

POLITICAL FINANCE IN THE DIGITAL AGE: A CASE STUDY OF THE EUROPEAN UNION

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EXECUTIVE SUMMARY

In the multi-level political system of the European Union, the regulation of political finance is a competence that is shared by the EU and national authorities. Although specific rules were introduced in 2004 for the funding of political parties at the European level, the EU institutions have traditionally refrained from regulating political finance and electoral campaigns. Instead, this has largely remained the preserve of member states, which have very different political traditions and diverging regulatory regimes for campaign and party finances, including the digital and online aspects.

Since 2019, partly in response to the Cambridge Analytica scandal, the EU has started to take several regulatory steps to confine campaigning, particularly in the digital sphere. This has formed part of a broader effort to restrict online advertising. The new laws include the General Data Protection Regulation (GDPR), the Digital Services Act (DSA), the Regulation on Privacy and Electronic Communications (ePrivacy Regulation) and the Regulation on Transparency and Targeting of Political Advertising. These rules have focused on two main areas: (a) regulating and restricting access to (large quantities of individualized) data for use in political advertising, as well as their collection and analysis; and (b) improving the transparency and reporting of sponsored political advertisements, both online and offline.

A number of observations and best practices have emerged from these new regulatory efforts:

The regulation of political finance is a competence that is shared by the EU and national authorities.

1. The regulation of the campaigns of political parties and candidates is often an insufficient means of tackling the challenges of digital campaigning. Introducing rules that target online platforms can therefore contribute to the enforcement of the regulations in place.
2. The use of soft laws, such as codes of practice, often gives too much discretion to political actors and online platforms. This can lead to mixed results or even negative unintended consequences.
3. It is important to adopt a broad definition of political advertising. This ensures that regulation applies to all actors attempting to influence the electoral and decision-making process, including influencers and third parties that are active in the political campaigns.
4. Focusing on reaching consensus on increased transparency and the restricted use of personal data can be a feasible policy goal in political systems with widely diverging positions or practices regarding the regulation of political finance.

1. INTRODUCTION

The EU is the most developed supranational political community in the world. Since its inception, the EU member states have gradually transferred more and more competences to the European level. Yet, despite the EU's growing responsibilities, the regulation of politics and elections—and particularly its financial aspects—has long remained the exclusive domain of national authorities. However, recent years have seen a remarkable shift in the EU's position. This has followed controversies like the Cambridge Analytica scandal—in which the personal data of millions of voters were collected and used for personalized targeted political campaigning—and (alleged) Russian interference in several United States and European elections. The EU has taken several steps that have substantially increased its regulatory reach over online—and even offline—political advertising.

Just like the EU itself, European politics is a multi-level phenomenon, with separate but connected political parties existing at both the EU and the national level. Political parties at the European level—also called 'Europarties'—function as umbrella organizations, bringing together national parties with a similar ideological background. For example, the European People's Party (EPP) comprises 50 Christian democratic and centre-right national political parties. Currently, there are 10 such European political parties (see Table 1.1). Overall, they are rather loose associations: they develop common manifestos, select a campaign figurehead for the European elections and hold coordination meetings for their national party leaders and (prime) ministers, but they rarely impose political positions in a top-down manner.

Table 1.1. Composition of European political parties (2023)

European political party	Number of national member parties	Ideological platform
Alliance of Liberals and Democrats for Europe Party (ALDE)	36	Liberal, centrist
European Christian Political Movement (ECPM)	18	Christian democratic, conservative
European Conservatives and Reformists (ECR) Party	13	Conservative
European Democratic Party (EDP)	16	Centrist
European Free Alliance (EFA)	33	Regionalist, separatist
European Green Party (EGP)	28	Green
European People's Party (EPP)	50	Christian democratic, centre-right
Identity and Democracy Party (IDP)	12	Radical right
Party of European Socialists (PES)	29	Social democratic, centre-left
Party of the European Left (PEL)	21	Radical left

Source: Author's own research

In 2004, the EU established public funding for European political parties, together with a set of rules on how these financial resources may or may not be used (Wolfs 2022). This regulatory framework only applied to parties at the European level and had few consequences for political finance at the national level, which continued to be regulated by national provisions. It is only more recently that the European level has introduced new legislative acts with important implications for party and campaign finances—in particular, for its digital and online aspects.

This case study will examine the implications of these new EU rules for political finance, with a specific focus on online advertising. The second part of the study provides an overview of the regulatory framework governing the financing of political parties and electoral campaigns. The third part focuses specifically on the European political parties' expenditure on social media platforms. In the fourth part, the latest EU-level regulatory efforts will be examined in detail, particularly the rules on online advertising. The case study ends with a discussion of the best practices and challenges that emerge from the new regulatory framework.

2. A MULTI-LEVEL REGULATORY FRAMEWORK

In the multi-level political system of the EU, the regulation of political finance is a competence that is shared by the authorities at European and national level. Rules applied at one level of government have an effect on political competition at the other level. Lawmakers at both levels have faced an important choice. One option is to ‘mainstream’ digital and online aspects, incorporating them into the existing rules on political finance and electoral expenditure. Another option is to address them through tailor-made legislation that focuses specifically on the online organization and campaign activities of parties and candidates. At both European and national level, a combination of both approaches can be observed.

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2.1. Political finance regulation at the national level

The finances of national political parties are regulated by the 27 national authorities and sometimes even by regional authorities. Because regulatory traditions vary widely across countries, this has resulted in a plethora of different rules across the European continent. For example, the EU member states differ in terms of donation ceilings, electoral periods, campaign expenditure caps and the regulation of third-party campaigning (see, for example, European Parliament 2021). Specifically with regard to the digital aspects of political finance, there is also substantial variation in the online availability and accessibility of information on the revenue and expenditure of political parties and candidates (Wolfs 2023).

Similarly, EU member states have diverse approaches to online campaigning. Some countries, such as Sweden, do not have any rules in place regarding electoral advertising. Others, like Denmark and Italy, only regulate political advertising on selected media, such as radio and television, and do not usually extend these rules to online political advertisements. Many countries have a wide and generic regulatory framework for electoral campaigning, in which some or all of the provisions also apply to the online sphere. This is the case in Belgium, Croatia, Czechia, Estonia and Portugal, for example. A limited number of EU member states, including Ireland and France, have developed specific rules for online campaigns and political advertising on social media (Heinmaa 2023). In 2016, Latvia introduced a specific section on online campaigning into its campaign finance regulation which focused on transparent pricing and sponsorship of online advertisements (Cigane 2022).

These different national approaches have important implications for political parties at the European level. In several EU countries, electoral campaigning is limited to (national) political parties or candidates, which means that Europarties cannot conduct campaign activities. For example, in Slovenia, only parties (or citizens) with their seat in the country can campaign. Only four countries—Germany, Ireland, Latvia and Romania—explicitly allow political campaigns by European political parties.

In several countries, some campaign activities by Europarties may be considered as in-kind donations to national parties or Europarties may

fall within the definition of ‘third parties’ and thus have to comply with the applicable rules. In Czechia, a third party may not be a foreign legal entity, as is the case with European political parties (Reed 2023). In Belgium, the campaign expenses of third parties—like Europarties—are considered to form part of the national parties’ expenses for the purposes of assessing whether they have respected the expenditure threshold, and European parties must also respect third-party campaign limitations, such as bans on radio or television advertising or large billboards (see also Vanden Eynde 2023).

Other aspects of the regulatory framework can also constrain Europarties’ campaign activities. In France, all commercial advertising through the press or audiovisual channels—including online campaigning—is prohibited in the six months leading up to an election. These substantial differences in the regulation of campaign finance across member states have prompted one Europarty official to describe political campaigning in European elections as ‘playing football simultaneously on 27 different soccer fields with 27 different sets of rules’ (Wolfs 2022: 233).

2.2. Political finance regulation at the EU level

The EU’s 2004 regulatory framework specifically addresses the status and funding of political parties at the European level. In general, the legislative acts that regulate the organization and activities of these European political parties conform to the ‘traditional’ approach: there are no specific provisions on the digital aspects of politics and campaigning, but some of the rules have effects beyond the classic aspects of party finance. The framework also has some implications for national political parties, albeit relatively few. For example, as Europarties cannot financially support national parties or candidates, either directly or indirectly, it prohibits financial transactions, contributions in kind or campaigning on behalf of these parties or candidates. Overall, however, these provisions are targeted at the Europarties, with only limited direct effects on the political competition at national level.

The situation started to change in 2019, when the EU initiated several regulatory steps to confine campaigning—and particularly digital campaigning—as part of a broader effort to restrict online advertising. The main catalyst for legislative action has been the coverage of the Cambridge Analytica scandal. This involved the use of high volumes of personal data to engage in profiling and targeted political advertising on social media, and it was linked to possible foreign interference in elections and the Brexit referendum (European Commission 2018a, 2018b, 2019; European Parliament 2018, 2019). The first attempts at regulation relied on soft law, but after these proved insufficient, the EU institutions have since issued binding legislative acts.

The EU initially focused on self-regulation to tackle the challenges of online advertising. In 2018, the European Commission launched a Code of Practice on Disinformation, a voluntary agreement, signed by the major online platforms such as Meta (Facebook), Google, Mozilla and X (formally Twitter) (European Commission 2018c), with Microsoft and TikTok joining in 2019 and

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2020 respectively. With regard to political campaigning, the code included a commitment by the signatories to clearly label political advertisements as such and provide information about the sponsors and the amounts spent. In 2020, a European Commission assessment identified a number of shortcomings (European Commission 2020) and a new version of the Code was launched in 2021 (European Commission 2021, 2022). In this 'strengthened' version, the online platforms, among others, committed to (a) improving the labelling of political advertising; (b) identifying the sponsors of advertisements through a verification procedure; and (c) maintaining a repository of all political advertisements. Overall, the European Commission's main effort in introducing this self-regulatory approach was to substantially improve the transparency of online political campaigning.

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Over time, however, the EU institutions developed a binding regulatory framework through multiple legislative initiatives. This was partly because the results of the Code of Practice remained insufficient. The new rules dealt with two main issues (see also Gibson, Bon and Römmele 2023): (a) the regulation and restriction of access to (large quantities of individualized) data for use in political advertising, their collection and analysis, and their application in political communication; and (b) improved transparency and reporting of sponsored political advertisements, both online and offline.

Regarding data access and collection specifically, the first legislative initiative to be taken was the General Data Protection Regulation (GDPR) in 2016 (Regulation 2016/679). This new law centred around standardizing and restricting the use of European citizens' personal data and limiting the scope for political parties and candidates to use these data for the purpose of political advertising. In 2019, the rules on European political parties were updated to bring them in line with the GDPR (Regulation 2019/493). More specifically, a provision was added to emphasize that European political parties are forbidden from influencing, or attempting to influence, the outcome of the European elections by infringing the rules on the protection of personal data. Currently, the EU institutions are working on new rules to complement the GDPR. The Regulation on Privacy and Electronic Communications, or ePrivacy Regulation, is still under negotiation but aims to impose stricter limitations on the ability of organizations to collect data about the online activities of citizens (European Commission 2017). For example, it abolishes the provision that prior consent was not required in cases of overriding public interest.

In 2022, the EU institutions agreed on a new law to further strengthen the protection of fundamental rights in the online sphere—the Digital Services Act (DSA). An important part of it was dedicated to online advertising and introduced several measures to improve transparency. While the DSA established rules that apply to all online advertisements, the EU also developed specific rules for political advertisements. As part of its European Democracy Action Plan in 2020, the European Commission announced a new initiative to improve the transparency of political advertisements. In 2023, a political agreement was reached on this new Regulation on Transparency and Targeting of Political Advertising. This piece of legislation breaks with the traditions

of most member states. For the first time, specific rules were developed regarding online campaigning, with far-reaching implications for traditional physical political campaigns, at both the European and the national level. (For a more detailed discussion of this regulatory framework as a whole, see 4: Key features of the regulatory framework.)

3. THE USE OF SOCIAL MEDIA ADVERTISING BY EUROPEAN POLITICAL PARTIES

Overall, the social media campaign expenditure of European political parties has been relatively modest, especially considering they operate on a continent-wide scale. Table 3.1 provides an overview of the social media expenditure of the 10 registered Europarties from 2019 to 2023. Except for the run-up to the 2019 European elections, the annual total expenditure of all Europarties combined has been around or lower than EUR 100,000. But even during the electoral period of 2019, the social media campaign expenses of the European political parties were relatively low. The only party to spend a substantial amount was the European Green Party, which devoted more than EUR 400,000 to social media in 19 EU countries—around a quarter of its total campaign budget. This was still relatively modest in comparison to the social media expenditure of more than EUR 3.2 million by the European Parliament, which conducted a ‘Get out to vote’ campaign. None of the other parties conducted a large social media campaign.

Table 3.1. Social media campaign expenditure (in EUR) of European political parties (2019–2023)

Europarty	Elections 2019 (January–May)	Rest of 2019 (June–December)	2020	2021	2022	2023
EPP	55.025	11.591	1.298	598	8.942	50
PES	31.415	3.074	5.711	44.133	5.269	598
ALDE	5.472	250	1.597	3.395	597	0
EGP	408.927	50	50	21.596	4.143	50
PEL	2.699	0	0	0	0	0
EFA	24.830	0	0	0	0	50
EDP	0	0	448	0	0	0
ECRP	947	0	0	0	0	7.886
ECPM	7.331	150	50	0	0	299
IDP	0	0	61.657	33.203	20.433	0
TOTAL	536.644	15.114	70.809	102.924	39.383	8.932

Source: Author’s own calculations based on data from the Meta Ad Library.

This limited social media expenditure can be largely explained by the regulatory framework that was in place in 2019. In the run-up to the elections, Facebook required all advertisers to physically register in the country where they wished to purchase political advertising. For most European political parties, which had their registered headquarters in Brussels, this meant that they could only campaign digitally in Belgium and were prevented from using social media to conduct genuine transnational campaigns across all EU countries. The use of this measure by Facebook was the result of the soft law approach towards online campaigning that was being taken at the EU level at the time. Online platforms could develop their own policy on political advertising, and, according to Facebook, this was the best way to tackle foreign interference. Yet, in imposing this limitation, the online platform ignored the transnational nature of European political parties, which, by definition, operate and campaign across national borders. It was only after substantial pressure from the three EU institutions—and just one month before the elections—that Facebook agreed to make an exception for the European political parties (Wolfs and Veldhuis 2023).

An important goal of the regulatory efforts at the EU level has been to curb the unlimited collection of personal data for micro-targeting voters through online political advertisements.

4. KEY FEATURES OF THE REGULATORY FRAMEWORK

4.1. Limitations on data access and data analysis

An important goal of the regulatory efforts at the EU level has been to curb the unlimited collection of personal data for micro-targeting voters through online political advertisements. Such practices were first regulated by the GDPR in 2018, which requires organizations to obtain citizens' consent for the collection and processing of personal data. However, the GDPR allows the collection and use of these data without consent if it is necessary for the performance of a task carried out in the public interest or if it is necessary for the purpose of legitimate interests of the party or candidate (article 6(e) and (f) of Regulation 2016/679).

In addition, the GDPR bans the use of 'sensitive' personal data, which include citizens' racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic or biometric data, and information about their health or sexual orientation. However, there are many exceptions. For example, processing is allowed if a citizen provides explicit consent for one or more specific purposes or, in analogy to ordinary personal data, in cases where it is necessary 'for reasons of substantial public interest' (article 9(2)(a) and (g) of Regulation 2016/679). In this respect, the preliminary argumentation of the rules stipulates that the compilation of personal data on voters' political opinions by parties in the course of their electoral activities may be permitted for such reasons of public interest, provided that 'appropriate safeguards are established' (recital 56 of Regulation 2016/679). Parties can also process these data if they originate from members or persons who have 'regular' contact with the party (article 9(d) of Regulation 2016/679), such as their members.

The GDPR also contains important provisions on automated processing of personal data such as profiling, which can be used to analyse and predict voting behaviour. This can be a powerful tool for political parties and candidates because it can be used to micro-target voters and thereby maximize the impact on their voting behaviour. Automated profiling and automated targeting are also prerequisites for the kind of large-scale political micro-targeting exemplified by the Cambridge Analytica scandal (Brkan 2022: 357).

The GDPR stipulates that citizens 'have the right not to be subject' to such automated processing techniques, at least to the extent that such techniques have legal effects or significantly affect the circumstances, behaviour or choices of the citizens concerned (article 22 of Regulation 2016/679). There is some debate over the extent to which (micro-)targeted political advertising has such effects and, consequently, whether this provision actually prevents political parties from using profiling or similar techniques in their online campaign activities (Article 29 Data Protection Working Party 2017; Brkan 2022: 357–59). Yet there are strong arguments to support such an assessment. Since automated and (micro-)targeted campaigning hampers the unrestricted flow of political ideas and voters' access to all sources of information, it can contribute to the spread of disinformation. This, in turn, threatens pluralist political debate and the free formation of thoughts and opinions. The risk is heightened by the fact that targeted political advertising requires campaign funds—sometimes substantial sums—and thus favours parties with a larger campaign budget over those with fewer financial resources (Dobber, Ó Fathaigh and Zuiderveen Borgesius 2019; Levano 2023). There is, in other words, a substantial effect on the behaviour or choices of individuals.

Despite the ambitions of these EU-level regulatory efforts, several EU member states have introduced exemptions for political parties in their implementing acts of the GDPR. Although the latter is an EU regulation, which is directly applicable and does not require transposition into national legislation, one third of the articles of the law permit member states to deviate from the provisions as stipulated in the EU legal text (Bender 2018). This is also the case for provisions relating to the processing of (sensitive) personal data. For example, the Romanian data protection law included a provision allowing political parties to collect and process sensitive personal data without the explicit consent of voters (article 9(2) of Law No. 190/2018) (Romania 2018). In Spain's implementation of the GDPR, a specific provision was added to the electoral law that permitted political parties to process personal data from publicly available sources and collect sensitive personal data on political opinions without consent in the framework of their electoral activities (article 58bis of the Organic Law No. 5/1985 of the General Electoral Regime, as modified by Organic Law No. 3/2018) (Spain 2018). However, after a complaint from the Ombudsman, the provision was annulled by the Spanish Constitutional Court (Judgement 76/2019 of 22 May 2019). In addition, in the United Kingdom—which was part of the EU until 2020—political parties were and are allowed to process personal data on citizens' political opinions

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without the need for consent for use in their political campaigns, fundraising, political surveys and casework (article 9(2)(g) of the UK GDPR; paragraph 22 of schedule 1 of the 2018 Data Protection Act).

In sum, while the GDPR was aimed at harmonizing the use and processing of citizens' personal data—including by political parties—the rules and implementing measures developed at national level still allow for a high level of variation between the member states. There also remain a large number of loopholes allowing political parties to use (sensitive) personal data in their political campaigns.

With regard to European political parties in particular, the EU strengthened its regulatory provisions on the protection of personal data in response to the Cambridge Analytica revelations in 2018. This was deemed particularly urgent in view of the European elections taking place in May 2019. The Regulation on the Status and Funding of European Political Parties was amended specifically in order that European political parties could not 'deliberately influence, or attempt to influence, the outcome of elections to the European Parliament by taking advantage of an infringement by a natural or legal person of the applicable rules on the protection of personal data' (article 1(3) of Regulation 2019/493). This would, for example, be considered to have occurred if a European political party were to engage in micro-targeting of political advertising without explicit consent of the voters concerned (see e.g. Brkan 2022: 360). Where a European party is found to have breached these rules, it can receive a financial sanction of up to 20 per cent of its annual budget (in the case of a repeated infringement) (point 6 of article 1 of Regulation 2019/493).

The rules also aim to forestall a situation whereby a European political party buys services or information from a data broker or a data analytics company that infringe the data protection rules, in analogy to the Cambridge Analytica scandal. The data broker or analytics company—or any other natural or legal person concerned—can only be sanctioned by a national supervisory authority in the case of an infringement; European political parties, however, can be investigated by the EU monitoring entity—the Authority for European Political Parties and European Political Foundations—if they are found to be relying on such breached data or if there are reasonable grounds to believe that the infringement is linked to its political activities (article 1(3) of Regulation 2019/493).

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In 2022 and 2023, to address the loopholes that the GDPR had kept in place, the rules were tightened on the collection and processing of personal data with the purpose of using these for (political) advertising. The Digital Services Act imposes transparency requirements for data processing and targeting techniques, as well as banning the use of targeting and amplification if it involves automated processing of sensitive personal data, such as profiling. The Regulation on the Transparency and Targeting of Political Advertising takes the requirements a step further by allowing targeting or similar ad delivery techniques only if (a) these techniques do not involve sensitive personal data; (b) the party or candidate has collected the data

from citizens; and (c) citizens have given explicit consent for their personal data to be processed. Targeting of young people below the voting age is entirely prohibited. These restrictions do not prevent general communication from parties to their (former) members, such as newsletters (article 18 of forthcoming Regulation, see European Parliament 2024). Consequently, these new rules substantially limit the scope for political parties to make use of sensitive personal data, such as political opinions, in their online campaign strategies.

4.2. Strengthening of transparency

While the GDPR was mainly aimed at providing a framework—and limitations—for the collection and use of personal data, the most recent legislative initiatives have also focused on improving the transparency of political advertising. The Digital Services Act stipulates that advertisements on online platforms should be clearly labelled as such to allow users to differentiate them from other content. In addition, an advertisement must identify both the natural or legal person that paid for it and the natural or legal person on whose behalf it is presented (article 26 of Regulation 2022/2065). Applied to political advertising, this means that both the sponsor of a political advertisement and the party or candidate that is promoted must be made clear. Consequently, these provisions also entail de facto transparency in online campaigning by third parties. The DSA sheds light on targeting, since users must have easy access to the parameters that were used to determine the recipients of an ad. In addition, the law explicitly prohibits the targeting of advertising using profiling on the basis of sensitive personal data (article 26 of Regulation 2022/2065).

The DSA strengthens the positions not only of the recipients of advertisements but also of monitoring bodies. It thus offers the potential to strengthen the monitoring and oversight of online political advertising. According to the rules, ‘very large online platforms’—those with more than 45 million users per month, such as Facebook, Google, Instagram, TikTok and YouTube—must keep a repository of all published advertisements. The repository should include the content of the advertisement, the person or entity on whose behalf it was presented, the donor, the period during which the advertisement was published, the parameters used to target specific groups of users, and information on the total number and groups of recipients (article 39 of Regulation 2022/2065).

While the DSA is applicable to all advertisements, the EU has also developed a specific regulatory framework for political advertisements—the Regulation on Transparency and Targeting of Political Advertising—with the aim of fostering an open and fair debate in the run-up to elections (recitals 4, 8, 19 and 64 of forthcoming Regulation, see European Parliament 2024). The regulation aims to achieve this by obliging parties and other political actors to make it clear to citizens when they are exposed to (paid) political content.

While the regulation has a specific focus, it is also wide-ranging in scope. Particularly noteworthy is its broad definition of ‘political advertising’, which goes beyond what is applicable in most EU member states:

The Digital Services Act stipulates that advertisements on online platforms should be clearly labelled as such to allow users to differentiate them from other content.

the preparation, placement, promotion, publication, delivery or dissemination, by any means, of a message, normally provided for remuneration or through in-house activities or as part of a political advertising campaign by, for or on behalf of a political actor ..., or which is liable and designed to influence the outcome of an election or referendum, voting behaviour or a legislative or regulatory process, at Union, national, regional or local level.

(article 3(2) of forthcoming Regulation 2024, see European Parliament 2024)

First, 'the preparation ... or dissemination, by any means' implies that the rules encompass both online and offline political advertisements, including political posters, pamphlets, newspaper advertisements, and radio and television commercials as well as social media advertisements. Second, the rules are applicable not only to the advertising activities of political parties and candidates but to all individuals and organizations engaged in political advertising. In other words, all forms of third-party campaigning—both online and offline—fall within the scope of the rules. Third, the legislative act applies to political advertising during as well as outside of elections and entails all sponsored content intended to influence political decision-making processes. In many countries, specific rules are in place for political campaigning during electoral periods, but the new EU rules affect all forms of sponsored political communication, including those that take place outside of elections.

The regulation requires the labelling of every political advertisement with a 'transparency notice'. This should include the identity and contact details of the sponsor; the period of publication; the amounts spent and the source of funds; and the election or referendum to which the advertisement is related. In addition, specifically for online advertisements, it must be made clear when an advertisement is targeted, what criteria have been used for that targeting, and whether and to what extent amplification techniques were used to boost the advertisement's reach. If a political advertisement does not include this information, it cannot be published.

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The regulation also established an important source of information for political finance observers and monitoring entities. 'Very large online platforms' as defined by the DSA—such as Facebook, Google, YouTube, Instagram, TikTok and X (formally Twitter)—must keep a database of all online political advertisements, including all the data required in the transparency notice, including sponsors and amounts paid. All providers of political advertisements, both online and offline, must keep these data for a period of seven years. Consequently, the European rules have created a situation in which almost all sponsored political communication is registered and stored. This has provided a unique opportunity for political observers to map trends and analyse spending patterns. It also enables oversight and audit bodies at both the European and the national level to verify these data against the financial reports of political parties and candidates.

5. A MULTI-LEVEL MONITORING FIELD

The multitude of new European-level legislative initiatives have created new opportunities for observers and monitoring entities. Yet they also present a significant challenge, since they imply that responsibility for the monitoring and enforcement of the rules is dispersed among several governmental bodies.

The GDPR foresees the establishment of national data protection authorities to verify compliance with the data protection rules (point 21 of article 4 of Regulation 2016/679). However, in the context of European elections, in cases where a breach of these rules is linked to the political activities of a European political party, the national supervisory authority must inform the Authority for European Political Parties and European Political Foundations. The Authority must request an opinion from a committee of independent eminent persons and take this opinion into consideration when deciding whether or not to impose a financial sanction (point 3 of article 1 of Regulation 2019/493). In other words, the monitoring entity at EU level—the Authority—is entirely dependent on the decision of the national supervisor to start its own proceedings.

Similarly, the DSA divides the task of oversight between (a) Digital Services Coordinators and other competent national authorities and (b) the European Commission, which is responsible for monitoring very large online platforms. The Regulation on Transparency and Targeting of Political Advertising again places oversight responsibility at the national level, requiring the establishment of new entities with responsibility for monitoring its implementation. Only they can impose administrative fines and financial sanctions. However, in order to maintain an effective monitoring system, all these entities on multiple levels must be able to exchange information and collaborate. If we consider that the key challenge for political finance is the enforcement of the existing rules, it immediately becomes clear that the success of the new regulatory framework depends on meeting this same challenge.

6. LESSONS LEARNED AND FUTURE PROSPECTS

Through its legislative initiatives of recent years, the EU is increasingly entering a policy field that has traditionally been reserved for the national level—the regulation of political parties and campaign finance. In this respect, the European level has chosen to focus on the online environment and has imposed substantial limitations on the ability of political actors to collect personal data and use these in their political campaigns. In addition, the disclosure requirements included in the new rules hold the potential to usher in an unprecedented era of transparency in campaign expenditure—not only from political parties and candidates but from all actors seeking involvement in sponsored campaigns and influence over electoral or decision-making processes. While these new regulations offer important opportunities for civil society and monitoring entities to scrutinize the funding of political campaigns,

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they may also pose coordination challenges, given that monitoring and enforcement competence is dispersed among many actors across multiple countries and governmental levels.

While the new regulatory framework offers important improvements to the use of online advertisements in political campaigns, its effectiveness will depend on its implementation.

While the new regulatory framework offers important improvements to the use of online advertisements in political campaigns, its effectiveness will depend on its implementation. Several online platforms have already started to update the transparency requirements they place on political advertisements, sometimes going further than the current rules require. For example, Meta requires advertisers to disclose the use of artificial intelligence or other digital techniques to create or change a political advertisement (Clegg 2023). Yet the first elections organized after the DSA's entry into force were characterized by a fight against disinformation campaigns, which shows that compliance remains challenging (see e.g. Hartmann 2023; Scott 2023). Similar compliance challenges are to be expected with regard to the transparency requirements and data collection and processing rules. In addition, it should be noted that around 10 per cent of all online political advertisements are not published on the so-called 'very large online platforms' and thus fall outside of the scope of the transparency rules (European Partnership for Democracy 2022).

Nevertheless, the EU case provides a number of best practices that can serve as an example to other countries:

- 1.** In our age of digital campaigning, it is often not sufficient to regulate only the behaviour of political parties and candidates. (Social) media platforms also need to be included in the legal framework and integrated into the broader chain of enforcement of the rules.
- 2.** While the use of soft laws, such as codes of practice, can be an important first step, this is often an insufficient means of providing an impermeable legal framework. Indeed, giving online platforms (or political parties) substantial discretion in designing and implementing such initiatives can lead to possible unintended consequences.
- 3.** Adopting a broad definition of political advertising ensures that all actors that attempt to influence the electoral and decision-making process are regulated. This includes influencers and third parties that are active in the political campaigns.
- 4.** The focus on increasing transparency can be a feasible policy goal in political systems with widely diverging positions or practices regarding the regulation of political finance. The EU and its member states are characterized by a wide variety in traditions of political finance and the competences of the European level are limited in this regard. Nevertheless, it has been possible to find a consensus around bolstering transparency of political advertisements and the use of personal data with the common goal of strengthening the EU's democratic foundations.

ABBREVIATIONS

DSA	Digital Services Act
GDPR	General Data Protection Regulation

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This case study was drafted between September and December 2023 and is part of International IDEA's 'Political Finance in the Digital Age' project, which collects empirical information about the ways countries adapt to and cope with political finance challenges associated with digitalization. Through the project, members of political finance oversight agencies and civil society organizations, political party officials and legislators can learn about good practices and lessons learned from various countries that can help them devise and implement political reforms to protect the integrity of political processes and institutions against existing and emerging digital risks.

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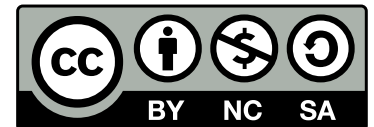
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Design and layout: International IDEA

DOI: <https://doi.org/10.31752/idea.2024.26>

ISBN: 978-91-7671-759-2 (PDF)



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