

REGULATION OF POLITICAL ADVERTISING IN THE EU

*A study of political advertising laws in Bulgaria, Hungary,
Italy, the Netherlands and Slovenia*

September 2022



Table of contents

Executive Summary	3
Introduction to political advertising and online targeted advertisements	4
A harmonized political advertising regulation across the EU	5
Recommendations to the EU	6
Country reports	7
Overview of key concerns	7
Outdated political advertising legislation	7
Weak oversight and enforcement authorities	8
Actors advertising on behalf of political actors	8
Bulgaria	9
Election rules and legislation on political advertising	9
Relevant authorities	9
The misuse of personal data for political advertising	10
Social media usage and trust in platforms	10
Political advertising on Facebook during the April 2021 election campaign	11
Recommendations to the state	11
Hungary	12
Election rules and legislation on political advertising	12
Relevant authorities and courts	13
Social media usage	13
Key concerns	13
Recommendations to the state	15
Italy	16
Election rules and legislation on political advertising	16
Authorities	17
Sanctions	17
Online political advertising	17
Recommendations to the state	18
Netherlands	18
Election rules and legislation on political advertising	18
Authorities	19
Discourse, social context	20
Recommendations to the state	20
Slovenia	21
Election rules and legislation on political advertising	21
Authorities	22
Unlawful and questionable political advertising practices	23
Decisions by courts	25
Social media usage	26
Recommendations to the state	27

Executive Summary

Political advertisements have a major impact on the freedom and fairness of elections, freedom of expression, access to information, personal data protection and privacy, the formation of opinions, making political decisions, and the rule of law. These fundamental rights and principles are recognized in Article 2 TEU and lie at the heart of any democracy.

Laws governing political advertisements vary significantly across the EU. In some Member States, paid political advertising is prohibited on broadcast services, campaign spending is strictly limited, and election silence and opinion poll periods are several days long. In some, political advertisers only face minimal transparency requirements and sanctions for non-compliance with election rules are too low to be an effective deterrent. The rules also differ depending on which medium is used: print, radio, television or online media – each has its own specific set of rules. The only thing that all countries have in common is that political advertising rules have not been properly updated to tackle online ecosystems and encompass online advertisements.

After a brief introduction to political advertising, this report provides a quick overview of the Commission's proposal, followed by recommendations that Liberties compiled based on our policy work, a study on the Hungarian election in April 2022,¹ previous research and on some of the findings from this report.

The report then takes a deep dive into the different electoral and media laws that regulate political advertisements, as well as the competent authorities, in five selected EU countries: Bulgaria, Hungary, Italy, the Netherlands and Slovenia. The findings from this report bring to light some of the key challenges that the selected countries face, which we summarized and regrouped in the section overview of key concerns. Each of the five country reports concludes with recommendations to the respective governments.

The country reports originate from the contribution of the Bulgarian Helsinki Committee,² the Hungarian Civil Liberties Union,³ the Italian Coalition for Civil Liberties and Rights,⁴ the Netherlands Committee of Jurists for Human Rights⁵ and the Peace Institute in Slovenia.⁶

1 <https://www.liberties.eu/en/stories/political-advertising-hungary/44459>

2 <https://www.bghelsinki.org/en/>

3 <https://hclu.hu/en>

4 <https://cild.eu/en/>

5 <https://njcm.nl/>

6 <https://www.mirovni-institut.si/en/>

Introduction to political advertising and online targeted advertisements

Political advertising is a very effective way to reach out to different segments of potential voters. Political actors try to get their constituents' attention and convince them that they are on the same side; that their political program or policy proposal corresponds to the individual's own personal interests. This is a legitimate aim, protected by the right to freedom of expression and freedom of information, and should even be encouraged, as it can stimulate political participation and the formation of political opinions.

Nonetheless, to ensure free and fair elections, political advertisements must be regulated. With technological progress, advertising has changed significantly, which the Regulation must take into account. Election campaigns are increasingly moving online, more specifically to social media platforms. According to the European Parliament Research Service, the estimated size of the online political advertising market in 2019 was around 100 million EUR.⁷

The way political advertising is being used today is far more sophisticated and obscure than it used to be. With the help of data firms

and communications agencies, political actors can target people based on their personal data collected and made available by online platforms.

With microtargeting techniques, advertisers can reach individuals based on algorithm-derived data about their possible interests (e.g. the platform's algorithm may deduce that you are pregnant because you typed baby diapers in your search browser). This way, political actors can segment people into homogeneous groups and send them personalized appeals to support a particular candidate or policy proposal.

This can have several harmful consequences. First, political actors may feed citizens only with information and arguments that reinforce their own existing beliefs. Instead of enriching political debate, it creates echo chambers and increases polarization. Second, political actors may engage in duplicitous campaigning, promising different things to different people. Third, political actors may decide to exclude certain groups of people from receiving their advertisements, which is discriminatory and violates their right to information. Multiple stakeholders, including Liberties, digital rights groups and the European Data Protection Supervisor (EDPS),⁸ have advocated for a full ban on these techniques, whether for political or commercial purposes.

7 [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/730305/EPRS_BRI\(2022\)730305_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/730305/EPRS_BRI(2022)730305_EN.pdf)

8 https://edps.europa.eu/system/files/2022-01/EDPS-2022-03-Online%20targeting%20for%20political%20advertising_EN.pdf

A harmonized political advertising regulation across the EU

The European Commission wants to regulate political advertising uniformly throughout the European Union. In November 2021, it presented a proposal to regulate targeted political advertising.⁹ While electoral law falls under the competency of Member States, the absence of harmonized rules on political advertising obstructs the functioning of the EU's internal market, which, in accordance with Article 114 of the TFEU, gives the EU Commission the power to enact measures. Indeed, given the cross-border aspect of political advertising (politicians can reach out to their constituency living abroad and the European elections are, by nature, cross-border), the EU has an important role to play. Differences in national requirements on the transparency of political advertising can lead to poor monitoring and enforcement possibilities for local authorities or the violation of electoral rules such as campaign spendings or election silence periods. This has a negative impact on elections and other democratic processes and can erode citizens' trust in democratic institutions.

Heterogenous rules also makes compliance difficult for online platforms that provide cross-border services. In order to avoid fines

for non-compliance, they may prefer to limit the opportunity to run political campaigns, including civil or human rights-related campaigns, thereby limiting public discourses and access to information. In 2019, in the context of the European parliamentary elections, Facebook decided that political advertisers could only disseminate ads in their country of residence. For European Union political parties (EUPPs) that want to campaign on Facebook, this meant that they would have to be established in each Member State with a different social media account and campaign there locally, significantly increasing the cost of campaigning. This ultimately makes Big Tech companies the decision-makers and quasi-regulators of political advertisements.

The Commission's proposed regulation provides a definition for political advertising and who is a political actor – a difficult exercise, as it is hard to establish the line between what and who is political and what and who is not. One of the main goals of the Commission's proposal is to improve transparency. The Digital Services Act (DSA), adopted in July 2022, already requires platforms to disclose the advertisers' identity. The Commission's proposal further requires information about the political affiliation and the funding of the ads. With increased transparency requirements, the Commission also intends to combat disinformation and foreign interference in national and European elections.

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0731>

The proposal's chapter that centers on the targeting and amplification of online political advertising contains a prohibition on such techniques when they involve the processing of sensitive data, such as sexual orientation, health data or religious beliefs. However, this prohibition is lifted when data subjects consent to having their data processed. In its current form it would undermine the ban, as platforms and websites tend to use dark patterns to trick data subjects into sharing their data.¹⁰

On supervision and enforcement, the Commission has proposed a horizontal approach, requiring the cooperation of different authorities at Member State level. As this report shows, each country has their own governance culture, with a number of authorities, councils, committees and offices responsible for supervising and enforcing legislations in different areas connected to political advertising.

Recommendations to the EU

Liberties has welcomed the Commission's initiative to propose harmonized rules for political advertising in the EU. Many of the Commission's suggestions will help make political campaigns more transparent and thus protect the integrity of elections. However,

we also identified a number of shortcomings and published recommendations¹¹ on how to address them. The findings from this report have provided us with further insights, in particular on supervision and enforcement.

In all of the countries analyzed in this report, competencies over the supervision and enforcement of political advertising rules are shared between a number of institutions, including data protection authorities, media authorities, electoral oversight bodies, advertising councils and auditing offices. In many cases, these authorities lack human and financial resources, as well as the necessary expertise in this rapidly evolving environment, and disrupted enforcement hinders the investigation of cross-border cases. In a few cases, authorities have close ties to political parties, which may result in favorable treatment or biased decisions, for example in which cases to investigate and which ones to drop.

The new law on the transparency and targeting of political advertising can only be effective if the competent authorities work in a healthy environment, with full independence, free from political and financial pressure. They should have enough funds and personnel to conduct their work properly and in a timely manner. The latter is particularly important when it comes to political advertising, as political advertisers violating rules should face sanctions as quickly as possible in order to

10 https://edpb.europa.eu/our-work-tools/documents/public-consultations/2022/guidelines-32022-dark-patterns-social-media_en

11 <https://www.liberties.eu/en/stories/political-ads-paper-june/44324>

minimize the damage. Sanctions for infringements should be proportional to the campaign budget of the political party.

The findings of this report reaffirm that competency over supervision and enforcement is best shared between several authorities. For example, the data protection authorities should supervise the use of personal data in political campaigns, auditing offices should have oversight over campaign's spending and media authorities should supervise media content. Here we reiterate the need for a lead authority at EU level that helps to coordinate efforts and provide meaningful enforcement.

Country reports

The following five country reports contain detailed information on various areas that are related to political advertising. They include an introduction to national laws, an overview of the competent national authorities, insights into how political actors have been using or misusing personal data for their election campaigns and whether they have been reprimanded, and finally an overview of the key concerns followed by recommendations to the respective states.

However, before diving into the country reports, the following chapter summarizes the

key concerns shared by the organizations that contributed to this report.

Overview of key concerns

Outdated political advertising legislation

The rules on political advertising have not been extended to the online world in Bulgaria, Hungary, Italy or Slovenia. Only the Netherlands, which introduced in 2021 a code of conduct on the transparency of online political advertisements, signed by political parties and online platforms, has taken action. However, the code is only a soft law and it remains to be seen whether it will be effective.

The outdated rules on political advertising allow political actors to circumvent electoral laws. In particular, the failure to adapt existing laws to online advertising creates problems. Politicians and political parties in all the five countries analyzed in this report are using targeted political advertising online to reach voters. However, they do not have to obey the same rules. This results in a lack of transparency in funding (e.g. in Italy, political parties do not have to disclose their online advertising spending), the ignoring of electoral silence periods, or uncertainty about the identity of

social media accounts. The latter is an issue particularly in Slovenia, where astroturfing¹² is a common practice.

The main laws that apply to political advertising are electoral rules and media laws. The European General Data Protection Regulation (GDPR) plays a significant role in regulating the possible targeting and delivery methods of political advertising. The recently adopted Digital Services Act will also regulate online advertising when it comes into force. Still, political actors are sometimes illegally using sensitive personal data for their election campaigns. In Bulgaria, political parties used voters' names and other personal data to mark them as alleged supporters of a party's activities, without the person's knowledge or consent. In Slovenia, the SDS party launched an app that enables its supporters to enter a friend's personal data and send this friend the party's program.

Weak oversight and enforcement authorities

In all five countries, there is a split oversight system. The responsible authorities usually include the data protection authorities, the media authorities, the election oversight bodies and the auditing offices. In some cases, these authorities lack financial and human resources, which prevents them from properly conducting their work. In Bulgaria, Italy and

the Netherlands, for example, the national DPAs are systematically understaffed and underfunded, leading to a substantial backlog of work. As a result, political actors, or advertisers communicating on their behalf, may be getting away with illegal activities. In other cases, the authorities are not free from political influence, such as the State Audit Office in Hungary, which is led by a close ally of Prime Minister Viktor Orbán.

Actors advertising on behalf of political actors

Transparency requirements on the advertising and spending for political campaigns can be circumvented when organizations, the media or influencers advertise on behalf of political actors. Some media are either owned or directly or indirectly controlled by political actors, and thus are sometimes misused to promote particular candidates or criticize opposition candidates. In Slovenia for example, the TV channel Nova24TV has close ties to the conservative SDS party. Most of its political advertisements are directed against left-leaning parties.

The number of government-sponsored NGOs (GONGOs) that advertise on behalf of political actors differs from country to country. In those few EU Member States where GONGOs are established to support the government, however, they are a very effective tool

12 Astroturfing is the practice of masking the sponsors of a message to make it appear as though it comes from and is supported by grassroots participants.

to bypass any regulation that aims to limit advertising activities from political parties. In Hungary, GONGOs spend significant amounts of money on political advertising. Megafon Központ, the most active GONGO, spent more on Facebook advertisements than any other political actor between April 15, 2019, and March 23, 2022.¹³

Bulgaria

Election rules and legislation on political advertising

The applicable laws in Bulgaria are the Election Code,¹⁴ which regulates election rules and political advertisement, and the Political Parties Act.¹⁵

The Election Code regulates the funding and spending of political parties. This includes rules on how a political party can finance its political campaign, the total permissible amount of financing and what are the legitimate sources of its funding. In addition, the Political Parties Act requires political parties

to record their financial statements and reports on the election campaigns.

There is currently no legislation about online targeting.

Relevant authorities

Bulgaria has a split oversight authority system. The main relevant authority is the Central Electoral Commission (CEC), which controls the terms and procedures for the election campaign and the conduct of the election campaign by the media service providers.

The Council for Electronic Media (CEM) is an independent specialized body for the regulation of media services and video sharing platforms. It was established under the Radio and Television Act.¹⁶ The CEM supervises the media providers covering the elections. However, the CEM has no power on social media advertising. It also does not have the authority to sanction media for election-related violations but must instead forward the issue to the CEC. The CEM concludes agreements with the CEC for every election.¹⁷ In 2020, the CEM voiced concerns towards the Office for Democratic Institutions and Human Rights

13 <https://www.liberties.eu/en/stories/political-advertising-hungary/44459>

14 https://www.legislationline.org/download/id/9467/file/BULG_Election%20Code.pdf Chapter twelve – Rules for conducting an election campaign, sections I – VI from March 5, 2014 last amended: 13 July 2021

15 https://www.legislationline.org/download/id/7832/file/Bulgaria_political_parties_act_2005_am2016_en.pdf from April 1, 2005 last amended: 7 May 2021

16 https://www.mtitc.government.bg/upload/docs/Radio_and_Television_Act_en.pdf

17 all agreements may be found here including their versions in English: <https://www.cem.bg/actsbg/13>

(ODIHR) that it was lacking human and financial resources to monitor online content.¹⁸

The Commission for Personal Data Protection (CPDP) is the competent authority for data protection and the National Audit Office controls the financial activities of political parties.

All the decisions by the above-mentioned authorities are appealable before the Supreme Administrative Court.

The misuse of personal data for political advertising

The Bulgarian Helsinki Committee (BHC) requested information from the CPDP on on-going litigations and complaints about the misuse of data for political advertising and campaigning. They received a large number of files documenting the misuse of personal data by political parties, such as the use of a person's name and data as an alleged supporter of the party's activities, without the person's knowledge or consent. However, the CPDP did not provide any cases related to political advertising.

Social media usage and trust in platforms

Social media is used quite extensively amongst internet users in Bulgaria. The National Statistical Institute (NSI) shows that 60% of people who use the internet in Bulgaria are on social networks.¹⁹

According to Meta's advertising resources, Facebook has 3.6 million active users in Bulgaria in early 2022, thus making it the most-used social media platform in the country. Facebook's potential advertising reach as a percentage of the population aged 13 or older is 59.8%.²⁰

In March 2021, a study²¹ conducted by the Konrad-Adenauer-Stiftung and Social Research Agency "Alpha Research" found that 33.7% of Bulgarians rely on social media to inform themselves about upcoming elections and 17.3% rely on online news platforms.

Fifty-six percent of respondents stated that using social media can be helpful, but only journalists from traditional media can properly question politicians and almost 27% responded that the predominant use of social media by politicians can be dangerous, because it could be used to spread fake news, manipulate and compromise information.

18 https://www.osce.org/files/f/documents/6/0/476866_0.pdf

19 <https://nsi.bg/en/content/6110/116-individuals-using-internet-private-purposes>

20 <https://datareportal.com/reports/digital-2022-bulgaria>

21 <https://www.kas.de/en/web/medien-europa/single-title/-/content/election-campaign-in-bulgaria-influence-of-social-media-grows-criticism-on-party-communication>

Political advertising on Facebook during the April 2021 election campaign

The Institute for Public Policy Development (IPDP) conducted a study²² on political advertising on Facebook during the April 2021 election campaign in Bulgaria. They also tracked political discourse during the period when the National Assembly was due to begin its term, as well as when parties were preparing for the early parliamentary elections three months later, on July 11, 2021.

The purpose of the research was to clarify whether and in what way political parties in Bulgaria use Facebook to reach their target audiences and to influence voters during the election campaign. During the election campaign, they monitored 15 Facebook pages of the leading parties and coalitions, as well as 12 pages of key political figures.

The data showed that political actors relied heavily on their Facebook presence in the last week of the campaign, the day of reflection, the election day and in the week prior to the announcement of the results and the promulgation of the final list of the elected members of the National Assembly. Between April 15 2021 and May 26 2021, the 27 pages under review had a total of 1,549 posts, including 415 videos. They garnered a total of over 16 million views. Audience engagement translated into nearly 2 million likes, 290,000 comments and 176,000 shares.

The research showed that the presence of political actors on Facebook was intense and elicited a high degree of engagement among users. Often, the posts were featured in mainstream media feeds, reaching an even wider range of potential voters. Thus, without resorting to paying large sums for political advertising in traditional media, political representatives nevertheless received free coverage from these outlets after posting positions and material on their social media pages.

Recommendations to the state

- Regulators in Bulgaria must update the political advertising rules to the digital era. This includes more transparency in funding and ensuring authentic political messaging through identity verification processes, the use of official accounts by political actors and the removal of inauthentic online content.
- Beyond sanctions, which should ensure the possibility of proportionality for both local media and large international companies such as Facebook, it would be effective to prohibit media from publishing campaign materials and receiving payment for political advertising for a certain period of time, but at a minimum for one covering the next regular elections. This prohibition should be accompanied by a penalty for both the media and those who, despite the prohibition,

22 https://iped.bg/shoomsaw/2021/11/Report_online_media.pdf

pay the media outlet to distribute election material.

Hungary

Election rules and legislation on political advertising

The Act on Electoral Procedure (Act XXXVI of 2013)²³ is the horizontal legislation regulating elections. Chapter VIII covers election campaigns. Other relevant pieces of legislation are the Act on the Elections of Members of the Parliament (Act CCIII of 2011),²⁴ the Act on the Election of Municipality Representatives and Mayors (Act L of 2010)²⁵ and the Act on the Rights of Nationalities (Act CLXXIX of 2011).²⁶

Another key piece of legislation is the Act on the Transparency of Campaign Costs in the Election of the Members of Parliament (Act LXXXVII of 2013).²⁷ It was adopted by the National Assembly to make campaign budgets transparent and promote equal opportunities

for all candidates. It contains rules on state campaign subsidies, campaign spending limitations and on accounting and control of campaign spending.

Finally, the Act on the Operation and Financial Management of Political Parties (Act XXXIII of 1989)²⁸ covers the assets and managements of the parties (Chapter IV), the party foundations (Chapter IV/A), and the control of the management of parties (Chapter V).

Various provisions are applicable to political advertisements, such as parts of the Act on Electoral Procedure and the Act on the Transparency of Campaign Costs in the Election of the Members of Parliament.

The official campaigning period starts on the 50th day before election day and lasts until the end of election day, but with certain limitations on campaign activity on election day (for all types of elections).²⁹

Online targeting is mostly regulated by the General Data Protection Regulation (GDPR). However, the Act on Electoral Procedures also regulates parties' and candidates' access to a

23 [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2021\)062-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2021)062-e)

24 [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2014\)037-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2014)037-e)

25 https://www.legislationline.org/download/id/7684/file/Hungary_Act_Election_Municipal_Representatives_and_Mayors_2010_en.docx.pdf

26 https://www.legislationline.org/download/id/6547/file/Hungary_act_rights_of_nationalities_2011_en.pdf

27 https://www.legislationline.org/download/id/5101/file/Hungary_Act%20LXXXVII%20of%202013%20on%20Camapign%20Finance_en.pdf

28 <http://jogiportal.hu/view/a-partok-mukodeserol-es-gazdalkodasarol-szolo-1989-evi-xxxiii-tv>

29 <https://net.jogtar.hu/jogszabaly?docid=a1300036.tv>

central database of voters' personal data, which is only accessible during an election campaign. This database, however, may only be used for offline political campaigning and its rules are not applicable to online political marketing.

Relevant authorities and courts

In Hungary, the role of traditional media in election campaigns and political advertisements is regulated in a more precise and clear way than on social media. There is an ongoing debate on the question within the State Audit Office (SAO).³⁰ The SAO prepared a handbook³¹ to support the regularity of elections.

The relevant authorities are the National Authority of Data Protection and Freedom of Information (NAIH), the SAO, the National Media and Infocommunications Authority and the election committees (on local, regional or national level).

The relevant courts are the regional courts, the regional courts of appeal, the Supreme Court (Kúria), and the Constitutional Court.

Social media usage

While Facebook and Instagram are extensively used, Twitter remains relatively unknown to Hungarian internet users. Hungary has 7.34 million Facebook users³² out of a population of 9.7 million.³³ Instagram is used by nearly 2.8 million Hungarians.³⁴ All the relevant Hungarian parties and their prominent politicians have official Facebook pages - the only exception is the far-right party Mi Hazánk Mozgalom (Our Homeland Movement), whose Facebook page was removed by the service provider, as was the Facebook page of its president.

Key concerns

Government-sponsored NGOs

Government-sponsored NGOs (GONGOs) that advertise on behalf of political actors are a serious issue in Hungary. There are GONGOs which use public funds in an indirect way to support the government's campaign or communication activity. The Megafon Központ

30 <https://www.asz.hu/hu/sajtokozlemenyek/figyelem-hazugsagokat-terjeszt-a-hvg-es-az-index-a-kozossegi-media-ban-megjeleno-politikai-hirdetes-jellegu-tartalmak-kampanyelszamolasarol>

31 <https://www.asz.hu/hu/sajtokozlemenyek/valasztasok-kezikonyv-keszult-a-valasztasok-szabalyserusegenek-tamogatasa-erdekeben>

32 Based on data on [Statista](#).

33 All available online sources show the excessive dominance of Meta on the Hungarian social media market. The numbers published however significantly differ. Balkan Insight's number is also close to 7.3 millions. "The number of Facebook users in Hungary totalled 7.29 million as of February /2022/, making this social media platform by far the most widely used in the country." See [here](#).

34 <https://www.statista.com/statistics/1024797/instagram-users-hungary/>

(Megafon Center) is the best-known actor that falls into this category. Megafon was founded by István Kovács, strategic director of the GONGO Alapjogokért Központ (Centre for Fundamental Rights), a pro-government analyst center.³⁵ The openly communicated aim of establishing Megafon Központ was to train “social media warriors” to fight the “leftist-liberal thoughts” online.³⁶

There is no official institutional link between Megafon Központ and Alapjogokért, but István Kovács is the owner of the company that operates Megafon, and the company operating Alapjogokért (Jogállam és Igazság Kft.) is largely funded by the pro-government foundation Batthyány Lajos Alapítvány,³⁷ which gets its funding from the Prime Minister’s Cabinet Office (the ministry responsible for government communication) and also used to be funded by the party foundation of Fidesz. According to investigative journalists,³⁸ it is likely that the Megafon Center gets indirect public funds using the abovementioned

personal overlap. Megafon used about 1 billion HUF (approximately 2.5 million EUR)³⁹ to advertise influencer videos during the 2022 election campaign period. The Megafon Központ initiated three trials against the prominent independent news portal Telex.hu after they published articles about the concerns related to the funding of Megafon Központ, but the court found that the articles fall into the category of investigative journalist activity and that the news portal’s conclusion that Megafon Központ might use public funds was reasonable.⁴⁰

The other important actor is the CÖF-CÖKA (Forum of Civil Unity - Civil Unity Public Benefit Foundation), a GONGO organizing the so-called “Békemenet” (Peace March), a pro-government mass demonstration in central Budapest with mostly rural participants transported by bus services organized by pro-government actors⁴¹ on a regular basis, which gets support from the state-owned gambling company (Szerencsejáték Zrt.)⁴² It remains unclear

35 <https://atlatszo.hu/kozugy/2022/06/01/akar-9-milliard-forintnyi-tamogatas-kerulhetett-tavaly-az-alapjogokert-kozponthoz/>

36 <https://media1.hu/2020/08/07/megafon-facebook-kepzes/>

37 <https://telex.hu/belfold/2021/11/25/kozpenz-milliardok-a-kormany-szakertoire-alapjogokert-kozpont-batthyany-lajos-alapitvany>

38 <https://media1.hu/2021/03/09/56-millio-forint-kormanyparti-facebook-harcosokat-kepzo-megafon-kozpont/>

39 <https://telex.hu/belfold/2022/03/28/ujabb-alomhatart-ertunk-el-egymilliard-forint-felett-a-megafon-facebookos-reklamkoltese>

40 <https://telex.hu/belfold/2022/03/30/jogeros-megafon-per-honnan-van-penzuk-kozerdeku-adatigenyles-kerdesek>

41 <https://444.hu/kepek/2022/03/15/egy-gombostut-nem-lehetett-leejteni-a-belvarosban-a-bekemenetre-erkezo-buszoktol>

42 <https://atlatszo.hu/kozpenz/2022/06/17/marciusban-is-kapott-70-millio-forintot-a-cof-a-szerencsejatek-zrt-cegetol/>

whether this organization uses any public funds for online or offline advertising. CÖF-CÖKA participates in campaign activities, mostly with billboard advertisements, which echo pro-government messages.

State communication

There is an extreme level of overlap between the communication of the state, the Fidesz-KDNP party and the government, which applies to online content as well. This is probably the most powerful campaign tool of the governing parties, as for the average voter it is impossible to distinguish between the sources and messages, especially in a country that lacks deeper roots of democratic traditions. State communication and information sometimes lacks any kind of valuable information and simply echoes the messages of the government or the governing parties, such as the “Hungary moves forward not backward” campaign.

Weak implementation of data protection rules

The NAIH, the national data protection authority, shows moderate activity on campaigning issues. It issued a statement before the 2022 general elections declaring that parties must follow the GDPR. It also issued guidelines⁴³ for political parties and political

actors on how to handle personal data while campaigning.

Newly gained experience (in cases related to the 2022 general election and the national education referendum) shows that election bodies are reluctant to apply personal data protection legislation, in particular the GDPR, in election complaint cases. In a landmark case, the government sent campaign emails to addresses recorded in the COVID-19 vaccine registration database. No breach of law was found by the Supreme Court regarding data protection, and later the Constitutional Court found no breach of law in general. This happened partly because of the unclear range of consent given by citizens when registering and disclosing their email address and partly because, according to the election bodies’ opinion, the data protection legislation is not applicable in election cases.

Recommendations to the state

- The legal nature of political advertisements on social media or other online platforms must be made clear through legislation and spending related to this activity must be included in campaign spending limits. Furthermore, impartial control mechanisms must be introduced with regard to campaign spending.

43 <https://www.naih.hu/adatvedelmi-ajanlasok?download=332:a-nemzeti-adatvedelmi-es-informacioszabadsag-hatosag-ajanlasi-a-politikai-partok-es-szervezetek-adatkezelesevel-kapcsolatos-egyeb-adatvedelmi-kovetelmenyekrol>

- The OSCE ODIHR report⁴⁴ on the 2022 general election and national referendum makes the following statement: “In order to provide a level playing field, consideration could be given to reducing the government advertising and banning the use of public-service advertisements by the national or local governments during campaign period. The placement of public-funded advertising should be based on predetermined, clear, equitable, objective and transparent criteria, and information on received public funding should be publicly available.”

Italy

Election rules and legislation on political advertising

The applicable law is the “Rosato law”, named after its rapporteur Ettore Rosato, officially known as Law 3 November 2017, n. 165, and commonly called “Rosatellum”. It is the electoral law of the Italian Republic which governs the election of the Chamber of Deputies and the Senate of the Republic.

Italy has a parallel voting system, which acts as a mixed system: 37% of seats are allocated

using a first-past-the-post electoral system and 61% using a proportional method, with one round of voting. The law regulates the election of the Chamber of Deputies (lower house) and the Senate (upper house).

The main law regulating political advertising is Law 4 April 1956, n. 212, “Rules for the discipline of electoral propaganda”.⁴⁵ It covers, among other things, the electoral silence period (Art. 9, as amended by Law 130/1975⁴⁶). As a result of this article, rallies, direct or indirect electoral propaganda, meetings in public places or places open to the public and posting of printed matter, wall newspapers or other propaganda posters are prohibited on the day prior to and the day of the vote. Furthermore, on the days set aside for voting, any form of propaganda is prohibited within a radius of 200 meters from the entrance to the polling stations.

Article 9 was later amended with the following provision: “Art. 9-bis - (Prohibition of electoral propaganda). On the day before and on those established for the elections, private radio and television broadcasters are also prohibited from disseminating electoral propaganda” by Law 4 February 1985, n.10 containing urgent provisions on radio and television broadcasts.⁴⁷

There is no law regulating online targeting, but since 2018 there are voluntary guidelines

44 <https://www.osce.org/odihr/elections/hungary/511441>

45 <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1956-04-04;212>

46 <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1975-04-24;130!vig=>

47 <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1985-02-04;10>

provided by the Authority for Communications Guarantees, Audiovisual Content Management, Economic-Statistical Service (AGCOM) for equal access to online platforms during the election campaign for political elections.⁴⁸

Authorities

Since there is no specific law governing online political advertising, the supervising activity by authorities mainly translated into several non-mandatory recommendations prior to and during the electoral campaign.

The relevant authorities are the Garante per la Protezione dei Dati Personali (the Italian data protection authority) and the AGCOM. The relevant courts are the local administrative courts.

Sanctions

Sanctions for unlawful electoral campaigning are the following: a) for the misuse of personal data in campaigning there is no fixed fee. Instead, the Italian DPA issues sanctions on a case-by-case basis, taking the guidelines of the European Data Protection Board (EDPB) into account); b) there is also no fixed fee for

overspending campaign limits, and sanctions are pecuniary compensation linked to the percentage of the overspent amount; c) sanctions for campaigning in a non-campaigning period are administrative fees that range from 100 to 25,000 EUR per political subject. Following a judicial review of the sanctions, they may rise.

Online political advertising

Political advertising on social media is used very extensively in Italy, in particular on Facebook and Twitter. Political parties allegedly spent more than half a million euros on the 2019 European elections.⁴⁹

Targeted online political campaigns are not in the heart of the discussion, however civil society and free press are debating the issue on social media. The topic surfaces during elections but usually recedes as soon as the campaign ends. The NGO Coalizione Italiana Libertà e Diritti Civili (CILD) published several posts about political micro-targeting,⁵⁰ the Cambridge Analytica case,⁵¹ and the Trump political campaign.

48 <https://www.iicom.org/wp-content/uploads/Resolution-44-21-CONS-EN.pdf>

49 <https://www.europeandatajournalism.eu/eng/News/Data-news/Social-media-advertising-more-than-half-a-million-euro-spent-on-the-European-elections>

50 <https://cild.eu/blog/2017/06/29/il-leak-di-deep-root-analytics-quello-che-dati-elettorali-dicono-di-noi/>

51 <https://cild.eu/blog/2018/04/04/cambridge-analytica-ecco-come-diventiamo-bersagli-dei-messaggi-politici/>

Recommendations to the state

- There is a strong need for a new law governing online advertising, as the previous laws have not been updated to reflect the reality of modern political campaigns.
- The state must address the significant lack of resources, both human and financial, of the DPA and AGCOM, which makes it impossible for them to follow and promptly address problems arising from unfair online political advertising practices.
- There is a need for more public awareness. Most citizens have no clear idea about how political micro-targeting and advertising works and tend to associate online political communication to press journalism without any form of fact-checking.

Netherlands

Election rules and legislation on political advertising

The key legislation in effect about election rules in the Netherlands are a) the Kieswet, BWBR0004627; b) the Wet financiering

politieke partijen, the law on the financing of political parties, which contains rules on transparency; c) the Mediawet; d) the AVG (GDPR); and e) international treaties, such as Article 10 ECHR.

Several specific provisions on political advertising can be found in differing laws. The Kieswet regulates that no advertising may be done in close proximity to an voting location. Regulation about leaflets and billboards is found in the Algemene Plaatselijke Verordeniging (APV) of every commune. The Mediawet regulates that the Commissariaat voor de Media (the Dutch media authority) may decide upon the amount of air time that political parties receive on national TV.

Relevant general legislation regarding freedom of expression and its limitations includes the Dutch Criminal Code on racial and other discrimination, general provisions on defamation in the Dutch Civil Code,⁵² Article 10 ECHR and on personal data protection (GDPR).

Specific provisions of soft law are the Nederlandse gedragscode transparantie online politieke advertenties, the Dutch code of conduct on the transparency of online political advertisements,⁵³ which was adopted at the beginning of the year 2021 and is signed by the larger national political parties and by online platforms, with rules on transparency, privacy, safety, fairness, integrity, and a level

52 Article 6:162 of the Civil Code.

53 <https://www.idea.int/sites/default/files/news/news-pdfs/Dutch-Code-of-Conduct-transparency-online-political-advertisements-EN.pdf>

playing field. However, it has no enforcement mechanisms.

Furthermore, many broadcasters and print and digital media adhere to a system of self-regulation supervised by the Reclame Code Commissie – the Dutch Advertising Commission.⁵⁴ The Commission rules on complaints of the public on the basis of the Dutch advertising code.⁵⁵ According to the code, advertisements must, for example, be truthful and shall not contravene the public interest, public order or morality, and may not be manipulative. Specifically, regarding online content, there is a relatively new advertising code concerning social media and influencer marketing.⁵⁶ It contains rules on transparency and manipulation. The Commission's rulings are followed up by the media entities adhering to the Code, which means that its rulings have a significant effect.

There is no specific legislation in effect about online targeting.

Authorities

There are three relevant authorities regarding online political advertising. The Dutch Media Authority (*Commissariaat voor de media*), the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens* or *AP*) and the Advertising Code Commission (*Reclame Code Commissie*⁵⁷).

Since 2022, the Dutch Media Authority supervises “commercial media services on demand” (Article 3.29 a Mediawet). This means that commercial influencers need to register with the Commissariat and that they will fall under the rules of the Mediawet.

The AP gave micro-targeting in elections priority,⁵⁸ however no results of investigations are known as of yet. Furthermore, the AP is notoriously understaffed and underfunded and hence is unable to carry out all its tasks.⁵⁹ In the run-up to the 2021 parliamentary elections, it published guidelines⁶⁰ calling on parties to follow GDPR rules and bringing attention to the special rules that apply to the processing of special personal data.

The self-regulatory (general) Dutch Advertising Code only applies to online advertisements

54 <https://www.reclamecode.nl/english/>

55 https://www.reclamecode.nl/nrc_taxonomy/general/?lang=en

56 <https://www.reclamecode.nl/nrc/reclamecode-social-media-rsm/>

57 <https://www.reclamecode.nl/english/>

58 https://www.autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/focus_ap_202-2023_groot.pdf

59 <https://www.computable.nl/artikel/nieuws/overheid/7387801/250449/nationale-ombudsman-roept-ap-op-het-matje.html>

60 [Autoriteit persoonsgegevens 'Persoonsgegevens in verkiezingstijd', 2021.](#)

of platforms that subscribe to the code. Facebook officially subscribed to the code in 2021.⁶¹ In the code, no differentiation is made between online and offline activities. The Dutch Advertising Code for Social Media & Influencer marketing contains rules that mandate advertising on social media to be recognizable and not manipulative.

Discourse, social context

There is awareness and an ongoing discourse about manipulations in elections, including micro-targeting. The general view is that online political advertising (including micro-targeting) is permissible as long as privacy rules are respected, and no manipulation occurs. The political focus lies with self-regulation at the moment. The minister for interior has launched the Dutch code of conduct on the transparency of online political advertisements. It must yet be evaluated whether this code keeps to its promise.

Recommendations to the state

As Dutch research shows, micro-targeting may in itself not be problematic. It is the bad-faith use of microtargeting for manipulation and its effect on free and fair elections that is

the problem.⁶² In this sense, any recommendations regarding micro-targeting may best be made part of rules countering disinformation and manipulation, and with the (positive) obligations of states under Article 10 ECHR in mind: safeguarding pluralism, while respecting that political expression enjoys a high degree of protection. That being said, in the Dutch context a number of recommendations can be made.

The recommendations of the EDPS regarding online manipulation should be implemented.⁶³

- complete and enforce data-protection rules;
- regulators should aim for a collective diagnosis of the problem;
- regulators should cooperate across sectors;
- self-regulation should be encouraged;
- empower individuals to exercise their rights including collective action.

Specifically, regarding points b. and c. it is necessary that the AP, the Authority for Consumers and Markets (*Autoriteit consument en markt*) and the media authority take a joint

61 <http://merlin-int.obs.coe.int/article/9204>

62 F.J. Zuiderveen Borgesius et al. 'Online political microtargeting: Promises and Threats for Democracy', Utrecht law review, 2018 Vol 14, 1. J. Van Hoboken et al 'Het juridisch kader voor de verspreiding van desinformatie via internetdiensten en de regulering van politieke advertenties', Rapport IvIR 2019.

63 European Data Protection Supervisor (EDPS) Opinion 3/2018 on online manipulation and personal data.

approach. As for d., the Dutch government should closely monitor if the Dutch code of conduct on the transparency of online political advertisements lives up to its promise. If not, the code should be amended with an enforcement mechanism.

For people to trust elections and counter fragmentation, visibility and transparency of the control mechanisms is essential. It may thus be necessary that the impact of micro-targeting is monitored by the above-mentioned authorities. And, where platforms themselves take measures, it is necessary that the public is made aware of these measures and that the public knows and can verify the effect of the measures.

The financing and campaign spending regulation of political parties should be strengthened.

As small political parties encounter difficulties in covering the costs of experts carrying out the necessary privacy compliance, political parties that want to conduct online advertising should receive assistance in doing so in line with privacy rules.⁶⁴

Slovenia

Election rules and legislation on political advertising

The key legislation in effect about election rules are the National Assembly Election Act⁶⁵ (Zakon o volitvah v državni zbor) and the Local Elections Act⁶⁶ (Zakon o lokalnih volitvah (ZLV)). The key legislation in effect about political advertising is the Election and Referendum Campaign Act⁶⁷ (Zakon o volilni in referendumski kampanji [ZVRK]), which regulates political advertising taking place during the official election period, i.e. 30 days before the day of the vote. It defines electoral campaigning as “all political advertising and other forms of political propaganda intended to influence the decision of voters when casting their votes in elections”. Electoral silence applies the day before the vote. However, this legislation is outdated, as it does not include provisions on digital media and platforms; the Mass Media Act⁶⁸ (Zakon o medijih [ZMed]), which contains rules on advertising – both traditional and online media – occurring outside the election campaign period; the Political Parties Act⁶⁹ (Zakon o političnih strankah

64 T. Dobber ‘Data & Democracy: Political microtargeting: A threat to electoral integrity?’, PhD, Amsterdam: 2020 p. 111.

65 <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO185> from September 27, 1992

66 <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO308> from January 15, 1994

67 <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4749#> from May 26, 2007

68 <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1608> from May 25, 2001

69 <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO359#> from October, 1994

[ZpolS]), which covers relevant provisions on the financing of political parties.

The Election and Referendum Campaign Act also sets the rules for sanctions for unlawful campaigning. Sanctions for not providing transparency records vary from 400 EUR for individuals or 20,000 EUR for campaign organizers for failing to submit campaign finance reports or submitting false reports. Sanctions for overspending campaign limits vary from 700 EUR to 20,000 EUR, depending on the individual or legal entity. Sanctions for campaigning during the electoral silence period vary from 150 to 3,000 EUR for individual campaign organizers and 350 to 6,500 EUR for media outlets that publish opinion polls or surveys less than 24 hours before election day.

Authorities

Slovenia has a split oversight authority system. The Court of Audit ensures the transparent use of financial resources of political parties. It supervises election campaign finances (i.e. acquisition and use of campaign funds, reporting and publication of financial reports, opening of a special transaction account), misuse of public funds and misuse of public spaces. The Court of Audit independently decides which audits they will carry out in any individual period of time.⁷⁰ The exception in this case are those election campaigners who are entitled to partial reimbursement of election campaign expenses,⁷¹ where the Court of Audit must carry out an audit within six months of the deadline for closing the transaction account.⁷²

The Information Commissioner (Informacijski pooblaščenec, or IP) is the independent state body responsible for the protection of

70 In the Court of Audit Act (2001, amended 2012), there is a list of mandatory audits to be performed on an annual basis. The Court of Audit also considers proposals made by parliament, government and local communities. According to Article 25 of the Court of Audit Act, “in determining the audits to be carried out in a certain calendar year, the Court of Audit shall consider proposals made by deputies and working bodies of the National Assembly, Government, ministries and local community bodies. They must consider at least five proposals from the National Assembly from which at least two must be given by opposition deputies and a further two by working bodies of the National Assembly”. See [here](#).

71 This is defined in Article 24 of Election and Referendum Campaign Act: 1) campaign organisers whose lists have won seats in the National Assembly or in the European Parliament at the rate of 0.33 EUR per vote won; 2) campaign organisers whose list of candidates has obtained at least 6% of the total number of votes cast in a constituency or at least 2% of the total number of votes cast in the whole country, in the amount of 0.17 EUR per vote; 3) campaign organisers for members of the Italian and Hungarian national communities whose candidate has won a mandate or at least 25% of the total number of points calculated for all candidates belonging to the national communities, in the amount of 0.33 EUR for each vote obtained

72 Article 29 of Election and Referendum Campaign Act.

personal data. The IP supervises, among other things, targeted advertising.

The Culture and Media Inspectorate supervises the media during election campaigns, in particular the publication of public opinion polls, the publication of advertising rules during election campaigns, the appearance and presentation of candidates on the national public service broadcaster RTV Slovenia and in other media directly or indirectly majority-publicly owned. The latter is the most relevant and also the most critical in the context of local elections, as municipal newsletters are often misused to promote a particular candidate (especially when a mayor is running for re-election).

Local inspection authorities ensure that campaign posters are installed and removed according to the rules and the Inspectorate of the Ministry of Interior supervises infringements during the electoral silence period.

The relevant courts are a) the District Court in Ljubljana, designated by the Election and Referendum Campaign Act as the competent court for disputes in political advertising during election period;⁷³ and b) the Constitutional Court (Ustavno sodišče), which is responsible for the interpretation, protection and enforcement of the Constitution.⁷⁴

In terms of self-regulation, relevant bodies include the Slovenian Chamber of Advertising (Slovenska oglaševalska zbornica⁷⁵), which consists of advertisers, advertising agencies and media outlets and has its own “advertising tribunal”, which decides whether the advertisements comply with the Slovenian Advertising Code. The Slovenian Advertising Code is a self-regulatory tool in the advertising profession. It is a set of principles and rules that advertisers must respect when designing their advertisement. The Slovenian Advertising Chamber’s Advertising Tribunal assesses the compliance of advertisements with the Slovenian Advertising Code – advertising must be legal, decent, fair and truthful.

Unlawful and questionable political advertising practices

Case 1: SDS party violated the GDPR with app in 2018 parliamentary elections

Ahead of the parliamentary elections in June 2018, the Slovenian Democratic Party (SDS) launched an app called “Convince a Friend” that enables its supporters to send the party’s program to their friends.⁷⁶ The supporter had to enter the gender, first and last name and age of a friend in an online form and then that

73 <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4749>

74 <https://www.us-rs.si/?lang=en>

75 <https://www.soz.si/>

76 <https://www.rtv slo.si/slovenija/sds-z-aplikacijo-prepricaj-prijatelja-krsil-uredbo-o-varstvu-osebnih-podatkov/465695>

friend received an email containing the main points of the SDS program.

There were allegations of misuse of personal data, with the SDS party claiming that the data was not stored and processed but used for the one-off purpose of a personalized message. However, the IP received a complaint and launched an investigation. It found that there had been mass processing of personal data with the very clear intention of spreading a political agenda just before the elections. The recipients of the messages were not informed that SDS processed their personal data and that the app automatically generated political content. Nor were the senders informed of the specific content of the message, which was automatically adapted to the personal data they entered into the application.

The IP stated that the processing of personal data was misleading and lacked transparency, and that SDS had violated the GDPR. While this would require the introduction of an infringement procedure and the imposition of sanctions, this wasn't possible at that time, because Slovenia had not – and still has not – adopted a law allowing the imposition of sanctions under the GDPR.⁷⁷

Case 2: Astroturfing

Slovenian investigative journalists found cases of astroturfing,⁷⁸ where fake profiles with stolen profile pictures were appearing on Twitter, almost exclusively spreading the ideas of the ex-ruling party, SDS. Their activity raised suspicions of inauthentic political activity. The investigative journalism outlet Pod črto⁷⁹ and the NGO Danes je nov dan⁸⁰ discovered dozens of profiles using astroturfing techniques.⁸¹ Based on these profiles, they mapped out a wider network of SDS supporters on Twitter. To find out how attacks on SDS critics worked, they looked at seven examples of attacks by members of this network on individuals who have publicly expressed their disagreement with the actions of SDS, Janez Janša and his political allies. There are no official reports signaling that authorities have taken action in this case, but Twitter suspended 12 profiles found to be using stolen or machine-generated profile photos and spreading messages in support of the SDS party and the government.⁸²

Case 3: State-owned telecommunication operator and TV channel with close ties to SDS

Telekom Slovenije, a state-owned telecommunication operator, paid a disproportionately high fee for transmission of TV channel

77 E-mail correspondence with Information Commissioner's office (August, 2022).

78 See footnote 11.

79 <https://podcrto.si/about/>

80 <https://danesjenovdan.si/en>

81 <https://podcrto.si/astroturfing-1-del-lazni-twitter-profil-ki-napadajo-kritike-sds/>

82 <https://podcrto.si/twitter-suspendiral-lazne-profile-ki-promovirajo-stranko-sds/>

Nova24TV, co-owned by officials and members of SDS, and Hungarian investors with close ties to Prime Minister Viktor Orban. The Specialized State Prosecutor's Office has taken a close look at allegedly controversial transfers, which were used by Telekom to finance Nova24TV. Throughout 2020 and 2021, Telekom paid excessive monthly fees for the distribution of Nova24 TV. The disproportionate funding is said to amount to €112,000 per month, or €1.4 million per year.⁸³

In spring 2018, Nova24TV started publishing SDS election advertisements. As the media outlets received funding from Hungary (without these transfers, the companies would have gone bankrupt), the allegations are made that the SDS election campaign was financed by Hungary. Prior to the parliamentary elections in Slovenia in April 2022, the political advertisements of Nova24TV on Facebook⁸⁴ were also mostly political propaganda directed against the Gibanje Svoboda (Freedom Movement) political party, which was considered to be the main competitor to the ruling SDS, according to pre-election polls (and which ended up winning the elections).

Telekom's operations are also under scrutiny by the Court of Audit. Following the Specialized

State Prosecutor's Office instructions, the police are expected to investigate and determine whether the transfers to pro-government media are legal or whether the state-owned telecommunication operator has acted unlawfully, in a corrupt manner.

Case 4: SDS ads take unjustified credit for projects prior to 2022 parliamentary elections

The online portal 24ur.com⁸⁵ reported that SDS took unjustified credit for projects it did not fund. In the weeks before the April 2022 parliamentary elections, billboards appeared in different Slovenian municipalities showing the SDS party, at that time a ruling party, taking credits for projects financed with municipal, EU and state money.

Decisions by courts

The Constitutional Court judges have ruled that free advertising by political parties in municipal media outlets is unlawful. The Court said that the parties must pay for the advertisements, otherwise it would violate the general prohibition on local authorities funding political parties.⁸⁶ Although the free

83 <https://english.sta.si/3020147/prosecution-reportedly-looking-into-telekoms-financing-of-nova24tv>

84 https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=ALL&view_all_page_id=1543883469231132&search_type=page&media_type=all

85 <https://www.24ur.com/novice/slovenija/si-sds-z-neupravicenim-prisvajanjem-zaslug-kupuje-volivce.html>; <https://www.24ur.com/novice/slovenija/slovenjgrajska-obcina-pozvala-sds-k-umiku-plakatov-zaradi-prisvajanja-zaslug.html>

86 <https://www.us-rs.si/odlocba-ustavnega-sodisca-st-u-i-12-16-z-dne-4-2-2021/>

advertisements do not involve direct payments from the municipality to the political party, the judges considered that they constitute an “indirect transfer of assets from the municipal budget to the assets of political parties” or “indirect financing of political parties from public funds”.⁸⁷

Social media usage

Research⁸⁸ carried out in 2018 (June – December) and 2019 (January – December) by Valicon shows that 82% of people aged 16-74 in Slovenia have at least one social media profile. According to Valicon, Slovenians spend on average at least one hour a day on social media. All networks continue to grow. Facebook has

the highest number, with almost one million users. Instagram and Twitter have 450,000 and 50,000 users, respectively.⁸⁹

Other research, carried out by Mediana in 2021,⁹⁰ reports that TikTok is the fastest (and only) growing major social media network in Slovenia, with more than 100,000 users in 2021. Users are demographically and lifestyle-wise significantly different from other social media users. Data shows that almost half of TikTok’s users are under 24, and that the proportion of older users is increasing, as it had been for Facebook in the past.

The data shows the number of followers of the Slovenian political parties represented in the parliament on different social media networks.

Political party	Number of deputies in the National Assembly	Number of followers: Facebook	Number of followers: Instagram	Number of followers: Twitter	Number of followers: TikTok
Gibanje Svoboda**	41	14.102	3.114	5.429	4.093
Slovenska demokratska stranka (SDS)	27	27.314	5.095	27.600	3.115
Nova Slovenija (NSi)	8	23.076	1.964	14.300	810
Socialni demokrati (SD)	7	15.863	1.718	15.400	1.497
Levica	5	36.850	8.506	17.300	1.251

*Political parties marked in blue color are currently the opposition parties.

** The party was established in January 2022, months before the elections in April 2022. Also, its social media accounts were opened at that time.

Table 1: Number of followers of political parties represented in the parliament on different social media networks (August 2022)

87 Ibid.

88 <https://www.valicon.net/sl/2020/01/uporaba-druzbenih-omrezij-in-storitev-klepeta-v-sloveniji-2018-2019/>

89 Ibid.

90 https://www.soz.si/novice/tik_tok_je_najhitreje_rastoce_druzbeno_omrezje_tudi_v_slo

Recommendations to the state

- Political advertising rules must be updated. The regulation must in particular be extended to digital space, covering online and mobile political advertising. There is also a need for more specific regulation of political advertising outside the pre-election campaign period.
- The media owned or controlled by political parties, and other political actors such as mayors, which are misused for political propaganda (including negative propaganda against opponents) and are not committed to ethical and professional standards, must be specifically subject to regulation, monitoring and law enforcement, especially in the pre-election period.
- Transparency must be improved. This includes the publishing of exhaustive campaign finance reports that contain detailed information, such as invoices and contracts, on a publicly accessible online portal. This would help to find out how much each campaign actually cost, which is the only way to ensure fair elections. The government, ministries, the National Assembly and the oversight bodies must ensure full, pro-active and immediate transparency of funding. Supervisory institutions should be empowered and resourced to monitor campaigns with the necessary quality and efficiency. The budget should also provide funding opportunities for civil society and investigative media for

their watchdog actions to provide additional oversight of the campaigns on the ground and to act as a credible source of information for the state institutions. In that context, the rules on access to public information should be particularly promptly and strictly adhered to.

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting and protecting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of national civil liberties NGOs from across the EU. Unless otherwise indicated, the opinions expressed by Liberties do not necessarily constitute the views of our member organisations.

Website:

liberties.eu

Contact info:

Jascha Galaski j.galaski@liberties.eu

The Civil Liberties Union for Europe e. V.

Ringbahnstr. 16-20

12099 Berlin

Germany

Subscribe to our newsletter

<https://www.liberties.eu/en/subscribe>

Reference link to study

Please, when referring to this study, use the following web address:

<https://www.liberties.eu/f/jwpazc>

Follow us

