



# PUZZLING RULES – EQUAL GAME?

Comparing  
political  
finance  
regulations  
across  
the EU

Recommendations  
on Electoral Reform

# Puzzling rules – equal game? Comparing political finance regulations across the EU

Recommendations on Electoral Reform

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## **Edition:**

European Platform for Democratic Elections, June 2022

[www.epde.org](http://www.epde.org)

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Cover photo: unsplash.com

EPDE is financially supported by the Federal Foreign Office of Germany and the European Union.  
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# EXECUTIVE SUMMARY

This study is part of the multi-country project “European voters – together for electoral integrity,” which aims to empower European citizens to improve democratic electoral processes on a local, national, and European level, and to protect the integrity of elections in Europe as a fundamental human right of European citizens.

In this study we look at both the EU-level regulations and draw on a comparative analysis of how specific elements of political finance are regulated in individual Member States. In doing this, we particularly focus on Germany, Hungary, Lithuania, Poland, Romania, Slovakia, and Sweden to provide specific examples. Civil society organizations from this diverse subset of EU MSs are part of the project “European voters – together for electoral integrity.” This study is particularly focused on the comparison between national regulations across the EU and an analysis of the policy instruments at the EU level.

Throughout the EU, there is a wide variety of regulatory approaches to political finance, including the models used and extent of oversight practiced. It is natural to find less regulation where public trust is high and to opt for tighter regulation where trust is lower. However, the emerging trends, including the apparently under-regulated methods of online political activities, appear to be challenging the equilibrium of trust and regulatory extent.

Despite differences in the level of trust and regulatory extent, there are universally shared values and principles in the sphere of political finance. These include the **principle of equality of opportunity**, most applicable to the regulation of the sources of financing and of the types and ceilings of expenditure; the **principle of transparency**, related to provisions on reporting and disclosure of political finances; and the **principle of accountability**, to guarantee oversight and the possible use of sanctions so that equality of opportunity and transparency are protected.

Interestingly, though, these shared principles are being challenged by the newly emerging trends. Whether the EU MSs have regulatory tools in place or not, the opaqueness of money flows in relation to online advertising challenges the principles of equality and transparency. The ability to circumvent rules by engaging third parties helps political actors avoid accountability. Threats of

foreign influence are mitigated not only by transparency and accountability mechanisms but also by the greater interest of foreign powers to attack some EU Member States and not others, and by informal resilience to disinformation.

In the absence of clear national-level responses to date, it makes sense to explore, therefore, possible EU-level regulatory options. This study reviews the national-level regulations regarding the three key principles and proposes EU-level responses.

The diversity of regimes for protection of **equality of opportunity** is vast, particularly with regard to private sources of funding. Emerging trends pose a challenge, though, for both established and newer democracies: donations through online platforms or in cryptocurrencies and possible ways to circumvent prohibition of anonymous donations all highlight that the new phenomena may require common responses. Equality of opportunity should thus be protected by more clarity with the definitions of sources of funding and actors engaged in spending for political purposes. Specific priority recommendations include:

- streamlining the definitions of contributions and donations to political parties between the EU and national legislation;
- addressing the issue of firewall between the EU and national political parties in the context of European Parliament elections with a view to strengthen cross-border political cooperation in the European Union and promote the common European political identity;
- establishing an EU-wide definition of third parties for either the European Parliament elections or more generally, including by drawing on comparative experience of Member States that regulate the matter, and setting an EU-wide register of third parties under the APPF (Authority for European Political Parties and European Political Foundations).

The level of **transparency** of political finance may differ based on various factors, such as legal frameworks, but in practical terms is also influenced by the local political and civic culture. There are different rules regarding reporting and disclosure among Member States, and a multitude of variations between what is reported and what is published. Some of the new trends mentioned in the study could improve transparency. The adoption of technological novelties, open data, or the development of online platforms by political parties and oversight bodies increases the potential of wider public coverage of the funding for political parties and election campaigns. At the same time, the increasing use of online media; advertising on a wide range of platforms and the discrepancies in regulating it; foreign financing; and the increasing role of third parties represent real challenges to transparency and integrity of elections. Specific priority recommendations include:

- revision of the legal framework could foresee the obligation for European political parties to submit campaign finance reports within two to three months after the EP elections;
- the EU regulation could impose that all financial information on European political parties be published in a centralized manner on a dedicated webpage of the APPF's website;
- introduction of an electronic reporting platform, such as those available in some of the countries described in this study.

The major problem encountered by most oversight bodies in protecting the principle of **accountability** is the lack of or partial enforcement of regulations due to lack of authority or resources, which hinders the implementation of the political finance system. Good practices can be drawn from several EU MSs as some national oversight bodies have taken innovative approaches to address emerging issues such as third-party campaigning, online fundraising, institutional cooperation, social media advertising, and online/digital systems. Key priority recommendations include:

- requiring third parties – in countries where third-party spending is not regulated – to register in advance with the oversight body and subjecting them to a set of defined campaign finance regulations;
- establishing online systems of reporting and publication that allow for data analysis and public scrutiny. The APPF should take the lead and further its efforts in digitalizing its controlling tools;
- under the APPF's control, establishing a network of oversight bodies – with the possibility to have bilateral cooperation agreements (or agreements between neighboring countries) – to ensure the uniform and consistent application of EU regulations.

# INTRODUCTION

This study is part of the multi-country project “European voters – together for electoral integrity,” which aims to empower European citizens to improve democratic electoral processes on a local, national, and European level, and to protect the integrity of elections in Europe as a fundamental human right of European citizens.

Political finance is one of the key building blocks of a democratic political process, as parties rely on financial resources to promote their views and, during elections, compete for support. This study reviews political processes at both the national and European level, aiming to contribute to the promotion of political processes at the national and transnational levels rooted in common European values. Accordingly, the general principles of equality, transparency, and accountability applicable to this domain will be analyzed in the study from the perspective of both national and European regulation. With this, the study will highlight the variety of regulatory approaches in use across the European Union (EU), and identify common challenges and possible responses to those.

The study aims to provide constructive inputs to an ongoing discussion of how to address challenges faced by all EU Member States in regard to better regulating the relationship between money and politics. The recommendations of this study are intended as an input for the ongoing process of enhancing the EU-level regulations of political finance – a process that would be replicated or supplemented at the national level.

## Context and history in political finance

Throughout the EU, there is a wide variety of regulatory approaches to political finance, including the models used and extent of oversight practiced. There are political systems with tighter regulation of political finance, aiming to clearly delineate the legality parameters, as well as systems where the regulations are left purposefully broad so as not to limit political pluralism and freedom of expression. A distinction can also be made based on whether the focus of the enforcement is on the legality of the process or on the veracity of the reported facts. One common feature, though, is that in each instance there is a body

tasked with oversight and enforcement of (minimal at times) political finance regulations.

The division in the nature and extent of regulations is particularly evident when one compares newer and older EU Member States, and which underscores the importance of historical contexts in shaping approaches to the regulation of this sensitive issue. For example, some aspects of the political finance system, such as donations from anonymous sources, are regulated to a much lesser degree in the older EU Member States than in the newer ones. Conversely, legal entities are more likely to be allowed to donate to electoral campaigns in older EU Member States than in newer ones. As will be evidenced by further analysis, these two examples show that EU Member States at least have an opportunity to learn from each other's experience, if not converge towards common responses to common challenges

Importantly, one should not lose sight of the reasons for the differences. Indeed, the level of trust in democratic institutions differs across EU Member States. It is natural to expect less regulation where public trust is high and to opt for tighter regulation where trust is lower. Interestingly, however, the emerging trends, including the apparently under-regulated methods of online political activities, appear to be challenging this equilibrium of trust and regulatory extent.

Indeed, skillful political operators utilize the newly available methods of campaigning in similar ways across the EU. In the context of less detailed regulations, they would find themselves motivated to challenge the established common understanding of what is allowed in politics, thus adding to the motivation of lawmakers to regulate the issue in more detail. In the context of tighter regulations, political actors may be able to exploit the inevitable gaps and loopholes in the regulations, thus calling for further adaptation. In either case, the motivation to regulate political finance more closely in response to modern challenges is obvious across the EU. This gives cause to expect a convergence of national regulations towards common responses to address these common challenges. At the same time, greater availability of digital tools gives rise to hopes that non-institutional methods of oversight, such as reliance on open data, may help promote transparency and inform the public.

## EU vs. national levels: imbrications and linkages

The big question, though, is whether to expect the convergence to happen organically at the national level or to hope for EU-level regulations to pave and lead the way. The applicability of EU-level regulation remains unquestioned in EU-level elections, but national electoral processes, including elections to the European Parliament, are thought of as sovereign matters of Member



States. Regulation of the matter at the EU and national levels overlaps in two important domains. First is the role and involvement of European political parties whose work extends beyond the period of the European Parliament electoral campaign. The second is the regulation of matters of EU-wide concern, such as misinformation, foreign influence, transparency of financing, and the crosscutting issue of the role of social media and online domains more broadly in all of the above.

EU regulations, both as established and the revisions currently proposed, tackle precisely these common issues, which appear to impact not only elections to the European Parliament but also national elections and, through those, the fabric of European politics conducted by national governments. In other words, in pursuing responses to common challenges, EU-level regulations are also responding to the needs of the EU as a community of shared values and principles.

## Political finance principles

It would, therefore, be useful look at the general principles of political finance from the viewpoint of overarching principles and standards applicable across the EU. Broadly speaking, the political finance framework covers the finances of political parties and electoral campaigns. The same principles apply for both political party and campaign finance. It is widely known that the matter of political finance is not covered in depth by international election standards. Oftentimes, election observers and analysts draw upon related standards and obligations and apply those to the topic of political finance. This, however, offers a useful angle from which to examine political finance at both the EU and national level.

For example, regulation of the sources of financing and of the types and ceilings of expenditure can most directly be analyzed through the prism of the **principle of equality of opportunity**, also often referred to in a broader sense as the principle of fairness. Indeed, the 2002 Venice Commission Code of Good Practice in Electoral Matters specifically links equality of opportunity with the funding of parties and/or campaigns, as well as with access of political actors to resources. Importantly, the prism of equality of opportunity also allows consideration of whether regulations promote and support the participation of groups underrepresented in political life – women, youth, people with disabilities, national minorities. In this sense, the analysis below will take into account not only the equal treatment of political actors but also the equality of opportunity for members of society.

The **principle of transparency** can be realized through provisions on reporting and disclosure of political finances. One of the international documents of

a legally binding character that is most directly related to the issue of political finance is the 2003 UN Convention Against Corruption. In its Art.7.3, specific attention is drawn to the issue of transparency of campaign and political party funding. As all EU Member States are parties to the Convention, the below analysis will be guided as well by the importance of transparency.

The **principle of accountability** serves as a guarantee for the realization of the abovementioned principles, as it is through the oversight and possible use of sanctions that the equality of opportunities and transparency are protected. It will be important in the below analysis to be cautious about the extent of oversight and sanctioning powers, as there the impact of the differences of context is most pronounced.

### Scope of the study

In this study, we both look at EU-level regulations and draw on a comparative analysis of how specific elements of political finance are regulated in individual Member States. In doing this, we particularly focus on Germany, Hungary, Lithuania, Poland, Romania, Slovakia, and Sweden to provide specific examples and analyze in more depth and detail the contexts and responses to emerging trends there. This set of countries is quite diverse, with Germany and especially Sweden finding themselves on one end of the spectrum of how detailed the regulations are, while Hungary, Lithuania, Poland, Romania, and Slovakia all demonstrate the tendency to regulate in more detail but diverging amongst themselves in mechanisms of implementing the regulations and in how the political context shapes regulatory responses.

This study is particularly focused on the comparison between national regulations across the EU and an analysis of the policy instruments at the EU level. In so doing, it aims to identify the lacunae in the regulations that are becoming more evident as the emerging challenges are being tackled. Therefore, it is important to first identify and assess challenges that are relatively new and require to be addressed through revisions of existing regulations or adoption of new ones.

### Emerging trends in the EU

The newly emerging trends impact campaigns across the EU. The flourishing online space creates more opportunities for campaigning itself and for involvement in political life in a financial sense – contributing either with money or other kinds of resources. The trend of increased polarization might also be linked with the atomization of electoral campaigns through personalizing and targeting political messages. The 2017 CoE study mentioned that the “ability to micro-target political messages increases the likelihood that parties and

candidates campaign on ... issues which are highly divisive in a public forum but also have the ability to mobilize voters.”<sup>1</sup>

Online campaigning, including via social media, undoubtedly presents opportunities for third parties to operate more freely and for the very category of “third party” to expand and include new actors. The International IDEA defines third-party campaigning as “electoral campaigning undertaken by individuals and/or organizations other than political parties or candidates. These third parties may campaign for or against specific parties, candidates or issues.”<sup>2</sup> ODIHR, using a very similar definition, noted recently that “[t]he availability of these communication tools may further have impacted the respective role of political parties and third parties during and in- between elections.”<sup>3</sup> Importantly, despite the differences in regulation/context across the EU, the regulation of in-kind contributions and third-party expenses is generally less detailed. This opens the door for third parties to include now not only the good, old political affiliates of the parties but also new types of actors, such as foreign influencers, private entities operating through NGO-type organizations. Online tools, such as those that enable online donations (including using cryptocurrency) are also seen as challenges, as they give opportunities to third parties to circumvent the typically tight regulations on donations, including from abroad.

Concerns about foreign influence are an important new trend in itself. Concern with foreign influence from outside the EU on national and EP elections was high in recent years. At the same time, the premise of the EU-wide regulation (particularly 1141/2014) was to stimulate cross-border politics in the EU through cooperation between European parties and their national members. Hence, an interesting question arises in regard to how to promote the idea of cross-border cooperation within the EU while protecting against influence from outside the EU. Matters are made even more complex by the fact there are political parties in countries outside the EU who wish to participate in European politics in a positive manner, which is important for promoting cooperation of the EU with its neighborhood, and especially with prospective Member States.

1 See the 2017 CoE “[Study on the Use of Internet in the Electoral Campaign](#),” p. 18.

2 See the International IDEA publication *Funding of Political Parties and Election Campaigns*.

3 See the [OSCE/ODIHR Note on Third Party Regulations in the OSCE region](#), para.14.

# EU REGULATION

The concept of European political parties as transnational alliances of political parties emerged before the first elections to the European Parliament in 1979. The treaty of Maastricht in 1992 recognized the existence and importance of European political parties as prominent actors in the European democratic system.<sup>4</sup> In 2000, the Charter of Fundamental Rights of the European Union reiterated the critical role played by European political parties.<sup>5</sup> The treaty of Nice (2003) took this to the next level by stressing the necessity to adopt rules pertaining to the funding of political parties at the European level.<sup>6</sup>

In 2004, the adoption of Regulation 2004/2003 laid the foundation of the existing regulatory framework governing the statute and funding of European political parties.<sup>7</sup> This landmark regulation enshrined the principle that European public funding of political parties must meet the registration requirements and introduced rules regarding private sources of financing and expenditure. It was subsequently amended in 2007 to extend the public funding system to European political foundations. In 2014, the benchmark Regulation 1141/2014 repealed Regulation 2004/2003 and dramatically modified the applicable regulatory framework. It put in place a registration procedure for European political parties and introduced a mechanism for providing registered political parties with a status of full legal personhood in the EU. Regulation 1141/2014<sup>8</sup>, which came into force in January 2017, also laid down rules regarding reporting and disclosure requirements and established a political finance oversight body, namely the Authority for European Political Parties and European Political Foundations (APPF), vested with monitoring and sanctioning powers. Amendments adopted in 2018 and 2019 aimed to further transparency and enforcement rules and reflect this new approach that, while politics happens at the national level, a common response at the European level is needed to address a set of common

4 Article 10(4), [Treaty on European Union](#).

5 Article 12(2) [Charter of Fundamental Rights of the European Union](#)

6 Article 224, [Treaty on the Functioning of the European Union](#).

7 [Regulation 2004/2003](#).

8 [Regulation 1141/2014](#).

challenges.<sup>9</sup> EU Financial Regulation and other implementing acts complement the political finance architecture at the European level.<sup>10</sup>

The regulatory framework has been further clarified by an interesting case law<sup>11</sup> produced by the European Court of Justice (ECJ), the latest being a decision issued in 2020, *ACRE v. Parliament*.<sup>12</sup> It is very important to keep in mind, though, that the existing body of case law refers to the previous Regulation 2004/2003, as no case has yet been brought before the Court as regards the application of Regulation 1141/2014.

## Overview of the existing regulations

Regulation 1141/2014 provides for a comprehensive political finance system. While Chapter IV lays down rules regarding the sources of financing and eligible expenditure, Chapter V sets out regulations pertaining to reporting requirements and the controlling and sanctioning mechanisms. Chapter VI contains provisions related to the publication of financial reports submitted by European political parties and mentions the competent Court for political finance-related judicial proceedings.

## Equality: sources of financing and expenditure

Regulation 1141/2014 provides for a mixed system of financing. Registered European political parties<sup>13</sup> can receive financing from the general budget of the European Union and donations from legal and natural persons. European political parties that are represented in the European Parliament by at least one of their members are eligible for funding from the European Union budget. The financial allocation is distributed annually and is composed of two allotments:

- 9 The 2019 amendment introduced a verification procedure intended to impose sanctions on EU parties or foundations that deliberately influence, or attempt to influence, the outcome of European elections by taking advantage of data protection breaches. The 2019 European parliamentary elections were the first to be held under the new regulatory framework.
- 10 See Financial [Regulation 2018/1046](#) (Title XI – articles 221-240 & Title VIII), and the [Decision](#) of the European Parliament’s Bureau of 1 July 2019.
- 11 For more information, see the EPRS report “[Statute and funding of European political parties under Regulation 1141/2014](#)” p.43-46.
- 12 Judgment of the General Court (Third Chamber) of 25 November 2020. Case T-107/19, *ACRE v. Parliament*.
- 13 Registration by the APPF is a pre-requisite to receive funding from the European Parliament. To be registered, party alliances must have their seats in an EU Member State, have participated in European Parliamentary elections, must not pursue profit goals, and must be represented in at least one quarter of EU Member States by elected members at different levels. MEPs cannot be member of more than one European political party and the party’s program and activities must respect the founding principles of the European Union.

10% is distributed among the eligible European political parties in equal shares, and 90% is distributed among the beneficiary European political parties in proportion to their share of elected members of the European Parliament.

The system has put in place a mandatory co-funding threshold mechanism. EU public funding cannot exceed 90% of the party's annual reimbursable expenditure, meaning that the party must get at least 10% of its annual budget from private sources. This aims to encourage European parties to raise funds from individuals and legal entities as the level of public funding is rather modest (EUR 46 million in 2021) and strengthen their linkage with their party members and citizens.

Regulation 1141/2014 clearly distinguishes between contributions and donations, a distinction that does not necessarily exist in the EU Member States. Contributions encompass all monetary payments and in-kind contributions originating either from a member of a European national/regional party or an individual party member. On the other hand, donations comprise all financial payments and in-kind donations deriving from natural and legal persons who are not members of a European party. This distinction is important especially with a view to donation regulations. Indeed, donations<sup>14</sup> from natural or legal persons are capped at EUR 18,000 per year and per donor and are subject to a stringent set of reporting and disclosure requirements (see section ii below on Transparency). Contributions, on the other hand, are subject to the same donation limit only if they derive from natural persons (except for contributions originating from MEPs, which are exempted from the donation cap), and are not subject to any disclosure for contributions made by natural persons. Their total value cannot exceed 40% of the party's annual revenue. In the recent *ACRE v. Parliament* decision, the European Court of Justice has recalled the distinction between contributions and donations and obliged the requesting party to return to a non-European party the difference between the total amount of the payment received and the donation cap.<sup>15</sup>

The same decision also clarified the notion of reimbursable expenditure as mentioned in Article 17(5) of Regulation 1141/2014 and the 2019 Bureau

14 European political parties cannot accept:

- anonymous donations or contributions;
- donations from the budgets of political groups in the European Parliament;
- donations from any public authority from a Member State or a third country, or from any undertaking over which such a public authority may exercise, directly or indirectly, a dominant influence by virtue of its ownership of it, its financial participation therein, or the rules which govern it; or
- donations from any private entities based in a third country or from individuals from a third country who are not entitled to vote in elections to the European Parliament.

15 The Court decided that the (Armenian) party was not a political party according to the definition provided in Regulation 2004/2003 and that therefore the payment made by the latter was not a contribution but a donation subject to the EUR 18,000 donation limit.

decision.<sup>16</sup> The Court found that a series of expenses incurred by ACRE were not meeting the definition of reimbursable expenditure as they were benefiting mostly national parties or lacked a European dimension. While European political parties can finance campaigns conducted by European political parties in the context of European parliamentary elections, they are not allowed directly or indirectly to finance national campaigns or candidates. The limitation on election expenses for parties and candidates at such elections is governed by the rules applicable in each Member State, which indubitably creates some discrepancies between states, especially in the context where there is no global spending limit at the European level.

*Consideration could be given to setting a spending limit at the European level to incentivize European political parties to promote transnational programs and foster European parties' participation and engagement in EP elections at the EU level.*

## Transparency: Reporting and transparency

Within six months following the end of the financial year, European political parties have to submit to the APPF their annual financial statements, with a copy to the Authorising Officer of the European Parliament and to the competent National Contact Point of their Member State. The financial statements are accompanied by supporting documents regarding the party's income (notably, a list of all donors with their corresponding donations, indicating both the nature and value of individual donations) and expenditure (notably, those linked to European parliamentary campaigns and incurred jointly with national parties), as well as an external audit report. Donations received by European political parties within six months prior to European parliamentary elections must be reported on a weekly basis to the APPF. However, European parties do not have to report on their campaign expenses in a separate report after the end of the campaign, which diminishes campaign finance transparency.

*The EU Regulation could foresee the obligation for European parties to submit an election campaign finance report within two to three months after the EP elections. This report should be accompanied by all supporting documents regarding all sources of income collected and expenses incurred for electoral purposes.*

The European Parliament makes public, on a website created for that purpose,<sup>17</sup> the European political parties' annual financial statements, including all donations greater than EUR 1,500. Such obligation does not apply to donations the annual value of which exceeds EUR 1,500 and is below or equal to EUR 3,000 unless the donor has given prior written consent to the publication.

16 See Part B II.19&20. This decision provides for a reporting template.

17 See EP page dedicated to [Audit reports and donations](#).

All donations above EUR 12,000 must immediately be reported to the APPF; however, while Regulation 1141/2014 stresses the importance to publish information on donations “expeditiously” during the election campaign, no time constraint is placed on the APPF to do so. Political finance information is currently published on two separate websites: the APPF’s, as far as donations and contributions are concerned, and the European Parliament’s for financial reports, an arrangement detrimental to political finance transparency and public information.

*To promote consistency and access to information, all financial information of European parties could be published on a dedicated webpage, and the EU regulation could foresee timely publication by the APPF of information on donations above EUR 3,000. During EP election campaigns, all donations exceeding EUR 3,000 should be published as they are received.*

### Accountability: Oversight and sanctions

One of the main novelties introduced by Regulation 1141/2014 was the establishment of an independent oversight body, the Authority for European Political Parties and European Political Foundations (APPF).<sup>18</sup> It is responsible for registering and assessing compliance by EU parties with obligations regarding the origin and use of their funding, but also imposing sanctions in cases of irregularities. The APPF can remove parties from the register if they no longer comply with the registration requirements and impose financial sanctions that differ depending on whether infringements are quantifiable or non-quantifiable.<sup>19</sup> The APPF has never used its sanctioning power to date.

The oversight and supervision mandate is split with other national and European institutions, i.e., the national competent bodies, the European Parliament,<sup>20</sup> the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF), and the European Public Prosecutor’s Office (EPPO). All these institutions have the right to request European political parties to provide any additional information necessary to carry out their controls through administrative proceedings. However, the Regulation does not foresee the possibility for the APPF to send inquiries to providers/suppliers or donors/contributors or to carry out investigations. The EU Regulation mentions the obligation upon the APPF to submit an annual report to the European Parliament but does not

18 Until Regulation 1141/2014, this competence fell under the European Parliament’s competence. Presently, only the management and distribution of EU public grants is under Parliament’s authority.

19 See Article 27 of Regulation 1141/2014, which details the different options for sanctioning contravening political parties.

20 The European Parliament ensures compliance with the obligations relating to Union funding in accordance with the Financial Regulation.



specify a deadline. In the same vein, the Regulation does not set any time limit for the publication of the financial reports and donations/contributions.

*The legal framework should be reviewed to set clear deadlines for the timely publication of financial information related to the financing of European election campaigns.*

## Interaction between EU and national regulation

European political parties are often described as party alliances or “parties of parties” as opposed to national parties which are parties of citizens/individuals. Transnational or pan-European political parties seek to bridge the gap between politics at the European and national levels by raising citizens’ awareness of the European sphere and expressing the political will of European citizens. However, this ambitious principle stumbles over the financial firewall set successively in Regulation 2004/2003 and Regulation 1141/2014. Indeed, apart from the fact that European political parties are not able to nominate candidates in national elections or European parliamentary elections, they are also prohibited to fund directly or indirectly political parties at the national level.

While participation in European parliamentary elections is a condition for parties to be registered and eligible for European public funding, their effective role in European elections is very limited. Regulation 1141/2014 introduces a paradoxical situation in that European political parties are on the one hand allowed to participate in and finance their own campaigns for European parliamentary elections in which they or their members take part, but are prohibited on the other hand to fund such campaigns of their member parties as these elections are considered national elections and are governed by the rules applicable in each Member State. This state of affairs limits the role played by European political parties and creates a *de facto* artificial separation between the European and national levels, where it is at times difficult to differentiate between the two levels and maintain separate accounts in instances of jointly organized campaign events. Moreover, the Regulation leaves to each Member State to set the spending limit applicable to the elections to the European Parliament, which creates an uneven level playing field between states (see section on sources and spending in the EU Member States below). Rules also greatly vary from one country to another as regards permissible sources of funding, i.e., some Member States do not prohibit the financing of national campaigns in EP elections by European political parties, which once again poses the question of the absence of a level playing field between national political parties across the EU region.

The APPF has tried to clarify the role played by European parties in EP elections, as opposed to the role of national parties, by trying to identify the elements that a campaign conducted by a European party should feature. The APPF,

together with the European Parliament, has developed a set of five operational principles to determine whether a campaign is truly European.<sup>21</sup>

- Scope: Campaigns conducted by European parties must be carried out in several Member States to be regarded as having a European dimension;
- Content: European campaigns must contain Europe-centered themes and deal with topics that affect citizens across the Union;
- Ownership: European parties must demonstrate that they are the owners of the campaigns organized in the context of the European elections;
- Authorship: Campaigns run by European parties must be clearly recognizable and unambiguously attributable to them through, for example, logos and banners;
- Law: Campaigns by EU parties must be compatible with the applicable national law *as per* Article 21 of Regulation 1141/2014.

These guidelines clearly show the need to rethink the current state of affairs as regards the financial firewall put in place by the Regulation and review European parties' right to campaign. The introduction of a separate public funding mechanism to finance European elections or reimburse European parties for their election campaigns could therefore be envisaged to facilitate the participation of European parties in the European political sphere and ease the interaction between the European and national levels. That would be in line with one of the recommendations made in this study as regards the submission by the European political parties of separate election campaign finance reports after the EP elections. The introduction of campaign regulations, besides the existing rules governing the financing of European political parties, would provide some leverage to European political parties as regards the conduct of their campaigns and would encourage the coordination of campaign events and holding of joint events between European and national political parties.

21 Authority for European Political Parties and European Political Foundations, [Annual Activity Report](#), 2019, pp. 14-15.

# NATIONAL REGULATIONS

As described above, most aspects of political finance in the EU are regulated at the national level, including regarding the EP elections. It is, therefore, important to consider national regulations in the EU member states to assess the level of divergence in specific elements of political finance. Such a review would also be useful to evaluate whether EU-level regulation can or should fill the gaps with the aim of promoting Europe-wide political processes.

## Equality: Sources and Spending

### Public Funding of Political Parties

In the absolute majority of EU countries (25 out of 27), **public funding** is provided to political parties, usually based on past election results or number of votes obtained in the previous elections. Exceptions are Italy and Malta. In all countries in the focus of the study, public funding is one of the sources of financing of political parties, although the share of public funds in the overall income varies rather widely. The percentage could also vary in election years. In Romania, for example, the share of public subsidies in the income of the major political parties can reach more than 90%,<sup>22</sup> in Poland is about 50% (and about 80% if the reimbursement of campaign expenses is included)<sup>23</sup>, while in Germany it is between 30% and 40% for parliamentary parties due to the model of matching funds.<sup>24</sup> Studies show that the longer-term trend is for the share of public funding in party finances to increase, matched by a decrease of the share of membership fees.<sup>25</sup>

Public funding of political parties is universally accompanied by corresponding reporting obligations, which, positively, increases transparency. However, this

22 See the calculations by Expert Forum - <https://www.banipartide.ro/partide>.

23 See the [communication](#) of the Poland National Election Commission regarding the financial reports of political parties for 2020.

24 <https://dserver.bundestag.de/btd/18/127/1812720.pdf>

25 See p.24 of the June 2021 [European Parliament study](#) “Financing of political structures in EU Member States.”

form of funding raises the question of political parties' dependence on the state and may increase the distance between party leadership and membership. Also, especially importantly in contexts with higher political polarization, increases in public funding may amplify inequality between parties.

In this context, an interesting development of late was the 2020 decision in Hungary to cut support to political parties in 2021 by half due to COVID-related financial challenges, which was accepted without much grievance. The 2022 elections in Hungary showed that this was the case because political parties chose to opt for other ways of financing their campaigns. Indeed, the political parties relied heavily on expenses by third parties, including for online advertising. Funding of such entities is not regulated despite previous recommendations of election observers and is not transparent.

### Public Funding of Campaigns

The case of Poland described above underscores that the reimbursement of (some) campaign expenses may feature as a significant portion of the parties' budgets. Still, while routine party activities tend to be supported from state budgets across the EU, the situation is a bit different regarding the **specific allocation of public funds for campaigning**, with most MSs (19 out of 27) providing either direct or indirect public funding for the conduct of electoral campaigns. In most cases where public funding is provided, it takes the shape of financial subsidies and/or reimbursement of expenses. The provision of free-of-charge airtime on public broadcasters is also rather common. Among the seven countries within the study, four provide financial subsidies, including reimbursement of some expenses (Hungary, Poland, Romania, Slovakia), one relies on indirect public financing (Germany), and two (Lithuania and Sweden) do not provide public funding to campaigns. In Romania, political parties can use subsidies for campaigns, but can also request reimbursements for the rest of the private funding if they receive more than 3% of the votes.

Public funding for campaigns	
Financial subsidies or reimbursements	Austria, Bulgaria, Croatia, Czech Republic, Finland, France, Greece, <b>Hungary</b> , Ireland, Luxembourg, Netherlands, <b>Poland</b> , Portugal, <b>Romania</b> , <b>Slovakia</b> , Slovenia, Spain
Indirect support	Belgium, <b>Germany</b>
None	Cyprus, Denmark, Estonia, Italy, Latvia, <b>Lithuania</b> , Malta, <b>Sweden</b>

Importantly, even in those countries where public funding of campaigns is not provided by the law, the lines might be blurred as the parties themselves may receive public funding and spend these resources on financing their campaigns. The case of Poland is again illustrative here, with electoral contestants being *de jure* separate legal entities that are nonetheless linked intrinsically with political parties, who can transfer funds to the electoral committees.

Lastly, the opportunity for EU-level public funding is limited by the financial firewall between EU parties and national parties. In the context where campaigns are conducted primarily at the national level, the firewall limits access to public European funds even for campaigning in EU-level elections.

### **Private Sources of Financing**

Obviously, public funds are never the only source of income for political parties and especially electoral campaigns. Most types of **private donations** to political parties are allowed everywhere across the EU, the only difference being whether the law sets a limit to such donations or not. The few EU MSs where private donations are allowed without limitations are Bulgaria, Denmark, Estonia, Hungary, Luxembourg, Netherlands, and Sweden. With the exception of Bulgaria and Hungary, these are countries with long-established democratic traditions.

An interesting development of recent years has been the opening of possibilities for individuals to donate using online platforms (or even by phone). In Poland, for example, the regulation had to be amended in 2020 to keep transactions between individual donors and political parties executed through online tools within the parameters of the law. Politicians made some attempts to fundraise using crowdfunding platforms in Romania, among other countries, but the EMB there quickly challenged the legality of such approaches on the grounds of lacking transparency. In France, in a reversal of a prior longstanding prohibition, donations can now be made through an online intermediary such as PayPal. This demonstrates the possible divergence in approaches to similar situations on the grounds of different interpretations of whether transparency can be provided for through disclosure. Research by International IDEA notes that, indeed, “the automated nature of crowdfunding can allow donors to divide donations into smaller amounts more easily, thus circumventing the reporting obligations.”<sup>26</sup>

26 See the [Political Party Innovation Primer 2, “Online Political Crowdfunding.”](#) by International IDEA, p.11.

### Online fundraising

The 2020 early parliamentary elections in Ireland saw a surge in online fundraising through new platforms such as GoFundMe. The oversight body, the Standards in Public Office Commission (SIPO), identified this as a potential issue of concern with regard to possible breaches of the regulation on anonymous donations and issued [guidelines](#) that oblige contestants to verify the identity of the donors who provide funding online.

The situation is similar regarding the specific case of cryptocurrency donations. In Sweden, already in 2014, a political candidate successfully raised donations only in bitcoin, and in Iceland the Pirate Party has been accepting cryptocurrency donations for several years now. This relaxed approach in Sweden is likely linked with the fact that foreign and anonymous donations (to a certain amount) are permitted in the country. Indeed, the conservative attitude towards cryptocurrencies in political finance in most other EU Member States is often related to the existing prohibition of donations from anonymous and foreign sources and the depersonalized and borderless nature of cryptocurrencies.

This example of the use of cryptocurrencies for donations raises the important issue of anonymous donations. **Anonymous donations** are either prohibited in EU MSs or allowed up to a certain (usually very low) limit. Among those MSs that prohibit such kinds of donations are Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, Italy, Latvia, Luxembourg, Poland, Portugal, Romania, and Slovakia. Interestingly, those countries where trust in the system is higher tend to allow anonymous donations up to a certain limit: Belgium, France, Germany, Ireland, Netherlands, and Sweden. Anonymous donations are criticized but remain in place in Greece and Malta.

In contrast to anonymous donations, **donations from foreign sources** are almost universally prohibited in EU MSs, with the exception of Lithuania and Luxembourg, where they are allowed with certain restrictions, as well as Netherlands and Sweden, where they are permitted.<sup>27</sup> In several countries (Bulgaria, Czech Republic, Romania, and Slovenia) residents who are EU citizens are allowed to contribute to campaigns in European Parliament elections. Nonetheless, it is clear that if a foreign influencer would like to impact the political process in an EU MS, they would find it more difficult to circumvent rather precise funding prohibitions than to find an additional vehicle for converting finances into political influence. This brings us to a discussion of how

27 Interestingly, as the ODIHR 2020 study notes: “An indirect provision exists in the Swedish Penal Code, which bans any person from accepting money from a foreign power if the intent is to influence public opinion on significant issues for the realm.”

the emerging trends may be related to the existing regulatory framework for party and campaign expenses.

One of the elements that highlights the importance of different regulations of the incomes and expenses of political parties and campaigns is the interpretation of the linkages between the EU-level and national parties. As mentioned above, EU regulation distinguishes between contributions and donations, while national regulations typically do not. Moreover, even though the EU regulation is aimed at setting the ground for a more vibrant EU-wide political sphere, in many national regulations EU-level parties are treated as foreign sources of funds in the context of EP elections.

Financing of EP election campaigns by European political parties	
Prohibited	Bulgaria, Croatia, Estonia, France (with exception of registered European political parties), Hungary, Lithuania, Poland, Slovakia, Slovenia, Spain (10 countries)
Allowed	Czech Republic, Denmark, Finland, Germany, Greece, Ireland, Latvia, Luxembourg, Netherlands, Romania (only in-kind contributions from European political parties are allowed) (10 countries)
No data	Austria, Belgium, Cyprus, Italy, Malta, Portugal, Sweden (seven countries)

### Campaign spending limits

In most EU MSs, legislation establishes **campaign spending limits**, the exceptions being Denmark, Estonia, Finland, Germany, Luxembourg, Netherlands, and Sweden. As can be seen, the level of trust in the system correlates with the absence of limits on campaign spending. Similarly, and also likely due to the established democratic traditions, it is very uncommon for EU MSs specifically to regulate campaign-related expenses before the start of the official campaign period. However, in the context of an increasing reliance on relatively cheap – and rather easily targeted – online political advertising, the definition of “campaign expenditure” and “campaign period” becomes a salient topic.

### Third-party spending

Similarly challenging becomes the issue of regulating **third-party spending**. The issue of third-party spending for the benefit of or to oppose a specific electoral contestant’s campaign is rather underregulated throughout the EU, with only some MSs providing for separate registration and reporting of

contributions and expenditure (Czech Republic, Ireland, and Latvia). Slovakia permitted contributions from third parties until 2020. Third parties are not necessarily a new issue, but their importance continues to grow due to the increasing role of social media and online campaigning. As few countries regulate them,<sup>28</sup> there is a potential for abuse and violation of thresholds. Third parties have been deemed as an issue in elections in Poland and Hungary. Although in Lithuania third parties are not allowed (and therefore their spending is not reported), the legislation permits a form of contribution if it is not repeated and significant; in practice, third parties are active and can influence the results of elections, as happened in 2020.<sup>29</sup> In Romania, third-party contributions are not allowed and, in practice, seem to have constituted an issue only in referenda in recent years.<sup>30</sup>

### Third-party campaigning

Third party campaigning is regulated explicitly in only three EU Member States (Czech Republic, Ireland, and Latvia). These countries have come up with innovative ideas to reinforce the oversight bodies' control over third-party campaigning. Therefore, in some instances, third parties that spend money "in favour and/or disadvantaging a party or candidate" must register with the oversight body (Czech Republic), be subject to some campaign finance regulations, such as campaign spending or donation limits (all three countries), or submit reports to the oversight body (Czech Republic and Ireland).

A review of observation reports shows that in countries with more established democratic traditions and trust in the system, third-party involvement in campaigns used to be tolerated as it is supposed to be under control by the vibrant media and active civil society. A 2020 OSCE/ODIHR study specifically contrasted the long-standing history of extensive financing of campaigns by third parties in Sweden (namely, by the trade unions) with the more recent trend of a third party spending significant amounts on campaigning in support of the Alternative für Deutschland (AfD) political party.<sup>31</sup> It also noted that "there is no consensus (yet) [in the OSCE region] regarding how and if third party involvement in political processes and election campaigns should be regulated. Most countries have not regulated third party involvement, and

28 See the list of countries that do not regulate third parties in Dr. Magnus Ohman and Lisa Klein, [Note on third party regulations in the OSCE region](#).

29 ODIHR [Election Expert Team Report Parliamentary Elections](#), 11 October 2020, p. 14.

30 FiecareVot: [Preliminary Conclusions of the Observation Mission for the 6-7 October Referendum on Redefining the Notion of Family in the Constitution of Romania](#), 2018.

31 See paras. 14-15 of the [OSCE/ODIHR Note on Third Party Regulations in the OSCE region](#), as well as the [2018 report by the Atlantic Council](#) that the ODIHR note refers to.



may continue not to do so.”<sup>32</sup> Although the contributions of third parties are strongly intertwined with the right to participate in political life,<sup>33</sup> their contributions should be regulated and subject to transparency and accountability.<sup>34</sup>

## Transparency: Reporting and Disclosure

Different models of transparency at the EU level are influenced by a range of factors related to national and EU regulations and their practical implementation, the internal good practice of some political parties, as well as the type of civic and political culture of each state and region. EU membership, the recommendations made by the Council of Europe or the OSCE/ODIHR, and the desire to adhere to international standards have been significant factors that pushed forward for reform and led to the levelling of differences in some matters. These developments depended as well on the will of political parties to improve the legal and institutional framework, draw on international recommendations, and benefit from international experience. However, many differences are still apparent, starting from reporting and disclosure and ending with sanctions.

### What is reported

All states have regulations that require publishing reports or statements reflecting the incomes and expenses of political parties and/or electoral contestants. Notable differences exist between states in terms of scope, structure, and content of reporting, as well as the duration of covering annual funding and election campaigns. In regard to **types of reporting**, the German and Swedish models require only annual reporting; annual reporting only is also provided for in Austria, Denmark and Luxembourg. While in most countries all political parties and competitors have to submit reports, in Sweden<sup>35</sup> potential subjects to the law have the option to verify whether they are subject to reporting requirements.

A lack of a clear delimitation between annual and electoral reports can negatively impact the demarcation of funds, while long reporting timeframes can

32 Ibid, para. 147. The study also recommends that “1. All countries could consider studying the involvement of third parties in political activities, to analyse how their engagement may affect transparency and existing political and campaign finance regulations. Potential negative results of regulating third party involvement should also be considered, such as hampering fundamental freedoms and making organisations reluctant to raise issues they feel strongly about in relation to election campaigns...”

33 See [Bowman vs. United Kingdom case](#).

34 OSCE/ODIHR/Venice Commission [Guidelines on Political Party Regulation, 2nd edition](#), CDL-AD(2020)032, para. 255.

35 Political parties that have incomes under 0.5 of the price base amount (PPB) do not have to submit the statement. The [value is](#) SEK 49,300 for 2022 (EUR EUR 4,780). Potential subjects can verify [here](#) whether they should submit a report.

significantly reduce the effectiveness and timeliness of campaign finance oversight. Reporting is not only a tool useful for the oversight bodies, but is also an instrument for the general public to assess the fairness of the election process.

All countries have adopted reporting rules that cover income and expenditure more or less extensively, but the level of itemization of content can differ widely. In some states, political parties/electoral contestants do not report income or expenditure, or reports are required in a differentiated manner. The Swedish law does not require subjects to report on expenditure, assets, or debts. In the Netherlands, there is no obligation to report on campaign expenditure before or after the elections. In Ireland, unsuccessful candidates have to report on donations after the elections, while the successful ones submit the information in their annual returns, after taking office. In Hungary, only certain types of income are itemized.

Taking into consideration the fluidity of election campaigns due to diverse factors (including online campaigning), capturing the exact beginning and end of the process may be rather difficult. This issue is also related to including costs for the **pre-campaign**, which is regulated differently in the seven countries in the focus of this study. Whereas Slovakian contestants have to include costs incurred during a period of 180 days before the date of announcement of the elections (which is quite a lengthy period), in Romania no costs incurred during the pre-election campaign are comprised in election reports,<sup>36</sup> although political parties have already begun their campaigns at this point. This issue can affect overall transparency, as regulations may differ between Member States and some political parties may start campaigning without having to report or mark their materials as such. In France, for example, the period covered by the financial regulations around the election campaign starts either one year or six months before the election day, depending on the type of election. Because of the reimbursement system in place (and the fact that one of the criteria to determine the amount of the reimbursement is the amount of personal funds/self-financing brought by the candidates), there is an incentive for candidates not to incur expenses before the start of the campaign.

### **The specific issue of online advertising**

Some visible new trends that affect the political process also impact what is to be reported. Issues with quantifying and reporting on **online advertising and third parties or properly marking political advertisements** remain of concern in all states and at the EU level. Although online advertising is one of the most visible trends when it comes to political finance, defining it in a

36 The costs are comprised in the annual reports of political parties, but is not specifically earmarked. Political parties campaign intensively without having to mark their propaganda materials.

comprehensive manner for reporting purposes and ensuring proper oversight can be very difficult. Most legislations do not deal in a satisfactory manner with this issue and fail clearly to define and regulate new types of political advertising. The issue is also on the social media platforms' side. Oftentimes, social media platform policies clash with domestic regulations and the absence of cooperation and regulation at the global level represents a significant problem. It might be envisaged to associate social media platforms in legal reform initiatives and to consider them as non-institutional stakeholders when it comes to further regulating online campaigning.

Some initiatives are in place when it comes to marking and tracking political advertising for the purpose of transparency; however, they are rather limited. The Lithuanian CEC, for example, receives reports on political advertising from contestants and compares them with information from other sources, including voters and Facebook Ads. Slovakian legislation requires contestants to mark election advertising. Romanian competitors are required to mark advertising (except online advertising) and include reports on the number of advertising materials produced and the companies that have produced them<sup>37</sup>. On the providers' side, Facebooks Ads Library is one of the commonly used tools by oversight bodies and civil society organizations to monitor political activity. Google Transparency Report also provides information on paid advertising.

However, capacity for oversight seems to be limited and much of party spending – for online and traditional campaigning – outside elections is left unregulated. One of the most flagrant cases is the Romanian one, where some 12 million EUR was spent in 2021 for advertising from subsidies, without any obligation to mark the media products.<sup>38</sup> This kind of behavior can affect the interests of the public, as citizens cannot distinguish between paid advertising and independent media reporting. Therefore, *defining advertising and setting legal requirements for reporting for party activity and election campaigns should be one of the priorities at the national level. Efficient complaints mechanisms should also be in place for a very wide range of stakeholders.*

37 The lists are [published](#) on the website of the Permanent Electoral Authority. The Romanian [National Anticorruption Strategy 2021-2025](#) included two objectives related to political advertising: defining political advertising and increasing the transparency of information on online political advertising, as well marking political advertising as such.

38 See [Expert Forum 2022 annual report](#) for more statistics.

### Social media advertising

In the Netherlands, ahead of the 2021 parliamentary elections, political parties and social media platforms (Facebook, Google, Snapchat, and TikTok) decided to turn their transparency commitments regarding digital political advertising during election campaigns into a [Code of Conduct](#). This innovative approach was the result of growing concerns amongst the institutional stakeholders, the regulated community, and the public regarding the surge in disinformation and lack of transparency in election campaigns. Signatories agreed to be transparent about the funding and costs of political advertisements with a view to enhancing the integrity and transparency of elections and avoiding foreign influence. To that end, political advertisements from outside the European Union were banned and the signatories committed to refuse foreign funding to finance political adverts (although foreign donations are allowed).

### Who should report

It is typical to require both political parties and the electoral contestants to submit financial reports, but even there some variation exists. Such exceptions occur especially when only annual reporting is in place. Furthermore, third parties are required to report if regulated. In the Czech Republic, third parties are required to publish their transparent account and to report. In Slovakia – before this provision was removed from the legislation – third parties were required to submit reports and their transparent bank accounts to the oversight body.

One of the rather recurrent recommendations of the GRECO and ODIHR reports refers to the manner in which party accounts are prepared and presented,<sup>39</sup> including local and specialized branches and organizations (youth, women, etc.), associated entities, and third parties. Regulations on foundations and their connections to political parties can differ. In Germany, although political foundations are not directly connected to political parties and are not allowed to donate to them, the financing of foundations is directly linked to the electoral success of political parties. Foundations are financed mostly from public funds and publish annual statements voluntarily. However, the funding of foundations is not strictly regulated, and they could participate in the election campaign of parties through in-kind spending. In Hungary and the Czech Republic, political parties can establish foundations, which have to submit separate reports. Furthermore, in either case political foundations cannot contribute to the financing of political parties. In Romania, the legislation also forbids financial contributions from associations or foundations

39 Yves-Marie Doublet, [Thematic Review of GRECO's Third Evaluation Round](#), pp. 19-30.

for election campaigns. In Spain, in contrast, foundations are not regulated by the same limitations as political parties and may present a potential source of fraudulent political funding.<sup>40</sup> EU political foundations receive public funding and are required to submit dedicated reports to the oversight body. Reporting and disclosing of the activities of political foundations is essential in order to reflect the real activity of political parties, as foundations can play an active role in election campaigns. Excluding such entities from reporting procedures could impact the veracity of income and expenditure of political parties and election campaigns.

#### How to report: templates for reporting and digital reporting tools

All states provide stakeholders with some kind of template for reporting, or at least guidance on what has to be included, but with different levels of detail. At the EU level, a template was introduced in 2020 which solved the issue of differentiated level of details and type of information reported by political parties. Reports in some countries, such as Hungary, Italy, Netherlands, and Poland, provide rather limited information about the activity of political parties and contestants.<sup>41</sup> Apart from the legal provisions, the manner in which political parties fill in the documents can differ. This issue may also stem from the limited capacity of political parties to capture information from all local branches and related entities. For example, in Romania annual reports of some parties include the electoral expenditure or a list of donors, while for others this information is not included, as the law does not clarify this aspect properly.

An increasing tendency within the oversight bodies is to **introduce and further develop digital tools for the political financing process**. Interestingly, one of the goals of the EU Commission for 2021 was to provide web-based tools for civil society organizations in order to enhance transparency and detect potential fraud.<sup>42</sup> Reporting in electronic formats is widespread at the level of EU countries, while dedicated digital tools are already used with predilection in some of the Northern and Baltic countries.<sup>43</sup> Latvia (Electronic Data Input System) and Croatia (Financial Control Information System) also use electronic

40 See [ODIHR Opinion on laws regulating the funding of political parties in Spain](#) and [GRECO Second Addendum to the Second Compliance Report on Spain](#).

41 GRECO noted in its 2010 [Evaluation Report on Hungary](#) that “a short document indicating what is to be made public, is far from sufficient as a basis for proper accounting; the various headings enumerated under income and expenditure are summarised and without any further instruction.”

42 European Commission, [Communication on the European democracy action plan COM\(2020\) 790 final](#), p. 6.

43 Digital reporting systems are used in the EU in states such as Norway, Finland, Estonia, Sweden, Lithuania, and Latvia but have also been implemented in Georgia, UK, Canada, US, Mexico, and other countries. For a more comprehensive list of systems, together with their description, see Samuel Jones, [Digital Solutions for Political Finance Reporting and Disclosure](#), 2017.

reporting systems. The Romanian EMB has developed a digital tool that allows political parties that receive subsidies to report on a monthly basis on their income and expenditure from public funds; the system enables reporting for all parties on general fiscal information (offices, names of persons with legal authority and others), and envisages implementing further electronic reporting for the 2024 elections; only partial information is available to the public.

### **Digital systems / e-filing PF database**

France recently amended its electoral legislation to allow presidential candidates to use an e-filing system to file their campaign finance accounts. This move is a watershed in the French political finance system, as French authorities were for a long time resistant to the idea of a digital reporting system. This was due to the stringent set of regulations in place, notably the obligation for candidates to submit the originals of all supporting documents together with the campaign finance accounts. The acceptance of electronic signatures helped tremendously the legislation to be amended. The French oversight body (CNCCFP) then had to design and develop an e-filing system and publish a [handbook](#) for presidential candidates.

Digital reporting and disclosure tools<sup>44</sup> come with advantages, including accuracy, shorter times for publication, easy-to-read disclosure formats, the possibility to cross-check data with other databases (national and EU-wide) and export information in open formats. At the same time, this introduces the need for increase of budgets, additional training and other resources for the EMB, raises cyber security issues, and imposes the need of having extensive digital capabilities for validating documents. Political parties need to develop their human resources, which may be easier at the central level than in local branches, especially in newer and poorly financed political parties. Political parties may not always have the interest to raise transparency and make data more accessible, which may prove a challenge both in legal and practical terms.

44 For more on this topic, see Samuel Jones, [Digital Solutions for Political Finance Reporting and Disclosure](#), 2017.

### **Information Systems for Reporting and Oversight**

Lithuania holds one of the most comprehensive reporting and oversight information systems (IS). One of the main purposes of this IS was to increase the capacity of oversight by gathering as much information as possible by electronic means. All reporting procedures, both for party and election campaign finance, are performed through the web-system. Another innovation comes from the fact that the IS is interlinked with other databases, including the Population Register and the Tax Registry, held by the State Tax Inspectorate, and allows political parties and oversight bodies alike to crosscheck information about the citizenship of the donors or the limits of the donations. This helps parties avoid violating the law. The system facilitates the publication of information on CEC's website in a timely manner, which facilitates transparency.

Collection and publication of data in digital formats is one of the important achievements of such systems. The 2019 Open Data Directive underlines that “making public all generally available documents held by the public sector [...] is a fundamental instrument for extending the right to knowledge, which is a basic principle of democracy.”<sup>45</sup> The use of open data and machine-readable formats, which would allow a range of stakeholders to process the information from different angles, is still rather limited.

The manner in which the data is displayed also differs from state to state.<sup>46</sup> While in many states reports are still displayed in non-editable format (or hybrid), some of the EMBs allow for the re-use of information in open-data or machine-readable formats. Lithuania and Sweden publish data in open formats, and Romania has improved its experience in recent years through the development of its online portal [www.finantarepartide.ro](http://www.finantarepartide.ro). The Estonian and Finnish portals allow for download in open formats and also provide a visual overview; this component should be carefully planned, as a distorted representation may impact the correct and impartial presentation of data. Access to information is free in the majority of cases, while in Malta stakeholders are requested to pay for a certain fee to access the reports of the candidates, which is a prohibitive condition.

45 [Directive \(EU\) 2019/1024](#) of the European Parliament and of the Council, of 20 June 2019, on open data and the reuse of public sector information (recast).

46 A comprehensive example is the [political finance database](#) of the UK Election Commission.

The issue of accessible data has made the subject of a recommendation for EU political parties and foundations.<sup>47</sup> Furthermore, “EU political parties and foundations should make greater use of new technologies in order to improve the transparency and traceability of donations and expenditure.”<sup>48</sup> The new EU legislation package also stresses upon the use of intelligible, machine-readable information as a rule. In some countries, the quality of data or the lack of interpretation encouraged civil society to develop their own platforms illustrating trends or issues with political finance.<sup>49</sup>

In this context, *EMBs and political parties could make greater efforts to adopt electronic reporting systems in order to ensure more timely and comprehensive reporting and oversight.*

### **When to report and to publish**

Timeliness in publishing information is one of the key aspects that contributes to the efficacy of reporting and disclosure. Publishing lists of donors or reports after a long period does not shed light on the amount of money received and the identity of donors having contributed during the election campaign. The transparency and integrity of campaign finance may reflect the general level of integrity of political behavior, especially if the party reaches a position of power. All Member States have rules that require annual reporting for party finance sometime between March and July, while the timelines for election campaigns can be anywhere between 15 and 90 days.<sup>50</sup> In Slovenia, reports are submitted after closing the campaign account, which happens no later than four months after the elections. In Denmark, political parties registered for national or EP elections have to submit their annual accounts within 12 months of the end of the accounting year. As shown before, EU political parties do not have to report on campaign expenditure right after the elections.

47 EP, Committee on Constitutional Affairs, [Report on the application of Regulation](#) (EU, Euratom) No 1141/2014 on the statute and funding of European political parties and European political foundations (2021/2018(INI)), para. 41 states that it “Is of the opinion that the information published by Parliament and the Authority should be presented in open and machine-readable formats in a user-friendly manner.”

48 *Ibidem*, para.18.

49 See [www.banipartide.ro](http://www.banipartide.ro) for Romania (developed by Expert Forum). Some websites were available in Lithuania, Slovakia, and Sweden, but are no longer accessible as of February 2022.

50 Lithuania requires the reports to be made available within 25 days after the proclamation of results (and published within no more than 100 days); Romania within 15 days after the election day (published within 60 days), and Slovakia within 30 days after elections (published within 30 days). In Hungary, candidates and political parties in single constituency competition must submit a detailed financing report to the State Treasury within 15 days from the publication of results, if they receive public funding. In terms of national lists, candidates and parties have to publish statements on amounts, sources, and use of campaign funds within 60 days. German and Swedish competitors are not required to publish reports immediately after the elections. In Poland, reporting is done within 3 months from the election day by the election committees, and by 31 March for the Electoral Fund.



Also, references regarding the calculation of reporting deadlines vary among states, and there are differences when it comes to the type of elections or political entity/candidate that is required to make disclosures.

Reference to report deadlines	
Day of elections	Belgium, Bulgaria, Croatia, Estonia, Greece, Ireland, Latvia, <b>Poland, Romania, Slovakia</b> , Spain
Day of first election round	France
Taking office / setup of parliament	Italy
Closing day of bank account	Slovenia
Publication of election results	Cyprus, Czechia, Finland, <b>Hungary, Lithuania</b>
Full payment of subsidies	Portugal
Annual reporting	Austria, Denmark, <b>Germany</b> , Luxembourg, Malta (for political parties), <b>Sweden</b>

However, the deadline for reporting does not coincide necessarily with the date of publication. In the case of Lithuania, reports have to be published by the CEC on its website within 100 days of the announcement of final results, while in Poland and Slovakia the deadline is 30 days from the receipt of financial reports. In some countries, the regulations are not very clear and, instead of a clear deadline, more permissive provisions are in place. In Belgium, data is published in due time, in Finland without delay, while in Portugal after the decision of the Constitutional Court, which hosts the oversight body. Although flexible deadlines provide for opportunity to oversight bodies to publish the reports and results of audit when available, they can also prolong the time for publication if no deadlines are specified. *Therefore, it is recommended that the legislation of the Member State countries establish clear and realistic deadlines.* EMBs are sometimes proactive and publish the information quickly, although a timeline for publication is not clearly stipulated in the law; *however, the law should be comprehensive and not leave the procedures at the disposal of the institutions, in order to avoid any abuse or arbitrary approach.*

The philosophy behind the publication of information can be different: some countries publish raw information, while others opt to make it available to the public only after it is verified by the oversight body. The Romanian PEA, for example, publishes some statistical reports or lists of contributors from competitors during the electoral period, but the final reports are made available only after oversight. *Publishing raw data, which is not necessarily verified by the*

*oversight body, could be allowed with the proper disclaimer, as it a useful tool for external observation.*

Publication of interim reports<sup>51</sup> is regulated in a limited number of Member States, while the EU Regulation requires political parties to report weekly regarding income (expenses will be added if the proposed reform is adopted) during the six months before elections. In Croatia, contestants are required to report seven days before election day on the donations received to finance their election campaign, and on election campaign costs. In the Netherlands, political parties competing for the House of Representatives are required to submit a report, which is made public, with 2-3 weeks before the election day.<sup>52</sup> Some data related to donations may be made available (Finland, Italy, Latvia, Romania, Poland, and Lithuania). In Finland, candidates can disclose, on a voluntary basis, in advance the estimate value of expenditure. Transparency is achieved in some countries by more general regulations, as political parties are required to publish income over certain limits on a constant basis or at established deadlines. In Lithuania and Latvia, donations have to be made public through electronic reporting systems within a specified number of days. In Poland, electoral committees are required to declare on their websites loans and private donations exceeding one minimum monthly salary within seven days of receipt.

Even though preliminary reporting is not popular with contestants and oversight bodies, due to the high workload and low possibility of verifying the relevant documents, it is an essential instrument that allow the media, CSOs, and citizens to follow the campaigns of the contestants.<sup>53</sup> Taking into consideration that oversight bodies usually perform their control tasks at the end of the process, intermediary reporting represents an effective oversight tool to be processed by external monitors. Taking into consideration the fact that political competitors are responsible for their declarations, *information could be provided to the public during the election campaign, perhaps in more compact*

51 It is a good practice for the law to prescribe initial, interim, and final reports for the election campaign, according to the ODIHR/Venice Commission [Guidelines on Political Party Regulation, para. 261](#).

52 The report lists contributions equal to or exceeding EUR 4,500 (or more that the party has received from a donor in a calendar year), debts equal to or exceeding EUR 25,000, and relevant data registered about the transactions. The report covers contributions and debts in the period commencing 1 January of the calendar year preceding the electoral year, and ending on the 21st day before the election day.

53 Para. 247 of the OSCE/ODIHR / Venice Commission [Guidelines on Political Party Regulation](#), underlines that “Transparency in party and campaign finance, as noted above, is important to protect the rights of voters, prevent corruption and keep the wider public informed. Voters must have relevant information as to the financial support given to political parties, as this influences decision making and is a means of holding parties accountable.”

*format, with priority given to sources of finance and, where possible, including the expenses incurred.*

A relevant example of constant publication of data is Slovakia, where the legislation requires the disclosure of electoral contestants' bank activity through special "transparent accounts." The Slovak approach – which is similar to the Czech one<sup>54</sup> – is rather limited within the EU region and requires contestants to publish on a dedicated website the contents of their accounts, where anyone can follow the payments made by political parties.

### **Disclosure and data protection**

Another practice that differentiates the states is the **limit of disclosure for donations and contributions, but also relevant data on loans**.<sup>55</sup> Amounts at which reporting and disclosure starts can range significantly among states. In Germany, total yearly donations from officials of over EUR 10,000 are recorded with names and addresses of donors, while those over EUR 50,000 are published in close to real time. Recommendations made by GRECO and ODIHR to lower the limits for disclosing donors and introduce specific reports for campaign finance have not been implemented so far. In Hungary, only electoral donations for political parties above HUF 500,000 (EUR 1,400) are disclosed. Romanian political parties have to report all donations, but disclose donations and membership fees starting from EUR 5,000 and loans from EUR 50,000; for elections, all contributions are disclosed. In Lithuania, membership fees over EUR 360 are published, while all donations over EUR 12 are disclosed during electoral periods. Swedish parties have to declare contributions over EUR 2,273, but these are not published. In Slovakia, electoral donations of over EUR 1,000 are disclosed. Comparatively, EU political parties have to publish all donations over EUR 3,000, while those between EUR 1,500 and EUR 3,000 are made available only if the donor agrees in writing.<sup>56</sup>

It should be noted that disclosing the identity of donors may be affected by the political and social culture of a country, in the sense that publishing this data may affect the interests of natural or legal donors and could disclose their political affiliation or orientation. However, even though there are no universal standards for reporting and disclosure, high thresholds could bolster the integrity and transparency of the process.

A transversal challenge at both the national and EU level is to ensure the **balance between the need for transparency, and privacy and data protection**.

54 Transparent accounts in the Czech Republic are displayed [here](#).

55 See a full analysis of EU Member States in the study published by the European Parliament, [Financing of Political Structures in EU Member States](#), pp. 38-40.

56 See the reporting and disclosure limits for all EU countries in [Financing of Political Structures in EU Member States](#), pp. 37-39.

The entry into force of the Data Protection Directive<sup>57</sup> and its transposition in the national legislations led to changes in this field. While some countries publish only the names of the donors and value of donations, German and Slovak political parties also have to list the donor's address. In Romania, personal identification numbers of natural donors are no longer published since 2016. One of the risks is that entities use data protection procedures to refuse to publish data or eliminate key elements from the reports. Therefore, *the legislation should be very clear in this sense and provide some leverage for oversight bodies and the public to monitor political finance, taking into account data protection limitations.*

### **Additional guarantees of transparency**

However, **transparency of political finance is part of a framework which goes beyond basic reporting**. Reporting is only one piece of the puzzle. The reporting process may be transparent and follow the rules set by the state – or to be more exact, by the political parties themselves – but may not necessarily be comprehensive. Transparency is connected to accurate reporting, providing real access to the activities of political parties,<sup>58</sup> imposing and regulating proper sanctions,<sup>59</sup> making data accessible to the public, creating an environment of public trust, and providing means for independent observers to understand how political parties and electoral competitors raise and spend money, and to freely report on their activities. If media is not independent or is silenced by use funds provided by the state or political parties, there is a reduced space for critical reporting. Competitors that are not transparent and open during the election campaign may act similarly when in positions of power.

In most countries, the oversight bodies (EMBs, audit offices, and other structures) are mandated to publish the information received from political parties in the Official Gazette, on their websites, or in other spaces available to the public. There are also mixed cases, such as the Czech Republic, Romania, Hungary, and Slovakia, where the responsibility to publish is shared between different electoral stakeholders. At the EU level, political parties and foundations are required to report to the APPF and the European Parliament, which publish the information on their websites, separately.

Cases in which political parties pro-actively publish data about donors, contracts, or their financial reports are rare and seem mostly related to newcomers

57 [Regulation \(EU\) 2016/679](#) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

58 Some Romanian political parties, which are subject to FOIA, refuse to provide access to information even after court decisions are issued.

59 Sanctions are a subject of differentiation in terms of scope, severity, proportionality, means of contesting and implementation throughout the analyzed countries. See Yves-Marie DOUBLET, [Thematic Review of GRECO's Third Evaluation Round](#), pp. 46-53.

in politics. For example, Save Romanian Union (Romania) partially published the expenditure from public funding on its website, but only for the General Secretariat of the party.<sup>60</sup> The Spanish party Podemos published details on its income and expenses, and a list of donors.<sup>61</sup>

## Accountability: Oversight and enforcement

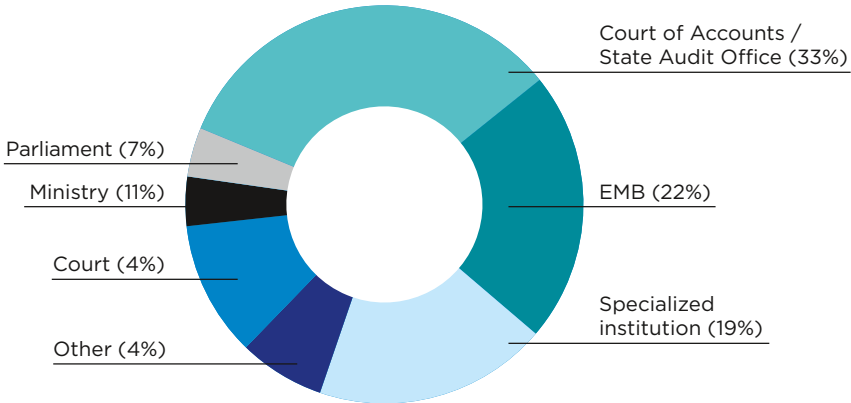
### Types of political finance oversight bodies

In all 27 EU Member States, there is at least one oversight body in charge of overseeing political finance. Across the EU region, there is a variety of institutions that are tasked with political finance monitoring, audit, or control, depending on the nature of their remit. In some instances, more than one institution is vested with political finance supervision, which is the reason why some countries are listed in two different categories in the table below. In cases of split mandate, and for statistical purposes, the main political finance oversight body has been picked and underlined.

Court of Audit / State Audit Office	Austria, Belgium, Bulgaria, Croatia, Cyprus, Finland, <b>Hungary</b> , Italy, Lithuania, Luxemburg, Romania, Slovenia, Spain
EMB	Croatia, <b>Lithuania</b> , Malta, <b>Poland</b> , <b>Slovakia</b> , <b>Romania</b>
Specialized institution	Czech Republic, Estonia, France, Ireland, Latvia,
Parliament	Belgium, <b>Germany</b> , Italy
Ministry	Denmark, Netherlands, Slovakia, <b>Sweden</b>
Court	Portugal
Other	Greece, Slovenia

60 <https://transparentasg.usr.ro/>, accessed February 2022.

61 <https://transparencia.podemos.info>, accessed February 2022.



### Mandates of oversight bodies

This diversity of types of oversight bodies also reflects the main differences as regards their mandate and the financial and human resources at their disposal to carry out their functions. Indeed, depending on the remit, they can be vested with investigative and/or sanctioning powers and tasked with the verification, control, or audit of received financial reports.<sup>62</sup> Oversight bodies may also be entrusted with additional tasks, such as the publication of reports or outreach activity, i.e., training and guidance provided to the regulated community to help them comply with their legal and accounting obligations. In some other cases, political finance oversight is split between at least two institutions; often one is mandated with campaign finance oversight and the other one with political party financing supervision, which then entails the need to have in place co-operation mechanisms.

In countries where political finance oversight has been vested with an audit agency/institution (Austria, Finland, Hungary, Slovenia, and Spain), the latter is responsible for the examination of financial information and supporting documentation provided by electoral contestants to check compliance with political finance regulations. The main purpose of the audit is to ensure that numbers declared and reported in financial reports check out, and to do so oversight bodies can request electoral contestants and providers/suppliers to provide additional information while auditing their financial reports.

While, according to International IDEA's political finance database, the most common approach worldwide is to confer the political finance regulation remit

62 For further information on and additional definitions of political finance supervision terminology, check out IFES' Toolkit for Political Finance Institutions called Oversight, available at: [www.IFES.org/oversight](http://www.IFES.org/oversight).

to the EMB (47% of the 180 countries surveyed),<sup>63</sup> only six EU MSs (22%) have entrusted this competency to their EMB. It is also very striking to observe that seven EU MSs (Belgium, Denmark, Germany, Italy, Netherlands, Slovakia, and Sweden) have vested political finance supervision in a ministry or a parliamentary body. Besides the problem of potential lack of independence and impartiality as regards the appointment process of these bodies, also at issue are matters of statutory power, budgetary independence, and effective enforcement. With the exception of Slovakia, the six others are countries with long-established democratic traditions.

### **Institutional cooperation**

In Lithuania, the CEC is the primary oversight body with responsibility for reviewing and publishing contestants' campaign finance reports and sanctioning violations, while the State Tax Inspectorate (STI) inspects donor eligibility and informs the CEC of violations. The CEC has developed an information system with embedded control checks. The platform is interconnected with other institutions (e.g., State Tax Inspectorate, register of legal entities and banks), and is used by both the CEC and the regulated community. It is therefore possible for political parties and their treasurers to check the permissibility of a donation by logging in to the electronic platform and getting an answer rapidly. When the CEC is not able to gather information about the donor's identity, the money is transferred to the state budget.

Countries in which the oversight body has been set up under the form of a specialized institution (e.g., France and Latvia) see remarkable variations as regards the scope and breadth of the regulator's remit. The French National Commission on Campaign Accounts and Political Parties (CNCCFP) is an administrative body that is in charge of checking candidates' campaign finance accounts and political parties' annual financial reports. It does not have investigative and sanctioning powers and therefore has to forward any illegal/irregular cases to the competent court or turn to the prosecutorial or law enforcement agencies in case of criminal offences. The Latvian agency, on the other hand, is a better equipped and resourced anti-corruption agency, with large investigative, policing, and enforcement powers.

63 [Question 55](#) of International IDEA's political finance database, accessed February 2022.

**Effective political finance oversight**

In Latvia, the political finance oversight agency (KNAB) developed in 2018 a smart-phone application enabling citizens to report on observed campaign finance violations. The application, called Zino KNAB! (Notify KNAB!), allows voters to send photographs or videos of possible suspicious activities related to the elections. This easily downloadable application has given the KNAB the opportunity to gather more information on campaign finance irregularities, and it is estimated that 80% of the KNAB's sources of information and evidence regarding campaign finance breaches originate from Zino KNAB! Moreover, the development of the Electronic Data Entry system in 2017, which enables political parties to declare and report their financial information directly into the KNAB database, allows for real-time monitoring and verification. Due to the frequent reporting requirements, political parties and the KNAB are in constant contact, which has allowed the oversight body and the regulated community to build a more cooperative and fruitful relationship.



## WAYS FORWARD

In considering possible ways forward, one should keep in mind the impressive diversity of regulatory regimes and approaches across the EU. At the same time, it is important not to lose sight of what EU MSs have in common – after all, all of them are more or less (usually more!) functioning democracies, and democracies work in different ways. There is a lot more in common between any two EU member states than with the vast majority of states that do not belong to the community. This is certainly rooted in the common values and principles shared by the EU community.

In the sphere of political finance, the EU MSs might not have the same views on how to best protect the equality of opportunity in political campaigns, or what exactly “equally of opportunity” means, but there is no disagreement that this is a vital aspect of political life. Similarly, transparency of financing and accountability guarantees are universally seen as important elements of the system.

Just as there may be disagreements as to how best to ensure adherence to these principles, the EU MSs may diverge in terms of what tools they have at their disposal to help protect these principles. This is not surprising, as certain issues historically did not matter much for some countries. Historical context, political culture, and established norms may make instruments that work well in one place useless or just wasteful elsewhere. At the same time, these other countries may have tools and mechanisms in place that are essential for the preservation of the key principles of the political finance system.

Interestingly, though, all contexts are challenged by the newly emerging trends. Whether the EU MSs have tools in place or not, the opaqueness of money flows in relation to online advertising challenges the principles of equality and transparency. The ability to circumvent rules by engaging third parties helps political actors avoid accountability. The threat of foreign influence is mitigated not only by transparency and accountability mechanisms, but also by the greater interest of foreign powers to attack some EU member states and not others, and by informal resilience to disinformation.

Thus, new trends and phenomena are challenging the different regulatory systems across the EU in similar ways. Ignoring the new challenges and expecting

political finance systems to maintain their resilience might not work, because the set of actors involved has changed. It is not an option, either, to outlaw some forms of political activities or money flows, as this would either go against fundamental freedoms or simply be ineffective.

Moreover, new trends and phenomena challenge not only the national regulatory systems but also the commonly shared principles of the EU. In the absence of clear national-level responses to date, it makes sense to explore, therefore, possible EU-level regulatory options. Below, we provide short takeaways from the review of the national-level regulations regarding the three key principles, and propose EU-level responses. Some of these responses may be informed by the successes of national regulations, and some may take root in good national or international practices. The text boxes throughout this paper aim to show such interesting examples. Lastly, the below suggestions do not aim to describe avenues for “more regulation” but rather for “better regulation,” even though sometimes better does necessitate more.

## Equality:

### **Key takeaways: Incomes and expenses**

The diversity of regimes of financing political parties and electoral campaigns across the EU is vast. In only some areas is there considerable convergence, but even in those aspects the nuances make the situation more complex. For example, even as a clear majority of the EU MSs provide public funding to political parties, differences emerge from the fact that political foundations affiliated with parties can be funded by the state and play a significant role during the elections.

Even more differences come to light when one considers the sources of private funding of parties and campaigns. Here, one observes a linkage between the level of trust in democratic institutions and how liberal the regulations are. Emerging trends pose a challenge, though, for both established and newer democracies: donations through online platforms or in cryptocurrencies, and possible ways to circumvent prohibition of anonymous donations, all highlight that the new phenomena may require common responses.

Common responses may also be needed to well-known but now redefined phenomena. As regulations of expenses of political parties and campaigns differ substantially, the prominence of online methods of campaigning sets a fertile ground for the circumvention of regulation by third parties. These are now not only affiliated foundations or private entities but also hard-to-define and possibly foreign individual actors. Given the divergence in regulating sources of income and types of expenses, it would be important to look at whether guarantees of transparency or enforcement mechanisms can fill the gap.

## **Possible ways forward at the EU level**

Policy responses at the EU level have to focus on issues of EU-wide concern, yet may also help strengthen national regulations. In matters of protecting equality of opportunity through political finance regulations, the focus can be on creating more clarity with the definitions of sources of funding and actors engaged in spending for political purposes.

Recommendations:

- Consideration could be given to streamlining the definitions of contributions and donations to political parties between the EU and national legislations. Clarity in categorization of sources of funds can help strengthen transparency through streamlining.
- Regulators could consider addressing the issue of firewall between EU and national political parties in the context of European Parliament elections, with a view to strengthening cross-border political cooperation in the European Union and promoting the common European political identity. Specifically, contributions from the EU parties to their national member parties should not be treated as foreign donations in the context of European elections. Such donations can be allowed with the provision of an amount limit set by national legislation.
- In the context of European Parliament elections, consideration could be given to introducing EU-wide regulation on the permissibility of and reporting on donations and/or contributions from outside the EU, including for those EU Member States where foreign donations are allowed.
- Consideration could be given to setting a spending limit at the European level to incentivize European political parties to promote transnational programs and foster European parties' participation and engagement in EP elections at the level of the EU.
- Regulators could consider EU-wide rules on online fundraising and the use of cybercurrencies for political financing with a view to ensuring greater transparency and closing loopholes for circumventing national prohibitions of foreign or anonymous donations.
- Regulators could explore establishing an EU-wide definition of third parties for either the European Parliament elections or more generally, including by drawing on comparative experience of member states that regulate the matter, and setting an EU-wide register of third parties under the APPE.

## Transparency:

### **Key takeaways: reporting and transparency**

The level of transparency of political finance may differ based on various factors such as legal frameworks, but in practical terms is also influenced by the local political and civic culture. It also depends on the general integrity policies and the anti-corruption framework and measures taken by the state in this sense. The integrity and transparency of political finance is directly related to the general level of integrity in society.

Furthermore, the level of transparency also depends on the willingness of political actors to play by the rules, to report accurately and according to reality, to disclose their activity to the public and to the oversight body, and it is also connected to public demand for information. In countries where public trust in institutions and political parties is low, there appears to be a greater need for information. This often happens in newer democracies, but is not a general rule. Some of the newer political parties are more prone to adopt new technologies and voluntarily be transparent with their activities. The capacity of civil society to shed light on political finance and the independence of the media to freely report about election campaigns and parties also impacts the level of transparency in political finance.

Although adherence to international standards and EU or OSCE membership have contributed to the improvement and leveling of regulations and their implementation, states use a plethora of rules. There are different rules between states regarding reporting and disclosure, and a multitude of variations on what is reported and what is published. The level of disclosure in countries covered by this study is rather diverse when referring to annual and electoral reporting, donors or other types of income, and providing insights for the public regarding the activity and funding of political parties. The issue of privacy, as well as the rather new regulations on data protection, have imposed different decisions in regard to what political parties or oversight bodies disclose. While in some states subjects to regulations report and disclose almost all incomes and expenses, in others the thresholds are rather high and in contrast with international standards and good practice on transparency; exceptionally, there are a few states that do not require disclosure of donations.

The regulation and implementation of uniform transversal rules in all EU countries is nearly impossible and probably counter-productive. The aim should not be to approve an overwhelming number of rules that cannot be implemented within the existing framework, but rather to *improve existing rules and obtain consensus among citizens and political actors regarding the need for transparency*. Furthermore, *states should adopt good practice and incline towards the new*

*transparency requirements that are being discussed at the EU level.* Sometimes, voluntary measures are important and can be implemented.

Some of the new trends discussed in this study could improve transparency. The adoption of technological novelties, open data, and the development of online platforms by political parties and oversight bodies all increase the potential for wider public coverage of political party and election campaign funding. The adoption by some states of online databases or disclosure platforms has contributed to increasing transparency. The adoption of such instruments also seems to be more present in states where the levels for reporting and disclosure are rather low. Although rather an exception, the Czech Republic and Slovakia impose the publication of transparent accounts, which provides real-time oversight of the income and expenditure of political parties. This is a good practice that could be adopted by other states.

At the same time, the increasing use of online media, advertising on a wide range of platforms and discrepancies in regulating it, foreign financing, and the increasing role of third parties represent a real challenge to transparency and integrity of elections. States have different rules to set up and fund political foundations and other types of associations, and their improper regulation and lack of provisions for consolidated reporting could transform them into active indirect contributors to campaigns. Therefore, these entities need to be properly regulated and rules should be in place that require them to report on their activity transparently.

The legislation of states on advertising is also rather diverse and seems to be lacking a thorough definition, as well as oversight regarding marking, reporting, and disclosing. Defining political advertising can be a challenge, especially in the age of increasing use of social media campaigning. Furthermore, political advertising is regulated in a limited manner outside the electoral periods, which could lead to lack of transparency. Lastly, social media and advertising providers should have better policies in terms of monitoring and should make more steps to increase the transparency of advertisers both at the national and the EU level.

### **Possible ways forward at the EU level**

Some of issues mentioned in the previous section have been listed by the EU Commission as priorities in light of the 2024 EU elections. Furthermore, the EU electoral and political finance reform package aims to look into and regulate some of them. One of its purposes is to better define political advertising and to provide public access to information on funding, expenditure, and targeting, while touching upon disinformation and the cross-border dimension. The initiative comes in a context of high fragmentation of legislative provisions at the national level and diversity of practice regarding service provisions in different countries, and complements some of the existing provisions at the EU level,

such as the Digital Service Act. The initiative starts from the existing inefficient rules on advertising and highlights the need to reduce the heterogeneity of rules existing at national levels.<sup>64</sup>

The reform package makes important steps in dealing with challenges regarding the regulation and transparency of the political advertising. The proposal not only reaches the EU level, but also responds to issues regarding the legislation and its implementation in MSs. The draft legislation to recast Regulation 1141/2014<sup>65</sup> highlights the need for increasing transparency on political advertising, targeting both political parties and service providers. The proposal offers a range of solutions that can also be adopted in the national legislations in order to enhance marking of advertisement and put in place constant reporting and transparency procedures, with responsibilities for both political parties and service providers. Furthermore, provisions on political advertising are detailed in the proposal for a new regulation,<sup>66</sup> which establishes transparency conditions and obligations for providers of political advertising (economic actors) and the use of targeting and amplification techniques in the context of political advertising, when personal data is used. As national legislations on political finance rarely reflect the challenges of targeted campaigning, the EU package makes an important step forward by restricting the use of data and requiring political campaigns to mark their materials where such case; it remains to be seen if the regulations are strong enough in practice<sup>67</sup> and if they will discourage the strong influence from outside the EU. Furthermore, it remains the task of national governments to properly translate the requirements in their legislations and to strengthen oversight, as well as to ensure proper, dissuasive sanctions. At the same time, political parties could become more responsible by adapting their internal practices and making their procedures more transparent.

Apart from boosting the transparency of advertising and online campaigning, several other recommendations<sup>68</sup> could impact the overall reporting and disclosure procedures for European parties and oversight bodies, in line with the principles mentioned above.

64 [Communication on protecting election integrity and promoting democratic participation](#), p 4.

65 [Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the statute and funding of European political parties and European political foundations \(recast\)](#), COM/2021/734 final.

66 [Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the transparency and targeting of political advertising](#).

67 The European Data Protection Supervisor [advocated](#) in January 2022 for a more restrictive legislation, in order to ban microtargeting for political purposes and prohibit targeted advertising based on pervasive tracking.

68 Also see ODIHR, [Preliminary Comments on Reforming Regulation 1141/2014 of the European Parliament and of the Council On the statute and funding of European political parties and European political foundations](#), June 2021.

### Recommendations:

- As the current Regulation does not impose any reporting on campaign income and expenditure after elections, the legal framework could foresee the obligation for European political parties to submit campaign finance reports within two to three months after the EP elections;
- As the information on political finance is currently published on two different websites, the EU Regulation could impose that all financial information on European political parties be published in a centralized manner on a dedicated webpage of the APPF's website. The full historical archives regarding reporting and disclosure could be transferred on the dedicated webpage in order to provide a full perspective on EU political finance;
- APPF could request and publish the data on its website in varied open data formats and display the information in a more user-friendly format;
- Increasing the clarity of information that is currently published, including disaggregated data on financial allocations to European parties by the European Parliament;
- Reducing timelines for reporting from six months before the end of the financial year. As seen in the study, the deadlines are rather shorter at the national level, with up to two to three months from the end of the financial year;
- Consideration could be given to lowering the threshold for disclosure of donations. Although the thresholds are under the EU average for disclosure,<sup>69</sup> donations with a value of more than EUR 1,500 (or even a lower limit) could be made public without additional permission from donors;
- In many MSs, electoral contestants have to open dedicated bank accounts or even transparent bank accounts for the electoral period. In order to better separate annual and electoral reporting, EU parties could use dedicated bank accounts for EP electoral campaigns;
- In order to ensure timely publication of donations, the regulations could impose deadlines for the publication of donations by the APPF;
- Consideration could be given to introducing an electronic reporting platform, as is available in some of the countries described in the study (such as Lithuania or Latvia). This type of reporting could also facilitate a reduction in times for disclosure and improve overall transparency.

69 According to the [2021 EP Study](#), "the average reporting threshold is around EUR 385, the average disclosure threshold is around EUR 2,400."

## Accountability:

### **Key takeaways: oversight and accountability**

One general trend across the EU region is that when countries are given the opportunity to revamp their reporting system, most are inclined to opt for digital systems and online reporting (and disclosure) databases. This indubitably enhances political finance transparency and facilitates the oversight body's workload. However, even though this trend is steady, there are numerous EU Member States that have not yet adopted such a system.

The major problem encountered by most oversight bodies is the lack of or partial enforcement of regulations due to a lack of powers or resources, which hinders the implementation of the political finance system. This is even more true in the context of European parliamentary elections, where oversight bodies sometimes have to deal with new issues, such as cross-border / jointly organized events, implications of the European parties in national campaigns, divergence (or conflict) between national legislations that have an impact on the course of a campaign, and other complex issues.

Good practices can be drawn from several EU MSs, as some national oversight bodies have taken innovative approaches to address emerging issues, i.e., third-party campaigning, online fundraising, institutional cooperation, social media advertising, and online/digital systems. The variety of political finance oversight remits across the EU region is such that it would be unfruitful to insist on universal enforcement mechanisms or implementation approaches. Nevertheless, it is worth stressing that the adoption of non-regulatory measures plays an important role, such as in providing guidance to the regulated community or outreach activities aimed at enhancing electoral contestants' compliance with legal and accounting requirements. Providing assistance and guidance to political parties and electoral contestants not only impacts (positively) the quality and accuracy of the submitted financial reports, it also helps improve the relationship between the oversight body and the regulated community, and ultimately elevates the public image of the oversight body. The openness of the verification process carried out by the oversight body and the reporting of the audit/control results and findings are also critical to effective enforcement of political finance regulations.

### **Possible ways forward at the EU level**

The implementation of any political finance system is deeply interlinked with the capacity of the oversight body to (a) enforce existing regulations and (b) deal with new challenges and emerging issues. In light of the national examples given throughout the study, it appears that EU regulations could help pave the



way to national reforms to address some European-specific issues, transnational problems, as well as some domestic issues. The adoption of more stringent regulations at the EU level could enhance political finance transparency and accountability at the national level.

Recommendations:

- Requiring third parties – in countries where third-party spending is not regulated – to register in advance with the oversight body, and subjecting them to a set of defined campaign finance regulations (e.g., donation bans/limits, and campaign spending and reporting/publication requirements). At the EU level, the APPF should maintain a register of third parties alongside the register for political parties and foundations;
- Requiring oversight bodies to provide guidance to electoral contestants – and potentially to third parties – on how to comply with the legal requirements. Guidelines, handbooks, and manuals can be used to shed light on emerging issues and clarify some vague or unclear legal provisions. At the EU level, the APPF should post videos, training materials, and handbooks to further explain the regulations;
- Adopting Codes of Conduct / Memorandum(a) of Understanding to conduct online campaigning. The APPF could initiate the concept and reach out to European political parties and foundations to sign it. Like the Dutch Code of Conduct, the European document could mention the obligation to refuse any foreign funding to finance political adverts, commit to reporting on all related spending, and clearly identify the purchaser (imprint). The Code of Conduct / MoU should aim to encompass institutional stakeholders (the APPF and national oversight bodies) as well as non-institutional stakeholders, notably social media platforms, and seek to ensure unhindered access to libraries of paid political advertisements and archive this data;
- Establishing/setting up online systems of reporting and publication that allow for data analysis and public scrutiny. The APPF should take the lead and further its efforts in digitalizing its control tools;
- Under the APPF's control, establishing a network of oversight bodies – with the possibility to have bilateral cooperation agreements (or agreements between neighboring countries) – to ensure the uniform and consistent application of EU regulations. This network would allow to deal with transnational issues, such as the enforcement of cross-border violations, and would bridge the gap in political finance implementation.

## About the authors

**Alexander Shlyk** is an international election expert and consultant. He worked for more than 10 years in the Election Department of the OSCE Office for Democratic Institutions and Human Rights, including as the Head of the Department. In this capacity, he led the observation of all elections in the OSCE region and assisted the countries in bringing their elections closer in line with international standards. He led the design of methodological tools for election observation and assistance, launched the database of election recommendations as well as the development of observer training courses for ODIHR and other organizations. Alexander holds a BA degree in Economics from the Belarusian State University, MA in Political Science from the Central European University, and MSc in International Development and Management from Lund University. He is about to commence his studies for MSc in International Human Rights Law with the University of Oxford.

**Barbara Jouan Stonestreet** has been working as a Senior Political Finance Expert with the French National Commission on Campaign Accounts and Political Party Financing (CNCCFP) since 2004. She obtained her university law degree from the Sorbonne University in Paris, France. She has been part of different international election missions and capacity building projects for the last ten years with the OSCE/ODIHR, the Carter Center, the Venice Commission of the Council of Europe, the European Commission, the European Parliament, and International IDEA. She has also run several technical political finance assistance projects with a focus on the monitoring and enforcement of political finance regulations, notably for IFES, UNDP and NDI. She is a member of the OSCE/ODIHR Core Group of Experts on Political Party Regulation. She was a main drafter of the OSCE/ODIHR Handbook for the Observation of Campaign Finance, the writer of the ACE Focus On Campaign Finance and of the European Commission Study on Observing Political Finance in EU Election Observation Missions. She recently co-drafted the Commonwealth Compendium of Political Finance Laws and the European Parliament study on the financing of political structures in EU Member States. She regularly conducts trainings for international election observers and experts.

**Septimius Pârnu** is an expert in good governance and elections working with the Romanian think tank “Expert Forum”. He has over 11 years of experience in working on active citizenship, election monitoring and political finance, as well as political clientelism. Since 2009, he has participated as an expert or coordinated several election monitoring campaigns in Romania and internationally. Since 2021 he is a member of the National Coordination Committee of the Partnership for Open Government in Romania.

Septimius analyzes political clientelism and political financing and developed the only platform in Romania that includes data and analysis on the history of financing political parties and electoral campaigns in the last 16 years – [www.banipartide.ro](http://www.banipartide.ro). For several years he has been coordinating a program related to political clientelism, with an emphasis on the implementation of investment programs and reserve funds dedicated to the local administration, constantly publishing articles and developing [the only interactive platform](#) that reflects the political side of the implementation of such funds.

### About the project “European voters – together for electoral integrity”

Established democracies in the European Union face unprecedented threats and election processes in some EU Member States fail to meet several international standards and national norms. In order to address these issues, citizen election observer organizations from seven EU member states have come together in a multi-country project “European voters - together for electoral integrity” to identify common challenges to electoral processes across Europe and to advocate for electoral reforms where necessary. Several of these organizations are also members of the EPDE.

Project partners are:

GERMANY

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POLAND

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LITHUANIA

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The European Platform for Democratic Elections (EPDE) aims to support citizen election observation and to contribute to democratic election processes throughout Europe. EPDE improves the professional quality of its member organizations through peer-learning, tailored training and expert missions, and informs internationally about the findings of its member organizations.

EPDE encourages, trains and supports experts and citizens who stand up for transparent and equal suffrage wherever it is at risk in Europe – be it in the European Union’s Member States, the Eastern Partnership countries, or the Russian Federation.

EPDE is a signatory of the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations and the Code of Conduct for Nonpartisan Election Observation. EPDE also is a member of the Global Network of Domestic Election Monitors (GNDEM).