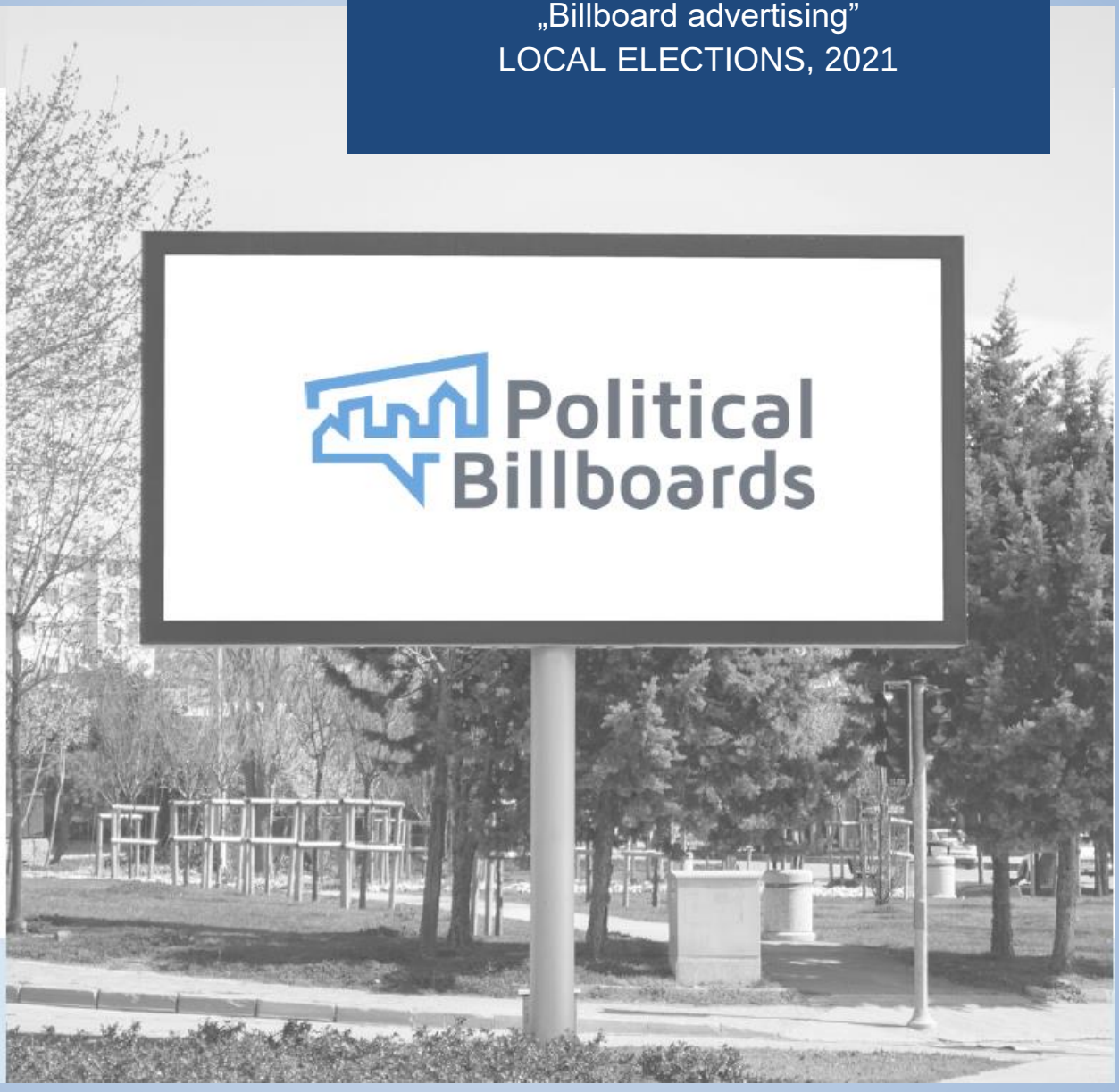
Transparency criteria analyses
„Billboard advertising”
LOCAL ELECTIONS, 2021



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Introduction

The Political party funding and finance constitute an important aspect of the electoral process. The sources of funding and finance of political parties and the way and manner these funds are spent largely determine the quality and acceptability or otherwise of almost every election.
A political campaign refers to an organized effort that tries to influence the manner in which decisions are made in a group. Campaign messages usually have the information that a politician or a candidate would like to pass to the voters. The role of money in politics is of increasing relevance all across the world. Campaigns are an integral part of the political arena.

Election Campaign Financing in the Republic of North Macedonia

The Electoral Code in the Republic of North Macedonia sets the detailed framework on political financing in time of elections. The elections' participants, whom the law defines as "campaign organizers', organize the election campaign in the course of 20 days before the Election Day. This campaign involves all activities for promotion of candidates, such as: public gathering and other public events, public display of posters, video presentations at public places, media and internet presentation, distribution of printed materials and public presentation of confirmed candidates by the competent electoral bodies and their programs. The Electoral Code has gone through several amendments over the past years, last being changed[1] in September 2021.
The Electoral Code regulates wherefrom, the type and the amount of funds for election campaign financing. The existing legal framework stipulates the membership fee and donations as allowed sources of election campaign financing. The law also regulates the type of allowed donations, including financial means, free services, services paid by a third person, as well as sale of commodities or provision of services to the campaign organizer at prices lower from the market ones, where the difference between the market and the paid value is considered a donation. This group includes discounts that broadcasters and press offer to parties for political advertising. Similar to regular financing, the election campaign must not be financed by public enterprises and public institutions, associations, religious communities, religious groups and foundations, foreign governments, international institutions, foreign bodies and organizations, and other foreign

[1] Electoral Code („Official Gazette of Republic of Macedonia ", N.40/06, 136/08, 148/08, 155/0в8, 163/08, 44/11, 51/11,54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17,125/17,35/18, 99/18,140/18, 208/18, 27/19 и „Official Gazette of Republic of North Macedonia"N. 98/19, 42/20, 74/21 и 215/21)

individuals, funds from enterprises having mixed capital where the foreign capital is dominating, as well as funds from unidentified sources.

For the purposes of this monitoring, IMPETUS aims to monitor, perceive and verify the activities of the participants in the election campaign in the local elections 2021 related to outdoor advertising, to identify the challenges arising from the legal framework, potential risks of corruption and full implementation of Article 78-a of the Electoral Code.

Article 78-a of the Electoral Code regulates political advertising of advertising boards and billboards, i.e. the maximum number of advertising boards and billboards that can be used for political advertising. Article 78-a also regulates the obligations of the municipalities in the Republic of North Macedonia, the city of Skopje, the legal entities that manage the advertising boards and billboards.

This article also regulates the obligations of the legal entities that manage the advertising boards and billboards are obliged to submit a report on the allocated locations for each participant in the election campaign, the funds requested from each participant as well as the funds that are collected no later than 15 days after the end of the election campaign. The report is submitted to the State Election Commission, the State Audit Office and the State Commission for Prevention of Corruption, which are obliged to publish it on their websites.

Control of Election Campaign Financing

The control of financing includes obligations both for the election campaign organizers and the competent institutions. As of 2011, the legal monitoring apparatus includes an obligation for campaign organizers to continually submit reports in the course of the campaign. The election campaign organizer is obliged to submit the first financial report on account revenues and expenditures on the 11th day of the campaign. The second report refers to the second half of the campaign, one day after its completion. After the end of the campaign i.e. completion of the elections, organizers are obliged to submit a final financial report. The reports are submitted to the State Election Commission, the State Audit Office, and the State Commission for Prevention of Corruption, which are obligated to publish them on their websites. The final financial report is also submitted to the Parliament of the Republic of North Macedonia, and to the Municipal Council and Skopje City Council for local elections. All three reports are submitted in a form prescribed by the finance minister, containing data on the name i.e., title of the donor, type and size of donations, date of the donation, expenditures for each donation, and revenues and expenditures accrued in the course of the election campaign. A key body for control of election financing is the

State Audit Office, which is obliged to conduct an audit within 60 days from the submission of the financial reports. The audit refers to the period from the day of the election campaign transactional account opening up to the completion of account transactions. The coordination and complementarity between the State Audit Office, the State Election Commission, and the State Commission for Prevention of Corruption was enhanced with the signing of a Cooperation Memorandum for information exchange in regard to noted irregularities in submitted financial reports and assumed measures.

Sanctions

Serious violations of the electoral process are regulated with the Criminal Code. Among other crimes related to elections, the Criminal Code stipulates an article 165-a "Abuse of funds for election campaign financing"[2]: The campaign organizer, who does not report the source of funds, prevents supervision of funds spending, fails to submit a financial report, oversteps legal limitations on the amount of funds, and uses unlawful means shall be sentenced to at least 5 years imprisonment. The same penalty is prescribed for the person in charge of the legal entity donor, who does not report donations, provides unlawful funds or exceeds the allowed limit, does not submit a report or provide false or incomplete information on donations, and prevents supervision over campaign financing. A three-year prison sentence is stipulated for the one who secretly donates for somebody else's election campaign or campaign for elections where s\he takes part, with an amount largely surpassing the legal maximum.

Transparency Indicators

In order to assess the transparency of the political parties participating in the local elections as well as the institutions responsible for oversight, we analyzed the following activities:

- Analysis of the current status of the bidders
- Analysis of published reports by bidders
- Analysis of published Final Financial Reports

[2] Criminal Code text, https://jorm.gov.mk/wp-content/uploads/2016/03/%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%B8%D0%BA-%D0%BF%D1%80%D0%B5%D1%87%D0%B8%D1%81%D1%82%D0%B5%D0%BD-%D1%82%D0%B5%D0%BA%D1%81%D1%82.pdf

Transparency indicators were the number of registered bidders, before and in 2021; the number of published reports of the bidders and how many reports are published on the websites of SEA, SAO and SCPC; and number of published final financial reports on the websites of SEA, SAO and SCPC. This was all done in compliance with Article 78-a of the Electoral Code.

Activities	**Indicators**	**Value**
1. Analysis of the current status of the bidders	-Number of bidders - Registered before 2021 - Registered in 2021	16 bidders registered before 2021 1 bidder registered in 2021
2. Analysis of published reports by bidders	- Number of published reports by bidders - SEC - SAO - SCPC	6 reports from companies – bidders on SEC's website No reports were published on SAO's and SCPC's website
3. Analysis of published Final Financial Reports	Number of published reports - SEC - SAO - SCPC	62 final financial reports published on SEC's website 62 final financial reports published on SAO's website None final financial reports published on SCPC's website

Methodology

The following methodology was used to meet the objectives set in this analysis:

- Individual observation/monitoring by the project researchers, whereby the findings are reflected and addressed in this analysis. The observation was conducted at several checkpoints, both in the first and second round of the election campaign;
- Desk research - collecting open data and information from websites, reports, articles, journalistic stories/news, etc. which are relevant to the topic, through presentation, explanation and their analysis.
- Analysis of the legal framework (Electoral Code with relevant bylaws, Law on Financing of Political Parties, Law on Associations and Foundations, decisions and instructions of the State Election Commission, Law on Housing, etc.);
- Comparative analysis with the last (local) elections;

Findings and Recommendations

1. According to the list of indicators (the first indicator) there is one bidder- legal entity, out of 17 totally, that is registered in 2021. There is no legal sanction for bidders registered just before the election to participate in the bidding procedure. Due to the fact that there can be early elections, it is not likely to prescribe a sanction or a criterion for a bidder not to take part in the bidding procedure. However, it may be considered to apply transparency criteria, and request to the bidders **to be fully transparent on advertising the formats, prices and locations on their websites** and SEC's website as well.

2. Only 6 bidders, out of 17 have published their reports. This obligation of the bidding companies is in accordance with Article 78-a, paragraph 8 of the Electoral Code[3]. They are obliged to submit a report on the allocated locations for each participant in the election campaign, the funds requested from each participant and the funds collected. The report should be submitted to the State Election Commission, to the Audit Office and to the State Commission for Prevention of Corruption, which are obliged to publish on their website (paragraph 10). The reports only from 6 companies – were published on the website of the State Election Commission[4]. No reports were published on SAO's and SCPC's websites. **There is no sanction in the Electoral Code if institutions do not publish the reports they receive from bidders.**

3. According to the Electoral Code, the SEC, SAO and SCPC are obliged to publish financial statements on their websites, as follows: First report -11th day of campaign, the Second report refers to the second half of the campaign, one day after its completion. After the end of the campaign i.e., completion of the elections, election participants/organizers are obliged to submit a final financial report to SEC, SAO, SCPC and the Parliament, and in the case of local elections also to the municipality Council and to the municipality of the City of Skopje (article 85, paragraph 3)[5]. The SEC, SAO and SCPC have to publish these reports on their websites (article 85, paragraph 4). The final reports are published only the websites of the SEC and the SAO, but are not published on the website of the SCPC.**There is no legal sanction in the Electoral Code if institutions do not publish the final financial reports they received.**

4. Donations from natural persons have to be subjected to control and it is crucial **to introduce a mechanism for establishing the origin of these donations such as the payment of funds from the donor's account.**

[3] Electoral Code, https://drive.google.com/file/d/1Sa9L6emhxwI2VaV_8d7oK3hJ6r1usnuY/view
[4] https://www.sec.mk/izbori-2021/#tab-id-50
[5] https://drive.google.com/file/d/1Sa9L6emhxwI2VaV_8d7oK3hJ6r1usnuY/view

5. The SAO is obliged to audit the financial-material operations of all political parties, each year for the previous year, (article 26 from the Law on financing the political parties).[6] According to the Annual Operating Program of the State Audit Office for 2022[7], section for planned audits in 2022, includes only 8 political parties – VMRO-DPMNE, SDSM, DUI, BESA, Alliance of Albanians, Movement for National Unity of the Turks, GROM and DPA and not all registered political parties as regulated with the legal provisions. It is crucial **to provide the State Audit Office with additional financial and human capacities if there is any intention for this body to be able to respond properly to the tasks of the political financing control.**

[6] Law on financing the political parties
http://aa.mk/WBStorage/Files/Zakon_finansiranje_politicki_partii.pdf
[7] https://dzr.mk/mk/planirani-revizii