YouTube, Facebook, Instagram and TikTok, while Facebook remained the most important platform for political ads.

Media landscape in Poland is diversified, with public and private TV and radio stations present across the whole country, but distinctly divided along political lines.¹ Internet is accessible to 93.3% of households, with slight differences between urban and rural areas (with more dense network in the former ones).²

Television is still the main source of information for 52% of the population, while the Internet was selected by 32%, radio by 5% and printed press by only 2% in 2021. The importance/popularity of the Internet increased by 16 percentage points during the last four years, while there was a decrease by 12 percentage points in the case of TV.^{3, 4}

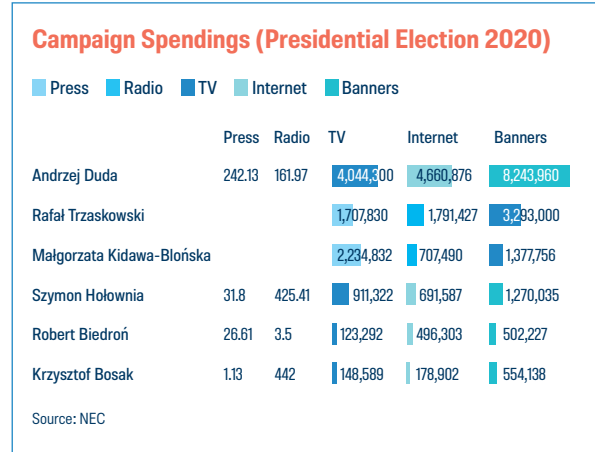
The increasing role of the Internet in providing information to the population was reflected in the structure of election campaign spending during the Presidential election in 2020. Five out of six most important candidates have allocated similar levels of funding to their promotion online and on TV. [Graph 1]

Additionally, the COVID-19 pandemic also accelerated the increase of campaign finance resources allocated to online advertisement.

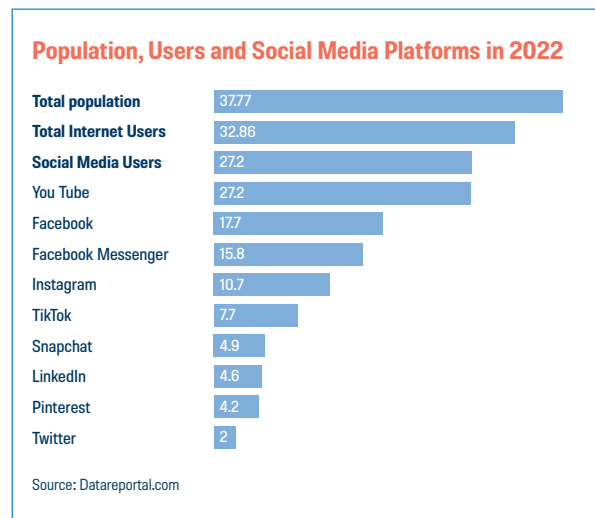
The most used social media platforms in 2022 were YouTube, Facebook (with Messenger), Instagram and TikTok, while Twitter took only the 9th spot. Therefore,

Facebook seems to be the most important internet advertisement platform for political advertising, followed by Google. [Graph 2] In 2023, TikTok seemed to become more popular among politicians who have started intensively building their presence there.⁵

Graph 1:



Graph 2:



¹ Presidential Election, 28 June 2020 | OSCE

² Główny Urząd Statystyczny / Main Statistical Office/ Digital Society in Poland in 2022

³ CBOS (Public Opinion Research Centre) Report

⁴ Opinion poll made by IBRIS in April 2021 shows that Internet was already the main source of information for 67% of respondents, however, these were information portals, not social media (those were mentioned by less than 30% of respondents as the main source of information (Skąd Polacy czerpią informacje? Badanie IBRIS i IBIMS kwiecień 2021)

⁵ Kampania wyborcza 2023. Sławomir Mentzen znów wygrywa. Rośnie jednak konkurencja – Wydarzenia w INTERIA.PL

2. Definition of political advertising actors

During the official campaign, a special body – an election committee – has to be established in order to register and then promote candidates who run for office.

There were no general elections in Poland in 2022 but a number of local by-elections took place in different parts of the country. The Foundation selected two of them for direct monitoring: the presidential election in the city of Ruda Śląska and the mayoral election in Ciechocinek.

During the in-between elections period, political parties as well as potential individual candidates can promote their programs and messages. However, during the official campaign period, an election committee has to be established by a political party, a coalition of political parties, NGO(s) or a group of voters in order to register and support a candidate who runs for office. Committees have to be registered with the respective election management body after the official announcement of elections. Election campaign advertising might be performed by an election committee and/or an individual voter, however, only the former is obliged to keep accounting and present financial reports at the end of the election process.⁶ Each candidate in the by-elections in Ruda Śląska and Ciechocinek has established his/her election committee which was responsible for placing campaign advertisements, as stipulated by the law.

3. Legislation on political advertising

Several acts regulate the election campaign and set a list of requirements the campaign should fulfil in order to be considered legal and to bring legitimised results. However, there are no separate regulations addressing campaign and campaign finance on the Internet, the National Election Commission (NEC) stated that general rules should apply accordingly.

Performing and financing of election campaign is regulated in several legal acts,

like the Election Code (Kw), Act on Political Parties, the Accounting Act or the Criminal Code. The following principles concerning election campaigns should be considered the most important:

- the campaign should be transparent, with level playing field for each candidate,
- the campaign should be organised and run solely by election committees, created for the campaign period and acting on behalf of a candidate or political party,⁷
- the campaign spending should not exceed legally binding expenditure caps regulated by the law, the campaign should take place within a defined period of time defined by the law,
- each campaign material should include the name of the election committee which funded it,
- each election committee should report to the NEC or to an election commissioner (NEC's regional prox) on election campaign spending no later than three months after the election day.

The Election Code restricts election committees to seek sponsorship only from their founding party (or parties in case of party coalition committees), organisation or natural persons - citizens permanently living in Poland. Similar restrictions apply to political parties.

There are no separate regulations addressing campaign and campaign finance in social media but the NEC has confirmed in an interpretive statement that general rules apply accordingly.⁸ This applies to the campaign silence period as well.

⁶ Election Code, Art. 84. § 1 and Art. 106. § 1.

⁷ However, every voter is allowed to publish/present political advertisements during the campaign period.

⁸ [Państwowa Komisja Wyborcza/National Election Commission \(pkw.gov.pl\)](https://pkw.gov.pl)

4. Reporting of political advertising and sanctions for violation of rules

Each political party and election committee are due to report on their budget and spendings to the NEC or the respective election commissioner. Reports should be approved by those two institutions or certain financial penalties may apply to the party or the committee. Civil Society Organisation have the right to submit objections to the NEC/commissioner on financial reports from election committees – those should be taken into consideration during the report verification process.

Campaign finance reports from every election committee are due three months after the election day and should be submitted to the NEC or the respective election commissioner. No information about campaign spending is made available on an ongoing basis during the election campaign period.⁹ Reports are also not available in an electronic format (but only as hard copies) thus making any analysis of campaign finance difficult, time consuming and resource-intensive.

The NEC/commissioners publish their resolutions with approval (or rejection) of financial reports received from election committees and political parties and make them available to anyone interested (source documents are available first to authorised entities, and later to the general public).

Political parties, election committees and CSOs, which observe campaign activity, may submit their objections to the financial report to the NEC/commissioners and should receive a response within 60 days.

The election committee has a remedy to the court if the financial report is rejected by the NEC/commissioner. The decision of the court is final. Rejection of the financial report may result in financial penalties for the respective election committee or its financial representative.¹⁰ On a positive side, the amendment to the Election Code from January 2023 has introduced the regulation which creates a space for numerical

mistakes or typos in financial reports and the penalty might be avoided if the amount in question is smaller than 1% of the total income of the committee.¹¹

In October 2021, Parliament passed an amendment to the Act on Political Parties introducing reporting obligations for political parties. Every donation and/or contract received/signed by a political party has to be registered in an electronic format on an ongoing basis, and be published on a publicly available Public Information Bulletin of the respective political party.¹²

5. Control authority in the field of political advertising and its competence

The NEC and election commissioners have the authority to monitor, supervise and approve campaign spendings. Nevertheless, due to a number of gaps in legislation, the competences and the executive power of these institutions are rather limited. Campaign in the Internet is not specifically regulated, hence, internal rules of Internet advertising platforms are the only ones applicable, thus making control of campaign finance rather problematic and inefficient.

The NEC and election commissioners have the authority to monitor and supervise campaign spendings during the election campaign. Nevertheless, their competence is rather limited, especially with regards to the time in which the monitoring takes place - several months after the election is concluded.¹³

⁹ Subject to regulations of Art. 140 Election Code.

¹⁰ No report submitted by the political party may result in this party's deregistration.

¹¹ Election Code, Art. 144, § 1.

¹² [Anticorruption Act / Ustawa z dnia 14 października 2021 r. o zmianie ustawy - Kodeks karny oraz niektórych innych ustaw \(sejm.gov.pl\)](#)

¹³ Election committees must submit financial reports on campaign spendings within three months after election day.

The regulation, introduced to the Election Code in 2018, which allows third-parties to campaign and to provide in-kind contributions to candidates or political parties, with no established limits, has a negative impact on the transparency of campaign finance and added another limitation to the control capability of the election management bodies.¹⁴

Political actors may also release political ads outside of the official campaign period (and they do so very often). This practice is not regulated and makes it very difficult, if possible at all, to monitor such ads' sponsorship and the origin of funding. NEC sometimes issues warnings to parties or potential candidates who, in contradiction to the Election Code, start campaigning before the official campaign period starts (which is from the day of announcements of election day).

Insufficient regulations related to the use of state administrative resources before and during election campaigns result in frequent misuse of these resources, especially by candidates close to the ruling party or the government. A process of imposing a so-called 'party tax' on employees of state-owned enterprises (SoEs) or SoEs campaign on behalf of the ruling party by e.g. sending quasi-campaign letters to pensioners, points to a regulatory gap in this area and insufficient oversight on behalf of the election management bodies.¹⁵

Due to the lack of separate regulations related to campaigning in social media, internal regulations of internet advertising platforms, like Facebook, are the only ones applicable. This creates a situation when any election campaign monitoring on social media fully relies on the internal policy of those platforms, including issues such as data availability and integrity.

6. Political advertisements in social media – EU regulation

Regulation on the transparency and targeting of political advertising proposed by the European Commission was positively assessed by the Polish Government and the

Parliament. It is unclear if amendments proposed by the European Parliament in February 2023 would be again subject to discussion by the executive and/or legislative branch.

The proposed Regulation on the transparency and targeting of political advertising has been consulted with the Polish government during public consultations and discussions in the Parliament. Due to the fact that political advertising in social media is not directly regulated in Poland, such EU Regulation will be useful and should provide a good tool to monitor such activity.

So far, several NGOs and professional organisations, like the Panoptykon Foundation, the Stefan Batory Foundation and the Polish Confederation Lewiatan, presented their comments and recommendations regarding the Regulation. Main issues discussed included, i.e. (i) making the definition of political advertisement more precise, (ii) increasing the protection of personal sensitive data, (iii) making targeting techniques more controllable, etc.

The Polish Government has generally supported the proposed Regulation and its position was supported by the Polish Parliament with no significant comments. Interestingly, no reaction could be observed to amendments introduced to the Regulation by the European Parliament in February 2023. Some NGOs, like the Panoptykon Foundation, welcomed the majority of

¹⁴ Art. 106 par. 1 Election Code. Presidential Election, 28 June 2020 | OSCE; [third-parties campaigning are not obliged to provide any reports related to campaign finance issues.](#)

¹⁵ Members of management of some state owned companies have contributed (in a unified form and at the same time) to campaign funds of several candidates of the ruling coalition, i.e. [Ludzie Orłenu płacili na kampanię Szydło. Fala oburzenia w sieci - Wiadomości \(onet.pl\)/ONET News](#); a letter was sent to all pensioners by the Social Insurance Office (ZUS) but it was signed by the Prime Minister and presented achievements of the ruling party and the government in improving the financial situation of pensioners, i.e. [ZUS rozesłał emerytom listy z kontrowersyjną ulotką. W internecie zawrzało - Biznes w INTERIA.PL](#)

changes proposed but the Polish Parliament would probably not return to the discussion on the document.¹⁶

The discussion concerning the institution which should be selected as an independent body to monitor the campaign process has not yet brought any results, nevertheless, there is a general understanding that such institution is needed. Currently there is no clear institutional candidate with certain trust, capabilities and willingness to monitor the campaign.

7. General rules for paid political advertisement on internet platforms

General rules imposed by Internet media platforms with regards to financing political campaigns leave a number of gaps which make it difficult to precisely identify the sponsor of the ad, the beneficiary or the exact amount of funds allocated to the advertising campaign. This makes monitoring of online election campaigns cumbersome, imprecise and not transparent enough.

There are no unified rules regulating the presentation of political ads on Internet/social media platforms. Therefore, each provider, like Meta, Google or Microsoft, has created its own regulations concerning the placement of political ads as well as access to information about those ads (costs, source of funding or who is the owner of the ads). Such a situation does not positively contribute to transparency of election campaign on the Internet.

Meta presents the most complete ads library built on social and advertising networks: Facebook, Instagram, Audience Network and Messenger. However, the way Meta defines advertisements addressing political, electoral or social issues leads to a 'contamination' of the library with non-political ads with the potential to fall under one of the above categories. Disclaimers (bylines) published by Meta, do not fully solve the problem as it does not allow the sponsor to always be clearly identified, thus making it difficult to comply with the prin-

ciple of transparent financing of election campaigns and political parties. There is also no full information available on reasons why a given user was shown a particular ad.

Google's ad network seems to be the largest one but it is not used so frequently by political stakeholders.¹⁷ This may be partly due to the corporation's more liberal policy in vetting advertisers and not clearly marking political ads. Also, Google does not actually make it easy to identify the sponsor of an ad (either from the ad or API level), despite the technical capabilities already in place, nor does it display such information within the ad. There is information on the party/candidate who is supported by the ad but there is no information on the sponsor of the ad. This does not positively contribute to the transparency of political campaign financing.

Microsoft's platform serves to distribute paid content only, and, while it does not prohibit the display of socially or politically relevant content, it severely restricts such a possibility. "Advertising for election related content including election canvassing and election polls, political parties, candidates, and ballot measures is not allowed. Fundraising for political candidates, parties, PACs, and ballot measures is not allowed."¹⁸

TikTok, which is gaining popularity among politicians, does not allow for the publishing of any paid political content. "Sharing political beliefs and engaging in political conversation is allowed as organic content, but it cannot be used with paid ad products ..."¹⁹

Internal rules of platforms like Meta or Google do not protect against financing political campaign by legal entities which are, according to the Polish Election Code,

¹⁶ The Polish Parliament will, most probably, only decide on issues regulated by the EC Regulation, i.e. on establishing an oversight body, etc.

¹⁷ See Chart 3 further in the text.

¹⁸ [Political content – Microsoft Advertising](#)

¹⁹ [TikTok's Stance on Political Ads | Creator Portal | TikTok](#)

not entitled to do so. Moreover, they do not facilitate the identification of the activity (as well as its scale and spending levels) of marketing companies which operate on behalf of political parties or candidates.

Political advertisement financed by individuals is also becoming a common situation. Politically engaged individuals publish the ads themselves, thereby potentially circumventing the regulations imposed on political parties and election committees making monitoring of campaign finance inefficient and blurring the line between political and private.

8. Case study – Direct observation of election campaign

During the observation of two local campaigns, the Foundation reviewed official financial reports submitted by election committees. Data on spendings on campaigns in social media included in reports, has been confronted with the data on spendings available on social media platforms, like Facebook. This exercise showed a number of discrepancies, which were reported to the oversight institutions (election management bodies). It also showed the lack of

accessibility of certain data in platforms' ad libraries, thus confirming the need for more precise regulation to be implemented.

We monitored the financing of election campaigns on social media during the local early and by-elections in Ruda Śląska and Ciechocinek and we have compiled an overview of political ads' spendings of leading political parties during the pre-campaign period between August 2022 and February 2023.

Due to the limited availability of data and resources, we have focused on campaign ads posted on Facebook and Google. Charts 3 and 4 present spendings of main political parties and compare campaign activity in two periods: August 2022 – November 2022 and December 2022 – February 2023. Generally, a rise in the activity of main parties could be observed, predominantly on Facebook, with very limited resources allocated to Google ads.²⁰ During the recent few months, some political parties, like Prawo i Sprawiedliwość

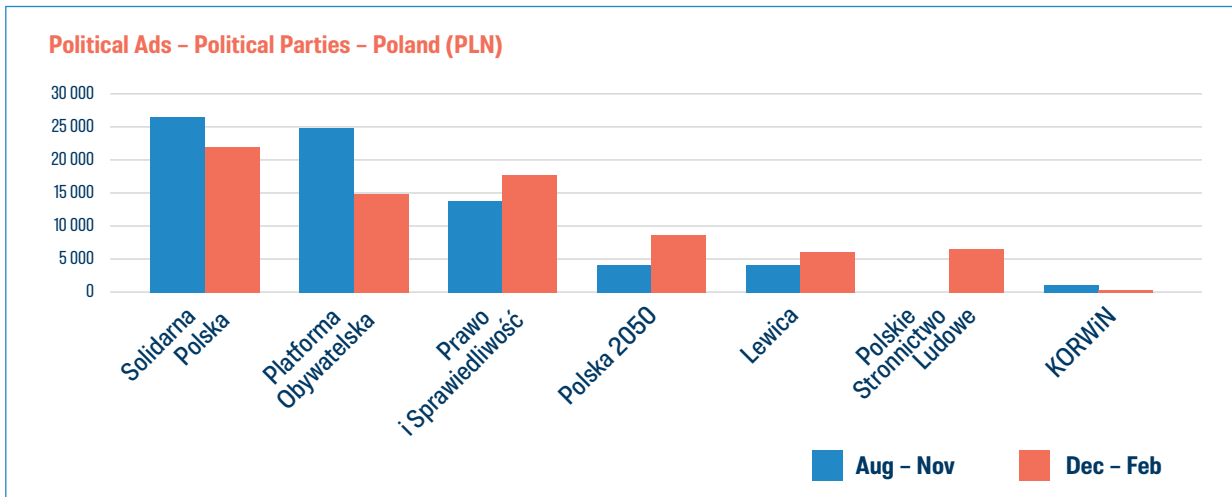
²⁰ Present exchange rate: EUR 1 = PLN 4.54

Chart 3:

Political Parties Ads (Aug 2022 – Feb 2023, Poland)			
Political Party	Facebook	Google	Total
Solidarna Polska	49.200	0	49.200
Platforma Obywatelska	36.900	2.250	39.150
Prawo i Sprawiedliwość	31.600	0	31.600
Polska 2050	12.380	0	12.380
Lewica	9.640	0	9.640
Polskie Stronnictwo Ludowe	6.310	0	6.310
KORWiN	1.280	0	1.280
Konfederacja	0	0	0
Razem	0	0	0
Porozumienie	0	0	0
Kukiz'15	0	0	0
Partia Zieloni	0	0	0
Konfederacja Korony Polskiej	0	0	0

(PLN) Source: Own Analysis

Chart 4:

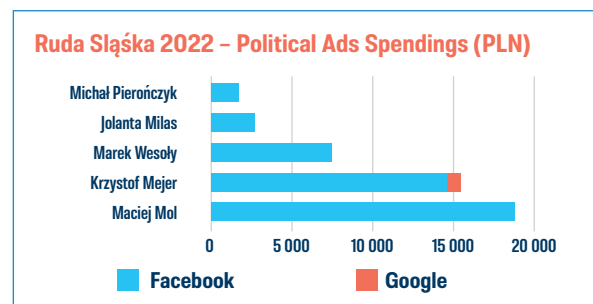
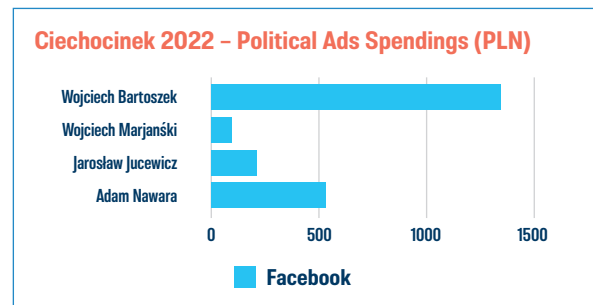


(Law and Justice), Konfederacja (Confederation) or Koalicja Obywatelska (Civic Coalition), intensified their activity on TikTok in a form of organic content, in order to reach younger generation with their messages.

The amendment to the Act on Political Parties introduced in 2021 which obliged every political party to register and publish on an ongoing basis each contract and donation received should, in theory, allow for the comparison of spendings on ads recorded on Facebook against what was reported in the register (see footnote 12). Unfortunately, political parties do not fully follow this regulation, the content of this register presents a lot of gaps, required data is provided with significant delay and the NEC, being responsible for imposing this regulation, stated in the letter addressed to the Parliament that had no tools to execute any penalties if party does not follow the regulation.²¹

During early local elections in Ruda Śląska and by-elections in Ciechocinek we have looked at candidates' spendings on campaign in social media (Facebook, Google) and verified this data against official financial reports submitted by each election committee to the respective election commissioners. We have also reviewed information included in reports and submitted our objections to the commissioners if we noticed any discrepancy or irregularity.

Total spendings on election campaign in social media were not very high, and such were also the discrepancies noticed during our observation. Nevertheless, reported spending was always lower than the one observed in ad libraries and very often hidden among other types of costs. This revealed some weaknesses of the mandatory structure of financial reports to be submitted by election committees.



²¹ Państwowa Komisja Wyborcza (pkw.gov.pl)

The overall process of submitting financial reports by election committees and considering all potential objections and complaints takes a long time:

- three months for submitting the report by the committee,
- one month for publishing reports by the respective election commissioner/NEC,
- one month to submit any objection by authorised organisations or political parties,
- two months for responding to such objections,
- not defined period for the respective election commissioner/NEC to clarify observed issues with the election committee,²²
- potentially two months for the Supreme Court to resolve any complaint submitted by the election committee if its financial report was rejected.

It may take nine months or more for any monitoring organisation to receive the final decision concerning the validity or not of any financial report from any election committee and to be able to formulate its final opinion on the financial aspects of an election campaign and the work of the election administration and the court system.

The Foundation reviewed financial reports of the majority of election committees taking part in the above-mentioned elections, which published political ads on social media. We have submitted objections to those reports where some mistakes or omissions were identified. Among the irregularities observed were discrepancies between reported spendings on advertising in social media and real amounts observed on Facebook and/or Google ad libraries. Unfortunately, unclear regulations concerning data availability and the level of details accessible in the platforms' ad libraries made the whole process of verification complicated and left space for potential gaps and uncertainties in final conclusions. As an example we can mention that both Facebook and Google do not verify the sponsor of an ad precisely enough to be able to clarify if the

sponsor actually represents the election committee/political party.

Problems with access to required and precise data on social media platforms were reflected in some responses to the Foundation's objections provided by election committees. Election committees claimed that the lack of clear regulations regarding data provided by media platforms does not allow them to consider the data available in ads libraries as reliable enough in the process of assessing the quality of financial reports provided by election committees. This only confirms how important it is to introduce well-structured regulations addressing the issue of data availability and granularity.

9. Overview of policy reform in political spending and ads transparency

The implementation of the EU Regulation on transparency and targeting of political advertising, while needed, will require a comprehensive approach from the government and should address a number of recommendations formulated by citizen organisations. The Regulation should improve the availability of precise data from social media platforms to monitoring organisations but should also not limit free and open discussion and infringe on people's right to free speech.

The implementation of the EU Regulation will require a comprehensive approach to legislation regulating the election process in Poland. Despite the fact that some regulations are already in place (i.e. regarding the need to identify the sponsor of the political advertisement or the need for political

²² The election commissioner/NEC has an obligation to respond to any objection within two months and inform the sender that it was acknowledged. However, the commissioner/NEC may still work on the clarification of all observed issues and the time for this process is not defined. This means that the duration of the whole process of verification of financial reports submitted by any election committee might exceed nine months.

parties to report any donation or contract on an ongoing basis), other solutions will have to correspond with the existing legal system. This should include but not be limited, to the following issues:

- identification or establishment of an independent monitoring body with capacity to execute new regulations,
 - inclusion of online campaigning into the election process and adaptation of legal provisions to the new reality,
 - need for a clear definition of the concept of political advertisement published on Internet advertisement platforms – one that is coherent with campaign materials being used offline,
 - need to implement tools which ensure the access to necessary data from Internet advertisement platforms,
 - implementation of the requirement to report campaign spending and income by candidates, political parties and election committees on an ongoing basis and in an electronic format,
 - inclusion of any third-party campaigning and campaign financing into the main campaign finance construct in order to increase transparency and provide a tool for comprehensive monitoring system,
 - adjustment of court procedures to new solutions and challenges related with online/social media campaigning.
- On EU territory, Internet advertising platforms should permit political ads only if those are sponsored by entities headquartered in the EU or by international organisations.
 - Internet advertising platforms should provide means for automatic data processing for monitoring institutions, NGOs and researchers at minimum.
 - Internet advertising platforms should recognize ongoing election processes and require advertisers to declare in which one they are campaigning.
 - Internet advertising platforms should provide specific and clear reasons why an ad has been presented to a certain user.
 - Policies should not be limited to social media only, but same policies should be implemented for electronic advertisement channels including in-game ads.

In order to address at least some problems presented and discussed earlier, we propose the following recommendations to be implemented in the regulation which is still under discussion:

- Internet advertising platforms shall disclose all ads published by political actors and on political matters for a period of at least 6 years and make them easily accessible for anyone interested.
- Each political advertisement should include information on sources of funding.
- Internet advertising platforms shall verify the sponsorship of political campaigns and display details about the sponsor as part of the ad.

Czechia

Political advertising plays a crucial role in shaping public opinion, influencing voter behavior, and ultimately impacting the democratic process. Therefore, it is essential to assess the existing framework and practices surrounding political advertising in order to identify areas for improvement and propose recommendations that can enhance transparency and accountability.

In Czechia, political advertising involves various actors, including political parties, candidates, and independent campaign participants, who utilize diverse channels such as social media platforms like Facebook, Instagram, Twitter, and traditional media outlets like television, newspapers, and radio. However, the evolving communication landscape, characterized by widespread internet and smartphone usage, presents both opportunities and challenges for political campaigns. Moreover, the influence of large financial groups and prominent political figures on traditional media ownership adds complexity to the dynamics of political advertising in the country.

This analysis delves into the requirements for transparency in political advertising, examining the role of the Office for Supervision of the Management of Political Parties and Political Movements (ÚDHPSH) in overseeing campaign financing and the management of political entities. Additionally, it explores the legislative framework regarding the targeting of political advertising and highlights the need for comprehensive reforms to address the evolving digital landscape. By examining reporting mechanisms, control authority competence, and the potential implementation of European regulations, this analysis seeks to provide

insights and recommendations to enhance transparency, accountability, and integrity in political advertising practices in Czechia.

1. Definition of the political advertising actors

In Czechia, political advertising actors encompass political parties, candidates, and independent campaign participants. These actors utilize various channels to promote their campaigns and engage with the electorate. The dominant platform for political advertising in Czechia is Facebook, although other social media platforms such as Instagram, Twitter, and TikTok are also used, albeit to a lesser extent. Additionally, traditional media outlets, including television, newspapers, and radio, play a role in political advertising in the country.

Changes on the communication plane can be considered neither closed nor in any way monolithic. In the Czech Republic, 81% of Czechs over the age of 16 already use the internet, and 70% of them use a smartphone. Almost all 15-year-olds have access to the internet at home and can use a mobile phone.

Almost all households have a computer and internet, and just under a fifth of Czech households are without internet. The majority of these are households of seniors who, according to a survey by the Czech Statistical Office, do not want the internet at home or do not know how to use it. On the other hand, 97% of children live in households with an internet connection and 92% have a computer or tablet at home.

The use of smartphones is growing dynamically. In 2019, 70% of people aged 16 and over already had one, and even 99%

of young people aged 16 to 24. In contrast, three quarters of seniors prefer a mobile phone without an operating system.

Surfing has long since ceased to be the preserve of the young and college-educated. The number of users is also increasing among the elderly. The proportion of people over 65 who go online has tripled since 2010, from 13% to 39% in 2019. Almost half of 15-year-olds use the internet at home for more than 4 hours at the weekend. On a daily or almost daily basis, 78% of girls this age are on social media and 66% of boys play games online.

More than half of adults keep in touch with their friends through social networks. In 2019, 45% of companies in the Czech Republic had a social media account. Online banking and online shopping are also growing in popularity among Czechs. Almost two-thirds of adults (63%) already have online banking, and 59% of people shopped online in 2019. A significantly higher proportion of people use online banking in our country than in all of our neighbors.²³

Parties and candidates often use the possibility of targeting Facebook advertising differently, e.g. geographically, by demographic divisions, etc.

But alongside this, they also use free organic distribution of their posts.

Much of the traditional media is owned by large financial groups. Some of the media is also owned by the former Prime Minister and Chairman of the ANO party, Andrej Babiš. These are significant facts that have a major impact on how traditional media are used in political campaigns.

2. Requirements for the transparency of political advertising

The country has established specific requirements to promote accountability and provide clarity regarding campaign financing and management of political entities. The Office for Supervision of the Management of Political Parties and Political Movements (Úřad pro dohled nad hospo-

odařením politických stran a politických hnutí, ÚDHPSH²⁴) is the central administrative office responsible for overseeing these aspects within the Czech Republic.

To ensure transparency in political advertising, candidates, political parties, and independent campaign participants in Czechia must adhere to specific requirements.

These include:

- **Clear Sponsor Identification:** Social media campaign posts must be transparently identified by sponsors. This enables voters to discern the source of political advertising messages. However, the enforcement of this requirement has been inconsistent, allowing for potential manipulation and hidden agendas.
- **Transparent Accounting Practices:** Candidates, political parties, and independent campaign participants are required to maintain separate campaign accounts from their day-to-day operations. This separation ensures that campaign finances are accurately reported and distinct from general party funds.
- These rules do not apply for municipal elections.

While these requirements contribute to enhancing transparency in political advertising, ongoing efforts are needed to strengthen the system. The ÚDHPSH plays a vital role in monitoring compliance with these requirements. It oversees campaign financing, management of political entities, and related activities. To ensure its effectiveness, the ÚDHPSH requires adequate resources, expertise, and legal powers to carry out its supervisory role efficiently.

²³ <https://www.czso.cz/csu/czso/internet-pouziva-pres-80-obyvatele-ceska>

²⁴ [Úřad pro dohled nad hospodařením politických stran a politických hnutí](#)

3. Legislation regarding the targeting of political advertising

The current legislative framework in Czechia concerning the targeting of political advertising falls short in addressing the challenges posed by modern digital communication technologies. While some measures are in place, the existing laws lack comprehensive guidelines and fail to keep pace with the evolving landscape of political campaigns. This section examines the current legislation and highlights the need for further reforms.

The Office for Supervision of the Management of Political Parties and Political Movements (ÚDHPSH) plays a central role in overseeing campaign financing and the management of political entities in Czechia. However, its authority and ability to regulate the targeting of political advertising are limited by the existing legislative framework. The ÚDHPSH operates under the Act on Association in Political Parties and Political Movements (Act No. 424/1991 Coll., as amended²⁵), which introduced regulations including campaign financing limits.

The current legislation does not provide explicit guidelines on the targeting practices employed by political parties and candidates. This lack of clarity allows for the unrestricted use of targeting techniques, potentially leading to manipulative or misleading campaigns. To address these concerns, comprehensive legislation is needed to establish guidelines on the permissible targeting criteria, ensuring they align with democratic principles and prevent discriminatory or divisive practices.

4. Reporting of political advertising

In Czechia, reporting requirements for political advertising exist to promote transparency and accountability. Candidates are required to maintain transparent accounts for campaign financing and separate campaign accounts from the day-to-day operations of their political parties. Similar reporting rules apply to independent campaign participants.

However, the specific mechanisms and processes for reporting political advertising expenditure and activities need to be further developed and clarified to streamline the reporting process and ensure accurate and timely information.

5. Control authority in the field of political advertising and its competence

The Office for Supervision of the Management of Political Parties and Political Movements (Úřad pro dohled nad hospodařením politických stran a politických hnutí, ÚDHPSH²⁶) is the control authority responsible for overseeing political advertising in Czechia.

Parties have to report their finances every year to it and disclose final reports from election campaigns. The office has less than 20 employees.

Implementation of EU regulation

The proposal for a Regulation of the European Parliament and of the Council on transparency and targeting of political advertising²⁷ is being discussed in the Czech Republic as part of the overall package on protecting the integrity of elections in the EU.

The Czech Government discussed this item at the end of 2021 with the conclusion that “In general terms, the Czech Government agrees with the proposal”²⁸. Meanwhile, in the Lower House of the Parliament, the European Affairs Committee has dealt with the Directive. After a short discussion, the Committee agreed to take note of the Government’s position²⁹. Neither chamber of Parliament has yet dealt with the directive.

²⁵ [Zákon o sdružování v politických stranách a v politických hnutích](#)

²⁶ [Úřad pro dohled nad hospodařením politických stran a politických hnutí](#)

²⁷ https://ec.europa.eu/info/sites/default/files/2_1_177489_pol-ads_en.pdf

²⁸ <https://www.psp.cz/sqw/text/orig2.sqw?idd=208117>

²⁹ <https://www.psp.cz/sqw/text/orig2.sqw?id=205938&pdf=1>

The current legislative framework limits the total campaign expenditure for parliamentary, presidential, European and regional elections. It does not set limits for local elections.³⁰ These financial limits also include all online campaign expenditure, including negative social media advertising.

Social media campaign posts must be identified by the sponsor. Candidates must use transparent accounts for campaign financing and keep separate campaign accounts from the party's day-to-day operations. Similar rules apply to other persons independent of the candidate parties who are involved in the campaign. It is not yet clear how the new European legislation will be translated into Czech law.

6. Sanctions for violation of rules in the field of political advertising

Czechia has witnessed instances of violations in political advertising, such as circumventing campaign finance laws and failing to disclose mandatory information about sponsors. The Office for Supervision of the Management of Political Parties and Political Movements has the authority to impose fines for such violations. However, the effectiveness of these sanctions in deterring future violations and maintaining transparency is a topic of concern. The sanctions should be consistently applied, proportionate to the severity of the violation, and serve as an effective deterrent against non-compliance with political advertising regulations.

7. Case studies

Instances of violations in political advertising, like the circumvention of campaign finance laws by Andrej Babiš during his presidential campaign, highlight the presence of incentives for non-compliance. The newly elected President, Petr Pavel, also failed to disclose mandatory sponsor information during his campaign and faced a significant fine. These cases emphasize the need for stricter enforcement, public awareness campaigns, and a strong commitment from political actors to uphold

transparency and accountability. Collaborative efforts between the control authority, political parties, and civil society organizations can help address these challenges and foster a culture of responsible and ethical political advertising.

BAD PRACTICE: Circumventing campaign finance law, hidden campaigning – examples of popular anonymous social media accounts/projects

There are several popular social media accounts/projects that have been found to be linked to political parties or campaigns or are very likely to be linked. The processing and frequency of publication suggests that in some cases this is likely to be professional work.

Examples include the still active accounts/projects I am appalled! (Jsem zděšená!) on Facebook³¹, Twitter³² and unsuccessfully on Instagram. This project works in support of the ANO party and its chairman Babiš.³³

The Prague 1 Neighbours project was a Facebook page pretending to be a community of people living in Prague 1. However, it turned out that its content was created by marketing specialists working for the ODS party, which was in opposition in Prague 1 at the time³⁴.

GOOD PRACTICE: Instagram's action

Instagram effectively made such a hidden campaign impossible in the case of the I'm appalled! account by limiting its reach³⁵.

³⁰ <https://frankbold.org/poradna/korupce-a-transparentnost/korupce-a-jednani-uredniku/hospodareni-s-verejnymi-prostredky/rada/financovani-politickych-str>

³¹ <https://www.facebook.com/jsemzdesena>

³² <https://twitter.com/JZdesena>

³³ <https://www.instagram.com/jsemzdesena>

³⁴ <https://auto-mat.cz/25610/chyba-facebooku-odhaila-skutecne-spravce-nezavislych-stranek>

³⁵ <https://www.instagram.com/p/CYZQAwkqyOi/>

BAD PRACTICE: Circumventing campaign finance law – the Babiš example

As a presidential candidate, former Prime Minister and Chairman of the ANO political party, Andrej Babiš, before announcing his candidacy, circumvented the campaign finance law by disguising his campaign as a party campaign ahead of the local and senate elections, when he “supported the candidates of his ANO party”.

In many cases, the campaigning took place in places where the ANO party was not running for local council or Senate elections. Part of this unacknowledged presidential campaign was a brief personal visit by Andrej Babiš to the location in question, preceded by advertising on Facebook and Instagram focused on the region in question and also by a listing on the ANO website

An example of an advertisement focusing on the Pilsen region, including a meeting in the town of Plasy, where the ANO party was not running candidates and where there were no Senate elections³⁶.

Andrej Babiš
Sponsored · Paid for by ANO
ID: 408209661248194

Píseňský kraj! Už ve čtvrtek 30. 6. a v pátek 1. 7. budu u vás i s obytnákem
😊 Tak se stavte. Rád vás uvidím, AB.

POJĎME TO SPOLEČNĚ PROBRAT A ZA SE BUDE LÍP!

30. června
9:00–9:30 Náměstí 51, Mýto
10:00–11:00 Nám. T. G. Masaryka, Dobřany
11:30–12:30 Francouzská 822, Holýšov
12:45–13:45 Parkoviště u zámku, Horšovský Týn
14:10–15:10 Nám. Míru, Domažlice
16:15–18:00 Masarykovo náměstí, Blovice

1. července
9:00–10:00 Nám. Augustina Němejce, Nepomuk
10:30–11:30 Masarykovo náměstí, Přeštice
12:15–14:00 Klášter Kladruby u Stříbra
15:00–15:45 Píseňská ulice, Plasy
16:30–18:30 Nad Úslavou, Lobežská jezírka, Píseň

Konečně mám Instagram!
@instagram.com/AndrejBabis

ANO BUDE LÍP

BAD PRACTICE: The President did not disclose sponsors

Petr Pavel, the newly elected President of the Czech Republic, did not include the mandatory information in his presidential campaign in the list of sponsors, in a significant majority of cases. That is, for natural persons the date of birth and municipality of residence, for legal persons the name, registration number and registered office.³⁷

GOOD PRACTICE: The President was fined by the Office for Supervision of the Management of Political Parties and Political Movements

The newly elected president was fined by the Office for Supervision of the Management of Political Parties and Political Movements for violation of the law described in the previous point. This was the highest fine ever (CZK 60,000 ~ EUR 2,500) imposed on an individual by the Office.³⁸

8. Recommendations

Czechia’s political advertising landscape requires ongoing efforts to enhance transparency and accountability. While requirements for sponsor identification and transparent accounting practices exist, their enforcement needs improvement. The Office for Supervision of the Management of Political Parties and Political Movements (ÚDHPSH) plays a crucial role but faces limitations in regulating targeting practices.

To strengthen the system, comprehensive legislation is needed to establish clear guidelines on targeting criteria. Stricter enforcement, public awareness campaigns, and collaborative efforts among control

³⁶ Facebook Ads Library

³⁷ Reporter Magazin

³⁸ ÚDHPSH

authorities, political parties, and civil society can address challenges and promote responsible political advertising.

Adopting European regulations and empowering the ÚDHPSH with sufficient resources and legal powers are vital. By fostering a culture of transparency and ethical practices, Czechia can ensure a more inclusive and informed democratic process in political advertising.

Based on the analysis of political advertising transparency and targeting in Czechia, the following recommendations are proposed to improve the effectiveness and integrity of the political advertising landscape:

- **Strengthen Enforcement and Compliance:** Enhance the enforcement of existing requirements for sponsor identification and transparent accounting practices. Ensure consistent application of sanctions for violations, proportional to the severity of the offense, to serve as an effective deterrent against non-compliance.
- **Develop Comprehensive Legislation:** Establish comprehensive legislation that addresses the challenges posed by modern digital communication technologies. The legislation should provide clear guidelines on targeting practices, including permissible criteria, to prevent manipulative or misleading campaigns. Regularly review and update the legislation to keep pace with evolving campaign strategies.
- **Empower the Office for Supervision:** Provide the Office for Supervision of the Management of Political Parties and Political Movements (ÚDHPSH) with adequate resources, expertise, and legal powers to effectively monitor and regulate political advertising. Enhance its authority to oversee targeting practices and ensure compliance with transparency requirements.
- **Promote Public Awareness and Education:** Conduct public awareness campaigns to educate voters about the importance of transparent political ad-

vertising. Foster a culture of responsible and ethical political advertising by promoting transparency, accountability, and the disclosure of sponsor information.

- **Collaborative Efforts:** Encourage collaboration between the control authority, political parties, media outlets, and civil society organizations. Foster dialogue and cooperation to address challenges, share best practices, and develop self-regulatory mechanisms that promote transparency and integrity in political advertising.
- **Align with European Standards:** Embrace the proposed European regulation on transparency and targeting of political advertising and actively participate in the discussions. Align Czech legislation with European standards to ensure harmonization and cooperation in protecting the integrity of elections across the European Union.

By implementing these recommendations, Czechia can foster a more transparent, accountable, and inclusive political advertising environment. These efforts will help to safeguard the democratic process, protect the interests of voters, and maintain the integrity of political campaigns in the country.

Hungary

Hungarian legislation contains provisions on political advertising in a scattered manner. There is no comprehensive and uniform regulation of political advertising. Hence the rules introduced by the proposed Regulation will have a fundamental impact on the practice of Hungarian authorities.

The fragmented rules have in common that they typically lay down rules on political advertising in the context of elections and not in general. By contrast, the provisions of the proposed Regulation are not limited to election periods, but lay down rules in general. At the same time, the proposed Regulation provides special rules – providing for a fast-track mechanism – apply to election periods.

The proposed Regulation having direct effect in every member state introduces concepts that are not known to Hungarian law at all. The application of these concepts is expected to be challenging for the Hungarian authorities that have understood rules on political advertisement in a formalist way and limited their competences to the minimum.

Not only the laws, but also the competent authorities differ depending on which law is to be complied with. Compliance with the proposed Regulation requires establishing which body will be responsible for enforcing the Regulation. It is not yet known whether the Hungarian legislator will designate one or more existing or will establish new authorities to fulfill the institutional obligations under the proposed Regulation.

There is no public information available on the Hungarian government's position on the proposed Regulation, or on what policy

measures it plans to take in the event of its entry into force. No public consultation took place to get interested parties or CSOs in the Hungarian Government's preparatory work.

This country chapter is based on the findings of the general elections held in April 2022 in Hungary and those observed in the period thereafter.

1. Definition of the political advertising actors

Hungarian law does not define the concept of a political actor. The concept of 'political actor' provided by the proposed Regulation could therefore fundamentally change the approach of the Hungarian authorities to political advertising as the concept is far more broader than in the Hungarian laws.³⁹

The existing Hungarian legislation takes a diverging approach to defining the players in the political advertising market.

The Electoral Act, which covers general, local and European elections, distinguishes between incumbent officials and nominating organizations.⁴⁰ A nominating organization can be a party, but in the case of local elections it can also be an association without party status. Under the Referendum Act, a referendum can be initiated by an individual, not just a party.⁴¹ There is a

³⁹ Article 2 lit. 4

⁴⁰ Sections 1 and 3 of Act XXXVI of 2013 on election procedure

⁴¹ Section 2 of Act CCXXXVIII of 2013 on initiating referendums, the European Citizens' Initiative and referendum procedure

separate law on transparency of campaign expenses for the general elections. The Campaign Expenses Act lays down rules for candidates and nominating organizations standing in parliamentary elections.⁴²

The specificity of these three laws is that they only establish rules for expenditures related to an election or referendum event. Hence, the concepts described do not apply outside the election period. Two laws on parties, party foundations and their financial management apply at any time, regardless of the election period. However, they do not lay down rules on political advertising, only on the promotion of parties.⁴³

Special outdoor advertising rules apply to budgetary bodies and legal persons designated and subsidised under the Central Budget Act, and to legal persons receiving subsidies from legal persons designated and subsidised under the Central Budget Act, only in cases the amount of the subsidy is equal to half of their annual revenue.⁴⁴

To conclude, under Hungarian law, players in the political advertising market are legally recognised entities, typically parties or nominating organizations. Thus, the advertising activities of state and local government bodies and third parties (e.g. NGOs, influential persons of public character, companies) fall out of the scope of advertising regulation.

2. Requirements for the transparency of political advertising

The provisions of the Electoral Act apply only on the electoral campaign period that lasts from the 50th day before voting day until the end of voting on voting day.⁴⁵

The regulation relies on the concept of ‘campaign tools’ meaning any tools that are capable of influencing or of attempting to influence the will of voters, including especially posters, direct contact by the nominating organisation or the candidate, political commercials and political advertisements, election rallies.

The law makes a distinction between ‘political advertisements’ and ‘political com-

mercials.’ A ‘political advertisement’ means political advertisement within the meaning Media Act. According to the Media Act, a political advertisement is a programme which appears or is published in a similar way to an advertisement, for the purpose of promoting or encouraging the promotion of a party, political movement or government, or for the purpose of promoting their name, objectives, activities, slogan or emblem.⁴⁶ The media service provider may not request or accept any payment for the publication of political advertising.⁴⁷ The requirement of no payment is therefore in sharp contrast to the proposed Regulation, which is based on the concept of service and is conditional on the existence of payment. Beyond an election campaign period, political advertising may only be published in connection with a referendum that has already been set.⁴⁸

A ‘political commercial’ means any media content published in a press product or audio-visual content published in a movie theatre in return for consideration, promoting or advocating support for a nominating organisation or independent candidate, or promoting their name, objectives, activities, slogan or emblem.⁴⁹ These concepts are therefore limited to political advertising in traditional media.

Despite the fact that the law only gives examples of campaigning tools, in practice, public bodies consider the list above given

⁴² Act LXXXVII of 2013 on making campaign expenses for the election of Members of Parliament transparent.

⁴³ Act XXXIII of 1989 on the functioning and financial management of political parties.
Act XLVII of 2003 on Foundations for scientific, dissemination, research and educational activities supporting the activities of political parties.

⁴⁴ Section 11/G of Act LXXIV of 2016 on the protection of the townscape.

⁴⁵ Section 139.

⁴⁶ lit. 55 in Section 203 of Act CLXXXV of 2010 on media services and mass media.

⁴⁷ Section 147(3).

⁴⁸ Section 32(3).

⁴⁹ Section 146.

by the law to be exhaustive and exclusive. Most of the election complaints are therefore related to outdoor posters or content in newspapers or on TV.

The Electoral Act provides a serious constraint for keeping public bodies accountable for their spendings in the advertising market. Activities of election bodies, the personal communication between citizens as private persons, regardless of its content and form, and the activities carried out by the Constitutional Court, courts, local governments and other state organs in performing their functions provided for by the law are not considered election campaign activity.⁵⁰ This provision can serve as a legal basis for public bodies to avoid electoral complaints challenging their political ad spendings. The trend is particularly strong since 2019. In a decision, the Kúria analyzed the principle of the state's neutrality in detail. The high court concluded that Hungary's Fundamental Law does not require state bodies, which are not neutral per se, to be neutral in election campaigns.⁵¹

The transparency of public bodies' spending is enhanced by the fact that they are subject to the Freedom of Information Act.⁵² As a result, public bodies must publish information on contracts without a specific request proactively and must respond to requests for information within 15 days. In practice, however, the possibility provided by law is not very effective in ensuring transparency. Contractual information is only required to be disclosed above a certain amount of payment, thus spending below HUF 5 million is typically not disclosed without a specific FOI request. The transparency provided by the law is limited for two further reasons. Political parties are only subjects of the Freedom of Information Act to the extent of received public funds.

The Campaign Expenses Act determines the amount of money parties and candidates are eligible to request from the state budget for the purposes of the campaign in the general election. Despite the fact that parties and candidates can only use public funding through an official

bankcard issued by the Hungarian State Treasury, their spending cannot be tracked by the public and expenditures on political advertisements are therefore not transparent.⁵³ Only payments can be made from the card, no third party is entitled to make a financial contribution to the campaign account. Thus, third party contributions can not appear on the campaign account. In theory, the Hungarian State Treasury has access to the expenses of candidates financed by public money, but the campaign account is not a means of making those who advertise on behalf of candidates transparent. Independently of state funding, campaign expenditure for all candidates is capped by law to ensure the equality of the candidates.⁵⁴ The law provides that no candidate is eligible to use more than HUF 5 million during the campaign (increased by inflation every year). State funding should be included in this limit. All candidates and nominating organisations shall publish in the Hungarian Gazette within 60 days of the parliamentary elections the amount, source and method of use of state and other funds and material support spent on the elections.⁵⁵ This disclosure takes the form of a summary, individual transactions and invoices are not proactively disclosed. It is therefore not possible to track precisely how much each party spent on political advertising. These limits apply to parliamentary elections. Local elections or referendums are not subject to any cost limit or proactive disclosure obligations.

The Office for Democratic Institutions and Human Rights (ODIHR) found in 2022 after the general elections took place that the

⁵⁰ Section 142.

⁵¹ Decision No. Kvk.III.38.043/2019/2.

⁵² Act CCVI of 2011 on the right to freedom of conscience and religion and the legal status of churches, denominations and religious communities.

⁵³ Section 2(4).

⁵⁴ Section 7.

⁵⁵ Section 9(1).

Hungarian legislative shortcomings and limited enforcement of the regulatory framework resulted in inadequate transparency and accountability of campaign finances.⁵⁶

The laws on parties, party foundations and their financial management provides regardless of an election period that no legal person or unincorporated organisation may make any financial contribution to a party, and a party may not accept any financial contribution from a legal person or unincorporated organisation. A party may not accept any financial contribution from another state either. A party may not accept contributions from foreign organisations, regardless of their legal status, or from natural persons who are not Hungarian citizens. The party may not accept anonymous donations.⁵⁷ Third parties could therefore only support parties with political advertising within these statutory limits. Parties are required to publish a financial statement in the Hungarian Gazette by 31 May each year, and parties with their own websites must also publish it on their websites. Contributions exceeding HUF 500,000 made during a calendar year must be indicated separately in the financial statement, with the name of the contributor and the amount. The transparency provided by the financial statement is limited for two reasons. On the one hand, parties have to declare only once a year, so mid-year financial transactions cannot be tracked by the public. On the other hand, the published expenditure is aggregated except for financial contributions above HUF 500,000.

Proactive disclosure of contracts for outdoor advertisements concluded by state-subsidized bodies are prescribed by the Townscape Protection Act.⁵⁸

3. Legislation regarding the targeting of political advertising

In Hungary, the general data protection rules apply to targeting. The rules are provided partly by the EU level GDPR, and partly by the relatively strict FOI Act, which has already been cited in the context of

freedom of information. There is no further national level legislation that would specifically provide for rules on the targeting of political advertising.

4. Reporting of political advertising

Court of registration

Under Hungarian law, parties are governed by private law and considered as associations. Most of the rules that apply to CSOs apply to political parties too. The main difference, however, is that parties are not obliged to submit an annual report to the court of registration.

Hungarian State Treasury

Candidates and parties running in general elections and requiring state funding shall submit to the Hungarian State Treasury within 15 days after the results of the general election have become final a report, accompanied by a copy of all supporting documents certifying the use of the amount of the state funding.⁵⁹ This reporting obligation is of general nature and not specific to data on political advertising.

State Audit Office

In addition to the proactive disclosure obligations mentioned above, parties or candidates have no explicit reporting obligations to the State Audit Office (SAO).

Government Office

The Townscape Protection Act provides that state-subsidized bodies shall submit their contracts for outdoor advertisements to the government office.⁶⁰

⁵⁶ ODIHR Election Observation Mission Final Report. *Parliamentary Elections and Referendum*, 3 April 2022, p. 22.

⁵⁷ Section 4(2)–(3).

⁵⁸ Act LXXIV of 2016 on the protection of the townscape.

⁵⁹ Section 8(1).

⁶⁰ Section 11/G(7).

5. Control authority in the field of political advertising and its competence

Court of registration

The court of registration has jurisdiction only over registered parties and associations such as GONGOs. However, the court of registration does not specifically examine the financial management of these bodies, including their activities in political advertising. The court of registration only examines the minimum conditions of compliance with the law on associations.

National Election Commission

Although the Electoral Act contains provisions on political advertising, the National Election Commission (NEC) limited its scope of competence to complaints challenging the placement of political advertising. Pursuant to NEC's understanding, problems in campaign financing related to political advertisement are of no relevance from fairness in elections. This interpretation of competence was confirmed by the Kúria and the Hungarian Constitutional Court as well.⁶¹

Hungarian State Treasury

The use of state funding for campaigns in general elections is verified by the Hungarian State Treasury after the elections. The Treasury makes only a very formal review of the documents (contracts, invoices) submitted by the candidates and the parties and checks only if indicated expenditures are eligible.

State Audit Office

In general, the SAO audits whether the parties and their foundations have complied with the rules on their financial management, as described above. In addition, the SAO audits the use of campaign spending by candidates and parties that have won seats in parliament within a year of the elections. On a specific request, candidates and parties who have not obtained a mandate may also be audited. The audits are based on a formalist approach and no indication can be found that SAO audits

expenses connected to online political advertisements at all.

Under these legislations, it can be seen that the Treasury and the SAO would have primary responsibility for auditing the expenditure on political advertising. Both bodies are insufficient for tackling misuse of public funds. These bodies are either captured by or subordinated to the government. Laws give some limited competencies only after the elections take place and when the candidates are required to issue a report on their spendings. In addition, the SAO interprets its competences narrowly, especially in the cases of ads on social media. Consequently, a post-election accounting does not offer a recourse for an election where funds were used illicitly.

6. Sanctions for violation of rules in the field of political advertising

As there is no specific provision in Hungarian law on the financing of online political advertising, there are no explicit sanction mechanisms either. However, under the general rules governing the financial management of political parties and the campaign expenses of candidates and parties, both the State Treasury and the SAO are entitled to impose payment obligations if they found non-compliance. Imposing payment obligations equals an administrative fine. The possibility of judicial review of these sanctions is disputed, which opens the door to arbitrary practices by the two public bodies. The possibility of imposing fines only applies to whom the regulation applies. This excludes any sanction for third parties.

⁶¹ Kúria's Decision No. Kvk.III.39.363/2022/3. and the respective Hungarian Constitutional Court Order No. 3209/2022. (IV. 29.)



„Let us preserve Hungary’s peace and security!” – state funded billboard during the election campaign.

Photo: Nagy Attila Károly / RTL.hu

7. Case study

Facebook ads commissioned by third parties in the interest of a candidate

The rules on political advertising do not specifically reflect advertising outside the traditional media. Neither the campaign financing rules nor the powers of the control institutions are specified for online political advertising. Although the general nature of the law would allow it, the Treasury and the SAO assigned to monitor political financing interpret their powers narrowly and do not dedicate capacity to assess the costs of advertising in social media. As a result, online political advertising is not even as scrutinized as advertising in the traditional media captured by the government.

A good example of the shortcomings is the 2020 by-election campaign of Ms Zsófia KONCZ. According to the candidate’s submitted report, she used 1 076 245 HUF state campaign subsidies, and used an additional 3 504 365 HUF of her own funds

for ‘material expenses.’ As KONCZ did not declare Facebook accounts in her report on the use of state subsidies (although this would be possible), she could only finance her online campaign from her own resources. At the same time, KONCZ, who built a 20+ thousand fan page during the election campaign, has spent HUF 5.6 million on Facebook, based on ad library data, which exceeds her own spending declared. Thus, it is likely that KONCZ either did not fully report the resources used or did not report the costs of Facebook ads. This could be the case if they were paid by someone else, which raises the question of illicit campaign financing. The limit on campaign spending was exceeded by the candidate: one million in spending (which does not include spending through her FB account) and the HUF 5.6 million in Facebook data exhausts the amount allowed under the Hungarian law.

The contradiction in the candidate’s report was flagged in a submission to the SAO which found no violation. In its finding, the SAO came to the conclusion that social media

ads do not constitute political advertisement in terms of the Campaign Expenses Act.⁶²

Government's involvement in political advertising market

Public bodies provide space for the Hungarian Government's propaganda activities. The Hungarian Government installed an online newsletter service for the dissemination of information on vaccination during the COVID-19 crisis. Citizens subscribed to the service consenting a privacy statement with a vague wording regarding the purpose of the newsletter. Even though the newsletter was sent only on COVID-19 related matters in 2021, the contacts collected by the registration seemed to be a useful tool for campaigning too as in March 2022, the government started to send the newsletter highly unrelated to the epidemic but on current matters in everyday politics.

Even though the Kúria found a violation in the case of the newsletter that was accusing the opposition of supporting weapon transport to Ukraine, the Hungarian Constitutional Court overturned the judgment and gave a green light to the government's online campaign as it just 'fulfilled its duty to inform citizens by its communication activities.'⁶³

Arguments challenging the use of email addresses and the targeting for purposes out of the context of the pandemic were also rejected without examination as data protection concerns fall out of the scope of the election law. Later, such a complaint was also turned down by the National Authority for Data Protection and Freedom of Information as moot.⁶⁴

GONGOs' involvement in political advertising market

Not only public bodies but non-state entities close to the Hungarian Government fall out of the scope of scrutiny.

GONGOs released several billboard ads during the general election campaign in 2022. Billboards showed Péter Márky-Zay, the chief candidate of the united opposition as a foreman of Ferenc Gyurcsány leader

of the biggest opposition party Democratic Coalition, who became the bogeyman for. The smear campaign was clearly in line with and in the interest of the government's communication. This kind of hidden financing of the government's campaign was challenged before the NEC. But the petitioner showed in vain that the GONGOs are state-funded, therefore, they carry out pro-government political activities, the NEC rejected the case declaring lack of competence. Such problems might only be complained about to the SAO, the NEC pointed out.⁶⁵

8. Recommendations

Financing political parties in general

The realistic campaign costs of parties should be estimated, and based on it, the annual state funding for parties should be redetermined.

At least a part of the state funding should be adjusted to the value or number of donations paid by individuals to the party, while maximizing these amounts, to encourage parties to raise additional revenues and strengthen their social embeddedness.

To prevent business interests from buying into politics, the annual amount of donations from a single donor should be limited to a few million HUF.

The economic activities that parties and their organizations might carry out should be limited. Economic activities beyond those related to the parties' objectives (e.g. publications, dissemination of policies) should be made transparent.

⁶² See media coverage on the case and SAO's approach: 'Facebook ads don't matter,' published by rtl.hu on 10 August 2021.

⁶³ Hungarian Constitutional Court Decision No. 3151/2022. (IV. 12.)

⁶⁴ National Authority of Data Protection and Freedom of Information's statement on 2 April 2022.

⁶⁵ NEC Decision No. 203/2022.



GONGO called CÖF billboard ad featuring opposition PM candidate Péter Márki-Zay with the denied allegation that he would privatize Hungarian public hospitals.

Photo: Hevesi-Szabó Lujza / Telex

It should also be set by law that each party has access to loans under the same conditions.

Parties and their institutions (foundations or companies run by the party) should fall under the scope of freedom of information act.

Parties should prepare annual reports to be submitted to court in the same way as organizations governed by private law. Reports should be audited by an independent auditor for any income above HUF 50 million. A list of donors above a threshold should also be part of the report. Disclosure is also required of the register of non-monetary donations and the estimated value above a threshold. Reports must also cover the expenditure of the party's parliamentary group, the party foundation and the company owned by the party.

Leaders of parties with a budget exceeding HUF 50 million but having no parliamentary or municipal mandate should also be subject to the same asset declaration requirements as MPs.

Parties should keep all their income and expenditure in up-to-date transparent bank

accounts. Party organizations may keep sub-accounts under the same conditions. Details of all transactions, except personal data, should be made publicly accessible. Expenditure or incomes not appearing in these accounts should be considered illegal.

Financing political advertising in general

The concepts of political advertising should be principally redefined to cover all advertising activities that are likely to influence voter behavior or public policies, regardless of the form of the medium.

Political advertisement on social media should be subject to (national) laws governing political advertising.

Financing campaign activities

Rules on general elections' campaign financing should also be extended to municipal elections, EU parliamentary elections and national or local referendums, in particular when they take place in the same period.

Registered media outlets should provide free advertising opportunities of equal quality and

with a specified amount of coverage to political parties during the election campaign.

During the election campaign, candidates and parties should be eligible to place advertisements on public premises without limitation, while they should be responsible for their removal.

With the exceptions of dissemination carried out by the bodies responsible for the administration of elections, state and municipal activities disseminating information related to the campaign should be prohibited during the election campaign.

Law should make clear that public officials are not allowed to campaign on their own or contribute to the campaigns of others. If incumbent officials stand for election as a candidate, they should keep the public and candidate activities separate.

The amount spent by candidates and parties on advertising during the campaign should be limited to a few million HUFs.

During the campaign, the advertisements of parties and disseminations of public bodies, as well as the data of advertisements promoted by third parties (companies, CSOs) should be registered in a transparency notice and in a searchable, public online database run by the SAO. The disclosure should include inter alia the name of advertiser, the sponsor, the price of an ad, the amount paid for the ad, the publication period, a link to the ad, the contact point.

Candidates should keep a public campaign diary that includes events in which the candidate participates, making offline campaigning more transparent. The diary should include programs that are not funded by a party or candidate but are merely attended by the candidate. Failure to disclose information should result in sanctions.

Powers of the SAO should be clarified and its decisions should be subject to a judicial review. Stricter conflict of interest rules for the SAO's leadership should apply to exclude former representatives or leaders of a political party. SAO should keep a public register of the results of the procedures

carried out upon complaints. SAO should be required to report on the results of its audits right after the elections and to make recommendations to the regulatory framework.

Slovakia

Project “Making political finance and advertisement in the Visegrad region more transparent”, supported by Visegrad Fund, was in Slovakia realized by civil association Transparency International Slovakia since May 2022 until June 2023. So this report follows the [preliminary report](#)⁶⁶ from December 2022 and talks about practise of paid political advertisements and discussion about preparation of the European Parliament and Council regulation about transparency and aiming of political advertisement (hereinafter European regulation) during the whole campaign before the local and regional elections in autumn 2022. Partially also covers start up of the campaign before early elections to the National Council of the Slovak republic in September 2023.

The both above mentioned elections and campaigns before them were in some way extraordinary. In autumn 2022 in Slovakia were held historically the first elections to both levels of self-government (local and regional), which brought an unprecedented number of candidates and range of campaigns. The decision about the early parliamentary elections in September 2023 comes from the long-lasting political crisis, and their term was set up for three-quarters of a year before their taking place. Due to the great fragmentation of political spectre and long period of cabinets ruling without support in the Parliament was the intense phase of pre-election campaigns basically started already in February 2023 (so with a great ahead of time before the lawful beginning of campaign in June 2023). Compared to the past, we are the witnesses of longer and probably also record expensive one.

1. Definition of the political advertising actors

Election campaign rewards for all types of elections, including online advertising, have been determined in Slovakia since 2014 primarily by [Act No. 181/2014 Coll.](#)⁶⁷ about the election campaign. He stipulates that the election campaign begins on the day of the publication of the decision to announce the election in the Collection of Laws and ends 48 hours before the day of the election. An election campaign is considered to be any promotion of a party, movement, candidate or coalition, for which a payment is usually made, including activities to the detriment of these entities.

The law prohibits paid political campaigns to other entities (third parties). These rules were amended in 2019 in order to ensure the same competitive conditions for all political actors. The petitioners [argued](#)⁶⁸ against the negative practice of previous elections, in which several candidates through the campaigns of related third parties (often their relatives or acquaintances) legally broke the legal campaign limit and thus gained an advantage over their opponents.

⁶⁶ Making Political Finance and Advertisement in the Visegrad Region More Transparent, Basic report. Slovakia, Czechia, Poland, Hungary, November 2022.

⁶⁷ 181/2014 Coll. Act on election campaign.

⁶⁸ Explanatory report on amendments to the 181/2014 Coll. Act on election campaign, 2019.

We, Transparency, drew attention to this problem⁶⁹ during the 2018 municipal elections. The 250,000 limit was legally circumvented in this way by, for example, the then candidate and later mayor of Bratislava, Matúš Vallo. However, the legislator's solution, which completely excluded the possibility of third-party participation, cannot be considered completely happy either. A blanket ban on third parties limits constitutional rights to freedom of expression and dissemination of information, and in practice leads to violations of the law or pushing campaigns into the grey zone.

In our opinion, a more balanced solution would be to establish stricter limits on how much natural and legal entities can send directly and through third parties in favour of a candidate or party for a campaign, how many third parties can be in favour of one entity, as well as clearly declaring in whose favour they support is directed.

Supervision and sanctioning of possible related violations of the law can also be perceived as problematic in Slovak conditions. The State Commission for Elections and Control of the Financing of Political Parties, which is created as a supervisory body in Slovakia, received several suggestions from Transparency during the previous election campaigns, also aimed at banning the participation of third parties. With regard to the insufficient precision of the legislation, the State Commission in most cases chose an extensive interpretation of the law, according to which even obviously promotional activities in the online environment were not evaluated as political advertising by third parties, unless they were directly sponsored, as well as cases of “influencers”⁷⁰ with hundreds of thousands followers, performing activities for the benefit of political parties.

These cases vividly show that without more explicit legal regulation, the ban on the participation of third parties can be circumvented very easily, and the provisions of the law are often rather declaratory and unenforceable in practice. This leads not only to creative interpretation, but also to an

increase in mistrust of persons who submit suggestions in good faith.

Online advertising during the ongoing campaign before early parliamentary elections takes place in Slovakia's most used Facebook platform in parallel through party profiles as well as the accounts of their popular politicians. At the same time, the Ministry of the Interior warns that during the official election campaign for the elections to the National Council, its financing belongs exclusively to the candidate political party, which must cover its costs from its transparent account. “In the elections to the National Council of the Slovak Republic, a candidate cannot be the orderer of sponsored posts on the social network,” the department emphasizes.

Even during the ongoing campaign before the early parliamentary elections, we have already observed several violations of this rule from the candidates SaS Ábel Ravasz⁷¹ and Aliancia György Gyimesi⁷². Both of them sponsored their campaign statuses out of their own pockets after the official campaign was announced, and this political advertising has not appeared on the parties' transparent accounts as required by law. The case of Gyimesi was particularly problematic, as he sponsored up to ten posts during the official campaign period. We appealed to the State Election Commission and the district offices in both cases.

During the period from December 11, 2023 (beginning of the precampaign) to June 23, 2023, we recorded 6,718 sponsored political statuses by downloading Facebook ad library data. In this period, more than three months before the election, the non-parliamentary KDH (562 advertisements), KDH chairman Milan Majerský (454 advertisements), parliamentary SaS (329 advertise-

⁶⁹ Who pays the new mayor of Bratislava?, Blog, Transparency International Slovakia, 2018.

⁷⁰ Facebook, Transparency International Slovakia.

⁷¹ Facebook, Transparency International Slovakia.

⁷² Facebook, Transparency International Slovakia.

Informácie o tejto reklame

Gyimesi György
Sponzorované · Platí to Gyimesi György
Identifikátor: 1327175044565248

sk Poecáme aj v Galante?

A Gyimesi

SZÖVETSÉG - ALIANCIA
MÁCHAROK, NEMZETŐSÉG, RÉGIÓK, KISBÁRÁI, NÁRODPARTI, RÉGIÓK

BESZÉLGETŐ EST

GÁLANTA
2023. JÚNIUS 22., 18:00
ESTERHÁZY KASTÉLY

Údaje za reklamou

Neaktívne
20. 6. 2023 – 22. 6. 2023
Identifikátor: 1327175044565248

Odhadovaná veľkosť publika

Odhadovaná veľkosť publika poskytuje všeobecný odhad, koľko účtov Centra účtov spĺňa kritériá zacielenia a umiestnenia reklamy, ktoré inzerenti vybrali pri vytváraní reklám... [Zobraziť viac](#)

Odhadovaná veľkosť publika

Účty v Centre účtov: 10 tis. – 50 tis.

Minutá suma

Odhadovaná celková suma peňazí minútá na reklamu počas jej vymedzeného rozvrhu. [Viac informácií](#)

Minutá suma

100 € – 199 € (EUR)

Political ad on FB sponsored by György Gyimesi during the official campaign

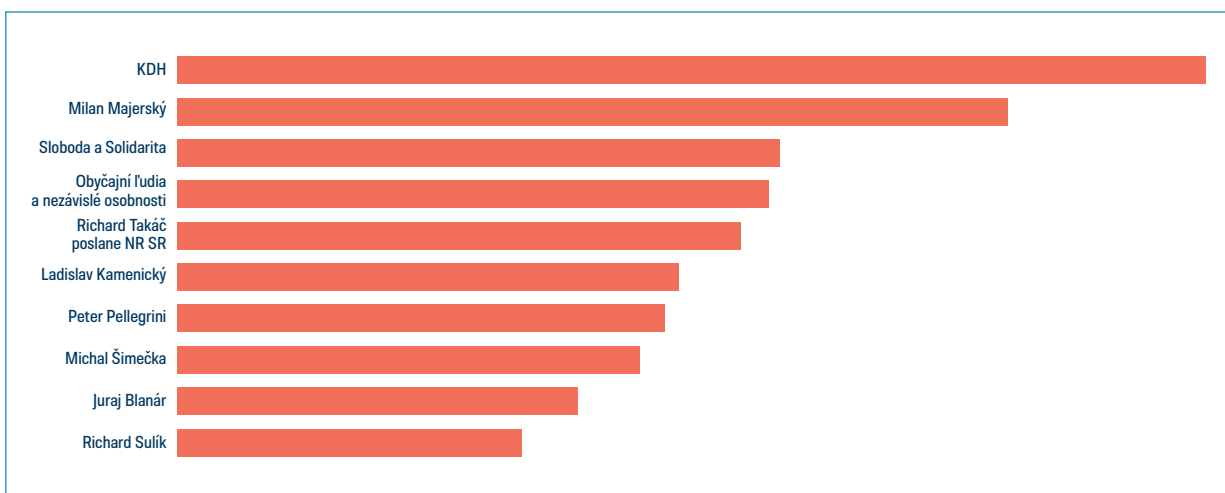
Source: Meta Ad Library Report

ments), OĽaNO (324 advertisements) and Smer MP Richard Takáč (309 advertisements) advertised their messages most often during this period. We update and visualise the data on a regular basis on the specific campaign monitoring portal volby.transparency.sk.

As far as expenses are concerned, they can only be estimated since Facebook publishes only ranges of amounts in the advertisement library, and in more precise reports for specific periods, only expenses over 100 euros.

During the period from March 11 until June 15, 2023, we noticed expenses for online political advertising exceeding 100 euros in the total amount of 256,000 euros. During this period, in advertising on Facebook, the parliamentary movement OĽANO and their most active candidates invested the most (56,000 euros), as well as the non-parliamentary KDH (over 52,000 euros).

From the point of view of actors of political advertising, the impact of private regulation carried out by social networks and the



The number of political ads of individual profiles on FB

Source: volby.transparency.sk

establishment of new internal standards of social network operators, which also had a noticeable impact on the situation in Slovakia, cannot be neglected. This is best illustrated by the personal profile of Smer's vice-chairman, Ľuboš Blaha, who in the past had the most hits among all politicians (roughly 175,000 people followed him).

However, in the first half of 2022, his account was blocked due to repeated violations of the operator's rules, which the member of parliament himself and the Smer party used to a large extent to spread the narrative about the fulfillment of the order of the then coalition parties to silence his person. This precedent also shows how important a role private operators of social networks can play with regard to the possible spread of political opinions and the implementation of an election campaign. In this regard, the lack of transparency in the actions of social network operators is often seen as a systemic deficiency, which easily leads to possible interpretive misinterpretations.

2. Requirements for the transparency of political advertising

Prior to the adoption of the European regulation, the transparency of political advertising is also primarily governed by the mentioned election campaign law. It limits political promotion in the public Radio and Television of Slovakia and other licensed television and radio stations to a period of 21 days to 48 hours before the elections. It must be separated from other programs or advertisements and must contain a clear indication at the beginning and at the end of the broadcast that it is a paid broadcast. Advertising costs can only be covered by political entities or candidates themselves, while the volume of such broadcasting is regulated by law.

In practice, violations of these rules occur rather rarely. In February 2020, just before the parliamentary elections, we at Transparency pointed out, for example, the repeated broadcast of unmarked PR interviews⁷³ with the leader of Smer rodina, Boris Kollár, and his two fellow party members on regional

Eastern Slovak and Central Slovak television. Both television stations subsequently removed the interviews from their websites and YouTube channels.

The same law also determines the requirements for the transparency of political promotion in print, on advertising media or in the online environment. All paid political advertising must contain data about the customer and the supplier in the scope of name, surname and city of permanent residence, if it is a natural person, and the name and seat and identification number of the organization, if it is a legal entity. The same applies to the presentation of election surveys and polls.

In contrast to television and radio broadcasting, there is a massive violation or circumvention of these rules, especially in the online environment. Cases of hidden promotion of politicians are not exceptional either, as we pointed out in February 2020 in the case of the magazine Slovenka⁷⁴ and their PR article with the then Prime Minister Peter Pellegrini.

During the campaign for the joint local and regional elections in 2022, we also specifically monitored the legal obligation to mark paid content on the most popular social network in Slovakia, Facebook. The data export of more than 3,700 unique (non-repeating) paid statuses of candidates in counties and larger cities confirmed to us the extremely widespread non-compliance with the legal obligation to mark the details of the customer and supplier with such content. Such a label was missing from almost every other political advertisement⁷⁵.

Some politicians argued⁷⁶ that such a designation was not necessary. For the Facebook user, the post on the home page is displayed with the label "sponsored" and

⁷³ Facebook, Transparency International Slovakia.

⁷⁴ Facebook, Transparency International Slovakia.

⁷⁵ Facebook, Transparency International Slovakia.

⁷⁶ Facebook, Transparency International Slovakia.

since it is a display of the post of one party (the customer) on the platform of the other party (the supplier), everything is clear to the user. However, this is not always the case, suppliers are, for example, various media agencies.

This range of information was unequivocally identified as insufficient by both Transparency and the Ministry of the Interior. “Political advertising, published paid advertising, published election posters and all other methods of conducting an election campaign, including sponsored posts on social networks, must contain data about the customer and supplier in the scope of first name, last name and city of permanent residence, if it is a natural person, and name, headquarters and identification number of the organization, if it is a legal entity,” the ministry pointed out during the campaign. Some candidates and parties modified their negative practice after our criticism.

Even lower standards of transparency can be observed in the period before the start of the official campaign, as the data and examples of the current period before the early parliamentary elections scheduled for September 2023 show. Since the official announcement of their date by the Speaker of the Parliament came into practice quite late on Jun 9, 2023, sponsored political advertisements published until then had not been subject to the legal obligation to indicate the customers and suppliers.

Of the 617 unique (non-repeating) paid statuses on Meta’s platforms (Facebook/Instagram) published by the 5 most frequently advertising parties in the period from January 1. until May 26, 2023 (OĽaNO, KDH, SaS, PS, Sme rodina) only less than 57 (9.24%) contained the name of the customer. Of these, the two parties with the largest number of advertisements, OĽaNO (184) and KDH (183), did not have a single status marked in this way.

After the beginning of the official campaign (the monitored period between Jun 9 till Jun 23, 2023), the situation and transparency have improved significantly. However, the la-

bel was still missing or inappropriate in more than a thousand monitored political ads.

Such a practice cannot be considered satisfactory, and it must also be regulated legislatively. This should happen precisely through a European regulation, which is supposed to introduce basic requirements for the transparency of political campaigns throughout the year. Such a step should be welcomed, even the current Slovak example clearly shows that the campaign is fully underway much earlier than the legal 110 days before the announcement of their date.

3. Legislation regarding the targeting of political advertising

The current Slovak legislation does not regulate the targeting of online political advertising. Social networks also provide minimal transparency, while political actors use these techniques in Slovak conditions, especially the most popular Facebook platform.

To a less extent, the parties and the candidates deploy paid content using the Google Ads service. According to its ad library, only five actors in parliamentary elections spent more than 2000 euros since the beginning of the precampaign on December 11, 2022, by June 23, 2023. Only the parties Progresívne Slovensko (52,000 euros spent for ads) and Sme rodina (38,000 euros) appealed to voters more intensively in this way.

The key Facebook platform does not provide targeting information in its ad library, it only contains data on the estimated size of the audience, the range of the minute amount and demographic and regional indicators of the audience. To what extent targeting is involved in the given layout is apparently not.

At Transparency, we analysed the available data in the fall of 2022 based on the data of more than 3,700 unique (non-repeating) paid statuses of candidates in counties and larger cities during the campaign before the combined local and regional elections. On average, the most addressed group were men aged 25 to 34 (14.6%), followed

Prehľad

Zobrazené v oblasti: Slovensko, vlastné 11. 12. 2022 – 23. 6. 2023

Výdavky na reklamu

134 600 € (EUR)

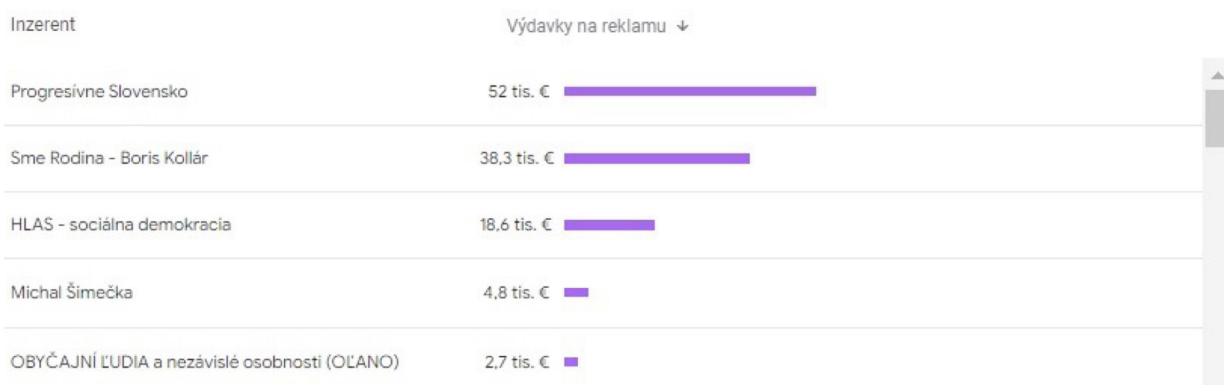
Reklamy

1 074

Údaje sa priebežne aktualizujú, no môže sa vyskytovať niekoľkohodinové oneskorenie

Najaktívnejší inzerenti

Zobrazené v oblasti: Slovensko, vlastné 11. 12. 2022 – 23. 6. 2023



Political advertising on Google, Source: Ads Transparency Center – Google

by men aged 35 to 44 (13.6%) and women aged 35 to 44 (10.44%). We did not examine the regional distribution in this type of election, as the candidates naturally addressed voters in their constituency cities.

Very limited summary information about advertising targeting is available to the public even during the currently ongoing campaign before the early parliamentary elections. The ongoing analysis of the mentioned regional statistics, which we publish on the portal volby.transparency.sk, for example, clearly indicates a different approach of the parties in [targeting different regions](#)⁷⁷.

The paid statuses of the parties Progresívne Slovensko, SaS or Demokrati are increasingly shown to residents of the Bratislava Region, while Hlas, Smer, Republika, SNS, OĽaNO or ĽSNS appeal to the residents of the capital and the surrounding area significantly less. The Bratislava Region represents 12.4 percent of Slovakia's population, but they make up 21.7% of the audience for

PS ads. On the contrary, at Hlas they make up only 5.4% of their intervention. Among the parties that use FB ads more significantly, the largest regional deviations can be observed so far in the case of the Hungarian forum, which logically targets southern Slovakia in particular. Users from the Žilina or Trenčín Regions represent less than 1.5% of their audience.

The low transparency of data targeting reinforces the risk of locking users into opinion bubbles, which can encourage polarization and fragmentation of society. This risk is further increased by the growing popularity of parties and politicians with extremist expressions, which is largely based on successful organic as well as paid and targeted campaigns on social networks.

⁷⁷ Facebook, Transparency International Slovakia.

For the time being, more detailed information about aiming can be tracked at least individually. If the sponsored status is displayed to the user, he can use the “Why did you see this ad” function. In most cases, the listed metrics are general, such as interaction with the given page, age over 18, or location of the user in Slovakia.

Before the 2020 parliamentary elections, however, based on the monitoring of this data, we were able to point out the ethical blunder⁷⁸ of the Progresívne Slovensko party, which targeted its party advertising at fans of the profile page of the President Zuzana Čaputová. The advertisement can only be set in this way if its author has administrative rights to the page in question. Progresívne Slovensko did so without the knowledge of the president, who previously ran for PS, but after her election, the party no longer managed the profile. After our notification, the party asked the supplier to cancel the targeting according to the fans of the president’s page.

Implementation of EU regulation

In Slovakia, an inter-departmental commenting procedure on the draft Regulation has been held, in order to issue a proper preliminary opinion. This process has ended in an abbreviated procedure on 24 June 2022. This process did not generate much debate as it was accompanied by only 8 comments, which focused more on technicalities and terminology. There was also a limited discussion on the matter of harmonisation of rules on online election advertising in the media. In this matter, it is worth mentioning the opinion of the Media Services Council, which calls for a consistent and simple system of sanctions, to ensure enforceability of the forthcoming Regulation.

4. Reporting of political advertising

According to the election campaign law, political parties must submit information on election campaign expenses to the Ministry of the Interior no later than the 30th day after the election. The reports are then made available⁷⁹ to the public on the ministry’s website.

The report structure is divided into nine categories:

- a) an overview of the costs of payment of election polls and polls,
- b) an overview of the costs of paying for paid advertising or advertising,
- c) an overview of the costs of broadcasting political propaganda,
- d) an overview of the costs of paying for election posters,
- e) an overview of travel expenses of members of a political party during an election campaign and an overview of travel allowances of political party employees during an election campaign,
- f) an overview of all other costs of a political party for the promotion of its activity, goals and program,
- g) an overview of the costs of the business related to the election campaign,
- h) an overview of non-monetary donations and other gratuitous services and their value,
- i) an overview of costs in the scope according to letter a) to h), which the political party incurred in the period beginning 180 days before the day of the announcement of the election, and the number of the payment account kept in the bank from which the costs were paid; if it has not incurred any costs, it shall provide a sworn statement to that effect.

This obligation also applies to candidates for the presidency and candidates for mayors of cities with more than 5,000 inhabitants in a moderately districted form. Based on observations of practice, the mentioned division cannot be considered optimal, since it is not possible to extract from it, for example, data related specifically to an outdoor campaign or online advertising. Both

⁷⁸ Facebook, Transparency International Slovakia.

⁷⁹ Final reports of political parties’ campaign financing, Ministry of Interior of the Slovak republic.

items are included in broader categories, making public scrutiny difficult.

Spending by parties and candidates on the campaign in the online space is at least partially possible under the Slovak conditions through mandatory transparent accounts. However, this obligation applies only to the period of the official campaign, a significant part of the expenses (in the last municipal elections in 2022 it was estimated to be up to a quarter⁸⁰) is also hidden in the accounts in larger, unspecified payments to media agencies.

Despite these shortcomings, at Transparency we try to categorize⁸¹ the expenses of the candidates' parties, including the costs of online promotion. In the combined local and regional elections of 2022, these constituted, according to our estimate, approximately 14 percent of the total expenses at the level of 11.5 million euros. Such a distribution corresponds to the parliamentary elections of 2020, where, according to our findings, 15 percent of the total expenses went online (3.6 and 9 million out of a total of 23.6 million).

Therefore, the recommended measure is the introduction of clearer final reports, it would be appropriate to add separately the expenses for the online campaign. Even today, the complete lack of reporting of the income structure in the campaign can be considered a deficiency.

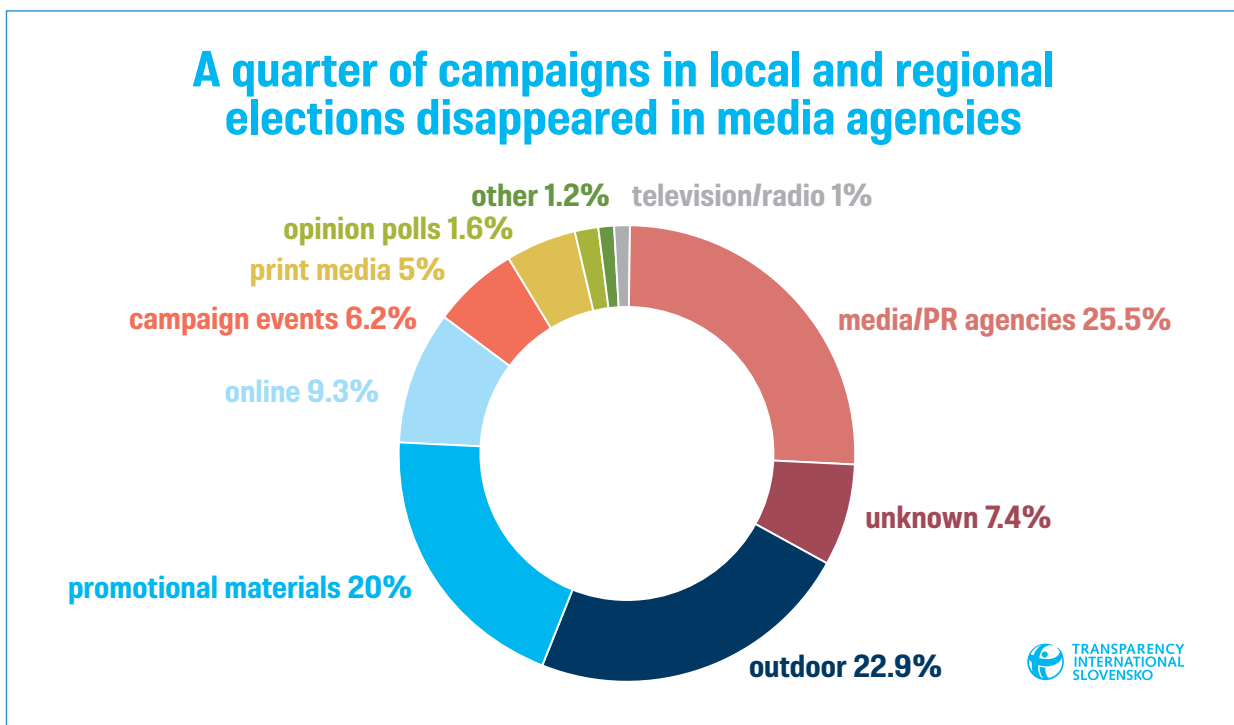
5. Control Mechanisms of political advertising

According to the election campaign law, the controlling bodies are primarily the State Commission for Elections and Control of the Financing of Political Parties (hereinafter the State Commission), the Ministries of the Interior, Culture and District Offices.

Among the main tasks of the State Commission, which is established as an independent body by Act no. 180/2014 on the conditions for the exercise of the right to

⁸⁰ Facebook, Transparency International Slovakia.

⁸¹ Facebook, Transparency International Slovakia.



Post-election overview of expenditure structure on transparent accounts of 543 candidates and parties in local and regional elections

Source: transparent accounts, TIS

vote, primarily includes the control of the financing of political parties and political movements, the management and ascertainment of election results. The commission has ten members nominated by parliamentary parties in proportion to the number of parliamentary mandates obtained, while the number of coalition and opposition candidates must be equal. One member of the State Commission is delegated by the President of the Constitutional Court, the President of the Supreme Court, the Prosecutor General and the President of the Supreme Audit Office.

The control of the election campaign is carried out by the Ministry of the Interior and district offices. The obligations to keep all income and expenses of the campaign in a transparent account, the adherence of financial limits, the ban of third-party campaigns, as well as the obligation to keep all contributions in the final report, belong to the Ministry of the Interior. In the same way, to indicate the data of the customers of suppliers of paid political advertising, with the exception of local regional elections, where this authority is transferred to the relevant district office.

At Transparency International, we have long criticized the setting of control mechanisms as ineffective. In recent years, we are not aware of any more fundamental proactive control findings of sanctions by the authorized institutions, formally these authorities coped even with suggestions submitted by our organization or other entities. During the previous election campaigns, our initiatives mainly related to possible violations in the area of banning the participation of third parties, insufficient marking of advertisements and also not including expenses on a special transparent account, established by a political party, or candidates in the sense of the law.

The formalistic approach of the Slovak authorities can also be seen in contrast to the practice of the Czech Office for the Supervision of the Management of Political Parties, which in March 2023 proceeded with stricter sanctions⁸² against several

candidates for the position of president in connection with the violation of the rules for keeping transparent accounts.

Thus, the key recommendations of Transparency include the creation of a truly independent body for oversight of election campaigns and political financing. An alternative is to shift part of the responsibility for monitoring compliance with the campaign rules to the State Commission, but with the provision of changing its creation so that the majority is not made up of members nominated by political parties.

The current way of forming the State Commission made it possible for Jaroslav Rybanský, a former communist state security agent or cousin of the party chairman Robert Fico, to sit as nominees⁸³ of the Smer political party in 2020. The guarantee of a proactive and impartial exercise of control should be independent personalities with moral and professional credit who will enforce the law, not the interests of political parties.

6. Sanctions for violation of rules in the field of political advertising

Sanctions for administrative offenses and misdemeanors in connection with the election campaign are also determined by the election campaign law. Based on several suggestions from citizens, we can conclude that the law is relatively unclear in this respect. In many respects, sanctions are completely absent. For example, there is the obligation⁸⁴ to notify the Ministry of the Interior of the address of the website of the transparent account. Since the service of transparent accounts is provided by several commercial banks, in some cases rather unclearly, citizens often have to manually search for accounts on bank websites.

⁸² Facebook, Transparency International Slovakia.

⁸³ Facebook, Transparency International Slovakia.

⁸⁴ Facebook, Transparency International Slovakia.

In terms of paid political advertising, political parties can receive the highest fine for running it during the 48-hour moratorium before elections. In this case, the State Commission imposes sanctions from 30,000 euros to 300,000 euros. In the case of independent candidates for the presidency, as well as the mayor, the fines go up to 50,000, or 10 thousand euros.

For failure to mark a political advertisement with the supplier's and the customer's data, including paid online statuses, the parties face a fine of 10,000 to 100,000 euros imposed by the Ministry of the Interior. Here, too, reduced rates apply for independent candidates for president or mayor's office up to 30,000, or 10 thousand euros. The same fines are threatened for missing the final campaign financing report, which candidate parties are required to publish on their websites and submit to the Ministry of the Interior within 30 days after the election.

The Ministry of the Interior also imposes a fine of 3,000 to 10,000 euros for legal entities that violate the ban on running a paid campaign from the position of third parties. In the case of natural persons, the law considers such actions to be a misdemeanor, which can be fined up to 1,000 euros by the district authorities.

7. Risks factors and recommendations

During the monitoring of the campaign before the combined local and regional elections in the fall of 2022, Transparency drew attention to several cases⁴ of problematic campaign management, including the online environment.

For example, there was a fight between the opposition of the chairman of the Košice self-governing region. In the end, Rastislav Trnka (KDH, Alliance, Starostovia a nezávislí kandidáti, Šanca, DS) managed to defend the post, who invested the most in paid messages on Facebook during last year's elections. It was estimated to be over 30,000 euros, while its 333 sponsored statuses and their variants were displayed⁵ on

the screen of some users approximately 16 million times.

Trnka won for the first time in 2017 thanks to his anti-corruption rhetoric. He also proved this with an above-standard completed final report, where he detailed his campaign on up to 44 lines instead of the mandatory seven.

During last year's defense, he did not behave so transparently. At the beginning of the summer of 2022, the region was plastered with billboards, published election videos and invested money in online advertising, but its transparent account was empty⁶. Subsequently, although it began to be fulfilled, even the important expenses remained hidden by agencies, which made it impossible for the public to control the fourth largest campaign. Trnka's current final report is limited to the legal minimum⁷.

Doubts were also raised by the campaign of Trnka's unsuccessful challenger Erik Ňarjaš from OĽaNO, who rounded⁸ all the data in the final report to tens of thousands. He estimated the official campaign at 60,000 euros (plus 20,000 euros for the pre-campaign). However, his transparent account only showed expenses for less than 32,000 euros, and it is not clear how the remaining half of his campaign was financed.

Both mentioned candidates also belonged to a large group of politicians who, especially in the first phase of the campaign, did not properly indicate even all statuses with information about the customer and the supplier.

Similar cases also appeared in other municipalities or in previous elections. The ongoing political competition before the September early elections cannot be evaluated from this point of view yet, since the official campaign started just shortly before the final report of the project was prepared.

Nevertheless, there have already been violations of the law in the online environment during the current campaign, as demonstrated by the aforementioned example of SaS candidate Ábel Ravasz and Aliancia candidate György Gyimesi, who did not pay for their political advertising through the parties' transparent accounts.

The extent of recurring deficiencies is also significantly influenced by insufficient legislation and control. Among the areas that should be adjusted from the perspective of the legislation, above all, are issues of keeping transparent accounts, more consistent marking of data on paid online advertising and its targeting, clearer final reports and more effective control mechanisms.

- The transparency of the election campaign can be significantly increased by introducing rules for keeping transparent accounts, especially by restricting large bulk payments to agencies. The method of describing income and expenses should be more precisely established and binding for all candidates.
- A more precise definition of the conditions of political advertising in the online space is also appropriate, as well as the obligation to inform about the purchasers and suppliers of such advertising and targeting. They should also apply outside the official election campaign period. They should deal with the possibility of paid political advertising by third parties, which is inappropriately prohibited across the board even today.
- The current electoral legislation allows conducting a paid campaign after the official announcement of the parliamentary election term only for political parties. This amendment has addressed certain problematic practices such as circumvention of the financial limits. However, it has also placed all civic initiatives, whether in favour of or in opposition to some political actors, in a grey zone. This situation also creates room for misunderstanding when some candidates violate the rules by financing

online political advertisements outside parties' transparent accounts.

- It would be beneficial to structure the final reports of campaign financing in a more detailed and logical manner, including the addition of online campaign expenses. The final reports should also be expanded to remove the completely missing reporting of the revenue structure in the campaign.
- We also consider it essential to ensure more active supervision of compliance with election campaign rules. Creating an independent body to oversee elections and political funding, or at least ensuring that the majority of the state commission is not made up of members nominated by political parties, could help. Space should be given to independent personalities with moral and professional credit who will enforce the law, not the interests of political parties.

Project partners position on the Proposed EU Regulation on the Transparency and Targeting of Political Advertising

May 2023

a.i.1. Developments to welcome

The CSOs welcome that the Commission has shown willingness to regulate political advertisement and targeting and drafted a proposal in November 2021 with the purpose to establish a single market for political advertising in the Union.

Broad Term of Political Actors

We also consider it a positive development that the Proposal defines the concept of ‘political actor’ broadly, so that elected and non-elected government officials can fall within the scope of the Regulation, as well as those who act on their behalf or in their interest. This could tackle those situations where incumbents use their official resources to campaign in an undeclared and unlimited way. Similarly, government affiliated third parties may also fall within the scope of transparency requirements.

More Transparent Spendings

Not only very large platforms like Facebook but every provider of political advertising services will be obliged to report regularly on the amounts or the value of other benefits received to the national authorities in charge. This will allow for greater scrutiny as costs reported by political actors under national political finance rules and reports by ads providers can be checked against each other.

Speedy Rules in Election Period

We believe that the Proposal is correct to apply a two-fold approach for periods related to elections and referendums and for ads outside these periods. In the former case, the platforms will have to handle notifications and respond to requests for data from national authorities within shorter deadlines. Speedy remedies proposed by the European Parliament might recourse problems more efficiently. A new remedy might be of particular importance in member states where no speedy remedy is provided by current legislation for misuses of campaign spendings.

Legal Representatives to Be Crucial for Enforcement

In line with the DSA, the Proposal also requires service providers who are not established in the EU to ensure that a legal representative is to be designated in the EU. The rule is intended not only to ensure compliance with the Regulation but also to resolve jurisdictional problems stemming from huge platforms’ reluctance to comply with national jurisdictions. Although the mandatory establishment of legal representation may make it easier to sue platforms, not only on issues related to the financing of advertising, but also on other matters. However, it is still up to the national laws governing litigation to enable citizens to sue a company only represented in another member state in a domestic court.

European Repository for Online Political Advertisements

The Parliament's amendment to oblige the Commission to set up and operate a publicly accessible repository at European level is welcome. In a unified online repository to which the very large online platforms' repositories are connected, the operation of online service providers that are not very large online platforms could also become accessible and more transparent. A connected repository might increase transparency, since fragmented and not fully standardized collections of data would make it difficult to compare and research information on ads.

Lazy National Authorities May Face Pressure From Peer Authorities

The Proposal provides for close cooperation between national authorities and annual reporting to the Commission. Within two years after elections to the EP, the Commission is also called upon to report on the enforcement to the EP and the Council. Cooperation and reporting may put peer pressure on member states where political finance is not sufficiently scrutinized. However, the setting up of an agency at European level to coordinate and supervise the work of national authorities in order to ensure uniform enforcement should be considered.

a.i.2. Disappointing elements

Public Access is Still Restricted

Although it is a big step forward to have a transparency notice with a broad range of information on advertisements, this is all that will be available to the public by law. Only so-called interested entities (vetted researchers, some CSOs, journalists) will be able to request further data on the advertisements. In addition, the platforms might respond to information requests relatively slowly, within a month, and in some cases only in exchange for reimbursement. There is no reason that could justify why only privileged groups of professions and not

any citizen would be entitled to know how financing and targeting of political advertisement is made. When considering the protection of business interests in the field of politics, platforms' commercial interest must be balanced against the interest of transparency in political competition. Public interest (fair elections, transparent competition) should eventually override particular business interests.

Current Ad Library Practice Sanctified

Unfortunately, the Parliament did not change the provision in the Proposal that protects platforms' commercial interest when responding to interested entities' information requests. Platforms may aggregate the relevant amounts they invoiced for the service or place them in a range, to the extent necessary to protect its commercial legitimate interests. This rule is essentially the same as Facebook's and Google's current self-regulatory practices, so it does not mean a step forward. The lack of detailed data may prevent interested parties (and the public) from getting a complete and accurate overview of the political advertising market and thus of the dynamics of political competition. In its current form, ads expenditures, which in many cases come directly or indirectly from the state (public funds!) to the platforms, are impossible to track systematically.

a.i.3. Questions to be clarified

Bodies Under Public Law As Political Actors

Although the Proposal defines a broad concept of a political actor, listing for example members of government at EU, national or local level, it is still not clear whether bodies under public law such as national governments fall within the scope of the Regulation. It would be important to clarify the personal scope of the Regulation because often the advertisements are not commissioned by individual politicians but by public bodies.

Unpaid Content

The Proposal requires not only paid content, but all content of a political nature in general, to be declared whether or not it is provided as part of a service. However, the Regulation does not specify exactly what platforms can do to ensure that all content is properly declared. So there is still considerable leeway for platforms to self-regulate themselves, which could even reinforce practices that simply ban individuals' political expressions or organic content.

However, it is welcome that the concept of political advertising is broader than in common terms, as this improves the transparency of social media content generation and publication in general. In addition, this broad concept of political advertisement makes banning political ads by platforms risky and even costly for them: if all content was banned by platforms that fall under political advertisement, platforms would lose a significant share of its own users. A narrow definition of political ads would make it easy for platforms to give up publishing political advertisements to avoid compliance with the regulation.

A common denominator for free speech advocates and transparency campaigners could be found if the political advertising was not only defined purely in terms of the type of content or advertiser but also linked to other considerations such as certain reach in users. Also greater transparency of amplification techniques and algorithms used by platforms could help counter manipulation and disinformation.

a.i.4. Will the regulation threaten free speech?

Even though the Proposal provides in principle that political views and opinions and editorial content would not be considered political advertising, several CSOs have warned that the Regulation's broad material scope covering unpaid content might harm democracy and undermine free speech. Critics say the scope of the Regulation

cannot be justified by the public interest to tackle abuses of political advertising (disinformation campaigns, paid trolls, GONGOs). They highlighted that Regulation may restrict individuals' right to freedom of expression in violation of the proportionality principle set by the European Court of Human Rights. In addition, the new law might be used against CSOs in member states where rule of law and independence of state bodies are not safeguarded.

a.i.5. Targeting

Besides providing rules on the transparency of political advertising, another limb of the Regulation is the targeting of political advertising.

Restriction of targeting prevents advertisers from creating bubbles for different groups of citizens, which can fuel polarization and fragmentation of societies. On the other hand, lack of targeting opportunities favors advertisers with greater resources (e.g. governments, oligarchs) who can afford to advertise with less effectiveness.

The proposal adopted by the EP is a fair compromise since it limits the types of data that might be used for targeting – by contrast to an absolute ban on targeting. For example, 60 days prior to elections or a referendum, targeting can only be based on language, constituency and being a first voter.

It is welcome that transparency notices will contain information on targeting. Consequently, information on targeting strategies as part of the transparency notice will be included in the European-level repository. This might give an overview of the different messages that political actors want to address to different groups of the society. At the same time more information should be made available on the algorithms that decide about the distribution of content and ads to users.

About the project

The project Making political finance and advertisement in the Visegrad region more transparent primarily addresses the online political advertising shortcomings and malpractices in V4 countries and recommendations for reducing their negative impact on fair political competition. Project partners have monitored the good and bad practices in V4 countries and the implementation of the related EU legislation. The monitoring results have been shared with the decision-makers, media, activists, and the broader public and they are available on project partners websites and media channels.

•
• Visegrad Fund
•
•