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(VENICE COMMISSION)

**NATIONAL LEGISLATION AND CASE-LAW
ON THE USE OF THE INTERNET
AND SOCIAL MEDIA DURING ELECTIONS**

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RELEVANT NATIONAL LEGISLATION

INTERNET

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
Albania	<i>Electoral Code, 2012</i> Article 84. Only those electoral subjects registered for elections are entitled to broadcast political advertisements during the electoral period on private radio, television or audio-visual media, be they digital, cable, analogue, satellite or any other form or method of signal transmission.	Freedom of expression VS Equity of elections	Equity of elections
Argentina	<i>National Electoral Code, 2016</i> Article 64 ter. - (...) Among other media, it is forbidden to advertising on internet in order to promote the recruitment of candidates for elective public charges, before 25 days prior to the election.	Freedom of expression VS Equity of elections	Equity of elections
Armenia	<i>Electoral Code, 2011</i> Article 6. Publicity of Elections 2. Individual decisions of the Central Electoral Commission shall be posted on the website of the Central Electoral Commission on the day of adoption in case of national elections... Normative decisions of the Central Electoral Commission shall be posted on the website of the Central Electoral Commission (...) 4. Candidates, political parties (alliances of political parties) participating in elections under the proportional electoral system, may, in national elections and elections of the Yerevan Council of Aldermen, submit their campaign programmes in the electronic form prescribed by the Central Electoral Commission for the purpose of posting on the website of the Central Electoral Commission.	Legal recognition of internet as a tool to reinforce transparency of elections	N/A
	<i>Electoral Code, 2011</i> 10. (...) After the information on the number of voters having participated in the voting is published, it shall be posted on the website of the Commission as per electoral precincts (...) 11. The Central Electoral Commission shall, no later than starting at 0:00 hours on the day following the voting, carry out the tabulation of voting results as per electoral precincts. The Central Electoral Commission shall complete the tabulation of the preliminary results of the voting and shall post the preliminary results of the election on the website of the Commission.	Legal recognition of internet as a tool to reinforce certainty of elections	N/A
Austria	<i>Federal Law on National Council Elections, 1992</i> Section 108 para. 6. The results of the computations are to immediately be announced in the form described in para. 4. The announcement has to be posted on the Internet and put up on the official notice board of the Federal Ministry of the Interior omitting the preferential votes and the names according to para. 4 lit. d. It has to also include the date when it was put up on the official notice board.	Legal recognition of internet as a tool to publish voting results	N/A

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<i>Austrian Presidential Election Law, 1971</i> Section 21 para. 1. The State Election Board has to immediately announce the result of the election (Section 17, where applicable Section 20) on the official notice board of the Federal Ministry of the Interior and on the Internet.	Legal recognition of Internet as a tool to publish voting results.	N/A
Azerbaijan	<i>Election Code, 2013</i> Article 109. Immediately after the Constituency Election Commission submits the protocols on voting results to the Central Election Commission, preliminary results of the elections (referendum) shall be published by the Central Election Commission as a schedule providing unified voting results of election constituencies. Such information may be placed on the website of the Central Election Commission.	Legal recognition of internet as a tool to reinforce certainty of elections	N/A
Bosnia and Herzegovina	<i>Election Law, 2006</i> Article 7.3. Candidates and supporters of political parties, lists of independent candidates, and coalitions, as well as independent candidates and their supporters, and election administration officials or those otherwise hired in the election administration are not allowed to: (...) 7. use language which could provoke or incite someone to violence or spread hatred, or to publish or use pictures, symbols, audio and video recordings, SMS messages, internet communications or any other materials that could have such effect.	Freedom of expression VS Security	Security
Brazil	<i>Elections Law, 2012</i> Article 57-A. It is permitted to display electoral publicity on the internet, under the terms of this Law, after July 5 of the election year. The publication on a website of a story focused on the launch of candidacy for the position of President of the Republic by a given party does not constitute extemporaneous publicity.	Freedom of expression VS Equity of elections	Freedom of expression
	<i>Elections Law, 2012</i> The publicity of primaries via the internet goes beyond the inner boundary of the party, and therefore compromises the surveillance of its reach by the Electoral Justice.	Freedom of expression VS Equity of elections	Equity of elections
	<i>Elections Law, 2012</i> Article 57-B. Electoral publicity on the internet may be conducted in the following manners: I - in a candidate's website, provided that its electronic address is reported to the Electoral Justice and that it is hosted, directly or indirectly, in an internet service provider established in the country; I - in a party's or coalition's website, provided that its electronic address is reported to the Electoral Justice and that it is hosted, directly or indirectly, in an internet service provider established in the country; III - via electronic messages sent to addresses collected without payment by the candidate, party or coalition; IV - by means of blogs, social networks, instant messaging websites and other similar services whose content is generated or edited by candidates, parties or coalitions or by initiative of any natural person.	Legal recognition of internet and social media as a means of electoral propaganda	N/A

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
Bulgaria	<p><i>Electoral Code, 2019:</i> Transparency Art. 54. (1) The sessions of the Central Election Commission, including work meetings, shall be broadcasted with sound and image in real time online via the website of the Commission, whereto a public agenda draft shall be made in advance. (2) The Central Election Commission shall maintain an Internet site, where it shall publish without delay its decisions, the full verbatim reports of proceedings of its sessions, including of working meetings, the methodological guidelines, the preliminary and final election results, and furthermore the results of machine voting and of ballot paper voting upon the summarization thereof by constituencies, the scanned and the received by electronic means copies of the tally sheets of the constituency and section election commissions, the constituency and Municipal election commissions and other documents and data. (...) The Commission shall publish on the Internet site thereof all public registers, subject to the requirements for the protection of personal data. (3) The Central Election Commission shall publish on the website thereof a video recording (archive) of the sessions of the commission, (...) Similar provisions regulate the work of the regional election commission (Art. 71) and the municipal election commission (Art. 86).</p>	Legal recognition of internet as a tool to reinforce transparency of elections	N/A
	<p><i>Electoral Code, 2019:</i> Powers of the Commission Art. 57. (1) The Central Election Commission shall: (...) 40. publish on its website the voting result from processing the protocols of the section election commissions in the regional or Municipal election commissions on election sections; 41. publish the voting results disaggregated by polling station, including the machine voting results, on the website thereof, and, upon request, make the said results available on technical media to political parties, coalitions of political parties and nomination committees; (2) The decisions of the Central Election Commission shall be made public without delay by publishing them on the website of the Commission and in the Bulletin of the Bulgarian Telegraph Agency. (...)</p>	Legal recognition of internet as a tool to reinforce transparency of elections	N/A

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p><i>Electoral Code, 2019:</i> Report Art. 172. (2) (amend. - SG 39/16, in force from 26.05.2016) Within a term of 30 working days after election day the providers of media services, the sociological and advertising agencies, as well as the public relations agencies shall submit to the Bulgarian National Audit Office, in hard copy and electronically, information about the services provided to the parties, coalitions and nomination committees. The information shall be provided in a standard form approved by the Bulgarian National Audit Office and shall be published on its website.</p>	Accountability of media service providers	N/A
	<p><i>Electoral Code, 2019:</i> Information about the Contracts Concluded Art. 180. (1) (suppl. - SG 39/16, in force from 26.05.2016) The providers of media services shall announce on their web sites information about the contracts, including gratuitous contracts, concluded with the parties, coalitions and nomination committees that have registered candidates and/or with another contracting authority in connection with the election campaign, if the contract has been concluded with an intermediary.</p>	Commercial secret VS transparency of elections	Transparency of elections
	<p><i>Electoral Code, 2019:</i> Section III. Print Media and Online News Services Conditions, Procedure and Prices Art. 187. (1) Print media and online news services shall offer the same conditions and prices to all parties, coalitions and nomination committees that have registered candidates, and these conditions and prices shall be announced on their web sites not later than 40 days prior to election day and shall be promptly submitted to the Bulgarian National Audit Office and to the Central Election Committee. Payment shall be made upfront. (3) The prices referred to in Para 1 shall not exceed the average market prices for commercial advertisement during the last 6 months before the beginning of the election campaign.</p>	Contractual freedom VS fairness and equality of elections	Fairness and equality of elections
	<p><i>Electoral Code, 2019:</i> Publishing a Response Art. 188. (1) Print media and online news services, which have published a material that encroaches on the rights and harms the reputation of a candidate or a person representing the party, coalition or nomination committee, shall be obliged to publish a response immediately after they receive it. The response shall be laid out in the same position, dimensions, type and font size and shall be published without any comment. (2) A response which does not exceed in size the item whereto it is reacting shall be published at no charge. (...)</p>	Freedom of journalistic expression VS fairness and equality of elections	Fairness and equality of elections

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p><i>Electoral Code, 2019:</i> Art. 198 (3) The commercial electronic media referred to in Para. 1 may allot time for paid coverage of the election campaign of the parties, coalitions and nomination committees that have registered candidates on the same terms and at the same rates. (4) (new - SG 39/16, in force from 26.05.2016) The prices referred to in Para 3 may not exceed the average market prices for commercial advertisement during the last 6 months before the beginning of the election campaign.</p>	<p>Contractual freedom</p> <p>VS</p> <p>fairness and equality of elections</p>	<p>Fairness and equality of elections</p>
	<p><i>Electoral Code, 2019:</i> Art. 198 (5) (prev. text of Para 04 - SG 39/16, in force from 26.05.2016) The terms and procedure of allotting time for coverage of the election campaign, as well as the rates shall be disclosed on the web site of the respective medium referred to in Para. 1 at least 40 days before election day. The payment shall be made upfront.</p>	<p>Legal recognition of the internet as a tool to ensure equity and transparency of elections</p>	<p>N/A</p>
	<p><i>Electoral Code, 2019:</i> Chapter fourteen. VOTING Section I.Method of Voting at the Polling Station Types of Ballot Papers Art. 206. (1) (Suppl. - SG 21/19, in force from 12.03.2019) At the polling station the voter can choose to vote by a ballot paper or by a ballot for machine voting, if the section is designated as a machine voting one. (2) Voting by a ballot for machine voting shall be equivalent to voting by a ballot paper. (...)</p>	<p>Legal recognition of the information technologies as a necessary tool in the voting process</p>	<p>N/A</p>
<p>Canada</p>	<p><i>Elections Act, as last amended in 2018 (by Bill C-76) – Legislative Provisions related to the Regulation of the Internet in the Context of Federal Elections:</i></p> <p>Definitions 2 (1) The definitions in this subsection apply in this Act. Election advertising means the transmission to the public by any means during an election period of an advertising message that promotes or opposes a registered party or the election of a candidate, including by taking a position on an issue with which a registered party or candidate is associated. For greater certainty, it does not include [...] (d) the transmission by an individual, on a non-commercial basis on the Internet, of his or her personal political views; partisan advertising means the transmission to the public by any means during a pre-election period of an advertising message that promotes or opposes a registered party or eligible party or the election of a potential candidate, nomination contestant or leader of a registered party or eligible party, otherwise than by taking a position on an issue with which any such party or person is associated. For greater certainty, it does not include [...]</p>	<p>Freedom of expression</p> <p>VS</p> <p>fairness of elections</p>	<p>Transparency, efficiency and fairness of elections</p>

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p>(e) the transmission by an individual, on a non-commercial basis on the Internet, of his or her personal political views; or</p> <p>(7) For the purposes of the definitions election advertising and partisan advertising, promoting or opposing includes</p> <p>(a) in relation to a registered party or eligible party, [...]</p> <p>(iii) providing a link to an Internet page that does anything referred to in subparagraphs (i) and (ii); and</p> <p>(b) in relation to the election of a potential candidate, a nomination contestant, a candidate or a leader of a registered party or eligible party, [...]</p> <p>(iv) providing a link to an Internet page that does anything referred to in subparagraphs (i) to (iii).</p> <p>Blackout period</p> <p>323 (1) No person shall transmit election advertising to the public in an electoral district on polling day before the close of all of the polling stations in the electoral district.</p> <p>Interpretation</p> <p>(2) The transmission to the public of a notice of an event that the leader of a registered party intends to attend or an invitation to meet or hear the leader of a registered party is not election advertising for the purpose of subsection (1).</p> <p>Definition of person</p> <p>(3) For the purpose of subsection (1), a person includes a registered party and a group within the meaning of Part 17.</p> <p>Exceptions</p> <p>324 Subsection 323(1) does not apply in respect of</p> <p>(a) the transmission of a message that was transmitted to the public on what is commonly known as the Internet before the blackout period described in that subsection and that was not changed during that period; or</p> <p>(b) the distribution during that period of pamphlets or the posting of messages on signs, posters or banners.</p> <p>Online platforms that are subject to requirements</p> <p>325.1 (1) This section and section 325.2 apply to any online platform that, in the 12 months before the first day of the pre-election period, in the case of the publication on the platform of a partisan advertising message, or the 12 months before the first day of the election period, in the case of the publication on the platform of an election advertising message, was visited or used by Internet users in Canada an average of at least the following numbers of times per month:</p> <p>(a) 3,000,000 times, if the content of the online platform is available mainly in English;</p> <p>(b) 1,000,000 times, if the content of the online platform is available mainly in French; or</p> <p>(c) 100,000 times, if the content of the online platform is available mainly in a language other than English or French.</p> <p>Registry of partisan advertising messages and election advertising messages</p> <p>(2) The owner or operator of an online platform that sells, directly or indirectly, advertising space to the following</p>		

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	<p>persons and groups shall publish on the platform a registry of the persons' and groups' partisan advertising messages and election advertising messages published on the platform during that period:</p> <ul style="list-style-type: none"> (a) a registered party or eligible party; (b) a registered association; (c) a nomination contestant; (d) a potential candidate or a candidate; or (e) a third party that is required to register under subsection 349.6(1) or 353(1). <p>Information to be included in registry</p> <p>(3) The registry referred to in subsection (2) shall include the following:</p> <ul style="list-style-type: none"> (a) an electronic copy of each partisan advertising message and each election advertising message published on the platform; and (b) for each advertising message referred to in paragraph (a), the name of the person who authorized the advertising message's publication on the platform, namely <ul style="list-style-type: none"> (i) a registered agent of the registered party or eligible party, in the case of an advertising message whose publication was requested by a registered party or eligible party, (ii) the financial agent of the registered association, in the case of an advertising message whose publication was requested by a registered association, (iii) the financial agent of the nomination contestant, in the case of an advertising message whose publication was requested by a nomination contestant, (iv) the official agent of the potential candidate or candidate, in the case of an advertising message whose publication was requested by a potential candidate or a candidate, and (v) the financial agent of the registered third party, in the case of an advertising message whose publication was requested by a registered third party. <p>Publication period of registry</p> <p>(4) The owner or operator of the online platform shall publish in the registry referred to in subsection (2) the information referred to in subsection (3) for each partisan advertising message and each election advertising message during the following periods:</p> <ul style="list-style-type: none"> (a) in the case of a partisan advertising message, during the period that begins on the day on which the online platform first publishes the advertising message and ends two years after <ul style="list-style-type: none"> (i) the end of the election period of the general election immediately following the pre-election period, or (ii) the day referred to in paragraph (b) of the definition pre-election period if there is no general election immediately following the pre-election period; and (b) in the case of an election advertising message, during the period that begins on the first day on which the online platform publishes such an advertising message and ends two years after the end of the election period. <p>Information to be kept after publication period</p> <p>(5) The owner or operator of the online platform shall keep the information that was included in the registry referred to</p>		

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	<p>in subsection (2) in respect of each partisan advertising message and each election advertising message for five years after the end of the applicable publication period referred to in subsection (4).</p> <p>Information to be provided by advertiser</p> <p>325.2 A person or group referred to in any of paragraphs 325.1(2)(a) to (e) that requests the publication of a partisan advertising message or election advertising message on an online platform shall provide the owner or operator of the platform with all the information in the person's or group's control that the owner or operator needs in order to comply with subsection 325.1(2).</p> <p>Transmission of election survey results</p> <p>326 (1) The first person who transmits the results of an election survey — other than a survey that is described in section 327 — to the public during an election period and any person who transmits them to the public within 24 hours after they are first transmitted to the public must provide the following together with the results:</p> <p>(a) the name of the sponsor of the survey;</p> <p>(b) the name of the person or organization that conducted the survey;</p> <p>(c) the date on which or the period during which the survey was conducted;</p> <p>(d) the population from which the sample of respondents was drawn;</p> <p>(e) the number of people who were contacted to participate in the survey;</p> <p>(f) if applicable, the margin of error in respect of the data obtained; and</p> <p>(g) the address of the Internet site on which a report referred to in subsection (3) is published.</p> <p>Additional information — published surveys</p> <p>(2) In addition to the information referred to in subsection (1), in the case of a transmission to the public by means other than broadcasting, the wording of the survey questions in respect of which data is obtained must be provided.</p> <p>Notice of transmission of survey results</p> <p>(2.1) The first person who transmits to the public the results of an election survey — other than a survey that is described in section 327 — shall, if that person is not the sponsor of the survey, ensure that the sponsor of the survey has been notified, before the transmission, of the date on which the results are to be transmitted.</p> <p>Report on survey results</p> <p>(3) A sponsor of an election survey — other than a survey that is described in section 327 — shall, during an election period, ensure that a report on the results of the survey is published and remains for the remainder of that period on an Internet site that is available to the public. The sponsor shall do so before transmitting the results of the survey, if they are the first person to transmit them or, if they are not, as soon as feasible after being notified of the date of transmission under subsection (2.1), and the report shall include the following, as applicable:</p>		

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	<p>(a) the name and address of the sponsor of the survey; (b) the name and address of the person or organization that conducted the survey; (c) the date on which or the period during which the survey was conducted; (d) information about the method used to collect the data from which the survey results are derived, including (i) the sampling method, (ii) the population from which the sample was drawn, (iii) the size of the initial sample, (iv) the number of individuals who were asked to participate in the survey and the numbers and respective percentages of them who participated in the survey, refused to participate in the survey, and were ineligible to participate in the survey, (v) the dates and time of day of the interviews, (vi) the method used to recalculate data to take into account in the survey the results of participants who expressed no opinion, were undecided or failed to respond to any or all of the survey questions, and (vii) any weighting factors or normalization procedures used in deriving the results of the survey; and (e) the wording of the survey questions and, if applicable, the margins of error in respect of the data obtained.</p> <p>Prohibition — causing transmission of election survey results during blackout period 328 (1) No person shall cause to be transmitted to the public, in an electoral district on polling day before the close of all of the polling stations in that electoral district, the results of an election survey that have not previously been transmitted to the public.</p> <p>Prohibition — transmission of election survey results during blackout period (2) No person shall transmit to the public, in an electoral district on polling day before the close of all of the polling stations in that electoral district, the results of an election survey that have not previously been transmitted to the public.</p> <p>Prohibition — use of foreign funds 349.02 No third party shall use funds for a partisan activity, for advertising, for election advertising or for an election survey if the source of the funds is a foreign entity. advertising means the transmission to the public by any means of an advertising message that promotes or opposes a registered party or eligible party or the election of a potential candidate, nomination contestant, candidate or leader of a registered party or eligible party, otherwise than by taking a position on an issue with which any such party or person is associated. For greater certainty, it does not include (a) the transmission to the public of an editorial, a debate, a speech, an interview, a column, a letter, a commentary or news; (b) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election;</p>		

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	<p>(c) the transmission of a document by a Senator or a member the expense of which is paid by the Senate or House of Commons;</p> <p>(d) the transmission of a document directly by a person or a group to their members, employees or shareholders, as the case may be;</p> <p>(e) the transmission by an individual, on a non-commercial basis on the Internet, of his or her personal political views; or</p> <p>(f) the making of telephone calls to electors only to encourage them to vote. (publicité)</p> <p>Advertising to name third party</p> <p>352 A third party shall include — in a manner that is clearly visible or otherwise accessible — in any election advertising message placed by it its name, its telephone number, either its civic or its Internet address and an indication in or on the message that it has authorized its transmission.</p> <p>Application for registration</p> <p>385 (1) The leader of a political party may apply to the Chief Electoral Officer for the political party to become a registered party.</p> <p>Contents of application</p> <p>(2) The application for registration shall include [...]</p> <p>(1) the address of the page — accessible to the public — on the party's Internet site where its policy for the protection of personal information is published under subsection (4). [...]</p> <p>Publication of policy for the protection of personal information</p> <p>(4) A political party shall publish on its Internet site its policy for the protection of personal information referred to in paragraph (2)(k) before its leader applies under this section for the party to become a registered party.</p>		
Chile	<p><i>Law No. 19.884 about Transparency, Limit and Control of Electoral Expenditure</i></p> <p>Digitally electoral propaganda, are all the communications that through media such as websites, social media, telephony and mail that go beyond the personal circle of contacts and that such services are hired.</p> <p>The electoral propaganda that is hired represents an electoral expense as disposed in article 2 of the Law No. 19.884</p>	Legal recognition of internet and social media as means of electoral propaganda	N/A
Denmark	<p><i>Law No. 248/2019 on activities concerning radio and TV</i></p> <p>Under Art. 76(3) of the law, it is forbidden to advertise on TV in favor of specific political parties or movements, and of specific elected members of political assemblies or standing candidates for such assemblies. This prohibition applies at any time.</p> <p>Under Art. 76(4) of the law, it is forbidden to advertise on TV in favor of even general political messages between the calling of general elections and the actual elections.</p>	Legal recognition of TV as a strong channel to influence the electorate. Ongoing debate as to whether prohibitions should also apply to social media.	Equality between parties/candidates with and without financial means to advertise, and protection of the electorate against one-sided advertising.

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	No similar prohibitions on advertising in radio or on social media.		
Estonia	<p><i>No specific legislation on electoral campaigning in social media or the internet. Private actors are free to decide on campaigning on behalf of anyone.</i></p> <p><i>The Media Services Act</i> (English text https://www.riigiteataja.ee/en/eli/511012019003/consolide), which regulates TV and radio broadcasters, including those who provide their programmes only on-demand (this means also through the internet), Article 14 requires political balance during election campaigning period (30 days before elections):</p> <p>§ 14. Political balance during active election campaigning</p> <p>If a television and radio service provider supplies transmission time for a party or a political movement to introduce its positions, the other party or political movement shall be granted, at their written request, an equal opportunity to speak without unreasonable delay during active election campaigning in the elections of the European Parliament, the Riigikogu (parliament) or local governments councils.</p>	Equity of elections	
France	<p><i>Electoral Code, 2016</i></p> <p>Article L52-1</p> <p>During the six months preceding the first day of the month of an election and until the date of the ballot in which it is vested, the use for electoral propaganda purposes of any commercial advertising process by means of the press or by any means of audiovisual communication is prohibited.</p>	<p>Freedom of expression</p> <p>VS</p> <p>Equity of elections</p>	Equity of elections
Georgia	<p><i>Organic Law. Election Code, 2014</i></p> <p>Article 51. Information support for carrying out pre-election campaign (...)</p> <p>11. For the purposes of the present Law, public opinion poll shall satisfy the following requirements:</p> <p>d) it shall not constitute a means of manipulating with public opinion or fundraising and it shall not be conducted via telephone, post or/ and internet;</p>	<p>Freedom of expression</p> <p>VS</p> <p>Equity of elections</p>	Equity of elections
Germany	<p><i>Federal Electoral Law (Bundeswahlgesetz), 2000</i></p> <p>Section 32 Inadmissible Electioneering and Collection of Signatures, Inadmissible Publication of Opinion Polls</p> <p>(1) In and at the entrance to the building in which the polling station is located it shall be forbidden to influence voters in any way by word, sound, writing, or image or by collecting signatures.</p> <p>(2) The results of opinion polls after votes have been cast may not be published before the expiry of the time prescribed for the election.</p>		

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	<p><i>German Criminal Code (Strafgesetzbuch), 2000</i> Section 107a Falsification of election results (1) Whosoever votes without being entitled thereto or otherwise causes an incorrect election result or falsifies the result, shall be liable to imprisonment not exceeding five years or a fine. (2) Whosoever incorrectly announces an election result or causes it to be incorrectly announced shall incur the same liability. (3) [...]</p>	<p>Freedom of Expression VS Electoral Freedom</p>	<p><u>Electoral Freedom</u> § 107a may not sanction mendacious and misleading propaganda when the election outcome is still based on the free volition of voters, see Libertus, <i>Rechtliche Aspekte des Einsatzes von Social Bots de lege lata und de lege ferenda</i>, ZUM 2018, 20, p. 24 – 25</p>
	<p><i>German Criminal Code (Strafgesetzbuch), 2000</i> Section 108a Deceiving voters (1) Whosoever through deception causes another to be mistaken as to the content of his declaration upon casting his vote or to vote against his will or invalidly, shall be liable to imprisonment not exceeding two years or a fine. (2) [...]</p>	<p>Freedom of Expression VS Electoral Freedom</p>	<p><u>Freedom of Expression</u> § 108a equally may not sanction mendacious and misleading propaganda: While the Electoral Freedom according to Art. 38 I of the German Constitution (Grundgesetz/GG) requires voters to be able to form their opinion in a coercion-free process, deception and lies do not constitute such coercion as long as they can be unveiled by other political parties, see Milker, <i>“Social Bots” im Meinungskampf</i>, ZUM 2017, 216, p. 220; referring to BVerfGE 103, 111; Jarass/Pieroth, Grundgesetzkommentar, 14. Ed 2016, Art. 5 Rn. 9.</p>
Hungary	<p><i>Act XXXVI of 2013 on Electoral Procedure</i> Section 148 (1) In press products defined in Section 203 (60) of the Media Act*, political advertisements** may be published during the campaign period in accordance with the rules laid down in this Section. (2) Political advertisements published in the press shall be immediately recognizable and distinct from other media content. Political advertisements must indicate the name, the domicile and seat of the customer. (3) If a press product wishes to publish political advertisements, it shall send to the National Audit Office a price list for its advertisement services within five working days after the call for elections. The National Audit Office shall enter the price list into its records and publish it on its website. The press product shall publish the same price list on its own website. (4) Political advertisements shall only be published by press products which have had their price lists registered with the National Audit Office. Political advertisements shall only be published in return for the consideration indicated in the registered price list. The media outlets of publishers established in Hungary shall only publish political</p>		

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p>advertisements if they are listed in the official register kept pursuant to the Media Act.</p> <p>(5) The press products defined in (1) shall inform the National Audit Office of published political advertisements within 15 days after the day of voting. This information shall contain a list of advertisements published for each candidate and nominating organisation, the customer who ordered the advertisement, the consideration paid, the time of publication and the volume. The National Audit Office shall publish this information on its website.</p> <p>* According to Section 203 (60) of the Media Act 'Press product' shall mean the individual volumes of newspapers and other periodicals, as well as online journals and news portals, provided as an economic service under the editorial responsibility of a natural or legal person, and the principal purpose of which is the provision of content containing text and/or images - in order to inform, entertain or educate - to the general public in printed format or by electronic communications networks. Editorial responsibility means the exercise of effective control both over the selection of the media content and over its organization, that does not necessarily imply any legal liability for the media services provided. Economic service pursued commercially on own account, performed on a regular basis under economic exposure with a view to making a profit.</p> <p>** According to Section 146 b) of Act XXXVI of 2013 on Electoral Procedure 'political advertisement' shall mean any content published in the press or in a cinema in return for consideration, promoting or advocating support for a nominating organisation or independent candidate, or promoting the name, objectives, activities, slogan, or emblem of such entities.</p>		
Iceland	<p><i>Act on the finances of political organisations and candidates and on their obligation to disclose information, 2006 (amendment from January 1, 2019)</i></p> <p><u>Art. 12:</u> Political organisations, their elected representatives and candidates, as well as candidates for personal election, may not fund, publish or participate in the publication of material or advertisements in connection with political campaigns unless it is disclosed that the material is published by them or with their participation.</p> <p><u>Preparatory work:</u> "[...] This is a new provision in the Act aimed at countering anonymous propaganda that has been used in recent years' elections, especially on social media. [...]"</p>	<p>Freedom of expression</p> <p>VS</p> <p>Equity & transparency of elections</p>	<p>Equity & transparency of elections</p>
Ireland	<p><i>No specific provisions</i></p> <p>[Section 41(3) of the Broadcasting Act 2009 provides that 'A broadcaster shall not provide an advertisement which is directed toward a political end or which has any relation to an industrial dispute'. This is filled out by a Code of Conduct from the Broadcasting Authority of Ireland. These provisions only apply to linear broadcasters.</p> <p>Section 140 of the Electoral Act 1992 creates a criminal offence of distribution of electoral literature without identifying the printer and publisher. As this is a criminal</p>		

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	provision it has to be interpreted narrowly so it does not cover digital documents.]		
Italy	<i>No specific legislation.</i> <i>The Authority of Privacy and the Authority on telecommunication are circulating some guidelines. They deal with, inter alia, Equal Treatment of Political Subjects; Transparency in Political Propaganda; Illicit Contents and Activities Whose Dissemination Is Forbidden; Social Media Accounts of Public Administrations; Political Propaganda on Election Day and the Day Before; Fact-Checking Methods.</i>		
Japan	<i>Public Offices Election Law, 2016</i> Article 235-5. Those who communicate by displaying a name or identity that is against truth with the purpose of not winning, winning or by using a method such as postal service, telegraph, telephone, internet, etc., shall be punished by imprisonment without work or a fine of not more than 300,000 yen.	Freedom of expression VS Equity of elections	Equity of elections
Kazakhstan	<i>Constitutional Law on elections, 2007</i> Article 12. Authorities of the Central Election Commission of the Republic of Kazakhstan 16-1) place on the official website (internet - resource) of the Central Election Commission the legal acts on the election legislation, information on the appointment and conduct elections as well as on the results of vote count at the elections;	Legal recognition of internet as a tool to reinforce transparency of elections	N/A
Korea, Republic	<i>Public Official Election Act, 2018</i> Article 8 (Responsibilities of Press for Fair Reports) Where a person who manages and controls broadcasting, a newspaper, wire service, magazine or other publications, a person who edits, gathers data, writes or reports, or any internet press agency provided for in the provisions of Article 8-5 (1) reports or comments on the platform or policy of a political party, political views or other matters of a candidate (including a person who intends to be a candidate; hereafter the same shall apply in this Article) and broadcasts or reports the interview or discussion in which a representative of a political party, a candidate or his/her proxy participates, he/she or it shall be fair. Article 10-3 (Cyber Supervisory Group of Vote Rigging) In order to monitor vote rigging utilizing the Internet and to support fair election, the National Election Commission shall establish and operate the cyber supervisory group of vote rigging consisting of five to ten persons as prescribed by National Election Commission Regulations: Provided, That with 60 days (in cases of special election, etc. for which the reason for holding the election becomes definite after 60 days prior to the election day, the time when the reason for holding the election has become definite) prior the election day until ten days after the election day, it may have up to 10 additional persons. Article 82-4 (Election Campaigns by Utilizing Information and Communications Networks) No one shall disseminate untrue facts about a candidate (including a person who intends to become a candidate; the same shall apply hereafter in this Article), his/her spouse, or any of his/her lineal ascendants or descendants or siblings	Freedom of expression VS Fairness and equality of elections	Fairness and equality of elections

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	through an information and communications network under Article 2 (1) 1 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc. (hereinafter referred to as "information and communications network"): Provided, That the foregoing shall not apply where true facts are related to public interests.		
Kosovo	<p><i>Law on General Elections (2008)</i> Article 2 All political entities are free to campaign and make electoral propaganda in the mass media, by holding political events, and by publishing and disseminating campaign materials in any lawful manner pursuant to the applicable legislation and rules.</p> <p><i>Law on Local Elections (2008)</i> Article 3, para. 1 All political entities are free to campaign and make electoral propaganda in the mass media, by holding political events, and by publishing and disseminating campaign materials in any lawful manner pursuant to the applicable legislation and rules.</p>	Implicit recognition of digital technologies/social media as means of electoral propaganda	N/A
Kyrgyzstan	<p><i>Constitutional law on Presidential and Jogorku Kenesh Elections, 2011 (last amendments in 2017)</i> Article 14 Compilation of voter lists 8. Preliminary lists of voters submitted to the precinct election commissions (PECs) shall be posted on the official website of the Central Election Commission (CEC) not later than 60 calendar days before the day of voting in breakdown of precincts, districts and towns without an information about the permanent or temporary residence, date of voter's birth. The voter lists are posted for familiarisation and verification of the data, defining mistakes and inaccuracies in the voter lists.</p> <p>Article 15 Familiarisation with the voter lists; Voting address 5. (...) After processing the applications, the ASB forms the final list of voters, distributed in accordance with the boundaries of the PECs, and not later than 10 calendar days before the day of voting transmits it to the CEC. (...) The list is published by the CEC on its official website.</p> <p>Article 22 Provision of information to voters and holding of election campaign 9. Citizens, candidates and political parties shall be entitled to carry out election campaign for or against any candidate or list of candidates and discuss pre-election programs of candidates or political parties freely and comprehensively. Campaigning can be carried out through assemblies, meetings, mass media and Internet publications.</p> <p>17. According to this Constitutional Law, journalists, other creative workers and officials of mass media offices shall be prohibited from carrying out TV and radio programs, participating in giving coverage to elections via those mass media and Internet editions, if the abovementioned persons are founders of those mass media or owners of the Internet edition and at the same time candidates or their representatives. This rule does not reach campaigning speeches of the above-mentioned persons, when</p>	Legal recognition of internet as a tool to reinforce certainty of elections	N/A

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p>candidates use free air time on the government and local TV and radio channels in the procedure specified in Article 24 of this Constitutional Law.</p> <p>18. Mass media or Internet publications, the founders (co-founders, owners) of which are state power bodies and local governments or their subordinated agencies and enterprises, which are fully or partially funded by the republican budget or local budgets, or mass media with tax and other mandatory payment privileges as compared to other mass media, must provide equal opportunities to candidates and political parties for election campaigning.</p> <p>19. Mass media and Internet publications that do not fall under item 18 of this Article shall be entitled to provide air time and space in printed media to candidates and political parties on a contract basis in conformity with the instructions on provision of air time on TV and radio channels and space in printed periodicals approved by the CEC, to candidates or political parties.</p> <p>The amount of payment for air time and publications in periodicals or publications in Internet publications must be the same for all candidates or political parties.</p> <p>20. Information as to the amount of payment and other terms and conditions for getting air time and space in printed media or the right to publish in an Internet publication must be submitted to the CEC by the appropriate TV and Radio Company, printed media office or the owner of the Internet publication no later than 20 calendar days from the date of official publication of the decision on the appointment of elections for accreditation. The information submitted shall be published by the CEC on its official website for the public not later than 25 days from the date of the official publication of the decision on the appointment of elections. accreditation. The information submitted shall be published by the CEC on its official website for the public not later than 25 days from the date of the official publication of the decision on the appointment of elections.</p> <p>Article 25 Election campaign via print media and Internet publications</p> <p>1. Periodical printed mass media as well as Internet publications that fall under item 18 of Article 22 hereof and are disseminated in the territory of the elections, except for the newspapers founded by state power bodies and local governments exceptionally for publication of official information and materials, normative and other legal acts, must allocate free space no less than one A 4 format page in print or electronic mass media, to candidates and political parties. As for specialized print media or Internet publications (children's, technical, scientific and others), they may refuse publishing any campaigning materials provided they are fully out of any form of campaigning.</p> <p>2. Print media or Internet publications, regardless of the form of ownership, providing candidates or political parties with print space must provide other candidates or political parties with print or electronic space on the same terms and conditions (the same fee, size and other terms). The cost of</p>		

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p>print or electronic space cannot exceed the cost charged 6 months prior to election call.</p> <p>Article 37-1. Order of publication of preliminary results of voting, results of voting and results of elections on the official website of the CEC</p> <p>1. The results of the voting for each election precinct, which are preliminary information of no legal significance, shall be immediately posted on the official website of the CEC as soon as they are received by it.</p> <p>2. Protocols on the results of voting for each election precinct shall be posted on the official website of the CEC not later than 18 calendar days from the date of voting.</p> <p>3. The lists of voters who took part in the elections shall be published on the official website of the CEC not later than 5 calendar days from the date of voting.</p> <p>4. Protocols on the results of voting of territorial election commissions shall be posted on the official website of the CEC not later than 19 calendar days from the date of voting.</p> <p>Article 39 Publishing of voting results.</p> <p>Voting returns at each election precinct and territory covered by the activities of the election commission, election results on the electoral constituencies in the volume of the data contained in the Protocols of the CEC and subordinate election commissions, shall be provided to voters, candidates, representatives of candidates and political parties, observers, international observers, representatives of mass media upon request. Voting returns for each election precinct shall immediately be placed on the official website of the CEC on a rolling basis. The voting return data placed on the official website of the CEC is the preliminary information of no legal significance.</p> <p>Article 41 Electoral funds</p> <p>12. Banking or other institutions are obliged to submit weekly, and at the request of the CEC - within 24 hours to the CEC information on the receipt and expenditure of funds in the special account of the candidate, the political party. This information is subject to mandatory posting by the CEC on the official website as it becomes available.</p>		
<p>Moldova, Republic of</p>	<p><i>Electoral Code</i></p> <p>Article 18. Central Electoral Commission Meetings and Decisions</p> <p>(5) Within 24 hours after their adoption, the Central Electoral Commission decisions shall be posted on the Central Electoral Commission official website and within 5 days shall be published in the Official Gazette of the Republic of Moldova.</p> <p><i>Article 45. Verification of Voters' Lists</i></p> <p>(1) Voters' lists shall be made available within the polling stations premises, as well as on the Central Electoral Commission website no later than 20 days prior to elections day. A copy of the list shall be kept at the Mayoralty. No later than 20 days before the elections the voters shall be notified via all available communication means (Media, phone, poster, Internet) about the location of the polling station where they can vote.</p> <p><i>Article 70. Peculiarities of Media Coverage of Elections</i></p>	<p>Legal recognition of internet as a tool to reinforce transparency of elections</p>	<p>N/A</p>

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	(8) Electoral advertising via Internet and mobile phone is categorized as electoral advertising in printed Media.		
Monaco	<i>Article 6 de la loi n° 839</i> Article 6 of Act No. 839 provides that any Monegasque may obtain communication of the electoral list, in particular in electronic format. Article 40 of the same Act provides that voting operations may take place by means of an electronic system, including the internet.	Freedom of expression / Sincerity of the elections	
North Macedonia	<i>Electoral Code, 2015</i> Article 69-a (1) As an election campaign is considered: public gathering and other public events organised by the campaign organiser, public display of posters, video presentations in public areas, electoral media and internet presentation, dissemination of printed materials and public presentation of confirmed candidates by official electoral bodies and their programmes.	Legal recognition of internet as a mean of electoral propaganda	N/A
Romania	<i>Regulations on The Elections To The Chamber of Deputies and The Senate, 2008</i> Art. 37. – (1) During the electoral campaign, the candidates, political parties, political alliances, electoral alliances, organisations of citizens belonging to national minorities, as well as the citizens with a right to vote, shall be entitled to express their opinions freely and without any discrimination, by protests, gatherings, use of television, radio, written press, electronic means and of the other means of mass information.	Freedom of expression VS Equity of elections	Freedom of expression
Russia	<i>Federal Law on the election of the President, 2003</i> Article 46. Informing of voters 7. On the voting day, before the end of voting, no information about the voting results, the results of the election of the President of the Russian Federation shall be published (made public) and no such information shall be placed in information-telecommunications networks with unrestricted access (including the internet).	Freedom of expression VS Certainty of elections	Certainty of elections
Serbia	<i>No specific legislation on electoral campaigning in social media or the internet.</i> <i>[see the general provisions in the LAW ON THE ELECTION OF MEMBERS OF THE PARLIAMENT ("Official Gazette of RS", no. 35/2000, 57/2003 – decision of CCRS, 72/2003 – oth.law, 75/2003 – correction of oth. law, 18/2004, 101/2005 – oth. law, 85/2005 – oth.law, 28/2011 – decision of CC, 36/2011 and 104/2009 – oth. law):</i> Article 5. The citizens shall have the right to be informed by the mass media about the electoral programs and activities of submitters of the electoral lists, as well as about the candidates on the electoral lists. The mass media shall be obliged to ensure equal accessibility of information about all submitters of the electoral lists, and about all candidates on those electoral lists. Electoral promotion through the mass media and public gatherings, as well as publication of estimated electoral results shall be forbidden in the period of 48 hours before the day of the elections, as well as during the election day until the closing of polling stations.	Freedom of expression VS Equity of elections	Equity of elections

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p>Article 48. The submitters of the electoral lists shall have the right to inform the citizens of their programs and activities, as well as the nominated candidates, by the mass media, in accordance with the provisions of this law.</p> <p>Article 49. Organizations which broadcast radio and television program, and are founded by the Republic of Serbia shall, from the day of calling of the elections, in their political informative programs which can be seen or heard throughout the territory of the Republic, ensure the presentation of the submitters of the electoral lists and of the candidates from the electoral lists, as well as the exposition and explanation of the electoral programs of the submitters of said lists, in accordance with this law.</p> <p>Article 50. Editors and anchormen of political-informative and specialized broadcasts of organizations referred to in Article 49 of this law shall independently and impartially present all the candidates during the election campaign, and anchormen of broadcasts shall have impartial attitude towards all presented political, social and ethical-cultural programs of the political parties whose candidates are presented.]</p>		
Spain	<p><i>Representation of the People Institutional Act, 2015</i> Section 53. Notwithstanding the foregoing, from the call of the election to the legal start of the campaign, no commercial publicity or propaganda shall be allowed by means of posters, commercial supporting devices or advertisements in the press, in wireless station or digital means, nor can such acts be justified as the exercise of the ordinary activities of the parties, federations or coalitions acknowledged in the preceding subsection.</p>	<p>Freedom of expression</p> <p>VS</p> <p>Equity of elections</p>	Equity of elections
Sweden	<p><i>No specific provisions</i> [see the general provision in chapter 17, section 8 of the Penal Code, 1962: A person who, in an election to public office or in connection with some other exercise of suffrage in public matters, attempts to prevent voting or to tamper with its outcome or otherwise improperly influence the vote, shall be sentenced for improper activity at election to a fine or imprisonment for at most six months.]</p>		

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
Switzerland	<p>- no comprehensive legal framework on internet-law or political parties</p> <p>- <i>Federal Act on Electronic Media (draft only)</i></p> <p>- <i>Concession SRG SSR (the public media provider):</i> SRG SSR “[...] may broadcast programmes on political [...] events of regional or national importance originally via the Internet” (Art. 22 (b) Concession SRG). The concession provides for various rules concerning the online operations of the public media provider “SRG SRR”, such as principles for the online offering of SRG (Art. 18 II Concession SRG); an obligation to provide free and accessible online-platforms where the population may exchange ideas and opinions regarding the programme (Art. 5 IV Concession SRG); an obligation to provide online media offerings for Swiss citizens abroad (Art. 18 IV Concession SRG); modalities of free access to online content (Art. 23 II Concession SRG) and an obligation to make content available to certain other Swiss media companies for use on their online- and social media-platforms (Art. 31 II Concession SRG).</p> <p><i>According to Article 8a I of the Federal Act on Political Rights, 1976</i>, the Federal Council may permit electronic voting pilot schemes that are limited in their geographical scope, in the dates on which they are held, and in the subject matter to which they relate (moreover, there exists the possibility to collect the necessary signatures for people’s initiatives and referenda electronically, cf. Articles 60a and 69a of the Act).</p>	Online media as a public media service	Equity of elections
	<p><i>According to Article 8a I of the Federal Act on Political Rights, 1976</i>, the Federal Council may permit electronic voting pilot schemes that are limited in their geographical scope, in the dates on which they are held, and in the subject matter to which they relate (moreover, there exists the possibility to collect the necessary signatures for people’s initiatives and referenda electronically, cf. Articles 60a and 69a of the Act). See: <i>Ordinance on Political Rights, 1978</i></p> <p>Article 27a (...) 3. After at least five consecutive individual attempts by a canton to hold a federal ballot without a break-down, the Federal Council may authorise that canton to use electronic voting for a limited period of time, in terms of subject matter and location for a maximum period of time in federal referendums. 4. Attempts to vote electronically in elections to the National Council shall in all cases require a special basic authorisation from the Federal Council.</p> <p>Article 27b The basic permit is granted when: a. the canton ensures that it carries out the tests in accordance with federal regulations; in particular, it must take all effective and appropriate measures to ensure that: 1. only persons with voting rights may take part in the ballot (control of voting rights),</p>	Use of new technology in the election process	Reliability, transparency and efficiency of elections

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p>2. Each person entitled to vote has a single vote and can only vote once (uniqueness of voting),</p> <p>3. The applicant cannot systematically and effectively intercept, alter or redirect third party electronically submitted voices (reliable reproduction of unadulterated expression of will),</p> <p>4. Third parties cannot obtain knowledge of the content of electronically cast votes (voting secrecy),</p> <p>5. any systematic abuse can be ruled out (conformity of the ballot with the rules);</p> <p>b. the Federal Chancellery has established, on the basis of the supporting documents or certificates submitted, that the electronic voting system chosen by the canton is suitable for carrying out the attempts in conformity with federal law.</p> <p>(...)</p> <p><i>Federal Chancellery Ordinance on Electronic Voting, 2013</i></p> <p>Article 2 General requirements for the authorisation of electronic voting per ballot</p> <p>The authorisation for electronic voting in any individual ballot shall be granted provided the following requirements are met:</p> <p>a.</p> <p>The system for electronic voting (the system) is implemented and operated so as to guarantee secure and trustworthy vote casting (Annex No 2 and 3).</p> <p>b.</p> <p>The system must be easy to use for the voters. Account must be taken of the special needs of all voters wherever possible.</p> <p>c.</p> <p>The system and the operational procedures shall be documented so as to enable the details of all security-relevant technical and organisational procedures to be understood.</p> <p><i>[In Switzerland, e-voting means voting online via the internet. The Confederation and the cantons have been conducting trials with e-voting for more than 15 years as part of the 'Vote électronique' project. Until recently, e-voting has been offered in 10 cantons. The use of the e-voting system in general is currently under review.]</i></p>		
Tunisia	<p><i>Organic Law on Elections and Referenda, 2014</i></p> <p>Article 68. Principles of electoral campaigns fully apply to all electronic media and to all messages directed at the public via electronic means for the purpose of propaganda in the context of elections or referendums. The same principles apply to official websites of audiovisual communication enterprises, subject to the monitoring of HAICA.</p>	Legal recognition of <i>electronic media</i> as a means of electoral propaganda	N/A

SOCIAL MEDIA

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
Albania	<i>No specific provisions</i>	N/A	N/A
Austria	<i>No specific provisions</i>	N/A	N/A
Bosnia	<i>No specific provisions</i>	N/A	N/A
Brazil	<p><i>Elections Law, 2012</i> Article 57-A. (...) Messages broadcast in Twitter during embargoed periods that lead to general knowledge of a future candidacy, political action or reasons that allow one to infer that its beneficiary is the fittest for the public office shall constitute extemporaneous publicity. The fact that it depends on the willingness of the internet user to access the message contained in any a website does not preclude the possibility of characterising extemporaneous publicity.</p>	Freedom of expression VS Equity of elections	Equity of elections
Bulgaria	<p><i>Electoral Code, 2019</i> Additional provisions 15. (suppl. - SG 21/19, in force from 12.03.2019) "Media service" shall be the creation and dissemination of information and content which are intended for reception by, and which could have a clear impact on, a significant proportion of the general public, irrespective of the means and technology used for transmission of the said information and content. The following shall be media services:</p>	Social networks are since 12.03.2019 partially recognised as Media Services within the meaning of the additional provisions of the Electoral code regarding the social media profiles of media service providers such as newspapers and broadcasters.	N/A
	<p>a) the print media (newspapers, magazines and other periodical publications); b) media disseminated over electronic communications networks, such as: aa) public and commercial broadcasters (registered or licensed public or commercial providers of audio-visual media services or radio services); bb) online news-services (online editions of newspapers, magazines, news agencies and other electronic publications). The social networks (Facebook, Twitter and other such) and the personal blogs shall not be media services, with the exception of the profiles in social networks of the media under letters "a" and "b"</p>		

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p><i>Electoral Code, 2019</i> Additional provisions 16. "Media service provider" shall be a sole-trader natural person or a legal person who or which has editorial responsibility for the choice of the content of the media service and determines the manner in which the said service is organized. "Editorial responsibility" shall be the exercise of effective control over the content, the program schedules and the catalogue of the services provided.</p>	<p>Social media companies do not fall within the definition of media service providers. They do not bear the editorial responsibility of the published content as they are not legally bound to exercise permanent control over it except when they are notified for illegal activity.</p>	N/A
Chile	<p><i>Law No. 18.700 about Popular Votes and Scrutinies</i> All content that is shared through personal social media and that it does not imply a hiring and payment of these services, will be considered private communications and therefore will not constitute electoral propaganda as specified in article 30 of the Law No. 18.700.</p>	<p>Freedom of expression VS Equity of elections</p>	Freedom of expression
Canada	<i>No specific provisions</i>	N/A	N/A
Denmark	<i>No specific provisions</i>	N/A	N/A
Germany	<p><i>Network Enforcement Act [NEA] (Netzwerkdurchsetzungsgesetz - NetzDG)</i> Social media companies and other providers that host third-party content to fines of up to €50 million if they fail to remove "obviously illegal" speech within 24 hours of it being reported. -The law is described as applying to social media companies, but it defines that term very broadly, to include all profit-making internet platforms that are intended to allow users to share content with other users or make it publicly available. -The law also exempts providers who have fewer than 2 million registered users in Germany.</p>		

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p>The NetzDG requires social media platform operators to adopt measures in order to prevent violations of a catalogue of provisions of the <i>German Criminal Code</i>. However, neither § 107a nor § 108a (see the text of these provisions in the section on internet-related legislation above) are part of this catalogue. Meanwhile, according to the law maker's aim, the NetzDG should also serve to combat disinformation such as "Fake News" (Compare BT-Drs. 18/12356, 11) Therefore, several political parties have asked for an addendum to § 1 Abs. 3 NetzDG, as to include §§ 108 and 108a, as well as for an addendum to these §§, including criminal liability for disinformation of voters.</p>	<p>Freedom of commerce, freedom of expression</p> <p>VS</p> <p>Equity of elections, security, honor</p>	<p>Equity of elections, security, honor</p>
Hungary	<i>No specific provisions</i>	N/A	N/A
Iceland	<i>See above under "Internet"</i>		
Ireland	<i>No specific provisions</i>	N/A	N/A
Italy	<i>No specific provisions</i>	N/A	N/A
Korea, Republic	<i>No Specific provisions governing social media separately. See above under "Internet"</i>		
Kosovo	<i>See above under "Internet"</i>		
Kyrgyzstan	<i>No specific provisions</i>	N/A	N/A
Moldova, Republic of	<p><i>Electoral Code</i></p> <p>Article 69. General Principles of Media Coverage of Elections</p> <p>(1) Broadcasters, within all their programmes, and printed Media founded by public authorities are required to observe the principles of fairness, accountability, balance and impartiality while covering the elections.</p> <p>(2) Broadcasters and printed Media are required to provide equal, non-discriminatory conditions while granting airtime or advertisement space for electoral advertising.</p> <p>(...)</p> <p><i>Article 70. Peculiarities of Media Coverage of Elections</i></p> <p>(1) During the electoral period, the programmes and printed materials in some way related to electoral competitors and/or candidates shall be broadcasted/published with due regards for the Regulation on Media Coverage of the Electoral campaign, approved by the Central Electoral Commission within the first 7 days of the electoral period. Media representatives shall enjoy the same rights as the national observers.</p> <p>(...)</p> <p>(8) Electoral advertising via Internet and mobile phone is categorized as electoral advertising in printed Media.</p> <p>(...)</p>		
Monaco	<i>Arrêté ministériel n° 2012-494</i>		

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	Ministerial Decree No. 2012-494 sets the conditions for access to the television channel "Monaco info". The interventions are also online on the internet.		
Serbia	<i>No specific provisions</i>	N/A	N/A
Spain	<p><i>Representation of the People Institutional Act, amendments 2018:</i></p> <p>Section 39.</p> <p>(3) Within the aforesaid delay any person may file a petition to the Electoral Register Office's competent Delegation about his registered census data. Provided that the only petitions admissible shall be those for correction of errors in personal data, or about change of abode within the same constituency or for non-registration of the petitioner in any section of the constituency's electoral register to which he is legally entitled to be registered. Provided further that no petitions showing a change of residence to a different constituency after the limit date for closure of the electoral register for the relevant election shall taken either into consideration. In this case the interested person must exercise his right of petition in the section corresponding to his former adress of abode.</p> <p>Section 58 bis.</p> <p>(1) The collection of personal data related to the political opinions of the citizens, carried out by political parties in the framework of their electoral activities, will be protected in the public interest only when adequate guarantees are offered.</p> <p>(2) Political parties, coalitions and electoral groups may use personal data obtained in web pages and other sources of public access to carry out political activities during the electoral period.</p> <p>(3) The delivery of electoral propaganda by electronic means or systems of messages and the hiring of electoral propaganda in social networks or equivalent media will not be considered commercial activity or communication.</p> <p>(4) The informative activities above mentioned will clearly identify their electoral nature. The recipient will be provided with a simple and free way of exercising the right of opposition.</p> <p><i>Instruction 3/2011 of March 24 of the Central Electoral Board, on the interpretation of the prohibition of carrying out the electoral campaign included in Article 53 of the Representation of the People Institutional Act.</i></p> <p>1. As it is established in Article 53 of the LOREG, from the date of publication of the call for an electoral process in the corresponding official bulletin until the thirty-seventh day after</p>	Freedom of expression	

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p>the call "is prohibited the dissemination of advertising or electoral propaganda through posters, commercial supports or insertions in the press, radio or other digital media, "without these actions" being justified by the exercise of the constitutionally recognized functions of the parties, federations and coalitions ", and, in particular, according to the precept in the law to the freedom of expression enshrined in article 20 of the Constitution.</p> <p>2. Consequently, during the aforementioned period, the political formations and the candidates will not be able to contract directly or through third parties, spaces, supports or sites for the diffusion of advertising or electoral propaganda, whether in public places (gardens, plazas, parks, etc.), already in commercial spots already established as fences, urban furniture for the presentation of information ("mupis"), illuminated advertising objects ("opis"), cabins, means of transport or similar. The insertion of advertisements in the press or magazines, or in radio spots, or in advertising formats on the internet ("banners"), or in commercial television channels, or in other media in digital media is also not allowed.</p> <p>6. The sending of emails or SMS messages, or the distribution of content by radio frequency (bluetooth) to inform about the candidates or the electoral programme, if it does not imply the hiring of a third part.</p> <p>7. The creation or use of web pages or web sites for compiling texts or articles (blogs) of political or candidate formations, or participation in social networks (Facebook, Twitter, Tuenti, etc.), provided that it does not suppose any type of commercial contracting for its realisation.</p> <p><i>Instruction 4/2007 of April 12 of the Central Electoral Board, on the use of new information technologies and electronic communication as an instrument of electoral propaganda.</i></p> <p>Second. The public authorities shall ensure that in the use of electronic information and communication systems that are directly or indirectly under their control, they respect the limitations of the electoral or propaganda campaign established in Institutional Act 5/1985, of 19 June, on the General Electoral Regime.</p> <p><i>Circular 1/2019 of March 7 of the Spanish Agency for Data Protection, on the processing of personal data relating to political opinions and the sending of electoral propaganda by electronic tools or messaging systems by</i></p>		

Country	Law extract	Legal conflict or legally recognised issue	Legislating in favor of...
	<p><i>political parties, federations, coalitions and groupings of electors under Section 58 bis of Institutional Act 5/1985, of June 19, on the General Electoral Regime.</i></p> <p>Section 3. Legal basis of the treatment.</p> <p>Only the processing of personal data referring to political opinions in respect of political parties according to article 58 bis of the LOREG will be possible when an essential public interest conforms to article 9.2.b) of the RGPD (by its name in Spanish) and the adequate guarantees provided in the Article 7 of this circular.</p>		
Sweden	<i>No specific provisions</i>	N/A	N/A
Switzerland	<i>No specific provisions</i>		Self-regulation
United Kingdom	<p><i>Political Parties, Elections and Referendums Act 2000 (PPERA), and the Representation of the People Act 1983. Under sections 85(3) and (4) of PERA</i></p> <p>In the UK, the use of election materials (i.e. election advertisements) by candidates and political parties in parliamentary and local elections are regulated under the Political Parties, Elections and Referendums Act 2000 ("PPERA") and the Representation of the People Act 1983. Under sections 85(3) and (4) of PERA, election material is defined as material which can reasonably be regarded as intended to promote, procure or prejudice the success for political parties or candidates in elections. These include advertising posted by candidates and political parties on websites or YouTube videos created for dissemination. Under the guidelines issued by the Electoral Commission, materials published on social media are regarded as election materials if they meet the criteria of a public test and a purpose test. For candidates and political parties, spending on social media is counted towards their applicable spending limit and must be reported in their returns on election expenditure. The spending include the design and production costs, cost related to updating the social media, and production of on-line petitions, and promotion cost from adding links to other websites.</p>	Legal recognition of internet and social media as a means of electoral propaganda	N/A

RELEVANT CASE LAW

INTERNET

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
Albania	<i>No specific case law</i>	N/A	N/A
Austria Constitutional Court	<i>Judgment of 13th December 2011</i> In its judgment of 13 th December 2011, the Austrian Constitutional Court has repealed the ordinance that regulated e-voting at the elections of the Austrian National Union of Students. Firstly, the Court found that the same electoral principles apply to e-voting as to postal voting. Furthermore, it stated that in e-voting, errors and manipulations are less discernible than in written voting. Therefore, according to the Constitutional Court the electoral regulations must determine the administrative action of the electoral authority in such a way as that the implementation of e-voting is comprehensible for the individual and verifiable for the electoral authority. In the view of the Constitutional Court, the contested regulation did not meet these criteria. It was not sufficiently and precisely regulated in which way, by which means and which criteria the Electoral Commission could check, whether the implemented system is functioning correctly. Moreover, the individual voter could not rely on the fact that the electoral principles were met and the vote cast was unadulterated, particularly when voting. (Collection of Decisions of the Constitutional Court, 19.592/2011)	e-voting and electoral principles	N/A
Bosnia and Herzegovina	<i>No specific case law</i>	N/A	N/A
Brazil Rio de Janeiro Regional Electoral Court	<i>Unknown (2008)</i> Pedro Dória and other bloggers posted messages and banners on their website of their wish that Fernando Gabeira would run for mayor of Rio de Janeiro. Since these messages were posted before the start of the three months campaign period, the Court ruled that the banners must be taken down. Nevertheless, afterwards the Court launched an ordinance allowing the publication of election campaign material on blogs.	Freedom of expression VS Equity of elections	Equity of elections
Bulgaria Constitutional Court of the Republic of Bulgaria	<i>Judgment № 4 from 04.05.2011 on constitutional case № 4 from 2011</i> The petitioners challenged the constitutionality of several legal norms regulating an experimental electronic voting via internet during the upcoming presidential elections. The Constitutional Court proclaimed their incompatibility with the Constitution as there were not enough guarantees for the secret, the authenticity and the voluntariness of the vote and the right to a single vote. One of the provisions allowed for a withdrawal of the vote within a specified time limit and a subsequent possibility to vote again under the ordinary procedure. Besides, if the secret of the vote of one person is compromised, the votes of all people stored in the respective electronic	Facilitation of the election process VS Guaranteed right to a single vote, secret, authenticity, voluntariness of the vote	Guaranteed right to a single vote, secret, authenticity, voluntariness of the vote

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
	ballot-box shall be annulled. The Court held that the latter infringed the suffrage rights of individuals.		
Bulgaria Supreme Administrative Court of the Republic of Bulgaria/ Commission for protection of competition	<i>Judgment 6845/08.06.2016 on adm. Case № 6715/2015</i> <i>Decision of the Commission for protection of competition № 395 of 12.05.2015</i> Vbox, the Bulgarian equivalent of YouTube, filed a complaint against Google and YouTube in the Bulgarian Competition Protection Authority on the allegations that the latter broadcasted political advertisements during election campaign without publishing the required information on the advertisement contracts under art. 180 of the Electoral code and thus distorted competition. The complaint was rejected by the Commission and subsequently by the Supreme Administrative Court with the argument, inter alia, that YouTube and Google are not media service providers and therefore are not subject to the obligation to publish information under art. 180 (for a definition of a media service provider see supra). YouTube and Google provide information services but do not bear the editorial responsibility for the content of the publications on their web platforms, neither for the advertisements as they are not legally bound to exercise permanent control over them except when they are notified for illegal activity on the websites.	YouTube and Google are not regally recognised as “media service providers”	N/A
Bulgaria Commission for protection of personal data	<i>Decision № Ж-470 from 26.05.2016</i> The Commission fined the municipal election commission for publishing the ID numbers of the elected municipal councilors on its website as contrary to the existing data protection legislation. Although the municipal election commission is required by art. 86 of the EC to publish all the documentation from the elections which inter alia contains the id numbers of the councilors, the municipal commission must also respect data protection legislation and erase sensitive data which is not necessary for ensuring transparency of elections.	Personal data protection v/s Transparency of elections	Personal data protection
Bulgaria Lovech District Court	<i>Judgment № 24 from 23.01.2017 on adm. case № 1404/2016.</i> The mayor of the town of Lovech was fined by the regional Governor for tolerating an infringement of the electoral code by his employees. In particular, it was alleged that the PR of the municipality uploaded on its official website a material containing political propaganda. Under art. 182, par. 1 of the EC election canvassing at state and Municipal agencies and institutions is prohibited. The Court revoked the fine because it held that the material did not represent political propaganda and besides the mayor couldn't have known of its publication.	Freedom of expression VS political neutrality of the administration	Freedom of expression

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
Bulgaria Appellate Court - Sofia	<i>Judgment № 24 of 01.05.2017 on civil case № 3307/2016</i> A municipal councilor in Sofia and former singer, claimed monetary compensation for libel of two newspapers which published false information on the amount of his material assets. The information was subsequently republished in numerous online newspapers. The applicant's claim was successful.	Freedom of expression v/s Honor	Honor
Canada Supreme Court of Canada	<i>R v Bryan, 2007 SCC 12 (2007)</i> Paul Bryan posted election results of the 2000 federal elections on his website to deliberately protest against Section 329 of the Elections Act prohibiting the reporting of election results until after the closing of all polling booths. The Supreme Court ruled that section 329 of the Elections Act was constitutional and that it also covered the internet and blogs. The prohibition of banning the early posting of elections results was later repealed by the parliament.	Freedom of expression VS Certainty of elections	Certainty of elections
Denmark	<i>No specific case law</i>	N/A	N/A
Estonia	<i>No specific case law</i>	N/A	N/A
Germany Federal Constitutional Court	<i>BVerfGE 14, 121</i> (Official Collection of German Federal Constitutional Court Decisions); concerning the equal treatment of political parties in respect of screen time on public broadcasting channels. May be applicable when governments use social bots to minimise oppositional content/expression of oppositional opinion.		
Germany Federal Constitutional Court	<i>BVerfGE 44, 125, esp. 149, 150, 154 et seq.;</i> defining the boundary between permissible information and impermissible propaganda by the government. Determining factors are the "informative content" of the communication, the presentation of the government and/or its members, as well as the temporal proximity to the next elections (quantity of "positive" communications may not extraordinarily increase towards election). However, government members are in any case not barred from communicating to the public; it is up to them to clarify in which capacity - as a member of a political party or as a member of the government. They may not use any of the governmental resources. These principles concern the so-called "Öffentlichkeitsarbeit" of the government. The decision dealt with print publications. Nevertheless, its principles are relevant for the use of all kinds of media.		
Germany Federal Constitutional Court	<i>BVerfGE 123, 39, esp. 108, 111, 112, 118 et seq.;</i> Ruling on the admissibility of electronic voting machines in the electoral process. Electronic voting machines are principally admissible, as long as "it is possible for each citizen to review all relevant steps of the voting process as well as the calculation of results in a reliable manner and without particular [technological] expertise."	Principle of transparency of voting process VS Digitalisation of voting process.	Judgement lays down certain requirements for electronic voting machines as to the reviewability of the voting

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
			process. These must also be kept in mind, when considering internet-based voting systems, such as casting a vote via personal computer.
Germany Higher Administrative Court of state Hessen	<i>Verwaltungsgerichtshof (VGH) Kassel, Beschluss vom 11.07.2017, DÖV 2017, 920 (Ls.), marginal no. 18 et seq.;</i> A mayor criticised a private association for inviting members of an opposing political party to a discussion. He posted this critique on his official Facebook page, asking members of the association to take a clear stand against this party's view. Consequently, the discussion was cancelled. The political party then requested the mayor to delete the posting and to prohibit further publication. Court ruled in favor of the political party, judging the mayor's post to infringe the so-called "principle of political neutrality of state organs" as set out by the Federal Constitutional Court in <i>BVerfGE 44, 125</i> , especially because the mayor abused "the authority of his position" to decrease the political party's chances in the next elections.		
Hungary	<i>No specific case law</i>	N/A	N/A
Iceland	<i>No specific case law</i>	N/A	N/A
Ireland	<i>No specific case law</i>	N/A	N/A
Italy	<i>No specific case law</i>	N/A	N/A
Korea, Republic Constitutional Court of South Korea	<i>2007 Hun-Ma1001 (2011)</i> The Court determined that Article 93(1) of the Public Official Election Act, which prohibited the transmission of any information (including on the internet) relating to a political candidate within 180 days of an election day, was unconstitutional. Although it found that its purpose to prevent corruption and to ensure fair elections was legitimate, the Court found that the all-out ban was excessive and that the interests of democracy outweighed the purpose of the ban. <i>2013 Hun-ka1 (2016)</i> Several Public Official Election Act provisions, which prohibit journalists' campaigns and punish violations, are unconstitutional against the freedom of election campaign: Internet media including internet newspapers increased dramatically, and citizen participation in the media became popular. However, the range of journalists regulated by the above provisions is too broad. The Public Official Election Act already imposes an obligation of fair reporting to media organizations and has already sufficiently regulated the act of harming the election fairness.	Freedom of expression VS Fairness and equity of elections	Freedom of expression

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
Kosovo	<i>No specific case law</i>	N/A	N/A
Kyrgyzstan	<i>No specific case law</i>	N/A	N/A
Moldova, Republic of	<i>[See the case described below in the "Social media" section which is relevant here as well.]</i>		
Monaco	<i>No specific case law</i>	N/A	N/A
Poland Krakow Court of Appeal	<i>Case I ACa 1273/11 (2012)</i> Andrzej Jezior was fined by the District Court in Tarnów (I Ns 162/10) after some readers of his personal website posted negative comments regarding Bernard Karasiewicz, who was at the time the mayor of the town of Ryglice. The Krakow Court of Appeal reversed the judgment, establishing that Mr Jezior should not be held liable for the comments that appeared on his website.	Freedom of expression VS Legal certainty	Legal certainty
Serbia	<i>No specific case law</i>	N/A	N/A
Spain	<i>No specific case law</i>	N/A	N/A
Sweden	<i>No specific case law</i>	N/A	N/A
Switzerland Federal Supreme Court	<i>TF C_257/2009 du 1er octobre 2009</i> The Federal Supreme Court rejected the complaint of a Geneva voter in a federal vote for which electronic voting had been allowed in several municipalities, claiming that electronic voting in Geneva was too easily falsifiable. The Federal Supreme Court took the view that these allegations were unfounded in the case to be decided. The invalidation of a ballot according to Article 34 Cst. requires the existence of a concrete irregularity. In this respect, an abstract and theoretical risk is not sufficient.		Efficiency of elections
Turkey Constitutional Court of Turkey	<i>YouTube Corp. v. The Presidency of Telecommunication and Communication, 2014/4705 (2014)</i> The Turkish Presidency of Telecommunication and Communication blocked YouTube after recordings of discussions between government officials had been posted on the website, arguing that it was necessary for national security interests. The Court found that the blockage of the entire website was unconstitutional and violated the freedom of expression.	Freedom of expression VS Security	Freedom of expression
United Kingdom High Court of Northern Ireland	<i>Galloway v Frazer, Google Inc t/a YouTube and others, HOR9793 (2016)</i> George Galloway, a British Member of Parliament, brought suit against several YouTube videos posted by William Frazer, a political activist from Northern Ireland. He also brought legal action against Google Inc., the owner of YouTube, for failing to remove the videos expeditiously. The Court found that, in keeping one of the videos online for three weeks, Google failed to act sufficiently swiftly given the serious and alarming nature of the libel. Therefore, considering that the video was arguably defamatory, violated data protection law and constituted harassment, the Court allowed Galloway to serve proceedings outside of the jurisdiction on Google Inc.	Freedom of expression, Freedom of commerce VS Honor, Protection of personal data	Honor, Protection of personal data
USA	<i>Shays v. FEC. 337 F. Supp. 2d 28 (D.C. 2004)</i>	Freedom of expression	Equity of elections

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
District Court for the District of Columbia	In relation with the 2002 Federal Election Commission Regulations on Internet Communications, the court found that the exclusion of internet communications of the meaning of political communication in the Campaign Finance Statute, would prolong the current "soft money" system.	VS Equity of elections	
USA Court of Appeals for the Fourth Circuit	<i>Bland v. Roberts, No. 12-1671 (2013)</i> Six employees of the Hampton, Virginia, Sheriff's Department brought suit against the Sheriff, alleging that he did not reappointment them due to their endorsement of his opponent's campaign in the 2009 elections. The support included clicking "Like" on the opponent's Facebook page. The Court held that clicking the "Like" button on the opponent's Facebook page constituted free speech and that three employees were terminated because of their respective support for the opponent, therefore ordering their reinstatement.	Freedom of expression VS Institutional efficiency	Freedom of expression
USA Delaware Supreme Court	<i>Doe v. Cahill, 884 A.2d 451 (2005)</i> City councilman Cahill filed suit against defamation and invasion of privacy of an anonymous person, writing under the pseudonym "Proud Citizen" on a website devote to the discussion of local politics. The Delaware Supreme Court determined that, in order to protect the anonymous speakers' First Amendment rights, plaintiffs must meet a "summary judgment standard" before piercing a defendant's anonymity. This ruling permitted the anonymous person to remain anonymous.	Honor/ Right to privacy VS Freedom of expression, Anonymous speech	Freedom of expression, Anonymous speech
USA Supreme Court of Illinois	<i>Hadley v. Subscriber Doe, 34 N.E.3d 549 (2015)</i> Freeport Journal Standard reader "Fuboy" commented on an online publication of the Standard's article about local county board candidate Bill Hadley, comparing him to child molester "Sandusky" and noting that Hadley's residence was adjacent to an elementary school. The Court determined that the comment was defamatory and that Comcast, Fuboy's service provider, was required to release Fuboy's identity.	Honor VS Freedom of expression, Anonymous speech	Honor

SOCIAL MEDIA

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
Albania	<i>No specific case law</i>	N/A	N/A
Austria Constitutional Court	<i>Decision of 1st July 2016</i> In its decision of 1st July 2016 the Austrian Constitutional Court repealed the second round of elections for the Federal President of Austria of 22 May 2016. In the view of the challenging party, violations of the fundamental principles of free and secret elections would emerge not only from the (alleged) infringement of electoral law provisions in a narrow sense. Rather, such infringements would, in essence also result from the fact that some local authorities had published such information themselves (e.g. via the internet platform "Facebook"); in this way, this information had been accessible instantly and before the end of the vote to a wider public with the consequence, that such information affected the 'strategic' voting behaviour of some voters who had not yet gone to the polls. The challenging party submitted several press releases, which prove and sufficiently substantiate that, through social media, information on the election result was made known to a large group of persons entitled to vote. Moreover, the challenging party argued that photographs showing voters with ballots filled in for the candidate Alexander Van der Bellen had been published in large numbers in the (internet) media which in their view runs counter to the principle of secret elections. In its judgment, the Constitutional Court stated, that it is of no relevance whether influence on the voters is exercised by government bodies within the scope of public or private administration. If, due to the actions of government bodies, the limits defined in order to protect the freedom of elections are violated, this is to be taken up by the Constitutional Court. In contrast, the voluntary publication of their personal voting behaviour by private individuals, in particular in social media, does not constitute a violation of the principle of free elections. (Collection of Decisions of the Constitutional Court, 20.071/2016)	The influence of social media on electoral behaviour	N/A
Bosnia and Herzegovina	<i>No specific case law</i>	N/A	N/A
Brazil Superior Electoral Court of Brazil	<i>REC na RP 182524 (2012)</i> Indio da Costa, candidate for the Vice-Presidency of the Republic, on July 4, 2010, posted a tweet promoting José Serra, the candidate for President on his ticket. Since the tweet was posted two days before the	Freedom of expression VS Equity of elections	Equity of elections

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
	start of the campaign period, the Court found that it constituted illegal electoral propaganda and fined Indio da Costa.		
Brazil Brazilian Supreme Court	<i>Lula v. Caiado I</i> , 4.088 (2015) and <i>Lula v. Caiado II</i> , 4.097 (2015) Senator Ronaldo Caiado posted statements accusing Luiz Inácio Lula da Silva, the former President of Brazil, of being a “bandit” who promoted democratic instability and of having committed crimes such as embezzlement and money laundering. Former President Lula charged Senator Ronaldo Caiado with libel and slander, but the Court dismissed the complaint based on parliamentary immunity.	Freedom of expression, State’s stability VS Honor	Freedom of expression, State’s stability
Brazil São Paulo Court of Justice	<i>Aécio Neves da Cunha v. Twitter Brasil</i> , 1081839-36.2014.8.26.0100 (2015) Aécio Neves da Cunha, Brazilian senator and former presidential candidate, sued Twitter Brazil, requesting the registration data and electronic records of 55 Twitter users, alleging that they posted defamatory content during the election campaign and thereby interfered with the electoral process. The Court ruled that Twitter Brazil must provide Neves with the registration and identification of 20 users who had linked Neves to drug-related criminal activities, but not to the remaining users who had merely shared news links. Twitter Brazil has appealed this decision.	Honor VS Freedom of expression, Anonymous speech, Freedom of commerce	Honor (in those cases linking Neves to drug-related criminal activities). Freedom of expression, Anonymous speech, freedom of commerce (in those cases of users who had merely shared news links).
Bulgaria Chepelare District Court	<i>Judgment №8 from 22.01.2016 on adm. Case № 161/2015</i> One of the candidates for mayor of the town of Chepelare carried out political propaganda on a Facebook page in the day of the elections which is prohibited under art. 182, par. 4 EC. He was fined by the regional governor but the act imposing the fine was reversed on appeal for not meeting some procedural requirements for its validity.	Freedom of expression VS fairness and equality of elections	Freedom of expression
Bulgaria Appellate Court - Sofia	<i>Judgment № 962 from 25.04.2017 on civil case № 512/2017</i> A citizen published on Facebook offensive and defamatory statements about the mayor of a community in Bulgaria accusing him of abuse of power and psychological harassment. Since she was not able to prove her accusations she was ordered to pay a compensation for the moral damages she had caused with her publications.	Freedom of expression Honor v/s	Honor
Canada	<i>No specific case law</i>	N/A	N/A
Costa Rica	0382-E8-2018 (2018) Individuals, companies, profiles or pages on social media that broadcast polls or electoral	Freedom of expression	Equity of elections

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
Supreme Court of Costa Rica	surveys, without having been authorised to do so by the electoral institution, will be subject to a fine ranging from ten to fifty basic wages.	VS Equity of elections	
Denmark	<i>No specific case law</i>	N/A	N/A
Estonia	<i>No specific case law</i>	N/A	N/A
Hungary	<i>No specific case law</i>	N/A	N/A
Iceland	<i>No specific case law</i>	N/A	N/A
Ireland	<i>No specific case law</i>	N/A	N/A
Italy Supreme Court	<p>Under Italian law, social media fall within the category of “hosting providers”, the liability of which is regulated by Legislative Decree no. 70/2003, which implemented the so-called “E-Commerce Directive” (Directive 2000/31/EC). According to these provisions, social media are immune from a general obligation to monitor content and do not bear any liability with respect third-party content or activities unless they obtain an actual knowledge of the illegal nature of the same. This special legal regime was established on the assumption that hosting providers have no editorial responsibility or control over third-party content, as they operate a merely passive (i.e., technical and neutral) service.</p> <p>In the recent decision no. 7708/2019, the Italian Supreme Court ruled that the so-called “active” providers (i.e., providers which carry out an activity beyond a mere technical, automatic and passive service) do not benefit from the said liability exemptions and are thus subject to the general tort liability principles. In light of their “active role”, these providers cooperate with the third party (i.e., the uploader) in committing an illegal act (e.g., copyright infringement, defamation). The service is deemed to be of an active nature when certain circumstances occur, including (but not limited to): filtering, indexing, organizing, categorizing or promoting content.</p> <p>However, active providers are still exempted from a general obligation to monitor content (that would imply that they act as publishers or content providers).</p>		
Korea, Republic	<i>No specific case law concerning social media separately. See above under “Internet”</i>		
Kosovo	<i>No specific case law</i>	N/A	N/A
Kyrgyzstan	<i>No specific case law</i>	N/A	N/A
Mexico Monterrey Regional Chamber of the Federal Electoral Tribunal	<p><i>SM-JIN-35/2015</i></p> <p>On the Election Day, the Governor of the state of Aguascalientes used a government bus to travel to different polling stations with various candidates for federal representatives, posting pictures throughout the day on his Twitter account. This Twitter</p>	<p>Freedom of expression</p> <p>VS</p> <p>Equity of elections</p>	Equity of elections

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
	account was promoted on the official webpage of the Government of Aguascalientes. The Regional chamber annulled the election, considering that the Governor violated the principles of equality and impartiality, taking into consideration that the online publication of this information ensured that his involvement was well-known by the general public.		
Mexico High Chamber of the Federal Electoral Tribunal	SUP-RAP-268/2012 (2012) Presidential candidate Andrés Manuel López Obrador, before the beginning of the electoral campaign period in 2012, published a tweet on his personal account with a link to a YouTube video of an interview he gave. The High Chamber found that the tweet did not constitute a premature campaign activity but rather an example of free expression on issues of national interest, considering that the video would only be viewed by a limited audience with internet access and interested in political information.	Freedom of expression VS Equity of elections	Freedom of expression
Mexico High Chamber of the Federal Electoral Tribunal	SUP-JRC-168/2016 (2016) Miguel Ángel Yunes Linares, pre-candidate for Governor of the state of Veracruz, posted videos on Facebook as part of his campaign to become the official candidate of the political party PAN. The High Chamber found that these videos did not constitute premature campaign activities since they clearly identified Yunes Linares as a pre-candidate, did not request viewers to vote for him, and included criticisms of topics of general interest. The Tribunal stated that the publication of personal opinions on such topics on social media benefits from an assumption of spontaneity.	Freedom of expression VS Equity of elections	Freedom of expression
Mexico High Chamber of the Federal Electoral Tribunal	SUP-REP-542/2015 and SUP-REP-544/2015 During the election silence, various famous Mexican personalities published tweets in favour of the Green Party (PVEM). Considering the number of tweets and the fact that they used the same positive references to the Green Party's candidates and proposals, the High Chamber found that the tweets were not an authentic exercise of the freedom of expression but rather part of the Green Party's propaganda strategy. Furthermore, the Electoral Tribunal considered that the proof offered showed that the tweets had been paid through intermediaries.	Freedom of expression VS Equity of elections	Equity of elections
Moldova, Republic of Chişinău Court	<i>Invalidation of the local elections in the Chisinau Municipality</i> By its judgment of 19 June 2018, the Chişinău Court refused to confirm		

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
	<p>lawfulness of the “new local elections” for the general mayor of the Chisinau Municipality, held on 20 May 2018 (round I) – 03 June 2018 (round II).</p> <p>The court held that both electoral competitors incited voters on the election day to participate at voting process, both via the Facebook page and through multiple media, which constituted illegal electoral agitation. The court considered that, although in their statements addressed to voters, electoral competitors spurred them on to take part at voting and vote for whom they wished to, their actions constituted electoral agitation. The court found that, on the Election Day, it is only the prerogative of the electoral bodies to address the voters urging them to participate at voting.</p> <p>The decision of the first instance court was also upheld by the superior courts.</p> <p>Art. 52 para (10) of the Electoral Code, prior to the amendments introduced by the Law no. 268/2018 provided that: „No election campaigning is allowed on election day and on the day before elections. This prohibition does not refer to information already placed on the Internet and the posters previously exposed.”</p> <p>By the Law no. 268/2018 this prohibition was excluded and currently the provision states that: „No electoral campaigning shall be allowed inside or at the entrance to the polling station on Election Day.”</p>		
Monaco	<i>No specific case law</i>	N/A	N/A
Serbia	<i>No specific case law</i>	N/A	N/A
Slovenia	<p><i>Unknown</i> (2016)</p> <p>Source: https://www.rtvsllo.si/news-in-english/supreme-court-on-election-blackouts-every-comment-is-not-propaganda/403791</p> <p>Saša Pelko was fined for posting an interview with the then-candidate for Maribor mayor, Andrej Fištravec, on Facebook, with the comment “Great interview, you’re invited to read it” during the election silence, which lasts the day prior to the elections and the election day. The Supreme Court determined that the regulation violated the freedom of expression and that citizens should be allowed to publish opinions on social networks, forums, and in the media, as well as to make comments in public, without it being considered propaganda.</p>	<p>Freedom of expression</p> <p>VS</p> <p>Equity of elections</p>	<p>Freedom of expression</p>
Spain	<i>No specific case law</i>	N/A	N/A
Sweden	<i>No specific case law</i>	N/A	N/A
Switzerland	<i>No specific case law</i>	N/A	N/A
Turkey	<i>Unknown</i> (2016)	Freedom of expression	Honor, Right to privacy

Country / Authority	Case Summary	Legal conflict	Ruling in favor of...
First Instance Court in Istanbul	<p>Source: https://www.unian.info/world/1696296-10000-social-media-users-currently-under-investigation-in-turkey.html</p> <p>Model and former Miss Turkey, Merve Buyuksarac, was handed down a 14 month suspended prison sentence for insulting the Turkish president, Recep Tayyip Erdoğan. In 2014 she shared a poem on Instagram which did not refer to Erdoğan by name but alluded to the corruption scandal involving his family.</p>	<p>VS</p> <p>Honor, Right to privacy</p>	
<p>USA</p> <p>U.S. District Court for the District of New Hampshire</p>	<p><i>Rideout v. Gardner, 14-cv-489-PB (2015)</i></p> <p>In 2014, a legal reform prohibited the sharing of digital images or photographs of marked voter ballots on social media. Three citizens who shared their ballots on Facebook challenged the law on First Amendment grounds. The Court ruled that the new law is a content-based restriction on speech that cannot survive the standard of strict scrutiny considering that New Hampshire does not have a problem with voter buying or other voter fraud.</p>	<p>Freedom of expression</p> <p>VS</p> <p>Equity of elections</p>	<p>Freedom of expression</p>