



# IFES POLITICAL FINANCE WHITE PAPER SERIES

## Spending Limits as a Policy Option

*Dr. Marcin Walecki  
IFES Political Finance Advisor*

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## Introduction

The current dissatisfaction with democracy expressed by citizens in many countries is—to a large degree—the result of perceived problems related to the role money plays in politics. For example, in Germany, Italy, Poland and the United Kingdom, citizens have loudly expressed their discontent with the state of democracy in general and with political corruption (and political finance) in particular. These citizens are upset because they believe the current financing of politics is violating the basic democratic values of equal opportunity, transparency and accountability. One way to bring the funding of political parties and candidates into line with these values is to regulate campaign expenditures through spending limits. This is a viable option, but such limits must be designed and implemented with care.

It is clear that the way political parties finance their activities (including campaign activities) influences how they interact with their members and the broader electorate; in turn, this interaction profoundly impacts the quality of new democracies. As a result, any regulation of campaign expenditures must follow careful consideration, but it can bring meaningful advantages. For example, such regulation can prevent corruption, increase political transparency, strengthen parties and introduce mechanisms that allow the public to make politicians more accountable.

In addition, regulations can enhance fair political competition. Keith Ewing, a professor of law at King's College, describes competition in an environment without political finance regulations as “inviting two people to participate in the race, with one participant turning up with a bicycle, and the other with a sports car.”<sup>1</sup> Because of the democratic belief that all should have equal opportunity to compete for political office, democracies have generally controlled the flow of money into politics, creating a framework of spending limits within which political parties and individual candidates can operate.

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<sup>1</sup> Keith D. Ewing, *Money, Politics and Law* (Oxford: Oxford University Press, 1992), p. 15.

## Spending Limits in Comparative Perspective

*Without limits on total expenditures, campaign costs will inevitably and endlessly escalate. ... Besides backing up the contribution provisions, expenditure limits have their own potential for preventing the corruption of federal elections themselves."*

**Supreme Court Justice White** (dissenting in *Buckley v. Valeo* court case)

Limits on party and campaign expenditures are used to avoid excessive increases in the cost of party politics, control inequalities between parties and restrict the scope of improper influence and corruption. Allan Ware, a professor of politics at Oxford University, suggests that, "One means of attempting to stop a 'feeding frenzy' among parties in their search for funds is to restrict how much they spend on a very costly activity—namely election campaigning."<sup>2</sup> Unrestricted spending can give an unfair advantage to those with access to money and may make politicians dependent on large contributors. In order to ensure equality of opportunity for different political forces, electoral campaign expenses should have a fixed ceiling. Such expenditure limits are also a means to prevent candidates or parties from indirectly buying votes (by, for example, inviting potential voters to expensive events with free music, gifts, food and drinks). These limits can either restrict the total amount a party or candidate may spend, or they can limit the amount spent in particular ways or on particular activities.

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<sup>2</sup> Peter Burnell and Alan Ware (eds.), *Funding democratization* (Manchester: Manchester University Press, 1998), p. 240.

**Table 1: Limiting Expenditures in Central Eastern Europe: Types of Regulation**

<b>Different types of regulation</b>	<b>CEE Countries (N=17)</b>	<b>Other Countries (N=60)</b>
Any spending limits (on parties and/or candidates)	59%	43%
Bans on paid political advertising	18%	36%

Source: Janis Ikstens, Daniel Smilov, and Marcin Walecki, *Campaign Finance in Central and Eastern Europe* (Washington, DC: International Foundation for Election Systems, 2002). See [www.ifes.org](http://www.ifes.org).

Of 60 democracies studied in 2002, 43 percent had enacted spending limits. In general, post-communist countries are more likely to regulate campaign spending (59 percent did so) than are other democracies. As illustrated in Table 2, limits on campaign expenditures are slowly becoming the standard in many European democracies. Such limits are applied either by setting a ceiling or by applying a formula (for instance, a multiple of the average monthly wage). Expenditure limits may consist of (1) an absolute sum per presidential candidate (as in Poland and the United States) or per party (as in the United Kingdom), (2) an amount determined by a measure like the minimum wage (as in Portugal), or (3) a sum fixed by the number of inhabitants in a constituency (as in France and Spain).

In general, the European approach has been to accept restrictions on campaign expenditures on the grounds that such restrictions help mitigate the potentially disruptive role money can play in politics.

**Table 2: Ceilings on Expenditures in Europe and Other Established Democracies**

<i>Country</i>	<i>Ceiling on party election expenditure?</i>	<i>What is the ceiling?</i>
<b>Austria</b>	No	-
<b>Belgium</b>	Yes, per election cycle	EUR 1 million
<b>Bulgaria</b>	Yes, per election cycle	Over EUR 1.5 million
<b>Canada</b>	Yes	Registered political parties and candidates must not exceed the election expense limits calculated by the Chief Electoral Officer under the formulas provided in the <i>Canada Elections Act</i> .
<b>Denmark</b>	No	-
<b>Finland</b>	No	-
<b>France</b>	Yes	In presidential elections, a party and its candidate may spend more than 16 million EUR in the first round and more than 20 million EUR in the second round. For parliamentary elections, both parties and candidates have a ceiling of 40,000 EUR plus more than 0.20 EUR per inhabitant.
<b>Germany</b>	No	-
<b>Hungary</b>	Yes	The ceiling is per candidate and per election.
<b>Ireland</b>	Yes	The ceiling is per candidate and per election.
<b>Italy</b>	Yes	The ceiling is per candidate and per election. There are additional limits for parties that present candidates in all constituencies.
<b>Latvia</b>	Yes	For parliamentary elections: 0.20 Centas per voter
<b>Lithuania</b>	Yes	1,000 times the average minimum wage for a list of candidates in a multi-candidate electoral area
<b>Netherlands</b>	No	-
<b>Norway</b>	No	-
<b>Poland</b>	Yes	More than EUR 3,500,000 (presidential elections)
<b>Portugal</b>	Yes	EUR 3,008,600
<b>Spain</b>	Yes, per election cycle	Established for each electoral cycle by the general accounting court
<b>Sweden</b>	No	-
<b>United Kingdom</b>	Yes	GBP 18,840,000
<b>United States</b>	No/Yes	Generally no limits but there are limits for certain local elections and voluntary limits for the presidential election.

Source: International IDEA [www.idea.int](http://www.idea.int) and author's own research

Expenditure limits usually apply to parties and candidates but can also apply to third parties (e.g., trade unions, NGOs), as they do in the United Kingdom and Canada. These two cases suggest that effective restrictions on campaign expenditures should clearly identify what counts as an election expenditure and clearly distinguish campaign from non-campaign expenditures. Restrictions should also specify (in a reasonable way) when the campaign begins. In addition, regulations should set reasonable limits on expenditures (as was done successfully in Poland). The limits should not be so low that they prevent effective political competition nor so high that they do not offer a meaningful ceiling on expenses. Finally, regulations must take inflation (or hyperinflation, if relevant) into account.<sup>3</sup>

### **The Real and Mythical Problems of Spending Limits**

Though spending limits can result in more fair political competition (among other things), they do present their own challenges. According to Herbert E. Alexander (considered by some as the foremost American expert on campaign finance):

[E]xpenditure limits are illusory in a pluralistic system with numerous openings for disbursements ... [W]hen freedom of speech and association are guaranteed, restricting money at any given point in the campaign process results in new channels being carved through which monied individuals and groups can bring their influence to bear on campaigns and officeholders.<sup>4</sup>

Furthermore, British political finance scholar Michael Pinto-Duschinsky summarized the problem of spending limits as follows:<sup>5</sup>

- a. Since parties and candidates do not wish to be punished for breaking laws on spending limits, they will often disguise spending above the limit. Thus, spending limits make disclosure provisions harder to enforce.

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<sup>3</sup> In Bulgaria, a 1991 spending limit was applied to the 1997 elections, but by 1997, inflation had reduced the value of the BGL by 3200 percent. Candidates' maximum allowable expenditure on the campaign (30,000 BGL) had been reduced to the equivalent of just US\$20.

<sup>4</sup> Herbert E. Alexander, 'Approaches to Campaign and Party Finance Issues', in Karl-Heinz Nassmacher (ed.), *Foundations for Democracy: Approaches to Comparative Political Finance* (Baden-Baden: Nomos, 2001), p. 198

<sup>5</sup> Michael Pinto-Duschinsky, *Review of the Nigerian Electoral Bill* (Washington, DC: IFES, 2004).

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- b. Spending limits tend to make life harder for opposition parties and candidates. This is because ruling parties are able to take advantage of public resources available to members of the government for partisan purposes. In the period before a general election, government information services often produce what is effectively party propaganda in the guise of “public information.” Government employees may be released from their public duties in order to perform services for the party instead. Government telephones, vehicles and the like may be used for political campaigning.
- c. Since spending limits apply only to the “campaign,” it becomes tempting to disguise what are effectively “campaign” expenditures as routine, non-campaign items. For example, if spending is defined as “campaign spending” only if it is incurred during a set period of time before an election, it will be possible for a party to prepare campaign broadcasts, to conduct policy research and the like in advance of the set period.
- d. It is the experience of a number of countries that, where opposing political parties all flout the laws concerning spending limits, “non-aggression pacts” are likely to occur. No party will bring accusations against another party for fear of itself being accused of disobeying the law.

## **Campaign Expenditure Limits: Myths and Realities**

### **1. MYTH: Spending limits violate candidates' freedom of speech.**

REALITY: Some argue that “money is speech” and that expenditure restrictions are therefore unacceptable burdens on the freedom of speech. This argument is grounded in the unacceptable notion that, in a democracy, those who have more money are entitled to more speech, and therefore greater influence over elections and public affairs. This is diametrically opposed to the basic “one-person, one-vote” principle of democratic equality. Further, allowing unfettered campaign spending enables well-financed candidates to drown out the voices of their opponents, reducing the overall quality and diversity of public debate.

### **2. MYTH: Spending limits help incumbents and handicap challengers.**

REALITY: At first, it might seem that since incumbents tend to enjoy greater name recognition and challengers often have to spend large sums to catch up and win races, spending limits would amount to “incumbency protection.” The facts do not bear this assumption out. Incumbents raise so much more money than challengers that a spending limit will actually tend to level the playing field and help challengers remain competitive. U.S. House incumbents, for example, out-raised challengers nearly 7 to 1 in the 2002 election cycle. Not surprisingly, these incumbents won 90% of the time.

### **3. MYTH: Spending limits prevent candidates from running effective campaigns, limit voter information and therefore dampen participation.**

REALITY: The notion that candidates need to raise huge amounts of money and saturate the airwaves with 30-second ads in order to run “effective” campaigns is relatively new. In fact, few would argue that attack ads or flagwaving spots are the best way to inform voters about important campaign issues. Reasonable spending limits will allow candidates to get their messages out with more substance and less flash. Freed from dialing for dollars constantly, campaigners can pursue opportunities to reach voters through avenues that cost more time than money (such as public forums, door-to-door campaigning, etc.).

### **4. MYTH: Spending limits are an untested and potentially dangerous idea.**

REALITY: The first spending limits law for congressional candidates was enacted in 1911 and updated in the Hatch Act of 1939. Unfortunately, these laws featured no enforcement mechanism, so spending limits were often ignored. However, Albuquerque, New Mexico, has enforced spending limits nearly continuously since 1974. The city points to many advantages of the policy including higher than average voter turnout; greater public confidence in local than in federal elections; and increased competition. This has led to overwhelming local public support for spending limits.

Source: The State PIRGs' Democracy Program (see [http://www.buckbuckley.com/pdfs/spending\\_limits\\_myths.pdf](http://www.buckbuckley.com/pdfs/spending_limits_myths.pdf)).

## Spending Limits as the Global Standard?

The standardization of democratic norms has become part of the process of globalization. These shared democratic norms include some bold anti-corruption initiatives drafted by international organizations like the Council of Europe and the World Bank. The Council of Europe became interested in the international fight against corruption because this problem (which is shared by all its member states) crosses borders and undermines its core values. Over the last decade, it has adopted a number of documents about the regulation of party financing.<sup>6</sup> The organization's Committee of Ministers adopted Recommendation (2003)4,<sup>7</sup> which is concerned with those aspects of funding political parties that are vulnerable to corruption. It includes a number of general rules that should underpin a state's legislation and practices relating to this subject. This recommendation is part of a comprehensive initiative asking member countries to take concrete steps to combat political finance-related corruption, including full transparency in party accounts, restrictions on funding sources, expenditure limits, reasonable public funding, independent enforcement and meaningful sanctions. In terms of public funding and expenditure limits, the Council of Europe's recommendations (Article 9: Limits on expenditure) state that:

States should consider adopting measures to prevent excessive funding needs of political parties, such as establishing limits on expenditures in electoral campaigns.

Several international governmental and nongovernmental organizations (such as the World Bank and Transparency International<sup>8</sup>) have advocated standards and best practices related to spending limits. The World Bank suggests that states should *limit expenditures*:

Make party politics as inexpensive as possible. Usually, the demand exceeds the supply of funds, leading to a search for funding that may breach legitimate frontiers. There is a lot to be said for reversing this relationship by mechanisms used in a large number of Western European and other countries: (i) allocating free time slots on

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<sup>6</sup> The Council of Europe has adopted a wide range of instruments related to party funding, including Parliamentary Assembly of the Council of Europe, Recommendation 1516 (2001), *Financing of political parties* (adopted on May 22 2001) and PACE Political Affairs Committee's "*Financing of Political Parties*," Doc. 9077 (4 May 2001).

<sup>7</sup> *Recommendation (2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns*. Adopted on 8 April 2003 at the 835<sup>th</sup> meeting of the Ministers' Deputies.

<sup>8</sup> See in particular, Policy Position #01/2005, *Standards on Political Funding and Favours* and #02/2005, *Political Finance Regulations*.

TV and radio to qualifying political parties, with no additional time allocation permitted; and (ii) imposing legal limits on spending, with actual expenditures subject to audit and to effective sanctions in the case of breaches of the limits.<sup>9</sup>

### **Ban on Paid TV Advertising: A Successful Option?**

As illustrated in Table 1, the only type of regulation found more often in countries without a communist past than in countries with one is a ban on paid political advertising. This situation came about because, at the beginning of the democratic transition in most post-communist countries, legislators did not see political advertising on private television and radio as a primary mode of political communication.

Some observers argue that such bans on paid advertising are helpful. In Michael Pinto-Duschinsky's view, the "ban on paid political advertising on TV is arguably far more effective than formal limits on parties' spending in limiting the costs of electioneering."<sup>10</sup> Alan Ware argues that the function of such a prohibition (where it exists) is "to prevent the frenzied drive for money that the possibility of saturating the airwaves with advertising might generate; it is also intended to provide a certain equality of access to viewers—at least equality among similarly sized parties."<sup>11</sup> However, the opponents of paid advertising bans claim that such regulations not only limit the media's ability to inform the public comprehensively and objectively about the elections but also might marginalize opposition and, as a result, aid an undemocratic government by allowing it to take advantage of state-controlled TV.<sup>12</sup>

In the United Kingdom, the purchase of media airtime for political advertising is prohibited. However, the BBC (by convention) and certain independent television and radio

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<sup>9</sup> Adopted from World Bank 2000, *Anticorruption in Transition: A Contribution to the Policy Debate* (Washington, DC, 2000).

<sup>10</sup> Pinto-Duschinsky (2001), p. 22.

<sup>11</sup> Ware (1998b), p. 241.

<sup>12</sup> The experience of the opposition in India is also telling. According to Kersi Nehra, "This inability of the opposition to use the powerful television and radio communication media led to their charging the government with taking an unfair advantage of them. They argued that the Congress Party's policies and programs were exclusively propagated and publicized through radio and television under the guise of government information. This led the opposition to demand equal time and opportunity to air their party programs." Kersi Nehra, "India," in Law Library of Congress, *Report for Congress: Campaign Financing of National Elections in Selected Foreign Countries*, LL-97-3 May 1997 (Washington, DC: Library of Congress, 1997), p. 104. See also *Ibid*, p. 87.

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broadcasters (by statute) provide airtime free of charge to qualifying parties at election time and at other key dates in the political calendar. This advertising does not constitute direct state aid since it is provided at no cost to the public purse. Under current arrangements, any party fielding candidates in one-sixth of the seats being contested at an election qualifies for broadcast time, and major parties are allocated a series of broadcast slots.

In Poland, limits on paid media advertising during parliamentary elections were first introduced in the 1993 elections.<sup>13</sup> They mandated that the time allocated for paid advertising could not exceed 15 percent of the total free broadcasting time allocated to a particular party. However, a 2001 law abolished these specific limits. According to the new regulations, expenditures by parties/candidates on advertising activities for local races (or those that resemble them in manner and mode, including press publications) cannot exceed 80 percent of the national limit. However, the 1993 regulations are still in force for presidential elections. Each party can broadcast paid election programs between the 15th day before polling and the last day of the election campaign. However, the total time assigned to paid broadcasting cannot exceed 15 percent of the time a given committee devotes to broadcasting free election programs.

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<sup>13</sup> The Act of 28th May, 1993, on elections to the Sejm of the Republic of Poland, Art. 142-145.

## Conclusions

Illicit party and campaign financing is certainly not a recent development. Rather, it has long been a common phenomenon in many democracies. However, it has recently been recognized as a major cause of declining public trust in democratic governments. Given the diversity of political systems and democratic development, there is no single, best solution any government can use to combat political finance–related corruption. Rather, these systemic differences means there is a range of effective practices.

Over the last decade, citizens and politicians have become much more sensitive to charges of corruption, and now any new scandal seems to initiate demands for stricter sanctions. The experience of Central Eastern Europe demonstrates that it is easy to portray corruption as the root of poor performance by political parties, impose new restrictions on funding sources of funding, and increase public subsidies for campaigns. However, as Hayden Phillips (who recently reviewed the UK’s political finance system at the request of the Prime Minister) observed recently:

The reform of party funding is not an end in itself, but a means to achieve the wider benefit of improving the quality of democracy.<sup>14</sup>

The frequency and speed with which new regulations concerning party funding are enacted can make many of these laws overambitious and difficult to implement. It took established democracies decades to build the capacity to detect political finance irregularities, to move from regulating systemic electoral fraud to individual acts of corruption, to educate political parties, to train enforcement agencies and to introduce the necessary preventive measures. Furthermore, the pressure to introduce complex financial restrictions might conflict with differences in the level of party institutionalization, the distribution of money and wealth, and the principles such restrictions protect.<sup>15</sup>

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<sup>14</sup> “The Review of the Funding of Political Parties: An Interim Assessment,” October 2006. See [www.partyfundingreview.gov.uk](http://www.partyfundingreview.gov.uk).

<sup>15</sup> As Ewing (2006) rightly observes: “the choice of regulatory method will depend on a number of factors, not least the history and political tradition of the jurisdiction in question.”

## Appendix I: Spending Limits Case Studies

### Case Study I: Great Britain

In Britain, the regulation of campaign expenditures was a response to a variety of electoral abuses. The introduction of the Corrupt and Illegal Practices Act of 1883 was characterized by Charles Seymour as “a landmark in the development of democracy in England.”<sup>16</sup> The main characteristic of the 1883 Act was its introduction of limits on the election expenditures permitted in each constituency, and it was backed by strong regulations to ensure enforcement. However, as Pinto-Duschinsky points out: “The law is not watertight. An experienced election agent can normally find ways of stretching permitted expenditures. (...) It is not possible, however, to abuse the limits on a large scale without risking the draconian penalty of having his election declared void.”<sup>17</sup> Strict limits on parliamentary candidates’ expenditures are the best-known feature of British political finance regulation.

The national campaign expenditure limits enacted in 2000 (under the Political Parties, Elections and Referendums Act or PPERA) reflected growing public concern about the accelerating cost of general elections and the pressure the main parties felt to outspend each other. This so-called “arms race” had brought with it an unhealthy and persistent drive to raise ever larger funds to pay for campaigning. According to the new law, all parties contesting an election are subject to limits on expenditures incurred in the “regulated period” in advance of election day. These limits are separate from the limits on election expenses incurred by individual candidates running in the election. Parties are subject to different expenditure limits in different elections. These limits are determined by the number of constituencies and/or regions in which the party is contesting seats:

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<sup>16</sup> He also argued that the Corruption Practices Act “sought to curtail the irregular and illegitimate expenditure that had grown up in place of old-fashioned bribery.” See Charles Seymour, *Electoral Reform in England and Wales* (Devon, UK: David&Charles Reprints, 1970), pp. 454-455.

<sup>17</sup> Pinto-Duschinsky (1981), p. 249.

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<b>Election</b>	<b>Regulated period (ends with the date of the poll)</b>	<b>How spending limit determined</b>	<b>Maximum that can be spent (for party contesting all constituencies/regions)</b>
Westminster	365 days	£30,000 per constituency contested <sup>18</sup>	£18.84m GB £540,000 NI
Scottish Parliament	4 months	£12,000 per constituency contested plus £80,000 per region contested	£1.516m
National Assembly for Wales	4 months	£10,000 per constituency contested plus £40,000 per region contested	£600,000
Northern Ireland Assembly	4 months	£17,000 per constituency contested	£306,000
European Parliament	4 months	For each region contested, £45,000 multiplied by the number of MEPs returned for that region	£3.375m GB £135,000 NI

**Table 12: Campaign spending at the 2001 general election<sup>49</sup>**

Party	No. of seats contested	Campaign expenditure limit (£)	Campaign expenditure incurred (£)	% of limit incurred
The Conservative and Unionist Party	640	15,360,000	12,751,813	83
The Labour Party	640	15,360,000	10,945,119	71
Liberal Democrats	639	15,336,000	1,361,377	9
Scottish National Party	72	1,728,000	226,203	13
Ulster Unionist Party	17	408,000	167,495	41
SDLP (Social Democratic & Labour Party)	18	432,000	155,565	36
Plaid Cymru – The Party of Wales	40	960,000	87,121	9
Democratic Unionist Party	14	336,000	73,230	22
Sinn Féin	18	432,000	18,508	4
Independent Kidderminster Hospital and Health Concern	1	30,000	0	0

Source: The Electoral Commission (2002) *Election 2001: Campaign spending*.

### **Third Parties**

Under PPERA, a third party is defined as an individual or organization that is not standing or fielding candidates in an election, but that campaigns for or against a political party, parties or group of candidates in the election. Any third party that intends to spend more than £10,000 campaigning in England (or £5,000 in Scotland, Wales or Northern Ireland) in a “relevant election” is required to register with the Electoral Commission as a recognized

<sup>18</sup> In elections to Westminster, a party’s spending limit is the greater of two possibilities: £30,000 multiplied by the number of constituencies being contested or £810,000 in England, £120,000 in Scotland, and £60,000 in Wales.

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third party. The following are “relevant elections”: (1) UK Parliament, (2) European Parliament, (3) Scottish Parliament, (4) National Assembly for Wales and (5) Northern Ireland Assembly.

A recognized third party can be any of the following: an individual in an electoral register or resident in the United Kingdom, a UK registered company, a UK registered trade union, a UK registered building society, a UK registered friendly society, a UK registered limited liability partnership or a UK-based unincorporated association. Once a third party is registered with the Electoral Commission as a recognized third party, it is allowed to spend more money. The limits on controlled expenditures apply to a specified regulated period leading up to the date of the election. For recognized third parties, the regulated period is the same as for political parties, although recognized third parties are permitted to spend much smaller amounts.

Election	Regulated period (ends with the date of the poll)	Controlled expenditure limits			
		England	Scotland	Wales	Northern Ireland
Westminster	365 days	£793,000	£108,000	£60,000	£27,000
Scottish Parliament	4 months	N/A	£75,800	N/A	N/A
National Assembly for Wales	4 months	N/A	N/A	£30,000	N/A
Northern Ireland Assembly	4 months	N/A	N/A	N/A	£15,300
European Parliament	4 months	£159,750	£18,000	£11,259	£6,750

To register as a recognized third party, the party must notify the Electoral Commission. The PPERA regulates all controlled expenditures incurred by third parties during a specified “regulated period” leading up to an election. For each election, the regulated period ends with the day of the election. The regulated periods for relevant elections are listed in the table above.

After the end of a regulated period, recognized third parties that contested an election must disclose their controlled expenditures and donations to the Commission. Recognized third parties are required to submit the information to the Commission within

prescribed time limits, depending on how much they spent (£250,000 or less—three months after election day; more than £250,000—six months after election day).<sup>19</sup>

## Case Study II: Poland

In 2000, Poland largely reshaped its presidential election law.<sup>20</sup> As a consequence of these changes, new general spending limits for both presidential and parliamentary elections were applied. For presidential elections, a common ceiling was established for all participants. According to the law, the total expenditures of a committee in presidential elections could not exceed 12 million PLN (3 million EUR) and the national limit is regularly adjusted for inflation (when the rate rises above 5 percent). However, tough scrutiny during the 2000 presidential election showed that this spending limit was not observed in practice, having been set at an unrealistically low level. In fact, the amounts spent during the first round of elections by the two main candidates, Kwaśniewski and Krzaklewski, were just below the official limit set for both rounds of elections.<sup>21</sup>

## Case Study III: United States

In 1976, the U.S. Supreme Court held the three primary provisions limiting campaign spending to be unconstitutional in *Buckley v. Valeo*. These limits capped independent expenditures, the private resources a candidate could use, and total campaign spending for candidates running for federal office.<sup>22</sup> In the landmark decision, the Court, influenced by the First Amendment and freedom of speech considerations, undermined comprehensive legislation passed in the aftermath of Watergate. In the judgment of Ewing, “the Court was not persuaded that the controls were necessary to equalize the relative ability of individuals and groups to influence the outcome of elections.”<sup>23</sup>

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<sup>19</sup> See the web site of the Electoral Commission: <http://www.electoralcommission.gov.uk/>.

<sup>20</sup> The Act of 27th September 1990 on Election of the President of the Republic of Poland.

<sup>21</sup> See Appendix III for candidate’s financial reports.

<sup>22</sup> In the view of the US Supreme Court, “The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment ... The First Amendment’s protection against governmental abridgement of free expression cannot properly be made to depend on a person’s financial ability to engage in public discussion.” See *Buckley v. Valeo*, 424 US 1 (1976), at pp. 48-9.

<sup>23</sup> Ewing (1992), p. 29.

## Case Study IV: Canada

In Canada, spending limits for political parties and candidates were first introduced in 1974 and expanded in 2003. They are considered to be the cornerstone of Canadian democracy. In 2003, limits were raised and a broader definition of election expenses was included. Regulated expenses now include public opinion surveys, leaders' tours and staff salaries. The spending limits also include third parties. According to the Canadian legislation, a "third party" is a person or group other than a candidate, registered political party or an electoral district association of a registered political party. The following obligations apply to third parties.

- Any third party, immediately upon incurring \$500 in election advertising expenses after the issuance of the writ, must register with Elections Canada.
- All third parties must identify themselves on their election advertising and state that the ad was authorized by the third party.
- Third parties must appoint a financial agent to accept all contributions for election advertising purposes and authorize all election advertising expenses on behalf of the third party.
- Third parties that spend \$5,000 or more on election advertising must appoint an auditor.
- Third parties must not use anonymous or foreign funds for their election advertising.
- Third parties will have to report the details of their election advertising expenses within four months after election day.
- Third parties must not incur election advertising expenses of a total amount of \$168,900 during an election period in relation to a general election, and not more than \$3,378 of that amount may be incurred to promote or oppose one or more candidates in a given electoral district.
- Third parties must not circumvent or attempt to circumvent the spending limits.
- Third parties will have to report who contributed money to the third party for election advertising purposes in the period beginning six months before the issue of the writ and ending on election day.
- Third parties, political parties and candidates must not transmit election advertising to the public on election day.<sup>24</sup>

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<sup>24</sup> See <http://www.elections.ca/>.