

KEEPING UP WITH POLITICAL FINANCE IN THE DIGITAL AGE IN ALBANIA

Prospects for Greater Regulation and Transparency



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Samuel Power

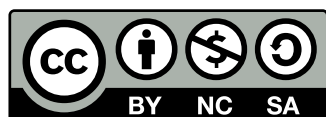


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EXECUTIVE SUMMARY

Democracies across the world—from established to emerging—are facing a new challenge in the rise of online campaigning. Concerns have been raised with regard to the way that misleading information is fomented in this space, the increase in microtargeting through the use of personal data (with ambiguity around the level of consent to the sharing of said data) and the way in which political actors spend money. This Report focuses primarily on the political finance element of online campaigning. Online spending often feels reminiscent of the Wild West, where regulation is lax, problematic practices proliferate, and oversight bodies can do little to control the rapid pace of change. In this sense, the challenges facing Albania are no different from those being tackled across much of the democratic world. While the focus of this Report is on untracked financing, it is acknowledged that this forms only part of the wider issues of concern—especially those of opaque communications and the unchecked use of personal data to target voters.

To date, there has been relatively little in-depth research into the specific problems that Albania should address, and into how well existing legislation is faring. This Report addresses this deficit by looking at current regulatory practice in Albania, before investigating activity during the 2021 parliamentary election and 2023 local government elections. It then focuses on the broader issues we know exist when trying to regulate online campaign spending and considers comparative developments in this area. It concludes with recommendations for reform.

Democracies across the world—from established to emerging—are facing a new challenge in the rise of online campaigning.

In particular, with regard to weaknesses in Albanian regulatory practice the Report finds the following:

1. There are numerous ways in which existing electoral regulations are not adhered to in elections, including non-adherence to specific periods of silence, unregulated third-party campaigning and expenditure during elections, and misreporting of social media expenditure during elections.
2. Albania has a transparency regime that is based on sound constitutional and legal principles (see article 9.3 of the Constitution) but demonstrates shortcomings when it comes to detailed legislation and meticulous adherence thereto, in particular concerning public access to party accounts and reporting of election expenditure.
3. As is the case in many countries, the Central Election Commission (CEC) has modest capacities to keep up with fast-paced developments in the sphere of digital campaigning.

Therefore, we recommend the following:

- Efforts should be renewed to bolster the capacity and effectiveness of the CEC (including training on digital developments and improving the technical capacity of staff). These efforts should be seen as an iterative process of continual renewal—not merely a one-time investment.
- The CEC should actively continue to promote the consistent use of digital reporting and disclosure of political finance and expenditure by political subjects to ensure public accessibility.
- More granular reporting on online spending should be included in transparency returns.
- A digital imprint regime should be pursued that includes transparency messaging, such as who paid for online advertising, how long adverts were placed and a link to advertising libraries.
- Third-party activities should be regulated to ensure that the level of transparency aligns with that of electoral candidates so that

Albania has a transparency regime that is based on sound constitutional and legal principles.

absence of regulation is not used as a loophole for malign political actors.

- Links should be placed between election expenditure returns and the advertising archives of online platforms.
- Oversight bodies in Albania should develop better communication with social media platforms and place clear guidelines for them. This could include requiring platforms to have a legal representative in Albania and for platforms (other than Meta) to install ad libraries in the country.
- Given Albania's aspiration and ongoing negotiations to join the European Union, the national legislation should be aligned with the existing and incoming EU legislation and the CEC should aim for functional alignment with best practices of the electoral management bodies (EMBs) of other EU member states.
- Until the new legislation with proposed changes is implemented, political parties, candidates and online platforms should draft (and sign) a voluntary code of conduct.

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INTRODUCTION

One can think of developments in online campaigning in one of two ways: as an evolution of or a revolution in existing practice. Indeed, political campaigns—at their heart—entail a process of communicating how effectively parties and campaigners have allotted (or will allot) tangible or imagined resources. Therefore, it is not at all surprising that we see campaigners moving with the times and using new technologies to get their messages heard. This was true for radio in the early 20th century and television a little later, through to the Internet and digital media at the turn of the millennium. Such is the nature of recent developments that academics now argue that we have entered a ‘fourth phase’ of political campaigns (Magin et al. 2017; Gibson 2020). This phase has been described as ‘data driven’ (Kefford et al. 2022), but it is generally characterized by a focus on the harvesting and forensic use of individual-level data to microtarget groups of voters (Votta et al. 2023). This means that the use of online and social media advertising is prominent, alongside large-scale data analysis and message testing.

Scientific campaigns mobilize and inform voters, whereas subversive ones focus instead on demobilization and fostering misinformation.

Roemmele and Gibson (2020) have characterized these developments as either scientific or subversive. Scientific campaigns are those that interact with the new campaign environment in ways that mobilize and inform voters, whereas subversive ones focus instead on demobilization and fostering misinformation. The latter also feeds into wider concerns that recent online developments lead to echo chamber effects, whereby algorithmic sorting leads citizens to engage only in news stories structured around their own preferences. This argument is ongoing, however, and others suggest

that platforms can provide more exposure to diverse viewpoints (Feezell 2018).

This argument on the benefits and perils of online campaigning brings us to the question of whether it leads to an equalization or normalization of campaign practice. Namely, scholars have asked whether the fact that digital technologies make campaigning cheaper and more efficient has benefited smaller, less established parties, and allowed them to compete on a more equal footing (Gibson and McAllister 2015). On the other hand, it is contended that larger, wealthier, and more established parties simply use online space to benefit from pre-existing inequities. In other words, have these developments led to a revolution in or an evolution of how campaigns function?

This latter issue is fundamentally interlinked with money in politics—and the resources political parties and campaigners have at their disposal. It is therefore useful to think about the national legal framework governing political finance in Albania before considering whether different areas are addressed by recent developments. The two key pieces of legislation are the Electoral Code of 2008 (as amended in 2012, 2015 and 2020) and the Political Parties Law of 2000 (as amended in 2006, 2011, 2014, 2017 and 2020), complemented by regulatory acts and decisions of the CEC.

Donations

Foreign donations are banned in Albania, although assistance that parties (or international unions of parties) receive from political foundations and organizations that have Albanian representatives is permitted. Corporate and trade union donations are permitted, but anonymous donations are prohibited. There is no limit on contributions made to political parties outside election periods, but contributions, including from a candidate's personal wealth, made during elections may not exceed ALL 1 million (USD 10,550), which applies to both parties and candidates (and in-kind donations). The Organization for Security and Co-operation's Office for Democratic Institutions and Human Rights (ODIHR) has recommended (2021; 2023) that reports detailing donations and expenditure be published prior to election day, and that existing limits on donations and spending be extended to include third-party campaign groups.

The two key pieces of legislation are the Electoral Code of 2008 and the Political Parties Law of 2000, complemented by regulatory acts and decisions of the CEC.

Third-party spending is not currently regulated.

Spending

There are strict limits on the amount a political party or candidate can spend on an election. Political parties can spend no more than three times the amount the largest political party has received in public campaign funding. For individual candidates this figure is no more than 50 per cent of the largest campaign grant received by a political party. Third-party spending is not currently regulated. There are limits on spending on traditional media advertising during elections for political parties, and candidates, but these limits do not apply to social media advertising (only to advertising via 'signal broadcasts'). Experts interviewed for this Report suggested that the consequence of this was that approximately 60 per cent of advertising during elections was effectively unregulated.

Public funding

According to article 88.1 of the Electoral Code, parties that attain over 1 per cent of the vote nationally during the most recent election of the same nature (general or local) are eligible to receive public funds to run an electoral campaign. The calculation of public funds received by the parties is based largely on the number of votes they gained during that election. Article 19 of the Law on Political Parties provides parties with annual public funds for their regular activities beyond electoral campaigns. More specifically, 70 per cent of the public funding is allocated to political parties based the number of members of parliament, 20 per cent is allocated equally to all parties that obtain over 10,000 votes and 10 per cent is given to parties based on the number of votes they received in the previous election. Parties also receive free—but not unlimited—access to state media.

According to article 15 of the Electoral Code, gender quotas also apply. This means that in every district at least one woman and one man must appear among the top three candidates on the party list, and each list must have at a minimum 30 per cent representation of each sex. Lists of city council candidates must include an equal number of candidates of each sex, and the lists must alternate between women and men. Failure to adhere to this requirement can result in sanctions of up to ALL 1 million and the subsequent refusal of the corresponding party list.

Disclosure

Political parties have to submit annual reports on their finances to the Central Election Commission (CEC), and are required to provide a report on their campaign finance within 60 days of the announcement of the election result (this 60-day period also applies to candidates). This report should be publicized no later than 30 days after its receipt or, in certain instances, after further verifications are completed. The identities of donors who donate more than ALL 50,000 (USD 525) are made public. In an effort to increase transparency, the CEC piloted a digital platform for political finance reporting and disclosure during the May 2023 local government elections. Likewise, ODIHR (2023) reiterated its recommendation to introduce periodic public disclosure of financial contributions to campaigns and expenditures before election day.

Oversight and sanctions

All reports are submitted to the CEC, which has the power to investigate wrongdoing and apply sanctions. Violations are punishable on a sliding scale ranging from ALL 50,000 to ALL 5 million (approximately USD 520 to USD 52,000), and in certain instances the forfeiture of illegal funds received and/or the suspension of public financing for up to five years.

Conclusion

In Albania there has been neither an evolution of nor a revolution in legislation given developments in campaign practice, and the law very much represents analogue solutions to a digital age. This does not mean, however, that the law needs to be rewritten wholesale. As was outlined at the beginning of this section, developments in the digital age of political campaigns do not necessarily need to be considered an existential challenge or threat. Often positive elements can be harnessed, and actors with malign intent can be effectively regulated. That said, regulation does need to move with the times, and as we will outline below there are significant gaps in the current legislative landscape and, moreover, examples of where the current rules, as written, are not enforced.

The need for evolution is clear. In numerous interviews with stakeholders, the possibility was raised that the law—if properly interpreted—could also apply to digital spending and digital campaign

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practice. However, a wider cultural issue was also highlighted, which is that unless legislation specifically outlines that an activity is to be regulated, it is unlikely to be so. Regulators have two approaches at their disposal: they can act as constructionists (i.e. work from what is written) or as activists (i.e. interpret electoral codes and treat them as living documents). Several of the people interviewed for this project said that the regulatory culture in Albania is one of strict constructionism. In other words, if legislation does not specifically require something, political actors are unlikely to actively address ongoing (and problematic) developments. Given this situation, the Electoral Code should be updated to reflect the way in which money is now spent in Albanian political campaigns.

This Report provides evidence of the use, trends and practices relating to online campaign spending through case studies of the 2021 parliamentary general election and the 2023 local government elections. Following these case studies are reflections on the challenges inherent in monitoring online campaign finance as well as on international standards and best practices. The Report ends with several suggestions for reform of the Albanian political finance regime.

Chapter 1

ONLINE CAMPAIGN SPENDING IN ALBANIA: A CASE STUDY OF THE 2021 PARLIAMENTARY GENERAL ELECTION

Table 1.1 contains a summary of data published by civil society on the election spending returns for the five parties with over 1 per cent of the total spend during the 2021 Albanian parliamentary election. As is, perhaps, unsurprising, spending is dominated by the Socialist Party (SP) and is considerably more fragmented beyond that.

Table 1.1. Total party spending during the 2021 Albanian parliamentary election

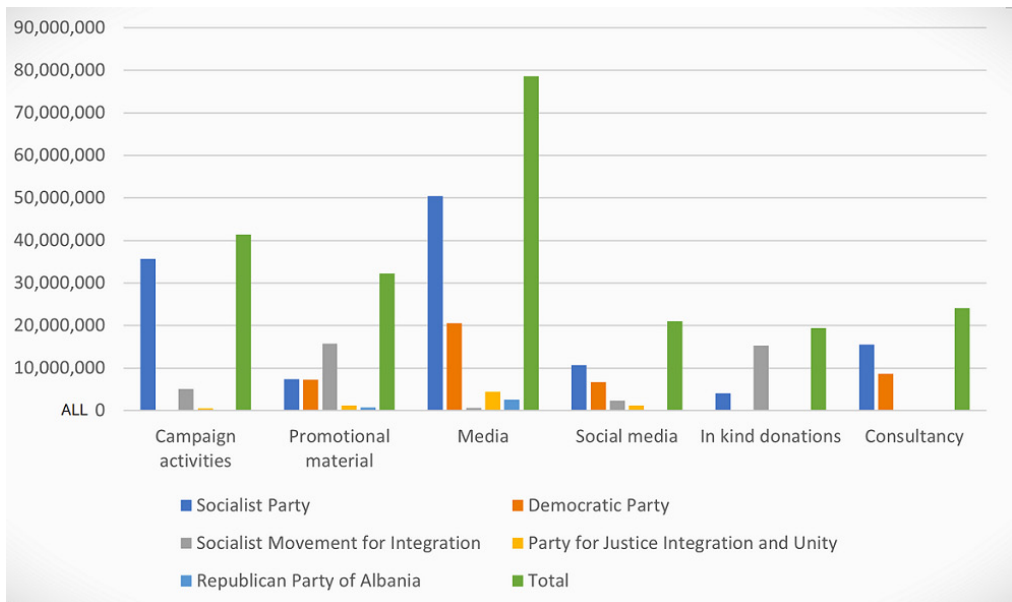
Party	Total spend (ALL)	Percentage
Socialist Party	172,046,612	60.1
Democratic Party	47,625,660	16.7
Socialist Movement for Integration	35,955,359	12.6
Party for Justice, Integration and Unity	16,385,217	5.8
Republican Party of Albania	3,684,258	1.2
Total	275,697,106	96.4

Source: Open Data Albania, 2022, <<https://ndiqparate.al/?p=18212&lang=en>>, accessed 4 September 2023.

**'Official story'
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traditional media
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over social media
spending.**

The total party spending can be broken down by category. However, many of the categories contain so little spending as to be largely irrelevant to the overall picture of campaign spending in Albania. Therefore, Figure 1.1 simplifies the information, collating the spending of the five largest expenditure categories (or 87.1 per cent of the total reported spend). This 'official story' suggests that traditional media spending dominates over social media spending (though the distinction between these categories is somewhat unclear) as well as spending on other more conventional forms of campaigning, such as promotional materials. Moreover, wider campaign activities are utilized by the five main parties, which shows us that parties are using campaign techniques differently, and this takes us back to the issue covered in the Introduction concerning whether recent developments equalize or normalize political campaigns.

Figure 1.1. Party spending during the 2021 Albanian parliamentary election, by the top six categories



Source: Open Data Albania, 2022, <<https://ndiqparate.al/?p=18212&lang=en>>, accessed 4 September 2023.

Here we see evidence of the growth of digital campaigning normalizing campaign practice in Albania in two ways. Firstly, we see that the SP and the Democratic Party (DP) spend significantly more than their rivals on social media, and that they are the only parties to use campaign consultants (and to spend a large proportion of their campaign budgets doing so). Secondly, the Socialist Movement for Integration spends considerably more than the SP and the DP on ‘promotional material’, which could broadly be understood as more traditional campaigning based around leaflets and posters. Therefore, initial evidence on spending dynamics indicates that the move to online campaigning is serving to benefit wealthier parties rather than to raise the platform of smaller or newer parties.

Online campaigning is serving to benefit wealthier parties rather than to raise the platform of smaller or newer parties.

1.1. CAMPAIGNING ON FACEBOOK

The official story likely provides only one part of the picture of the way in which online spending occurs in Albania, and the Facebook (now Meta) advertising archive can provide a fuller view. Conducting analysis utilizing the Meta advertising archive is imperfect (see 1.5), and it is still hard to determine precisely how much is spent on this platform during and between elections. That said, we can ascertain some basic facts. The ad archive has been active in Albania since 11 March 2021, and since that date 27,094 adverts have been placed at a cost of ALL 65,279,933 (USD 689,000); these ads are broadly categorized as relating to ‘social issues, elections or politics’.¹ Table 1.2 provides a simple descriptive breakdown of the 18 biggest spenders on the ad archive between 11 March 2021 and 31 August 2023. This breakdown captures overall expenditure during this period (including normal activity during non-election years); that said, much of the activity occurred during election periods in 2021 and 2023. Due to the challenges of collecting historical data from the Facebook advertising archive, it is not possible to say with certainty how much of the information in Table 1.2 includes spending in the respective election periods. If we look at each page in Table 1.2, however, we see that the vast majority of adverts are placed during regulated periods.

¹ The biggest spender, the British Embassy in Tirana, has been removed from Table 1.3, as we consider these ads to be apolitical (i.e. not related to Albanian elections or political campaigns).

Table 1.2. Top 18 spenders in the Facebook ad archive on 'social issues, elections or politics' from 11 March 2021 to 31 August 2023

Page name	Advertiser	Amount spent (ALL)	Number of ads	Active after 25 April 2021
Partia Socialiste e Shqipërise	Partia Socialiste	5,035,227	184	Yes
Agron Shehaj	Agron Shehaj	3,198,971	282	Yes
Lulzim Basha	Partia Demokratike	3,111,469	67	Yes
Partia Socialiste e Shqipërise	Partia Socialiste e Shqipërise	3,008,312	138	Yes
Socialistët	Partia Socialiste e Shqipërise	2,393,684	164	No
Belind Këlliçi	Belind Këlliçi	2,022,600	531	Yes
Erion Veliaj	Partia Socialiste Tirane	1,870,975	66	Yes
Untold Stories of Albania	Untold Stories of Albania	1,605,858	218	No
CNA.al	CNA Lajme	1,404,662	976	Yes
Lexo.al Politikë	Lexo	1,398,039	307	Yes
Ilir Meta	Ilir Meta	939,150	131	Yes
Bardh Spahia	Bardh Spahia	775,384	318	Yes
Lulzim Basha	Lulzim Basha	770,166	67	Yes
Dr. Endrit Shabani	Endrit Shabani	763,743	160	Yes
Emiriana Sako	Partia Socialiste	731,130	96	Yes
Astrit Patozi	Bindja Demokratike	695,005	67	No
Punë Punë	Punë Punë	657,777	66	No
Partia Demokratike a Shqipërisë	Partia Demokratike	597,066	19	Yes
Total		36,827,056	4,246	

Source: Meta, Meta Ad Library Report—Albania Spending Tracker, 21 March 2021–31 August 2023, <<https://www.facebook.com/ads/library/report>>, accessed 4 September 2023.

While aggregating the highest ad spenders on Facebook is quite a rudimentary analysis, even this snapshot provides some interesting information, and shows weaknesses in the Albanian political financing regime. If we continue to use the 2021 general election as a case study but consider other data sources and real-time election monitoring by organizations such as Balkan Investigative Reporting Network (BIRN) Albania, we can make a number of observations, as outlined in the following sections.

1.2. SIGNIFICANT (AND UNREGULATED) THIRD-PARTY ACTIVITY DURING THE ELECTION PERIOD

Among the top 18 spenders in the Facebook advertising archive are two third parties—Untold Stories of Albania and Punë Punë. These pages—both pro-SP (Likmeta 2021)—have not been active since the election but collectively spent ALL 2,263,635 (USD 23,900) during the election. That these pages remain in the top 18 all-time spenders on Facebook ads in Albania, over two years after the election, gives some insight into the relative level of third-party spending.

Analysis by the Coalition for Reforms, Integration and Consolidated Institutions (KRIIK) (2022) highlights three more third parties of note during the 2021 parliamentary election: Te Jesh Grua (ALL 537,059, or USD 5,670), Pakëz Dritë (ALL 478,456, or USD 5,050) and Ligj dhe Rend (ALL 414,635, or USD 4,375). The spending by these five organizations (all of which are sympathetic to the SP) amounted to a total of ALL 3,693,785 (USD 39,000), which, if the official returns were accurate, would easily amount to the third-largest social media spend by any political party during the election. In fact, if we return to the official story of election spending returns, we can see that the total social media spend was reported as ALL 21,266,999 (USD 224,500). Therefore, spending by these five third parties represents 17.4 per cent of total social media expenditure during the 2021 parliamentary elections. However, as we address below, the official story contained

in election spending returns is likely an underestimate. Wider analysis during the 2021 election estimated the true social media spend—from 11 March to the eve of the election—as being approximately ALL 28 million (USD 295,500). That these organizations also support the SP suggests that this lack of regulation of third-party spending masks the true scale of normalization that is at play in Albania. The SP's spending on social media far outweighs that of other parties anyway, and large amounts of support from third parties only exacerbate such inequities.

Neither official spending returns nor the Meta advertising archives provide a full picture of spending on social media.

1.3. UNDER-REPORTING OF SOCIAL MEDIA SPEND

There is good evidence that neither official spending returns nor the Meta advertising archives provide a full picture of spending on social media. We can see an example of this if we simply look at the top 18 spenders in the ad archive. Number 16 in Table 1.2 is Astrit Patozi, a candidate for the Party of Democratic Conviction (PDC). During the campaign he spent ALL 695,005 (USD 7,330) on 67 adverts, yet the official CEC returns state that the PDC spent nothing on social media. Similarly, we can see that Fatmir Mediu, a candidate for the Republican Party of Albania (RPA), spent ALL 335,962 (USD 3,540) during the 2021 campaign on their personal Facebook page, even though the RPA's total reported social media spend was also zero (Open Data Albania 2022).

The above-mentioned findings are echoed in reporting from KRIIK (2022), which states that during the 2021 parliamentary election '33.2 million ALL was spent on political ads on Facebook and Instagram', while 'a total of about 28.4 million ALL' in expenditures was declared on official spending returns. Moreover, as KRIIK notes, this analysis is merely of spending on Facebook. Given that other social media platforms are in use during elections, the true spend on social media is likely much more (see also Box 1.1). Unfortunately, Google does not provide a political advertising archive for Albania. We know from recent research that political parties are strategic in the platforms that they choose to spend money on. For example, in the United Kingdom the Conservatives spent as much on Google and

YouTube banner ads as they did on Facebook (see Dommett et al. forthcoming; Dommett and Power 2022). Therefore, we know that it is likely that neither official spending returns nor the Facebook ad archive provides a full picture of spending. And we also know that, even if they did, parties are using other platforms to ensure that their campaign communications are heard, and a true analysis of spending on these other platforms is not yet available.

1.4. DIGITAL INTERMEDIARIES

Finally, there is also evidence of digital intermediaries operating in the electoral space in Albania, and further cementing the hold of the wealthier, established parties in this space. Of lesser concern than the more blatant use of social media to circumvent Albanian election law, the use of digital intermediaries remains another way in which social media expenditure can be obscured on official election spending returns, thus highlighting the fact that the current picture of social media use may not be entirely accurate. Three candidates—Alqi Bllako, Eduard Shalsi and Dallendyshe Bici (all from the SP)—had adverts placed by WOW Digital, which expenses for these ads. Total spending amounted to ALL 919,282 (USD 9,700), which can reasonably be—and from evidence from other cases and context is likely to be (see Dommett and Power 2023)—reported as something other than social media expenditure on official CEC election returns (e.g. consultancy or campaign materials).

The use of digital intermediaries remains another way in which social media expenditure can be obscured on official election spending returns.

1.5. CHALLENGES IN MONITORING AND OVERSIGHT OF ONLINE CAMPAIGN FINANCE

We conducted eight interviews with stakeholders in the electoral process in Albania, including CSOs, practitioners and international experts. These interviews highlighted a number of issues with the current political finance regime, and in particular with the monitoring, regulation and enforcement of online campaign financing. Firstly, it was noted that, while there are strict spending limits for political parties and candidates, there was a lack of regulation on these expenditure ceilings on online campaigning.

Box 1.1. The 2023 local government elections through the lens of online political advertisement

- Mayoral candidates, politicians and political parties spent over USD 91,000 in political ads during the campaign for the local government elections of 14 May 2023.
- Of this sum 65 per cent was spent to boost ads on accounts of mayoral candidates and 35 per cent in other political accounts on Facebook and Instagram.
- The party who spent the most money in the election to boost ads in its account or mayor candidates was the ruling Socialist Party of Albania with a total of USD 42,509, followed by 'Nisma Thurje'.
- Although the elections were local, five opposition political party leaders ran 157 ads for a total amount of USD 9,966.
- Some 76 mayoral candidates spent USD 58,950 in political adds on Facebook and Instagram
- Political parties spent USD 19,499 on these two platforms, and chairmen of political parties and other politicians, including members of the assembly spent a total of USD 12,784.
- Party leader with most political ad expenditure on Facebook and Instagram was Ilir Meta, Chairman of 'Partia e Lirisë' (Freedom Party).
- The online campaign for the capital, Tirana, was the most expensive in the country, with political ads on Facebook and Instagram amounting to USD 49,597. It was followed by the second biggest city, Durrës, with a total of USD 11,849 in online political ads.
- The candidate for mayor who spent the most on online political adds on Facebook and Instagram was Tirana mayor Erion Veliaj, with a total of USD 18,645. The candidate with the second highest expenditure was again a Tirana municipality candidate, 'Bashkë Fitojmë' (Together we win) opposition coalition candidate Belind Këlliçi, with a total of USD 8,082.

Source: Meta data analysed and provided by BIRN Albania in <<https://www.reporter.al/2023/05/18/fushata-ne-instagram-dhe-facebook-kushtoi-91-mije-usd>>, and at the 'Resilience to Undue Influence in Elections from a Political and Campaign Finance Perspective' discussion organized by NDI Albania in November 2023.

Moreover, the law does not properly recognize that politics continues beyond elections. While the Electoral Code (article 92.2) suggests that limits apply to any campaign expenditure, regardless of when it is made, in reality the provision for 'electoral campaign purposes' is vague. Political parties and candidates seek election; therefore, any spending can be reasonably considered to be for electoral purposes. The law should, therefore, be clearer on what an electoral purpose is, or expansion of the regulated election period should be considered.

Similarly, a lack of regulation of third parties is increasingly problematic. There is clear evidence of sizeable third-party spending on Facebook/Meta (and potentially on other platforms that do not

disclose data on such spending) during campaigns, and we also know that third parties can have significant influence between elections—and often operate primarily outside of election periods. Instead of a ban, which is largely unenforced on digital platforms, it is better to limit third-party spending or to adopt regulations on third parties in line with regulations on parties so as to (a) have more control over third-party spending; and (b) not limit the genuine benefits of this kind of democratic engagement.

Comparatively speaking (see Chapter 2), the disclosure requirements are—at least in theory—adequate. There are clear requirements for itemization, and online campaign spending is specified on returns that can be accessed. However, we know from existing research that for transparency to be an effective means to promote accountability and increase trust, it needs to be implemented effectively (Alessandro et al. 2021; Power et al. 2023). In other words, spending transparency needs to be enforced in such a way that citizens can easily access the requisite information, which has not been the case in Albania for decades.

This study relies primarily on data provided by the CEC, secondary sources (such as reporting by KRIIK, BIRN and Open Data Albania) and our interviews. Meanwhile, important steps have been taken—including with input from the International Institute for Democracy and Electoral Assistance (International IDEA) (see Wolfs 2022)—to develop and introduce a digitalized disclosure system, and efforts should continue to ensure its successful implementation. Without this a transparency regime risks being transparent in name only and unlikely to serve its stated aims of (a) reducing corruption; and (b) increasing trust. What is important is to ensure that the transparency regime provides complete and consistent returns, and that these returns are accurate and accessible (Dommett and Power 2023).

The above evidence shows that it is likely that online campaign spending in Albania is under-reported through official means. This issue is not unique to Albania: in almost every country it has been incredibly hard to gain a true picture of the breadth of spending online (Dommett, Kefford and Kruschinski. 2023). The official story is often drawn from publicly available (and legally required) party and candidate accounts and financial returns. These returns, more often

For transparency to be an effective means to promote accountability and increase trust, it needs to be implemented effectively.

Important steps have been taken—including with input from the International IDEA to develop and introduce a digitalized disclosure system.

than not, provide information only where there is direct spending on online platforms (such as Facebook, TikTok or Instagram). Spending on campaign consultants, however, who might well place advertisements for political parties and candidates as part of the wider suite of the services that they provide (as we have seen in the Albanian case), is not included. Therefore, a significant piece of the picture is missing.

As online campaigning evolves, issues arise not only with campaign spending itself but also with the way in which platforms operate and how users interact with them.

Information in advertising archives is not always made public by online platforms, and when it is, it is often imperfect or inexhaustive. Among platforms that proactively disclose information, Facebook/Meta, for example, provides only banded estimates of spend, and there are numerous other challenges with regard to analysing the data they provide (see Dommett and Power 2019). There are also problems relating to spending on online platforms—specifically with regard to spending limits. Due to the nature of virality and of organic versus paid content, as well as the use of influencers (for more on these issues, see Riedl, Lukito and Woolley 2023), different adverts can cost vastly differing amounts—and prices can rise and fall (see Dommett and Power 2019; Nadler, Crain and Donovan 2018). As online campaigning evolves, issues arise not only with campaign spending itself but also with the way in which platforms operate and how users interact with them.

This dynamic can mean that the true nature of campaign spending is known only after the campaign has ended (allowing political parties and candidates to exceed spending limits, either by accident or by design). Moreover, 'these ambiguities mean that even if greater detail on advertising spending was provided, it would remain difficult for observers to determine the extent to which paid advertising intersects with organic reach' (Dommett and Power 2019: 264). Finally, countries find themselves subject to the whims of the online platforms themselves, which have different priorities from those invested in creating (and maintaining) working democracies (though the EU is leading the charge when it comes to regulating platforms). This situation makes it incredibly hard to compel information from the platforms, and leaves significant space for progress on platform transparency to simply be reversed.

Another perennial problem for all those interested in better regulation of online spending, articulated by many participants of this project in Albania, is how fast-moving the space is. Regulation needs to keep up with evolving platform practices (and priorities), and parties (and campaigners) use different tactics (and different platforms) from election to election. The slow pace of regulatory changes against the rapidly changing environment can leave many feeling that elections online are reminiscent of a political Wild West (Palese and Mortimer 2019), a space with few rules and awash with malign actors, or that EMBs are simply ‘analogue regulator[s] in a digital age’ (Kinnock 2019: 27). This problem is exacerbated by the slow pace of legislative change: as one challenge is mediated and addressed, another may appear. In the wider (academic) world of campaign finance this is known as the hydraulic theory of money in politics (Issacharoff and Karlan 1999). In other words, money in politics is like water: it flows uncontrollably and will find the weakness in the dam through which to break. No legislation is perfect, so there will always be cracks (i.e. loopholes), and it is here that money will flow. At present, in many countries (Albania included) the space where these cracks are to be found is online.

Technological change will always outpace regulation, and this lack of first-mover advantage is compounded by an inherent (and understandable) conservatism within electoral commissions themselves. Unlike other regulators, they are in a uniquely political position, consistently at risk of interference and threats (overt or otherwise) from those in power (see Cheeseman and Elklit 2020), which often means that they do not wish to be seen to be making directly political decisions. While this is a broad truth regarding electoral commissions the world over, it was also a concern specifically voiced by some with regard to the CEC in Albania.

In our interviews, a challenging dynamic was presented. A common recommendation was to require more granular information on spending returns in terms of a wider range of expenditure categories (which could capture the range of online spending). Given the pace of change in this space, however, it could well be the case that as soon as these categories are given legislative footing they are no longer relevant. For example, as the ongoing debate over the extent to which organic content promoted by influencers should be covered by

A common recommendation was to require more granular information on spending returns.

regulation continues, it will be important for the CEC to have built-in flexibility in its competencies. Some interviewees said such flexibility would create a form of constructive ambiguity that empowers the CEC both to better investigate and to move faster than the legislative process allows.

Our interviewees agreed, in general, that the regulatory challenge in Albania is not an existential one, but something faced by electoral commissions (and countries) the world over: these agencies simply lack the resources and technical capacity to keep up with online developments. Albania's CEC operates on a limited budget, with limited personnel. Many countries face similar challenges, and regulatory gaps are often addressed with an active, functioning and robust civil society that can provide extra-legislative support. However, interviewees from civil society agreed that, while there are a number of strong CSOs that provide such support, they are almost entirely donor-led. Therefore, if donors decide to remove their support, this important work may not continue. Currently, however, the accountability ecosystem—made up of a vocal and articulate civil society with a well-functioning electoral commission—is strong. This observation suggests that reforms should focus on strengthening existing legislation and empowering existing institutional structures, as opposed to pursuing more fundamental reforms (at least in the short term).

These issues aside, an increasing number of countries have grasped the nettle and attempted in various ways to address the challenge of online campaigning. The next chapter of this Report summarizes information from International IDEA's Political Finance Database (PFD), before focusing on specific examples of regulatory interventions and areas of best practice.

Chapter 2

THINKING COMPARATIVELY: EXPERIENCES AND PRACTICES FROM OTHER COUNTRIES

The PFD provides the most detailed comparative summary available and highlights the general challenge of regulating in this area. Of the countries for which data is currently available, 82.3 per cent have no limits on online media advertising spending in relation to elections, 8.9 per cent have limits for candidates, 7.0 per cent have limits for political parties, and 1.9 per cent have limits for third parties (International IDEA n.d.). The most regulated region is the Americas, but, given the general trend of a lack of regulation in this space, the story remains one in which specific online spending limits are rare (see Table 2.1).

This dynamic of lack of regulation of online spending is, however, largely in keeping with the reluctance to place limits on advertising spending in general during elections. If we consider this data, we see a less pronounced but definite preference for no limits (see Table 2.2).

Limits are not the whole story, however, and if we consider whether any other restrictions on online media advertising exist, we see that 21 of the countries (or 15 per cent) for which we have data have some form of restriction. The type of regulations in place varies widely, ranging from the requirement to register online advertising profiles (e.g. Argentina and Indonesia); outright bans (e.g. Comoros); targeted bans, such as on election day and the eve of polling (e.g. Armenia and Malaysia); or bans on payments to influencers (e.g. Brazil); to regulations on specific content appearing in online adverts (e.g. Iraq, Paraguay, Philippines).

**The type of
regulations in place
varies widely.**

Table 2.1. Limitations on online media advertising spending in relation to election campaigns, by region

Region	limits for political parties	Limits for candidates	Limits for third parties	No limits
Africa	1	1	0	35
Americas	5	5	2	25
Asia	2	2	1	29
Europe	3	6	0	27
Oceania	0	0	0	14
Total	11	14	3	130

Source: International IDEA, Political Finance Database, <<https://www.idea.int/data-tools/data/political-finance-database>>, accessed 20 September 2023.

Note: Global data covers 180 countries; the numbers in the table do not add to 180 as data for the remaining countries is not available. The corresponding question allows the selection of multiple choices.

In Albania the period of silence is interpreted as concerning traditional media only and is largely ignored in the online sphere.

It should also be recognized that many countries are subject to effective proxy bans on online advertising, as their regulation on advertising includes periods of silence. However, we heard from multiple stakeholders in the electoral process that in Albania the period of silence is interpreted as concerning traditional media only and is largely ignored in the online sphere. Evidence from the Facebook advertising archive bears this conclusion out. There were multiple examples of political parties and candidates having adverts in place (or still viewable) on polling day during the last general election.

A final consideration is indirect online financing regulation, through requirements to itemize spending returns, which is much more common among countries across the world. For those countries for which there is data, 66.5 per cent do legislate that reports from political parties and/or candidates must itemize expenditure. This finding contrasts with the 26.2 per cent that do not, and the 7.3 per cent to which this question does not apply (see Table 2.3). The level

Table 2.2. Limitations on traditional media advertising spending in relation to election campaigns, by region

Region	Limits for political parties	Limits for candidates	Limits for third parties	No limits
Africa	3	4	2	34
Americas	11	8	3	16
Asia	5	7	2	25
Europe	10	11	4	24
Oceania	0	0	0	14
Total	29	30	11	113

Source: International IDEA, Political Finance Database, <<https://www.idea.int/data-tools/data/political-finance-database>>, accessed 20 September 2023.

Note: Global data covers 180 countries; the numbers in the table do not add to 180 as the corresponding question allows the selection of multiple choices. Data for some countries is not available.

to which spending must be itemized varies, however, and in some countries this form of regulation provides little information about the level of online spending. It is useful to think of these returns as having a high, medium or low level of itemization, which provides the researcher with high, medium or low levels of actionable information about types of election expenditure.

The next sections outline the different levels of itemization seen in the UK (high), New Zealand (medium) and Australia (low). More granular detail (when presented effectively) should be the aim in a functionally transparent political finance regime (see Dommett and Power 2023). The cases below are presented as a range of adoption practices—from low to high—that cover a suite of options. While it would be preferable to adopt the most complete and consistent model, it may also be the case that lesser models are more realistic in this instance—and at this stage.

Table 2.3. Requirements for political parties and/or candidates to include information on itemized spending in reports, by region

Region	Yes (country numbers)	No (country numbers)	Not applicable (country numbers)
Africa	22	21	1
Americas	20	7	5
Asia	27	5	1
Europe	34	7	0
Oceania	6	3	5
Total	109	43	12

Source: International IDEA, Political Finance Database, <<https://www.idea.int/data-tools/data/political-finance-database>>, accessed 20 September 2023.

Note: Global data covers 180 countries; the numbers in the table do not add to 180 as data for the remaining countries is not available.

The UK is considered by political finance experts to have a transparency regime that is effectively world-leading.

2.1. HIGH-LEVEL ITEMIZATION: THE CASE OF THE UK

The UK is considered by political finance experts to have a transparency regime that is effectively world-leading, at least in terms of the information provided (see Power 2020; Dommett and Power 2023). Political parties, candidates and third parties must report on expenditure during election periods, and they must include PDF invoices for any spend over GBP 200 (USD 250). Currently, the information provided by parties (the rules differ slightly for candidates and third parties) must be classified under one of nine headings: advertising; campaign broadcasts; manifesto or referendum material; market research/canvassing; media; overheads and general administration; rallies and other events; transport; unsolicited material to electors (see Figure 2.1).

However, there are still flaws with this system as it relates to the transparency of online campaign financing. Most notably, there is no category that specifies either online campaigning or online

Figure 2.1. Screenshot of the UK Electoral Commission's political finance database, showing a breakdown (by category) of all party spending in the 2019 UK parliamentary general election

Category of expenditure		
Category of expenditure		
Description	No.	Total value
Transport	9518	£1,573,459.86
Unsolicited material to electors	4456	£20,529,917.19
Advertising	4079	£13,984,374.78
Overheads and general administration	2433	£3,079,155.39
Rallies and other events	1166	£2,313,383.90
Market research/canvassing	651	£6,409,703.82
Media	188	£972,223.16
Campaign broadcasts	115	£760,925.58
Manifesto or Referendum material	110	£435,043.90
Overheads and general administration (outside s.75)	2	£33.00
Advertising (outside s.75)	1	£33.60
Rallies and other events (outside s.75)	1	£25.00
Total sum	22720	£50,058,279.17

Source: UK Electoral Commission, Party Spending in the Parliamentary General Election 2019, [n.d.], <search.electoralcommission.org.uk/Spending>, accessed 20 September 2023.

advertising (as there is in Albania, for example, as well as in countries such as Austria and France). This situation means that one has to rely on keyword searches for specific providers (such as Facebook, Google, TikTok, etc.) to gain a picture of spending on these platforms. Moreover, this kind of itemization provides information only on instances of direct relationships between online campaign spending and service providers. It does not provide information on the 'digital intermediaries that have emerged in the electoral marketplace', who 'are regularly working with political parties to curate political adverts on platforms' (Dommett and Power 2019: 262).

2.2. MEDIUM-LEVEL ITEMIZATION: THE CASE OF NEW ZEALAND

An example of medium-level itemization can be found in New Zealand. Here, political parties are required to provide line-item disclosure on all election expenditure, but, unlike in the UK, parties are not required to provide an initial (even broad) categorization of the type of expenditure. Primary expenses are instead carried under the headings 'Party advertisements solely promoting the party' and 'Party advertisements shared with candidates or other parties'. As Figure 2.2 shows, however, the types of spending that occur under these broad headings can include anything from Facebook advertising, posters and music licensing to payment for a sign language interpreter. Moreover, there is little further detail (in the form of specific invoicing returns) on the manner of digital advertising provided by, for example, Together Communications, which could be performing a whole range of online campaigning-related activities. This means that it is even more difficult for the average citizen, or seasoned researcher, to calculate the true total of online campaign spending in this context—beyond very broad (and likely insufficient) estimates.

In Australia, requirements for itemization are built primarily around donations, as opposed to expenditure.

2.3. LOW-LEVEL ITEMIZATION: THE CASE OF AUSTRALIA

In Australia we can see an example of low-level itemization. Requirements for itemization are built primarily around donations, as opposed to expenditure: most notably, political parties are not required to provide election spending returns. This means that, while detailed donation itemization can be found on candidate election returns, very little information on spending is itemized. An indicative example from the general election of 2022 can be found if we look at the PDF return submitted by Allegra May Spender, who, according to the Australian Electoral Commission Transparency Register (see Figure 2.3), spent more than any other candidate during the 2022 general election. The register provides significant details on donors (including amounts donated, the date of donations and the donor's address), but significantly less on spending—simply that the candidate did indeed spend AUD 2.1 million (USD 1.4 million).

Figure 2.2. Section of expenditure invoice provided by the New Zealand Labour Party during the 2020 general election

EXAMPLE: Display Billboards Ltd: 22/09/2020 - 16/10/2020: 3 x Billboards: 2000mm x 1000mm	\$1,200.00
Agency & Filming Production Costs for general TV advertisements - Augusto Ltd	\$284,284.96
Agency & Filming Production Costs for Maori TV advertisements - Tammy Davis	\$58,075.00
Agency Fees - Hunch	\$92,000.00
Agency Fees - Together	\$47,520.22
Together Communications Ltd - Posters, Printing & Installation using Shout Media, Niche Media, Phantom Billstickers	\$74,463.52
Together Communications Ltd - preparation, production & installation of static & digital Billboards using JCD, QMS, Advantage, Go Media,	\$430,678.22
Together Communications Ltd - Press advertising	\$278,018.57
TMO Publications Ltd - Press advertising - Your Gay Voice	\$4,597.70
Together Communications Ltd - Agency Fees	\$138,000.00
Mediacom - Agency Fees	\$10,240.75
Digital Pigeon LTD - software for digital promotion	\$127.31
For Purpose Ltd - Google API service for "where to Vote" tool	\$773.93
Facebook advertising	\$2,245.81
Together Communications Ltd - Digital advertising	\$321,076.02
Bluestar - Printing & Distribution of Nationwide direct mail	\$61,744.58
Torque Digital - Party Vote Hoardings - 12448 in 3 sizes	\$165,536.04
DigiSenSe - Photography touch ups	\$1,173.00
Bluestar - pull up banners, lanyards, A3 placard posters	\$10,819.48
Sprint Print - Door hangers & hoarding sashes	\$26,942.80
Sprint Print - Printing Doorhangers & flyers	\$18,807.73
Jane Ussher Photography	\$920.00
Department of Internal Affairs - Translation services	\$228.00
Data Zoo Ltd - Phonebank set up	\$4,657.50
Power Marketing - Phone bank - 2 days	\$5,750.00
Community Engagement Ltd - Telephoning & VOIP fees	\$26,196.99
Venues Wellington - Rally 11/10/20	\$29,755.22
Native Tongue Music - Music License	\$575.00
Filament Eleven 11 Ltd - Rally Planning	\$1,489.28
David Steele Ltd - Speaking services at rally	\$575.00
Joseph Lindsay - Band & DJ	\$1,955.00
Deaf Aotearoa Holdings Ltd - Sign language interpreter	\$884.18

Source: New Zealand Electoral Commission, Party Expenses Return for the 2020 General Election: Labour Party, 2021, <<https://elections.nz/assets/2020-general-election/Party-returns/Labour-Party-Party-Expenses-Return-2020.pdf>>, accessed 29 September 2023.

2.4. BEST PRACTICE EXAMPLES OF ONLINE SPENDING REGULATION: IRELAND, LATVIA AND CANADA

There are, then, lots of ways to better regulate online campaign spending either directly or indirectly. However, there are also countries that represent specific areas of best practice that are worth highlighting. One of the most detailed recent examples is Ireland's Electoral Reform Act (Republic of Ireland 2022), which—alongside

Figure 2.3. Section of election spending return provided by Allegra May Spender during the 2022 Australian federal election

Part 1 – Donations Received (subsection 304(2) of the Electoral Act)

For the purpose of reporting donations, under subsection 304(10) of the Electoral Act, a candidate in an election is taken to begin to be a candidate starting from the earlier of the following:

- the day that is 6 months before the day the person announced their candidacy; or
- the day that is 6 months before the day the person nominated as a candidate;

and is taken to cease being a candidate at the end of 30 days after polling day (20 June 2022).

Part 1a: Total of donations received

This is the total value of **all donations received**, both **above and below** the disclosure threshold while the person was a candidate.

\$1,927,906

Part 1b: Total number of donors

This is the **total number of donors** who made the donations included in the calculation of 'total of donations received' at Part 1a.

661

Part 1c: Details of donations received

This is the details of donations received from each person or organisation while the person was a candidate that were more than \$14,500. This includes the sum of all donations received from a single source that total to more than the disclosure threshold.

Under section 304 of the Electoral Act, for each donation received that was more than the disclosure threshold, the following details must be disclosed:

- full name and address* of the person or organisation from whom the donation was received; and
- date each donation was received; and
- value or amount of each donation.

Received from					Date of donation**	Value of donation	
Name	Alexander Bligh Hughes Turnbull				18/05/2022	\$25,000	
Postal address	49a Gardyne Street						
Suburb/town	Bronte	State	NSW	Postcode			2024
Name	Polka Dot Ventures Pty Ltd						
Postal address	Unit 6 17-19 Unwins Bridge Rd				27/04/2022	\$50,000	
Suburb/town	St Peters	State	NSW	Postcode	2044		
Name	Andrew Killion				25/03/2022	\$25,000	

Figure 2.3. Section of election spending return provided by Allegra May Spender during the 2022 Australian federal election (contin.)

Part 2 – Electoral Expenditure (subsection 309(2) of the Electoral Act)

For the purpose of reporting electoral expenditure, under subsection 309(6) of the Electoral Act, a candidate in an election is taken to begin to be a candidate starting from the earlier of the following:

- the day that is 6 months before the day the person announced their candidacy; or
- the day that is 6 months before the day the person nominated as a candidate;

and is taken to cease being a candidate at the end of 30 days after polling day (20 June 2022).

Electoral expenditure is defined in section 287AB of the Electoral Act to be expenditure incurred for the dominant purpose of creating or communicating electoral matter. Further information on electoral expenditure can be found on the [AEC website](https://www.aec.gov.au).

NOTE:

A **member of a Senate Group should not** complete this section of the Candidate Return. Any electoral expenditure must be included in a consolidated Senate Group Return.

Electoral Expenditure incurred while the person was a candidate	\$2,124,058
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Part 3: Discretionary Benefits (subsection 309(4) of the Electoral Act)

A candidate must report details of any discretionary benefits received from the Commonwealth, a State or a Territory during the period of 12 months before polling day. Discretionary benefits include grants, contracts, payments and other benefits requiring the exercise of discretion by the Commonwealth or State or Territory, and do not include statutory entitlements.

Received from	Date of discretionary benefit	Value of discretionary benefit
Name		
		Total
		\$0

*1 In-kind donation

Source: Australian Election Commission, Candidate Return for 2022 Federal Election held on 21 May 2022 for Allegra May Spender, 24 October 2022, <<https://transparency.aec.gov.au/Download/ReturnImageByMoniker?moniker=83-BFQDM2>>, accessed on 20 September 2023.

a raft of wider reforms—introduced significant regulation on online political advertising, including the following:

- digital imprints (including the text ‘political advert’ prominently displayed, a button/hyperlink to a ‘transparency notice’ that includes details on the buyer of the ad, confirmation of whether

Ireland's Electoral Reform Act—alongside a raft of wider reforms—introduced significant regulation on online political advertising.

microtargeting was used, confirmation of whether lookalike targeting was used, the total amount paid or due to be paid, the estimated size of audience, the number of views, the relevant election or referendum, a link to the platform ad archive) (article 121(1), (2));

- obligations on online platforms to verify the identity of purchasers of online political adverts (article 122(1));
- strict limits on adverts commissioned from abroad unless they are commissioned by (a) a citizen of Ireland; (b) a company, corporation or unincorporated body that maintains offices in Ireland; or (c) a citizen (or company, corporation, unincorporated body or political party) of an EU member state and the advertisement relates to elections to the European Parliament (article 125(1));
- empowerment of the Electoral Commission to (a) monitor online political advertising; (b) monitor online platforms; (c) monitor buyers of online political advertising; (d) educate, investigate and enforce compliance (and non-compliance) (articles 127(1);
- clear regulation of third parties that states that they must (a) register with the Standards Commission; (b) open a bank account for political donations and (c) submit annual returns for political donations; and
- strong sanctions that range from fines to imprisonment of up to one year (in the case of summary conviction) or up to five years (in the case of conviction on indictment) (article 140(1)).

Latvia represents an example of a slightly more established best practice in this area, covering income, expenditure and reporting.

As the above-mentioned regulations have not yet been fully implemented, their effects are yet to be fully understood. Latvia, on the other hand, represents an example of a slightly more established best practice in this area, covering income, expenditure and reporting (see Cigane 2022). In terms of online campaign spending, regulation can largely be found in the Law on Financing of Political Organizations (Parties) and Pre-Campaign Election Law including the following:

- detailed itemization of spending, including a category for '[advertising placed] on the internet, except for the website of the political organization (party)' (Law on Financing of Political Organizations (Parties): section 8.2); and
- regulation on third parties, including (a) spending limits; (b) inclusion of disclaimers on adverts placed online by third parties; and (c) an obligation on the part of platforms to refuse to place third-party adverts if they break spending limits (Pre-Election Campaign Law: section 5).

Canada also provides an interesting best practice, having updated the Canada Elections Act 2000 (Government of Canada 2000) in 2018 and most recently in 2023 to define online platforms and impose obligations on them concerning digital ad registries (i.e. advertising archives). The Act provides specific guidance for online platforms, which includes the following:

- a clear definition of what an online platform is: 'an Internet site or Internet application whose owner or operator, in the course of their commercial activities, sells, directly or indirectly, advertising space on the site or application to persons or groups' (article 319);
- required visitor thresholds for advertising repositories of online platforms: (a) in English (3 million unique visitors in Canada a month); (b) in French (1 million unique visitors in Canada a month); and (c) in another language (100,000 unique visitors in Canada a month) (article 321.1(1));
- guidance on two kinds of adverts, 'partisan' and 'election', which need to be included in ad registries: (a) partisan adverts are 'ads that promote or oppose a party or candidate'; and (b) election ads encompass the definition of partisan ads with the addition that they also include 'advertising that takes a position on anything that is or may become an issue during a federal election campaign' (articles 2.1, 325.1(2));
- guidance on the information that should be included in the registry: (a) an electronic copy of adverts; and (b) the name of the person that authorized the advert in question (article 325.1(3));

- penalties, including fines or imprisonment, for non-compliance (article 495.1(a.1)); and
- a requirement that these regulations apply to third parties as well as registered political parties (articles 325.1(2), 349.6(1), 353(1)).

Canada also has an effectively world-leading system of third-party regulation, in terms of both online and offline campaign activity.

Canada also has an effectively world-leading system of third-party regulation, in terms of both online and offline campaign activity. The regulations in question include the following:

- a clear definition of what a third party is: ‘a person or a group, other than a registered party, registered association, candidate or nomination contestant’ (article 348.01);
- guidance on who can register as a third party: (a) an individual who is a Canadian citizen or permanent resident; (b) a corporation carrying on business in and incorporated in Canada; (c) a corporation carrying on business in Canada but incorporated outside Canada, as long as the primary purpose is not to influence Canadian voters; or (d) a group (where the person responsible for the group is a Canadian citizen) (article 349.6(2));
- guidance on when third-party registration is required: (a) immediately after regulated activity is conducted in an election period that totals expenses of CAD 500 (USD 375) or more (article 349.6(1));
- a public database, the Registry of Third Parties, hosted on the Elections Canada website (article 358.2);
- the requirement for a separate bank account for the sole purpose of the campaign in question, in line with prior legislation set out in the Bank Act (article 358.1(1));
- guidance on three types of regulated activity—election advertising, partisan activities and election surveys—that includes (a) election advertising (‘an advertising message that promotes or opposes a registered political party or candidate, including by taking a position on an issue with which the registered political party or person is clearly associated’; (b) partisan activities ‘that promote

or oppose a political party, nomination contestant, potential candidate, candidate or party leader, other than by taking a position on an issue with which the political party or person is associated'; and (c) election surveys 'about voting intentions or choices, or about an issue with which a registered political party or candidate is associated, that a third party conducts or causes to be conducted ... [where the] results are used in deciding whether to organise and carry out regulated activities' (article 349);

- spending limits, adjusted each year for inflation, for third-party activity (articles 350 (1)(2)(3)(4)(5)); and
- campaign reporting requirements detailing all inflows and outflows no later than four months after an election (article 359.1).

Chapter 3

CONSIDERATIONS FOR STRENGTHENING THE ONLINE CAMPAIGN FINANCE REGIME IN ALBANIA

The Report began with a suggestion that countries can take one of two approaches: to enact a legislative revolution or to simply evolve alongside solid legislative principles. The preferable option in the Albanian case is to evolve current regulatory practice and, more importantly, to establish mechanisms and support systems such that pre-existing legislation can be implemented effectively. Moreover, developing more stringent regulation could also help to push back against the evidence that indicates that online spending is helping more established and wealthier parties to further consolidate their positions.

The current campaign finance rules are not being adhered to or campaign spending remains unregulated in the online space.

3.1. ENACTING CURRENT REGULATORY PRINCIPLES

Throughout this Report evidence has been presented that either the current campaign finance rules are not being adhered to or campaign spending remains unregulated in the online space. This observation is based on misreporting of social media spending, non-adherence to periods of silence and unregulated third-party campaigning in support of established political parties (namely the SP). Taken together, while there is no concrete evidence that political parties have broken the rules surrounding expenditure limits, if campaign spending is not being accurately reported we have no good evidence that these expenditure limits are in any meaningful way effective.

The most important reform for the Albanian political finance regime is, therefore, quite simple. The CEC should be empowered through

further resourcing to better fulfil its functions as an electoral regulator, such that it can:

- educate political parties and campaigners on the current political financing rules and correct means of reporting;
- investigate wrongdoing in a timely manner such that online adverts in contravention of the rules can be removed in (near) real time; and
- sanction political parties, candidates and third-party organizations that break these rules to form an effective deterrent against these activities.

Moreover, on paper the transparency regime is broadly aligned with international standards, and requirements for the itemization of electoral expenditure are at a higher level when we look comparatively. However, transparency is functional only if citizens easily access information and the information is easily available. Ongoing efforts on the part of the CEC to pilot and consolidate a digitalized political finance reporting and disclosure system are moving in this direction.

The current system in Albania relies on a patchwork accountability ecosystem of an official electoral regulator that is supported informally by a vibrant civil society, and excellent work is conducted by organizations such as BIRN, Equality in Decision Making Women's Network, KRIIK, Faktoje, and the National Democratic Institute (NDI). These local organizations and international partners can effectively campaign for reform and highlight non-adherence to electoral law. That said, these organizations are largely donor-funded, which means that the accountability ecosystem is fragile. This fragility makes it even more important that the CEC be well supported and empowered in the event that international donor funding is no longer available.

Albania relies on a patchwork accountability ecosystem of an official electoral regulator supported informally by a vibrant civil society.

3.2. EVOLVING CURRENT LEGISLATIVE PRACTICE

While much of the challenge that online campaigning presents can be met by current legislation and by better supporting the CEC, the

following reforms should be made, which would serve to evolve current regulatory principles:

- renew efforts to bolster the capacity and effectiveness of the CEC;
- make party accounts easily available and accessible on the CEC website;
- ensure that more granular reporting on online spending is included in transparency returns;
- put a digital imprint regime into effect;
- ensure that third-party activity is more tightly regulated;
- place links between election expenditure returns and online platform advertising archives;
- require that platforms and the CEC uphold these rules; and
- where not covered in the above recommendations, harmonize regulations with incoming EU legislation and the best practices of EU member states.

3.3. WINNING ELECTIONS THE RIGHT WAY

Many of the above recommendations echo those made—at the more general level—in International IDEA’s *Winning Elections the Right Way* (Heinmaa 2023). Based on a survey of EMBs from 28 European countries and 9 interviews, the Report outlined the numerous ways in which the regulatory challenges presented by the rise in online political advertising should be addressed. Firstly, it suggests four broad ways in which online political advertising is currently being tackled:

- no regulation of either online or offline advertising/media;
- regulation of some forms of offline media, but not online media;

- generic offline regulation that applies by proxy online; and
- explicitly regulated.

Albania provides a rather weak example of the third type of regulation. Although there is no specific online regulation, we do see some forms of online campaign activity captured in the current regulation, such as periods of silence (although we also find that this regulation is not adhered to). This is currently insufficient—not least to match EU accession requirements. So, mirroring the template set out in Heinmaa (2023), legislation in Albania should do the following:

- define what constitutes a political advert online and determine how new legislation needs to be drafted to reflect this definition;
- establish common standards for identifying political adverts—in collaboration with parties, social media platforms and experts—and identify who purchased them;
- create clear expectations for transparency in the online space;
- establish responsibilities for platforms to create legal representatives, transfer information/data to specific electoral stakeholders, communicate policies for moderation, and adjudicate complaints and assess risks; and
- clarify the extent to which the content of ads will be banned and the degree to which the regulators will be responsible.

Alongside the legislative reform, a number of soft-law or soft-power mechanisms can be used, in the form of voluntary codes of conduct that establish voluntary behavioural standards. While these are often criticized for being toothless (e.g. Hough 2017: 108–10), there is good evidence—not necessarily relating to political campaigning—that they can be effective. An example of a soft-power mechanism is the Extractive Industries Transparency Initiative, whereby reformers signalled their good intentions, but international actors then rewarded achievements such that eventually a wider norm of better practice was diffused (David-Barrett and Okamura 2016). Of course, establishing common standards and practices can be hard,

Alongside the legislative reform, a number of soft-law or soft-power mechanisms can be used, in the form of voluntary codes of conduct that establish voluntary behavioural standards.

and voluntary codes of conduct obviously lack a true accountability/sanctioning function, but as an initial step they can be useful, and can often form the parameters of a more institutionalized agreement.

An additional recommendation for the shape that a voluntary code of conduct could take is based on the Dutch model (Heinmaa 2023: 57), which is outlined in Table 3.1.

Table 3.1. An example of commitments in a code of conduct for parties and platforms in Albania

Political parties	Platforms
<ul style="list-style-type: none"> • Fully adhere to platform policies. • Provide information in good faith. • Refrain from engaging in deceptive messaging or using fake or third-party accounts. • Refrain from using illicit foreign funds. • Place agreed ethical limits on microtargeting and the use of personal data. • Raise internal awareness of adherence to the code within party organizational structures. • Continue discussions on online political advertising after elections to meet the evolving challenge. 	<ul style="list-style-type: none"> • Enforce transparency mechanisms. • Publish ad archives. • Prevent the spread of misinformation about electoral processes. • Establish a response mechanism for enquiries. • Promote internal awareness of the code among staff. • Conduct a post-election review. • Report on election-related incidents and share best practices from other country contexts.

Source: Adapted by the author from T. Heinmaa, *Winning Elections the Right Way: Online Political Advertising Rules in Europe and Selected Countries Globally* (Stockholm: International IDEA, 2023), <<https://doi.org/10.31752/idea.2023.77>>, p. 57.

This Report also supports two more findings from *Winning Elections the Right Way* (Heinmaa 2023):

- the incorporation of flexibility into regulatory and oversight structures; and
- increasing resourcing and training for EMBs to meet the evolving challenge.

Chapter 4

CONCLUSION

A clear empowerment of the CEC and legislative reforms in the model of international best practice ought to be sufficient to manage developments concerning online political finance practices.

On paper, Albania has strong regulatory principles that should help to address the challenge that online campaigning, and online campaign spending, presents. In practice, however, these principles are not always effectively enacted. The challenge may not be existential, and it does not require a wholesale legislative revolution. A clear empowerment of the CEC and legislative reforms in the model of international best practice ought to be sufficient to manage developments concerning online political finance practices. However, the effort needs to be clear and sustained over time. These are challenges that many consolidated and long-standing liberal democracies struggle to keep pace with. So, absent a diligent approach, the threats are likely to grow into something altogether more concerning.

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This Report delves into the financial aspect of online campaigning, depicting a landscape characterized by lax regulation, the proliferation of malicious actors, and limited oversight capabilities to keep pace with rapid changes. In this sense, the challenges facing Albania are no different from those being tackled across much of the democratic world.

While this Report focuses on untracked financing in Albania, it acknowledges the broader concerns, such as opaque communication practices and the unchecked exploitation of personal data for voter targeting. To date, there has been minimal in-depth research into the specific problems that Albania should address and the effectiveness of existing legislation.

This Report seeks to fill this gap by examining current regulatory practices in Albania, analysing activities during the 2021 parliamentary election and 2023 local government election. It also explores broader challenges encountered when regulating online campaign expenditure and examines international developments and regulatory trends in other countries in this realm. The paper concludes with recommendations for reforming Albania's political finance regulations.