POLITICAL FINANCE IN EASTERN EUROPE

THE TRANSITIONAL PERIOD

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Table of Contents

Introduction **4**
Party Funding, Campaign Finance and Corruption in Eastern Europe – Daniel Smilov
Political funding and the general character of democratic systems
Problems of political finance in Eastern Europe
Conclusion

Bulgaria **32**
Campaign Finance in Bulgaria - Dobrin Kanev
Introduction
Description of the Campaign Finance Model
Analysis of the Campaign Finance Model
Conclusion

Croatia **56**
Party and Campaign Financing in Croatia – Josip Kregar, Viktor Gotovac, and Djordje Gardašević
Introduction
Description of a Campaign Financing Model
An Analysis of the Campaign Financing Model
Conclusions
References

Czech Republic **73**
Party Funding in the Czech Republic - Císař Ondřej and Tomáš Petr
Introduction
Description of the Party-Funding Model
Analysis of the Party-Funding Model
Conclusions
References

Hungary **96**
Party Funding in Hungary- Zsolt Enyedi
Introduction
Description of the Party-Funding Model
Analyses of the Party-Funding Model
Conclusion
References

Macedonia **108**
Party Funding and Campaign Finance in Macedonia – Renata Treneska
Introduction
Description of the Party-Funding Model
Description of the Campaign Finance Model
Analysis of the Party-Funding and
Campaign Finance Models

Conclusion

Poland **131**
Political Finance in Poland – Marcin Walecki
Introduction
Analysis of the Political Finance Model
Conclusion

Russia **156**
Party Funding in Russia - Jeff Gleisner
Description of the Party-Funding Model
Analysis of the Party-Funding Model
Conclusion: the Impending Crisis of Russian Party Funding
References
Appendix

Serbia **177**
Party Finance in Serbia - Vladimir Goati
Introduction
Description of the Party-Funding Model
Analysis of the Party-Funding Model
Conclusion
References

Slovenia **189**
Party Funding in Slovenia - Jurij Toplak
Introduction
Description of the Party-Funding Model
Analysis of the Party-Funding Model
Conclusions
References

Ukraine **209**
Political Finance in Ukraine - Oleh Protsyk and Marcin Walecki
Description
Analysis
Conclusion
References

Introduction: Party Funding, Campaign Finance and Corruption in Eastern Europe

Daniel Smilov

Political funding is important from two main perspectives. Firstly, parties and candidates in elections are essential elements of the democratic process. The main goal of legal regulation of party funding is to ensure a viable political system with stable and accountable political parties capable of representing the interests of the voters.

Secondly, party funding is important from the point of view of the currently fashionable issue of political corruption. It is a common belief that the financing of political parties provides fertile ground for the development of corrupt practices. This is a problem that is not confined to Eastern Europe. Established democracies such as Germany, France and Italy have been plagued by corruption scandals relating to political finance, while the USA is notorious for its extravagantly expensive electoral campaigns, which regularly breed accusations of corrupt or illegitimate funding practices.

At present, the popularity of the issue of corruption has almost overtaken concerns about the stability and legitimacy of the party systems in transitional democracies. This seems to be a serious mistake. Concerns for democracy should come first, especially in the context of Eastern Europe. Corruption is certainly a serious flaw in any system of government, but its significance should not be exaggerated. After all, recent attempts to portray corruption as a major cause of the poor performance of democratic regimes, or even widespread poverty, are yet to be fully substantiated.

On the other hand, anti-corruption drives and rhetoric have often led to the destabilization of democratic systems, or have prevented their consolidation. In Eastern Europe, quasi-authoritarian leaders, such as Aleksander Lukashenko in Belarus, have won power by accusing their political opponents of corruption. It is probably no coincidence that in popular perception the present democratic systems are more corrupt than the socialist regimes they replaced. In general, anti-corruption rhetoric can have curious results from the point of view of democratic party competition. For instance, in 2001, Simeon Sakskoburggotski, formerly King Simeon II of Bulgaria, won the elections in that country by exploiting popular mistrust of Ivan Kostov, the incumbent prime minister. Kostov was widely believed to be corrupt, although there was no evidence to support such a belief except for imaginative accounts in the tabloid press.

Thus, the major problem facing policy analysts dealing with public funding in the region is to remain conscious of the tension between anti-corruption and democratic concerns. Whenever there is a need to make a trade-off between the two, it seems that democracy should be given priority, unless there are very strong reasons to the contrary.

This book looks at the issue of political finance, incorporating both campaign finance and party funding, through the twin lenses of democratic consolidation and anti-corruption concerns. Each of the subsequent chapters presents a case study of the legal regulation and the practice of political funding in an East European country. Ten countries are covered: Bulgaria, Croatia the Czech Republic, Hungary, Macedonia, Poland, Russia, Serbia, Slovenia, and Ukraine. The chapters focus on the first decade of the transition period, namely the period between the late 1980s and the first two years of the new century. Some chapters discuss mainly campaign finance, while others explore the issue of party funding, although it is often

difficult to distinguish between these two areas. For the sake of consistency and comparison, the contributors to the volume have followed a rather detailed questionnaire; this explains the similarity in the structure of the case studies.

The book does not attempt to present a detailed, up-to-date description of the legal regulation of the field. This would be an impossible task bearing in mind the constant legislative changes and the level of legal complexity characteristic of this sphere of regulation. Rather, it offers a set of tentative generalizations on the basis of an overview of party funding and campaign finance practices in Eastern Europe during the first decade of transition to liberal democracy and market economy.

1. Political funding and the general character of democratic systems

The primary function of political funding regulation is to ensure a stable and viable democratic process of representation. Political parties and electoral candidates need to have sufficient resources in order to fulfill their representative function successfully. It is therefore no surprise that national regulation of political finance is tailored to take account of the institutional and ideological specificity of the given democratic system.

1.1 Institutional specificity

Some of the most important reasons for the divergence among models of political finance are the different *separation of powers* structures and the different *electoral systems* used in democracies. The institutional choices that most directly account for the divergence are, on the one hand, the choice between a presidential and a parliamentary system, and, on the other, the choice between a majoritarian and a proportional representation electoral system. Presidential regimes, especially in combination with majoritarian electoral systems, tend to weaken the political parties and boost the influence of individual candidates and representatives in the democratic process. This is especially true of the US, where individual candidates are the central players in (electoral) politics, and in campaign finance in particular. Accordingly, US-type models can be called "candidate-centered" models of political finance.

In Eastern Europe "candidate-centered" models are not widespread, but some federal countries with large populations, such as Russia and Ukraine, come close to this ideal type in certain respects. The most important feature of these models is that, at the federal level, the priority of parties in political funding is contested by individual candidates and by ad hoc electoral associations. In the region, "candidate-centered" models tend to accord well with presidential (or super-presidential) systems of government, in which political parties are, as a rule, weaker than parties in parliamentary systems. This is so because in such systems governments are appointed by powerful presidents and need not rely on the support of a majority in the legislature for their existence. Since political parties are most powerful and necessary when they participate in the formation of a majority government, the heavy pro-presidential and anti-parliamentary biases in the constitutional structures of both Russia and Ukraine weaken the parties in these two countries, obliging them to compete for influence with "clans", "oligarchic" groupings and ad hoc formations of representatives seeking to obtain presidential favors. Indeed, there have been certain tensions between the presidents of each of these two countries and the main parties in the respective federal legislatures: the presidents have preferred to prevent the emergence of strong, programmatic parties, and to

rely on the so-called "parties of power", namely groupings of representatives supporting the views of the president.

Not surprisingly, as the chapters on Russia and Ukraine demonstrate, the regulation of party funding and campaign finance has reflected the pro-presidential constitutional bias in the presidential/super-presidential systems of Eastern Europe. Thus, over the first decade or so of transition to democracy, political parties in these countries have failed to enjoy any significant form of state financial aid. Also, they have not been given special privileges in campaign finance matters vis-à-vis ad hoc "electoral associations" or individual candidates, either in terms of registration requirements, or in terms of direct or indirect state aid. On the contrary, state aid, to the extent that it exists, has been channeled through individual candidates. It is no coincidence that the first law on political parties in Russia came into being only in 2001: before that, President Yeltsin tended to see the creation of strong parties in the State Duma as a threat to the stability of his rule; his strategy was therefore to avoid giving political parties any privileges vis-à-vis other public associations through the introduction of special party laws. As the chapter on Russia shows, the adoption of the party law in 2001 could hardly be seen as a radical departure from this strategy, but rather as a creative adaptation of it to the new realities.

In contrast to the "candidate-centered" models, there is a second type of political finance model, one that could be termed "party-centered". As a rule, it emerges in parliamentary systems where legislative majorities based on strong, cohesive parties are needed to support the government. Proportional representation electoral systems tend to facilitate the emergence of the "party-centered" model, although it can exist even in countries with majoritarian electoral systems, as the example of the UK demonstrates. The principal "party-centered" models are the parliamentary systems of Continental Europe and Scandinavia. Most of the countries of Central Europe fit this ideal type. The most important feature of these models is that the political parties are the major actors in terms of political funding: they carry the major burden in respect to the raising of funds, they are responsible for the bulk of the expenditure, and they are the main beneficiaries of state aid. The pro-party constitutional bias of these systems is reflected in the regulation of political finance as well. Where state aid is available, it benefits mostly established parties with parliamentary representation. There are numerous regulations that impose burdens on individual candidates and ad hoc electoral groups in terms of registration and fund-raising for elections. Distribution of in-kind state aid, e.g. free airtime, is also done through the major parties.

The difference between party-centered and candidate-centered models impedes the introduction of detailed, universally binding rules in the area of political finance regulation. For instance, questions such as who should be the recipient of public funding – the political parties or the candidates themselves – have to be answered on a case-by-case basis. The same is true of questions concerning the provision of free airtime on the public electronic media, sanctions in cases of violation of funding rules, and so forth.

1.2 Ideological specificity

The second major fault line between political finance models concerns the ideological debate between egalitarian and libertarian political views. Libertarians generally believe that the social status quo should be taken as a given and that the state should not attempt to equalize the chances of actors possessing unequal initial resources. If a particular actor has superior financial resources that have been legitimately acquired, he or she can bring these resources to

bear in political competition, and in electoral campaigns in particular. In the USA, this libertarian logic is constitutionally entrenched in the principle that "money is speech"; this gives unlimited electoral expenditure protection under the First Amendment, as a form of political expression. Therefore, limits on expenditure are prohibited in the USA, and limits on private contributions are acceptable only to the extent that they serve anti-corruption purposes. Models that espouse similar ideological principles could be called "libertarian" models of political finance.

In contrast to the libertarian models, there are "egalitarian" models. These are based on the principle that the social status quo, and especially differences of wealth and financial resources, should be neutralized in the context of political competition. In terms of political finance, this neutralization is done through a variety of instruments, which fall into two major categories: state aid to help equalize the resources of the major political actors and the introduction of expenditure and contribution limitations designed to decrease the influence of wealthy political donors. The German model of political finance relies mainly on the provision of generous state aid for purposes of equalization; the UK model, after the reforms of 2000, relies on expenditure limits with the same aim. Most West European models could be described as "egalitarian" (although to different degrees) insofar they consider state intervention directly affecting the resources of political actors to be legitimate. East European states generally follow this pan-European trend, and also tend to opt for egalitarian regulation of political finance, with a few exceptions, as in the case of Latvia. This ideological egalitarian bias should come as no surprise in the region, bearing in mind the legacy of communism, which placed heavy emphasis on social equality and state intervention.

Table 1 below demonstrates the egalitarian bias in political finance regulation in Eastern Europe, in terms of the widespread existence of state aid, both financial and in kind, and of expenditure and contribution limits.

Table 1. The Regulation of Political Finance in Eastern Europe[1]

	SUBSIDIES	**REGULATIONS**

[1] The table is based on Janis Ikstens, Daniel Smilov and Marcin Walecki (2002) *Campaign Finance in Central and Eastern Europe: Lessons Learned and Challenges Ahead*, International Foundation of Electoral Systems, Washington. Also available at: http://www.ifes.org/reg_activities/Pdf/CEE_CampFinEng.pdf

Country	Public Funding	Tax Relief	Free Broad-casting	In-kind Sub-sidies	Public Disclos-ure	Contri-bution Limits	Spend-ing Limits	Ban on Foreign Dona-tions	Ban on Paid Political Adver-tising
Albania	YES	NO	YES	YES	NO	NO	NO	PART-LY	NO
Armenia	YES	NO	YES	YES	YES	YES	YES	YES	NO
Belarus	NO	NO	YES	YES	NO	NO	YES	YES	NO
Bosnia/H	YES	YES	YES	YES	YES	YES	YES	NO	YES
Bulgaria	YES	NO	YES	YES	YES	YES	YES	YES	NO
Croatia	YES	NO	YES	YES	YES	NO	NO	NO	NO
Georgia	YES	NO	YES	YES	YES	NO	NO	PART-LY	NO
Hungary	YES	YES	YES	YES	YES	NO	YES	PART-LY	NO
Latvia	NO	NO	YES	YES	YES	YES	NO	YES	NO
Lithuania	YES	NO	YES	YES	YES	NO	YES	PART-LY	NO
Macedonia	YES	YES	YES	YES	YES	YES	YES	YES	NO
Moldova	NO	NO	YES	YES	YES	NO	NO	YES	NO
Poland	YES	NO	YES	YES	YES	YES	YES	YES	NO
Romania	YES	NO	YES	YES	YES	YES	NO	PART-LY	NO
Russia	YES	NO	YES	YES	YES	YES	YES	YES	NO
Slovakia	YES	NO	YES	NO	YES	NO	YES	YES	YES
Slovenia	YES	YES	YES	YES	YES	YES	YES	YES	NO
Turkey	YES	NO	YES	NO	NO	YES	NO	YES	NO
Ukraine	NO	NO	YES	YES	YES	YES	YES	YES	NO
TOTAL	**79%**	**21%**	**100%**	**89%**	**84%**	**58%**	**63%**	**89%**	**11%**

	N=19	N=19	N=19	N=19	N=19	N=19	N=19	N=19	N=19

Yet despite these egalitarian biases, there is no single pattern in terms of the ideological division between egalitarian and libertarian models, just as there is no single pattern in terms of the division between "party-" and "candidate-centered" models. The bewildering variety of regulatory solutions makes generalization difficult and seems to justify contextual analysis.

The variety of models becomes even harder to tackle when the *actual* practices in the countries are taken into account. Thus, although 79 percent of the East European countries listed in the table above have some sort of public financing of parties and candidates, in many this public funding has been symbolic, while the major source of party funding has been private corporate donations. Such has been the case with Bulgaria (until 2001), Russia, Ukraine, and, to a lesser extent, Macedonia. As a rule, the countries of Central Europe have developed political finance models that depend heavily on state subsidies for political parties. Examples of countries where this is the case are Slovenia, Hungary, the Czech Republic, and Estonia,

In this respect, the Central European countries best fit the "egalitarian" model suggested above. Yet only Poland has made a genuine attempt to limit the influence of corporate donations in electoral contexts, by banning corporate donations in presidential elections and by limiting them in parliamentary ones. In the other countries there are no restrictions on corporate funding. In fact, the great majority of private political donations come from corporations.

2. A general issue: The status of political parties in democracies

A third question, one that cuts across the institutional and ideological factors impacting on the character of political finance regulation discussed above, is the status of political parties within the public order of democracies. The classic dilemma is whether to treat political parties as civil society organizations on the one hand, or as state constitutional bodies on the other. For instance, if political parties are seen as civil society organizations, they may claim a right to privacy regarding their funding matters. By contrast, if they are treated as quasi-state bodies, then their finances should be just as transparent as those of budgetary organizations. Also, in this case the access-to-information law applicable to state bodies should regulate access to the income and expenditure of political parties, which should be obliged to give data to citizens upon request.

The classical "libertarian" approach to the issue considers parties to be civil society organizations immune from state intervention in their activities. This approach would suggest that parties have the right to regulate their internal affairs, including funding matters, without limitations and restrictions imposed by the state. Yet because of the danger of corruption, purist versions of this approach have fallen out of favor even in "libertarian" models. There is a general trend towards the requirement of transparency in the funding matters of parties and their electoral candidates.

Even so, the tension between the libertarian interpretation of parties as civil society groups and a more "statist" approach is discernible in other aspects of political finance regulation, such as the provision of state financial and in-kind support. In Germany, this

dilemma has informed the jurisprudence of the Federal Constitutional Court ever since its first decisions on party funding.[2] Also, the dilemma is apparent with regard to the choice of state body responsible for exercising control over the financing of parties. Should this be the State Audit Office (as in the case of state bodies), an independent commission, an administrative agency, or even a court?

Different countries give different answers to these questions, and in many countries of Eastern Europe there have been no definite answers as yet. Generally speaking, parties enjoyed considerable privacy in the first ten years after the fall of communism, despite (or because of) the poor quality of regulatory efforts to ensure a degree of transparency and enforceability. Parties have in this region been seen mainly as civil society organizations. In relation to transparency, there has been an effort to provide reporting and disclosure rules by means of special party and campaign finance laws. The ambiguous position of parties between civil society and the state has been most perceptible with regard to the enforcement of these laws: so far no agency has been chosen to undertake this task.

There is an increasing tendency in the region to use State Audit Offices (SAOs) to control the finances of political parties. But as the experience of many countries demonstrates, these bodies lack sufficient resources and prerogatives to audit properly the internal affairs of political parties. They are efficient at controlling the *state* aid received by parties, but are generally inefficient at controlling private funding. Another option is a parliamentary commission. This device has proved almost ineffective, especially in parliamentary systems. The problem is mainly the in-built conflict of interest from which these bodies suffer: they lack the independence necessary for the exercise of control over political parties. The judiciary is a third option, but, generally speaking, this has not been adequately utilized in Eastern Europe. One reason is that party financing is seen as a "partisan" matter, one in which the judiciary should not interfere. However, a deeper reason is that many countries in the region, such as Bulgaria and Romania, exhibit a very low level of public trust in the judiciary, which is seen as one of the most corrupt branches of power. Finally, the option of independent commissions, such as electoral commissions, has also been explored. Unfortunately, this hybrid option has suffered from most of the weaknesses of the options discussed above, and does not seem to have enjoyed any obvious advantages vis-à-vis its rivals.

A second area, one in which the tension between treating parties as civil society organizations or as state bodies has been apparent, is the relationship between political parties and party foundations. At one end of the spectrum of possible solutions, there is no difference between the political parties and civil society associations such as foundations. Parties and foundations enjoy the same rights and privileges and follow the same set of rules. At the other end, there is a formal separation between political parties and (their) foundations in terms of organizational and funding regulations. The German model, for instance, attempts to follow the logic of this latter concept by making a formal distinction between these two types of organization. By contrast, Russian practices (before 2001) followed generally the logic of the former concept.[3] In both solutions prevention of the channeling of money to political parties

[2] For a discussion in English see the section on political parties in Donald Kommers (1997) *The Constitutional Jurisprudence of the Federal Republic of Germany*, Duke University Press.

[3] For an informative discussion see Michael Pinto-Duschinsky (1991) "The Party Foundations and Political Finance in Germany", F. Leslie Seidle (ed.), *Comparative Issues in Party and Election Finance*, Dundrum Press, Toronto and Oxford.

through chains of foundations and other NGO associations encounters considerable difficulties. This problem is particularly acute in Eastern Europe, where countries tend to be at the "Russian" rather than the "German" end of the above spectrum. Even in countries that provide specific rules for the funding of political parties (one such country is Bulgaria), these rules are systematically evaded through the establishment of foundations associated (often in clandestine and profoundly non-transparent ways) with political parties.

Finally, a third area in which the dilemma between parties as civil society bodies and parties as state organs is present is the regulation of the internal affairs of political parties. If the parties are quasi-state bodies, the state has a legitimate interest in regulating their internal affairs; if they are not, state intervention should be avoided as much as possible. Eastern Europe has adopted a remarkably libertarian approach on this issue and has allowed the parties to determine their internal rules regarding financing as they see fit. As a result, finance matters have become the exclusive domain of very small circles of people around the party leaders. There is hardly *any* degree of internal accountability regarding financial issues. Paradoxically, this fact, a strong incentive for the emergence of forms of political corruption, has consistently escaped the attention of corruption-fighters in the region.

3. The specificity of "transition"

The first decade after the fall of the communist regimes in Eastern Europe in 1989 is characterized as a decade of "transition" to liberal democracy and market economy. This description assumes that some of the problems experienced by the countries in the region are *not* shared by liberal democracies, but are specific to countries in which liberal democracy has not consolidated all its essential components. Some countries in the region have still not completed the transition process, or have even succumbed to semi-authoritarianism or various forms of quasi-democratic populism.[4] The countries of South East Europe are in a particularly difficult position from this point of view, since the civil war in former Yugoslavia slowed down the processes of democratization and created conditions for the emergence of organized crime. The same can be said of the countries of the former Soviet Union.

Although true to a considerable degree, this picture, which presents all the countries in the region as heading for liberal democracy (while making uneven progress on the way), has already proved misleading. In some countries, including arguably Ukraine and even Russia, the problem is no longer the lack of "consolidation" of a democratic system, but rather the "consolidation" of a political system democratically wanting in important respects. In other words, the problem is not that democracy is not yet the only game in town, but that something other than democracy has overshadowed all other games. To call such problems "transitional" is over-optimistic, to say the least.

In terms of political finance, it is a common mistake to interpret party funding and campaign finance problems as the inevitable side effects of a transition to fully-fledged democracy. As the scandals in Western Europe and the US show, political finance corruption and malpractice are not "childhood maladies" of democracy, but can affect mature democratic bodies as well. Similarly, some party funding and campaign finance problems may not simply be a corruption of democracy, but rather symptoms of the establishment of semi-authoritarian regimes. When a president dominates the public electronic media and holds in check the major private ones, or when a ruling party penalizes (e.g. through regular tax inspections or criminal

[4] See Thomas Carothers (2002) "The End of the Transition Paradigm?" *Journal of Democracy*, 13:1.

prosecution) existing and potential donors to the opposition, we may have a case not of "normal" corruption *within* democracy, but of the establishment of a quasi-authoritarian regime. Therefore, frequently indiscriminate talk of corruption and party funding problems as side effects of "transition" is rarely illuminating and may be misleading.

All the problems mentioned in this section of the text tend to impede the development of universal models or rules of party funding and campaign finance. Yet the policy analyst should not opt immediately for contextual analysis for each and every country in the region. A different approach would be to formulate groups of problems common to many of the countries of the region and to propose solutions to these, bearing in mind the contextual differences between the countries at issue.

4. Problems of political finance in Eastern Europe

The ensuing case studies demonstrate that three main types of problem have plagued political finance practices in Eastern Europe during the ten years or so following the start of the transition period.[5] Firstly, and most commonly, there has been lack of transparency. Although most countries have provided (by legal regulation) forms for the disclosure and reporting of the incomes and expenditures of political actors, these have been largely inefficient.

The second group of problems concerns the lack of a level playing field in political competition. In some countries there are structural biases in favor of particular political players, e.g. governmental parties or parties close to powerful presidential institutions. This type of problem indicates either that democracy has not been consolidated, or that a political regime falling short of democratic standards has taken root.

Thirdly, the representative character of political parties and candidates has been damaged in two different, but not mutually exclusive, ways. On the one hand, political parties and candidates have become dependent to a considerable extent on large corporate donations, which have made up the most significant part of political incomes. On the other, in some countries substantial public funding has been introduced in order to tackle this problem. Somewhat paradoxically though, public funding *per se* cannot be a remedy, because it makes political actors dependent on the state rather than on the citizenry. Arguably, the representative character of parties is not enhanced by this dependency, since it may cause parties and candidates to be remote from the citizenry.

Before analyzing these three types of problem separately, it is important to rank them in terms of urgency and priority. It seems that the existence of structural biases hampering political competition is the most urgent problem. As we said at the beginning, political finance rules have as their primary goal the establishment of a working democratic system. If they fail to achieve this goal, they are clearly in need of revision.

Once the problem of structural biases has been solved, the focus should pass to the lack of transparency and the lack of representation: after all, the experience of established democracies shows that these are long-term, difficult-to-tackle problems whose solution may require profound changes not only to legal rules, but also to entrenched societal and cultural practices and patterns.

[5] For an illuminating analysis of the global trends see Michael Pinto-Duschinsky (2002) "Financing Politics: A Global View", *Journal of Democracy*, 13:4.

Unfortunately, the current anti-corruption fashion focuses too much on the lack of transparency, and turns a blind eye to the other two types of problem. Without doubt, the lack of representation and the existence of structural biases in favor of some players are more troubling problems than the lack of transparency *per se*. It is too readily assumed that lack of transparency brings about corruption and illegitimate practices, and even more readily assumed that transparency *per se* is a universal remedy to problems of political finance. The second assumption is clearly wrong, as the following discussion will demonstrate.

4.1 Problems relating to lack of transparency

As mentioned above, although all the countries in the focus of our analysis have introduced reporting and disclosure rules, reporting practices have, generally speaking, been questionable and the data disclosed highly unreliable.

In the matter of reporting, the most progress appears to have been made by Estonia and Lithuania, each of which has developed practices of regular reporting. Lithuania even provides information on the Internet. Yet according to the informed opinion of researchers, only some 70 percent of the real income of Estonia's parties is being reported. This is a quite high percentage in comparative terms. For instance, in Slovenia, a country with a consolidated democratic system, it has been argued that the official reports reflect only half the actual income and expenditure of political parties.

It is not only in the context of Eastern Europe that such reports are highly doubtful and speculative. For instance, leading scholars of party finance have argued that official reports in Austria, an established democracy, reveal only 12–15 percent of the funding received by political parties.[6])

The unreliability of official data is just one problem relating to the issue of transparency. There are a number of countries in the region that lack even formal reporting procedures for *political parties*. A notable example was Russia in the period 1991–2001, when reporting covered only income and expenditure to do with elections. Although the parties were formally required to keep annual accounts, these accounts were neither published, nor made available to the public in other ways. Also, there was no state body exercising systematic control over the reports. Ukraine has largely followed the same model.

In other countries, e.g. Bulgaria, annual reports have been not filed regularly: during Bulgaria's financial crisis of 1996–1997, the parties discontinued the practice of reporting to Parliament their income, expenditure and assets. In 2000, a new law remedied this state of affairs, although the reports are highly unreliable, despite being checked by the State Audit Office. In Serbia the situation has been similar: the political parties are required to produce annual reports inaccessible to the public and unverified by independent bodies.

Hungary is one of the countries where the State Audit Office supervises the reports of the political parties, but here again the reports are considered highly unreliable. One reason is that the SAO lacks the powers and resources to investigate and verify the contents of these reports.

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[6] Karl-Heinz Nassmacher (1989) "Structure and Impact of Public Subsidies to Political Parties in Europe: The Example of Austria, Italy, Sweden and West Germany", in: Herbert E. Alexander (ed.), *Comparative Political Finance* in the 1980s, Cambridge University Press, p. 258.

Especially indicative of the quality of the reporting is the case of Macedonia, where in 2000 the party VMRO, which was then in government, reported an income 150 percent higher than that reported in 1999. The reason for this was most probably that the party participated in the privatization process and bought certain enterprises: in the privatization procedure it needed to demonstrate that the money it disbursed was from a lawful source, with the result that the party reported just enough to cover the sums paid out for its privatization purchases. Furthermore, official reports seem difficult to obtain in Macedonia: written letters of authorization are required from certain officials. The same has been true in the Czech Republic, where reports (at least up to 2002) have been kept in one library only, access to which depends on a letter certifying that the researcher will use the information for appropriate purposes (e.g. academic research).

The situation with regard to campaign financing is generally similar in terms of the reliability of the information disclosed. Russian presidential campaigns have been in the focus of attention: earlier no major candidate overspent the limit, although independent observers have argued that a successful presidential campaign required much greater resources than those permitted by law. Recent monitoring efforts in Latvia and Ukraine have demonstrated that parties and candidates spend more than they customarily report. The results of monitoring, too, are not entirely reliable, because they target mainly the campaign in the media and calculate costs according to the market rate. But, if anything, monitoring most likely underestimates the real amount of electoral expenditure.

4.2 Lack of transparency: The problem

It is a relatively established fact that transparency in the area of political finance in Eastern Europe does not exist, or relates only to the surface of the funding "iceberg". Yet it is more difficult to demonstrate the types of real problem concealed behind the "veil of popular ignorance" concerning the financing practices of the parties. Below a list of such problems drawn up on the basis of real (or perceived) experience of the East European countries will be offered. This list cannot pretend to give a systematic picture of these problems, since it relies partly on circumstantial and anecdotal evidence, which, however, enjoys wide currency in the public sphere in the East European countries. Therefore, listing the "perceived" problems will at least help our understanding of public attitudes towards political finance practices. These public attitudes generally reveal mistrust and cynicism, and contribute to the process of popular alienation from politics especially evident in South East Europe and the former Soviet republics.

a) Privatization kickbacks and the buying of government favors

The highest-profile scandals relating to political finance in the region have concerned the purchase of government favors, especially in the context of the large-scale privatization processes underway in the region since 1989. As shown in the case studies, such scandals have been widespread, and have occurred in consolidated democracies as well as in other types of system. It would seem that such scandals have been more severe in the consolidated democracies, and have had more serious consequences there. Yet in the non-consolidated democracies, too, as well as in the quasi-authoritarian systems, there have been persistent allegations of bribery and kickbacks in high places. These claims have, as a rule, remained unsubstantiated, but at the same time have never been convincingly refuted.

Privatization-linked kickbacks in return for government favors have been behind serious party funding scandals in the Czech Republic and in Hungary, as the case studies in this volume attest. In the Czech Republic, it was these scandals that led to the fall of Vaclav Klaus. More recently, there has been a huge scandal in Poland concerning the attempted purchase of biased privatization-related legislation in which high-profile figures from governing parties are implicated. Bulgaria has witnessed a scandal over payments to a foundation with links to the major right-wing party. These donations were allegedly made in return for government favors benefiting a mobile telephone service-provider owned by the donor himself.[7] There have been similar scandals in Macedonia and Romania. In Russia, it was widely alleged that the support given to President Yeltsin by the "oligarchs" in the 1996 elections represented a large-scale kickback for presidential favors connected with the preservation and expansion of business empires established through murky privatization deals.

As a rule, scandals more easily emerge in political systems where the opposition is not completely marginalized and where it can exercise some degree of control over the government, especially with the help of an independent judiciary. It is no coincidence that the more consolidated democracies – such as the Czech Republic, Hungary and Poland – produce *scandals*, while the other types of system produce mainly extensive *allegations of scandalous doings*. Situated somewhere between these two extremes, the democracies experiencing forms of oppressive majoritarianism – such as Vladimir Meciar's Slovakia and (to a lesser degree) Zhan Videnov's and Ivan Kostov's Bulgaria – produce scandals only after a government, or a politician, has left office. In these polities we encounter scandals concerning the opposition as well as allegations against the government. Since the democracies in the region happen to be mostly parliamentarian, their governments change quite regularly, with the result that there is a "healthy" turnover in scandals also. By contrast, super-presidential regimes such as Russia and Ukraine preserve particular leaders in office for longer periods, also safeguarding them (through a variety of administrative and political means) against the emergence of scandals. These are polities where allegations flourish.

The taking of kickbacks for government favors should, of course, be distinguished from instances of legitimate lobbying. Yet part of the problem is that in the region there is a very poor understanding of where legitimate forms of lobbying end and where illegitimate ones begin. It is no surprise that legal regulation of the issue is either lacking or unhelpful. In the absence of legal regulation, informal practices emerge.

Accordingly, as demonstrated by the Russian case study, an informal "price list" for "legislative services" has developed in the State Duma, putting a price on favors all the way from the submission of a written question to a minister to the passage of a legislative bill.[8] Of course, we should be skeptical regarding such reports, which probably tend to exaggerate the existence and regularity of this practice and which are hardly indicative of its extent. But the political orientation of certain parties (or groupings in the legislature) coupled with their close links to specific corporate interests reveals that one principal *raison d'être* of these political actors is to lobby for their corporate sponsors. Especially worrying is the tendency in the Russian State Duma and in the Ukrainian Parliament towards *de facto corporate* representation (e.g. the so-called "Energy" and "Defense" groups). Such instances of "corporate" representation are also present in the parliamentary systems, albeit probably to a lesser degree.

[7] The businessman concerned, Michael Chorni, had alleged links with the Russian mafia and was expelled from Bulgaria as a threat to national security.

[8] Our contributor relies on information reported by the newspaper *Moskovskii komsomolets.*

An example is Bulgaria's Movement for Rights and Freedoms, which has openly defended the interests of large national (and foreign) corporations such as Multigroup, Mobiltel and Turkish Telecom. (This is not to say that other Bulgarian parties have not supported corporate interests in important privatization deals; it is rather the energy, consistency and pertinacity with which the MRF has supported a number of corporations that mark it out.)

One approach to the problems raised by lobbying is to introduce legislation that provides for "legitimate" forms of (corporate) lobbying. The rationale of this approach is that the very act of disclosure will prevent the dependence of political actors on financial interests. Furthermore, if disclosure fails to prevent the emergence of dependencies, voters will be able to punish the political actors at elections.

This somewhat liberal approach to lobbying may be suitable for pluralistic societies featuring strong competition between economic actors, as well as a vigilant civil society and independent judiciary capable of preventing the "capture" of the state. One may ask whether today's Russia and Ukraine, which have huge economic empires centered on natural and other state monopolies, fit the "pluralist" model suggested above. When the weakness of their civil society (which is largely confined to the capitals and a few other big cities) and their lack of judicial independence (which arguably enjoys an even smaller geographical scope) are added to the picture, the case for liberal regulation of lobbying becomes questionable. The danger is that such an approach will merely make more transparent the patterns of corporate representation that already exist in these countries. To believe that this greater degree of transparency will convince the voters to demand significant constitutional, political and economic changes is naively optimistic: such transparency may simply help the further consolidation of systems that also violate basic democratic principles.

Finally, when the acceptance of kickbacks and payments for governmental favors are discussed, a distinction should be made between cases where these payments are accepted for the personal enrichment of politicians and cases where the money is taken for parties or for campaign purposes. Such a distinction cannot be complete: in most instances of non-transparent financing, personal enrichment and political fundraising probably go hand in hand. Yet as the Kohl scandal in Germany demonstrated, it clearly makes a serious *political* difference when non-transparent and illegal financing has as its aim the supplementing of party funds and not the private wealth of politicians. When parties are the beneficiaries, the reputation of politicians is harmed less than it is when politicians themselves are the recipients.

It is a fact that in Eastern Europe many of the party financing scandals have the air of personal as opposed to party enrichment. The Lazarenko scandal in Ukraine is probably the best illustration, although similar scandals have occurred in the Czech Republic, Hungary and Macedonia; also, there have been allegations that politicians in Bulgaria, Serbia and elsewhere have enriched themselves by way of party financing. It is standard practice that, as a rule, fundraisers solicit money for political parties and candidates, but that sponsors who engage in non-transparent or illegal transactions have no control over the use of the resources they give. In the spring of 2004, a new political party in Bulgaria issued a statement in the press that it had not yet started its official fundraising, although "party fundraisers" had already been obtaining donations "for the new party".

Another instance of using political parties for personal enrichment is the somewhat common abuse of the tax or custom exemptions granted to political parties. For example, in Bulgaria there are more that 270 registered parties. This does not, however, indicate a spate of political activity, but rather a desire on the part of some entrepreneurs to abuse the rather lax

rules governing the financing of political parties. In the early 1990s, the parties in Bulgaria enjoyed certain customs privileges, which led to party firms becoming huge importers of tobacco products, petrol and alcohol. Clearly, the existence of such practices increases public cynicism with regard to politics.

b) The impossibility of meeting contribution and expenditure limits and disclosure requirements

A second major reason for the occurrence of illegal and non-transparent political financing in the region is that political actors find it impossible to meet existing contribution and expenditure limitations.

First of all, in many countries these are set unreasonably low, so that parties and candidates face serious difficulties in running efficient campaigns. This is a favorite theme of party managers, and their favorite excuse for violations. Yet the difficulty here is a lack of clarity concerning what constitutes a reasonable level of electoral expenditure. For instance, the overall limits for campaign expenditure in Russia are several times lower than the same limits in the UK, perhaps because campaigning is cheaper in Russia, or simply because restrictions are "unreasonable". Here political scientists are at fault, since there is no reliable method of calculating the cost of politics capable of winning general assent. In the absence of such a method, any discussion of acceptable expenditure limitations within countries must remain largely speculative.

Even so, East European experience does provide examples of unreasonably low contribution and expenditure limits, as the case studies indicate. Sometimes there are snap elections, for which the legislature lacks the time to update financing rules appropriately. An example is Bulgaria in 1997, when hyperinflation had rendered meaningless the legal limits governing contributions and expenditure. More seriously, there is a deeper and more worrying reason for the violation of such limits, namely that it is unrealistic to expect the large bulk of private donations in the region to come from party membership dues or from small personal donations. Falling party memberships, weak middle classes in many countries in the region and the general lack of a culture of supporting charities and public associations impede any *mass* financial support for political parties. The reality is that political parties must rely on *corporate sponsorship*, and usually on large corporate donations.

There is a strange irony with some of the remedies proposed for the lack of small donations. It frequently argued that for small donations there should be no disclosure requirements. According, some countries have given parties and candidates the right to collect "anonymous donations"; sometimes it is legally stipulated that such donations should be limited to a part of a political actor's total income (for instance, a quarter). It is assumed that these anonymous donations are collected at mass meetings or events where it is difficult and costly to keep a record of all the small donors. The reality, however, seems to be that in most cases "anonymous donations" are just a convenient way of concealing large corporate donations.

A second reason why some political actors find it impossible to meet expenditure, contribution and disclosure requirements is of an entirely different nature. In certain countries, it is dangerous for the opposition to disclose its main donors, because they, the donors, will be subject to administrative harassment by the government. In such circumstances, small and large donors alike are afraid to disclose their identity, and the party in question is obliged to

flout the legal requirements if it wishes to remain a viable political force. Therefore, faced with the danger of complete marginalization, some political parties in the region (especially in Milosevic's Serbia and in Ukraine) have systematically evaded financing restrictions.

c) Raising funds from illegal or illegitimate sources

The third major reason for the widespread lack of transparency in political financing in the region is the non-selective ways of fundraising employed by political actors. Illegal and illegitimate sources alike have become targets for party fundraisers in the region.

Firstly, most troubling seems to be the practice of government parties "extorting" money from state-owned enterprises. While there is no general ban in the region on corporate donations (with the partial exception of Poland), donations by public enterprises (especially those where the majority of shares are in state or municipal hands) are outlawed. Nevertheless, this prohibition has proved ineffective in many countries, and has become a further cause of the evasion of transparency and disclosure requirements. Donations by public enterprises are facilitated by widespread political patronage in the appointment of managing directors and board members of publicly owned enterprises in the region. As a result, public money flows directly into the coffers of political parties, or – as is more usual – indirectly, through party-related foundations and NGOs, which are not subject to the same restrictions as political parties. In some Balkan countries, the wives of top politicians such as presidents and prime ministers are appointed to head such foundations, which are primarily non-political in purpose, but which are commonly believed to channel money to the political parties that act as their patrons. Although the family relationships in these matters may be considered a Balkan peculiarity, the links between parties and foundations concealing donations "extorted" from publicly owned enterprises do not appear to be geographically limited.

A second type of illegitimate source, one that has sometimes been tapped by political parties, is the underworld. All conclusions regarding this issue are to an extent speculative, although some tentative generalizations are possible. The most open commentator concerning this matter has been the Russian politician Vladimir Zhirinovsky, who in 1998 announced that his party was going to protect the interests of bureaucrats, bankers and criminal structures specializing in economic crimes; this adds a particular tinge to the abovementioned trend towards "corporate representation" in Russia. But the phenomenon is not unique to that country, and many politicians in the region have entertained the idea of "making good" on money from the underworld. The head of one party-related foundation in Bulgaria (and the wife of a former prime minister) has reportedly expressed a similar thought. Such naivety partly reflects the grim situation in which East European politicians find themselves, especially in the Balkans and in the former Soviet republics: the most enthusiastic would-be party-donors come with a criminal record and a suspect agenda. Some regional party structures have been taken over by persons linked to organized crime. More generally, money from suspect business groups has regularly found its way into electoral campaigns. High-profile political assassinations in the Balkans, for instance, could be cited as circumstantial evidence of such practices. Those assassinated include Zoran Dinjic, serving prime minister of Serbia; Andrey Lukanov, a former prime minister of Bulgaria; and Iliya Pavlov, one of the richest persons in Eastern Europe and a sponsor of politicians and political parties in Bulgaria.

But probably there is no need to rely on circumstantial evidence to prove that parties have, generally speaking, not eschewed donations from criminal sources. None of the political parties in the region has made a creditable attempt to blacklist companies and structures

popularly believed to have links with organized crime. This aspect of fundraising has produced curious scandals, such as the abovementioned Bulgarian case in which a party in government (or structures related to that party) allegedly accepted money from a businessman whom the government in which the same party was serving subsequently expelled from the country as a threat to national security. (This was mainly because of suspicions that the businessman had links with the Russian underworld). In other words, politicians continue to believe that they can work for the public good using funds from criminals without seeing the need to be highly selective and careful in their financial dealings with those criminals. This is a matter of great concern.

A third illegal or illegitimate source of funding – one that political actors tend to conceal – is foreign donations. This is a multifaceted issue. Firstly, there are the more benign forms, in which foreign political foundations and institutes have circumvented legislation in the target-country in order to support fledging opposition to oppressive regimes. As the case study for Serbia shows, such funding occurred in that country under Milosevic's rule, although the foreign donations failed to produce any robust opposition, and reportedly found their way into the pockets of skilful political entrepreneurs. More successfully, the International Republican Institute financed the primary elections held by the opposition in Bulgaria in 1996, despite the rule prohibiting large foreign donations. As has become the pattern, this rule was circumvented through the establishment of a foundation, which was commissioned to organize and finance the primaries.

However, as the case studies reveal, there have also been less benign instances of such circumvention. With the increasing sophistication of political finance regulation and practices, these abuses will probably become ever more frequent. In many cases, the donations are not "foreign" at all; rather they are domestic ones, channeled through places such as the Turkish Republic of Northern Cyprus for tax purposes.

4.3 Clever ways of doing things – dodging the rules

Eastern Europe has, generally speaking, failed to produce any really innovative methods of evading political finance regulation. The first decade or so since the beginning of the transition has been characterized by rather crude forms of rule violation, as well as by inefficient regulation. Unrecorded cash transactions have been relatively common in political financing: money in suitcases, bags or even boxes originally containing photocopying paper (as in one Russian example) have made the enforcement of disclosure, expenditure and contribution limits almost meaningless in many countries. With the modernization of the banking systems in the region and the expansion of a middle class that uses bank accounts and credit cards, the importance of this form of rule evasion will probably diminish significantly.

Because of the enormous weight of large corporate donations in the incomes of political actors, it is clear that cash transactions cannot be an appropriate means of obtaining funds. Accordingly, money has been channeled through party-related foundations. These foundations and NGOs are usually not subject to the same restrictions as political parties with regard to the size and origin of donations. They are therefore convenient instruments for legalizing money obtained from publicly owned enterprises, foreign donors or large corporate sponsors. Sometimes the legislation is rather lax, making it easy to use foundation money for straightforward political purposes. More commonly, however, funds are disbursed under the pretext of seminars, training for party officials, honoraria for services never performed, and so forth. It is difficult to make a clear distinction between political activities and activities related

to political education, as the German Constitutional Court's record on the issue demonstrates. Eastern Europe has lacked an organization attempting to monitor and enforce some kind of dividing line; in the absence of such a body the transfer of funds between parties and foundations has been relatively easy.

Even when a party is reluctant to circumvent the rules by setting up foundations related to it, other avenues are open to creative party managers. Legal regulation in the region has not meaningfully addressed the problem known in the US context as "independent expenditure" or "issue advertising". Leaving aside the normative debate as to whether "independent expenditure" (expenditure not directly ordered by a political party but still serving its purposes in an electoral or non-electoral context) should be considered party expenditure, it is clear that this mechanism could be used to circumvent restrictions applying to the political parties. One way to tackle this problem would be to introduce a broader definition of the term "donation" in the context of payments to a political party, to include any benefit conferred on a party (or candidate) regardless of authorization or even awareness that a benefit had been bestowed. But this approach would be very restrictive, and might encounter objections on the grounds of freedom of speech, as in the US. Another approach would be to require individuals and organizations planning substantial "independent expenditures" to register with the electoral authorities and to observe some special restrictions, as in the UK model. Even so, this solution would be applicable only to electoral expenditures and could not be meaningfully extended to cover routine party expenditure as well. Also, the problem of policing "independent expenditures" is, generally speaking, acute. As political finance models in Eastern Europe stand at present, it is unclear which state body would investigate and punish "independent expenditures", e.g. by a company paying for advertisements advancing the cause of a political party, or paying some of the costs of party meetings or other events and claiming that it had done so without prior agreement with party officials.

This issue is related to a potentially larger one, namely the monitoring and enforcement of restrictions on donations in the form of private *in-kind* donations. For instance, it is a common practice for companies to give cars and mobile phones for electoral campaigns or for the routine operation of political parties. There is a need for a very developed network of monitoring, investigative and enforcement bodies in order to make campaign and party finance restrictions meaningful in the countries of Eastern Europe. The case studies demonstrate that in many of these countries such a network has still not been established more than ten years after the start of the transition.

4.4 Policy recommendations related to the lack of transparency

Standard measures:

In order to tackle the problems associated with lack of transparency, there are standard sets of measures recommended to the Eastern European countries by international donors and EU and Council of Europe structures. These typically include some combination of the following:

- stricter sanctions for violation of disclosure, contribution and expenditure rules;
- more detailed disclosure requirements;
- contribution and expenditure limits to cut the cost of politics;

- a ban on anonymous donations;
- sufficient public funding in order to alleviate financial pressure on parties;
- the creation of administrative watchdogs;
- the introduction of lobbying rules and registers;
- tighter regulation of party-related foundations and NGOs;
- conflict-of-interest legislation;
- registration of individuals and bodies exhibiting electoral expenditure above a certain limit;
- the involvement of civil society monitoring groups; and
- sponsorship of investigative journalists.

The problem with this set of measures is that it relies on an efficient state apparatus, as well as on a vigilant civil society and on professional, respected media. None of these really exist in Eastern Europe, in parts of it anyway. So-called "weak states" could hardly afford the efficient enforcement of complex party-funding rules. In countries with huge gray economies, it is especially unrealistic to expect the introduction and enforcement of heavy sanctions and detailed rules. The countries of Central Europe, the accession countries in particular, are in a better position in this regard. In the rest of the region, it would probably be vain to seek ever-greater transparency of political finance.

As far as civil society is concerned, one problem for the region at large is low mobilization and lack of trust in NGOs, particularly in the countries most affected by corruption and lack of transparency. For this reason, entrusting civil society with the monitoring of party funding may not be fruitful after all.

Nevertheless, donors along with EU and Council of Europe structures seem obsessed with this standard set of measures and rarely attempt to go beyond it. Few international actors focus seriously on the problem of political finance. Despite the fact that studies by the World Bank Institute have identified political corruption (or "state capture") as the most serious problem facing some East European countries, the World Bank itself has not developed projects that adequately address party funding and campaign finance. The reason may be the Bank's political mission, but other international players, too, have been surprisingly slow in confronting the issue, despite the spate of anti-corruption activities. More recently, USAID contractors (IFES and others) have attempted projects promoting the introduction of more sophisticated disclosure and reporting rules, as well as the strengthening of the bodies responsible for the enforcement of these rules (e.g. the State Audit Offices).

The organization that has been most involved in the introduction of international standards in the area of political finance in Europe is the Council of Europe. The CE has adopted a series of documents concerning the regulation of party financing, the most recent being *Rec(2003)4 of the Committee of Ministers on common rules against corruption in the funding of political parties and electoral campaigns.* This recommendation includes most of the measures in the list mentioned above, with the exception of those relating to civil society. It firmly establishes the principle that caps on expenditure are legitimate and even desirable in Europe (in the US there are no such caps). Another European feature of the document is the admissibility of corporate financing, and even of making corporate donations tax deductible (despite the

mixed record of this policy in Germany, for instance). Furthermore, _expression is given to the positive attitude typical of Continental Europe in connection with state financing of parties and campaigns. In terms of private financing, the document adopts a very inclusive definition of the term "donation", which is denoted as "any deliberate act to bestow advantage, economic or otherwise, on a political party". On a strict reading, this definition would include "independent expenditures", but the document remains ambiguous on this issue. Foreign donations should be discouraged, according to the recommendation. Finally, the document places an emphasis on transparency, to be achieved through detailed disclosure and reporting provisions, and introduces the principle of "independent monitoring" of political finance.

This attempt to produce a pan-European normative framework for political finance is commendable and serves useful purposes. The difficulty with it is the level of abstraction at which the norms are formulated. Curiously, as Table 1 demonstrates, East European countries generally meet the CE recommendations *already*. It is not clear whether the recommendation would require any significant reforms in East European countries. Everything will depend on the quality of the work performed by the "monitoring" teams checking implementation of the CE standards. As is often the case with joint European standards, the desire to reconcile different legal traditions leads to abstract and general norms, which themselves create scope for significant discretion at the level of implementation and supervision.

As far as the civil society aspects of the agenda are concerned, an increasing number of international organizations are involved in the monitoring of political finance. First and foremost, these are the Transparency International chapters that have already conducted monitoring projects in Latvia, Ukraine, Slovakia, Bulgaria, and other countries of the region. These monitoring exercises, which have followed the TI model for Argentina, have focused on campaign advertisements in the mass media (especially the electronic media). A second aspect of these monitoring projects is the conclusion of so-called "integrity pacts" with political actors; these agreements guarantee the monitoring organization's access to the financing of the campaign of the party or candidate in question. Despite their limitations (e.g. exclusive focus on the media and the general unreliability of the "integrity pacts"), these monitoring exercises have managed to demonstrate differences between actual expenditure and reported expenditure for major political players. Even so, it would be an exaggeration to claim that these projects have led to significant changes in practices in the countries monitored. They have probably articulated something that the public already knew. Moreover, it is one thing to demonstrate a lack of transparency (which is easy to establish) and quite another to point out the *real problem* behind this, be it the use of public money or administrative resources, the taking of kickbacks for government favors or whatever. Purely monitoring projects of the TI type fail at this crucial point, and it is probably this that explains the generally disappointing results they achieve.

Non-orthodox measures:

If the observations in the previous section are accurate, there is a general sense of dissatisfaction with the impact of "traditional measures". Their potential already seems exhausted in the case of Eastern Europe, and some alternative measures to improve the transparency of political finance practices are called for. Here, some possibilities are suggested.

First of all, along with the comprehensive, holistic approaches of the party funding models in East European countries (those required by the Council of Europe recommendations, for

instance), it may be productive also to adopt a number of ad hoc measures targeting particular pressing problems. Thus, when there is a massive privatization campaign, there should be special measures to prevent the giving of kickbacks from that privatization to government parties. For example, all firms applying to purchase state assets should, as a necessary precondition for the launch of the procedure, be obliged to disclose any political donations they may have made. In this way, the cost of enforcing the transparency measures would be divided between state bodies and the participants in the privatization auctions; these participants would also have an incentive to find out whether their competitors had complied with the rules. Such procedures could be envisaged for procurement tenders as well: if a competitor is shown to have violated the rules, he or she could be disqualified from the tender, and even banned from additional procurement tenders for a period of time. In the same vein, if the government adopts a decree that makes changes to important economic regulations (e.g. customs regulations), it should be obliged to provide a list of the companies affected that have made donations to governing parties over the previous two years. If the government fails to list some of the companies, the decree should be subject to invalidation by the relevant (administrative) court or courts. Furthermore, if a majority in parliament adopts legislation with a bearing on the interests of corporations, a list of affected corporate sponsors of the majority party or parties should be disclosed and appended to the bill at the committee stage. If the parties fail to mention some of the donors, the opposition should be able to seek the suspension of any state subsidy for the majority party or parties for a period of time. Another possibility is for the opposition to be able to block the bill at the committee stage should a complete list of donors be lacking. Of course, these are general suggestions that need creative adaptation to the specificity of concrete constitutional models. But their main advantage is that they divide the costs of enforcing transparency regulation between the state and other interested parties. An additional, crucial, advantage of this approach is that it targets real problems (such as the purchase of government favors) rather than pursuing transparency for its own sake.

Secondly, the increasing of accountability within the political parties (internal democratization) should be considered. This is a problematic measure because it requires intervention in the internal affairs of political parties. Yet the problem is serious, because in Eastern Europe only a very narrow circle of people knows the real situation with regard to a political party's funding. Often, even members of the leadership have no idea of the actual funding practices. The pan-European party organizations of the social democrats, liberals and Christian democrats should introduce precise internal rules concerning transparency, as well as strict conditions for the acceptance and membership of East European partners. Especially in countries with severe problems with organized crime, such as the Balkan and former Soviet republics, West European partners should require the keeping and punctilious observance of blacklists of potential donors widely suspected of links with organized crime. In general, political parties should be obliged to devote serious *internal* attention to the problems of political finance; the initiatives for greater transparency should come from them, and not simply under pressure from the public (which in Eastern Europe has been very lenient to them anyhow).

Thirdly, it has been argued that the choice of electoral system has an impact on the level of corruption. Majoritarian systems, and systems of proportional representation with open lists, seem to create a greater degree of transparency. If this is so, it could be argued that "candidate-centered" models of campaign finance increase immunity to corruption. This is also plausible intuitively, since candidate-based systems make individual candidates

responsible to their voters, and transparent campaigning is an electoral asset in an age concerned with the issue of corruption. Even so, one should be careful not to exaggerate the advantages of this option, or to overlook its drawbacks. In candidate-based systems, campaigning tends to concern local issues, those affecting the narrow interests of the voters of a particular district. Also, in these systems campaigning may focus excessively on the personal integrity of candidates, at the expense of the public good. So although in candidate-based models there may be some benefit in terms of transparency and the occurrence of corruption, it comes at the cost of restructuring the problems of political competition. Since such a restructuring would seem to be detrimental to the public good, the promotion of such models should be approached with great caution.

4.5 Structural biases in favor of some players

The second major set of problems relating to political finance in Eastern Europe concerns the issue of the lack of a level playing field for political competition. During the first ten years or so of transition in the region, the major political cleavage in this regard has not been between left-wing labor parties and right-wing business-oriented parties, but between *government* and *opposition* parties. In a number of countries, the rules have clearly been designed in such a way as to favor government parties.[9] This problem differs from the lack of transparency problem, because sometimes the structural biases favoring the government parties are entrenched in the law, or even in the constitutions, and are fairly straightforward and obvious. For instance, one area where these biases are particularly visible is the regulation of the public electronic media. In many countries in the region, these media have been or still are under the political control of the parties in power. This leads to a clear bias in the presentation of political life, especially during election campaigns. Such has been the case in Russia, Ukraine, Serbia, Bulgaria (until 2001 at least), Macedonia, Slovakia (under Vladimir Meciar), and Croatia (under Franjo Tudjman). These are all countries that have been unable to ensure the "public character" of their electronic media. In Central Europe, this problem has been alleviated by the liberalization of the media market: in these countries the impact of the public electronic media is much weaker than in Bulgaria, for instance, where there was no private national television channel until 2000.

Secondly, in certain cases the choice of a model of political financing *without significant public funding* has been dictated by a desire on the part of the governing parties or politicians to preserve their competitive advantage. The clearest example of such a development has been the evolution of party funding and campaign finance in Russia. After his dissolution of the State Duma in 1993, President Yeltsin saw the establishment of strong political parties as a major threat to his rule. Therefore, both the electoral system and the regulation of party funding were designed to encourage individual candidates and ad hoc electoral alliances. The established parties enjoyed no major institutional advantages, since the president preferred a relatively weak and fragmented State Duma that would be easier to control. Until 2001, there was no special law on political parties. (The new law adopted under President Putin has changed the situation to an extent, but there are other anti-party elements in the constitutional structure that are not outweighed by the introduction of some forms of state assistance.) In short, lack of significant public funding or other institutional advantages

[9] See Daniel Smilov (2002) "Governmental Favouritism in Bulgaria and Russia", in Stephen Kotkin and Andras Sajo (eds.) *Political Corruption of Transition: A Sceptic's Handbook*, Budapest: Central European University Press.

was designed to starve the opposition of resources. The pro-presidential parties themselves were not expected to suffer, because they, as a rule, enjoy the support of oligarchs eager to gain access to presidential and governmental favors. A similar logic can be observed in some of the parliamentary systems. For instance, in the case of Bulgaria, the ruling parties in the country gradually scaled down public funding, because they realized that their being in power meant that they were much better placed to raise funds than was the opposition. Thus, a growing *funding gap* between the government and the opposition appeared that was observable not only in the case of the Socialist government of Zhan Videnov, but also in that of the right-wing government of Ivan Kostov.

As demonstrated by the chapter on Serbia, this logic was adopted the most explicitly by Milosevic, who attempted to starve the opposition of political funding by providing minimal public support, banning foreign donations, and controlling the business sector by delaying privatization.

The abuse of governmental position for party purposes is an issue in Eastern Europe. The abundance of allegations, and evidence, of such abuses during elections in Russia and other countries of the region suggests that the dynamics of party funding cannot be understood properly without a careful study of this problem. Particularly important is the issue of direct abuse of public funds for party purposes. Again, as the Serbian case study shows, Milosevic's regime stands out in this regard, since it appropriated significant public funds for partisan purposes.

An encouraging fact is that despite pro-government bias leading to a growing gap between the funding of government and opposition parties, electoral "surprises" do occur in Eastern Europe, and on a regular basis. Instructive are the cases of Serbia and Bulgaria, where, respectively, the financial might of the Socialists in 1997 and of the UDF in 2001 could not save them from heavy electoral defeats. Meciar's party in Slovakia and Tudjman's supporters in Croatia also lost key elections despite their long tenure of power and their opportunities to accumulate huge resources. In some extreme cases, e.g. the last parliamentary elections in Poland and Romania, the ruling parties even failed to enter the legislature. What is more, major new parties do appear all around the region, and in some cases even manage to win parliamentary elections. The movement in Bulgaria led by the former King Simeon II is an interesting, albeit probably atypical, example.

Another form of bias towards pro-government parties concerns the issue of the nationalization of the assets of the former communist parties. In Slovenia, where the successors of the former communist parties have remained in power throughout the period under discussion, the nationalization of their assets has not taken place. These parties, the LDS and SD in particular, remain the richest parties in the country. In Serbia under Milosevic, nationalisation was delayed, again with the clear goal of undermining the position of the political opposition. In Russia, the assets of the communist party were nationalized by presidential decree following the dramatic events of 1991.

Finally, the most dangerous form of pro-government bias in Eastern Europe has been the creation of established and quasi-institutionalized relationships between politicians in power and particular businessmen who thrive as a result of political favors. These groupings then begin to dominate the public sphere, and ultimately stifle democratic competition. The best examples are from Russia and Ukraine. In these countries, so-called "oligarchs" play an important role, as the case studies in the present volume show. As far as parliamentary systems are concerned, of particular interest is Macedonia, where the VMRO – the ruling

party until 2002 – attempted to become an active player in the privatization process by purchasing publicly owned firms. While the oligarchs in Russia form quasi-institutionalized "clans" in which politicians, administrators and business leaders take part, Lubcho Georgievski, the former Macedonian prime minister, attempted fully to institutionalize a close relationship between his party and business circles by turning the party into an economic player. This attempt was undermined by the Constitutional Court of Macedonia, which banned parties from owning firms. Yet the process by which the VMRO parted with its property was also curious: the companies, as reported by our contributor, were transferred in a non-transparent way to persons close to the party leader; one of the beneficiaries was Georgievski's driver. Also, there was a tacit agreement that the firms should provide the VMRO with funding in the future. Bearing in mind the revolutionary tradition of the VMRO before World War II, one can imagine the forms of enforcement such a clandestine agreement might presuppose.

The problem of the abovementioned structural biases cannot be solved except through greater transparency.

4.6 Policy recommendations against forms of structural bias and governmental favoritism (in particular, Russia, Ukraine, Macedonia, Serbia, Bulgaria, Albania, Slovakia, and Croatia):

a) Elimination of patronage appointments of directors in the economic sphere (public enterprises). Introduction of open competitions for managers;

b) Reduction of patronage practices in the public administration, and the introduction of genuine competitions for administrative posts;

c) Elimination of significant governmental involvement in judicial appointments;

d) Close monitoring for abuses of administrative resources for partisan purposes;

e) Reduction of the number of licensing regimes in the economy;

f) Revision of the rules of public finance in order to avoid problems of "authorized banking";[10]

g) Parity between government and the opposition parties in the public electronic media, especially in cases where these public media control large sections of the electronic market;

h) Parity between government and the opposition in the bodies conferring licenses for private electronic channels;

i) A ban on economic activities by political parties, except for the running of publishing houses;

j) Public funding for opposition parties in order to reduce incumbency bias.

[10] "Authorized banking" problems emerge when the government systematically chooses certain banks to handle funds from the state budget. This type of government favoritism has been responsible for the emergence of some Russian clans, but seems to be a problem not specific to Russia.

The logic underlying these recommendations is to loosen the grip of the government over those areas of public life that should be relatively independent of government interference, such as the economy, the judiciary and the public media. The trouble with these recommendations is that they may require significant, sometimes even constitutional, changes. Another problem is that they do not impact merely on the issue of political finance; they would also affect the operation of the political finance model. Unfortunately, European organizations (EC, CE), as well as important donors such as the World Bank, USAID and others, have been generally reluctant to exercise pressure for such reforms under their anti-corruption banner.

In relation to the EU accession countries, judicial and media independence were required by the political components of the Copenhagen criteria. But because these criteria were formulated for application in countries different from one another, they were rather vague and abstract. In the applying of these criteria, no clear distinction was drawn between more consensual models of government such as Hungary and more majoritarian (sometimes even oppressively majoritarian) models such as Bulgaria. Furthermore, the issue of political patronage was not given sufficient attention in the Regular Reports of the Commission, which was the main instrument monitoring compliance with the Copenhagen criteria. The same was true of problems such as "authorized banking" and the funding gap between government and opposition. As a result, the accession negotiations did not address the problems of pro-government bias as meaningfully as they could have done. Special attention should be given to these problems in the remaining rounds of negotiations with Bulgaria and Romania.

There has been practically no meaningful international pressure to tackle the abovementioned problems in the non-accession countries, even though many (such as Russia and Ukraine) have been greatly affected by them. The Council of Europe recommendations on party funding and campaign finance do not go far enough, even when combined with normative recommendations from the area of media and judicial independence. USAID contractors have so far focused predominantly on transparency issues regarding political finance. As argued above, such focusing is insufficient for the elimination of pro-government bias.

Finally, many international donor organizations have placed their hopes in the anti-corruption activities of NGOs. However, it is difficult to see how NGO efforts could induce the reforms necessary for the elimination of pro-government bias: in this regard the capabilities of civil society have, it seems, been exaggerated. Yet there is no lack of meaningful projects that might help address the issue, without providing a solution. Examples are the recently developed projects monitoring the use of "administrative resources" in campaign finance in Russia (these projects are sponsored and organized by the Soros network and its partners). They will hopefully demonstrate the extent of abuse of public office for partisan purposes during elections. In contrast to other monitoring projects, which have focused on lack of transparency, these promise to tackle a real problem behind the veil of public ignorance. This will undoubtedly be a step forward.

4.7 Lack of representation

The problem with the deficiencies of representation in Eastern Europe has two dimensions in relation to the issue of political finance. Firstly, parties and candidates become alienated from the citizenry and electorate because it is corporations that provide the bulk of private donations. Small donations and membership dues constitute only a tiny proportion of the income of parties across the region, as our case studies unanimously show. Therefore, where

parties rely mainly on private funding, they are liable to "capture" by big business, and thereby to a failure to discharge their representative function in a liberal democracy.

Of the countries in Eastern Europe, only Latvia, Moldova and Ukraine do not envisage some form of public funding. Even so, countries such as Bulgaria (until 2002), Russia (until 2001) and Serbia have provided only nominal financial support for parties and candidates, thus covering just a tiny fraction of their expenditure. Elsewhere, public funding is rather modest, or else comes only in the form of electoral reimbursements (e.g. Macedonia, Romania). In other countries, such as Albania, public funding has been introduced only very recently, making premature at this stage any conclusions about the actual characteristics of the model adopted. And there is also Belarus, where public funding of candidates in elections is fully at the discretion of the president of the republic. Whether in this case public funding is an element of democratic government or an instrument for the suppression and control of the opposition is an open question.

What is the evidence for links between and party funding, campaign finance and the "capture" of political actors? In the first place, "central case" countries that lack public funding – Bulgaria (until 2002), Latvia, Moldova, Russia, and Ukraine – all happen to be countries with a high "state capture" index according to a 2000 study by the World Bank.[11] Especially telling is the average share of firms in the "illegal donations" made to political parties in these five countries. This amounts to 34.4 percent, when the average for the transition countries taken together is 20. Similarly, countries without public funding have, on average, a much higher "purchase of legislative votes" index, too.[12]

These data suggest that lack of public funding is correlated with opportunities for corporations and wealthy individuals to "capture" the policy-making capacity of transition states. This problem has recently been paraded as a problem of "corruption". Fundamentally, however, it is a problem of the autonomy of democratic institutions, and a shortcoming in democratic representation. Put somewhat differently, this is a process that degrades democracy and transforms it into oligarchic forms of government. It is no coincidence that the political landscape of Russia and Ukraine is home to "clans", "oligarchs" and other non-democratic centers of power.

If anything, the World Bank study underestimates the problem of the "capture" of political actors by corporate interests, because it considers only the "illegal" or "illicit" forms of political contributions. In the first place, this approach raises questions about what was actually measured by the BEEPS (the survey on which the World Bank report was based), since one can hardly imagine that the respondents had a sufficiently clear idea of the somewhat vague dividing line between legal and illegal political contributions in Eastern Europe. More importantly though, the issue of the "capture" of political actors cannot be measured simply on the basis of illegal financing; sometimes patterns of legal financing by a small circle of large corporations may be more revealing of an instance of such "capture" than patterns of illegal financing are.

Despite these limitations, the World Bank report may be used as a basis for concluding that there is a serious problem regarding the "capture" of political actors in the region, and that

[11] See *Anticorruption in Transition: A Contribution to the Policy Debate* (2000) The World Bank. The average index for these five countries is 31.8, while the average for all the transition countries in the study is 21. For the purposes of comparison, low state-capture countries such as Slovenia and Hungary stand at 7.

[12] The share of firms directly involved in the buying of legislative votes in the five countries without public funding is 38, when the average for all transition countries is 24. See ibid.

political finance is one instrument by which this can be achieved. However, the data in the report do not support a stronger conclusion, namely that only countries without significant public funding for political parties are vulnerable to this type of problem. On the contrary, countries with significant public funding such as Slovakia and Croatia have also developed forms of state capture. The "capturing" of the state in these cases seems to have been a product of oppressive majorities around Meciar and Tudjman that managed to frustrate the opposition and occupy key economic positions (here we have a combination of capture and strong pro-government bias). Bearing this in mind, it is clear that public funding by itself cannot be seen as a remedy against state capture. But it can be argued that the existence of significant public funding will reduce the likelihood of state capture, by increasing the autonomy of democratically elected politicians vis-à-vis business interests.

More importantly, public funding has serious drawbacks of its own, and these drawbacks reveal the second dimension of representation problems mentioned at the beginning of this section. In short, significant public funding can itself lead to alienation of the voters, a process that has in a German context been called "etatization" of the parties.[13] This process is at its most dangerous when accompanied by the emergence of the so-called "cartel parties", or parties trying to form tacit coalitions of interest with their main rivals in order to maximize institutional advantages they can derive, e.g. state funding. The process of "cartelization" stifles political competition, tends to cause ossification of the party system and exacerbates the representation deficit of that system. In Eastern Europe, there have been two factors mitigating the processes of "etatization" and "cartelization". In the first place, voter volatility has led to the emergence of new party structures, and the disappearance of old ones, more regularly than in the western half of the continent: parties have often lacked sufficient time to become "etatized". Moreover, merely fifteen years or so have passed since the beginnings of competitive party politics in the region, so it is difficult to draw conclusions in this regard. Secondly, in some countries constitutional courts have attempted to protect political competition, and have defended small parties against collusion by established political forces (as shown in the case studies for the Czech Republic and Slovenia, for instance). The judiciary's behavior in these cases is an importation of German constitutional doctrines. In any event, the problem of potential etatization of political parties should be taken seriously in the region, since in many countries there is a growing dissatisfaction with, and mistrust of, the party system and political system generally (this state of affairs is especially evident in the Balkans). Eventual etatization of the parties would only exacerbate these problems.

A number of mechanisms have been proposed to tackle the deficiencies of representation by preventing both the "capturing" of political actors and the "etatization" of political parties, as follows:

4.8 Policy recommendations related to the lack of representation

a) Public funding (up to at least half of the income of the parties), but;

b) Public funding given to parties through the matching of funds, by which *small donations and membership dues* are matched by the state;

c) Tax benefits (credits) encouraging small donors;

[13] See Christine Landfried (1994) "Political Finance in West Germany" in Herbert Alexander and Rei Shiratori (eds.), *Comparative Political Finance among the Democracies*, Westview Press.

d) Targeted state support for developing "direct mail" and other popular funding schemes;

e) A ban on corporate donations?

The rationale of these recommendations, most of which are formulated on the basis of the German political finance model, is to stimulate democratic participation. Public funding should be used as a stimulus for greater popular participation, and not only as a means of strengthening the political parties.

Of special interest is the proposed ban of corporate donations. This would undoubtedly be unpopular in Europe, although is an established principle in the US. An already-mentioned difficulty for this suggestion in the eastern part of the continent is that it would necessitate a large pool of small donors in many countries, a problem on account of widespread poverty and low standards of living. However, it will be difficult to implement fund matching, tax benefits and direct mail solutions as well.

In the view of this impasse, there are very strong reasons to consider seriously some innovative schemes of public funding in Eastern Europe by means of individual vouchers. One such scheme, proposed by Bruce Ackerman, envisages that each citizen with voting rights should be issued by the state with a voucher for a specific small amount of money, a voucher the citizen could use only for the sponsorship of a party or a candidate. Political actors would compete for the vouchers of citizens, and with these vouchers they could claim a financial or in-kind subsidy from the state. Without going into the details of this model, its major advantages number at least two. First, similarly to any public financing scheme, it is designed to prevent the capturing of political actors by corporate interests. Secondly, however, in contrast with more traditional forms of state aid, it cannot lead to alienation of citizens from the parties, because politicians will be forced to compete for the vouchers of individuals.

Although this somewhat utopian-sounding model has been advanced in the US, it seems more appropriate for Continental Europe (and Eastern Europe in particular) where there is a generally positive attitude towards egalitarian measures and public funding. One way of considering this model seriously would be in the context of the Council of Europe, which has already adopted normative principles endorsing the rationale of the voucher scheme. An alternative approach would be small-scale experiments with the voucher scheme in specific states, in order to see more clearly its advantages and disadvantages. Such small-scale experiments could be done in the framework of the anti-corruption efforts international donors support, since the voucher scheme promises to address not only the issue of deficient representation, but also the more popular problem of lack of transparency.

5. Conclusion

The case studies in this volume show the considerable level of sophistication and complexity reached by the regulation and practices of political financing in Eastern Europe. Although hardly more than a decade old, the systems in the region have developed elaborate systems of political finance, and have, in general, made an effort to ensure transparency and to improve the representative character of their party systems. It would be an unfair simplification to argue that these attempts have on a whole been unsuccessful. Yet there is some genuine sense of dissatisfaction, especially as far as the issue of transparency is concerned. If, however, an

overall evaluation is attempted (something this volume does not do), it should be remembered that many countries in the region – Central European states in general and the accession states in particular – have made astonishing progress in the establishment of viable competitive democracies. To the extent that political finance rules and practices have been instrumental in this, one cannot be dismissive of the achievements in these fields.

Furthermore, this book does not attempt to demonstrate that the practices of political finance in Eastern Europe appear profoundly corrupt when compared to the norms and practices of the established Western democracies. A lot of ink has been expended concerning the unreliability and impressionistic character of corruption indices and other measurement instruments. Corruption in political finance is even a trickier issue, as the inability of the concept of "state capture" to reflect the variety of forms in which political actors can be captured demonstrates. If one of the most advanced studies in this area, the World Bank's *Anti-corruption in Transition*, is wanting in important respects, it is incumbent on other investigations to exercise extreme caution when making general assessments of the level of corruption in political finance in Eastern Europe. In particular, allegations of high levels of corruption in comparison with Western democracies could be harsh when leveled against most of the accession countries.

It would be probably more useful to read this book as an account of the diverse sets of problems political finance regulation has experienced in Eastern Europe in the ten or so years since the start of the reforms. Some of these problems, such as pro-governmental biases, the abuse of administrative resource and the influence of (organized) crime, are more specific to the region and need additional urgent attention. Others, such as the general lack of transparency and problems with the representative character of party systems, are pan-European issues that might require pan-European answers. It is hoped that the detailed analysis of the experience of some eastern parts of the continent that this book offers will assist in the working out of such answers.

Campaign Finance in Bulgaria

Dobrin Kanev

Introduction

During the first years of the democratic transition, it was understandable that campaign finance in Bulgaria should exhibit both a lack of transparency and a degree of chaos. More than a decade on, however, the situation has not improved significantly. There is insufficient reliable information concerning even officially reported finances, and research is limited to model descriptions and analyses of legislation. The political parties themselves are secretive about their financial resources, and are willing to provide almost no information.

At the same time, it is commonly believed that the realities of election campaigning in Bulgaria are marked by corrupt practices. This belief is reinforced by a general perception of widespread political corruption in the country. This paper examines the genesis and development of legal rules and practices in the area of campaign finance, and offers an analysis of the incentives to corruption that the current system creates. The existence of such incentives fuels public suspicions concerning the integrity of the Bulgarian political system as a whole, and further undermines public trust in political parties and representative institutions.

I. Description of the Campaign Finance Model

1.1 Overview of the Legislative Framework

During the period from 1990 to 2001, various elections were held in Bulgaria: five general elections (one of them for a constituent Grand National Assembly), two elections for president and vice-president and three local elections. All were preceded by intense electoral campaigns that required substantial financing. Despite this, neither the constitution, nor the electoral laws have paid sufficient attention to the issue of financing parties and candidates and of reporting and publicizing campaign finances.

It is important to note that a limited number of electoral regulations have been incorporated into the constitution.[14] The kind of election system, as well as the system of campaign financing, is left to the discretion of lawmakers, i.e. to a majority in the legislature.

During the twelve years that followed the start of the reforms in 1989, the financing of electoral campaigns in Bulgaria was regulated by four major laws introduced at the very beginning of the democratic transition: three electoral laws—the Law for the Election of a Grand National Assembly (April 1990), the Law for the Election of the National Assembly and Local Authorities (August 1991), and the Law for the Election of the President and Vice-President (September 1991)—and the Law on Political Parties (1990), with its general provisions on party funding.

[14] Among these are the citizens' right to vote (Arts. 10 and 42); freedom of association, non-discrimination against political parties and citizens' associations, and prohibitions on citizens' associations from engaging in political activity (Arts. 11 and 12); types of representative mandate (Art. 67); terms of office (Arts. 63 and 64); conditions for eligibility (Arts. 65 and 93); and the possibility of contesting electoral results (Arts. 66 and 93).

Two of the laws were passed during the spring of 1990—as part of the consensus in the Round-table Talks—by a Parliament elected under the communist regime. The Grand National Assembly, the constituent assembly that adopted the new constitution of 1991, passed the other two.

The aim of these four laws was, above all, to introduce pluralism into the party system and to provide general guidelines for the holding of elections and the creation of new parties. Too little attention was paid to the financing of campaigns and political parties, and especially to the questions of financial control and reporting.

The Law for the Election of a Grand National Assembly was the first piece of legislation to tackle the issue of campaign financing. The major concern of the lawmakers at that time was the organizing of the first free elections for many decades. With regard to campaign financing, the most important issue was considered to be the control of financing from abroad and financing through private donations. Donations from foreign states and foreign legal entities were banned outright, while inland donations and those from foreign individuals were limited to very modest sums. However, no effective mechanisms for control were created. The respective provisions of the law were rather naïve; they required merely that reports be made to the electorate and the electoral commissions.

This first electoral law made no mention of state finances as a source of campaign financing. The only exception consisted of subsidies in kind: free airtime provided by public radio and television. The Law on Political Parties, passed at almost the same time, contained only a general and non-binding hint that the state might subsidize the parties in their general activities and in elections to representative institutions, in proportion to their seats in Parliament and in accordance with the appropriations within the budget law.

The lack of a state subsidy, the restrictions on the size of private donations and the lack of clear reporting rules ensured that the lawful financing of the first campaign was virtually impossible.

The solution was to complement Parliamentary legislation with a government decree. This happened in May 1990 when the cabinet provided 6 million leva to subsidize those parties and candidates participating in the elections. The Central Electoral Commission organized the equal access to this budget funding, access that proportional to the number of registered candidates and the number of regional party lists.

As mentioned above, in the 1990 law state financing was not explicitly regulated. However, in the second election law (1991), the focus was on the state financing of the campaign to be held that year; explicit definitions of the restrictions on access for small parties, as well as the maximum amount of money that could be allotted to any one candidate, received expression. In addition to these restrictions, the Law for the Budget for the Election of the President and Vice-President envisaged the introduction of state reimbursements for electoral costs.

All these early laws underwent minor amendments over a period of ten years and established a specific model of campaign financing in Bulgaria. This initial model shows the following general features:

First, the state provides budget subsidies to the parties and to the candidates for their election campaigns. Second, while private donations are another important source of campaign financing, they are restricted (in terms of both the size of the donation and the requirements for legitimate donors). Third, parties can use free airtime in their campaigns. Fourth, there are no strict requirements on the reporting of campaign finances. Great loopholes concerning both the scrutiny and the control of campaign finances can be found.

The inadequacies of the early laws had been long apparent. They were hardly the result of a mere oversight: it is evident that the political parties, and especially those in power at the time, did not feel the need to introduce clear and workable rules for their finances. As a result, the laws suffered from a lack of a clear vision regarding the generation of party finance, a lack of control and a lack of transparency for the purposes of public scrutiny.

For ten years after the Law on Political Parties, Bulgarian lawmakers pondered a new party law. Relevant bills were drawn up by every Parliament (Sobranye), but it was only at the end of the fourth (i.e. the 38th National Assembly) that a new law was passed, in March 2001. Almost simultaneously a new parliamentary election law was enacted (April 2001). The adoption of both laws occurred during the last sessions of the 38th National Assembly; these moves were more a reflection of the tactical views of the majority party than a serious attempt to deal with corruption problems. The newly elected Parliament very hastily introduced, in September 2001, several finance-related amendments to the presidential election law ahead of the November 2001 presidential election campaign. Along with the Law for Local Elections of 1995, these three pieces of legislation have established the current regulatory regime for party and campaign finance. When compared to the initial model of campaign financing, their pattern reveals some important changes, which may be summarized as follows.

First, state campaign financing has been abandoned. This process began with the Law for Local Elections that saw private donations and the assets of the parties as the principal sources of campaign finance. Similar provisions were later introduced in the legislation on parliamentary and presidential elections. To some extent, this rejection of budget subsidies is compensated for by the 2001 Law on Political Parties, which provides for state financing for the day-to-day activities of the parties. Second, the restrictions on foreign donations have been amended in the recent legislation. Third, in all the laws there are limits on overall campaign expenditure. Fourth, the state provides some free television and radio time for campaigning, although most is to be paid by the parties at reduced prices. Fifth, the parties have to report on their finances not to a parliamentary body, but to the Accounts Office. Sixth, certain changes have been introduced in the disclosure and enforcement regulations, but there is still no sufficient public access and control in respect to the financing of campaigns in Bulgaria.

1.2 Organization of Electoral Campaigns

As stated above, the major Bulgarian political parties have already taken part in numerous parliamentary, presidential and local election campaigns. However, there is an uneven level of professionalism owing to the frequent changing of the party elites, to the unstable legislative basis and to the lack of well-trained professionals in the field. These are the reasons why established parties often rely on the expertise of foreign specialists, sister-parties and foundations associated with these sister-parties. This was and still is quite typical of the Union of the Democratic Forces (UDF) as a newly formed party, but there is not much difference with regard to the Bulgarian Socialist Party (BSP), too.

In all the major parties, special teams are usually established within the party administration and given charge of the campaign for the parliamentary and local elections. They can be characterized more as political bodies than expert ones and are dominated by the party leaders. The specific nature of presidential campaigns makes the candidates

prefer that their campaigns be run by organizations formally independent of the political parties. Officially, the members of the campaign staff are unpaid, although most receive some kind of honorarium (the size of which is not publicly known).

These campaign bodies secure the financing of the campaigns and co-ordinate income and expenditure. In certain cases, political parties set up special election foundations. These foundations are nongovernmental organizations, and while they have no formal links to the political parties, each is under the direction of persons closely linked to a particular party leadership. The best-known cases are the foundations Democracy, Victory 1 and Victory 2; all are linked to the UDF and play a significant role in campaign funding. There are two principal reasons for setting up such foundations. The first is the possibility of attracting finances from public enterprises and the second concerns the flow of financial support from foreign donors. According to the law, both sources of campaign funding are either banned or restricted for political parties, but the restrictions do not extend to foundations.

In recent years campaigns have become more professional. Unlike the first years of transition when the major parties dealt with individual professionals in their capacity as party members or supporters, now these parties are more likely to use the services of advertising agencies and public opinion institutes. Both services can absorb a substantial part of campaign expenditure. The most popular practice is to assign public opinion agencies the task of examining public attitudes and expectations, conducting situation analyses, approving major keywords, and so forth. Advertising agencies are used for the design and implementation of media strategies and for the creation of printed advertisements.

Political parties increasingly employ a variety of media in their campaigns. The major media for electoral battles are the electronic, although these are also the most expensive. However, the more traditional campaign forms – such as meetings, individual contacts and target group meetings – are still in widespread use.

1.3 The Character of the Electoral System and Its Impact on Campaign Finance

In the relatively short period between 1990 and 2001, no fewer than five parliamentary elections were held in Bulgaria, and two different electoral systems were used.

The electoral law of March 3, 1990 was the result of a compromise between the old communist elites and the new democratic opposition. The opposition insisted on a completely proportional system. The ex-communists favored a majority system with single member electoral districts, since the public already knew their candidates. The result was a mixed system: half of the 400 deputies for the constituent assembly—the Grand National Assembly—were to be elected on the basis of a two-round majority system in 200 single member constituencies, with a run-off second ballot between the top two candidates in districts where no one had gained 50 percent of the vote. The remaining 200 seats were allocated according to proportional representation using closed party lists and a 4 percent nationwide threshold. At the time of its creation, the Bulgarian electoral system was one of the least proportional systems in Eastern Europe.

The new Constitution of 1991 required new parliamentary elections, so the Grand National Assembly, acting as an ordinary legislature, adopted a new electoral law.

Although there were difficult discussions regarding some details, no great debates took place on the principal formula: most of the relevant actors agreed to elections based purely on proportional representation. The new law stipulated the election of 240 deputies (160 fewer than in 1990) in 31 constituencies on the basis of closed party lists and proportional representation. Party votes would thus be translated into seats allocated among the different constituencies using the D'Hondt formula. Parties receiving below 4 percent of the vote were excluded from representation. This electoral system has been used in all parliamentary elections in Bulgaria since.

On the basis of these elections, it is very difficult to draw direct conclusions as to the impact of the electoral systems on the development of campaign funding. The introduction of proportional representation did reduce expenses insofar as there was now no second electoral round. Seats that fell vacant between general elections were filled by substitutes chosen according to the order of the candidates on the party list at election time.

The principal effect of the electoral system is to be found in the central role that parties play in politics in general and, consequently, in election campaigns. Bulgarian political traditions—to some extent represented in the unicameral Parliament—lay particular emphasis on parties. Parties are the major players in the drawing up of election lists and the presentation of candidates for Parliament. Under the proportional election system with its fixed lists that was accepted in 1991, their role is indubitable. In fact, Bulgaria has developed an array of reasonably stable political parties with memberships embracing some 7 percent of Bulgarians of voting age.

Up to the 2001 elections, there were positive signs of an early stabilization of the party system. Only two parties (or election alliances) had won elections during the first ten years of the post-communist period: the Union of Democratic Forces (UDF) in 1991 and 1997, and the Bulgarian Socialist Party (BSP) in 1990 and 1994. Aside from these two parties, only one other party—the Movement for Rights and Freedoms with its social base among Bulgaria's ethnic Turks—enjoyed representation in the legislature throughout that decade. No more than two or three parties or alliances (the Bulgarian Business Block in 1994 and 1997; the People's Alliance in 1994, and the Bulgarian Euroleft in 1997) had secured seats at any one time during those years. They had little chance of becoming part of the government without entering into a coalition with one of the two big parties. The relative stability of the parties and party system in post-communist Bulgaria is supposedly a significant democratic asset: "It is difficult to locate anything other than political parties to account for the Bulgarian advantage in democratization"(Fish and Brooks, 2000). The importance of parties is reflected in campaign funding insofar as only a relatively small number of parties have access to state funding.

In 2001, this stability was severely challenged by a political newcomer. A most dramatic change occurred when the governing UDF party lost almost 1.5 million votes, the BSP lost 150,000 and a new political movement (one identifying itself more or less as an anti-party) won almost 2 million votes. However, despite the entry of this new player, led by Simeon Sakskoburggotski, formerly King Simeon II of Bulgaria, the actual configuration of the post-2001 party system has remained similar in structure to the old one. There were still only four parties in Parliament and a dominant party with almost an absolute majority in Parliament (50 percent of the seats went to the National Movement Simeon II).

The dominance of political parties in the electoral process has an impact on the rules and requirements for registration as well, especially when parties are compared with individual candidates. Candidates are nominated either by political parties or/and

groupings of political parties, or by the so-called initiative committees that support independent candidates. Party candidates are registered by the central governing bodies of the parties in lists drawn up for each constituency. Each candidate can be registered on two lists. An independent candidate can only be nominated by a specially established and registered initiative committee and only in one constituency. Moreover, such a candidate can be registered only if her or she presents a list of between 1100 and 2000 supporting signatures (the precise number depends on the size of the constituency).

The registration of the party lists lies within the competence of the district electoral commissions, while the Central Electoral Commission is responsible for registering the parties themselves. The process of registering party lists is straightforward: parties are required to submit only their party registration papers. This is one of the reasons for the large number of parties participating in elections, between 40 and 50. The lack of serious constraints on access led in 1991 to the inefficient distribution of 12 percent of the votes cast for the 31 party lists that failed to achieve the 4 percent threshold necessary for parliamentary representation.

The costs of registering parties in the elections are negligible and amount to the usual organizational expenses. For presidential candidates however, a cash deposit is required. In 2001, this was increased from 250 leva (roughly $125) to 5000 leva (roughly $2500); it is only returned to those candidates who receive more than 1 percent of the valid votes cast.

The 2001 Law for the Election of MPs envisaged that parties, coalitions and independent candidates should have to pay the costs for the voting necessary for the elections. This could have created problems for smaller parties and individual candidates and could have ruled out their participation. Not surprisingly, the Constitutional Court annulled this provision. In a bill submitted to the 38th National Assembly, other restrictions were proposed, such as access to elections being granted only to parties that had received at least 1.5 percent of the votes in the previous elections and those that had gathered the signatures of 10,000 supporters. However, during the consideration of the bill between the first and the second reading, all such provisions were scrapped.

1.4 Campaign Donations

Donations are undoubtedly the most important source of campaign funding in Bulgaria. During the first years of the transition, public funding played an important role, but this has decreased with each electoral campaign. In the current model of campaign financing, and during recent presidential and parliamentary elections, donations have been of crucial significance.

Almost all the laws that deal with campaign and party funding introduce restrictions on donations. Here, the emphasis is placed on the following central issues. The first is concerned with the types of donor from which parties may or may not receive funds. According to early legislation, neither political parties, nor candidates could receive donations from foreign states or organizations, from foreign private or legal entities, or from state or mixed-ownership companies. These broad prohibitions were usually ignored in practice, and this was probably one reason for the liberalization of the laws concerning donations. In general, donations by foreign states and by Bulgarian state-owned enterprises are not allowed. The same is true for donations by foreign legal entities, although there are some important exceptions. Under the relatively liberal new legislation (the Law on

Political Parties of 2001), prohibition was placed only on donations by foreign governments and governmental organizations, by foreign state-owned enterprises and by Bulgarian firms that are more than 50 percent state or municipality owned or else that are executing particular state orders under contract. This is a higher percentage of state ownership than was allowed in the first legislation. A proposal from the opposition recommending a ban on donations from enterprises with any degree of state ownership was rejected. Despite these revisions, there is still no clear framework regulating donations by foreign nationals.

Legislation on party funding is becoming more liberal with regard to donations by joint ventures with foreign firms, as well as by mixed-ownership companies (those where some of the shares are state or municipality owned). The turning point was the Law on Local Elections (1995), the provisions of which were more or less reproduced in the legislation that followed. Donations from enterprises with a foreign share of up to 25 percent are permitted, as are donations from mixed enterprises with a state or municipal share of up to 50 percent.

Table 1

Donations Permitted According to Bulgarian Legislation, 1990–2001

Legislation	**By foreign states**	**By foreign legal entities**	**By foreign nationals**	**By enterprises with foreign partici-pation**	**By state-owned enter-prises**	**By mixed enterprises**
Political parties law (1990)	No	No	Yes[15]	–	No	No
Parlia-mentary elections law (1990)	No	No	No	–	No	No
Presiden-tial elections law (1991)	No	No	No	–	No	No
Local elections law (1995)	No	No	No	Yes[16]	No	Yes[17]
Law on political parties (2001)	No	No	Yes	–	No	–
Parlia-mentary elections law (2001)	No	No	No	Yes[18]	No	Yes[19]
Presiden-tial elections law following the amend-ments of 2001	No	No	No	Yes[20]	No	Yes[21]

[15] Up to $500 per annum.
[16] When such participation is up to 25 percent.
[17] When state or municipal participation is up to 50 percent.
[18] When such participation is up to 25 percent.
[19] When state or municipal participation is up to 50 percent.
[20] When such participation is up to 25 percent.
[21] When state or municipal participation is up to 50 percent.

Legislation in other democratic countries is often stricter as far as donations—especially donations from abroad—are concerned. In some countries the prohibition is broader and includes donations from foreign trade unions, foreign tax-exempt legal entities, foreign political parties and foreign political foundations.

Apart from the issue of the source of donations, the regulation of anonymous donations constitutes another important campaign funding issue. Anonymous donations are an often-used instrument of political corruption and were banned by the 1990 Law on Political Parties. The electoral laws, however, made no mention of anonymous donations. The issue was raised again in debates on the 2001 Law on Political Parties. Different proposals offered different solutions: some banned anonymous donations altogether (this is arguably impracticable when small donations are taken into account) while others included the placing of ceilings on the value of anonymous donations by fixing the maximum value of permissible anonymous individual donations at 200 leva. Alternatively, it was proposed that the overall sum of anonymous donations collected by a party should not exceed 5 percent of the total annual subsidy provided for political parties in the state budget.

The general public expected that a more restrictive regime concerning anonymous private donations would be instituted. As it was, the new law adopted an approach diametrically opposed to the public's expectations. After intense debate in Parliament, the majority adopted a provision allowing each party anonymous donations of up to 25 percent of the annual state subsidy for that party. The president vetoed this provision, but since his constitutional veto power is relatively weak, the parliamentary majority was able to override the veto and adopt the controversial provision, which appears to open the door to corruption. Based on the new provision, a major party that usually receives about 2 million votes would be able to receive 500,000 leva in anonymous donations, i.e. one quarter of the maximum expenditure allowed in parliamentary elections.

According to estimates by Bulgaria's National Audit Office, anonymous donations in the 2001 parliamentary elections campaign amounted to 1 million leva, i.e. one ninth of the total revenues of the parties and candidates. Five parties and/or party alliances declared that they had received anonymous donations; three were among the four that entered Parliament.

In recent debates on legislative amendments, as well as in the conclusions of the National Audit Office reports, calls for a ban on anonymous donations feature prominently.

A third significant issue regarding campaign funding is the permissible value of donations. In the first Law on Political Parties, limits are stipulated only for donations from foreign nationals. Donations from citizens, including foreign nationals, of up to $500 per annum were permitted; for groups of individuals the limit was $2000.

In the electoral laws of 1990 and 1991, limits were introduced not only for all individual donations, but also for the total value of the electoral platform of the candidates. These limits were very restrictive: e.g. the 1990 law laid down an upper limit of 0.10 lev for donations by natural persons and 2 leva for donations by legal entities. Moreover, the maximum permissible campaign expenditure per candidate was reduced to 20 leva. In the 1991 law, a ceiling of 50 leva was introduced for each donation.

From the time of the Local Elections Law of 1995 to the amendments made to the Law for the Election of the President and Vice-President in 2001, limits on donations have remained a permanent feature of the Bulgarian campaign finance model. Currently, a natural person cannot donate more than 10,000 and a legal entity not more than 30,000

leva. The total sum for an electoral campaign for a candidate list may not exceed 2 million leva (about $1.5 million). The Law on Political Parties of 2001 stipulated an upper limit of 30,000 leva (about $15,000) for donations by one and the same private person or legal entity per year.

The question of who receives and manages the donations is of particular significance. This is a question directly dealt with neither by law, nor in the various bills proposed. It is assumed that donations go to the central board of leaders of the political party or party alliance in question. This has been the practice in Bulgaria since the first democratic elections.

Initial legislation envisaged the possibility of tax and customs relief for party firms. On the basis of this authorization, in the early years of transition the Council of Ministers granted customs exemptions to the firms and foundations of the political parties. These exemptions were systematically abused and were eventually revoked. After the unfortunate experience with customs relief, there were no tax or customs privileges for the political parties and their foundations. Up until 1996 and the introduction of an accountancy law, parties were not subject to financial audit or taxes. At that time, certain "phantom parties" were founded to smuggle cigarettes, alcohol, oil products, and so forth. However, since the changes to the tax legislation and the adoption of the accountancy law, it has become more difficult to use parties as offshore companies.

In every election campaign during the period under discussion, donations have constituted the greater part of the finances of the parties, party alliances and candidates. For example, in the 2001 parliamentary elections they accounted for over 81 percent of all revenue. The figure was replicated in the presidential election campaign several months later, when 81.6 percent of all revenue came from donations. For two of the candidates, donations made up 99 percent of revenue.

Despite this, there is information on neither the overall amounts involved, nor the donors, especially as regards the campaigns before 2001. This is due to significant loopholes in the legislation. Nevertheless, thanks to the reports of the National Audit Office and the new electoral law, it is possible to access the financial reports of the parties and candidates. The table below is based on this source and covers the major political parties/party alliances:

Table 2

Revenues of Parties, Party Alliances and Independent Candidates during the Parliamentary Election Campaign of 2001

Revenue	**Amount in leva**
Total	5,004,293
Own assets	906,589
Donations by natural persons	2,619,848
Donations by legal entities	1,434,705
Other	43,151

Table 3

Revenue of the Major Parties and Party Alliances

During the Parliamentary Election Campaign in 2001 (in Leva)

Party	UDF	NMS II	KB (BSP)	MRF	Gergyovden /VMRO	BEL
Total	1,556,943	1,559,500	750,419	171,350	212,203	303,398
Donations by natural persons		656,074	562,309	171,350	93,366	
Donations by legal entities		903,462	23,724		7000	35,000
Parties' own assets	132,042	-	140,610		111,837	268,398
Other revenue			23,776			

The candidates for president and vice-president in 2001 disclosed donations totaling 1,110,132 leva. For Stoyanov – Kutskova and Bonev – Zhelezchev donations made up almost all revenue (99.8 percent and 99.4 percent, respectively). By contrast, Parvanov – Marin (the winners) reported donations amounting to just 35.7 percent of their revenue.

Table 4

Revenues of Candidates During the Presidential Election Campaign of 2001

Revenue	***Amount in leva***
Total	1,360,400
Own assets of parties/party alliances	99,353
Own assets of candidates	13,246
Donations by natural persons	605,721
Donations by legal entities	504,411
Others	137,669

Table 5

Revenues of the Major Candidates
During the Presidential Election Campaign of 2001 (in Leva)

	Parvanov – Marin	Stoyanov – Kutskova	Bonev – Zhelezchev
Total	314,882	650,413	345,659

Own assets of parties/party alliances	66,482		2171
Own assets of candidates			
Donations by natural persons	79,388	207,745	313,588
Donations by legal entities	32,951	441,060	29,900
Others	136,061	1608	

1.5 Public Funding

The dangers inherent in the exclusively private funding of parties and campaigns have been obvious for a long time. Central among these dangers is strong dependency on personal interests and continual attempts at corruption. Owing to these problems, for the last decade or so the state has been involved in the financing of elections. It can be stated definitely that complete financial independence of parties from the state is neither possible, nor desirable. However, in most countries of Continental Europe the state acts as a partial financier. This partial support can be indirect (material services and subsidies for parliamentary activities, political education or pre-election campaigns) or else direct (the general funding of party activities).

In Bulgaria, too, the state is a partial financier. The evolution of financing in the years after 1989 has already been discussed. However, towards the end of the period under examination the public financing of electoral campaigns was dropped: in the last campaigns of those years parties were forced to rely exclusively on private donations. Financial state support for campaigns was most significant in the first years of transition, after which it was gradually scaled down to such a degree that it seemed largely symbolic. Although public campaign finance is negligible, public funding of overall party activities has been important.

State campaign funding is not without its problems; five such difficulties specific to Bulgaria will be highlighted. The first problem concerns the eligibility criteria for state financing. As mentioned above, state financing was not explicitly regulated in the 1990 law on political parties. Only in the 1991 election law did the law set out in black and white the eligibility conditions for public subsidies and the formula for their distribution among the parties. Only parties and party alliances that had received more than 50,000 votes in the 1990 elections qualified for subsidy. They received advances of up to 50 percent of the sum provided for campaign finance in the state budget. Smaller parties and the independent candidates could receive short-term loans, which they needed to pay back to the state in case they failed to garner 50,000 votes at the parliamentary elections (in the case of parties) or a percentage of the actual vote (in the case of candidates). In the presidential elections this percentage was set at 1 percent. Depending on the number of valid votes cast for them, the parties and candidates received additional funds or else had to reimburse the money advanced to them.

In 2001, Bulgarian lawmakers chose a compromise lower electoral limit for public funding eligibility. This limit ensured that, on the one hand, parties with an established role in politics received finance and that on the other hand, state finance was not limited to parliamentary parties. This avoided “freezing” party structures and placing obstacles in the way of new parties. While the major beneficiaries were the parliamentary parties, i.e. parties that received more than 4 percent of the popular vote at the last parliamentary

elections, state funds were also available to parties that received more than 1 percent of the valid votes cast at the elections.

A second problem is the methods used to distribute funds. Current practice dictates that this takes place in accordance with the number of votes won. According to a 1996 amendment to the presidential campaigns law, 50 percent of the overall budget campaign funds are distributed equally among those parliamentary parties that have nominated candidates. Other candidates may receive short-term loans from the remaining 50 percent of the funds. Two governmental decrees issued before the parliamentary elections of 1994 and 1997 developed these rules further. The 1994 decree provides short-term loans at zero interest. Access to these funds is differentiated depending on the strength of the parties applying for them. Parties and party alliances that received 50,000 votes in the 1990 elections and who had members in the 1991–1994 Parliament were entitled to receive a loan of up to 50 percent of the total amount envisaged for them, but not more than 30,000 leva per member of parliament. Parties and party alliances represented in the 1991–1994 Parliament could receive loans of up to 750,000 leva, but not more than 30,000 leva per MP. Other parties and party alliances were eligible for loans of up to 300,000 leva, while independent candidates could receive 30,000 leva.

The 1997 decree provided for an advance of 50 million leva for parties and party alliances receiving more than 50,000 votes in the 1990 elections, but no more than 30,000 leva per registered parliamentary candidate. The other parties and party alliances were eligible for loans of up to 1.5 million leva, but not more than 30,000 leva for each registered parliamentary candidate. Independent candidates were in the same position as under the previous decree.

The question of which institution finances parties is a third important problem that arises regarding campaign financing. Which institution funds party campaigns is important from the perspective of there being a relatively neutral intermediary between the state and the parties, but mainly from the standpoint of control and sanctions. The legislation introduced up to and including 2001 did not deal with this at all. It is accepted *ex silentio* but rightly that in Bulgaria this institution is the minister of finance. In many democracies, however, other institutions discharge this task, e.g. electoral commissions, the speaker of Parliament, a special commission, and so forth.

The question of whether an upper limit of state subsidies for parties exists is another significant problem bearing in mind the tendency for state finance of parties to spiral. In Bulgaria, certain regulations did exist regarding the candidates and lists of candidates in two electoral laws, but only one of these laws laid down a limit for parties and party alliances. The election law of 2001 fixes the upper limits for parties at about $500,000, for party alliances at about $1 million and for independent candidates at $100,000. From the point of view of current and proposed legislation, it is insufficient for the state subsidy to depend merely on electoral results.

The issue of whether funding by the state or the use of public resources privileges parties in power is a fifth problem concerning Bulgarian campaign finance. Debates on the subject, which is important for a new democracy, are generally lacking in Bulgaria. In terms of regulation aiming to reduce the advantages of governing parties, the laws require that candidates who are state employees should take a leave of absence after registering for an election. They are entitled to paid or unpaid leave until the announcement of the election results. Previous provisions envisaged only paid mandatory leave during the campaign. According to the election law of 2001, this does not apply to the prime minister and the ministers; their competencies are not lost after their registration. Such a situation

does not create equivalence as candidates between the members of government and others. The acting prime minister and ministers can use, and do use, all the resources of the state during the campaign. During the 2001 parliamentary election campaign, their television appearances in their capacity as ministers occupied half the main news. The opposition took this particular provision to the Constitutional Court but the court did not declare the practice unconstitutional. According to the court decision, it was not a problem legally if, for example, the minister of finance stood as a candidate and was simultaneously in charge of the campaign financing of the ruling party.

1.6 Access to the Media

As in most countries, the media, especially the electronic media, are an important tool for parties and candidates during campaign periods. From the beginning of the transition onwards, exerting influence over state television and radio has been a preoccupation for all the political parties.

The first electoral laws (1990–91) provided relatively generous amounts of free airtime for participants in the electoral process. The Law on the Election of the Grand National Assembly (1990) provided all the parties with free airtime in which to broadcast their electoral platforms. According to the presidential election law of 1991, the candidates received free of charge on the public electronic media 120 minutes of airtime weekly, plus airtime for political announcements (up to 10 minutes) and debates (up to 90 minutes) between the two voting rounds.

In the mid-1990s these provisions weremade more restrictive. The local elections law of 1995 provided just 3 minutes of free airtime to representatives of participating parties and party alliances for their initial declarations. All other appearances (debates etc.) had to be paid for, although at reduced rates set by the government. A 1996 amendment to the presidential election law of 1991 reduced the amount of free airtime provided for initial declarations by the candidates and the debates between the first and the second round. The same rules remained after the further amendment of the 1991 law in 2001.

Free media airtime is distributed according to the parliamentary status of the parties. Parliamentary parties are allotted half of the broadcasting time in proportion to the number of their parliamentary seats. During the first free elections in 1990 when there were still no actual parliamentary parties, there was an agreement between the major parties for equal airtime for the Socialist Party and the opposition Union of Democratic Forces.

The electoral laws also regulate coverage of candidates in the news and in editorials. The first law stipulated that state television and radio should cover the campaigns of the different parties equally and in proportion to each party's number of registered candidates. The current parliamentary election law sets the overall airtime available at 120 minutes for the whole campaign, but no more than 5 minutes per day. However, unlike the previous legislation, it contains no rules regarding the distribution of this time among the various parties.

Bulgarian legislation in general does not permit broadcasting by foreign electronic media on Bulgarian territory. Nevertheless, private media can provide access for the parties and candidates at equal, pre-announced prices.

The findings of the few studies on campaign coverage show the decreasing intensity of campaigns and the dominance of the parliamentary parties in the media.

Probably the most intensive campaign was the first one, in the summer of 1990 (Mitev, 1999: 121). During the three weeks of that campaign, there were 32 hours of political programs broadcast between 6 p.m. and 10 p.m. As well as party clips three times a week, there were advertisements by the BSP and the UDF at 20 minutes each and by the Bulgarian Agrarian People's Union at 15 minutes. Also, political debates were broadcast twice a week.

During the campaign between September 15 and October 11, 1991, several more parties and party alliances (a total of 27) were given access to state television. The intensity of coverage decreased, though.

For the 1994 campaign, the Central Electoral Commission distributed to the parliamentary parties 90 minutes of free television time and 240 minutes of free radio airtime. Of this, 45 percent went to the UDF, 45 percent to the BSP, and 10 percent to the Movement for Rights and Freedoms. Parliamentary parties could allocate part of their free airtime to representatives of other parties and party alliances, yet no actual airtime was provided for non-parliamentary parties. Parties that nominated candidates in at least 11 districts were entitled to take part in debates twice during the campaign, to give addresses (5 minutes at the beginning and end of the campaign, respectively) and to broadcast clips (up to 3 minutes) twice a week.

The television campaign broadcast in 1994 occupied 1820 minutes. This was very close to the remarkable 1935 minutes of the 1990 campaign and far from the modest 1234 minutes of 1991 (Mitev, 1999: 121). Forty parties and party alliances used free airtime for their campaigns. This was divided into 586 minutes for clips, 334 minutes for initial and final addresses and 900 minutes for debates.

The data show a strong bias towards the parliamentary parties. The UDF and the BSP used 382.5 minutes each and the MRF 84.9 minutes, whereas the non-parliamentary parties had at their disposal only 20.6 minutes.

The major problem with access to the electronic media is the strong bias in favor of the government. The governing party always uses its authority over state television and radio to influence the reporting of the election. This is not illegal, since media legislation is designed in such a way as to serve the majority. While the media's activities are more or less technically legal, they are, as a rule, unfair and contrary to democratic principles of justice and tolerance.

This was noticeable during the parliamentary election campaign of 2001. Existing data show that 45 percent of state radio time was used to cover activities of the government and the majority in Parliament. State television broadcast no positive information about the opposition BSP, whereas 54 percent of the positive messages were for the governing UDF. Around 75 percent of negative information referred to the National Movement Simeon II, while there was practically no negative information concerning the UDF. As far as the election law allowed, the coverage of the campaign contained information almost entirely about the governing party and its possible partners following the elections.

1.7 Party and Candidate Expenditure

Although there is no strict definition of electoral expenditure in the Bulgarian system, in broad terms the phrase refers to finances spent during the campaign. According to the earlier legislation, the start of the campaign was the day after the parties or the

candidates registered. For the first time, the new Law on the Election of Members of Parliament (2001) introduced a more definite provision. This stipulated that the start of the campaign was 30 days before the day of the election and that the end of the campaign was 24 hours before that day.

As mentioned above, there are various forms of election expenditure restriction in Bulgaria. The first electoral law in 1990 introduced expenditure limits for candidates and parties (20 leva for the campaign of each candidate). The 1991 election law set the maximum amount of credit for each candidate at 30,000 leva. The presidential election law also contained expenditure limits. The amendments in 2001 fixed the campaign ceiling at 2 million leva per candidate list. For a mayoral candidate, the local elections law envisages expenditure ceilings of 20,000 leva, while for a municipal council candidate the limit is set at 3500 leva.

The parliamentary election law of 2001 sets out overall expenditure ceilings for elections to the national legislature. These are 1 million leva for a party, 2 million leva for an party alliance and 200,000 leva for an independent candidate.

The parties and candidates can use these funds freely. There are no restrictions on particular types of expenditure, such as commercials in the electronic media. However, irrespective of the funding sources, parties and candidates have to respect the overall limits.

Although the Bulgarian system does place substantial restrictions on electoral expenditure, there is little public concern over the issue. On the contrary: the evidence is that public opinion tends to prefer modest campaign funding.

It is still not possible to acquire reliable information concerning campaign expenditure. According to the available statements of the parties themselves, expenditure during the parliamentary election campaign of 2001 was follows:

Table 7

Parliamentary Election Campaign Expenditure in Bulgaria in 2001

Expenditure	**Amount in leva**
Printed advertisements	675,849
Registration costs	17,629
Meetings	691,856
Media	2,258,580
Transportation	504,059
Postage	166,752
Public opinion surveys	401,773
Other	259,459
Total	4,960,487

Table 8

Parliamentary Election Campaign Expenditure in Bulgaria in 2001 (in Leva)

Parties and party alliances	**UDF**	**NMS II**	**KB (BSP)**	**MRF**	**Gergyovden /VMRO**	**BEL**
Total	1,517,683	1,553,515	711,241	171,320	172,821	456,127
Electronic media	892,102	835,169	246,783	7264	30,266	179,981
Public opinion surveys	14,284	326,511	33,865		4293	19,170
Meetings	201,853	113,439	201,075	13,747	39,945	54,893
Printed adver-tisements	128,574	110,513	75,287	104,502	32,825	148,150

These data are based on expenditure recorded. There are no reliable studies on actual expenditure, although experts consider the official records as representing only a small part of it. Nevertheless, when we try to build on the available data, we can conclude that average expenditure per achieved parliamentary mandate in 2001 was 29,412 leva for the governing UDF; 8160 leva for the MRF; 14,812 leva for the BSP coalition; and 11,542 leva for the National Movement Simeon II. The expenditure reported for all the presidential candidates in 2001 totaled 1,335,098 leva, i.e. substantially less than that allowed per candidate (2 million leva). Major expenses were printed advertisements (35.1 percent) and use of the media (34.2 percent). Expenditure on the organizing of mass events was much less (10 percent).

Table 9

Presidential Election Campaign Expenditure in Bulgaria in 2001

Expenditure	**Amount in leva**
Printed advertisements	468,097
Registration costs	362
Meetings	133,294
Media	456,060
Transportation	109,000
Postage	39,706
Public opinion surveys	64,204
Others	64,375

Total	1,335,098

Table 10

Presidential Election Campaign Expenditure of Major Candidates for President and Vice-President (in Leva)

	Parvanov – Marin	**Stoyanov – Kutskova**	**Bonev – Zhelezchev**
Printed advertisements	74,931	215,456	166,260
Registration costs		362	
Meetings	58,864	47,499	13,366
Media	60,507	294,086	93,379
Transportation	38,429	54,564	10,007
Postage	21,167	4629	6267
Public opinion surveys	9244	14,583	40,377
Other	26,811	18,861	16,003
Total	289,953	650,040	345,659

1.8 Independent Expenditure

There is no legal definition of independent expenditure in the Bulgarian system. Individuals or organizations that are not registered as election candidates can nevertheless incur electoral expenses. The consequence is that there is no regulation of independent political spending in electoral campaigns. This is not perceived as a problem at all. The law itself provides no strict doctrine of "electoral agents" who are responsible for all political expenditure.

However, independent expenditure comprises a substantial part of party financing in Bulgaria, including campaign funding. It is everyday practice for "donors" to pay significant amounts of money to party members, or even non-existent persons, for consultancy, marketing analyses and so forth. In terms of documentary evidence, these funds do not count as party revenue, but as revenue of the person who receives the funds from the donor. The funds are not registered and may be used for any purpose.

Another form of indirect funding is where the "donor" pays for goods or services delivered to the party by a firm or an individual. Although these goods or services benefit the party, they feature on the balance sheet of the donor. Political foundations that can indirectly shoulder expenditure by the political parties play the same role. As a result of these techniques, reporting mechanisms—even if fully enforced—would relate only a limited proportion of the whole story.

1.9 Disclosure and Reporting

In the first years of the democratic transition in Bulgaria, parties were not obliged to maintain accounting records and reports. This only became mandatory in 1996. In this regard, reporting regulation was also missing from the 1990 Law on Political Parties, although under its provisions parties were expected to present annual reports on the size and sources of income and expenditure. This was also the case under the first election laws. The 1990 Law on Political Parties was naïve and contained regulations that were neither binding, nor feasible. There was a provision in the 1991 legislation stipulating that parties report on their revenues and expenses during campaigns. The deadline for submission of these accounts was set at one month after the elections. In all subsequent legislation this same regulation was reproduced more or less word for word.

The new party law of 2001 contained a short provision giving each party until March 15 each year to present its annual report on income and expenditure in the previous year. The law defines in general terms the structure of the report required. The electoral laws and amendments of 2001 confirmed the deadline of one month after the day of the election. However, all discussions concerning the new legislation demonstrated that insufficient attention had been paid to this exceptionally important question. Only half of the bills submitted in this period provided for the presentation of annual financial reports and only one required a relatively detailed description of the contents of the various accounts.

With regard to control over finances, it is of particular importance to establish which regulatory body will deal with the accounts submitted by the parties, as well as its sphere of competence and its composition.

The first electoral law laid down the unfeasible requirement that parties and candidates report their campaign revenues and expenditures to "the electorate and the respective electoral commissions." Another provision envisaged reporting to a parliamentary body established by some future Parliament. Laws after 1991 spoke of Parliament as the proper regulatory body. The Law on Political Parties of 1990 established this body as the "Public-Parliamentary Standing Committee" attached to the National Assembly. In practice, a standing committee of the National Assembly performed the role of monitoring accounts. As a rule, control over party finance can hardly be secure when it is exclusively concentrated in the hands of a parliamentary body. The close relationship between parties and deputies is clear, with the result that the independence of such a regulatory body could prove illusory. Furthermore, in some Bulgarian Parliaments the committee was not even formed; instead, its functions were taken over by other committees. This was the case during the 1997–2001 Parliament, when the Budget Committee assumed jurisdiction on the issue.

The tendency in recent amendments in the established democracies is to transfer control over party and campaign financing from government or parliamentary bodies to an extra-party, extra-parliamentary body, one that has the advantage of specialized, expert knowledge on the one hand and a necessary distance from the political actors on the other. A similar orientation appeared among Bulgaria's legislators towards the end of the 1990s. Three bills stipulated that parties must present their accounts to the State Audit Office, which, within six months following their receipt, must pronounce on their veracity. One of the bills provided for a government regulatory body in the Ministry of Finance to check the parties' annual accounts; parties would not be able to refuse audit by it or to withhold evidence of their financial state. Another bill was significantly more complicated. It stipulated two regulatory bodies: the Audit Office and the Public-Parliamentary Standing Committee at the National Assembly. The latter was to require presentation of an annual

financial report and was to maintain a public register of the receipts and expenditures of the parties.

Ultimately, the lawmakers decided in favor of the State Audit Office, which according to the party law of 2001 had competency over the incomes and expenditures of the parties. The SAO had to rule on party finance reports within six months of receiving them. The electoral laws and amendments of 2001 adopted this provision, as well as the deadline for submission of these reports (i.e. one month after the day of the election).

These reports were submitted to the State Audit Office but they were inaccessible for the public. The actual publication of party accounts represented a form of control insofar as it showed the ties between the parties and certain sponsors, how the funds were used and the degree of a party's indebtedness.

In most EU countries, the publication of party accounts is a requirement either for the parties (Greece, Italy) or for Parliament (Germany, France, Belgium). This device of public scrutiny usually relates to donations, insofar as they are listed separately. In Bulgaria there is no such requirement. In accordance with the Law on Political Parties of 1990, the financial activities of the parties were public, yet at the same time there was no mechanism under which parties were obligated to publish detailed data on their financial affairs. Absence of the mention of such a mechanism was a weak point in discussions about party and campaign financing. The question of public access was dealt with in only one of the six bills submitted to Parliament. In that bill, it was established that parties' financial activities should be made clear and that there should be a public register to record all the receipts and expenditures of the political parties.

Such a provision was, in the end, not included in the party law of 2001. There were no regulations establishing public scrutiny over parties' accounts, stipulating who was responsible for publication (the parties themselves, the parliamentary committee or another body), laying down deadlines, stating where and in what manner reports were to be published (entire or abridged), and so forth. The same applied to the new electoral laws. The present author was not granted access to the original reports of the political parties by the SAO: the officials argued that there was no legal regime governing public access to this information.

The information included in the official reports concerns the revenues of parties and of candidates (donations by natural persons, donations by legal entities, the party's own funds), expenditures (electronic media, public opinion surveys, meetings, printed advertisements) and the names of large donors. The financial manager and the leader of the party or party alliance both sign the reports. Parties and candidates are generally obliged to disclose the names and addresses of their (large) donors. The State Audit Office requires that in the case of donations above a certain value a separate list should be made of donations and donors. During recent years, this has become the practice in a growing number of countries (e.g. Germany, Greece, Italy, and the USA). The aim is to maintain better accounting records and to provide greater transparency as regards the interdependence of donors and parties. On the other hand, legal entities, too, could be obliged to publicize their political donations. In this way, the requirements of Bulgaria's party legislation would be harmonized with those of other current legislation. However, the SAO does not make public the names of the large donors, nor does it disclose the size of their donations. This deficiency undermines the rationale of the disclosure rules.

Candidates are not obliged to declare personal wealth or assets during elections. The holders of elected positions do, however, have a duty periodically to reveal to the State Audit Office their assets and financial standing. They have to submit their signed

declarations before assuming office and then annually until they stand down. Current legislation contains no provision for the verification reports by independent experts or the inclusion of auditors in the financial regulatory process. The practice in developed democracies (often supported by legislation) is to oblige parties to include external auditors in their accounting and reporting process. This extends to the parliamentary parties and those other parties that receive state subsidies. In Bulgaria however, this issue has never been raised as a problem. During its campaign, the National Movement Simeon II became the first party to announce that an external auditor—in this case Price Waterhouse-Coopers—would verify its financial reports. Even so, this did not amount to public verification.

1.10 Enforcement

Enforcement is a serious issue for every legal regulation concerning campaign and, more generally, party finance. It is no coincidence that provisions controlling party finances can be found in the constitutions of several European countries, such as those of Germany, Greece and Portugal. The greatest weakness of early and current Bulgarian legislation is the lack of real sanctions when parties fail to meet their financial obligations. It is true that the first party law did envisage the confiscation of party assets for use by the state in cases of non-compliance. This provision, however, has never been enforced. Moreover, that it could be enforced against a governing party is unthinkable.

Little changed in the later party and election legislation. The 2001 party law stipulated that parties that did not present their annual financial report on time would forfeit their next annual subsidy. This sanction was not included in the electoral laws, in which sanctions were reduced to fines of various amounts. These remained unspecified for financial irregularities, but only for violation of specific provisions of the law. Fines did, however, increase. According to amendments made to the presidential election law in 2001, fines rose to a maximum of 2000 leva with regard to parliamentary elections and 30,000 leva in presidential ones. Despite this, eight parties failed to report their revenues and expenditures following the 2001 elections. In principle, sanctions under the penal code are also available, especially for false information. However, there is no institution capable of verifying such allegations.

The Law on Political Parties stipulates that the State Audit Office oversees control over the finances of the political parties. After the parties have submitted their reports, the SAO has to present its judgment within six months. In an interview, G. Nikolov, the head of the State Audit Office, complained of a lack of authority when it came to checking the financial reports of the parties.[†] If the parties do not deliver their reports, the Office can only name the errant parties. It can only compare the revenues and the expenditures set out in the reports; it has no power to question the reliability of the financial documents.

The agency with general responsibility for enforcing campaign rules is the Central Electoral Commission. However, with regard to the rules on campaign financing, it has relatively little power. An additional problem is that the CEC is usually dependent on the majority in Parliament, insofar as it can take its decisions by means of a simple majority vote.

[†] Nikolov, G. (2001) "The Law Doesn't Allow Us Full Control Over Parties' Finances." *Sega*, July 20, 2001.

It is not possible for an elected MP to be stripped of his or her mandate if it is established that he or she, or his or her political party, has violated campaign finance rules. Only the local election law provides for such a possibility. If the funding has derived from an illegal source, on a motion from the other parties and party alliances participating in the elections, the respective district court can nullify the election. This provision has, however, never been applied.

These legal weaknesses create incentives for corruption and fuel public suspicions that the political parties are financed in corrupt ways. The major problem has, perhaps, less to do with the legislation and more to do with the fact that the investigative and internal security authorities charged with detecting violations are part of the same executive that is dominated by the majority party or party alliance. It can hardly be expected that the ruling party will be eager to find out its own members. It is therefore not surprising that there have been no serious investigations into campaign finance. Nor has there been serious discussion of the idea of appointing an ombudsman or similar institution to look into the financial affairs of the political parties.

1.11 Scandals

For more a decade now, the Bulgarian media have published accounts of various violations of campaign financing rules. Almost without exception, these have concerned the party in power at election time and usually involved the disclosure of criminal schemes, such as the use of money from state-owned enterprises or state funds for campaign purposes and the illegal redirection of money from unreported customs revenues.

All these cases were soon forgotten and had no serious consequences. Most were not been investigated at all. It is fair to say that there were no real political scandals concerning campaign financing, only allegations of wrongdoing. Another reason for the lack of scandal may have been that the major parties were wary of accusing each other of corruption because to some extent all were involved in similar practices. Occasionally parties use scandalous information to gain political advantage, but none has tried to use the ploy of legislative amendments or institutional reforms. Despite the lack of interest in the subject, both the 1997 and the 2001 election offered evidence that political corruption, including corruption in party and campaign financing, was one of the major reasons for the voters' rejection of the parties then in government.

Campaign finance is currently a topic of interest to the media in Bulgaria, but only on an opportunistic or short-term basis. There are no prominent journalists specializing in this area and the media have initiated no kind of anti-corruption campaign related to campaign finance.

1.12 NGOs

There are very few NGOs in Bulgaria that are committed to monitoring campaign finance. The Bulgarian chapter of Transparency International did try in 2000 to influence the legislative process in the field of party and campaign financing. However, the results were rather disappointing. Some years ago, the Bulgarian Association for Political Marketing and Communication launched two projects dealing with campaign financing. The first concerned control over, and transparency of, campaign financing during the local

elections of 1999 while the second one addressed other aspects of the parliamentary election campaign of 2001.

II. Analysis of the Campaign Finance Model

2.1 Transparency and Legality of Campaign Finance

In various respects, the Bulgarian model of campaign finance has failed to introduce a system that reduces corruption and guarantees financial transparency in the electoral process. Although on paper there are strict legal restrictions concerning the sources and amounts of political donations, every party has been successful in creating various ways of evading the rules. The most popular techniques are double accounting, reliance on independent expenditures and, on occasion, the blatant disregard of legal restrictions.

The major reason for this state of affairs is that the existing system of public financial control is weak and there is very little political will to promote greater control and transparency in the area of campaign finance. The absence of substantial reporting requirements together with vagueness and lack of provision for transparency in the legislation contributes to the prevalence of corruption. It is easy to get round the laws because there are enormous loopholes in them.

Another major weakness of the Bulgarian model is the failure of enforcement. Even the most rigid restrictions remain irrelevant if there are no effective mechanisms for their enforcement.

The general public is insufficiently aware of the importance of addressing corruption in campaign finance. Eliminating the personal enrichment of politicians through, for example, privatization is much more important in the eyes of the Bulgarian public. On the other hand, sections of the academic community, various journalists and the few NGOs working in the area see party and campaign finance as a significant manifestation of corruption in Bulgarian society.

In order to improve campaign finance practices, the following measures should be applied:

- The introduction of clear, detailed rules on funding, including enforceable provisions to ensure transparency.
- The strengthening of the enforcement agencies charged with supervising party funding.
- The creation of civil society organizations to monitor the reporting of campaign finance.

2.2 Structural Biases in Favor of Particular Political Parties and Candidates

As a whole, the democratic transition in Bulgaria has been marked by attempts on the part of major political parties to consolidate their power and to isolate their opponents. One feature that consistently erodes the democratic character of Bulgarian politics is the contradiction between the consensual substance of the constitution and the "majoritarianism" of actual politics. Each political party that wins an election opts to

centralize power and to pursue non-cooperative and exclusionary politics. A central aim of incumbents is to take advantage of their governmental status for personal and party ends. Pure majoritarian rule replaces consensus in the decision-making process; the rights of the opposition undergo restriction.

P. Lewis defines this process as the emergence of a very "thin" model of democracy where electoral victory opens the way to the relatively unrestricted pursuit of party and personal advantage. The governing position is associated with preferential access to certain state assets that may not be identified simply as party resources but that give a degree of control it would not otherwise have had. The cartelization and exploitation of this privileged position applies only as so the parties are in a position of power. A party's monopoly of particular public assets does not figure in that party's accounts of its income. Nevertheless, it represents a distinct expansion of its political resources (Lewis, 2000). One of these assets is the public media, which can be controlled and used in a partisan way by governing parties.

It should be noted that under such circumstances even the most exact legislation would be unable to rein in political corruption, including campaign finance corruption: the phenomenon is too complicated and diverse. In such a context, political corruption may not necessarily lead to personal self-aggrandizement, but its effects can be much more insidious. The manipulation of access to public resources and public positions is harder to control using legal instruments. The difficulties in regulating such practices encourage the development of clientelism and dependency on a certain regime or form of rule. The greater the amount of unlimited power a given group has, the greater are its opportunities to create a network of privilege. In order that corruption be held more successfully in check, the decentralization of power and the introduction of a more extensive separation of powers are both necessary.

In terms of party funding per se, special attention should be given to the following measures:

- The creation of independent nongovernmental autonomous agencies to enforce electoral laws.
- Public funding that is designed to level the playing field for the government and the opposition.
- The role of the public media should be carefully monitored: biases in favor of government or particular clientelistic groups should be restricted or counterbalanced.
- As far as is possible, the administration and the judiciary should remain neutral in political competitions.

2.3 The Assurance of an Open and Inclusive Political Process

Owing to unclear and unreliable data, the source of most of the money for electoral campaigns in Bulgaria can only be guessed at. The most likely sources, especially for the governing parties, seem to be public enterprises and recently privatized firms. Undoubtedly, private companies constitute another important source of funds. By all standards, the participation of ordinary citizens in the electoral process by means of political donations is modest. As the economic situation improves, legislators could consider the German practice, i.e. the allocation of public funds to match funds collected through small private donations.

As mentioned at the beginning of this article, state funding for campaign finance is not provided unless funds allocated for operational needs are used in the campaigns. There is no danger of the "etatization" of political parties or of excessive public funding leading to the alienation of voters and citizens from politics. The resources of the state budget in Bulgaria would be unequal to such funding. At the same time, some state funding for campaigns should be provided. The abandonment of public campaign funding was never really discussed. At this stage though, it seems impossible to introduce a system, as in other countries, of wholly publicly financed campaigns.

III. Conclusion

2001 was the year when campaign finance reform might have happened in Bulgaria. Most of the important legislation has now been passed, and yet, in terms of improving transparency and the enforcement of the law, the outcomes have been unremarkable. There was not enough pressure from either the public or from specialized NGOs. Despite this pessimistic assessment of the current situation, one has reason to be optimistic: the current majority in parliament is considering the adoption of an Electoral Code, and it might be that this will offer a real opportunity for the reform of campaign finance in Bulgaria.

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Party and Campaign Finance in Croatia

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Introduction

Political pluralism without the existence of different political parties is hardly conceivable. They promote their ideologies, develop their policies and expose themselves to competition in election campaigns. Experience has shown that political parties are governed by their noble intentions and causes, but that there are also discrepancies in their ideological determinations and electoral promises, as well as in the advocacy of their declaratory goals on the one hand, and the actual motives and results of their actions on the other.

Mistakes are sometimes quite visible: political parties pursue the interests of members of the powerful social layers or alienated leaders. They often do not have clearly defined ideological programmes, transparent strategies or pre-planned policies. On the contrary, they hide their intentions. They do not represent real alternative. It is often the case that after a gradual loss of legitimacy, they only change their names. Political parties in Republic of Croatia often promote their members but decrease the level of professionalism and responsibility[22].

Politicians advocate the interests of those who have voted for them and supported them, but also their own interests and interests of those assisting them. Behind the walls of democratic institutions, power can be bought and sold in an unsophisticated way by mere corruption. This is, also, frequently done in a more subtle manner, through the financial support given to the candidates and their political parties. In order to prevent this dishonourable trade, clear rules for financing of political parties and their electoral campaigns are important. The following formula is valid in this case: the more the candidates are financially dependent on their sponsors, the higher the probability that they will promote the particular interests of those who finance them and not the interests of society in general. Therefore, the attempts to regulate the financial issues surrounding electoral campaigns and elections must be rooted in the efforts to limit the disproportionate influence of rich individuals or specific interest groups, to make their accounts transparent to prevent a conflict of interest, misuse of public funds and the utilization of financial influence in order to orchestrate elections[23]. Money in politics causes malfunctioning of the political system. "Money may lead to unfairness and may distort electoral competition. If one party is able to attract disproportionately large funds from some very wealthy supporters, it stands to gain a considerable advantage over an opposing party. A well-funded campaign will be able to employ a larger staff and to pay for a greater number of posters and advertisments. It is hard to assess scientifically the extent to which superior resources win votes. A huge budget is no guarantee of success. Yet there are circumstances where the candidate with the largest budget has a clear advantage."[24]

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[22] "Political party taxation is implied when certain persons are chosen, i.e. appointed to certain positions in the state apparatus, in economy or in positions in other organizations, based on their party adherence, so they are obliged to pay a part of their income (honoraria, various fees) to the political party account." In: B. Jelčić, *Financiranje političkih stranaka* (Financing of Political Parties), *Financijska praksa* (Financial Practice) 17 (1993), 2, p. 120.

[23] In: J. Kregar, *Financiranje političkih stranaka u društvenom i pravnom kontekstu - analiza hrvatskih prilika* (Financing of Political Parties in Societal and Legal Contexts - Analysis of the Croatian Situation), in: J. Kregar, Đ. Gardašević, Z. Petak, *Novac u politici* (Money in Politics), Transparency International Hrvatska, Zagreb, 2003, p. 13.

[24] In: M. Pinto-Duschinsky, *Party and Candidate Financing*, *Administration and Cost of Elections Project*. See: http://www.aceproject.org/main/english/pc/pcd.htm.

The issue of political parties' operation in new democracies is particularly sensitive[25]. In countries undergoing transition, democratic institutions are fragile, general public is not engaged and the participative political culture, where there is a subtle equilibrium of political inactivity and engagement, does not exist[26]. It is common in these countries to witness how political movements become political parties and how within them, the charisma of a popular national leader often blocks the growth and prevents the stabilisation of the political arena. However, the examples of Turkey, India, Mexico and Egypt have shown how even in unpropitious circumstances, the main features of a democratic system may be established and preserved, the elections held, and how through the elections, political parties may assume the position of main actors in the dynamics of a political struggle. The issue of financing political parties and the pre-electoral campaign has become one of the main issues of stabilisation of the democratic processes in many countries[27].

I. Description of a Political Finance Model

1.1. Laws and Regulations on Campaign and Party Financing

Legislation concerning the financing of political parties and political campaigns in Republic of Croatia dates back to the first democratic elections in 1990. At that time, it consisted of mostly only government decrees and even that only fragmentally, this was the actual electoral legislation. At present, the legislation is provided in the following sources of law:

- Constitution of Republic of Croatia[28];
- Act on Political Parties (hereinafter referred to as APP)[29];
- Act on Parliamentary Elections (hereinafter referred to as ASE)[30];
- Act on Presidential Elections (hereinafter referred to as APE)[31]; and

[25] "The collapse of the old order opened up an unprecedented opportunity for influence and gain. In every state covered by this report, highly competitive political and economic factions emerged to exploit these opportunities. These factions seek to dominate the political office and the complicated processes of resource allocation and privatization. The most successful states have managed to regulate these processes and control the behavior of competing factions. The weakest have not. The politics of weak states are often an extension of this factional battle, with the victor controlling the spoils." In: S. W. Garnett, Trouble to Come: The Emerging Security Challenges in the Balkans and the Former Soviet Union, in: A. Karatnycky, A. Motyl, A. Schnetzer, *Nations in Transition 2002*, Freedom House, 2003, p. 32.

[26] In: G. Almond, S. Verba, *Civilna kultura* (Civil Culture), *Politička kultura*, Zagreb, 2000, p. 349-371.

[27] In a major survey of public opinion concerning corruption in 2003, 30,487 persons in 44 countries were asked the question: "If you had a magic wand to eliminate corruption in one of the named institutions which one would you choose?". To everyone's surprise, by far the largest number of the respondents ranked the corruption within political parties first. In three quarters of these coutries, the respondents stated that the corruption of political parties was their first choice from among 12 different institutions. We shall give here very indicative results for only a few of them: Argentina (58.2%), Japan (51.9%), United States (39.1%), Great Britain (41.2%), Spain (34.8%), India (41.2%), Germany (39.2%), Italy 29.0%), Denmark (36.1%), Canada (39.7%). In Republic of Croatia, the situation was somewhat different since the situation in health care was ranked first (22.5%), the judiciary second (21.6%), and the political parties third (18.6%). Transparency International Press Release - Transparency International Global Corruption Barometer, 3 July, 2003. See: http://www.transparency.org/surveys.

[28] Constitution of the Republic of Croatia prescribes that political parties are required to publicly announce the sources of their assets and property. Furthermore, it prescribes that the financing of political parties shall be regulated by law. The Constitution was published in the Official Gazette (of Republic of Croatia) nos. 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01 and 55/01. The site of the Official Gazette is http://www.nn.hr (in Croatian).

[29] APP: *Zakon o političkim strankama*, Official Gazette nos. 76/93, 111/96, 164/98 and 36/01.

[30] AES: *Zakon o izborima zastupnika u Hrvatski državni Sabor*, Official Gazette no. 116/99.

- Act on Financing the Presidential Elections Campaign (hereinafter referred to as AFPEC)[32].

In addition, it must be emphasised that APP prescribes that the political parties' statutes must contain provisions concerning their assets and other ownership issues. Consequently, a more thorough analysis also requires an overview of this level of legal regulation. Apart from the statutory provisions, other sources of law on financing may also exist, such as by-laws on the financial and material management adopted after the statutory delegation of a particular political party.

The first specific characteristic is that these acts, in the experts' opinion, are not sufficiently precise, and that in their implementation, the conceptual and practical issues are not always observed. The provisions are insufficient and only a few of them provide for the problems of financing. Their wording is not precise and the definitions are inadequate. The legal provisions require by-laws for implementation, and they are neither transparent and known to the general public, nor precise. In addition, the implementation of norms is rather "flexible", and sufficient financing often depends on political influence. The most visible and substantial problem is the fact that the norms of these Croatian laws have not developed into political practice and culture, so the country does not have any tradition, conventions or customs of regulating the questions of campaign financing.

Generally speaking, the legitimate sources of party financing are defined in the APP. In the first version of this act, adopted in 1993, parties were defined as non-profit entities with a separate legal personality. In the current version of the act, after the amendments made in 2001, parties are defined as legal persons and, for the purpose of financing, it is laid down that if the parties in their activities acquire any profit, they must deal with it in the way prescribed for non-profit entities.

Moreover, the APP lists the following sources of financing:

- membership fees;
- donations;
- publishing;
- organization of party events;
- advertising and publicity;
- contribution from the State budget or from the budgets of units of local self-government; and
- other lawful income[33].

Prior to the amendments of 2001, these sources had also included the profit of companies owned by individual political parties. As we shall see in the following text, each of these sources deserves special attention.

For the purposes of the presidential elections, the AFPEC prescribes that the electoral campaign may be financed from one's own resources and by donations of domestic natural and legal persons[34].

1.2 Party Structures Dealing with Party Financing

According to the APP the statutes of political parties must contain the provisions concerning their assets and the provisions on the procedure to be applied to resolve the

[31] APE: *Zakon o izboru predsjednika Republike Hrvatske*, Official Gazette nos. 22/92, 42/92 and 71/97.
[32] AFPEC: *Zakon o financiranju izborne promidžbe za izbor Predsjednika Republike Hrvatske*, Official Gazette no. 105/04.
[33] APP, art. 18.
[34] AFPEC, art. 2.

ownership issues if the party ceases to exist[35]. The act thus transfers the entire issue to a lower level, namely to its being regulated at the statutory level.

A comparative analysis of statutes of political parties represented in the Croatian Parliament reveals various practices of electing treasurers, varying from the competency of either the executive or representative bodies within the parties (executive boards or assemblies) at both central and local levels (lower branches of the political parties). On the other hand, in terms of financial management, it is mainly in the competence of the executive bodies, with the supervisory role of the prescribed representative bodies.

1.3. Membership Fees

The payment of membership fee is not considered obligatory. Sometimes, the statutes of political parties provide for the payment of membership fees but in reality, membership fees constitute an income of marginal importance. Even when such a statutory possibility does exist, no party has a regular service or a mechanism for collecting it. However, in 2000, the Social Democratic Party of Croatia (hereinafter referred to as SDP) obliged its members to pay a part of their income as political officials into their party's account allocated for the education of their youth. Such a practice has neither been maintained nor fully accomplished. A similar obligation existed with regard to remunerations membership on supervisory boards (Croatian Democratic Union, hereinafter referred to as CDU) but the decision of the highest party bodies to abandon them was not respected either.

In the discussions on amending the APP, an obligation of prescribing at least a minimum fee was proposed, but the representatives of political parties were of the opinion that this would constitute an impermissible infringement of the freedom of a party's association and autonomy.

1.4. Private Donations

Generally, the Croatian legal framework does not set forth the usual restrictions concerning the categories of donors. As consequence, there is no limit as to those who are or are not allowed to donate to political parties registered in Republic of Croatia (e.g. foreign donors, state institutions, state-owned companies, NGOs, religious or humanitarian organizations, etc.). Moreover, there are no restrictions as to the upper limit for certain kinds of donations (e.g. anonymous donations). The relevant provision in the APP states only that, among other sources of financing, political parties are allowed to receive donations[36]. However, a significant change has been made in the AFPEC which, in the course of the presidential elections, strictly prohibits donations (money, other means or services) from a relatively wide variety of subjects and sources such are:

- foreign states;
- foreign political parties;
- foreign natural or legal persons;
- public companies;
- legal persons with public authority;
- companies, other legal persons, public and other institutions predominantly owned by the state or the units of local and regional self-government;
- workers' and employers' associations;

[35] APP, art. 10 par. 1.
[36] APP, art. 18.

- organisations and foundations represented by state officials or officials of the units of local and regional self-government
- religious, humanitarian and other non-profit associations and organisations;
- budgets of units of local and regional self-government;
- companies owned completely or partially by the units of local and regional self-government;
- institutions founded by the state or the units of local and regional self-government.

According to the final report on the presidential elections in 2005 published by the State Electoral Committee, it can be seen that in Republic of Croatia there is a common practice of financing candidates by supportive domestic political parties, as well as domestic supportive associations and other legal persons. There is also the practice of reporting voluntary work in terms of particular services that the candidates alone estimate and report.

A large number of political parties, or the major political parties, do have a firm relationship with a certain international association of political parties or sister-parties in other countries. Thus, for instance, CDU is a member of the European Association of People's Parties and enjoys strong support by a fraction of conservative parties in the European Parliament. CDU has its sister-parties especially in Austria (ÖVP), Germany (CDU), Bavaria (CSU). Significant is also the role of some international foundations, such as *Konrad Adenauer Stiftung,* in political education of CDU members (especially the youth organization). The situation with other parties is also similar. The parties of liberal orientation are members of the global federation called Liberal International (they also have contacts with *Friedrich Neumann Stiftung*). Social democrats play an important role in *Socialist International* and are supported by *Friedrich Ebert Stiftung*. SDP has had considerable technical and advisory support by the German SPD and the British Labour Party.

1.5. Party Companies and Foundations

The current APP does not set forth the profit generated from the companies owned by the political parties as a legitimate source of financing. However, there has been a significant change in the amendment of the Act in 1998, since prior to that time, the parties had been allowed to collect such profit. At the same time, the former provision of Article 18 of the APP strictly defined political parties as non-profit entities. After the amendment of 1998, the wording of the Act changed in that they were required to deal with the income gained in the same manner prescribed for non-profit entities. However, this small change did not touch upon the legal status of parties, since both before and after 1998, they had explicitly been defined as legal persons.

The provisions in political parties' statutes in Republic of Croatia set forth a possibility of establishing foundations.

Two additional examples must be taken into account. First, in 1990, it was a well-established practice to have "party companies" as important sources of income for their campaign and party financing. A good example is "*Domovina d.d.*", a share-holding company owned by a few CDU leaders. The company was established as a tool to attract the resources of the national political emigration and the Croatian diaspora and to become an alternative semi-legal source of financing CDU in the first democratic elections. Very soon, the legal functioning of the company became very problematic: it was not clear who the owners were, who controlled it or who was responsible for the entire operation of the company. It became a holding company, and then a matrix of different, party-controlled companies with a lion's share in the process of privatization of state-owned property (at the same time, CDU had the dominance in government and privatization agencies) when huge profits were transferred to private accounts. The company has been a symbol of misuse of political power, corruption,

and illegal financing. The investigation and prosecution activities are still in progress and court cases against its manager are not finished yet. In order to better understand the financial and political importance of the scandal, it must be stated that the main court case indicated the disappearance of more than a billion Euros. The War for Independence, like any other war, brought with it destruction and many victims, but also warlords and traders benefiting from the war situation. The need to create an army and equip it with weapons (at the time of the international embargo) was an opportunity for government and party officials to make their own private fortunes**.** The thin line between a party enterprise and the private interest of the leading officials disappeared. The burden of such practices from the previous decade continues to exist. A very similar example is the foundation of the organization "*Zaklada hrvatskog državnog zavjeta*", an CDU endowment originally founded to attract the donations of patriots from abroad. In fact, it only became an additional source of funding the campaign. However, after an internal confrontation and controversies, CDU put an end to such practices.

1.6. Party Assets

Until the mid-1990s, the political parties' assets, with the exclusion of SDP, were officially not large. Nowadays, they usually use the premises owned by local units and this often results in conflicts and misuse. In Zagreb, for example, as many as 60 political parties use premises owned by the City of Zagreb and the three largest parties use premises owned by the unit of local self-government. Even the parties which did not participate in the elections or succeeded in winning only an insignificant number of votes are lesees.

At the beginning of the 1990s, SDP made an agreement with the Government (then composed of CDU members) on trading or using the property of the former League of Communists. However, the general public has never been completely informed about the conditions of this agreement. At the same time, SDP sold some property belonging to the former communist party: the villas in Opatija and Bohinj and some holiday resorts.

The present property of political parties is not large and consists of only a few buildings (SDP, CDU) that are leased.

1.7. Public Funding

1.7.1 Direct Funding

The main income of political parties derives from the State budget. At the normative level, it must be emphasised in the first place that Constitution of republic of Croatia does not contain any specific provisions on financial subsidies to political parties originating from the State or local budgets because this area is provided for in the laws. APP sets forth a quota of 0.056% of the previous year's State budget. The right to budget subsidies belongs only to parties represented in the Parliament by at least one representative. However, this is not very simple: a decision on the distribution must be authorized by the Committee for Constitution, Standing Orders and Political System of the Parliament (hereinafter referred to as CCSOPS) which annually distributes equal amounts to each party on the basis of its strength and proportional to the number of its representatives in the Parliament. Moreover, an additional amount of 10% of the sum given in the previously described manner per representative goes to the parties whose representatives are of the under-represented gender. Finally, the entire income described above is paid into the parties' accounts in the same amounts every three months[37].

[37] APP, art. 19.

Similar rules are prescribed for financing of political campaigns. AES stipulates the parties' right to the budgetary compensation of costs for the national elections. The right to compensation belongs to every party and to independent candidates (lists), as well as to the representatives of national minorities if they have nominated at least one list for the elections (in one electoral unit). The parties already represented in the Parliament have the right to compensation in the annual amount as prescribed in the APP. These sums must be paid within 48 hours after the recognition and approval of the lists[38]. The right to compensation belongs also to the parties which, prior to the enactment of AES, did not have their representatives in the Parliament. It also belongs to holders of independent lists under the condition that they have obtained at least 5% of votes[39]. In their case, the compensation must be paid within 30 days after the election results. In all these cases, the compensation is paid directly into the political parties' bank accounts or to individual candidates.

As for the presidential elections, AFPEC prescribes that all the candidates who have acquired a certain percentage of votes cast are entitled to compensation from the State budget[40]. An additional regulation is set forth in APE which lays down a lower limit of 10% of the votes cast and prescribes equal compensation[41]. According to the data for the last presidential elections, this compensation was, by a Government decision, set at HRK 500,000.00 and was given to three candidates[42].

AFPEC, however, sets forth some restrictions on the expenditure from the State or local budget allocations for the candidates in presidential elections. These funds must not be used in the course of the candidates' regular activities as state or local officials (the so-called "funds for regular activities"), unless it has been permitted on the basis of a special regulation providing for their physical protection. Moreover, the funds allocated for electoral campaigns must not be used for the financing of individual projects with the purpose of acquiring votes, and whose completion is conditioned by the voting for a particular candidate or a list[43].

1.7.2. Indirect Funding

The legal regulation of indirect funding may also touch upon the issue of public broadcasting of the electoral campaign. As for the course of parliamentary elections, AES sets forth only a general provision and requires the enactment of the Rules for Electronic Media with the National Concession in Republic of Croatia during the Electoral Campaign[44]. Apart from the general principle of equality of all political parties that have nominated their lists for the elections, AES prescribes that the Rules must further regulate the specific means and times of the electronic media coverage, as well as the specific ways of presenting their political programmes and party candidates and officials. In addition, AES lays down that the Rules must determine the total time reserved for public broadcasting in electronic media with the national concession, divided equally for every individual list taking part in the elections[45]. The Rules also contain a similar equality rule that applies to all political parties, party

[38] According to a report published by the leading Croatian NGO monitoring elections, "GONG", the total amount of HRK 39.142.714,00 was paid to the parliamentary political parties for the elections in 2003. See: http://www.izbori-hr.info/hr/gong.asp?cat=14&subcat=35.

[39] The Government of Republic of Croatia decided that the amount would be HRK 40,000.00 per party. See: http://www.izbori-hr.info/hr/gong.asp?cat=14&subcat=35.

[40] AFPEC, art. 2.

[41] APE, art. 16.

[42] See: http://www.izbori-hr.info/hr/gong.asp?cat=14&subcat=36.

[43] AFPEC, art. 4 and 5.

[44] *Pravila o postupanju elektorničkih medija s nacionalnom koncesijom u Republici Hrvatskoj tijekom izborne promidžbe*, Official Gazette no. 165/2003.

[45] AES, art. 28.

coalitions, holders of independent lists and candidates for the representatives of national minorities. Furthermore, an explicit provision in the Rules prohibits putting up candidates who are at the same time also state officials and are thus in a beneficial position as opposed to other candidates. It also prohibits that their regular activities be used for party purposes. However, media coverage of state, local or regional officials that are also election candidates is allowed, but only on condition that their candidacy or party membership are not mentioned and that the coverage deals with their regular activities.

On the other hand, regarding the course of presidential elections, APE also sets forth an equality rule. However, a distinction is made between the Croatian Radio-Television (CRT) and other media. The CRT must give every candidate an equal amount of time to present his or her programme, while other media are required to allow such presentations under equal conditions[46].

1.8 Independent Expenditure

The parties are obliged to disclose their estimation of costs for the campaign and thus also all the facts regarding their financiers and supporters. This obligation was interpreted as an imperfect norm and in almost 9 years, not a single party has fulfilled the obligation. Only in the elections of 1999, the coalition of SDP and Croatian Social Liberal Party (hereinafter referred to as CSLP) disclosed such data but in an imprecise way (amounts must be precise!). However, they never repeated such practice.

Even more controversial are the provisions on the financing of the presidential campaign. In its Article 42, APE lays down the rule that the State budget needs to provide funds for the campaign. However, the principles, the criteria, the limits and the procedure to be followed are not defined. In Article 16, it is set forth that the amount must be determined by the Government, and in Article 42 that the Electoral Commission decides on how the funds are to be used in the campaign and supervises the use. In the elections of 2000, the essence of these provisions was not respected. Despite public scrutiny (financing was one of the issues raised in the campaign), the candidates did not disclose their balance sheets in full, their costs were not transparent, their donors remained anonymous, and what they did publish were only the revision reports.

On December 24th 1999, the Government decided that each candidate in the presidential elections who succeeded in obtaining the minimum of 10% of votes was entitled to compensation for the campaign costs from the budget (in both runoffs). The compensation amounted to HRK 500,000.00 (€62,500.00[47])**.** Only three of the nine candidates fulfilled the necessary conditions. The Electoral Commission reimbursed them by paying these amounts into their personal accounts. However, there was no control of the costs at all.

1.9. Reporting and Disclosure

According to APP, political parties are "obliged to publicly disclose the sources and allocations of funds at calendar intervals"[48]. Those receiving budgetary supports are also obliged to submit their financial statements to the Parliament upon a preliminary supervision by the State Auditory Office (hereinafter referred to as SAO)[49]. If a party does not observe

[46] APE, art. 13 and 14.
[47] *Odluka o utvrđivanju visine naknade troškova izborne promidžbe za izbor predsjednika Republike Hrvatske*, Official Gazzete no. 105/04.
[48] APP, art 20.
[49] APP, art. 22.

such a procedure or if some illegal activity or mismanagement of funds are discovered, it is not entitled to any of such funds for the following year. Illegally acquired funds are transferred to the budget to be designated for various humanitarian activities[50]. Ambiguous legislation has given space for arbitrary implementation. Ever since the first regulation, the disclosure rule has not been fully complied with. The reports and balance sheets are usually not published but delivered only as internal communication within CCSOPS despite the clearly prescribed rule. The rule has been interpreted not as an obligation but rather as a procedural instruction for CCSOPS. Instead of public and transparent evidence and public control, any possibility of insight has been left only to particular state bodies (SAO) and possibly to a mutual checking by the political representatives in parliamentary bodies. Moreover, the rule has not been interpreted as prescribing the right of citizens to control their representatives or as the right to information for citizens and the media. On their own initiative, the political parties silently agreed. They are not interested - due to the times of fierce electoral campaigns - to discuss the issue of party financing. Not a single political party has ever disclosed its balance sheets in the press or in any other way.

APP also lays down the penal provisions concerning the financial management of political parties. According to it, the prescribed penalty is from €35,00 - 130,00 for the political party and from €350,00 - 100,00 for the responsible official of the party if there has been no public disclosure of the funds received during a calendar year or if the resources were acquired illegally or were not submitted and shown in the annual financial statement[51]. As for the initial funds disposed of by political parties, it must be emphasised that they have to publish their statutes upon registration in a daily newspaper or in the Official Gazette[52].

At the parliamentary level, AES prescribes that all political parties nominating their lists for the elections are required, at last at the beginning of the electoral campaign, to publish all the general data regarding the amounts and sources of their own funds for the campaign. The same rule applies to the candidates of national minorities and independent lists[53]. However, in the parliamentary elections in 2003, only a few political parties partially fulfilled this legal obligation[54].

APE does not contain any provision regulating the disclosure procedure for the presidential elections. However, AFPEC, enacted in 2004, contained some rules. According to it, all the candidates are required to submit their temporary reports on the amounts and sources of funds for the electoral campaign to the State Electoral Committee (hereinafter referred to as SEC) at least 7 days before the election day. Moreover, 15 days after the elections, complete reports must be submitted to SEC which must then publish them in the Official Gazette and in other media[55].

1.10. Enforcement

Act on the State Auditory Office (hereinafter referred to as ASAO)[56] provides for the authority of revision of the financing of political parties and entrusts it to SAO in a very general manner. It prescribes that SAO performs the revision of financial reports and financial transactions of all legal persons that are partly or completely financed from the State budget[57].

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[50] APP, art. 20.
[51] APP, art. 26.
[52] APP, art. 10.
[53] AES, art. 31.
[54] See: http://www.izbori-hr.info/hr/gong.asp?cat=14&subcat=35.
[55] AFPEC, art. 6.
[56] ASAO: *Zakon o državnoj reviziji*, Official Gazette nos. 70/93, 48/95, 105/99, 36/01, 44/01, 49/03 and 177/04.
[57] ASAO, art. 1.

According to this act such revision is mandatory and must be performed once a year[58]. Apart from the provisions dealing with the definition of revision and the statutory regulations, there are those setting forth that SAO is directly accountable to the Parliament and that the State Auditor General is elected by the Parliament for a term of 8 years with a possibility of re-election[59]. Among the penal provisions, ASAO prescribes that a legal person who does not submit the documents, certificates, reports or other information necessary for the revision, or if he/she gives false information, he/she must pay a fine of HRK 3500.00 – 40,000.00. The same goes for the responsible person of a legal person and amounts to HRK 1500.00 – 3,500.00[60]. In the period between 1990 and 2001, SAO never scrutinized the financial management of the political parties in Republic of Croatia[61].

1.11. Scandals

The occasional scandals related to the misuse of party funds point to two important issues. First, the public has become aware and sensitive to the moral and practical aspects of the problem of financing. In such conditions, the reaction of the political circles was to set up formally strict rules. This only kept the public quiet for a short period of time, but it also created loopholes to make further illegal activities possible. Moreover, a closed circle was created: the strict regulation pronounced even the issues considered necessary to win the elections as illegal (payments in cash, acceptance of prohibited donations) and this again led to new scandals and further amendments to the regulations. Second, the acceptance of donations of a clearly suspicious background has shown that there are tight connections between politics and economic groups and interests. This has also shown that the strictness of limitations and prohibitions should be followed by an efficient and effective supervisory mechanism. At the same time, this supervision should be professional (this is why SAO is engaged), and it should be accompanied by the relevant rules, forms and procedures to specify the income and the expenses (an outstanding example is the US system). In addition, the possibility of public supervision should be strengthened (so that it does not all end in the form of reports to the parliamentary committees).

Experience has shown that such rules are necessary for two important political goals. The first is the frequent degeneration of political pluralism and democratic discussions into scandals related to the misuse of party funds for political purposes, i.e. “scandalizing” the political arena. In this respect, the rules of financing should guarantee prevention and establish clear-cut criteria for evaluating what is wrong and unlawful. The influence of the media in modern societies is very strong, yet the criteria of public opinion are not reliable. They are changeable and could be subject to current political relations and events. In many countries, including Republic of Croatia, the danger comes not only from the risks of totalitarian tendencies, but also from turning the public dialogue sphere into glamorous rituals of governing and suppressing critical public opinion and diverting the interest of an average citizen towards fun, leisure and consumerism. Under the title of democracy, we then have “advertocracy” or “paideic democracy”.

There are many examples of political scandals in the sphere of financing electoral campaigns in Republic of Croatia. As early as in the 1990s, there were cases of evident misuses of the Croatian emigrants’ money given to finance a political campaign. The money,

[58] ASAO, art. 3.
[59] ASAO, art. 10 and 12.
[60] ASAO, art. 16.
[61] See also: M. Jelušić, *Financiranje izborne kampanje i hrvatsko izborno zakonodavstvo* (Financing Electoral Campaign and Croatian Electoral Legislation), *Zbornik Pravnog fakulteta u Zagrebu* (Collected Papers of the Faculty of Law in Zagreb), 51 (2001), 6, p. 1363-1380.

often in fear of Communist repression, was brought in cash, without being registered in any way. After a while, there were rumours of such money being concealed and questions were raised as to where it had gone and how it had been used. Such practice existed unhindered until the elections in 1995 when criticism was voiced against such illegal activities. In the changed circumstances, various scandals only warned that the same practice was continuing but in a less obtrusive way. For example, in 2003, the then president of the Democratic Centre party and the party's secretary (she is today Minister of Justice) made a written contract with Mr. Mudražija who, for his donation of € 250,000.00, was promised a seat in the Parliament. After the elections, the party did not keep its promise and Mr. Mudražija publicly asked for his money back. The actors in this scandal admitted the main allegations (the existence of a contract and the amount) but did not return his money. Investigation was initiated on the disappearance of the money and it has not been brought to an end yet. The major scandal, however, was the one involving Miomir Žužul, vice-president of the government. In many public appearances before the elections he presented himself as a successful businessman and a professor of international reputation. It became clear after the elections that along with all his other functions, he had also acted as a lobbyist of the Bechtel company, a large construction company which also helped his political party. When the Government wanted to sign a contract for major construction work with this company by a direct deal and not by an invitation for tenders, the scandal was brought to public attention and the media reported daily on the strong links between the interests of the company and its lobbyist. After very strong public pressure, Mr. Žužul was forced to resign.

The public was scandalised after the local elections in 2005. The general political framework of the scandals was the fact that at a local level, the parties were forced to form different coalitions which were very unstable. In at least ten cases, members of different parties arbitrarily changed the coalitions and their motives were publicly discussed and questioned. In some cases, there were express admissions of the existence of written contracts (Karlovac, Velika Gorica) and serious suspicions of bribery (Dubrovnik). Mandates could be bought and different advantages were offered to companies regarding their business interests. According to a statement given in that regard, the police and the State Prosecutor's Office are still investigating these cases. It is important to emphasise that some party members, even party leaders, admitted such practice and there has hardly been any party not involved in a scandal one way or the other. Those involved in the scandals tried to justify their behaviour by making cynical comments about how such things existed all over the world and thus also in Republic of Croatia.

II. An Analysis of the Party Finance Model

On the initiative of NGOs ("*Glas 99*")[62] and the Croatian Law Centre, and by the firm support of the opposition leaders, in November 1999, an expert task force prepared a list of amendments to the legislative acts (APP, AES, APE) in order to increase the transparency and regularity of party financing. The proposals were the following:

- separation of party accounts from the accounts for the campaigns;
- limits of the campaign's cost;
- scrutinised public control of party balance sheets and reports;
- prohibition of cash payments - all transactions must be registered as bank transactions;
- publication of the lists of the largest individual donations;
- limits to individual donations (up to €250,00);

[62] See: Electoral legislation - the viewpoints expressed by the "Glas 99", November 1999.

- prohibition of the free use of public services (no payment);
- transparent control of payments - all citizens must have right of scrutiny;
- prohibition of foreign donations;
- prohibition for state-owned companies to finance parties or candidates;
- establishment of an ethical committee authorised to interpret and offer guidelines for the rules of fairness; and
- precise rules for the budgetary finance assistance to the parties and full transparency of the process.

All these amendments were rejected in the Parliament by a slight majority of votes.

Two independent initiatives were successfully lobbied in the Parliament. The first was the establishment of the Ethical Code of Conduct and Ethical Commission, and the second was the stipulation of the role of public media in campaigning, through Rules of Acting of the Croatian Radio-Television during Electoral Campaign[63].

Here are two pretentious assertions for the end of this analysis. The lessons we have learned are not from literature although in literature and in any speculative analysis they are both widely discussed. They are learned from the practice of implementing legislative reforms and practical political actions showing that changes in party financing are not the elixir for an inadequate political system and that the rulers (no matter who they are) are reluctant to ensure the financial transparency of political life. In more detail, these two lessons are the following:

- party and campaign financing is neither a goal nor a phenomenon that can be analysed as a technical and legal problem; and
- party financing is a part of the parties' organisational problems.

By regulating party financing and the financing of political and electoral campaigns, we try to avoid the plutocratic components in a democratic system. There is not a stronger desire in the world than that of the rich to gain power and be given titles, except for the desire of the rich and powerful to become even richer. Money and power always go hand in hand. The principles of democracy - such as equality, representation, fairness - are jeopardised by the fact that any political activity or competition for different political positions imply money. Those who have money have greater chances, more time and resources to grab power and have influence. This is not only a moralistic declaration. Democracy is not an enlarged set of privileges for more citizens, but the performance procedure for the rational decision-making of common interests. The very essence of a living democracy is equal representation regardless of wealth, a variety of represented interests and the permission to criticise. A biased benefit for those who are wealthier is a handicap for democracy which promotes the interest of all and not of a few.

Such a bias is not a marginal and ephemeral obstacle but an elementary part of a system. When the rule is to pursue money and profit in the economy and society at large, it will be mirrored in the actions, values and in the political culture of the political system.

This has been confirmed not only by the radical critics of capitalism, but also by doctrinaire liberals concerned with the effects of political corruption. The emphasis is on the necessary separation between the political and economic systems, "Ausdifferenzierung" as interpreted by Luhmann. It is not an analytical step where we focus on politics, nor is it a part of our wishful thinking that by promoting a democratic process we build the necessary institutions regardless of the obstacles in the political culture, values, social restraints.

Therefore, a real task of regulation of party financing is not only to elevate the honesty of individuals in politics, to replace anarchy with order, or reduce the unnecessary costs but also to increase the autonomy of politics and thus also the autonomy of the economy from politics. Such a task is not a general and a theoretical one. In the countries in transition, these

[63] *Pravila o postupanju Hrvatske radiotelevizije tijekom izborne promidžbe*, Official Gazette no. 139/99.

two aspects are fused. A complete distinction between politics and economy does not exist, not even in modern societies; these two subsystems are not only too close to each other, but they are also matched and intertwined. The system has not separated them and that is why they are fused together. The regulation of party and campaign financing is intended to be focused on the technical paradigm "who gets what for which price". These issues must resolve the very subtle problems of the institutional and constitutional building of new democracies.

We have learned these lessons from practical experience. In attempting to increase the transparency of financing, we have discovered how easy it is to finance by giving direct cash payments. By reducing the level of dependence of the parties on entrepreneurs by way of budgetary financing, we have learned that for party entrepreneurs, it is even better to have both sources of financing. We want to prevent publicly-owned companies from financing politicians, we want to punish illegal financing, but then we discover that the very system of the selection of management of public companies is politicised and not based on the merit. Punishment is always a threat, but the incentive to benefit from state subventions, concessions, grants, relocation of resources is constantly higher than the penalty. We want control, but the institutions providing public control are inefficient and corrupt.

Such an assertion is not the result of aversion to an innovative intention to have detailed provisions, or an idea that we have to change the society in order to improve political democracy. The result of revolutionary good intentions is often the creation of new obstacles and forms of unfairness. A reform is a correction; a revolution is a transfer of power to new people without correcting the actual causes of the problem. The results of careful control and detailed regulation are bureaucratic displacements of the goals to control.

A reform of party financing and the regulation of electoral campaigns, apart from the clearly manifested goals have the effects and intentions of the development of participative political culture, changes in the functioning of economic entities and administration. It is a process of constructive learning and not a set of tricks, and it is intended to make politics a vocation for honest people.

It is wrong to define the political parties as some kind of brotherhood of ideological associates and to take for granted that they have programmes and lists of activities and plans derived from the electoral agenda or the beliefs of their constituencies. Political parties are real organisations with broad necessities and narrow definitions of their mission. Politics, in the most cynical interpretations, is described as a strife of interests masquerading in the form of a contest of principles. Political parties, in their totality and substance, represent such a contest. At the time of meagreness, such combat is the main element of political competition. Behind the manifest ideology and programmes of political parties, there are the interests of different social groups, but also of their leaders.

Michels or Marx, Etzioni or Pareto, they all ignored one important aspect: the problem does not lie in the fact that we have a permanent constellation of interest, but rather extremely radical changes of interests when the former opposition replaces the government. Those who used to be enthusiastic reformers become believers in *status quo* and in a prudent balance of reforms. The idea of a change is only a part of the discourse of the opposition, whereas stability is what rulers desire and request.

The paradoxical situation with the reforms of party financing is not a much better example of these phenomena.

The implications are both logistical and substantial. In the logistic sense, in the legislative proposals and policies we have to anticipate obstacles in the form of different interests which cannot be overcome by the force of mobilised independent groups such as NGOs, media and the professional task forces. An important element of logistics is a good timing for action. Substantially, the proposals have to be comprehensive in the sense that they

have to consist of a set of measures and activities including legislation, various implementation activities, public awareness, permanent interaction with different political parties and not only of a normative and legal change.

An analysis of the legislation and its implementation has shown several common characteristics. First, the financing of political parties has become a top issue on the political agenda in many countries. Generally speaking, the causes lie in the occasional political scandals in the area of financing political parties.

In many countries, the financial support from the budget has become increasingly important. As a matter of fact, other sources of income are rather uncertain while the needs are constantly increasing. Membership fees have become a relatively unimportant part of income. The income originating from the ownership of real-estate and proper business activities exists only in the case of traditionally large parties. Political campaigns have become professional and thus also more and more expensive. In addition, the budgetary income is usually beneficial to the major parties only and this does not change the fact that it is possible to acquire the surplus of resources by other (even illegal) means. The initial argument that the budgetary compensation of the campaign costs, and the financing of the minimum costs of political parties help democracy has gradually faded. It is clear that this argument can be applied only if there is full transparency, democracy and control within a party. If these preconditions are not met, which is almost always the case, than the state financing is only a way of using political power for very personal and narrow partisan causes. In brief, parties do not see this support as a ground for responsibility and public accountability for their expenditures. Financial assistance is considered to be an unconditioned gift, and not an obligation towards the public to decrease the costs as much as possible, justify them and make them transparent for the general public. Nevertheless, the amounts of this kind of financial support is in most countries related to the number of representatives in the representative body so that the political parties have neglected and abandoned the practice of increasing income by way of membership fees and small donations. This decreases democracy within the party and diminishes the responsibility of the leadership.

Dependency on the major donators may be expected in the systems where political parties do not have tradition or a recognizable ideological profile, so the only solution is to give state support to the political parties and their political campaigns (as in Spain in 1977). Political parties should not rise above the society and close themselves into their party oligarchies. They should not become cliques or advocates of particular economic interests. Abundant public financing in itself does not prevent corruption, but may serve as a basis for a set of measures aimed at limiting donations and introducing public control. In a climate of democratic participative culture it may help (as in The Netherlands and Germany) to decrease the prior major influence of companies and large concerns. It is true that in Italy and in Spain success is limited, yet European pressure (public opinion and also institutions) is very strong.

The issue that often appears to be a weak point of the system is the lack of transparency, a wall towards the media and the public[64]. The principle of transparency is very simple: what is not secret is public! This implies presentation to the public in an understandable and visible way. It also implies that it should be accessible at everyone's demand, especially when requested by the press, other political parties or NGOs supervising the elections. There is also the issue of integrity, seen in the personal example of a candidate running for some public office. The transparency of financing should not only remain influenced by an extrinsic, legal pressure, but should be a major advantage in a democratic competition. Of particular importance is the lack of in-party democracy and the highly inefficient mechanisms of

[64] See: M. Jelušić, *Financiranje izborne kampanje i hrvatsko izborno zakonodavstvo* (Financing Electoral Campaign and Croatian Electoral Legislation), *Zbornik Pravnog fakulteta u Zagrebu* (Collected Papers of the Faculty of Law in Zagreb), 51 (2001), 6, p. 1363-1380.

internal control of resources. Political parties do not worship bookkeeping and accounting precision. They do not like internal scandals concerning the misuse of funds. Their leaderships tacitly accept the policy of silence regarding the sources of money and the level of expenditure ("don't ask don't say"). All of that cuts the legitimacy of political parties and pushes for the negative effects of political party democracies (Poland, Czech Republic, Slovakia, Republic of Croatia).

The prohibitions in political party and electoral campaign financing have primarily been connected with the prohibition of donations from publicly owned companies and foreign persons and entities[65]. It appears that the first possibility was difficult to accomplish and the second was motivated by rather problematic interests. As regards the publicly owned companies, the prohibition was set aside by using various ways of indirect payments, compensations and immaterial services. The attempts to regulate in more detail the possibility of being financed by publicly owned companies have led to a decrease of marginal shares. Such limitations have mainly been supported by the opposition parties. The prohibition of donations by foreigners and foreign entities exists in almost all countries. The primary concern was to decrease the influence of the parties having their partnering parties in developed countries (predominantly the parties of the leftist and liberal orientations) and the influence of the developed network of US foundations. These regulations may easily be surpassed by financing non-partisan and non-governmental organizations and national foundations, various associations with different motives and special, apparently non-partisan, but useful electoral activities (investments, public opinion research activities, etc.). These limitations of foreign donations have generally been advocated by the governing parties[66].

The following conclusion is suggested: precise legislative regulation is a necessary but an insufficient condition to achieve a democratic and responsible behaviour of the political parties. A precise regulation presupposes the existence of an adequate atmosphere of responsibility in society, an active role of the free media and efficient supervision mechanisms which must all exist simultaneously and be complementary.

There are rules on financing political parties and electoral campaigns based on the reasonable equilibrium of public and private financing. They set forth the criteria for the distribution of state and private donations and establish the upper limits of expenditure for electoral campaigns providing for the full transparency of political party accounts, the creation of an independent auditing body and sanctions for those not adhering to the rules. These rules are rational and, as experience has shown, extremely necessary. Most arguments offered point to the rational aspects of economy, universality and depoliticisation, fairness and prevention of political corruption.

The regulation of the financing of political parties and electoral campaigns is also a very economical process because it decreases the unnecessary costs of operation, prevents the party resources from being directed to propaganda campaigns, commercials and even personal accounts. These rules provide for the prevention of potential problems[67]. They are universal

[65] See also: M. Jelušić, *Financiranje izborne kampanje i hrvatsko izborno zakonodavstvo* (Financing Electoral Campaign and Croatian Electoral Legislation), *Zbornik Pravnog fakulteta u Zagrebu* (Collected Papers of the Faculty of Law in Zagreb), 51 (2001), 6, p. 1363-1380.

[66] This kind of prohibition exists in many countries. In the Republic of Croatia, this is a rather dubious subject. While on the one hand, the prohibition of these donations is not logical (e.g. donations by Croats living outside the Republic of Croatia have been an abundant source of funds for electoral campaigns), because the Croats from the diaspora have had their representatives and candidates in the elections, and on the other hand, the reaction was very negative when the support by international foundations was at stake (Open Society Institute, German foundations, etc.). Comp: M. Jelušić, *Financiranje izborne kampanje i hrvatsko izborno zakonodavstvo* (Financing Electoral Campaign and Croatian Electoral Legislation), *Zbornik Pravnog fakulteta u Zagrebu* (Collected Papers of the Faculty of Law in Zagreb), 51 (2001), 6, p. 1363-1380.

[67] Unfortunately, the usual Croatian practice is a reaction *ex post facto*, and not prevention. "This, however, means a new approach founded on a different understanding of the problem, since it places emphasis on

because they work as theoretical and international standards, but also because similar legal and institutional solutions exist in different political systems and states. It is true that there is no state with ideal rules, the authors of written texts are not paragons and the differences are the results of ideographic historical circumstances, political conditions and a distribution of power. However, there is a tendency to increase the number of legislative measures.

The idea to regulate the financing in politics is not the monopoly of any political party, movement or ideology. It is a supra political issue advocated by ideologically very different political actors. The rules do not pertain to any consistent ideology and there are no charismatic and ardent advocates, visionaries, Utopian ideals or prophets. However, this does not imply that there is no clear position saying that politics presupposes moral, integrity and the precedence of public interest. Money, when ranked first in politics, degenerates the principle of political participation of equal citizens and leads to the formation of strong lobbies, particular interests and the destruction of the society as a whole.

In addition, an even more important reason is the need for legitimacy based on rational foundations, neither mythical or revolutionary nor charismatic. The legitimisation of order is an ongoing process. There, power is not only institutionalised but it is also morally well-founded. Legitimacy, also known as authority, is what pertains to an acknowledged government[68]. The crisis of legitimacy is rather frequent, some consider it to be systemic. Therefore, just like the rules which have to exist to regulate the conditions on the market ("transaction costs"), there have to be rules in politics, as well. These rules should decrease uncertainty, bring regularity and make all competitors equal. Without the existence of rules, there is no market competition. Without rules, there is no legitimate political power. Just as it is necessary to prevent the political power from becoming a commander of the economy, it is also necessary to prevent politics from being governed by economic power, i.e. money.

We have thus arrived at the main limitations of the possible measures. The first limitation is the undemocratic tradition and the features of political culture. Politics pays off both materially and in terms of the status.[69]. Republic of Croatia does not have an adequate participatory political culture and tradition. Until 1990, there had been no free and democratic elections, and the subsequent elections, until 2001 were all evaluated as correct, but not honest[70]. Therefore, only a principal and framework regulation is not enough; the procedures must be regulated in more details. The fact that the funds for party financing are limited pushes the political parties to use other, even illegal sources. In addition, the ruling parties motivate their party members by promising them positions, sinecures and careers. This not only creates the basis for negative selections, but also leads to a dangerous trend of damaging the relations within the parties. Another factor is a tendency to mix politics and economy. There is a clear motive for the *nouveau riche* people to influence the politicians and politics.

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prevention rather than the sanctioning of a certain behavior *ex post facto*. Preventive legislation contributes to the establishment of a public opinion on the standards of conduct in politics and government. It also reduces the chances for corruption and the efforts to combat it are therefore more effective. However, such an approach is rather new to the Croatian public". In: B. Smerdel, *Ethics in Government*, http://www.indiana.edu/~workshop/wow2/publications.

[68] In: G. Marshall. Dictionary of Sociology, Oxford University Press, Oxford, 1998, 363.

[69] The formulation in one of the first Croatian articles on political party financing should be repeated here: "It is true, beyond any doubt, that 'money is power', and it is also true that the distribution of money may influence the distribution of political power, but also *vice versa*, i.e. that the political power may be used to acquire financial resources." In: B. Jelčić, *Financiranje političkih stranaka* (Financing of Political Parties), *Financijska praksa* (Financial Practice) 17 (1993), 2, p. 117-129.

[70] In: Index of Economic Freedoms. Nations in Transition, February, 2001 (CD disk): U.S. Department of State, Human Rights, Report for 2001 - Croatia. See also: USIP Special Report: Croatian after Tudjman; Amnesty International Annual Report 2000 - Croatia; Human Rights Watch Report 2001 - Croatia. UN Office for Drug Control and Crime Prevention (CICP), CIPE (Centre for International Private Enterprise), UNDP Human Development Report - Croatia 1999.

State assets have been sold, debts have increased. However, the need for political protectionism is not limited to merely this layer of the *nouveau riche*[71], there are much broader layers with a clear interest to redistribute and relocate the role of the state. They offer their support and ask for the protection of their interests. At the same time, the costs of electoral campaigns have increased[72]. The idea to reduce commercialisation and offer political parties and candidates some media space is compromised by the pre-electoral manipulations degrading political campaigns into expensive manifestations without any content whatsoever[73].

All the aforementioned lessons must be linked together. Republic of Croatia is faced with a *de lege ferenda* process of legislative amendments and harmonisation with the rules and standards existing in truly democratic countries. Political party and electoral campaign financing legislation in Republic of Croatia is deficient and even when it does exist, it is often only dead letters[74]. A relatively recent Act on Financing the Presidential Election Campaign is not worth mentioning at all when compared with the internationally recognized standards and good practices[75]. This Act has not been a part of the real legislative process but only an attempt to manoeuvre with the support of the parliamentary majority. We may predict that it will last for one election only.

III. Conclusions

Good will and declaratory statements are not enough when tackling such an important issue. What we need is the implementation of legislation in practice. Legislation that is not implemented, or that does not provide for the sanctions for its violation is not worth the paper it is written on[76]. We need innovation and should bear in mind that legislative amendments and the search for *lacunae iuris* will remain the main efforts of political parties. The participation of citizens in the political process should be supported, thus also in the supervision of political party financing and expenditures in political campaigns. Incentives are better than prohibitions: this is true even when the supervision is flawed and the public disorganized and uninterested. The rules should always be simple, easy to enforce and objective. Finally, we should be realistic: the laws regulating political parties will not change the politicians. They enter into social relations defined by tradition, culture, group and class interests, the level of economic development and the characteristics of social environment often independent of their own will. However, just like entrepreneurs and investors have to accept the rules which may be stupid and rigid, the politicians also may not be above the law and disregard morality, particularly when money is involved.

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[71] In: World Bank: Croatia: Economic Vulnerability and Welfare Study, 2000, http://www.worldbank.hr.

[72] This is a global trend. The data may be found at: http://www.idea.int/newsletter10, on CD Electoral Costs, Institute for Democracy and Electoral Assistance, or on CD International Foundation of Electoral Systems. See also: A. Pelinka, F. Plasser, Das Östereichische Parteisystemen, Bohlau, Wien, p. 497-525, D. Smilov, Structural Corruption of Party Funding Models, Political Parties Financing, Budapest, October 28th 2001, p. 5-7.

[73] We may add here some other processes – formation of oligarchies, loss of in-party and general legitimacy, loss of ideology, negative selections, centralisations, ceremonialism - which have an impact on the issue of financing political parties.

[74] See: M. Jelušić, *Financiranje izborne kampanje i hrvatsko izborno zakonodavstvo* (Financing Electoral Campaign and Croatian Electoral Legislation), *Zbornik Pravnog fakulteta u Zagrebu* (Collected Papers of the Faculty of Law in Zagreb), 51 (2001), 6, p. 1363-1380.

[75] Even a well-meaning review concentrates less on the provisions and more on the flaws in legislation. See: M. Jelušić, *Financiranje izborne kampanje u predsjedničkim izborima* (Financing Electoral Campaign in Presidential Elections), *Informator*, 5261/5262, 52, p. 1-3.

[76] http://www.idea.int/institute/inst-intro.html.

Party Funding in the Czech Republic

Císař Ondřej and *Tomáš Petr*

Introduction

The issue of political finance surfaced in the Czech Republic after November 1989 as a corollary to the establishment or re-establishment of a number of political parties. As it later turned out, the problem of party funding was to play a constitutive role in Czech politics. Owing to the events of late 1997 and early 1998, party funding acquired an unprecedented role in politics. Moreover, in the second half of the 1990s party funding became an important political instrument for certain political actors in their efforts to limit competition. Therefore, insight into Czech party finance is a vital prerequisite for an understanding of Czech party politics. This chapter provides an introductory survey of party funding in the Czech Republic.[77]

I. Description of the Party-Funding Model

1.1 Overview of Party Funding Regulation

As elsewhere in Eastern Europe, in Czechoslovakia, too, the fall of the socialist regime was marked by the end of the local communist party's constitutionally based monopoly of power. Following the establishment or re-establishment of a number of political parties, the issue of their financing emerged. The question of party funding was especially problematic because of the uneven financial standing of various political parties. In order to describe the party finance situation at the beginning of the 1990s, it is possible to distinguish between two groups of political parties in what was then Czechoslovakia. On the one hand there was a group of parties that could lay claim to historical continuity, while on the other there were newly established political parties.

Comparatively speaking, the financial standing of parties that could claim continuity with either the previous regime or with a party that existed before the communist seizure of power in 1948 was relatively favorable. Even after some reduction in its property, the former ruling party—the Communist Party of Czechoslovakia (CPC)—remained the richest political party in the country. Other parties that existed during communist rule (these were marginalized in the so-called National Front controlled by the communists) were in a similarly favorable position. These were the Czechoslovak Socialist Party and the Czechoslovak People's Party. Besides these parties, the revived social democrats, too, belonged to this group. The social democrats (CSDP) claimed ownership rights to the property appropriated by the communists after the original social democratic party had been forcibly incorporated into the CPC in 1948. After a lengthy procedure, the social democrats completed their efforts in this regard in 2000, when they got back the "House of the People," their old headquarters.

[77] Although the number of registered parties in the Czech Republic is more than 60, this chapter focuses on the Civic Democratic Party (CDP), the Czech Social Democratic Party (CSDP), the Christian and Democratic Union–Czechoslovak People's Party (CDU–CPP), the Union of Freedom (UF), the Communist Party of Bohemia and Moravia (CPBM), the Civic Democratic Alliance (CDA) and the Association for Republic–Republican Party of Czechoslovakia (AR–RPC). For a description in English of the post-1989 development of Czech party politics available, see Fiala, Mareš and Pšeja, 1999: 273–293.

The other Czechoslovak political parties in 1989 had to start virtually from scratch. However, the state was a rather generous source of funding for the parties represented in Parliament. It is difficult to find exact data for the years just after the fall of communism, but according to the relatively reliable weekly *Respekt*, parties received 320 million Czechoslovak crowns from the state between 1990 and 1992.[78]

The originally unregulated area of party funding has gradually turned into a closely regulated field shaped by a number of laws.[79]

As soon as January 23, 1990 the Federal Assembly of Czechoslovakia adopted the Law on Political Parties to provide a basic legal framework for the newly emerging situation. This law did not specify a definition of "political party," and with regard to financial matters it referred to existing legal norms regulating the financing of civil associations. On February 27, 1990, the Assembly adopted the Law on Elections to the Federal Assembly. This law defined how the election expenses of political parties should be reimbursed. According to this law, parties were allowed to take loans to finance their campaigns and the parties that received above 2 percent of the total vote were awarded 10 Czechoslovak crowns for each vote cast for the party. At the time this law established the only legally based, and at the same time controllable, source of public funding for the parties.

The restitution of party property was taking place during the same period. Some of the restitution cases—such as the case of the People's House, the historical headquarters of the CSDP—proceeded in a rather spontaneous (i.e. unregulated) way. Parties were also acquiring additional property by taking over some of the former communist property. All in all, this period was marked by a deficient regulatory framework, and by virtually no control over the financing of parties.

The basic legal norm relevant for the financing of Czech political parties today is the Law on Assembly in Political Parties and Movements adopted on October 2, 1991. The law introduced regulation of party financing, particularly of donations by private donors. It stated that if the amount of a donation by a donor exceeded 10,000 Czechoslovak crowns or the sum of donations by one donor exceeded 50,000 Czechoslovak crowns in any one year, the donor's name and place of residence had to be included in the annual financial report. If the donor was a legal entity, its name and residency was to be included in the report. The law prohibited the giving of donations to political parties by the state and the state authorities. The parties were under an obligation to submit their annual financial reports to the Chamber of Deputies; however, there was no penalty provision for parties failing to fulfill this obligation. The law also limited possible entrepreneurial activities by political parties. In general, this was a rather toothless law lacking penalty provisions and providing parties with ample room for strategic maneuvering.

Since its adoption, this law has been changed and extended many times. In the period 1992–93 a set of formal changes related to the breakup of Czechoslovakia was introduced. A more important amendment adopted on June 15, 1993 stated that in 1993, 1994 and 1995 parties were entitled to state funding equaling one fourth of the reimbursement of their 1992

[78] Mlynář, Vladimir "Jak bohaté jsou naše strany [How rich are our parties?]," *Respekt*, November 30, 1992, p. 4.

[79] The following overview draws mainly on the Constitution of the Czech Republic; the Law on Elections to the Federal Assembly; the Law on Elections to the Czech National Council, the Law on Elections to the Parliament of the Czech Republic; the Law on Political Parties; the Law on Assembly in Political Parties and Movements; Ruling of the Constitutional Court of October 18, 1995; the Ruling of the Constitutional Court of February 27, 2001; the Draft Law on the Governmental Bonds Program for Settling the Debts Resulting from the Agreement between the Governments of the Czech Republic, the Slovak Republic and the Federal Republic of Germany on the Termination of Mutual Business Exchanges in Transferable Roubles and the Settling of Mutual Debts and the Outstanding Debts that Emerged from the Balance of Payments in Transferable Roubles in Favor of the Federal Republic of Germany; the Accountancy Law; and the Income Tax Law.

election expenses. In addition, by an amendment to the Law on Elections to the Czech National Council,[80] the award of 10 Czech crowns for each vote cast for the party was increased by 5 Czech crowns.

An important amendment to the Law on Assembly in Political Parties and Movements was adopted on April 29, 1994. The amendment was intended to rectify the defects of the original law. The amended version re-defined the role of state funding of political parties, introduced two types of state funding and set their limits. Under these provisions, state funding of political parties in the Czech Republic consists of:

- granting of state funds to political parties in the form of a fixed subsidy and a subsidy for every seat in the lower or upper chamber of parliament won in the elections;
- reimbursement of election expenses.

The fixed subsidy was granted to those parties that received at least 3 percent of the total vote. The base amount of the subsidy equaled to 3 million Czech crowns but parties that fared above the 3 percent limit received 100,000 Czech crowns for each additional 0.1 percent of the total vote. If the party's electoral results exceeded 5 percent of the total vote (the threshold set for attaining parliamentary representation) the subsidy was no longer increased. As a result, a party could receive a maximum of 5 million Czech crowns. The subsidy for a seat was 500,000 Czech crowns per year for each seat in parliament won in the elections. The subsidy was granted to the party on whose ticket a deputy or a senator was elected.[81] State funding in 1994 consisted of funding defined by the 1993 amendment as one fourth of the reimbursement of 1992 election expenses plus half of the sum set by the 1994 amendment.

Parties that obtained at least 3 per cent of the total vote in the elections were entitled for a reimbursement of their election expenses. By the amendment to the Law on Elections to the Parliament of the Czech Republic adopted on September 27, 1995, the award for each vote cast for the party was increased to 90 Czech crowns. Only political parties enjoyed the right to be reimbursed. Independent candidates running for the Senate—the upper chamber of Parliament—could not have their expenses reimbursed.

Another modification, introduced in 1994 by the amendment to the Law on Assembly in Political Parties and Movements, prohibited the performing of any type of entrepreneurial activity by political parties. A group of 44 deputies brought this provision to the Constitutional Court and requested that it be declared null and void. They argued that the provision banning parties from entrepreneurial activities contradicted the Charter of Fundamental Rights and Freedoms.[82] The Constitutional Court accepted their arguments; the provision was annulled on October 18, 1995. The court argued that banning parties from all entrepreneurial activities would only increase their dependence on the state, but that such a provision was not supported by the Czech constitutional order.

On December 17, 1996 the Chamber of Deputies, in response to the ruling of the Constitutional Court, adopted a new amendment that allowed political parties to perform certain business activities. These activities included: publishing and printing activities; publishing and promotion activities; organizing cultural, social, sport, entertainment, educational and political events; and the production and sale of objects publicizing the party platform. The same amendment required that the annual financial reports of the political parties be publicly accessible.

The amendment to the Law on Assembly in Political Parties and Movements passed by Parliament on July 7, 2000 introduced important new provisions that defined the revenues

[80] The name of the parliamentary body of the Czech Republic before the dissolution of the federation.

[81] According to this amendment, in 1995 parties were entitled for the following state funding: CSDP: 14000, CPBM: 6470, CDU–CPP: 12500, CDA: 12500 and CDP: 36833 (in thousands of Czech crowns).

[82] "Part of the constitutional order of the Czech Republic is the Charter of Fundamental Rights and Freedoms." See the Constitution of the Czech Republic, Article 3.

of the political parties. First, according to the new regulations, a membership contribution must not exceed 50,000 Czech crowns annually. This was an innovation, as originally the amount of the membership contribution was not restricted. Second, if a party fails to submit its annual financial report to Parliament, this is regarded as sufficient reason for the dissolution of the party. This provision also constitutes an important modification of the legal regulation as it stood before 2000. Prior to the amendment, if the annual financial report was not submitted in time, i.e. by April 1, the case could be brought before the Supreme Court by the state president or by the government. Third, the new regulations define formal conditions for single-donor donations exceeding 50,000 Czech crowns. A written contract in the form of a donation note is needed. If the donor is a natural person, the note must include his name; personal identification number; place of permanent residence; and if applicable, company registration number. If the donor is a legal entity, the type of legal entity, address and the company registration number must be included. The note must also include the name, address, company registration number and bank account number of the party receiving the donation. The signatures of both the donor and the recipient must be certified.

Another set of important changes is found in the section that forbids receiving donations from the state and state authorities. This section was substantially extended. The political parties in the Czech Republic are forbidden to receive donations from:

- the state;
- state-funded organizations;
- the municipalities, their sub-units and the self-governing regions (with the exception of the renting of offices from these units);
- state firms and legal units where the state or a state firm holds shares (more than 10 percent), and state firms and legal entities over which the state or a state firm executes control;
- legal entities in which municipalities or their sub-units hold shares (more than 10 percent);
- charities;
- foreign legal entities, with the exception of political parties and foundations;
- persons who are not Czech citizens (with the exception of permanent residents of the Czech Republic).

Possible sources of party funding under the amended law are as follows:

- reimbursement of election campaign costs;
- state funding of a party's or movement's activity;
- membership contributions;
- donations and bequests;
- revenues from the renting out or sale of a party's or movement's property;
- interest on savings;
- revenues from participation in the business of another legal entity whose activities are: (a) publishing and printing, (b) publishing and promotion activities, (c) organizing cultural, social, sport, entertainment, educational and political events, (d) production and sale of objects propagating the party program;
- revenues from lotteries and from cultural, social, sport, entertainment, educational and political events;
- loans and credits.

Yet another important amendment changed the threshold for reimbursement of campaign expenses. Initially, while there was a 5 percent threshold for representation in the

Chamber of Deputies, the threshold for reimbursement was set at 3 per cent, "which provided at least some support […] for the smaller organizations" (Lewis, 1997: 143). However, in 2000, a party lost the right to be reimbursed if it did not meet the threshold for representation in the Chamber of Deputies (i.e. 5 percent) in the subsequent elections. Owing to this provision, the President of the Czech Republic first vetoed the draft law, and later, when the deputies overrode his veto, sent it to the Constitutional Court. Furthermore, President Havel challenged the constitutional status of a controversial clause under which the state subsidy for an obtained seat of a deputy or a senator was increased from 500,000 to 1 million Czech crowns. After a conflict between the deputies and the president, new limits were introduced. According to the new arrangement, political parties were granted 900,000 instead of 1 million Czech crowns for a seat, and instead of 3–5 million Czech crowns of annual fixed state funding, the parties received 6–10 million. (More details on the controversies around these amendments are provided in subsequent sections.)

In addition to the amendments to the Law on Assembly in Political Parties and Movements, in 2000 the Law on Elections to the Parliament of the Czech Republic was also amended. The changes in this law seemingly intended to limit funding for smaller and extra-parliamentary parties. First, the award for each vote cast for the party was reduced from 90 to 30 Czech crowns (at the same time, the eligibility threshold for this type of funding was moved from 3 to 2 percent of the total vote). Furthermore, constituency borders and the method of transferring votes to seats were amended (the number of electoral districts being increased from eight to 35). Last but not least, the threshold for parliamentary representation of electoral alliances was increased (10 percent for a two-party alliance, 15 percent for a three-party alliance and 20 percent for a four- and more-party alliance).

However, the provision reducing the award for each vote cast for a party was declared null and void by the Constitutional Court, as will be discussed in more detail below. In fact, whole sentences and paragraphs of the election law were deleted. Therefore, a new amendment was needed to provide a legal basis for organizing parliamentary elections in the Czech Republic. A new draft-amendment was worked out according to which sufficient compensation for small political parties was to be provided: 100 Czech crowns for each vote cast for a party that received at least 1.5 percent of the total vote.

Certain provisions of the tax laws are relevant to the funding of political parties. From the point of view of the Income Tax Law, political parties are defined as legal entities and taxpayers. However, political parties' state subsidies and other forms of state support, as well as interest on current-account savings, are not subject to income tax. According to the law, membership contributions are also exempt from inclusion in the tax base.

Parties are obliged to pay income tax on all the revenues from the renting out or sale of party property and on revenues from participation in the business of another legal entity. Taking and giving loans by political parties is in no way limited by the law. Furthermore, the provisions of the bankruptcy law also apply to political parties. In addition, entrepreneurs are entitled to deduct from their tax bases donations to parties that exceed 2000 Czech crowns. The amount deducted must not exceed 5 percent of the entrepreneur's tax base.

More recently, there has been a change in the tax legislation. Until the beginning of 2001 parties were obliged to pay donation tax on all donations received, but under an amendment initiated by the deputies, donations to political parties were exempt from this obligation. Last but not least, bequests to a party are subject to inheritance tax.

1.2 Party Structures Dealing with Party Funding

The structures dealing with party funding are defined in the statutes and relevant directives of the political parties. While all the statutes are publicly accessible on the Internet, directives on party finance are often regarded as internal (i.e. non-public or semi-public) documents.[83] Czech political parties are organized as multi-level institutional structures. Different political parties operate at differently defined territorial levels, at which there are separate structures dealing with party funding. Parties administer their property on the basis of annual budgets. The following overview focuses mainly on the national level.

The biggest right-wing party—the Civic Democratic Party (CDP)—recognizes the party's chief manager as the person responsible for its economic and financial affairs. The chief manager runs the party's main office; supervises party managers; signs and terminates contracts with party employees; and represents the party in property, financial, labor and legal matters within the scope defined by the executive council of the CDP. It is the executive council that is principally responsible for the party's property administered on the basis of its annual budget. The budget of the party must be balanced, or alternatively must have a surplus.

Besides the above-defined responsibilities, the party statutes exactly define the conditions of the chief manager's participation in the party's structures and limit the possibilities for his occupying an elected position. However, the chief manager is not the only person dealing with finance in the CDP. According to the statute, chairmen of party organizations at the local, district and regional levels are obliged to seek actively financial support for the party's activities. The economic activities of the party are supervised by supervisory and audit commissions established at the national, regional and district levels.[84]

The property of the largest left-wing party—the CSDP—belongs to the party itself, and respective party bodies are empowered to use it in their activities. All the bodies must comply with the party's authorized budget. The budget is adopted by the central executive committee, which also sets rules for the distribution to respective party bodies of the state funding received. The budget proposal is supplied by the economic council, which is established within the party as a standing advisory body to the presidency of the CSDP. The economic activities of the party are under the supervision of supervisory commissions established at the national, county and district levels.[85]

Similarly to the CDP, the Christian and Democratic Union–Czech People's Party (CDU–CPP), recognizes the general secretary as the person who represents the party in property, financial, labor and legal matters if the statutes of the CDU–CPP do not specify otherwise. The statutes define a wide range of responsibilities for the secretary that include, among other things, the obligation to propose directives for the regulation of economic matters, accounting and the salaries of party employees. There are secretaries at county and district level also. The economic activities of the party are under the supervision of audit commissions established at the national, county and district levels.[86]

The statutes of the Union of Freedom (UF) also stipulate the general secretary as the person who represents the party in property, financial, labor and legal matters within the scope set by internal directives, and who is responsible for the financing of the party. On the basis of the approved budget and within the limits set by internal directives, the party's property is administered at the national level by the republic committee; at the lower levels this is done by the county and district committees. The budget of the party must be balanced, or alternatively must have a surplus. The republic committee adopts the directives for the

[83] Personal and telephone communication with the employees of political parties.
[84] Statutes of the Civic Democratic Party. Available online at www.ods.cz.
[85] Statutes of the Czech Social Democratic Party. Available online at www.cssd.cz.
[86] Statutes of the Christian and Democratic Union–Czechoslovak People's Party. Available online at www.kdu.cz.

administering of party property. The party's economic activities of the party are monitored by supervisory and audit commissions established at national and county level.[87]

The property of the Communist Party of Bohemia and Moravia (CPBM) belongs to the party itself. Each organizational unit of the party administers respective property independently and within the scope of party directives, the statutes and the party budget. Liabilities of a unit must not exceed the assets it administers. The economic activities of al the party's organizational units are under the supervision of the audit commission.[88]

1.3 Membership Dues (Contributions)

Until 2000, there were no legal limits on membership contributions by party members. In 2000 the maximum limit of the membership contribution was set at 50,000 Czech crowns annually. Each party opts for a distinct way of defining the amount of the contribution. Of the parties that this chapter analyses in detail, only the CPBM states the amount of the membership contribution in its statutes. The amount is defined as 0.5 per cent of the member's net income; however, the minimum a member is supposed to pay is 15 Czech crowns per month (i.e. 180 Czech crowns annually). The members of the UF are supposed to pay between 300 and 10,000 Czech crowns annually. The party offers a 50 percent discount rate for students, pensioners and soldiers. The CDU–CPP states that the amount of the membership contribution is up to the member; however, the district level organization of the party may set a minimum limit for the individual contribution. The party also recognizes the so-called special membership contribution paid by all members who work and receive compensation within the structures of public administration and municipal government. The CSDP defines only minimum limits: the basic rate is 120 Czech crowns and the discounted rate equals 60 Czech crowns annually. In the CDP the amounts of contributions vary regionally. The national executive council sets only minimum limits: 100 Czech crowns for those who do not have a regular income and 300 Czech crowns for those with a regular income. The following tables display total amounts and shares of membership contributions in the overall financial structures of the respective parties.

Table 1

Membership Contributions (in Thousands of Czech Crowns)

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
CDP	7951	9465	8777	6852	7487	10,268
CSDP	1717	2219	2930	5948	4662	5875
CDU–CPP	6341	17,774	7234	9530	6850	9065
UF[89]	-	-	-	2224	1259	1378
CDA	347	585	485	451	327	494
CPBM	26,098	34,326	34,605	33,150	34,093	33,406
AR–RPC	156	207	65	42	-	-

Table 2

[87] Statutes of the Union of Freedom. Available online at www.unie.cz.
[88] Statutes of the Communist Party of Bohemia and Moravia. Available online at www.kscm.cz.
[89] The party was established in 1998.

Membership Contributions (Percentage of the Party's Total Revenues)

	1995	1996	1997	1998	1999	2000
CDP	9.9	3.4	8.2	2.8	10.1	10.7
CSDP	2.8	1.2	4.7	2.5	6.9	7.9
CDU–CPP	14.1	17.0	15.2	9.5	13.0	16.0
UF	-	-	-	3.6	6.8	6.7
CDA	1.4	0.6	1.5	3.2	7.5	9.6
CPBM	42.3	26.1	39.9	23.0	38.6	37.8
AR–RPC	1.5	0.4	0.5	0.1	-	-

In the Czech Republic, party membership contributions were never regarded as an important source of revenue. In general, the significance of membership contributions derives from not only their nominal rate, but also the number of party members. From this point of view, we can discern that for the two parties claiming historical continuity—the CPBM and the CDU–CPP—membership contributions constitute a relatively important source of funding. This is especially so in the case of the communists, who receive about 40 percent of their revenue from membership contributions in years when there are no elections.

Nevertheless, in the case of the right-wing parties, the importance and relative weight of membership contributions in party budgets increased notably after the scandals of 1997 and 1998. The most striking example is the CDP, where the nominal amount, as well as the relative share, of contributions in the overall party financial structure in non-election years has been growing.

Until 2000 this type of party funding had an indisputable attraction for political parties, since before that year it was not necessary to report membership contributions. Therefore, it is justifiable to maintain that the system used to facilitate the anonymous channeling of some donations. Probably the most obvious case was the CDU–CPP in the election year 1996. In 1996, the total amount of membership contributions exceeded 17 million Czech crowns; this was more than two times the usual average (see the tables above). The party leaders were unable to explain this irregularity and took pains to present an explanation according to which the increase was due to exceptional membership contributions to the party's election budget.

1.4 Private Funding (Donations)

During the debates on party funding in the early 1990s, the right wing and the then ruling CDP and CDA were defending a model based mainly on private donations. In their opinion, the financing of political parties should not rely exclusively on the state. Furthermore, if financing were mainly based on private donations, taxpayers would not have to participate in the financing of parties they do not endorse.[90] However, the smaller and the left-wing parties did not support this model. In the end, a mixed model of party funding was introduced.

Table 3

[90] Mlynář, Vladimír "Podivný zákon o politických stranách [A strange law on political parties]." *Respekt*, November 4, 1991, p. 4.

Private Donations (in Thousands of Czech Crowns)

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
CDP	24,904	8431	25,704	23,218	6466	23,344
CSDP	236	692	599	1967	1657	3667
CDU–CPP	1347	2688	266	2891	125	1067.9
UF	-	-	-	3695	664	2836
CDA	7952	52,087	16,874	2322	42	319
CPBM	0	0	0	0	831	474
AR–RPC	180	147	2	15	-	-

Table 4

Private Donations (Percentage of the Party's Total Revenues)

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
CDP	31.0	3.0	24.0	9.5	8.7	24.2
CSDP	0.4	0.06	1.0	0.8	2.4	5.0
CDU–CPP	3.0	2.6	0.6	2.9	0.2	1.9
UF	-	-	-	6.0	3.6	13.9
CDA	31.0	52.2	51.2	16.4	1.0	6.2
CPBM	0	0	0	0	0.9	0.5
AR–RPC	1.7	0.3	0.01	0.05	-	-

Since the beginning of the 1990s, private funding has been more important to the right-wing parties than to the left-wing ones. Historically, the most successful party in terms of attracting private donations has been the CDA, a former member of government coalitions. This is rather puzzling, since the party has never received more than 7 per cent of the total vote in parliamentary elections. A possible explanation is that in the early 1990s CDA party members directed economic ministries, including the ministry responsible for privatization and later on the office in charge of the same activity. At the height of the party's power, donations constituted over 50 percent of its total revenue. In 1996, the party achieved an admirable 52 million Czech crowns, a sum that was not exceeded in subsequent years. The second most successful party—the CDP—was able to attract half this amount at best. In the budgets of the left-wing parties, private donations play a much less significant role. This did not change even after the CSDP came to power in 1998. Although there was an increase, the share of private donations did not exceed 5 per cent of the total revenues of the party.

Private funding has also come in the form of in-kind support for the political parties, through the provision of services or goods. This type of private support is difficult to control, which makes it attractive to party managers. In-kind support is one of the challenges that political finance regulation faces in the Czech Republic. The following example illustrates the possibilities for abuse. In 1999, it emerged that the 1996 election campaign of the CSDP was co-funded by the corporation Chemapol. This was admitted by Václav Junek, a former general director of Chemapol, and, after the scandal broke, was confirmed by the party leadership.[91] Karel Kobes, the deputy party chairman responsible for party finance, announced on October 1, 1999 that between October 1995 and March 1996 the party had been

[91] Kmenta, Jaroslav and Jiří Kubík "Sociální demokraté měli také skrytého sponzora [The social democrats had a hidden sponsor too]." *Mladá Fronta DNES*, September 29, 1999.

using chip cards for the purchase of fuel. He stated: "These cards were issued by the corporation Chemapol Trans and were used by some of our leaders in the election campaign in 1996. The cards were not entered in the party's account books; therefore, the party did not pay any tax on them, as it should have been done in the case of a private donation."[92]

The cards were transferable and allowed for the holder free access to fuel. Among the holders were many party bosses, chairman and subsequent premier Miloš Zeman included. According to some press news, it was the last mentioned who negotiated the arrangement with the managers of Chemapol; Zeman, however, refused to accept responsibility for the scandal.[93]

Given that the total cost of the used fuel exceeded 100,000 Czech crowns (the threshold after which the donor is supposed to be reported), the party breached the provisions of the Law on Assembly in Political Parties and Movements. This "donation" was not documented in the party's financial report. On November 5, 1999, the party announced that it was impossible to work out exactly the value of the fuel used by its members, but estimated it at 200,000 Czech crowns. The party decided to give the amount of the unpaid donation tax to charity. The subsequent investigation revealed that Chemapol Trans had paid for the fuel 420,000 Czech crowns.[94]

1.5 Party Firms and Foundations

As already pointed out, Czech political parties are allowed to participate in the business of another legal entity whose activities are publishing and printing activities; promotion activities; organizing cultural, social, sport, entertainment, educational and political events; or production and sale of objects propagating the party program. Parties are also allowed to organize lotteries and cultural, social, sport, entertainment, educational and political events.

On the basis of the available evidence, it is possible to say that there are foundations and institutions that although officially unrelated to a party, have a personal and/or financial connection to one. A foundation that played a vital role in the process of party funding was Foundation Rose. Women members of the CSDP established this in 1993 by to fund an asylum for abandoned mothers. There are no formal links between the foundation and the party. There are, however, strong personal ones: some of the founders occupy high positions in the party hierarchy.[95]

In 1997, the foundation provided the party with a loan of 8 million Czech crowns. This loan was an important contribution to the party budget at that time.[96] Owing to a decision on the part of the tax authorities, the party had no access to its bank accounts in 1997. The fact that the party received this loan became public in July 1997, prompting doubts emerged that the foundation was not the real source of the money but instead the mediator of it. After the affair had been widely aired in the media, the party pointed to an entrepreneur, Radim Masný, as the real source of the loan.[97]

But in July 1998 it became clear that Masný was not the provider of the loan; instead a group of entrepreneurs related to the corporation Čechofracht were identified as the source of

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[92] Kmenta, Jaroslav and Jiří Kubík "ČSSD přiznala, že tajila sponzora a neodvedla daň [The CSDP admits a hidden sponsor and tax evasion]," *Mladá Fronta DNES*, October 2, 1999.
[93] Kmenta, Jaroslav "O kartách na benzin jednal za Lidový dům sám Zeman [Zeman himself negotiated Chip Cards]." *Mladá Fronta DNES*, November 15, 1999.
[94] Kmenta, Jaroslav and Jiří Kubík "ČSSD za karty nikoho nepotrestala [The CSDP has punished nobody over the cards]." *Mladá Fronta DNES*, May 22, 2000.
[95] Kubík, Jiří "Nadace Růže skryla nejméně jednu půjčku pro ČSSD [Foundation Rose hid at least one loan for the CSDP]." *Mladá Fronta DNES*, February 19, 1998.
[96] Ibid.
[97] Ibid.

the money. This connection was discovered by the economic intelligence service during investigations of suspicious share dealings. The mediator was Miroslav Šlouf, an advisor to the prime minister and a highly controversial figure in Czech politics.[98]

Relationships between political parties and private businesses are often either mediated by foundations (and other NGOs) or hidden by means of creative contractual forms, as the following case demonstrates. According to press reports later confirmed also by a spokesman for the premier, Miloš Zeman, a controversial construction firm, H-System,[99] participated in secret funding of the CSDP. Before the 1996 election the party had no money to pay the salaries of a number of employees in the party apparatus. The problem was solved when these employees signed employment contracts with H-System. In other words, the employees became "brokers" for H-system and received a regular salary in return (some 5000 Czech crowns per month).[100]

All in all, the party did not question the fact that some of its employees were in receipt of salaries from H-System, but took the position that this did not concern the party as a whole. The party leadership understood the contracts between the party employees and the firm to be a private matter for the individual employees. However, right-wing deputies demanded an explanation of the affair, as this was the sole (disclosed) instance of a party's receiving finance from a "pyramid scheme" company.

1.6 Party Assets

In the case of party assets as in that of membership contributions, it is useful to distinguish between the group of parties that maintained some historical continuity ("historical parties") and the group of new parties. The former contains the CSDP, the CDU–CPP and the CPBM. The assets of the historical parties consist of the buildings where the party headquarters are located. These buildings are situated in the center of Prague and their market value is therefore significant, as is the revenue generated by renting out rooms in these buildings. In the budgets of the new parties, the renting out of property plays a relatively marginal role. Revenues from the renting out of party property are presented in the tables below.

Table 5

Revenues from the Renting out of Party Property (in Thousands of Czech Crowns)

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
CDP	6,659	18,048	10,795	7436	6726	7781
CSDP	41,115[101]	2488	4450	4138	4595	9099
CDU–CPP	13,089	15,516	15,203	15,825	18,649	20,293

[98] Kmenta, Jaroslav and Jiří Kubík "Z dobrodince ČSSD se nyní klube jen nastrčená osoba [Benefactor of the CSDP turns out to be fictive]." *Mladá Fronta DNES*, June 15, 1998.

[99] The company turned out to be a classic "pyramid scheme" quite popular in Eastern Europe in the 1990s. The company H-System had been building flats and houses since 1994. It had managed to attract over 1300 clients; however, only 40 clients actually had their flats and houses built. The customers suffered a loss of over 1 billion Czech crowns and the firm went bankrupt in 1997. In 1999 the police began investigating suspected fraud and the "tunneling" of money in relation to the company.

[100] Ibid.

[101] The figure the rent accumulated for the years 1992–95. Owing to legal disputes, it was entered in the account-books only in 1995.

UF	-	-	-	0	0	0
CDA	0	0	0	0	12	198
CPBM	13,601	13,048	16,170	16,217	18,002	19,021
AR–RPC	0	0	0	0	-	-

Table 6

Revenues from the Renting out of Party Property

(Percentage of the Parties' Total Revenues)

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
CDP	8.3	6.6	10.1	3.1	8.7	8.1
CSDP	66.5	1.4	7.2	1.7	6.8	12.3
CDU–CPP	29.1	14.8	31.9	22.8	35.6	36.0
UF	-	-	-	0	0	0
CDA	0	0	0	0	0.3	3.9
CPBM	22.0	9.9	18.6	11.3	20.5	21.5
AR–RPC	0	0	0	0	-	-

The following table presents the book value of parties' property. The data are based on 2000 financial reports. It is important to emphasize that the real market value of the buildings possessed by the historical parties is much higher than the displayed book value. Thus, the numbers would increase substantially in the case of historical parties were we include their buildings' market value instead of the book value.

Table 7

Property of Political Parties in 2000 Not Including Bank Accounts

(Book Value in Thousands of Czech Crowns)

	Buildings and other real estate	**Other property**	**Total**
CDP	-	29,223	29,223
CSDP	16,959	20,838	37,797
CDU – CPP	13,582	10,713	24,295
UF	-	1450	1450
CDA	525	6023	6548
CPBM	114,483	40,576	155,059

1.7. Public Funding

1.7.1 Direct Funding

Public funding of Czech political parties consists of two parts: subsidies and reimbursements. The attitude towards public funding underwent a substantial shift during the 1990s, especially among the right-wing parties. Originally, these parties were not in favor of state funding of political parties; however, after the scandals of 1997–98 they changed their stance, since it became clear that public funding was a "safer" method of party funding than private donations. Private donations involve much higher risks of potential scandal than does regular income coming from the state budget. In addition, provided that the system is "well designed," state subsidies constitute a relatively stable source of funding for major political parties in a country.

Table 8

Direct Public Funding (in Thousands of Czech Crowns)

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
CDP	36,833	201,024	56,333	202,791	50,167	50,000
CSDP	14,000	170,744	49,583	225,870	53,375	53,500
CDU – CPP	12,500	57,416	21,042	69,415	23,250	23,000
UF	-	-	-	54,681	15,667	15,500
CDA	12,500	46,683	15,292	9,250	3500	3500
CPBM	6470	68,382	17,083	76,853	19,167	19,000
AR–RPC	9000	55,573	14,000	29,917	-	-

Table 9

Direct Public Funding (Percentage of the Parties' Total Revenues)

	1995	**1996**	**1997**	**1998**	**1999**	**2000**
CDP	45.9	73.1	52.7	83.4	67.6	51.9
CSDP	22.7	93.4	80.0	94.4	78.9	72.3
CDU–CPP	27.8	54.9	44.1	69.0	44.3	40.7
UF	-	-	-	88.6	84.7	76.2
CDA	48.7	46.8	46.4	65.4	80.9	68.1
CPBM	10.5	52.0	19.7	53.3	21.8	21.5
AR–RPC	84.9	99.1	97.9	98.0	-	-

On the basis of the evidence presented, it is possible to infer that public funding of political parties in the Czech Republic is increasing. In election years the share of state funding in the overall structure of party finance becomes crucial. Even in the case of a party characterized by an equally diversified portfolio of revenues such as the CPBM, state funding in election years constitutes more than 50 per cent of the party budget.

1.7.2 Indirect Funding

Indirect funding mostly takes the form of utilizing state infrastructure for the goals and purposes of a given party. For instance, it includes organizing party meetings in parliamentary buildings and using parliamentary cars for the purposes of election campaigns. In addition, every deputy is entitled to hire a personal assistant and an office in the district for which he or she was elected. The office is often located in the regional party headquarters; consequently, the rent paid becomes income for the party budget. Last but not least, during the election campaign parties are entitled to 14 hours of free broadcasting on public television and another 14 hours on public radio. However, individual advertisements are broadcast in blocks, a way of campaigning generally regarded as an inefficient method of party promotion.

1.8. Reporting and Disclosure

The obligation of each political party to submit an annual financial report to the Chamber of Deputies was introduced in 1991 by the Law on Assembly in Political Parties and Movements. There was no penalty provision regulating cases of a party's failure to fulfill this obligation. An important change was introduced in 1994 by an amendment to the Law on Assembly in Political Parties and Movements. This change obligated parties to present their annual financial reports not only to the Chamber of Deputies, but also to the Supreme Audit Office (SAO).[102] This last body was empowered to check the reports and to alert the Chamber of Deputies, the President and the government to reports that were incomplete.

A group of 44 Deputies brought this provision before the Constitutional Court and requested that it be declared null and void. They argued that the SAO's new right to check the financial reports was an illegitimate extension of SAO's constitutional powers, since the SAO was supposed to oversee the management of state property. Curiously, the Constitutional Court accepted their arguments, and the provision was annulled on October 18, 1995. The Court argued that state funding of political parties did not constitute a sound basis for empowering the SAO to control them. On December 17, 1996, the Chamber of Deputies, in response to the ruling of the Constitutional Court, adopted a new amendment that required the annual financial reports of the political parties be publicly accessible.

There is an important fact related to this amendment: the provisions annulled by the ruling of the Constitutional Court were adopted once again, including those concerning the financial reports. In the course of events, the original requirement that the reports be "complete and true" was replaced by the requirement that they be "complete." Thus, since this time parties have been legally obliged to submit only complete, but not necessarily true, financial reports. In real terms, this meant that had, for example, the CDP put names of non-existent donors in its 1995 report, it could not have been penalized in any way.[103]

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[102] "The Supreme Audit Office is an independent body. It executes inspection of the management of state property and the fulfillment of the state budget." See the Constitution of the Czech Republic, Article 97.

[103] The paragraph is based on information from Vojtěch Šimíček in Slonková, Sabina and Martin Kudera "Politické strany nyní mohou ve finančních zprávách lhát [Political parties now allowed to tell lies in their financial reports]." *Mladá Fronta DNES*, April 20, 1998.

1.9. Enforcement

The original version of the Law on Assembly in Political Parties and Movements lacked penalty provisions regarding party funding and the obligations relating to it. In 1994, a rule was introduced according to which only those parties that submitted their financial reports to the Chamber of Deputies on time were entitled to receive state funding. In cases of incomplete or false reports, the money could be disbursed only after the necessary corrections to the reports had been made. This was the first explicit penalty for non-fulfillment of a basic obligation by political parties.

A much tougher stance on the issue was taken in 2000, when it was prescribed that should a party fail to submit its annual report to Parliament, this would be regarded as sufficient reason to dissolve that party. Another penalty provision of the 2000 amendment to the Law on Assembly in Political Parties and Movements concerns private funding of political parties. If a party receives a donation in a manner that goes against the regulations, it is obliged to return it to the donor by April 1 of the following year. If this is not possible, the donation must become part of the revenues of the state budget. If the party does not meet these provisions, it is subject to a fine imposed by the state financial authorities.

1.10 Scandals

1.10.1 The "Bács and Sindha" Scandal

Before the Chamber of Deputies election of 1996, the 1995 annual financial report of the CDP attracted substantial public attention, and the first big scandal relating to party finance erupted. On the list of its donations were two suspicious donations, of 3.75 million Czech crowns each. These were the two biggest donations in 1995, but this was not why they attracted public attention. The real reason was the names of the donors as they appeared in the report: a Lajos Bács of Budapest (without additional identification) and a Radjiv M. Sindha of the Republic of Mauritius (also without additional identification). According to the findings by journalists, the last Lajos Bács died 13 years before he was supposed to have donated millions to the CDP,[104] and although there was a Radjiv M. Sindha living in Mauritius, he denied ever having donated money to a Czech political party.[105]

Owing to these two non-existent sponsors, a charge was brought against Libor Novák, a former deputy chairman of the CDP; it was he who was held responsible for channeling money from a real donor using bogus names.[106] By apportioning a sum of money from a single donor among several fictive sponsors, the party evaded donation taxes. The financial authorities estimate the tax evasion at almost 1 million Czech crowns. According to the press, in 1995 the party received almost 15 million Czech crowns from two entrepreneurs—Milan Šrejber and Jarmila Mlejnková—in connection with the privatization of Třinec Metalworks.[107] The entrepreneurs were part of the group Moravia Steel that won the tender for Třinec Metalworks in October 1995. While the CDP channeled the money from Šrejber using the names Bács and Sindha in its annual financial report, it itemized Mlejnková's money as

[104] Kubík, Jiří "Maďarský list tvrdí, že sponzor ODS dávno nežije [Hungarian newspaper claims CDP sponsor is long since dead]." *Mladá fronta DNES*, April 23, 1996.
[105] Kubík, Jiří and Jaroslav Kmenta "ODS neví nic o cizincích, kteří jí darovali miliony [CDP knows nothing about foreigners who donated millions to the party]." *Mladá fronta DNES*, April 26, 1996.
[106] Slonková, Sabina and Jiří Kubík "Novák si na rozsudek počká [Novák to wait for the sentence]." *Mladá fronta DNES*, April 19, 2000.
[107] Kmenta, Jaroslav, Sabina Slonková and Jiří Kubík "Svědci poodhalují politickou korupci [Witnesses reveal political corruption]." *Mladá fronta DNES*, April 25, 2000.

donations from four anonymous entrepreneurs. Mlejnková testified before the court that the money was given to her by a certain "John from Hong Kong." During the investigation, it emerged that "John from Hong Kong" was Pavel Svozil, financial director of another enterprise.[108]

According to the police, this was not a case of corruption of a company bribing a party in order to win a tender: the donation was meant to persuade the CDP to push through a state subsidy of 500 million Czech crowns for the mitigation of environmental damage caused by Třinec Metalworks. Were this subsidy not approved by the government, it would make no sense for Moravia Steel to invest in Třinec Metalworks, since it would have to pay for the environmental damage out of its own pocket. However, some leading figures in the party never accepted this explanation of events. For example, Václav Klaus, the chairman of the party, kept reiterating that he knew nothing about the frauds, and that he was simply signing what his subordinates had put in front of him.

In June 2000, Libor Novák was fully exonerated of accusations of evading taxes. However, the court refused to declare him innocent; on the contrary, the judge merely declared that owing to lack of evidence, it was not proven that Novák had committed a crime.[109] The court stated that someone within the party had itemized the donations so as to avoid the obligation to pay tax. This the party had denied.

1.10.2 The "Swiss Bank Account" Scandal

This scandal, which in the end led to a major realignment in Czech politics, started in a relatively inconspicuous manner, namely with the resignation from state and party functions of Josef Zieleniec, deputy chairman of the CDP and minister of foreign affairs. When explaining his decision, Zieleniec mentioned problems with the financing of his party. He said that an important decision had been made concerning party funding, without the approval of the top party leadership.[110] Although the statement made the funding of the party look suspicious, Zieleniec refused to be more specific. Other members of the party kept saying that they did not know what the former deputy chairman had in mind when making his statement.[111] The situation rapidly deteriorated when Zieleniec publicly identified a secret party bank account in Switzerland. Three more members of the party leadership (Pilip, Straský and Honajzer) now confirmed the existence of the secret account. The other four members of the leadership—Klaus, Ratiborský, Macek and Kondr—denied it. A day after the information became public in the newspapers, the CDP's coalition partners (the CDU–CPP and the CDA) left the government and the Václav Klaus administration fell.

The Swiss bank account was allegedly established to channel donations from firms that did not wish to be official donors to the party.[112] It had allegedly been used by firms

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[108] Ibid.

[109] Slonková, Sabina and Jiří Kubík "Novák od soudu úplně čistý neodešel [Novák not unblemished after court hearing]." *Mladá Fronta DNES*, June 14, 2000.

[110] Macháček, Jan, Martin Kontra and Tomáš Němeček "Černý účet ODS [CDP's black account]." *Respekt*, February 2, 1997, p. 9.

[111] Kubík, Jiří and Jan Pergler "Zieleniecovo nařčení ODS zůstává tajemné [Zieleniec's CDP accusation still mysterious]." *Mladá Fronta DNES*, November 27, 1997.

[112] In July 2000, the public prosecutor's office in Switzerland confirmed the existence of the secret account used for financing the CDP. (Kmenta, Jaroslav "Švýcaři potvrdili tajné konto ODS [Swiss confirm secret CDP account]." *Mladá Fronta* DNES, July 14, 2000.) It confirmed that the account in question existed with the Zurich bank Crédit Suisse and that 45 million Czech crowns had been transferred from this account to the Czechoslovak Trade Bank and then to the Foresbank, into the accounts of Ludvik Otto, a former secretary-general of the main party office. Before Otto started to work for the CDP he worked for the Ministry of Privatization. Between January 1994 and June 1996 he had represented the state on the advisory board of Becherovka (the famous

participating in the privatization of important corporations such as TELECOM.[113] Leading party members such as Jan Ruml, Ivan Pilip and Josef Zieleniec declared that news was spreading within the party that the account contained $1.5 million for the privatization of TELECOM. Owing to the suspicion that the privatization of TELECOM had been corrupt, an investigative committee was established in the Czech Parliament. However, it discovered nothing that would support the accusation.

The CDP subsequently split and in 1998 the so-called "anti-Klaus wing" established a new political party: the UF. Led by Václav Klaus himself, the foremost figures in the CDP refused to accept responsibility for the problems and allegations. The difficulties were "mistakes by the personnel of the main party office," and it was promised that they would never be repeated. In an effort to purify itself, the party hired Deloitte & Touche to make an audit of party finance. The audit was published in August 1998.

In December 1998 information was published to the effect that after an investigation lasting a year, the police were almost sure that the party had been using money coming from bank accounts abroad.[114] The police are convinced that in 1996 the party received almost 90 million Czech crowns from abroad. This is exactly the difference between the election costs acknowledged by the party and the real costs of the campaign as calculated by the police and financial experts. Nevertheless, thus far the police have not managed to find any direct proof enabling them to bring charges. The party denied information to the police. However, according to the police investigators, not only allegations by some former top party members, but also recalculation of party revenues proved that the party was involved in illegal transactions involving money from abroad.

Investigation of the whole scandal gradually faded. In April 2001, the Chamber of Deputies adopted an amendment that absolved political parties from the obligation to pay donation tax. This amendment virtually terminated the three-year-long investigation into the CDP's not paying donation tax on the donations received through the account with Crédit Suisse. From January 2001, it became impossible to convict representatives of political parties for not paying taxes related to received donations.

1.10.3 Other Scandals

The CDP scandals were not the only ones of 1997–98 that changed the Czech political landscape in a significant way. While the scandals in the CDP resulted in the breakup of the party, those in another once ruling right-wing party—the CDA—ended in its effective elimination. Owing to its financial scandals, the party lost not only governmental posts, but

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Czech producer of liqueurs), which was then preparing itself for privatization (Kmenta, Jaroslav, Sabina Slonková and Jiří Kubík "Vyšetřování souvisí s tajnými konty v zahraničí [Investigation is related to secret accounts abroad]." *Mladá Fronta DNES*, July 29, 1999.) According to the police, Otto was using the money to finance the party. The police also discovered that there were other transfers of money from abroad into Otto's accounts. They also found out that in 1995–96 Otto provided the party with almost 13 million Czech crowns in the form of interest-free loans. The existence of interest-free loans was confirmed by the audit conducted by Deloitte & Touche. In addition, according to the audit, Otto usually lent money without a contract. Otto refused to explain the conditions attached to the loans. According to the party, the loans from Otto were in cash. However, this information lacked confirmation by the auditors, since Otto refused to co-operate with them. It was not only Otto who had access to the funds deposited: Libor Novák, a former deputy chairman of the party, also had access to Otto's account at the Foresbank.

[113] Macháček, Jan, Martin Kontra and Tomáš Němeček "Černý účet ODS [CDP's black account]." *Respekt*, February 2, 1997, p. 9.

[114] Kmenta, Jaroslav "Policisté mají další indicie o kontu ODS [Police have new information on CDP account]." *Mladá Fronta DNES*, December 8, 1998.

also the support of donors. As in the case of the CDP, it came to light that the CDA was using money from abroad, this time channeled through a Liechtenstein bank account of the non-existent company TMC from the Virgin Islands. According to Vladimír Dlouhý, a former deputy chairman of the party, among the firms that made donations through the Liechtenstein account (these totaled almost 6 million Czech crowns) were Vítkovice Metalworks, Philip Morris and PPF.[115] These companies denied their alleged sponsorship.

The CDA today is a party that lacks both political potential and financial backing. The party is highly indebted and unable to pay even the interest on its loans. The biggest share of its enormous debt consists of a loan of 52 million Czech crowns that the party took out to finance its 1992 election campaign. The loan was given by the Credit and Industrial Bank, which subsequently went bankrupt. The outstanding debt was then taken over by the Czech Insurance Company, which was under the control of the PPF, a company widely regarded as a supporter of the CDP. Although the Czech Insurance Company agreed a rescheduling of the debt with the party, it has again become an instrument in the party's political struggle. In 2001, the company announced that it was ready to sell the outstanding debt of the CDA. Immediately, Radim Masný declared that he would buy it in order to destroy the party for good. As a member of the so-called Alliance of Four,[116] the CDA had to solve its financial problems by January 15, 2002, under threat from the CDU–CPP to withdraw its candidates from the joint lists for the 2002 parliamentary elections. All in all, the financial scandals of 1997–98 changed the Czech political landscape substantially, as a new party was established and another one effectively eliminated (although the CDA still holds a number of seats in the upper chamber of Parliament).

Apart from the abovementioned cases, yet another party was severely affected by financial scandals. The extremist AR–RPC enjoyed parliamentary representation up until the 1998 elections, which marked the end of the party's political ambitions. It was because of financial fraud by the party's leader, Miroslav Sládek, that the AR–RPC was first dubbed "Party Ltd" before being driven to eventual bankruptcy and political collapse. The AR–RPC is an interesting example of a political party working as a means for transferring state funds, which constituted almost the only source of party finance, to the pockets of a party leader.[117] However, as was proven by the ultimate collapse of the party, such a strategy could have only a limited lifespan.

II. Analysis of the Party-Funding Model

2.1 Transparency and Legality of Party Funding

As the party formed by members of the CDP who did not agree with the benevolent attitude of the party leadership towards financial issues, the UF has made transparency and openness an important element of its party program, at least on the rhetorical level. By way of

[115] Slonková, Sabina and Jaroslav Kmenta "Alianci se nedaří již téměř dva roky vysvětlit aféru se sponzory [Alliance unable to explain scandal for almost two years]." *Mladá Fronta DNES*, February 19, 1998.

[116] After the elections in 1998, an "opposition agreement" was concluded between the two biggest political parties in the Czech Republic. On the basis of this agreement, the CSDP established a minority government supported by the largest opposition (conservative-liberal) party, the CDP. Soon after the agreement was reached, both parties started preparing a joint proposal for changes to the constitution and the electoral system. In response to the opposition agreement, four smaller parties of centrist and rightist origin established the so-called "Alliance of Four."

[117] Kubík, Jiří and Sabina Slonková "V politice dokázal vydělat miliony. Jak? [He managed to earn millions in politics. How?]." *Mladá Fronta DNES*, August 4, 2001.

the Internet, the UF makes its party account public.[118] The party bases its identity on an openness that can be felt whenever one has dealings with party structures. The authors of this report themselves experienced a marked difference between the behavior of the employees of the UF and those of other parties.[119] However, the extent to which this is a deliberate strategy to promote the party as opposed to a genuine commitment to transparency is not clear.

Generally speaking, the system of party funding has undergone important developments since the early 1990s. As in other East European countries, the system in the country has moved from an under-regulated to a relatively well-regulated area of activity. The scandals of 1997–98 proved that disclosure requirements were sufficiently developed to make it possible for investigative journalists to publicize the most serious cases of mismanagement of party funds.

However, the system needs to be more transparent still. The very fact that only one copy of the annual financial report of each of the parties is accessible in the library of the Chamber of Deputies does not ensure that the broad public can keep its eye on party finance. If the reports were made publicly accessible on the Internet, the situation would be much better. Such a requirement measure would also serve as an additional disciplinary incentive for party bosses to submit as detailed and as accurate a report as possible. On the other hand, it appears that some Czech journalists learned during the 1990s how to play the role of angry watchdogs, and are able to publicize at least the most suspicious information concerning party finance.[120]

Party funding during the 1990s revealed that virtually none of the important parties was able to observe high levels of internal integrity and resistance to illegitimate practices. Thus far, only the CPBM has not experienced a major financial scandal. However, in this case an obvious question presents itself: to what extent is the lack of scandal attributable to the relative closeness and non-transparency of party structures rather than to compliance by the party with all legal provisions and ethical standards.

The Czech electorate has gotten used to the fact that party finance is generally a dirty business. Moreover, the scandals of 1997–98 showed that it is highly unlikely that a party accused of corrupt practices will be punished in the subsequent elections. The overall attitude says that where everyone is corrupt, nobody is actually. Since all parties engaged in some suspicious activities, the fact that these activities became publicly known ceased to be dangerous for the futures of the respective parties. The only cases where scandals contributed substantially to a party's collapse were the CDA and the AR–RPC. However, here the problems emerged not only because of financial mismanagement, but also because of the general political impotence of the parties themselves. In other words, these parties were unable to build up sufficient public support to survive short-term liquidity problems.

To conclude, although some political forces emphasized that the transparency of party funding was a vital precondition for democratic politics, the topic soon lost its attraction for the general public. Therefore, parties focus on more attractive issues and put the transparency of party funding aside. The agents active in the field tend to be civil servants and organizations such as Transparency International.[121]

2.2 Structural Biases in Favor of Certain Political Parties

[118] See www.ebanka.cz/tran_uct/224809001.htm.
[119] Prague field trip, December 20, 2001.
[120] The most pronounced investigative journalism in the Czech Republic is conducted by the daily *Mladá fronta DNES* and the weekly *Respekt*.
[121] Personal communication with Transparency International and the Czech Ministry of the Interior.

The design of the party-funding model is an important determinant of the general conditions of political competition in a country; the system can be designed so as to promote some parties at the expense of others. Therefore, the system of party funding often becomes the locus of a fierce political struggle over how it should be "best" designed. This is exactly what one observes in the Czech Republic.

All changes in the legal framework introduced in 2000 could be explained as the joint effort of the ruling social democrats and their "opposition partner," the CDP, to limit the influence and power of small and extra-parliamentary parties. In addition to being opposed within Parliament (by the smaller parties, which felt that their future prospects could be directly circumscribed by the proposed changes), the amendments were attacked by the president and were brought by him to the Constitutional Court. On July 17, 2000, the president presented to the Constitutional Court his objections to the amendment to the Law on Elections to the Parliament of the Czech Republic and proposed that some of the provisions of the draft law be annulled (in September, Havel was joined by a group of 33 senators). The most important objection raised by the president concerned the reduction of the monetary award for a vote cast for a party in elections. The Constitutional Court declared this provision null and void.

On November 2, 2000, President Havel proposed that several amended sections of the Law on Assembly in Political Parties and Movements be declared unconstitutional. First, President Havel questioned the increased state subsidy for a seat. Second, he challenged the provision according to which a party would lose the right to have its electoral expenses reimbursed if it did not pass the threshold for representation in the Chamber of Deputies (i.e. 5 percent) in the next election. According to President Havel, the provisions he challenged contradicted:

- Article 5 of the Constitution: "The political system is based on the free and voluntary foundation and free competition of political parties respecting fundamental democratic principles and rejecting force as a means for asserting their interests."
- Article 22 of the Charter of Fundamental Rights and Freedoms: "Any statutory provisions relating to political rights and freedoms, as well as the interpretation and application of them, shall make possible and protect the free competition among political forces in a democratic society."
- Article 20, paragraph 4 of the Charter: "Political parties and political movements, as well as other associations, are separated from the state."

The president argued that these provisions of the Czech constitutional order prohibited all forms of discrimination and also the undue promotion of some political parties vis-à-vis others. His argument was that the political parties should have equal chances to succeed in political contests, i.e. in the elections. Havel maintained that the last set of amendments would lead to a substantial deterioration in the electoral prospects of new and extra-parliamentary parties. According to the president's reasoning, these parties had already managed to become established in the minds of a part of the electorate (this was proved by the share of votes they had obtained in the elections). Nevertheless, in order to get access to state power, they would usually need more time than the period between two elections. As far as the subsidy for a seat was concerned, its increase to 1 million Czech crowns contradicted Article 20, paragraph 4 of the Charter, according to the president.

The Constitutional Court declared all the provisions in question null and void. When considering the constitutional status of the provision regarding the subsidy for a seat, it took into account the fact that the Law on Elections to the Parliament of the Czech Republic also regulated the financing of political parties. Based on the proposed amendments, an increase in the support for successful parliamentary forces would have been accompanied by a decrease in the support for less successful competitors, thus creating distortions that contradicted the

purpose of public financing of political parties, namely to facilitate free competition among various political forces. In addition, according to the Constitutional Court, the cancellation of the provisions called into question provided the Parliament with an opportunity to reconsider the whole approach to the public funding of political parties.

The decision of the Constitutional Court was made on February 27, 2001. The reaction of the deputies was extraordinarily quick. Only one day later, a proposal was worked out suggesting that political parties should be granted 900,000 instead of 1 million Czech crowns for a seat, and that instead of 3–5 million Czech crowns of annual fixed state funding, the parties should receive 6–10 million.

The way this proposal was adopted by the Chamber of Deputies is particularly striking. The proposal was added to the just-discussed Draft Law on the Governmental Bonds Program for Settling the Debts Resulting from the Agreement between the Governments of the Czech Republic, the Slovak Republic and the Federal Republic of Germany on the Termination of Mutual Business Exchanges in Transferable Rubles and on the Settling of Mutual Debts and the Outstanding Debts that Emerged from the Balance of Payments in Transferable Rubles in Favor of the Federal Republic of Germany. The Chamber of Deputies smoothly adopted this draft law, including the "supplement" on party financing, on March 2, 2001.

The whole affair is striking not only for the speed with which the deputies adopted the law, but also the way in which they did it. The ruling of the Constitutional Court becomes effective as soon as it is published in the official edition of the Law Codex, where one can also find the court's explanation of its ruling. In this particular case, the ruling was published only on March 14, 2001. Thus, the deputies reacted to the court's ruling without being aware of the reasons for it. In fact, the deputies based their decision on newspaper information.

The deputies did not utilize the opportunity that the Constitutional Court believed was provided by its ruling. Moreover, some deputies claimed that the court, by insisting that the ruling take effect without delay, was clearly demonstrating its unwillingness to allow "any broad discussion on political parties' financing."[122] The deputies showed an unwillingness to discuss the problem, even in the course of the two weeks that separated the issuing of the court's ruling from its coming into force. Needless to say, such a debate was greatly needed in the Czech context.[123]

President Havel vetoed the draft law on the basis of the argument that the incorporation of a provision on the financing of political parties in a law that is completely unrelated creates chaos in the legal system and makes it incomprehensible.[124] The Chamber of Deputies overrode the veto on May 15, 2001 and, against the president's will, again adopted the law.

2.3 The Ensuring of an Open and Inclusive Political Process Through the Political Party Structure

The Czech model of political finance relies heavily on state subsidies, which decrease the possibility for the capturing of the parties by strong corporate interests. Yet there have been attempts by firms to bribe political parties in an effort to influence governmental policy-

[122] Benda, Marek "Jak financovat partaje [How to finance parties]." *Mladá Fronta DNES*, April 6, 2001.
[123] Šimíček, Vojtěch "Dvakrát měř a jednou řež [Look before you leap]." *Mladá Fronta DNES*, March 3, 2001.
[124] Bílek, Ondřej "Strany si přidaly, prezident prohrál [The parties get more, the president loses]." *Mladá Fronta DNES*, May 16, 2001.

making processes. Probably the most striking and clear-cut cases of such corruption occurred in the early 1990s, when a number of privatization projects were under way. However, these cases of corruption are not easy to reconstruct now, and we can infer their existence only from the data available to us, e.g. from reports of private donations. The scale of private donations to the CDA in 1996 could be a case in point. The same applies to recent instances of public tenders clearly manipulated by members of the CSDP. Generally speaking, as things stand at the moment it does not seem that politics in the Czech Republic is under the control of narrow socio-economic interests.

With some noticeable exceptions, public funding of political parties in the Czech Republic constitutes some 50 percent of their revenue. In election years, public funding becomes the dominant component of the revenues of all political parties. Therefore, the most relevant question in the case of the Czech Republic is not whether we can observe parties captured by a small number of rich donors, but whether we can see parties dissociated from civil society and living completely at the expense of the state budget, so-called party "etatization."[125]

Indeed, the pattern of party funding in the Czech Republic seems to create examples of what is described in the academic literature as a cartel party (Katz and Mair, 1995). The cartel party is characterized by estrangement from civil society and by increased attachment to the state. It relies heavily on external resources such as state funding and privileged access to public media. Internal resources of political mobilization gradually lose their importance. Thus, the cartel party becomes closely bound to the state, while its links to the electorate and to its membership become less and less important. Although Katz and Mair list a number of important political consequences of this development, the one that interests us here is the loss of a party's main function, namely to represent its constituency in the political field. The main role of political parties is to provide a bridge between a society characterized by diverse interests and a state where the authoritative decisions are made. If parties become almost exclusively dependent on the state budget, they gradually lose their interest in the mobilization of citizens and in bringing them into politics.

As a corollary to this trend and in line with the theoretically based expectations of Katz and Mair, the role of the party leadership and the party bureaucracy increases disproportionately and the gap between ordinary citizens and those living from politics widens. The process of the decoupling of politics from civil society begins to show itself, resulting in the indifference of citizens to politics. In order to frustrate such a trend, a balanced, mixed system of party funding should be introduced. It is clear that this is exactly the challenge that Czech political parties are facing now.

III. Conclusions

The changes introduced by the abovementioned amendments of 2000 were motivated by a desire to strengthen the position of the large parties, and make them immune to the preferences of smaller political actors. However, it was not clear whether the increased stability of the political system resulting from the amendments would result in improvements in the overall performance of the government. Such changes have definitely led to decreased accountability of political representation. The available evidence shows that a decrease in the accountability of political representation does not contribute to a higher standard of policy outputs, but instead leads to a lower quality of ultimate policy choices (Stark and Bruszt, 1998).

[125] Šimíček, Vojtěch "Dvakrát měř a jednou řež [Look before you leap]." *Mladá Fronta DNES*, March 3, 2001.

The conflict over the 2000 amendments played an important role in the overall development of Czech politics. It made the stances of the relevant political actors crystal clear and highlighted the basic issues of the ongoing debate on how the political parties should be financed. Drawing on the West European experience, the Constitutional Court emphasized that state funding should not be the main source of party revenues. Although this was also the preferred stance of right-wing political parties throughout the 1990s, the difficulties of the model became clear as early as 1997, when scandals related to private sponsoring of political parties caused a major political crisis. As a result, the proposal of the Constitutional Court was criticized for not taking into account the specificity of the situation in the Czech Republic.

It is clear that the conflict in 2000 was informed by two different types of experience, and, accordingly, by two different types of perception. First, the experience of the scandals of 1997 compelled some political actors to stress this issue disproportionately and to present public funding as the only viable alternative to private funds. Second, the more recent experiences and perceptions resulted from the demonstration of an extraordinary co-operation between the largest left-wing party and the largest right-wing party. The scandals of 1997 may have discredited reliance on private funding, but they can hardly be used to justify the clearly unwarranted pretensions of the largest parties to monopolize the Czech political field.

These developments in the domain of Czech party finance seem to demonstrate the political parties' awareness of the need to preserve conditions for open political competition in the country. The problem will not be solved unless parties show a firm determination to strike a delicate balance between different models of party funding.

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Party Funding in Hungary

Zsolt Enyedi

Introduction

Hungary's party finance regime is indicative of the country's overall constitutional structure in at least two ways. First of all, it was, similarly to that configuration, designed by consensus-seeking, but distrustful, elites; it therefore contains elements of divergent models and is, on the whole, rather complex. Secondly, like the constitution itself, it has, despite continuous criticism from virtually all parts of the political spectrum, been changed only slightly over the past decade.

To the outside observer, the most remarkable fact is that the current regime allows political parties to live largely on taxpayers' money. Ironically, this is the least criticized element of the system. Certain proposals for reform would even call for the elimination of other, non-state, sources of income. A second major distinguishing feature is that despite, or perhaps because of, the bias towards funding by the state, the present arrangements are liberal with regard to non-state sources of income. As a result, Hungarian parties are in a comfortable position: they are free to garner unlimited financial support, although—because of the present upper limits on campaign spending—they are by no means obliged to do so. Parties are fortunate because they do not have to fear government interference in their internal affairs. Only the State Audit Office, an independent body responsible to Parliament, can check their expenditure. The public, too, is fortunate, in theory: transparency is a legal obligation, and the disclosure of party income and expenditure is institutionalized.

Despite such favorable conditions, none of the abovementioned actors is particularly happy with the situation. Scandals erupt regularly, indicating that parties try to circumvent the regulations. The State Audit Office complains that the officially dictated structure of the financial reports makes it difficult to assess monetary flows accurately, that campaign funding is ill defined, and that the Office is not equipped to expose or punish wrongdoings. The public is convinced that all parties cheat in one way or another, and there is constant discussion in Parliament on the need for reform. As yet, no consensus has been reached.

I. Description of the Party-Funding Model

1.1 Laws and Regulations on Party Funding

Regulations concerning the registration of political parties are relatively liberal in Hungary. To be registered, a party needs to collect the signatures of only 10 Hungarian citizens, to elect a representative body and to adopt party statutes. More than 200 parties have been registered in the past decade or so, although almost half no longer exist or have transformed themselves into civil associations.

The system of party finance was established during the 1989 round-table discussions, i.e. before the first democratic parliamentary election but after the establishment of the most important political parties. While designing a general system of finance, the elites had also to frame specific regulations for the period of transition from a single-party system to a genuinely pluralistic one. Until the first election, subsidies were based on membership size. Since there was then no reliable method for checking this, the politicians in the round-table

discussions jointly estimated the size of the parties. While figures referring to the major parties were more or less realistic, over the following months several "phantom parties" emerged and received state support on the basis of purely imaginary membership figures. Skilful entrepreneurs thus obtained small fortunes without engaging in any meaningful political activity (Juhász, 2001: 11).

Another challenge was the privileged position of the Hungarian Socialist Party (MSZP), the successor to the Hungarian Socialist Workers' Party (MSZMP), i.e. the communist party. The MSZMP had been present in all places of work in Hungary, had owned a vast number of newspapers, firms and premises; and had used 365 buildings that were officially owned by the state. The negotiators decided to uphold the right of the Socialists to retain their inheritance, but the party, along with all other parties, was banned from places of work and was told that it should be ready to return state-owned buildings.[126]

Unresolved questions concerning the Socialist Party's property holdings poisoned the political atmosphere in the following years, but the establishment of a structure for party finance proved to be an important consequence of the round-table talks. Here I shall briefly summarize the system's main features. I shall then discuss its various aspects in more detail in subsequent sections.

The agreement of the elites was expressed in the so-called Party Law (Law XXXIII of 1989).[127] According to this law, parties could finance themselves by way of the following main sources: Subsidies provided by the state, private donations, membership dues, economic activity by the parties themselves and economic activity by public and private limited liability companies established by the parties. Parties could also establish for-profit companies. These companies were subject to standard tax regulations, while parties were not.

There are no restrictions on the size of contributions that can be solicited from private individuals or private companies, but parties cannot accept donations from companies owned by the state. Moreover, since the amendment of the Party Law in December 1992, foundations supported by the state and companies partially owned by the state have also been excluded from the list of permitted donors. Anonymous donations are banned. The upper limit on state subsidies is abolished. Parties whose national list did not pass the threshold for election to Parliament are no longer entitled to a share of the 25 percent segment of the annual national budgetary support for parties. Economic activity by parties (including the sale or leasing of buildings) is exempt from taxes. The State Audit Office is to check the parties' finances every two years. New standardized, but less detailed, budgets are demanded from the parties.

The sum allocated to parties by the state budget is shared out proportionally, on the basis of the number of votes received by the parties at the last parliamentary election. The precise sum is decided by Parliament every year, as part of the national budget law. Three quarters of the sum are distributed on the basis of votes cast for those parties securing more than 1 percent of the vote. The remaining quarter is distributed equally among the parties represented in Parliament. Donations given to political parties are not tax deductible. On the other hand, the economic activity of parties is exempt from taxation, although they must pay the usual employer's dues, social security contributions, and so forth. Parties are obliged to make their annual budgets public. Only the State Audit Office is allowed to investigate the accuracy of the financial reports. In case of suspected fraud, the State Audit Office may turn to the courts.

These features of the party finance regime have proved to be enduring. This is not surprising since the Party Law can only be amended by a qualified (i.e. a two-thirds)

[126] The hand-back occurred ten years later, in 2000.

[127] Reprinted in Gábor Tóka and Zsolt Enyedi (1999) *The 1994 Elections to the Hungarian Assembly*. Berlin: Sigma, 249–256.

majority vote in Parliament. However, this does not mean that there have been no modifications to the law during these years.

Table 1 lists the most important laws affecting party finance. As it shows, the Party Law was amended to allow parties to use state-donated buildings for profit. At the same time, the list of illicit sources of finance was enlarged. The Electoral Law of 1989 did not lay down separate financial rules for an election period, but it did specify the parties' duty to report separately on their election expenditure. In 1997, the Law on Campaign Finance introduced additional regulations on the disclosure of campaign expenditure, and also placed limits on the sums that could be spent. Campaign expenditure was required to be reported in the National Gazette and individual candidates could not spend more than HUF 1 million.The threshold for state support was raised and disclosure was made more standardized. In 1991, a separate law granted headquarters buildings to all parties that had secured more than 1 percent of the vote in the 1990 parliamentary election. In 2000, two laws relating to headquarters premises finally deprived the Socialist party of its state-owned buildings and distributed additional office space among the other parties. According to the amendment. parties submitting a national list at elections and having a faction in Parliament are entitled to the free use of state-owned offices. The maximum number of state-owned offices that can be used by any one party is set at 30.

1.2 Party Structures Dealing with Funding

In theory, in all parties funding is controlled by the national boards and, ultimately, by the party congress. Treasurers are, in most cases, elected by congress and have a duty to make regular reports to it. In reality, not even the leadership is aware of all the details of financing. In 1994 a member of the presidium of the Federation of Young Democrats (Fidesz) demanded full financial accounts from his party and in 1999 the vice-president of the Hungarian Justice and Life Party (MIÉP) did the same. The two were subsequently forced to leave their respective parties.

Branches or district organizations have their own bank accounts and finance themselves relatively autonomously. When party officials are asked about campaign finances, they sometimes confess that they are unable to follow the finances of local organizations, although the financial reports should cover all organs of the party in question.

1.3 Membership Fees

The minimal monthly membership fee in most parties is 100 forints (approximately € 0.3). Local branches can ask a somewhat higher sum from members who can afford it. Politicians who occupy public offices, for example, are often asked to contribute larger amounts. This practice is most institutionalized in the Socialist Party. Here, candidates for public office must agree to pay 15 percent of their public office salary to the party. The sum that reaches the party purse in this way often exceeds the amount collected from membership fees. If one calculates the average MP's salary in 2002 to have been approximately 250,000 forints, then such contributions from the 150-strong parliamentary faction must have been around 50 million forints. Not even the parties most geared to the recruiting of members can amass even half such a sum from membership fees.

While the proportions of membership fees in overall budgets are uniformly small (i.e. below 5 percent), their fluctuations deserve attention. After the electoral victory of the Federation of Young Democrats–Hungarian Civic Party (Fidesz–MPP) in 1998, donations by

members and contributions suddenly increased tenfold, although the amount collected in this way still lagged behind the sums reported by the two leftist parties, the Hungarian Socialist Party (MSZP) and the communist (and extra-parliamentary) Workers' Party (Munkáspárt).

1.4 Private Donations

Parties can accept donations from any source except foreign governments, state enterprises, state-supported foundations and anonymous donors. Donations appear to be a less significant source of revenue than public funding. But considering that support provided by the state is usually better reported (especially in the case of the opposition parties), one cannot be sure of the exact role of private donations. There can, however, be no doubt that as sources of finance donations are significantly more important than membership fees.

According to official reports, the importance of donations increases in election years. In 1990, for example, the Hungarian Democratic Forum (MDF) received 68 million forints from donations. This sum amounted to almost one fifth of the party's annual income and two thirds of its official campaign expenditure that year (Juhász, 2001: 55).

Financial support from foreign sister-parties seems to be insignificant. Of course, this does not mean that the conferences, seminars and training camps organized by the foundations of parties in Germany, The Netherlands, Great Britain and elsewhere are irrelevant. Instead, the prestige derived from association with a Western political actor seems of more consequence than actual money transfers. In some cases, foreign foundations pay for expert studies that are eventually utilized by parties.

Allied Hungarian parties may also support each other in particular cases. The Socialists, for example, gave 16 million forints to the Agrarian Alliance between 1998 and 1999. No Hungarian party receives significant contributions from interest groups. On the other hand, the largest trade-union federation (MSZOSZ) participates through its activists in the Socialist Party's election campaigns.

Banks are becoming more important players, e.g. by granting favorable loans to political parties. Since most banks are at least partially owned by the state, it is often a company or a foundation close to the party in question that actually receives the loan. In these cases, the party itself may provide the security for the loan.

All interviews conducted for this research indicated that a large portion of support from private actors takes the form not of cash, but of unpaid services. Companies contribute to campaigns either by asking a reduced fee, or by asking no fee at all. Victorious parties acknowledge this help when awarding government contracts and framing specific government policies.

1.5 Party Firms and Foundations

Parties are allowed by law to establish and own companies. These companies, as well as the parties themselves, are entitled to conduct for-profit business. However, parties are severely restricted in this domain. They are allowed to sell only publications, emblems and insignia, and to lease out properties in their possession. Office space rented from the state cannot be used for commercial purposes. Parties may buy government securities, but not corporate ones. These restrictions do not apply to companies established by parties. The Tax Office controls the activities of the companies, but not of the parties.

Foundations play an important role in the financing of parties, sometimes an even greater role than companies. Foundations provide parties with various services, such as education, propaganda materials and publicity, and in some cases they support newspapers.

Parties often pay their experts via foundations, and, as mentioned earlier, foundations and firms may channel money from donors who wish to remain anonymous. Finally, parties support foundations in order to escape reporting obligations concerning their expenditure. The MIÉP regularly transfers most of the money it receives from the state to the Hungarian Forum Foundation. Foundations have flanked Hungarian parties from the very beginning, i.e. 1989. Although by law they must be independent of their original instigators, there is often a partial or even a complete overlap between party leaderships and foundation leaderships. For parties, one of the attractive features of foundations is that their accounts are not public.

Parliament has tried to reduce partisan influence in civil foundations. According to Law CLVI of 1997, only donations made to foundations that help guarantee party neutrality enjoy tax benefits. Some party-related foundations are very wealthy indeed. When the Socialist Party sold the local newspapers and publishing houses it inherited from the communist party, it received almost 1 billion forints, i.e. almost as much as the annual income of all the other parties put together. Using half this sum, it set up a foundation that operates a newspaper, holds stocks in companies and provides support for the party's election campaigns (Tóka and Enyedi, 1999: 37). Even more "transparent" has been the role of one of the foundations with links to the Free Democrats (this had the straighforward name "For the Free Democrats"). This foundation was charged with soliciting money for the party. During the election campaign of 1994, it made available 246 million forints, more than half the party's annual income.

The presence of firms and foundations seriously obscures party finance. Sometimes, especially during election campaigns, only half the activists, experts and bureaucrats of a party are on that party's payroll: the others are paid by foundations and firms. As a result, it is almost impossible to establish how much money the parties actually spend on campaigns.

1.6 Party Assets

The state has donated a significant amount of real estate to political parties in order to provide them with office space. Parties can utilize the buildings they own as they see fit, e.g. by renting them out. Parties also rent buildings and rooms from the state, although they are not supposed to sublet these properties.

While the financial significance of state-donated buildings may diminish over time, during the last decade or so they have been a major source of income. In 2000, the Free Democrats (SZDSZ) sold their headquarters for 554 million forints, while the Independent Smallholders' Party (FKGP) received around 700 million forints from the sale of office space in 2002. For its part, the Christian Democratic People's Party (KDNP) received 450 million forints in 1999, namely 89 percent of its budget for that year. In 1994, more than one third of the Socialist Party's income was from the sale of real estate.

The first wave of office distribution took place in 1991, and a second in 2000. According to the "new deal" of 2000, each party may have free use of a maximum of 30 state-owned office properties. If a party is not re-elected to Parliament, it must return any such properties to the state. The 2000 laws and decrees did not regulate the number of office properties made available to parties by municipal authorities, usually for a token fee. The Socialist Party complained bitterly about this omission, since other parties typically had more office space rented (at very moderate prices) from sympathetic local municipalities than did the Socialists.

1.7 Public Funding

1.7.1 Direct Funding

As mentioned in the introduction to this paper, the state budget allocates a specific amount annually for the routine financing of the parties. By the terms of the Party Law, three quarters of this state subsidy is distributed among those parties that achieved at least one percent of the popular vote at the previous national election. The distribution is proportional to the votes they gained. The remaining quarter is distributed equally among those parties represented in Parliament. Splinter groups are entitled to support only when they are able to run under their own names in elections.

In 1989, politicians hoped that parties would be able to finance themselves. A proviso was inserted into the Party Law stipulating that money from the three-quarters share of the annual state subsidy can make up no more than one half of a party's overall annual budget. In the following year, Parliament abolished this rule. In 1990, certain parties, such as the KDNP, the FKGP and Fidesz, received more than 80 percent of their income directly from the state. The Socialists could rely on wealth inherited from the communist party, but during the course of the 1990s even they began to depend on state support. During the first decade of democratic politics there were years when some parties received no less than 95 percent of their income from the state budget (Tóka and Enyedi, 1999: 13).

The rules concerning state financing were modified again in December 1992, so that parties represented in Parliament but lacking the status of a parliamentary caucus were no longer entitled to funds from the 25 percent share of the subsidy. In other words, only the parties that managed to surpass the electoral threshold (4 percent of the popular vote in 1994, but 5 percent since) are eligible for this money. Securing election in a couple of individual constituencies is no longer sufficient. The bulk of the declared income of Hungarian parties comes from the annual transfers of money from the state budget. During the last decade or so, public funding for parties has tripled in nominal terms, although in real terms there was only a marginal increase (Enyedi and Tóka, 2001: 68–90). Owing to the volatility of the voters, parties can find themselves in a very different financial situation before and after an election. For example, in 1997 Fidesz–MPP (at that time a small opposition party) received 159 million forints from the budget, while in 1998 (when, following the election, it was the largest party in the governing coalition) it obtained 377 million forints.

Parliamentary caucuses are also subsidized. Each one receives money to hire experts. This sum is twenty times the basic salary of an individual MP. In addition, for each member a party receives 25 percent of an MP's basic monthly salary if the party is in government and 50 percent of that salary if it is in opposition. In 1990, the basic salary was 33,000 forints monthly, meaning that each caucus received at least 66,000 forints per month. For a strong party in opposition with 25 percent of the seats, the actual sum was more than 2 million forints per month. Ten years later, for the same party this "expert money" totaled 10 million forints monthly. In both cases, this sum represents a small fraction of the money received from the state budget by a party's headquarters: The ratio is approximately 1 to 60. Moreover, it is difficult to establish whether the money spent by the caucus is for the exclusive benefit of the "party in public life," since some of this money goes to experts working for the "party's central office."

Individual MP's receive additional financial support from the state. While salaries are not particularly high, the various allowances, compensations and reimbursements add up to a more impressive sum. In 2000, for example, travel allowances tripled compared to the previous year. For those MPs living more than 200 kilometers from work, the allowance increased that same year to 225,000 forints per month (160 percent of the basic monthly salary, which at that time was 150,000 forints). However, even those MPs living in Budapest received 100,000 forints for travel, and this money was tax exempt. Being a member of a

single committee entitled an MP to an extra 56,300 forints; moreover, he or she can claim up to 70,000 forints for accommodation and another 70,000 forints for a secretary. If we add to the equation the fact that a quarter of the 1998–2002 Parliament served as municipal representatives as well, the real financial situation for Hungarian professional politicians is less unattractive than may appear at first sight (Bodnár, 2000).

As we have seen above, MPs have seemed less interested in increasing subsidies to the parties than in improving their own financial positions. Occasionally, though, they have joined forces, even against the government. In 1997, the Ministry of Finance proposed to boost the subsidy by 13 percent, while Parliament voted through an increase of 29 percent. However, when in 1999 the Free Democrats proposed a radical increase in the state subsidy, they found little support from their fellow-MPs.

In addition to the money made available for the operation of the party apparatuses, the support given for electoral campaigns must also be regarded as a direct subsidy. During an election year, the Ministry of Finance distributes an additional 100 million forints among the candidates. Depending on the number of nominations, this translates into around 25,000–30,000 forints per candidate. For a large party this amounts to not less than 10 million forints. Compared to the real extent of electoral expenses, this amount of money is ridiculously low, but is symbolically important in that it places all candidates on an equal footing. Large parties also benefit from their receipt of money for candidates running on the various party lists.

Table1

The Incomes of Hungarian Parliamentary Parties in Millions of Forints, According to Their Published Budgets, 1990–1999

	MDF	SZDSZ	Fidesz	MSZP	MIÉP	FKGP	KDNP	Total
1990	320.1	224.8	76.4	297.8	0	96.5	65.1	
1991	262.2	212.6	84	715.4	0	92.8	53.3	
1992	430.3	251.7	171.7	416.4	0	142.3	117.6	
1993	1266.7	301.1	938.7	444.2	0.5	191	152.8	
1994	850.8	517.3	933.3	894.5*	21.3	164.7	170.4	
1995	1018. 5	218.2	542.7	958.4	15.6	127.6	105.9	
1996	327.7	296.1	316.5	843.9	20.9	174.2	135.9	
1997	306.4	348.7	164.2	964.9	27.9	296.7	190.8	
1998	264.9	913.2	739.6	1328.1	131.2	369.3	313.6	
1999	123.8	316.2	587.9	1038.5	225.8	388.7	172.7	

Source: Juhász (2001) and the author's own calculations

1.7.2 Indirect Funding

Of the benefits accruing from forms of indirect funding, those derived from patronage systems should be mentioned first. In Hungary, elections have been followed by changes in personnel not just at the top of the ministries, but also at the heart of cultural institutions, public media, public corporations, the civil service, and so forth. After 1990, MPs of the government parties had a number of well-paid positions in the managements or on the supervisory boards of state companies. Law V of 1997 forbade MPs to occupy leading

positions on the boards of enterprises controlled by the state or by municipal authorities, but allowed them to remain owners of companies co-operating with, or even partially owned by, the state.

During the election campaign, parties receive state support that goes beyond the abovementioned direct financial transfers. They receive free airtime on state-owned television and radio. The Electoral Law stipulates that during the campaign period the local, regional and national public media must broadcast without charge campaign films by parties with regional or national lists as well as by local candidates. Such broadcasts must be provided for each of the parties and candidates on at least three occasions: at least once during the main campaign period and again two days before each of the two rounds of voting. Parties also pay reduced prices for advertisements on national television and radio stations. During election campaigns parties also benefit by not having to request special permission to produce posters, billboards, leaflets and so on.

Youth and women's organizations affiliated to the parties can benefit from state support in their own right, provided that they enjoy formal autonomy.

1.8 Reporting and Disclosure

Parties are compelled by the Party Law to publish their annual budgets every spring in the National Gazette. Originally, the various types of income were broken down into a large number of categories. Parties had to separate the money they spent on such things as staff, elections, general functioning, and so forth. However, parties interpreted the categories differently. For example, some regarded money spent on campaign offices as belonging to one category, while other parties assigned it to another (Juhász 2001: 20). Since 1993 the number of categories used in the reports has been reduced. Now there is less uncertainty, but the categories have become so broad and general that the reports convey very little concrete information. It is not possible to determine from the reports how much was spent on office space, salaries, and so on.

Also, the amendment of December 1992 somewhat reduced the State Audit Office's ability to exercise supervision by requiring parties to publish their reports only every two years. According to the law, the names of inland donors giving more than 500,000 forints annually, and of donors abroad giving more than 100,000 forints annually, must be published in the financial declaration. But usually the names of donors remain unknown, since they make their donations by way of intermediaries, typically foundations.

The State Audit Office frequently complains about the inadequacy of the reports. Since the parties routinely modify their financial declarations following critical comments from the Office, it can take two or three years before a final, correct report is published. This is a serious problem, since the difference between the original and the corrected financial declaration can often be considerable. According to Fidesz's first report in 1999, the party closed the financial year 1998 with a surplus of 93 million forints, while according to the corrected report it had a deficit of 300 million forints.

The Electoral Law of 1989 obliged parties to publish their campaign budgets in the press, but since there were no deadlines or sanctions in the event of non-compliance, they did so only rarely (Juhász 1996). Law C of 1997 specified that the reports must be published in the National Gazette within sixty days following a parliamentary election. (The law does not cover local elections.) Also, within one month of a parliamentary election the parties, or more precisely the candidates, must report to the Ministry of Finance their spending of the sums received from the state for the campaign. These deadlines for reporting seem to be

unrealistically short, since many bills do not reach the parties until months after elections (Tall …).

Candidates are not allowed to spend more than 1 million forints on a campaign. Those who exceed this limit must pay twice the amount of the excess into the national budget. In this way, electoral expenditure has since 1987 been limited to 386 million forints per party. In reality, things are very different. According to Juhász's estimates (Juhász 2001: 58), the campaign spending of individual parties can reach 1 billion forints. The large parties report spending approximately 700 million forints on "political activity" in years in which parliamentary and local elections take place. My interviews with party officials indicated an even higher sum, one close to 2 billion forints, i.e. five times the official figure. The differences between these figures stem partly from the fact that it is very difficult to establish what actually qualifies as campaign expenditure. In the official reports, the parties account only for the sums spent by their central administrations on electoral advertisements and exclude, for example, spending by the candidates themselves.

The relevant laws do not regulate "support in kind" even though, as indicated above, this constitutes a large part of campaign finance, especially in local elections. One possible solution is explicitly to forbid, for example, the production of party posters by actors other than the parties themselves (Tall …: note 10).

1.9 Enforcement

Political parties are granted considerable financial autonomy in Hungary. The state administration is forbidden by law to follow the finances of parties. The head of the State Audit Office is elected by Parliament and is responsible to Parliament. The Office checks the accounts of the parties every two years. If, for some reason, it intends to carry out additional investigation, it must warn the party in question one month in advance. If the Office discovers an anonymous donation or illegal economic activity, the party at fault must pay the sum at issue into the state budget, and the same sum will be deducted from the party's next annual state allowance.

The powers of the Office are very restricted. If it discovers mistakes in the reports, it can ask the parties to publish corrected versions. In other words, there are no real sanctions for bad accounting practices. The Office is not able to investigate the identity of donors and it has no means of conducting investigations of financial partners of the parties. In extreme cases, the State Audit Office can ask the public prosecutor to launch an investigation.

1.10 Scandals

While minor violations of the law—e.g. subletting state-owned offices—are often detected and pointed out by the State Audit Office, there have been few major or damaging financial scandals in the history of the Hungarian parties. One common denominator of all these scandals is that no party official has ever been sentenced because of a party-financing scandal. .

The first big scandal involved the MDF and Fidesz. These parties—the former was in government and the latter in opposition—co-operated to make the most of the law providing parties with office space. The MDF-led government gave the parties some particularly valuable buildings, which contained relatively little office space. The parties, for their part, had no intention of using these buildings as offices and soon sold them for a high price. A

state-owned bank then bought the most valuable one for 1.5 billion forints. Here, the spirit of the law was clearly violated, but no actual infringement of the regulations was detected.
In 1996, officials of the then government parties (MSZP and SZDSZ) allegedly demanded a large sum of money for helping a lawyer obtain a lucrative contract with the privatization agency. The case was brought to court.

In 2001, SZDSZ was accused of financing its 1998 campaign illegally. The charge was that the party had spent more than it was permitted on the campaign, receiving loans via companies with links to the party. No sanctions followed, since in theory a party can take up loans in an election year independently of the election campaign, and unless a party admits that there is a link between these loans and the campaign, the State Audit Office has no right to investigate.

While in most cases there were no legal consequences, the parties often paid dearly for their involvement in these affairs. In 1993, the vice-chairman of the Fidesz said that the party's deeds raised "only moral" rather than legal questions. In the following year Fidesz had to learn, as the SZDSZ had to four years later, that loss of moral standing can turn a large party into a small one very rapidly.

Politicians from various factions proposed radical reforms in 1999. They advocated a dramatic increase in state financial support, more opportunities for parties to operate enterprises, stricter limits on private donations, tighter public control over party budgets, and the provision that donors should account for the source of the money they are donating. But such wide-ranging reforms would require a two-thirds majority in order to be passed. In the currently polarized party system it has proved impossible to create the consensus necessary for this.

II. Analyses of the Party-Funding Model

The above description demonstrates the major advantages and disadvantages of the Hungarian party finance model. Of the disadvantages, the following deserve mention:

- The parties rely too much on the state.
- The official limits on campaign spending are unrealistically restrictive.
- The categories used in the financial reports are too broad and not specific enough.
- The State Audit Office possesses insufficient information to check the validity of the figures reported and has no real means of punishing the wrongdoings of the parties.

Among the advantages of the system, the major ones must include the following:

- Parties have an obligation to report their income and expenditure to the public.
- Party politics is not under the control of wealthy economic actors.
- The threshold for gaining access to state support is not particularly high; therefore the system is relatively open.
- The model does not automatically help splinter groups and thus helps consolidate the party system.
- An equality of opportunity exists, and the regime of state support marginally favors opposition parties.

The last advantage requires qualification. For various reasons, the term "equality of opportunity" does not always apply. Originally, the MSZP was the privileged party. As the legal successor to the former communist party it was by far the richest party in 1989, when its wealth was estimated to be around 7 billion forints (Tall …: 13). By the end of the decade this advantage over the other parties had diminished, although it still existed.

Opposition parties are, of course, always disadvantaged by their limited access to the patronage system. But there is another potential danger for non-governmental parties. State finance is automatic in theory, but not necessarily so in practice. In 1992, Minister of Finance Mihály Kupa withheld the money due the FKGP, claiming that because of the splits and the legal battles between the various sections, it was not possible to determine which grouping represented the party. In 1994, the government delayed payment of every party's money for a couple of months (Tall …: 14).

In 2002, history repeated itself in a peculiar way. For several months, the finance minister refused to pay the annual subsidy to the KDNP, using the same argument that his predecessor in 1992 had employed, namely that the litigation pursued by the various groupings made it impossible to determine the legitimate leadership. The courts finally settled the question in favor of the party, but the money was still not transferred, although this time for a different reason. In the election of 2002, a number of small parties, including the KDNP, decided to co-operate. The old parties were not dissolved, but a new one, called the Center Party (Centrum), was created. The leaders of the old parties joined the new party, retaining membership of the old. According to the finance minister, the KDNP ceased to exist when its leaders joined the Centrum. Ironically, the politician most affected by this governmental maneuver was Mihály Kupa, by this time leader of the Centrum.

These examples show that despite universal and fair legal regulations, in special circumstances the government can exploit its position as executor.

III. Conclusion

Many deficiencies have been listed above concerning the Hungarian party finance system. Of course, most are not unique to Hungary, and, comparatively speaking, Hungary can be said to have a party finance regime that functions relatively smoothly. But the lack of progress over the last twelve years or so in achieving greater transparency presents the "consolidation of democracy" project in a gloomy light. At the same time, the fact that the Hungarian financing system is relatively open to new parties and that the parties are largely autonomous vis-à-vis specific individuals and companies counts as a major plus for the regime.

The most important task of legislators is to establish realistic limits and deadlines, and to give greater room for the State Audit Office to maneuver. It may well be equally important to reform party politics from the inside, placing more emphasis on members and relying less on state subsidies. But this will be a very lengthy affair, if indeed it ever gets started. In the short run, legislators must be able to deal with the tension that results from the fact that while campaign finances are severely limited, parties can collect and spend as much money as they wish. Since parties need money in order to gain office, it should come as no surprise that they always look for ways to channel their financial resources into election campaigns.

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TALL EVA: WHAT YEAR?
TALL EVA: SHE IS CITED SEVERAL TIMES IN THE TEXT WITHOUT THE PAGE REFERENCE. PLEASE CORRECT.

Party Funding and Campaign Finance in Macedonia

Renata Treneska

Introduction

In 1990, amendments to the 1974 constitution were adopted that brought pluralism to the political system of Macedonia. These were amongst the first real signs that the authoritarian regime was changing. Amendment LXVIII declared that all candidates for Parliament and the municipal assemblies were to be nominated by citizens, political organizations and/or other types of association.

Together with the 1983 Social (Public) Organizations and Citizens' Associations Law (also amended in 1990), this measure served as the legal basis for the organization of political parties. In its amended form, the Social (Public) Organizations and Citizens' Associations Law allowed citizens to associate in parties and other forms of political organization in order to pursue political objectives. Ten citizens with permanent residency in Macedonia can establish a public organization. The 1990 Law on Parliamentary and Municipal Council Elections included a provision stipulating that registered political parties with at least 1500 members have a right to nominate candidates for Parliament (the Assembly). In addition, it said that political parties with more than 500 members could nominate candidates for election to municipal councils.

The first multi-party parliamentary elections were held in 1990 on the basis of these two laws. Eighteen political parties, one public organization and 43 independent candidates participated in the elections.[128] In 1991, the first multi-party Assembly adopted a new constitution, which proclaimed political pluralism as a basic element of the constitutional order. The constitution guarantees freedom of association and the right of citizens to form political parties.

Before the second parliamentary elections in 1994, a Political Parties Law was adopted. According to this, a minimum of 500 citizens with permanent residency in Macedonia can establish a political party. At the time of the parliamentary elections in 1998, there were 39 political parties in Macedonia,[129] a country of 2 million inhabitants. At present, the number of parties is higher. Some of have only slightly more than 500 members; the major political parties each have in excess of 50,000 members.

This research focuses on the funding of the two major political parties and main political rivals: the Social Democratic Alliance of Macedonia (SDSM) and the VMRO–Democratic Party for Macedonian National Unity (VMRO–DPMNE). The SDSM was the ruling political party from 1992 until 1998,[130] and has been the main party of government since 2002. The VMRO–DPMNE was in power from 1998 until 2002. The other two parties that will be considered in the analysis are the Liberal Democratic Party (LDP) and the Party for Democratic Prosperity (PDP). The LDP is a medium-sized political party that ran a very

[128] The total number of candidates who stood in these elections was 1158. The number of registered voters was 1,452,912, of whom 1,120,866 actually voted. Nine political parties and 3 independent candidates obtained seats in the Assembly.

[129] Of these, 25 participated in these elections (13 were grouped together to form a total of four electoral alliances). The largest number of political parties to fight a pluralistic parliamentary election in Macedonia was 38. The contest in question was that of 1994.

[130] The government elected during the first multiparty parliamentary election was a "government of experts," most of whom "were not declared members of any political party." It was in office until 1992.

professional electoral campaign in 1998, while the PDP is one of the political parties of the Albanians in Macedonia.

I. Description of the Political Finance Model

1.1 Laws and Regulations on Party Funding and Campaign Finance

At the very beginning of the transition, parties were regulated—weakly—by the Social Organizations and Citizens' Associations Law of 1983. This had been created to suit the "different forms" of organization that existed during the socialist period: the Communist Union, the Union of Youth, the Socialist Union of Working People, and so on. It was wholly unsuitable for the regulation of political parties in a multi-party system. Indeed, an attempt was made to "adapt" this law to the new situation, but from the point of view of the regulation of party funding, it was unsuccessful. Its only provision in this regard was that political parties had the right to acquire objects, money and property rights, among other things. In reality, political parties were financed using a range of specific methods: membership fees, individual donations (whether from persons living in Macedonia or from those in the Diaspora), donations from companies, and so on. The only compensation for the shortcomings of the law was that the amount of money then being spent by political parties was still relatively modest. Supervision of financing, use of moneys and expenditure was in the hands of the Service for Social Accounting.

In 1994, the Assembly adopted a new law on political parties. Six of its articles are devoted to funding questions. According to this law, the income of a party is created on the basis of membership fees, donations, gifts, income from assets, income from the party's own firms and companies, credits, bequests, and subsidies from the state budget.

Parties cannot obtain financial resources from:

- governments, international institutions, or bodies and organizations of foreign states or foreign persons;
- state bodies or municipal councils, except in the case of specific allocations from the state budget; or
- state-owned companies, including those in the process of privatization.

The law obliges all political parties to maintain proper accounts of their income and expenditures; all sources of party income must be identifiable. The Bureau for Internal Revenue is charged with exercising supervision over party funding.

Following a petition by one of the smaller political parties, on February 28, 2001 the Constitutional Court repealed a part of Paragraph 1, Article 28 of the Political Parties Law that related to sources of party funding. According to the court, it was unconstitutional for political parties to have income from their own firms and companies. The court reasoned that political parties are civil and not economic associations whose aims should be non-commercial in nature. The Constitutional Court held that if political parties were able to obtain income from their own firms, this could distract them from carrying out their functions as laid down in the constitution. This would create the possibility of violation of the rule of

law, one of the basic principles of the constitutional order. In addition, it would interfere with the free market and the equal positioning of actors in that market.

From a tax point of view, neither political parties, nor their donors enjoy any special privileges. The same is true of NGOs in general. There have been discussions concerning the introduction of tax privileges for NGOs. However, no such initiatives have come from the political parties. The main reason for this seems to be that so far the greater part of party incomes has been in the form of cash, and has therefore gone unrecorded and untaxed.

The 1990 Law for the Election and Recall of Members of Parliament and Members of Municipal Councils contained no regulations on this issue. Adopted at the beginning of the transition, this law provided for the funding of parliamentary elections out of the state budget. Two-thirds of the allocation was to be spent on the expenses of the electoral bodies. The remainder was to cover the expenses of those political parties whose candidates were elected, together with the expenses of those independent candidates who were successful. Funds were to be divided on the basis of the candidates elected and the number of the votes they received.

The 1998 Law on the Election of Representatives to the Assembly of the Republic of Macedonia contains more detailed provisions on election campaign finance. According to this law, a party's election campaign organizer should open a special account for the campaign 45 days before the day of the election. This account should be closed within three months following the election. The organizer may pay election expenses only from money deposited in this account. Within three months following the election, the party organizer is obliged to submit to the Assembly a financial report for the election campaign containing information on total expenditure.

Within three months of submitting this report, party organizers can obtain reimbursement for campaign expenses. For every vote they have secured, successful parties receive €0.25. When an elected MP is a candidate of two or more political parties, the money due is divided equally or according to a method agreed by the parties.

The Law on the Election of Representatives to the Assembly of the Republic of Macedonia gives those sources of financing prohibited during election campaigns. The list contains the same sources as those prohibited for routine party funding, but also financial support from NGOs, religious groups and foundations. This rule is considered necessary since parliamentary elections attract independent candidates, as well as candidates of political parties.

During parliamentary election campaigns, in a constituency a party organizer may spend €0.25 for each registered voter there. He or she may spend €0.25 per registered voter in the country as a whole in connection with the list of candidates to be elected on the proportional representation model.

Legislative amendments adopted before the 2002 elections did not introduce major changes to this regulatory regime.

The 1994 Law on the Election of the President of the Republic of Macedonia contained only one article on campaign finance. This stipulated that a candidate's expenditure for a presidential election cannot be higher than 1000 average monthly salaries (calculated on the basis of the average monthly salary over the previous three months). (Since the average salary in Macedonia in 1997–2001 was around €170, the amount per candidate would be a maximum of €170,000.)

In 1999 this provision was altered.[131] The amendment not only changed the candidates' maximum permitted expenditure, but also the candidates' right to compensation

[131] *Official Gazette of the Republic of Macedonia* No. 48/1999.

for part of this expenditure. Accordingly, a candidate's expenses during a presidential electoral campaign cannot be higher than €0.25 (15 denars) per registered voter. In 1999, the number of registered voters was 1,610,340, giving a maximum permitted expenditure of €402,585. In other words, the maximum that can be spent by a candidate on a presidential election campaign has been increased threefold, although this figure is still far from the real spending by the major political parties in the view of analysts and observers. In addition, party organizers with a candidate in the presidential elections can claim €0.25 for every vote obtained in the first round and €0.25 for every vote secured in the second.

2.1.3 Financing of Local Elections Campaigns

The first local elections were held in 1990 on the basis of the 1990 Law for the Election and Recall of Members of Parliament and Members of Municipal Councils. The provisions on campaign finance were the same as those for parliamentary elections, except that the funds for the holding of local elections would come from municipal budgets. The formula for allocating the money was the same: two-thirds for the electoral activities of the electoral bodies with the remainder divided on the basis of the candidates elected and the number of votes they secured. The Local Elections Law, adopted in 1996, did not change these rules. However, it was the first law to contain more detailed provisions on campaign finance. According to it, 45 days prior to the day of the election a campaign organizer should open a special account, in which he or she should deposit all the money collected for the financing of the campaign. Donations should be reported according to type, amount and source, and all campaign expenses should be met from this account. Within three months following the election, the campaign organizer should close this account and report all campaign expenses to the municipal council. If the organizer of the electoral campaign does not belong to a political party, all remaining funds in the account should be given to charity.

The law also provides that the maximum that each candidate can spend is €0.16 per voter; parties may spend €1000 for their list of candidates for the local council. For the mayoral election, candidates may spend €0.16 per voter.

The law includes—for the first time—provision for an elected candidate to be stripped of his or her mandate if he or she is found to have violated campaign finance rules. The law also provides that parties whose candidates are successful may claim €0.16 for every vote secured as reimbursement for their electoral expenses. The amount claimed cannot exceed the amount spent according to the report, even though the allocation is made according to the number of votes secured. Compensation must be paid within three months of the elections.

Most of these legal provisions have proved mere rhetoric: political actors in Macedonia simply do not respect them.

1.2 Party Structures Dealing with Party Funding

According to the official documents of the parties, special committees are in charge of financial matters. In practice, the party secretaries deal with this issue: they are usually the only persons fully informed of the party's income and expenditure, even though in the constitution of some parties the party secretary has no such mandate. According to the constitution of VMRO–DPMNE for example, the party's Congress elects a Supervisory Commission for the Financial Operation of the Party. Between congresses, the president of the party can propose that the Central Committee elect or dissolve this commission, which

consists of the president and two other members. Their mandate lasts four years and they are charged with supervising the financial operation of the party. The Executive Committee of the party adopts the financial plan and the annual report of the party's finances, while the Congress approves the report. In the case of VMRO–DPMNE, money can only be spent with the signatures of the president, the vice-presidents and the secretary of the party.

Party activists interviewed for this study claimed that the party secretary is responsible for funding and that only he knows its details. Along with the sources of funding, annual income and expenditure are unknown even to full-time party workers, while ordinary members are even more in the dark.

The position is the same with the PDP. Despite the existence of special committees formally in charge of supervising party funding, in practice this is a task and privilege of the party secretary. In the case of the SDSM, the Central Council is in charge of financial matters. Here, control over party finance rests with a Steering Committee of nine members.

The issue of party finance is addressed in all the party constitutions. These regulate the bodies responsible for finance, as well as the permitted sources for funds. No party imposes any additional restrictions concerning permissible sources. All simply replicate the relevant sections of the Political Parties Law. As yet, no party has a code of conduct that addresses party funding.

1.3 Membership Fees

Every party constitution includes an obligation on members to pay membership fees. There are no legal limits on the level of fees that can be charged; this is a matter for the parties themselves. On average, the fee is €0.50 per month.[132] Holders of party posts, as well as holders of state or local government positions, pay higher membership fees, e.g. members of the VMRO–DPMNE pay membership fees equivalent to 4 percent of the salary they receive from their post. Members of the SDSM elected to professional positions in the party, holders of state office, MPs, mayors, and members of local councils pay monthly membership fees of €3.33. Those sitting on the Central Council, the Presidium and the Steering Committee of the SDSM pay €1.60.

Parties do not impose upper limits on membership fees. Consequently, if someone wants to pay a higher membership fee, he or she may do so. In this way, some donations can be disguised as membership fees.

No party imposes sanctions against members who do not pay their membership fees. The practice of collecting fees is similar for all: the party's local organizations are in charge. The frequency of collection varies from municipality to municipality. Membership fees are collected in cash and are deposited in the party's bank account, offering an opportunity to present some donations as membership fees. One MP and former party leader conceded that no party collects its membership fees at a satisfactory level. All parties, he said, present money from donations as membership fees.

In 2001, the secretary of the VMRO–DPMNE declared that membership fees made up 75 percent of reported income, something hard to believe given that in 1999 VMRO–DPMNE became the wealthiest political party in Macedonia. It had been in power since 1998, when it received many corporate donations. Its official report for 2000, for example, attests that income from membership fees and donations was €2,680,465. Yet this is a political party with approximately 80,000 members. If we calculate that every member paid his monthly €0.5, the

[132] The fee is same for the members who are part of the Macedonian diaspora.

total amount of income from membership fees would have been €480,000, or 17.9 percent of the income declared.

Some political parties have informal relations with the trade unions, albeit not of a financial character. The Citizens' Associations and Foundations Law stipulates that NGOs, including trade unions, cannot carry out political activities and cannot use their property and finances for the benefit of political parties.[133] Political activities are defined as direct participation in election campaigns, collecting money for election campaigns, and financing political parties (Article 3). Even in the absence of such an article, trade unions in Macedonia are very poor and unable to support political parties. Political parties are far wealthier; it is they that assist trade unions, albeit unofficially, thus directing some trade-union activities.

1.4 Private Donations

Private donations are a major source of finance for parties. Citizens and private corporations can make donations, although the law stipulates that individual gifts and donations from individuals and legal entities cannot, in any one year, exceed the value of 100 average monthly salaries.[134] At election time, the ceiling on individual donations and gifts is raised to the value of 200 average monthly salaries, although the money obtained must be put into a special account for campaign funding. The limits are the same for individuals as they are for corporations. State-owned enterprises and those in process of being privatized cannot give donations to political parties. In addition, foreign citizens, foreign governments, international organizations and foreign persons may not make donations to parties. Not all of these provisions are respected. Most donations are given in cash, so there is no official evidence concerning sources or amounts of donations. In practice, the various limits on donations can easily be violated.

Some corporations cover directly the costs incurred by parties in connection with specific activities. In this way, they can sponsor a party by circumventing the various party bank accounts, which are subject to disclosure. The restrictions concerning donations by state-owned companies are flouted in a similar way, by making payment for fictitious goods or services to another company, which then makes a donation to the target-party.

Most political parties enjoy sponsorship by corporations, with larger parties attracting support from a range of large, medium-sized and small companies. Although all donations are welcome, large parties target the larger companies, while small political parties tend to rely on small and medium-sized sponsors.

None of the four parties analyzed in this study is dependent on any one main sponsor. Indeed, it is common for companies to donate to more than one party, although the largest donation is typically reserved for the ruling political party. To be a ruling political party in Macedonia is undoubtedly a profitable business, as shown by the data provided below.

Donations are also the main source of finance in election campaigns. The restrictions on the sources of donations are the same as they are for routine party funding (discussed above). As mentioned, only the law regulating parliamentary elections includes a provision prohibiting the parties from receiving donations from NGOs.

The other main restriction on donations relates to their amount. During elections, the maximum amount of donations allowed is higher than it is for routine party funding, although

[133] *Official Gazette of the Republic of Macedonia* No. 31/98.

[134] The State Statistical Office calculates the average monthly salary, on the basis of data reported to it the previous month.

it may not exceed the sum of 200 average monthly salaries as specified by the Statistical Office. The other rules for donations to electoral campaigns are the same as the rules for donations to party funding: there are no tax benefits for the donor, the political party or the candidate.

Reportedly, most, if not all, donations are made in cash, and are usually large or medium companies. It seems that individuals do not believe that their donations would accomplish anything, for they are insignificant when compared with the total amount of money spent on political campaigns.

1.5 Party Firms

The issue of party-owned firms has generated huge controversy in Macedonia. The VMRO–DPMNE was the first and only political party to have party firms. Once the VMRO–DPMNE became the leading party of government, it began to buy firms in the process of privatization; it also set up its own companies. According to its 2000 official report, the party transferred €1,586,166 to "other actors," i.e. it bought companies. These party firms held privileged market positions, and they also enjoyed the favor of the government. It was not long before party leaders—the president, vice-presidents and secretary—were being nominated for "Manager of the Year" awards. As mentioned above, at the initiative of one party the Constitutional Court repealed a clause in the Political Parties Law, thus making party firms illegal.

Rather than give up its commercial activities, the VMRO–DPMNE seemed to decide to evade the law. Ljupco Georgievski was at that time prime minister and leader of the party. He explained: "VMRO–DPMNE decided to donate or to sell for very low prices all the stocks in its companies to people from the party."[135] In other words, the Executive Committee selected a few trustworthy members—the party secretary, his driver and others—either to "give them the firms as gifts" or to "sell them the firms at very low prices." These people became the formal owners of the companies, and they donated the income to VMRO–DPMNE. To Ljupco Georgievski that was not a crime.[136]

1.6 Party Foundations

Until recently, party foundations were not something that political parties in Macedonia paid much attention to. In 2001, there was an initiative establishing a research institute for the VMRO–DPMNE. In the party's words, this was meant to serve the education of its members. The secretary of the SDSM then formed the Institute for Solidarity. The institute's main task is to carry out research, and, at least in formal terms, it is independent of the party.

The SDSM has good relations with the National Democratic Institute, the Friedrich Ebert Foundation, the Jean Jaurès Institute, the Olof Palme Institute and other such bodies. The PDP has no party foundations, but it, too, says it enjoys good relations with certain international foundations.

1.7 Party Assets

[135] *Dnevnik*, 31 December 2001, p. 5.
[136] Ibid, p. 5.

Most political parties own the buildings in which their headquarters are situated. Some local party organizations operate in party properties, while others function in rented premises. The SDSM has 34 offices that it owns and a number of others rented at normal market prices. When a party in government needs to rent an office, it is usually able to secure a low-cost lease from a public enterprise.

Only the VMRO–DPMNE has its own newspaper. Party officials say that from a financial and editorial standpoint, the newspaper is independent. The SDSM used to publish a newspaper, but for financial reasons this closed down in 1999. The LDP, too, used to have a newspaper, although this also ceased publication, again owing to lack of finance. Occasionally, the LDP rents two pages in a daily newspaper and uses these to present its opinions.

1.8 Public Funding

1.8.1 Direct Party Funding and Patronage Practices

State funding is allocated according to the following formula: 30 percent of the total amount is divided equally between all parties that obtained at least 3 percent of the popular vote in the previous election. The remainder is divided between the parties securing election to the Assembly (i.e. Parliament), in proportion to the number of seats won by each party. If an MP is elected for two or more parties, the sum due for that seat is divided equally between the parties concerned, or else according to some formula agreed by these parties.

Political parties also draw support from MPs' salaries and the additional benefits MPs receive. In some cases, other party members are able to secure salaries paid from the public purse through the widespread practice of political patronage. After winning the elections in 1998, the VMRO–DPMNE dismissed many of the administrative officials who had held positions for more than a decade. In their place, it appointed party members, with little attention generally being paid to competence and experience. Despite a declared commitment to a smaller and cheaper administration, many new positions were created for party members, or party "soldiers" as they are sometimes called. It is possible to assess the importance of patronage practices even from the official reports on the financing of parties. Quite tellingly, the VMRO–DPMNE and the LDP (the leader of the LDP happened to be mayor of Skopje) reported no expenditure on salaries in 1999 and 2000, years when the two parties were in power.

Active members of ruling parties find posts not only in the state administration, but also in public companies, and additionally in local government if their party has been successful in the local elections. By contrast, local branches of opposition parties draw their finance mainly from membership fees and donations. Only local branches in poor or small municipalities receive money from central party funds.

1.8.2 Indirect Party Funding

In addition to the patronage described above, there are many other techniques for the indirect public funding of political parties. One simple way is to use rooms belonging to state bodies or municipal councils for party activities. For example, a mayor of one of the municipalities in Skopje accused the then governing VMRO–DPMNE party of renting out municipality rooms at very low prices; the money paid, he said, did not go into the

municipality's account. According to the mayor, the municipality lost some €15,000 per month in this way.[137]

During elections, all political parties receive free airtime on national television. In between elections, parties can send in their announcements, or they may organize press conferences, in which television stations are always interested. However, there are many ways in which the parties can be treated unequally, e.g. when some are given late or very early slots or when a speech is retold by a journalist and not broadcast as made. Government parties always have top priority on the national television news. The time allocated for their broadcasts is usually longer, and they speak directly to the viewers. Fortunately, there are several private television stations and newspapers in the country, so the opposition's alternative messages can be heard.

1.8.3 Public Funding of Election Campaigns

One part of the election campaign expenses of *successful* candidates in parliamentary and local elections is covered from the state budget. Parties whose candidates are elected as members of the Assembly receive 15 denars (€0.25) for every vote they obtain. In theory, they receive this only after they have submitted a report on their campaign expenses, although in practice this condition is not always respected. The decision to reimburse campaign expenses is made by Parliament and is published in the Official Gazette. Following the parliamentary election campaign of 1998 parliamentary election, the allocation of public reimbursement was as follows:

Table 1

Reimbursement of Costs for Campaign Expenses in the Parliamentary Elections of 1998

Political party	**Votes**	**Total public funding (total votes x 15 denars/vote)**	**In euros**
1. VMRO–DPMNE	601,640	9,024,600	150,410
2. SDSM	396,517	5,947,710	99,129
3. PDP, PDPA–NDP	214,360	3,215,400	53,590
4. DA	187,990	2,813,850	46,997
5. LDP, DPM	90,701	1,360,515	22,675
6. PDP	119,013	1,785,195	29,753
7. PDPA–NDP	49,696	745,440	12,424
8. Union of Roma	7294	109,410	1823
9. SPM	7030	105,450	1757

The PDP and PDPA–NDP are listed twice here, first jointly and then separately. The first mention stems from the two parties' co-operation in the elections for the 35 "proportional" seats. They secured 214,360 votes and were given 3,215,400 denars to share between them. The "majoritarian" seats, on the other hand, they contested as separate parties, hence the two additional entries.

The principle for reimbursement of costs incurred during local elections is similar to that applying to parliamentary elections; the only difference is the amount of money. Parties

[137] *Utrinski vesnik*, December 17, 2001.

whose candidates are elected as members of local councils or as mayors can claim 10 denars (€0.16) for every vote they secure. Reimbursement is paid from the municipal budgets after parties have submitted their expense reports to the municipal councils.

The public funding of presidential elections is different from that of parliamentary or local elections. In parliamentary and local elections, successful candidates have the right to claim a part of their costs. In presidential elections *all* candidates can claim 15 denars for every vote received in the first round and another 15 for votes secured in the second. This makes presidential elections attractive for the parties, even when they know that their candidates have no chance of winning.

1.9 Media Access

The Macedonian media follow the practice of Western European democracies whereby the public media provide a certain amount of time for political parties to present their electoral programs. Access to the media during elections is regulated by several pieces of legislation.

1.9.1 Rules of Conduct for the Media during the 1998 Parliamentary Elections

This campaign was regulated by the Law on the Election of Representatives to the Assembly of the Republic of Macedonia, the Broadcasting Law and the Decree on the Rules of Equal Media Coverage for the 1998 Parliamentary Elections in the Republic of Macedonia. The Broadcasting Council made additional recommendations.[138]

According to the Law on the Election of Representatives to the Assembly of the Republic of Macedonia, political parties, electoral alliances, groups of voters, and candidates (i.e. organizers of electoral campaigns) have equal rights in election campaigns. The public media are obliged to provide equal representation for candidates, political parties, group of voters, and programs. The Assembly determines the time allowed for election presentations, as well as the time to be allotted in the public media to candidates, political parties, groups of voters, and their programs. A Decree on the Rules for Equal Media Representation is issued no later than 40 days before the day of the election.

According to the decree, the public media must provide candidates with equal coverage free of charge, in a time period determined in advance and according to an order of coverage determined by a lottery. The mass media must assign airtime to parties and their candidates on the basis of fair and undiscriminating treatment. Sufficient time has to be allowed for parties and their candidates to put across their messages and for voters to be informed of the parties' positions and of the qualifications of the candidates.

This decree also gave candidates and parties the right to reply in case they are attacked in a media program broadcast. The media are obliged to broadcast corrections as soon as possible, and the reply, the correction or the retraction should be of approximately the same duration, and should be broadcast at approximately the same time of day, as the original defamatory statement. The weakness of this provision is that the term "as soon as possible" is not determined, with the result that there is scope for different interpretations.

The rules for paid presentations are also regulated in the decree. The mass media announce a price list for paid election presentations, one that includes prices for the design, production and broadcasting of advertisements and announcements. The party or individual making the order accepts responsibility for the contents of the messages and for the accuracy

[138] This body represents the interests of citizens in the regulation and monitoring of the electronic mass media. It is also responsible for furthering the development of broadcasting in Macedonia.

of the information contained therein. However, the media cannot put out articles, statements and messages that are against the public interest or the security of the country.

Paid election presentations must not be broadcast during educational programs, published in school or educational columns of newspapers or broadcast during news or other informative programs, as well as during live broadcasts of religious, sporting, cultural and entertainment events. A party's election presentations cannot be interrupted by advertisements or videos by a rival party.

One election campaign organizer is able to buy paid election presentation time for no more than 15 percent of the total time allocated for paid election presentations. Paid election presentations must be clearly labeled at the beginning or at the end by the words "Paid Election Program" or "Paid Election Time." In its *Bulletin* (vol. 3/1999), the Broadcasting Council warned that the provisions concerning the duration of paid political presentations were unclear and that "most of the electronic media were even forced to violate the general limiting provision concerning the total advertising time allowed by the Broadcasting Law. This was because they were unable to breach pre-existing agreements with regular sponsors, and unable to refuse requests by political parties for paid programs."[139]

1.9.2 Media in the Parliamentary Elections of 1998

The Broadcasting Council performed monitoring of the media during the 1998 parliamentary elections. Its report stated: "The 1998 parliamentary elections generally took place in a fair and democratic atmosphere; a special contribution to this was undoubtedly provided by the electronic media, from the public and the commercial broadcasting sector alike. The basic feature of these parliamentary elections was that they took place within a new, legal and pluralistic media environment."[140]

In 1998, there was one national radio station, one national television station and a total of 29 local stations, some television the rest radio. After the awarding of 127 concessions for broadcasting, approximately 70 commercial broadcasting companies covered the electoral campaign. According to the Broadcasting Council's *Bulletin*, during the first round the first channel of national television (MTV1) devoted the most time to the elections, with an average of 411 minutes daily. During the second round, Kanal 5, a commercial television station, devoted the most time, with an average of 143 minutes per day.

Free airtime was given to the candidates not only by the public channels MTV1 and MTV2, but also by certain private television stations.

Table 2

Unpaid Political Presentation on Selected Television Stations over a 23-Day Period during the Parliamentary Elections of 1998

Television station	**Amount of free airtime in**	**Amount of free airtime in**

[139] According to the Broadcasting Law, the duration of advertisements on the public broadcasting service may not amount to more than 7 percent of each hour of program broadcasting (4.2 minutes per hour), and in the case of the commercial broadcasting companies to no more than 20 percent of each hour of program broadcasting (12 minutes per hour).

[140] *Bulletin of the Broadcasting Council of the Republic of Macedonia* 3/1999, p. 19.

	the first round	the second round
MTV (national, public)	810 min	0
A1 (national, private)	285 min	0
2 local public television stations	1055 min	0
5 local private television stations	431 min	60 min

The longest time for unpaid political presentations on the radio came from Kanal 77, the national commercial radio station.

Table 3

Unpaid Political Presentation on Selected Radio Stations over a 23-Day Period during the Parliamentary Elections of 1998

Radio	Amount of free airtime in the first round	Amount of free airtime in the second round
Macedonian Radio (national, public)	393 min	0
Kanal 77 (national, private)	570 min	0
4 local public radio stations	960 min	0

During these parliamentary elections, the parties realized the importance of advertising, and used this form of campaigning a lot. In the first round, the national private television channel—Sitel—broadcast the longest paid political program. Out of the 53,357 seconds that it assigned to the advertising of political messages, this television channel allocated 34 738 seconds to the SPM, the political party whose president is the owner of the television station. Sitel also broadcast, as paid time, 1092 seconds of the SPM's meetings and other activities.

The share of the paid time of the different parties and candidates on various channels can be seen in the following tables:[141]

Table 4

Share of Paid Political Programs by Party on Selected Television Stations over a 23-Day Period during the Parliamentary Elections of 1998 (in Seconds)

Political Party	On 1 national public station	On 2 national private stations	On 2 local public stations	On 7 local private

[141] These tables are compiled on the basis of figures from *Bulletin*, no. 3 of the Broadcasting Council. This body monitored the electronic media for 14 days prior to the first round of voting (i.e. October 3–16), during the campaign silence period just before it (i.e. October 17), for seven days before the second round of voting (i.e. October 24–30) and during the campaign silence period just before it (i.e. November 1).

	(MTV)			stations
SDSM	17,221	25,090	31,689	45,050
VMRO–DPMNE and DA	10,597	11,248	16,703	52,799
LDP and DPM	4343	9224	6960	10,954
PDP, PDPA – NDP	684	0	19	3025
SPM and DKTGS	3900	35,830	10,965	10,645
Other political parties	1305	228	4099	4393

Table 5

Share of Paid Political Programs by Party on Selected Radio Stations over a 23-Day Period during the Parliamentary Elections of 1998 (in Seconds)

Political party	**On Macedonian Radio (national public radio)**	**On Kanal 77 (national private radio)**
SDSM	1254	5313
VMRO–DPMNE and DA	914	5240
LDP and DPM	1027	2011
PDP, PDPA – NDP	0	0
SPM and DKTGS	0	297
Other political parties	0	22

What was the role of the national public broadcasting company MTV during these elections? Within the political debate shows, free political presentations and paid political programs, MTV provided the relevant political entities with equal (equitable) access. Owing to the intensive campaign mounted by the opposition VMRO–DPMNE and DA, more time in the daily information programs was devoted to these parties than to any other: 28.3 percent in the first round and 46 percent in the second.[142] But in some respects, MTV violated the rules of equal treatment. For example, it broadcast an interview with the president of the republic, who used it for campaigning purposes. It also broadcast the special show "Macedonia, 1991–1997," which expressed a favorable attitude towards the political party ruling during those years.

1.9.3 Media and the Local Elections of 2000

In addition to the national television and radio stations, 29 public and 59 private local radio stations, and 12 public and 49 private local TV channels, broadcast programs that helped present candidates for local councils and mayoral positions in these elections. It was characteristic of these contests that the opposition parties did not use MTV or Macedonian

[142] *Bulletin of the Broadcasting Council of the Republic of Macedonia* 3/1999, pp. 24–25.

Radio for any paid presentation of their campaigns. The following table shows the breakdown of airtime usage by the different parties.

Table 6
Party Share of Paid Political Programs on National Television and Radio Stations over a 22-day Period During the Local Elections of 2000 (in Seconds)

Political party	**MTV**	**On two national private television stations: A1 and Sitel**	**On national public radio (Macedonian Radio)**	**On national private radio (Kanal 77)**
United Opposition (SDSM, LDP, SPM, and LD)	0	43,268	0	280
VMRO-DPMNE and DA	35,818	28,195	6540	291

The unequal treatment of the various candidates by the state-owned mass media continued in these elections. In the MTV news, 27.8 percent of time was devoted to the campaign of the VMRO–DPMNE/DA ruling coalition, 14.9 percent to the campaign of the PDPA – NDP (the coalition's Albanian partner in government), and only 12.4 percent to the campaign of the United Opposition.

To sum up, the state-owned media do not treat all candidates equally. They favor candidates from the ruling coalitions, devoting more time to their campaigns and giving them a greater chance to speak directly to listeners and viewers. Because of such actions, the credibility of the state-owned media in political campaigning is very low.

1.10 Party Expenditureand Candidate Expenditure

There is no legal definition of electoral expenditure in Macedonia. In addition, it is legally unclear when the campaigns actually begin. During the year in which elections are held, the population is "bombarded" with political advertising, with parties constantly organizing meetings with citizens, launching various initiatives and so on. Ahead of the parliamentary elections of November 2002, a kind of election campaign began as early as January that year. The elites of the VMRO–DPMNE and SDSM, the main political parties, "toured" Macedonia speaking at meetings with their voters.

In terms of expenditure, the costs of these meetings are presented as costs of regular party activities. Even if a party wanted to present these costs as election costs, it would not be able to do so, since only 45 days before the elections campaign starts it must open a special account for election expenditure. Sometimes expenditure on the "official" campaign is not presented as campaign spending. One part may be presented as spending for regular activities, while the greater amount may not be presented at all. For example, the maximum expenditure for a presidential candidate in 1999 was €402,585, although journalists calculated that any proper, albeit modest, campaign would cost at least €500,000.[143] Needless to say, the campaigns of the major political parties were not modest at all.

To eliminate the practice of exceeding the maximum campaign expenditure permitted, the choice appears to be either to increase the upper expenditure limits, or to introduce

[143] Jovanovski,Vladimir "Prestol vreden milioni dolari." *Forum* No. 45.

effective controls that will force the political parties to abide by the rules. Obviously, the second option is the more difficult of the two to implement.

Electoral laws do not restrict a candidate in spending his or her own money, although such expenditure must remain within the overall limits on spending. During parliamentary elections, the difference in the financial power of candidates running for majoritarian seats has been noticeable. Usually, a party pays for advertisements that promote the political party as a whole. No political party can afford to make presentations for each of its 85 candidates seeking election. Candidates with their own funds, or those who can collect money, do advertise themselves in elections of all kinds, including mayoral elections. Parties only pay for the most important mayoral campaigns, e.g. those in the capital, Skopje.

Those who are elected are paid back all the campaign investments they have made, but other money, too, is obtained by MPs. This is easily demonstrable, since MPs are obliged to submit a statement outlining their personal wealth at the beginning of their mandate and another one at the end. In practice, this provision has proved almost useless, since (at least up to 2003) no investigations have been carried out to explain increases in the personal wealth of MPs (in many cases, dramatic increases) during their term of office. Such changes in fortune are common occurrences, especially for members of ruling parties.

1.11 Reporting and Disclosure

1.11.1 Reporting and Disclosure: Political Parties

According to the Political Parties Law, parties are obliged to keep proper accounts. Their income must be recorded according to type, amount and source. This is the theory; the practice is very different. It is very difficult to obtain even the official reports of the parties: one has to resort to informal contacts in order to obtain what should be available to the public under the law.[144]

Political parties submit reports to the Bureau for Internal Revenue on forms issued by the Ministry of Finance. On these, income from membership fees and donations is presented as a single total amount, while expenditure is presented in a more detailed manner.

[144] When I began to seek out the official reports in 2001, I encountered a number of obstacles. I started with the agency to which all legal entities have to send their annual financial reports. It was in the process of restructuring and the officials seemed not to know exactly how responsibilities might be reallocated in the future. A few individuals working there said that they might find some information in their computers, but when they heard that I was interested in the funding of political parties, their attitude very quickly changed. They claimed to have no such data, and directed me to the National Archives.

Officials at the archives informed me that, according to their rules, all data held there could be only seen by researchers 20 years after they had first received it. Only the legal entity that deposited the data could use it then. If I wanted to look in the archives, I would need approval from the parties themselves. However, when I asked, nobody knew who could give me that permission. Finally, I was sent to the Statistical Office of the Republic of Macedonia.

When I managed to identify the official working with these data at the Statistical Office, I was informed that I should submit a written request to see them. I did so, but on the following day I was informed that the head of the Statistical Office had decided that I could not see the data.

On the basis of my experience, it seemed that the official reports on party funding in Macedonia were not actually publicly available, at least not at the time this research was carried out. After two months of knocking on doors, I lost all illusions concerning the existence of the rule of law in Macedonia. As people often do in the Balkans, I stopped using regular procedures and instead relied on my personal contacts. These provided me with the official reports on the funding of the VMRO–DPMNE and the LDP for 1999 and 2000. The vice-president of the SDSM gave me his party's official reports for these years.

Table 7

Income of Selected Macedonian Political Parties in 2000

Source of income	**VMRO-DPMNE**	**SDSM**	**LDP**
Membership fees, and donations	160,827,945 denars (€2,680,465)	13,060,575 denars (€217,676)	1,267,390 denars (€21,123)
Sale of goods	0	0	0
Provision of services	0	0	0
Rents	0	861,333 denars (€14 355)	0
Own income	32,043 denars (€534)	0	0
Surpluses from previous year	16,979,776 denars (€282,996)	0	0
Other income	611,319 denars (€10,188)	2,019,802 denars (€33,663)	4321 denars (€72)
Total	**178,451,083 denars (€2,974,184)**	**15 941 710 denars (€265 695)**	**1,271,711 denars (€21,195)**

Source: Official reports of the parties, 2000

Table 8

Expenditure of Selected Macedonian Political Parties in 2000

Type of Expenditure	**VMRO-DPMNE**	**SDSM**	**LDP**
Material expenditure, services and amortization (energy, representation etc.)	74,671,809 denars (€1,244,530)	6,904,537 denars (€115,075)	1,319,428 denars (€21,990)
Other expenditure (bank charges, interest, insurance charges, etc.)	295,503 denars (€4925)	721,443 denars (€12,024)	129,540 denars (€2159)
Expenditure on international co-operation	0	0	126,612 denars (€2110)
Money transferred to other actors	95,170,000 denars (€1,586,166)	170,000 denars (€2833)	0
Capital and other resources	65,180 denars (€1086)	703,346 denars (€11,722)	0
Help and donations to others	756,500 denars (€12,608)	0	0
Salaries	0	7,222,283 denars (€120,371)	0
Total	**170,958,992 denars**	**15,880,765 denars**	**1,448,968 denars**

	(€2,849,316)	**(€264,679)**	**(€24,149)**

Source: Official reports of the parties, 2000

1.11.2 Reporting and Disclosure: Election Campaigns

A number of bodies are charged with monitoring electoral spending. The organizers of a parliamentary election campaign are obliged to report their spending to the Assembly within three months of the close of the poll. In the case of local elections, reports must be submitted to the local councils. Parties must submit these reports in order to be reimbursed for their campaign costs. In the reports, income is presented as donations, while expenditure is classified as expenses for media access, for printed materials, for telephone use, computer rental, personal expenses, and so forth. There is no standard form in which reports must be submitted. Parties specify their expenses in different ways, as the following tables demonstrate.

Table 9

Income and Expenditure of the PDP during the 1998 Parliamentary Elections

Income		**Expenditure**	
Type	**Amount (in EUR)**	**Type**	**Amount (in EUR)**
Donations	576,000	Mass media	188,481
		Bank charges	220
		Election campaign by local organizations	325,000
		Election meetings	11,300
		Money transferred to the regular party account	50,000
Total	576,000		575,001
Balance			+ 999

***Source*: Official report**

Table 10

Income and Expenditure of Muhamed Halili (PDP) during the Presidential Elections of 1999

Income		**Expenditure**	
Type	**Amount (in euros)**	**Type**	**Amount (in euros)**
Donations	**10,475**	Mass media	**800**
		Printed materials	1713

		Telephone use and computer rental	0
		Representation	0
		Personal expenses	5250
		Bank charges	0
		Unpaid expenses	0
		Other expenses	717
		Election activities	1965
Total	10,475		10,445
Balance			+ 30

Source: Official report

The Bureau of Internal Revenue and the State Audit Office exercise control over election campaign accounts. These accounts should be closed within three months of the close of the poll, although in practice control over electoral spending is weak. Typically, here are no investigations to uncover real campaign expenditure.

1.12 Enforcement

According to the Political Parties Law, supervision of party finances is the task of the Bureau for Internal Revenue, a body subordinate to the Ministry of Finance. The head of this Bureau is a government appointee, with the result that the bureau is not exactly free from political influences. Despite the fact that financial scandals have concerned mostly the ruling parties, the bureau is not active in exercising supervision of a governing party's finances. As a rule, it directs most of its energies against companies that are well-known supporters of opposition political parties.

As far as sanctions for violating funding rules are concerned, the law provides that if a public body donates money to a political party, it will be punished with a fine of between 10 and 20 average monthly salaries, with the official responsible receiving a fine of two monthly salaries. If such a donation is made, the party must report the matter to the bureau straight away or within 15 days at most following its receipt of the donation. Failure to do so is punished by a fine of two average monthly salaries. The unlawful donation itself is to be seized and paid into the state budget.

The Law for the Election of Representatives to the Assembly of Macedonia and the Local Elections Law both contain penalty provisions for violation of the rules on campaign finance. Not only the parties, but also and the individuals responsible for submitting the financial report can be fined if all money collected for the campaign is not deposited in the special campaign account or if the rules on maximum expenditure are infringed in some way. Fines are also prescribed for the media and editors responsible if they:

- fail to provide equal presentation of candidates and of the programs of political parties;

- fail to comply with the Assembly's decree on equal media presentation that lays down the duration of election presentations and the conditions for, and methods of, advertising;
- publish public opinion surveys when it is prohibited to do so; or
- publish or broadcast electoral propaganda without specifying that it is paid programming.

These laws also provide that an elected candidate can be stripped of his mandate if it is established that he has violated campaign finance rules. The Local Elections Law was the first to include such a possibility. If, for example, the electoral commission establishes that a party organizer has overspent during the campaign, thereby undermining the fairness of the contest, it can reject either the party's list of candidates, or its candidate for mayor, or both. Additionally, if a court finds that during the election campaign, a political party or group of electors has used funds obtained unlawfully, the electoral commission must annul the election of its candidates to membership of the council or to the position of mayor. The Law on the Election of Representatives to the Assembly of the Republic of Macedonia also provides that an MP's mandate can be revoked if a court establishes that he or she has used illegal funds. The State Electoral Commission issues any decision on the revocation of an MP's mandate.

In practice, these rules have been largely dysfunctional.

1.13 Scandals

Party funding in Macedonia is beset by scandals, so much so that these are regarded as normal. This might account for the lack of interest in party and election campaign finance on the part of the media and the general public. The largest scandals during the Assembly of 1998–2002 concerned the financing of the VMRO–DPMNE, which was then the ruling party. This party was a perfect example of how power can be used and misused to extort money for political purposes. The scandal concerning the privatization of profitable state firms has already been discussed. Other scandals have concerned the transfer of state funds to financial institutions owned by members of ruling parties. For example, in 2000 the public housing company opened an account at the Almako Bank, depositing in it approximately €3.5 million. The biggest shareholder in this bank was the then minister of commerce, from VMRO. An additional two state agencies put their money into accounts at this bank, making a total state deposit of around €7 5 million. At that time, the bank had financial problems and two months after the deposit of these funds, it collapsed; it was never fully established what happened to the €7.5 million.

1.14 NGOs

Neither the parties, nor the NGOs seem interested in the question of party funding. There are neither reports, nor serious research papers on the topic. Academic debates on the electoral laws overlook the question of funding. More attractive issues are electoral models, the composition of the bodies responsible for organizing elections, protection of electoral rights, and so forth. These issues are the same ones that attract the attention of NGOs.

II. Analysis of the Party-Funding and Campaign Finance Models

Some aspects of party funding and campaign finance in Macedonia are either not properly regulated, or not regulated at all. The enduring problem is that legal rules are of little value unless they are enforced: even those legal rules that do exist are repeatedly violated.

3.1 Transparency and Legality Issues

It seems safe to conclude that a great (possibly the greatest) proportion of party funding and campaign finance in Macedonia comes from illegal sources. It is commonly believed that all political parties obtain secret cash donations. This leads to a system of double accounting, although in Macedonia this practice is by no means confined to political parties.

As a rule, in Macedonia strong political pressure is directed against the political opposition. As a result, corporations that donate money to the opposition can be exposed to administrative revenge. This means that giving in secret is much safer for corporations. A second reason for making secret donations is that corporations have no tax-based incentives to make formal donations.

Illegal donations are closely linked to other forms of illegality, e.g. exceeding limits on the size of donations and on campaign expenditure. As demonstrated above, even somewhat rudimentary calculations can show that the limits of permissible expenditure were violated during the 1999 presidential elections. Illegal financing also comes from prohibited sources, e.g. state bodies or companies owned by the state. The ruling political parties usually practice this kind of financing. It can come in the form of straight cash, but more often arrives through an intermediary company to which the state enterprise in question pays money for "goods" or "services", after which, the company "donates" the money to the target political party. Another form of illegal financing is donations from the profits of organized crime; arguably, this is a form of donations used especially by the political parties of Albanians in Macedonia.

Bearing in mind all the illegal as well as the legal forms of party financing, one may conclude that the large and the medium-sized political parties are not badly funded. Yet party elites regularly complain of a lack of funding. They stress that they have constant problems finding money, and that there are no permanent sources of funding, which means that they are unable to employ people to carry out research for them or simply work for the party. They do concede, however, that large amounts of money are given to political parties at election time, and that these sums have been especially great in recent years. The amounts spent on elections in Macedonia are significant when compared to current living standards in the country. Weak legal rules on party and election campaign financing can be evaded in various ways. Many political parties blatantly disregard legal restrictions (e.g. during the formal transfer of companies owned by the VMRO–DPMNE to selected party members).

By giving money to political parties, companies receive unfair market advantages in Macedonia. A firm that had made donations to the then ruling VMRO–DPMNE (but also to the SDSM, the VMRO–DPMNE's predecessor in power) was interested in buying an enterprise up for privatization. A German company, too, was interested in purchasing this enterprise. A few days before the call for bidders was announced, the government changed the rules by which tenders were to be evaluated. These rules were published in the Official Gazette, but there was little time for bidders to comply with the new requirements. The donor-company, however, seemed informed in advance, and only this firm managed to file a revised offer by the deadline. The offer by the German company was made according to the previous rules and was duly rejected. This is by no means an isolated example.

Several changes need to be adopted in order to ensure greater transparency in the Macedonian system of party funding. First of all, changes are needed in the legal rules in

order to encourage legal, non-cash donations. As a way of reducing the attractiveness of secret cash donations, those who donate money from their bank accounts could be given tax credits and other tax concessions. At present, only a fundamental reform of the economic system would reduce the number of cash transactions between commercial actors. Any meaningful reform of party funding would presuppose such a reform.

As a measure strengthening the enforcement of the rules, a system of dual control should be introduced. As well as the usual state auditors, there should an independent body scrutinizing the accounts of the parties. The law should also contain precise penalties for violators, whether the political parties themselves, donor companies, or individuals responsible within these organizations. Petar Gosev, an MP and a former leader of the LDP, has suggested an increase in the amount of public funding. This would reduce the burden of continual fundraising. He stressed that this should only be done in accordance with clearly established criteria: the number of party members, the number of votes won during elections, and so on.

Civil society in Macedonia is very weak and financed mostly by foreign foundations and institutions. Their priorities include human rights, minority rights, ecology and women's rights, but not party funding.

3.2 Structural Bias

The Macedonian political scene features two large political parties, a few medium-sized ones and numerous small parties. From 1992 until1998, the SDSM was the principal political party in the ruling coalition; from 1998 until 2002, when the VMRO–DPMNE was the leading party of government, the SDSM was the main opposition party. It is difficult to divide parties along pro-reform and anti-reform lines: all send similar messages to the electorate.[145] Campaigns during parliamentary elections are largely "negative:" they tend to attack other political parties rather than propose alternative political programs. It is not possible to say that big business supports one particular party because of that party's political and economic program. In general, few laws are adopted in the absence of influence from some business interest or other.

Donors to the ruling parties ask for and receive favors in the market. These are usually the result of a government decree rather than a law. For example, the government can create a monopoly by decree, or give a favored company some lucrative business. The criterion for selecting such a company is that it is "close" to the ruling political party, i.e. that it is a political donor. One big scandal concerned the company Okta, which was given the sole right to import petroleum by the government of the period 1998–2002. Another example was the case of the then transportation minister who owned a company that distributed cars in Macedonia, a company that happened to be a donor to one of the political parties then in office. When the Ministry for Finance attempted to liberalize the import of used cars, the Ministry of Transport was able to block this reform.

Government political parties are in strong financial positions because of business support; also, structural biases exist in their favor. One illustration of this is that the government political parties have national television, national radio and two state newspapers at their disposal. By positioning their representatives in these media, government parties are able to exercise a certain degree of control and influence, one that falls just short of direct censorship. Partisan influence is especially marked in the presentation of the news, in the time

[145] The only clear distinction that can be made is between the target-voters: the political parties of Albanians in Macedonia (the PDP and the PDPA–NDP) and the political parties of Macedonians and other ethnic groups in the country. But between political parties from the same ethnic group no such distinctions can be made.

devoted to the various parties, in opportunities to address the public directly, in voiceovers by journalists, in selection of information, and so forth. The public media are, generally speaking, a voice for the government. This is why the opposition parties chose not to use such media in the local elections of 2002. However, private media give the opposition the chance to present their ideas before the wider public. In comparison with private media, public media has little credibility in the population.

It is not only the public media that are dependent on government political parties. As already mentioned, in 1998 the public administration felt the influence of party rule when large numbers of administrative officials were sacked and replaced by "party soldiers," who were persons usually with little or no suitable working experience.

Such structural biases as have a direct impact on political funding issues should be eliminated. In the sphere of public administration, the criteria for the selection and dismissal of public officials should be respected. Relevant legislation—the State Officials Law—has already been adopted. This determines the criteria for the employment of public officials and introduces an entrance examination.

Many problems arising from the dominance of the ruling party or parties over the administration, media and so forth are not simply legal, but moral and political as well. In some areas, legal rules have been adopted, but either these are not respected, or "loopholes" are found. The highest officials in Macedonia violate the laws daily, but suffer no consequence. Justice is selective: only petty criminals are tried in the courts. Although critical of such practices, public opinion has little real impact. Understandably, government political parties are unwilling to eliminate the abovementioned structural biases, or to ensure equal access for all political parties to the public sphere.

3.2.1 State Capture or "Etatization"?

Generally speaking, the larger political parties in Macedonia are funded by donations, membership fees and through the state budget. Small parties receive little or nothing from these sources, and this is why most exist in a court register only. The main source of finance is donations, and the "race" for these donations begins in earnest before elections. This race can place parties and candidates in the debt of large donors. Only was the VMRO–DPMNE able (briefly) to rely on profits from its own companies. All other political parties are dependent on donations from corporations.

The contribution of citizens to party and campaign financing is very small. Membership fees are not collected on a regular basis. In a country where most people hardly manage to cover their living expenses, the political parties fight for citizens' votes and not citizens' money, at least not their money in the form of membership fees.

The third source of financing is the budget, but this is a very "lean" source and one that is unable to promote the independence of the political parties with respect to big business. Those political parties that are successful in parliamentary and local elections – and all candidates in presidential elections – obtain reimbursement of their campaign expenses. Reimbursement is proportionate to the numbers of votes won and in practice covers only a small part of real election expenses. In order to facilitate the work and existence of the political parties, an increase in the budget allocation is necessary. This would be important for all the political parties: it would simplify work for the major parties and would underpin the existence of the smaller ones. The number of votes obtained by the candidates (successful and unsuccessful alike) in parliamentary and local elections should be the criterion for funding (as it already is with regard to presidential elections). A system of matching grants would hardly be suitable. Were these to be introduced, many fictitious sums would undoubtedly be cited in

order to secure equivalent amounts from the budget. Such a scheme could easily degenerate into farce.

III. Conclusion

Finance is an essential pre-condition for the existence of political parties. It enables them to pursue their policy goals, to participate in elections and to fight for power. From this point of view, it is important to note that the costs of election campaigns in Macedonia have increased noticeably over the past decade.

Political parties in Macedonia face this reality and try to adapt to it. A system of party funding and campaign finance in which most money comes from donors gives greater chances to the major (governmental) political parties. Large donors "invest" in winners and possible winners, i.e. in the major political parties. In the absence of donor interest, the present level of funding from the budget is not enough to guarantee the survival of the smaller political parties.

Financing from donations is closely connected with corruption. Big donations to the political parties are always paid back in the form of favors in the marketplace and increased profit margins. A related problem is the misuse of power to allocate money from state bodies or public companies to the parties.

Although there are rules on party and campaign financing that set out prohibited sources of funding, limits on the size of donations, limits on election expenditure, and suchlike, these are repeatedly violated, ironically by those who attempt to attract citizens' votes by promising to establish the rule of law. Even when there are initiatives to reform the electoral laws, the issue of clear procedures for the control of campaign finance is readily overlooked. This funding question is neglected even in academic circles. No serious studies have been published on campaign financing; conferences, meetings and roundtable discussions do not address the subject. The question of party funding attracted substantial attention only in 2001, when Macedonia's Constitutional Court outlawed party-owned companies. Party elites, too, maintain a low profile on the question of party and campaign financing reform.

At the time of writing (2002), new legislation is being drafted on the issue of party finance that will hopefully remedy some of the problems. Even so, thoroughgoing reform of party finance will depend on reform of the overall economic system in Macedonia. Also called for is the political will to enforce party funding and campaign finance legislation. To expect an imminent breakthrough in these areas would be overoptimistic.

Political Finance in Poland

Marcin Walecki

Introduction

The growth of political finance systems has been one of the most unexplored aspects of transition politics; it is worthy of particular attention.[146] Understanding the operation of political money helps us to learn how the principal components of democracy work during periods such as the one that saw the fall of communism in the late 1980s and early 1990s. This chapter details the trends in political finance over the democratization period of 1989 to 2002 in Poland. The Polish experience shows the immense difficulties of installing a transparent system of political funding that is not open to abuse. The author contends that one of the crucial aspects of Polish political finance is the way in which successors to the former Communist Party and its allies emerged from the old regime unequally endowed. The evidence suggests that a lack of diverse sources of money is the major problem for political parties in post-communist regimes, indicating that these parties have not yet reached a high level of institutionalization. Small income from membership subscriptions and a general lack of popular funding is one of the characteristics of the region. Research shows that, for Poland, public funding in the early stage of transition was less significant than expected, and that plutocratic funding or the abuse of state resources played a much more substantial role. By 2002, the new legal framework made an important and positive contribution to the Polish political finance system through promoting greater openness in political finance, prohibiting contributions from undesirable sources and providing substantial public funding to the major parties.

I. Description of the Political Finance Model

1.1 Legislative Framework

In the ten years and more since the collapse of communism, Poland has experienced five parliamentary elections (1989, 1991, 1993, 1997 and 2001), three presidential elections (1990, 1995 and 2000) and four local government elections (1990, 1994, 1998 and 2002). Moreover, since the fall of communism in 1989, the rules of political finance, including campaign finance and party finance, have been changed or reformed ten times, not to mention a few unsuccessful attempts. During this time Poland has moved from an extreme *laissez-faire* approach towards political money to a political finance system that is close to that of Continental Western Europe. In the case of the 1997 Law on Political Parties,[147] the 2000

[146] Burnell, one of the leading researchers in this field, says that, "a much higher premium tends to be placed on such things as leadership skills and the techniques of constitutional drafting than on issues to do with political finance." Burnell (1998), p. 2.

[147] The Decree of June 27, 1997/2001 on Political Parties (Journal of Laws of the Republic of Poland No. 79, item 857, 2001).

Presidential Elections Law,[148] and the 2001 Parliamentary Elections Law,[149] changes have been so deep that they have had far-reaching consequences for political parties and have, to a large extent, reshaped the party system. In fact, in terms of the new Polish political finance rules, it was one of the most comprehensive reforms in Europe over the last decade.[150]

1.2 Organizational Issues

The process of party development in Poland has been accelerated through a sequence of elections. Intensive party competition has led to growing mobilization of the necessary resources. Polish parties pressured by the dynamic of electoral struggle and yet not engaged in grass-roots initiatives and indigenous growth of membership have had reason to be eager to accept generous contributions from plutocratic sources. Such political contributions may not be corrupting, despite not being altogether altruistic. Between 1989 and 1991, small, spontaneous donations from individual "Solidarity" supporters with ideological motives played a key role, but since then fundraising efforts among ordinary supporters have declined and institutional donations have become more significant. The overall involvement of businesses and large corporate donors in contributing to campaigns has significantly increased. In terms of corporate support, declared institutional donations represented less than 40 percent in the 1991 campaign, compared to about 85 percent of the total declared income in 1997. In the 1995 presidential elections, Lech Wałęsa received one donation of 2 million zlotys from businessman Aleksander Guzowaty; this donation constituted almost 72 percent of Wałęsa's declared income and, to date, is the largest official donation in Polish politics.

Finally, there is the issue of party investment income in Poland. In April 1990, almost a year after Solidarity's electoral victory, the first non-communist government, headed by Tadeusz Mazowiecki, agreed that over 95 percent of the fixed assets of the Communist Party should be handed over to the state treasury. Issues relating to the assets of the Polish United Workers Party (PUWP) were regulated by a law of November 1990 that came into force on February 27, 1991.[151] However, the United Peasant Party (ZSL) and the Democratic Alliance (SD), which had both switched sides and formed a coalition with "Solidarity" in 1989, retained their political influence and their valuable assets. When the United Peasant Party (ZSL) transformed itself into the Polish Peasant Party (PSL), the "new" party retained a local organizational infrastructure, a membership base and—most importantly—some of its real estate. The issue of the inheritance of party property was a subject of lively political debate. As shown by official statistics, the post-communist parties' sources of money were neither state aid nor membership subscriptions, but mostly investment income. The empirical evidence from an examination of the PSL and SD financial reports of 2001 shows that these two post-communist parties officially received an annual income of 12.8 million zlotys ($3.2 million) merely from renting out their properties. In fact, the PSL is renting out more than 60 party buildings all over Poland, including the PSL's National Headquarters in Warsaw, which is leased to the Bank Gospodarki Żywnościowej, giving a solid annual income of 10 million zlotys.[152] Even taking into account under-reporting, which is almost certain, the fundamental

[148] The Decree of September 27, 1990/2000 on the Election of the President of the Republic of Poland.
[149] The Decree of April 12, 2001 on Elections to the Sejm of the Republic of Poland and to the Senate of the Republic of Poland.
[150] See also the 2000–2001 political finance reform in Britain.
[151] As one of its provisos, the party Social Democracy of the Republic of Poland (SdRP) did not have the right to inherit money from the Polish United Workers' Party (dues from members of the mother-party were the only exception).
[152] See Agata Nowakowska, "Najgrubszy portfel SLD," *Gazeta Wyborcza*, March 31, 2001. Also see Jerzy Morawski, "Partia w zaniku," *Rzeczpospolita*, June 6, 2002.

role of investment income in the funding of these two parties emerges clearly. Moreover, the gap between the finances of the post-communist parties and the post-Solidarity parties has increased significantly. In 1999–2000, the Polish Peasant Party spent on average 26.5 times as much as the Labor Union.[153]

Even though the Polish political system is more party than candidate oriented, income from a candidate's own wealth still plays an important role. Candidates are required by their parties not only to contribute to the general campaign fund, but also to raise the money they need for their individual campaigns. In the 1990 presidential election, the first of the post-communist era, Stanisław Tymiński, an émigré millionaire, received 23 percent of the vote.[154] Tymiński officially spent almost $300,000 of his personal funds and finished second. In this case, the candidate's own resources amounted to 99.81 percent of total declared income.[155] In the 1995 presidential election, Aleksander Kwaśniewski officially spent only 30,000 zlotys of his personal funds (0.88 percent of total income). At the same time, the Freedom Union candidate, Jacek Kuroń, contributed 100,000 zlotys from his private resources (9.29 percent of declared total income). The trend in Polish political financing shows that individual candidates have become less responsible for funding their own presidential campaigns, while they still contribute significantly in parliamentary and local elections. According to the financial reports, during the 1997 parliamentary election candidates contributed a total amount of 10,153,380 zlotys.

Table 1

Official Income from Parliamentary Candidates – 1997 Elections

Party/electoral bloc	Percentage of votes	Total amount of candidates' contributions (in zlotys)	Percentage of total income
Election Action Solidarity (AWS)	33.83	1,603,218	17.27
Democratic Left Alliance (SLD)	27.13	4,438,525	47.50
Freedom Union (UW)	13.37	1,283,700	19.51
Polish Peasant Party (PSL)	7.31	1,520,827	46.05
Movement for the Reconstruction of Poland (ROP)	5.56	1,307,110	74.56
Total official amount of candidates contributions		**10,153,380 zlotys ($2,943,008)**	

Source: Official financial reports. Tabulated by the author.

Individual contributions from personal income or wealth,[156] along with corporate donations to individual parliamentary candidates, have come to count as an important source of income, especially during parliamentary and local government elections. Despite the inconsistent character of available information concerning parties' income, the clear picture is that in recent years donations and sponsorship have played a major role in financing local politics. Yet

[153] See Walecki (2000), p. 90.
[154] See *The Economist*, 01.12.1990, p. 54.
[155] See Appendix II.
[156] Statistics including the personal wealth of newly elected MPs show a growing number of millionaires. See *Gazeta Wyborcza*, November 26, 2001 and Wójcik Mikołaj, "Oświadczenia majątkowe parlamentarzystów," *Nasz Dziennik*, December 11, 2004 and January 14, .2002. Also see Filip Frydrykiewicz, "Senatorowie pokazują majątki," *Rzeczpospolita*, December 21, 2001.

candidates facing internal competition do not rely upon the financial support of their party; instead, they have to fundraise individually.

1.3 The Character of the Electoral System and Its Impact on Campaign Finance

Several political parties implemented broad organizational reforms as new regulations encouraged political parties to comply with requirements for professional and accurate accounting and reporting. The electoral committees' financial agents were made responsible for management of the financial resources of the electoral committee. According to party leaders, it was the institution of "financial agent," as an internal enforcement body, that proved to be the most significant change to the parties' previous structures, decision-making procedures and financial management practices. New regulations, obliging parties to report on all the money flowing in and out of their coffers, required parties to maintain a solid centralized organization based on party discipline and professional bookkeeping. This was particularly important as candidates and campaign offices were spread across the country. Parties had to centralize all campaign fundraising with the central headquarters in order to follow all the legal requirements. One party, the Freedom Union, put the checking of its campaign finances in the hands of an external accountancy firm.[157] Most committees also managed to contract banks to run their election funds, yet not all banks followed the conditions laid down in the new legal regulations. Parties have also employed a variety of measures to make sure they follow new legal requirements. To ensure the campaign finance rules were not violated, it was crucial to make local structures accountable to the center. So the largest electoral committees prepared their own internal documents and instructions, and organized training and consultations for the candidates and campaign managers. In addition, electoral committees introduced procedures for candidates and supporters to ensure that the regulations were followed.[158] Furthermore, few parties had to punish candidates whose behavior was unethical or who violated the statutes of the party.[159]

Furthermore, an electoral system with a preference for individual candidates winning the largest number of votes has created a situation whereby candidates from the same party compete with each other in the same constituency. As one of the candidates pointed out, "Candidate No. 3 on the party list is trying to outspend candidate No. 2 and he/she also knows that candidate No. 4 will try to do the same with him."[160]

In fact, while most of the candidates experience strong internal competition, their expenditure is seldom reported to the central office. There have been the following consequences of this "dual competition:" 1) a lowering of the internal candidates official expenditure to avoid disciplinary sanctions enforced by the local party and 2) "correction" of the national parties campaign financial reports to avoid administrative and criminal sanctions enforced by the National Electoral Commission.

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[157] In addition, this particular firm insured itself against such contingencies as the turning down of an election report to which it had contributed and the refusal of a public subsidy.

[158] The Civil Platform asked all its candidates to sign a bill of exchange in case its campaign violated the regulations and the committee lost the campaign reimbursement.

[159] In 2001, the campaign manager of the Law and Justice Party informed the Prosecutor's Office that one of the candidates had violated the election law provisions. Also, during the 1997 parliamentary elections, the Freedom Union Party expelled one of its senior politicians as a result of corruption allegations.

[160] Interview with Michał Tober, MP, Warsaw, 2001.

1.4 Sources of Income

Poland employs many different tools in the control of political finance, from bans on undesirable sources, contribution and spending limits to government funding of the parties. Polish legislation is designed to promote effective political equality by recognizing the impact of the unequal distribution of resources. In order to safeguard political equality, restrictive regulations are supplemented by substantial public subsidies to political parties. In theory, the system does not allow the economically privileged to create more favorable conditions for political competition; in practice, enforcement, or lack of it, is the main weakness undermining its effectiveness.

Since the 1990 Law on Political Parties, prohibitions have been introduced on sources deriving from public funds and foreign donors. The inadequacies of the initial political funding regime led to the subsequent campaign finance reforms. The series of endless reform of political finance regulations in Poland during the period from 1990 to 2001 illustrates the complexity of such attempts. Recent regulations introduced in the Presidential Election Law of 2000 and the Parliamentary Election Law of 2001 brought significant changes. Firstly, in the case of presidential elections, contributions from legal entities, excluding political parties, cannot exceed 60 percent of the spending limit (7.2 million zlotys).[161] In addition, the Polish regulations concerning foreign contributions are negative, i.e. they limit foreign donations in qualitative ways, which means that political donations cannot be accepted from any foreign sources. The financial resources of a committee have to be deposited in a bank account; however, funds originating from legal entities excluding political parties, and from anonymous donors gained in public collections, shall be deposited in separate sub-accounts of the committee account. In addition, presidential election campaign expenditures cannot be met from sources derived from certain individuals and entities.[162] Furthermore, these regulations introduced limits on private contributions; in the case of presidential elections, the total sum contributed by an individual for one committee cannot exceed the equivalent of 15 minimum monthly salaries.[163] The total sum contributed by another subject, excluding political parties, may be no more than 100 minimum monthly salaries. Secondly, in the case of Parliamentary Election Law, Poland has prohibited all legal entities from making political contributions to parties and parliamentary candidates.

Table 2

Official Sources of Polish Parties' Income, 1997–2000

Source of income	Polish Peasant Party (PSL)				Freedom Union (UW)				Labour Union (UP)		
	1997*	**1998**	**1999**	**2000**	**1997***	**1998**	**1999**	**2000**	**1997***	**1998**	**199**
Investment income	77.48%	87.96%	90.69%	85.98%	–	0.93%	4.93%	2.33%	**86.51%**	N/A	0.0
Donations	17.48%	7.18 %	4.19%	4.6%	87.29%	70.51%	23.15%	26.32%	**11.39%**	N/A	–

[161] Moreover, the financial resources for election campaigning, contributed by legal entities, should be derived from their profits only.

[162] State budget, state organizational units, budgets of local government units, municipal unions and self-government councils, state-owned enterprises, etc.

[163] In 2000, the minimum monthly salary was 780 zlotys. Moreover, a total contribution that is more than twice the minimum monthly salary of a worker, excluding funds gained in public collections, can be paid only by cheque, bank draft or bankcard. See Section 5 for detailed analysis.

Membership	0.29%	0.42%	0.81%	1.47%	3.39%	15.75%	62.8%	36.9%	**2.09%**	N/A	59.(
State aid	4.75%	4.44%	0.68%	0.54%	–	11.63%	4.52%	3.16%	–	N/A	33.7
Others (e.g. bank loans)	–	–		–	9.32%	1.18%		–	–	N/A	6.5(
TOTAL in zlotys (USD)	12,109,775 $3,561,698	10,472,809	11,146,614	13,699,481	7,108,877 $2,090,846	8,454,648	3,091,906	**4,310,597**	**390,306**	**N/A**	**146,**

Notes: Donations cover contributions by institutions (companies, partnerships), individual donations, contributions by candidates and public collections. N/A = Not available.
**Sources*: Parties' annual reports for 1997, 1998, 1999 and 2000. Tabulated by the author

1.5 Public Funding
1.5.1 Direct Public Funding

In the Polish case, the financing of political parties from the state budget has a long and inglorious tradition, perfectly exemplified by the illegal financing of the Polish United Workers Party (PZPR) by the state. In 1989, the first "Solidarity" government revealed the existence and the amount of budget subsidies allotted in that year to the communists and their allies. These revelations, occurring at a time of severe economic crisis, were greeted with deep and widespread public anger.[164] Partly as a result of this public mood, direct state financing was not introduced at this stage of political transformation. Furthermore, the new regulations prohibited any form of state funding, and so party activity and electioneering were not directly subsidized.

With the Electoral Law of 1993, which introduced state reimbursement of electioneering expenses, the first step towards state subsidy of political financing was taken. Subsidies for parties were calculated by dividing the total amount by 560 (the number of deputies in both houses) and multiplying the product by the number of deputies elected from each committee. Thus, the committee received approximately the equivalent of $7,650 for each deputy elected to the two chambers.

After the 1997 Parliamentary elections, the treasury allocated to the particular election committees the total sum of about 14 million zlotys ($4,117,647). The two main parties, the AWS and the SLD, received about 79.3 percent of this total sum, amounting to 25,000 zlotys ($7,350) for each deputy elected. Thus, the AWS, with its 201 MPs and 51 senators, received $1,852,941 (6.3 million zlotys) and the SLD with 164 MPs and 28 senators about $1,411,764 (4.8 million zlotys). All the other parties (including the Freedom Union, PSL, ROP and the Labor Union) had to divide the sum of $801,470 (2.725 million zlotys) proportionately among themselves. In fact, the political parties taking part in the 1997 Sejm and Senate elections were entitled to receive two grants from the state budget.[165] The total sum of the grants amounted to 20 percent of the expenses provided in the state budget for organizing and holding the election. Party subsidies were delivered to the parties in two stages. The legislator introduced the division of the sum into a 60 percent project grant for the statutory activities of the party and a 40 percent organizational grant related to the expenses incurred during the Sejm and the Senate elections.

[164] Winczorek (1990), p. 13.
[165] The project grant and organizational grant. The former is awarded to a political party if its constituency electoral lists of candidates submitted to the Sejm received at least 3 percent of the valid votes cast for the candidate lists of political parties in the country. The latter is awarded to a political party if it obtained at least one seat in the Sejm or in the Senate.

Officially, for some parties public financing was only a very small part of their revenue, while for the Labor Union it was the party's principal source of income. As declared in official statistics, public financing accounted for only 4.75 percent of the total declared income of the PSL in 1997 and 4.44 percent in 1998. In 1998, public financing accounted for 11.63 percent of the declared income of the Freedom Union (UW). The Labor Union recorded public funding as its main source of income. As the following pages will show, in practice public funding has played an even less important role.

As a result of the most recent political finance reform, a system of considerable public financing has been introduced. Funding has come about mainly as the result of serious concerns regarding the dominance of private money in the political process.[166] According to the new election law, a political party whose election committee has participated in elections, or a political party that is a member of a bloc as well as the election committee of electors, has itself the right to a subsidy (called a "subject allocation") from the state budget for each mandate of a deputy or senator gained. The amount of the subject allocation is established by dividing the expenditure shown in the election reports of committees that have at least one seat (mandate) by 560.[167] The subject allocation is given in the amount shown in an election report (not exceeding expenditure limits). The subject allocation that is given to a member of an electoral bloc is divided proportionately among the parties that form the bloc, and is determined in an agreement made when the electoral bloc is created. The allocation is paid six months after the announcement of the validity of elections.[168]

In addition, political parties that have formed their own election committee in the elections to the Sejm and have gained at least 3 percent of valid votes in those elections, or that are members of an election committee in the elections to the Sejm and have gained in those elections at least 6 percent of valid votes, receive a state subvention for their statutory activities. The amount is determined in proportion to the valid votes gained for the constituency lists of candidates of a party or for an election coalition, according to the special formula.

In addition, a small part of the subvention, from 5 percent to 15 percent, is specified for the special party's know-how fund dealing with the costs of legal, social, political and economic expertise and publishing activities.

The subvention is paid in quarterly installments to a given political party throughout the Sejm's whole term. According to the original regulations, the total amount of annual subvention to political parties for statutory activities is supposed to be 75,479,093 zlotys ($18,869,773). Thus, during a four-year term of the Parliament, the total subvention paid by the state budget to all the parties would amount to 301,916,374 zlotys ($75,479,093).

However, in November 2001, as a result of a financial crisis that caused a large budget deficit in Poland, the government proposed reducing all direct public funding for political parties and electoral blocs by 50 percent. This proposal was received with skepticism, particularly by the opposition, which threatened to take such regulations to the Constitutional Court on the basis of their alleged unconstitutionality. Opponents argued

[166] See Ludwik Dorn "Finansowanie działalności politycznej w Polsce. Obecna praktyka i jej reforma." In Marcin Walecki (ed.) *Finansowanie polityki. Wybory, pieniądze, partie polityczne*. Warsaw: Wydawnictwo Sejmowe, 2000, pp. 141–178.

[167] The number 560 is obtained by adding the nominal number of members of the Sejm (460) and of the Senate (100).

[168] It is also granted for each mandate of a deputy or a senator gained in repeat elections to the Sejm and to the Senate, as well as in by-elections.

that the government should not, under any circumstances, retrospectively reduce the amount of the subject allocation, particularly when the parties, bearing in mind the new election law, had taken loans from commercial banks to run their election campaigns. Finally, on December 21, 2001, Parliament adopted the amendments introduced by the Senate.[169] According to these new temporary regulations, the subject allocation was to be paid in two annual installments for the years 2002 and 2003. However, subventions in these first two years were to be reduced proportionally from 25 percent to 50 percent. Amounts (M) given in proportion to valid votes gained for the constituency lists have been reduced appropriately: from 10 zlotys to 8 zlotys, from 8 zlotys to 4 zlotys, from 7 zlotys to 3 zlotys, from 4 zlotys to 1.5 zlotys and from 1.5 zlotys to 0.5 zlotys.

Finally, the data analyzed for Poland suggest that the introduction of public subsidies to the political parties does not delay the emergence of new parties. The results of the 1997 and 2001 elections clearly illustrated that the system of public funding had not prevented the emergence of new political forces and had not caused the freezing of the existing party system. The rules for state funding did not discriminate against new parties. Moreover, recent parliamentary elections show that there is no relationship between the stability of the party system and the introduction of public funding. In fact, direct subsidies can even galvanize the emergence of new political parties rather than obstruct it.

1.5.2 Indirect Public Funding

Another important source of money for Polish parties is specific grants paid by the Chancellery of the Sejm to parliamentary factions and individual parliamentarians.[170] The demarcation of the different kinds of public funding is a controversial matter; however, these funds should be classified as a source of indirect subsidies for political parties from the state budget. None of the political parties in Poland would be able to operate sufficiently without access to these parliamentary resources.[171] Grants for party representation in Parliament and aid provided by the Sejm Chancellery are supplementary sources for a party's central office and can also be used for campaign activities.[172] By 2001, the aggregate sum of state money for parliamentary parties amounted to 55.75 million zlotys ($13.9 million).

These parliamentary subsidies have influenced the structure of power within the political parties since the relationships between individual politicians and their parties, and between parliamentary and non-parliamentary party offices, depend partly on their financial power. Certainly, the increasing financial resources available to members of Parliament from the public purse have contributed to the growing independence and importance of parliamentary caucuses in Poland.

1.6 Access to the Media

[169] See Dz. U. 2001, No. 154, section 1802.
[170] See Lewis (1998), pp. 145–149.
[171] Political parties with parliamentary representation receive money through their MPs' and senators' offices for running their local offices, as well as the equipment necessary for operating those offices, including computers, faxes, telephones, copy machines, furniture and a certain number of postage-free envelopes for parliamentary correspondence.
[172] In 1991, the SLD election committee officially received 10,000,000 zlotys from its own parliamentary caucus, and these essentially illegal practices were retained. See the National Election Committee Communiqué of February 18, 1992.

In Poland, during elections, parties have the right to broadcast their election programs at no cost on both television and radio: on nationwide channels the total length of time allowed for broadcasts for all parties is 15 hours (Polish Television) and 30 hours (Polish Radio), while on regional channels the total length of time allowed is 10 hours (Polish Television) and 15 hours (Polish Radio). In addition to the free time allotted for the broadcast of election programs, each election committee receives the opportunity to broadcast limited, paid election programs on public and non-public radio and television. Rates charged for this broadcasting time cannot exceed 50 percent of those charged for commercials. Free access to state radio and television is also granted during presidential elections.[173]

In the 2000 presidential elections, a financial equivalent of subsidy to all the candidates amounted to 30 million zlotys ($7.5 million), given the average commercial cost per minute of advertising on television and radio respectively.[174] The importance of these subsidies in conveying party messages is particularly evident in the case of smaller parties, which would otherwise be denied this opportunity.

1.7 Political Expenditure

As early as 1991, Poland was applying limits to the campaign expenditure of parliamentary candidates.[175] For any registered district list of candidates in an electoral district the campaign expenses were not allowed to exceed the equivalent of 60 times the average monthly salary. Should the ceiling for campaign expenses be exceeded, the Tax Office could impose a fine amounting to five times the exceeded amount. To improve enforcement, the ruling regarding the fine and the collection of the fine was governed by the corresponding regulations concerning the levying and collecting of taxes. In addition, the National Electoral Commission or a district electoral commission could, under its own auspices or based on the proposal of the electoral committee concerned, submit a request to the local treasury office to audit the expenditures related to the electoral campaign being waged by electoral committees. The audit could be conducted after the appropriate electoral commission received a financial report submitted by the electoral committee or, in the event of a failure to receive that report, within the legally determined time limit.

As a result of the recent and comprehensive campaign finance reform, new general spending limits for both presidential and parliamentary elections were applied. In the case of presidential elections, a homogenous ceiling for all participants is implied that is directly defined by the law. *De jure*, the total expenditures of a committee in presidential elections cannot exceed 12 million zlotys ($2.6 million).[176] However, as a result of tough scrutiny, the 2000 presidential election showed that this particular spending limit has proven in practice to be a fiction, having been introduced at an unrealistically low level. In fact, the amounts spent by the two main candidates, Kwaśniewski and Krzaklewski, during the first round of elections were just below the official limit applying to the two-round majoritarian electoral process. In the case of the hypothetical second round, both Kwaśniewski and

[173] However, the number of candidates in the 1995 elections made it difficult for the National Committee for Radio Broadcasting and Television to allocate time for presentations by every candidate.
[174] Lubelska Krystyna "Amatorski teatrzyk wyborczy." *Polityka* No. 42/2000 (2267).
[175] See the Decree on Sejm Elections, July 3, 1991.
[176] The amount of the national limit is under regular indexation; in the case where inflation is above 5 percent, the Minister of Finance should increase the amount of the spending limit in accordance with the price increase index.

Krzaklewski would have found it extremely difficult to campaign within the limits. Furthermore, during the passage of the legislation a more realistic figure of 20 million zlotys was suggested by committee experts.[177] Unfortunately, the Senate amended the proposal following the argument that "Nobody in this country can afford spending even one million dollars."[178]

In addition to the general spending ceiling of 12 million zlotys, there were broader restrictions on the amount to be spent by presidential candidates on certain items, including electoral publicity and on particular sources of money. New regulations required that a committee's expenses from funds donated by legal entities, with the exception of political parties, could not exceed 60 percent of the total limit of 12 million zlotys. Also, a committee's expenses from moneys raised through public fundraising (in the sense determined by regulations concerning public fundraising) could not exceed 10 percent of the total limit. Finally, a committee's expenditure on election campaign activities in "forms and according to principles typical for advertising," including advertising in the press in the sense described in press law, could not exceed 80 percent of the sum of 12 million zlotys.

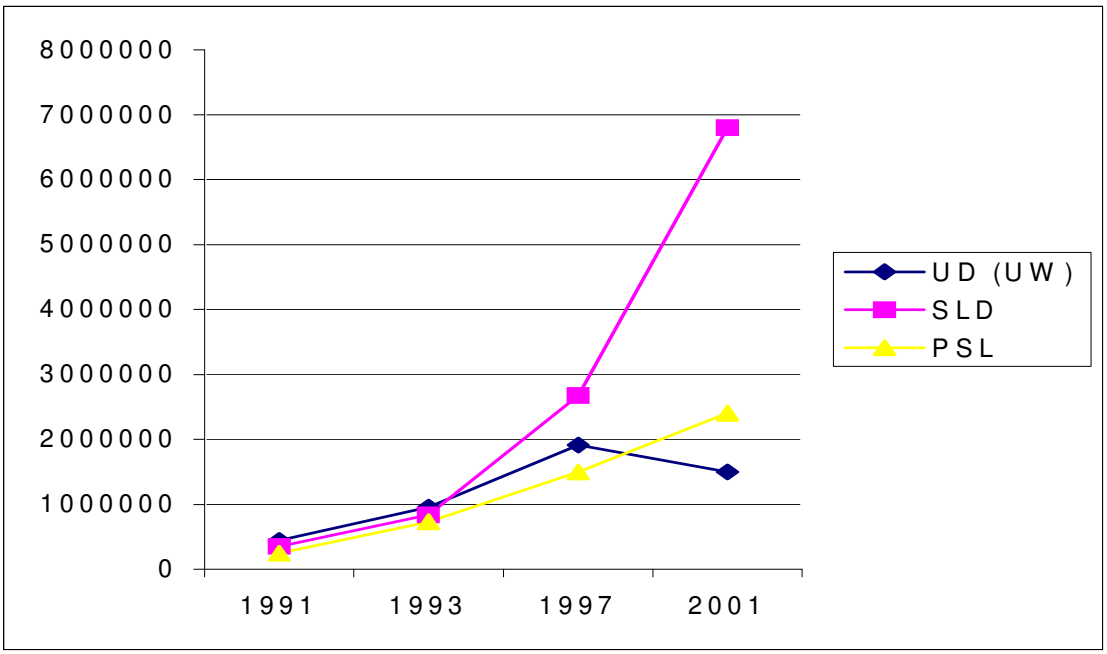
In the case of parliamentary elections, the expenditure limit was calculated as the sum of 1 zloty ($0.24) for each elector of the country included in the register of voters. According to this formula, the national limit for the 2001 elections was approximately 29 million zlotys ($6.87 million). Moreover, for parliamentary elections, the election committees cannot exceed the additional spending limits. These are the constituency limit, established for an election committee which, in the elections to the Sejm or to the Senate, has registered a candidate or candidates in one election constituency only and the multi-constituency limit, established for an election committee which, in the elections to the Sejm or to the Senate, has registered candidates in more than one constituency.

In addition, the publicity spending ceilings have a relatively long tradition in Poland. Limits on paid media advertising during parliamentary elections were first introduced in the 1993 elections.[179] As a result, the total time allowed for paid advertising could not exceed 15 percent of the total time allocated to a particular election committee for free broadcasting. However, the 2001 law abolished previous specific limits on paid media advertising. According to the new regulations, campaign expenditures on activities resembling advertising in manner and mode, including press publications, cannot exceed 80 percent of the national limit. On the other hand, the previous regulations apply in the case of presidential elections. Each election committee can broadcast paid election programs between the 15th day before polling and the last day of the election campaign; however, the total time assigned for paid broadcasting cannot exceed 15 percent of the total time allocated to a given committee for broadcasting cost-free election programs.

[177] The author was one of the experts suggesting zlotys 20 million, the amount based on his calculations.
[178] See K. Leski "Jawność w cyfrach utopiona." *Rzeczpospolita*, 7 February, 2001.
[179] The Decree of May 28, 1993 on Elections to the Sejm of the Republic of Poland, Arts. 142–145.

Table 3

The Official Cost of Parliamentary Elections in Poland, 1991–2001 (in $)



Notes: A legal ceiling on election expenditure of 29 million zlotys ($6,874,481) was introduced in 2001. There were no legal ceilings on expenditure in the 1991–1997 national campaigns. PSL = Polish Peasants' Party; UD = Democratic Union; (after 1994) UW = Freedom Union; SLD = Democratic Left Alliance

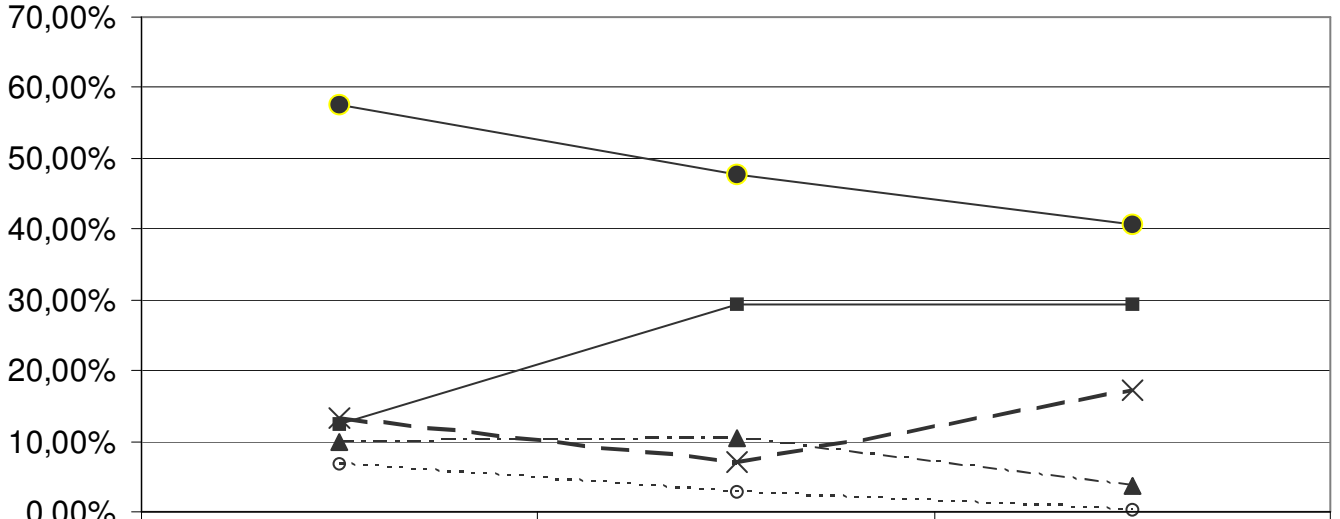
Source: See Appendix III for parties' campaign reports for 1991, 1993 and 1997. Tabulated by the author

Finally, a significant disproportion in the amount spent on campaigning was still a characteristic of local parliamentary campaigning in the 2001 election. As in 1997, there were cases of candidates spending 100 times more money than their party colleagues;[180] the 2001 campaign in large cities such as Warsaw, Poznań, Gdańsk, Katowice or Łódź proved to be very cost intensive. Interviews confirm the common knowledge that the large proportion of parliamentary campaign expenditure, approximately 50 percent, seems to escape legal control and reporting. Examination of internal power relations and candidates' attitudes to elections revealed that internal competition played a more important role than the one reflected by the parties' official statistics.

[180] An example was the local businessman Radzimir Prus-Grobelski, UW candidate in Toruń. Interview with Tomasz Lenz, the Freedom Union chairman in Toruń.

Table 4

Breakdown of Expenditure in Presidential Elections, 1990–2000



	1990	1995	2000
Administration	9,83%	10,45%	3,69%
Mass Media	12,54%	29,36%	29,25%
Printing Materials	57,57%	47,76%	40,54%
Rallies	13,31%	6,95%	17,19%
Travel costs	6,73%	2,94%	0,37%

Source: See Append III for candidates' financial reports for 1995–2000. Tabulated by the author

1.8 Reporting and Disclosure

Despite the fact that the 1990 Law on Political Parties was based on the philosophy of *laissez-faire,* there were some symbolic regulations concerning campaign finance. For instance, the Law on Parliamentary Elections of July 3,1991 stated that, "the funding of electoral campaigns is transparent."[181] Yet the law did not introduce any sanctions for committees that would not comply with its provisions. Following this, the 1993 Law on Parliamentary Elections emphasized the general rule of "transparency" in campaign finance. In fact, its regulations went further, requiring a committee to prepare a detailed financial report including information on sources of funding and, in particular, any bank loans obtained. In addition, any donations exceeding the equivalent of the ten-fold average monthly salary, as well as all the campaign expenditure, were supposed to be included in the "report." Then, within 3 months of polling day, a financial report had to be published in a daily newspaper with nationwide circulation by election committees and at their own expense. Also, the agent of the voters' election committee was obliged to retain documents about the financing of the electoral campaign for a period of 12 months after election day. Furthermore, the law introduced severe penalties for failure to publish financial reports or for giving false information in such reports.[182] Finally, an election committee that fulfilled the disclosure requirements had the right to receive subsidies from the state budget.

In practice, however, after the 1993 parliamentary elections, dozens of committees either failed to submit an "election expenses return" within the time stipulated by the law, or did not write one. The most controversial case was that of the Solidarity Trade Union, which managed to win nine Senate seats and later created its own senatorial caucus. Solidarity was late with its financial report and subsequently lost a substantial state subvention.[183] Committees not entitled to a state subvention often did not submit their financial report and ended up facing prosecution. However, the Prosecutors' Office decided to discontinue proceedings in 58 cases because breach of the act was almost harmless socially.[184] After the 1995 presidential elections, the National Electoral Commission received 10 financial reports within the time stipulated by the Act (i.e. up to January 19, 1996) from a total of 17 registered candidates. A few candidates, including Jan Pietrzak, Jacek Kuroń and Leszek Bubel, subsequently filed their reports after this time. Yet the presidential election law did not create any sanctions for not submitting financial reports. In 1997, after the parliamentary elections, all the committees that had won seats submitted their financial reports and thus qualified for state subvention. This significant decrease resulted not from harsh penalties but from the much smaller number of committees taking part in elections. In comparison, after the

[181] See Article 133, Sections 1–5.
[182] Such an offence was subject to the penalty of deprivation of liberty for up to 2 years, to limitation of liberty, or to a fine.
[183] Solidarity's election expenses return was submitted two days after the stipulated time.
[184] See Dorn (2000), pp. 167–168.

1998 local government elections, over 20,000 committees did not submit financial reports, thus violating the legal regulations.[185] All these possible violations were brought to the attention of the police. Yet the police in many cases rejected cooperation with the National Electoral Commission and refused to pursue offenders, thus reinforcing a sabotage of the election law.

There are serious questions as to whether the pre-2000 legislation was adequately policed by the sanctions that supported it and whether it was effectively enforced. According to leading anti-corruption MP, Ludwik Dorn, "The condition of state apparatus, and particularly of the police, poses a significant barrier against anti-corruption reform of political finance, not at the stage at which the law is made, but at its implementation and enforcement."[186] Even when reporting requirements were not enforced, this was never an issue for political debate. In fact, the Solidarity case was the only one in which the sanctions were used, and the committee was punished by not receiving its subsidy. It should be pointed out that non-payment of the subsidy only happened when the National Electoral Commission decided to enforce the existing law.

A new development in controlling the flow of political funds gradually came about as a result of the new Polish Constitution of 1997.[187] This introduced an important modification to the establishment of the Polish political finance system, namely the "transparency" provision proclaiming that "the financing of political parties shall be open to public inspection."[188] The "transparency" principle has been a decision of significant importance. By virtue of its location in the first chapter of the Constitution, this rule is identified as a constitutional principle governing all parties' operations. Moreover, as the Constitution occupies the supreme place in the hierarchy of laws, all other normative acts must be in accordance with constitutional principles. This means additionally that the "transparency" principle cannot be overturned or limited by any law or international convention. It can only be changed by an amendment to the Constitution, following a complex procedure. Thus, all the mechanisms of control for party finance resulting from the constitutional principle of "transparency" occupy important places in the Polish political finance system.

Finally, as a result of recent political finance reform, complex regulations ensuring greater disclosure have been introduced in Poland. Political parties, electoral committees and presidential candidates are required to disclose:

[185] After the 2002 local government elections, 22,813 committees out of 25,588 submitted their financial reports. See www.pkw.gov.pl

[186] Dorn (2000), p. 168.

[187] See Gebethner (2002), pp. 117–118.

[188] See Article 11, Section (2) of the Polish Constitution. The Polish Constitution formulates directly the principle of the transparency of finance only with reference to the activities of political parties; it is however self-evident that one of the basic activities of any party is to participate in parliamentary, presidential and local government elections. Thus, this constitutional principle is the foundation for public inspection of campaign finance, in which political parties participate either directly or indirectly.

- Specific items of income and expenditure. The objective is to identify and control all sources of money, to enforce contribution and to limit expenditure. In addition, contributions from some sources for presidential elections are subject to stricter disclosure rules than are others;
- All in-kind contributions, i.e. goods and services provided free of charge, must be included in the expenditures of an election committee. These must be valued at their prevailing net prices (no higher than the normal purchase price or the cost of production, reduced by an amortization deduction);
- Bank loans, with the specification of conditions, are to be set forth to the political party and to the election fund by a lending institution.

Regulations concerning the disclosure of private contributions are a common feature of parliamentary and presidential elections in Poland. As far as donations are concerned, the responsibility for disclosure rests with the recipient party, independent candidates and presidential candidates. Following recent political finance reform, Poland has adopted a variety of new reporting requirements. To institute transparency properly in party finance, each party is required to submit two separate statements of party assets and liabilities. The current political finance system employs two forms of routine financial reports for parties—namely "information" and "report"—based on calendar years.[189, 190] In addition, regulations require that parties, electoral committees, independent parliamentary candidates and presidential candidates submit their "election report" immediately after election campaigns. Compared to other political finance regimes,[191] Polish reporting provisions are in theory fairly rigorous.

[189] A political party must prepare an annual financial statement regarding the subvention received from the state budget, and the expenditures covered by this subvention, called "information." The party submits the "information," which covers a calendar year, no later than March 31 of the following year. It is submitted to the National Electoral Commission, together with the opinion of an appointed auditor.

[190] No later than March 31 each year, every registered party is required to submit to the National Electoral Commission an annual "report" covering the sources of the party's funding (including bank loans, with the specification of conditions negotiated by the political party and the election fund by a lending institution), and expenses paid from the election fund in the previous calendar year. An opinion and an auditor's statement are included in the party's "report."

[191] See Levush (1997), pp. 9–10.

1.9 Enforcement

It took almost a decade to determine the form of enforcement mechanisms in Poland; currently the agency responsible for the enforcement of campaign rules is the National Electoral Commission, which plays a significant role in electoral administration and in the system of campaign finance. The Committee has three major responsibilities: 1) ensuring that political parties and independent candidates comply with the legal requirements concerning limitations, prohibitions, disclosure and reporting; 2) providing public disclosure of funds raised and spent during parliamentary and presidential elections; and 3) acting as an advisory body on matters under its jurisdiction for political parties and candidates.

The Polish National Electoral Commission, unlike the US Federal Election Commission,[192] consists of independent judges rather than party representatives.[193] The National Electoral Commission is a permanent, supreme institution, competent in the conduct of elections. The National Electoral Commission consists of 1) three judges of the Constitutional Tribunal, designated by the president of the Constitutional Tribunal; 2) three judges of the Supreme Court, designated by the president of the Supreme Court; 3) three judges of the High Administrative Court, designated by the president of the High Administrative Court.

In terms of its formal duties scrutiny of an election report conducted by the National Electoral Commission may lead to 1) cceptance of the report, 2) an acceptance of the report with indications of its minor deficiencies or 3) rejection of the report on account of significant infringements of law. The National Electoral Commission (PKW) accepts or rejects a report if it is found that the committee has violated the related provisions. Where there are doubts as to the correctness of an election report, the PKW may request that a given committee remove the inaccuracies or submit explanations for them within a specified time limit. Furthermore, the National Electoral Commission can order that experts be brought in. During the examination of election reports, the National Electoral Commission can request necessary assistance from state organs.

Important examples of enforcement practices can be seen in the aftermath of the 2001 parliamentary elections. Following the elections, the National Electoral Commission scrutinized a total of 93 election reports.[194] It accepted 35 financial reports, including those from the two major parties: Law and Justice (PIS) and the Freedom Union (UW).[195, 196] The National Electoral Commission also accepted 39 reports despite noting minor deficiencies. These last-

[192] The Federal Election Commission (FEC) has six voting members, who are appointed by the president of the United States for six-year terms. In Britain, the commissioners of the Electoral Commission are independent, and non-partisan, and are accountable directly to Parliament. See www.electoralcommission.gov.uk

[193] The president of the Republic of Poland appoints recommended judges to the National Electoral Commission.

[194] Komunikat Państwowej Komisji Wyborczej z dnia 3 czerwca 2002 r. o przyjętych i odrzuconych sprawozdaniach wyborczych uczestniczacych w wyborach do Sejmu i do Senatu, see www.pkw.gov.pl

[195] Uchwała Państwowej Komisji Wyborczej z dnia 11 marca 2002 r., see www.pkw.gov.pl

[196] Uchwała Państwowej Komisji Wyborczej z dnia 18 lutego 2002 r. w sprawie przyjęcia sprawozdania wyborczego Komitetu Wyborczego Unii Wolnosci, see www.pkw.gov.pl

mentioned reports included those from the Democratic Left Alliance–Labor Union coalition (SLD–UP),[197] the electoral committee "Bloc Senate 2001,"[198] and the Citizens' Platform (PO).[199] However, it rejected certain campaign finance statements, including those from the Polish Peasant Party's (PSL), the League of Polish Families (LPR), the Self-Defence Party,[200] and Solidarity Electoral Action of the Right (AWSP).

1.10 Sanctions

Political finance regulations identify different types of offences and provide for a range of penalties and sanctions depending on the seriousness of the offence. An analysis of the sanctions stipulated by the Polish law reveals the existence of four main categories: 1) financial sanctions including modest monetary fines, 2) larger fines for more serious violations varying from 1000 to 100,000 zlotys ($250–25,000), 3) criminal sanctions for significant violations that undermine the integrity of the elections, and 4) withdrawal of public funding. In addition, financial benefits transferred or accepted by a committee in violation of specified prohibitions are forfeited to the state treasury. Should such a benefit be spent or lost, its equivalent will be forfeited. However, it is impossible for an elected candidate to be stripped of his or her mandate if it is established that he or she has violated campaign finance rules.

Finally, there are additional financial sanctions that apply solely to political parties. A political party forfeits the right to subvention in the following year 1) if it does not submit the "information" within the time limit and 2) if the information submitted is rejected by the National Electoral Commission (provided that the Supreme Court rejects any appeal against the decision). Additionally, if the National Electoral Commission decides to reject a "report" and any appeal against this fails in the Supreme Court, then the political party in question is deprived of its public subvention for the next three years. The most severe sanction is reserved for a political party that has not submitted its annual financial report to the National Electoral Commission within the time limit. In

[197] Uchwała Państwowej Komisji Wyborczej z dnia 25 lutego 2002 r. w sprawie sprawozdania wyborczego Koalicyjnego Komitetu Wyborczego Sojuszu Lewicy Demokratycznej – Unii Pracy, see www.pkw.gov.pl

[198] Uchwała Państwowej Komisji Wyborczej z dnia 28 lutego 2002 r. w sprawie sprawozdania wyborczego Komitetu Wyborczego Wyborców "Blok Senat 2001", see www.pkw.gov.pl

[199] Uchwała Państwowej Komisji Wyborczej z dnia 28 lutego 2002 r. w sprawie sprawozdania wyborczego Komitetu Wyborczego Polskiego Stronnictwa Ludowego, see www.pkw.gov.pl

[200] Uchwała Państwowej Komisji Wyborczej z dnia 22 kwietnia 2002 r. w sprawie sprawozdania wyborczego Komitetu Wyborczego Samoobrona Rzeczpospolitej Polskiej, see www.pkw.gov.pl

such a case, the commission notifies the Supreme Court of its intention to remove that particular political party from the register. The Supreme Court, after hearing the case, decides whether or not to remove the political party from the register.[201]

1.11 Scandals

As the most prominent recent European scandals clearly show, the problems of political finance are at the heart of the debate on political corruption.[202] There have been a number of high-profile instances of political corruption in Poland; some of them have involved simple criminality on the part of politicians, while other cases have concerned political finance-related corruption.

According to evidence gathered afterwards by the Office of the State Protection, in January 1990 two special envoys of the Soviet Communist Party handed over $1.2 million to the Polish communist party's first secretary, Mieczysław Rakowski, thereby violating Polish currency law.[203] In February 1990, Leszek Miller and Party Treasurer Wiesław Huszcza asked Alexander Yakovlev, a member of the Politburo of the Communist Party of the Soviet Union (CPSU), for a loan of 50 million roubles to the SdRP Economic Agency, offering to repay the debt in the form of goods.[204] The Social Democracy of the Republic of Poland (SdRP) leadership also offered the Soviets access to its Western contacts. The outcome of the loan request and of the proposed joint CPSU–SdRP business activity still remain unclear, since in 1996 Jerzy Jaskiernia, a post-communist minister of justice, dropped the investigation.

As a result of recent political finance reform, a number of cases of illicit campaign financing and parties breaking reporting requirements have been investigated, leading to the gradual collapse of one of the main parties, Election Solidarity Action. As mentioned above, in the case of Marian Krzaklewski's 2000 presidential campaign the Prosecutor's Office in Tarnów has established that contributions were derived from seven anonymous people. In total, over 3000 donations worth 7,308,000 zlotys (over $1,827,000) were made to Krzaklewski's campaign. Of these, approximately 180 were not paid in the form required for larger donations. In addition, the Attorney's Office in Tarnów is investigating questionable donations to Krzaklewski's campaign (over one hundred postal orders were filled out in an identical hand, other donations exceeded the permissible limit and some were supplied

[201] Yet, Alan Ware argues, that "without threatening the fundamental basis of democratic politics, parties cannot be banned, say, from participating in given elections in the way that sporting teams that cheat might be banned from competition or commercial monopolists broken up and prohibited from colluding." See Ware (1998b), p. 237.

[202] For more detailed analysis, see Marcin Walecki (2004) …

[203] The fate of the loan and the joint CPSU-SDRP business activity still remain unclear, as in 1996 the post-communist minister of justice, Jerzy Jaskiernia, dropped the investigation. See Katarzyna Kęsicka "Ałganow i pozyczka KPZR." *Gazeta Wyborcza*, January 12, 1996 and Rafał Kasprów "Interesy SdRP." *Gazeta Wyborcza*, November 25, 1996.

[204] See J. Mojkowski and P. Pytlakowski "Rachunek otwarty: wszystkie pieniadze PZPR." *Polityka*, March 14, 1998. See also A. Kubik and A. Nowakowska "Moskiewska Księga?" *Gazeta Wyborcza*, November 11, 1996.

after election day). Its preliminary findings show that many people on the donors' list deny that they ever made any contribution to Krzaklewski's campaign.

Finally, in 2002 the film producer and media entrepreneur Lew Rywin tried to solicit a bribe of $17.5 million by offering to influence changes in the broadcasting law. The offer included lobbying the government for a favorable legal regulation allowing *Gazeta Wyborcza*'s publisher—Agora—to buy the largest private Polsat television company. The money, calculated at 5 percent of the estimated value of Polsat, was intended for the use of the ruling Democratic Left Alliance (SLD). On December 27, 2002, *Gazeta Wyborcza*'s editor, Adam Michnik, publicly revealed Rywin's offer. This very serious political scandal exposed the involvement of the SLD leaders and the chairman of Public Television Robert Kwiatkowski.[205] It was assumed that Rywin's company "Heritage Films" had been used on many occasions to channel money from Polish Public Television (TVP) to the SLD.

II. Analysis of the Political Finance Model

Political parties and candidates in need of political money often impose levies upon those who derive benefits from the government. In Poland, the regulatory framework tried to prohibit any contributions made by public contractors. Nevertheless, important cases can be found indicating that doors to such corruption are still open. The phenomenon of demanding money from office-holders is not limited to Poland, and the history of "party taxes" in Western democracies is well known. Yet in Poland, party taxes are reported jointly with the income from membership subscriptions. In fact, empirical research has confirmed the spectacular importance that these party taxes have now come to assume. The successful rise of this relatively new form of fundraising is the result of recent party reorganization and expansion.[206] Parties demand from members who hold an elective or appointed public office a fixed share of their salaries. These party taxes apply to most of the 560 MPs, hundreds of party members with governmental positions, members of supervisory boards, and, above all, to thousands of local councilors. Since 1993, the importance of patronage as a resource for Polish parties has been growing, and includes appointments to top positions in the publicly controlled mass media, banks and insurance companies, as well as to managing positions on regional National Health System boards and in national or local service companies for electricity, water, local transport, and housing. The amount of tax depends on the individual party or type of office, and varies from 5-10 percent of salary to certain fixed quotas in the case of the Election Action Solidarity councilors.[207] In the Freedom Union and the Civic Platform, members of supervisory boards and other members with functionary positions are compelled to

[205] See RFE/RL Report "Parliament to Probe Allegations of Big-Ticket Corruption." 5/1 (January 14, 2003).

[206] As a result of the 1998 administrative reform, political parties considerably increased the number of their councilors. See Szczerbiak (1998).

[207] In 1999, the AWS councilors were obliged to contribute 100 zlotys. However, the failure of many to contribute, and of others to give less than the sum asked for, reflected weak party discipline. Interview with Aleksandra Mietlicka, Warsaw, August 2, 2000.

contribute 10 percent of their salary. At the same time, over 60 well-paid Warsaw councilors gave an average of 10 percent of their salary to their party.[208] In fact, the increasing importance of party taxes collected at the local level appears to have added to the growing independence of parties' local structures. The importance of contributions from public employees for campaign finance should not be underestimated. For instance, in the recent presidential campaign, most of the senior office-holders of the presidential administration contributed to Kwaśniewski's 2000 campaign.

There is a significant difference, however, between the realities of the fundraising strategies of the post-communist and post-Solidarity parties. Whereas the post-communists (PSL) have an established capital base that generates a sustainable stream of income arising from their historically acquired assets, the post-Solidarity parties (UW and AWS) are forced not only to scale down routine funding, but also to resort to unconventional funding methods, using the resources at their disposal. These methods include increasing the share of political posts at the expense of the civil service and expanding the number of bureaucrats and managers paying party taxes. Thus, in the context of party taxes, the relationship between the parties and the state as a major source of financial resources comes into prominence.

One of the most important unofficial sources of funding politics in Poland includes the abuse of state resources. In fact, the reliance on state/party-owned enterprises and banks for financial resources had already started in the communist era. Different parties were contributing to this process after 1989, but certainly the stage of systemic abuse of state companies was reached again after 1993.[209] Łoś and Zybertowicz argue that in the 1993 – 1997 tenure of the ex-communist coalition, "the former nomenklatura circles both within and outside the government helped to mould and institutionalize a partially reformed, hybrid state–private economy."[210] In fact, most of the parties, both in government and in opposition, exercised patronage and illegal party funding, exploiting both large and medium-size state-controlled enterprises.

Indeed, as regards raising money for election campaigns and routine party activities, some practices of patronage from the old regime have survived, including the abuse of state resources and especially state enterprises. Since the beginning of the 1990s, Polish political parties, both in government and in opposition, have appointed loyal managers to control certain state enterprises. Research conducted for this study pointed to the existence of a large-scale patronage and clientelism connected with a system of illegal and non-transparent funding of Polish politics.[211] The full extent of funding by state-owned enterprises, such as PZU SA, PZU Życie SA, PKN Orlen, KGHM "Polska Miedź," Telewizja Polska SA, Totalizator Sportowy, PLL LOT, Pekaes SA, Poczta Polska and different banks, has yet to be fully revealed.

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[208] Interview with the secretary to the mayor of Warsaw, Councilor Krzysztof Łaptaszyński, Warsaw, August 1, 2001.
[209] See Walecki (2000), p. 113.
[210] Łoś and Zybertowicz (2000), p. 224.
[211] See B. Kittel "O nadużyciach w spółkach." *Rzeczpospolita*, May 8, 2002.

However, it was found recently that a network of advertising/public relations/consultancy companies was used to channel money from at least a dozen large state-owned companies to parties' affiliated media or advertising/public relations companies.[212] The mechanism was based, for instance, on commissioning companies such as Anon and Press Net to conduct public relations or advertising services for state-controlled enterprises or agencies.[213] Such PR or consulting companies, which were closely connected to certain politicians, demanded payments in excess of several times the regular price. A small percentage of the money was then spent on the actual service, while the rest disappeared to be used for an individual's or a party's political activities. Research has estimated that such contracts allowed the transferring from state enterprises to politics of between $25 million and $38 million in the period 1999–2001.

Such a triangular arrangement, as shown in Table [5], permits the allocation of public resources into controlled private firms (an intermediate stage) and then the transfer to political parties or individual politicians (final stage). This form of payment has also the advantage of reducing the possibility of criminal proceedings, since it is harder to prove that it is in fact illegal. Since most of these companies are organized as private corporations, they are not subject to civil service regulations and their managers are unconstrained when deciding about their financial transactions. Most of these public enterprises, controlled by politicians, represent an important resource for party organizations, particularly at the local level. In fact, managers of state-owned companies often acted as governors overseeing the party's interests: they were loyal to politicians who had appointed them and allowed a massive flow of corporate money to political parties and individual candidates. The weekly newspaper *Polityka* has recently described such practices in the Mining and Metalworking Copper Corporation (KGHM):

> KGHM, one of Poland's largest enterprises, has been suffering from ongoing draughts for the past 10 years. The wind blows alternately from the right and from the left. The reasons behind politicians' interest in gaining control of the corporation are obvious. They include enormous sums of money to distribute, unlimited power in the region and influence even beyond it. For almost ten years now, the boards of Polish Copper have been changing in accordance with power shifts in government.[214]

[212] See Dominika Wielowieyska "Jak Władysław Jamroży i Grzegorz Wieczerzak zbudowali warowną twierdzę." *Gazeta Wyborcza*, May 28, 2002; see also Maciej Duda and Daniel Walczak "Biały kołnierzyk sypie.' *Super Express*, February 10, 2003.

[213] In total, during 2000–2001, PZU Życie paid the AWS affiliated company 'Press Net' over 14 million zlotys ($3.5 million) for promotion and advertising. At the same time, the SLD-affiliated company Anon received over 9.8 million zlotys (about US $2.5 million) from PZU Życie. See "Bialy kolnierzyk sypie." *Super Express*, February 10, 2003 and Jerzy Jachowicz "Czy b. rzecznik MSWiA pomagał w 'wyprowadzaniu' pieniedzy z PZU Życie?" *Gazeta Wyborcza*, January 4, 2002.

[214] See "Coppers from Polish Copper. How to Suck Money out of a State-Owned Company—the Example of Polish Copper." *Polityka*, No 10/2002 (2339).

The newspaper described cases of the KGHM's illegal political finance affairs, including training for senior politicians,[215] sponsorship of political groups and the most suspicious case of all known as "the Congo investment."[216]

While precise income is difficult to calculate, we can safely conclude that the *de facto* amount of these plutocratic transfers was at least three to four times higher than the sum reported in the official statistics under the column "Contributions". Indeed, the change in the political landscape of the early 1990s caused the political parties' need of financial support to be matched by the bureaucrats' and state managers' need to secure support from the new ruling class of politicians. However, the uncontrolled expansion of parties' financial and economic bases maintained the strong "politicization" of the economy and civil service in Poland.[217]

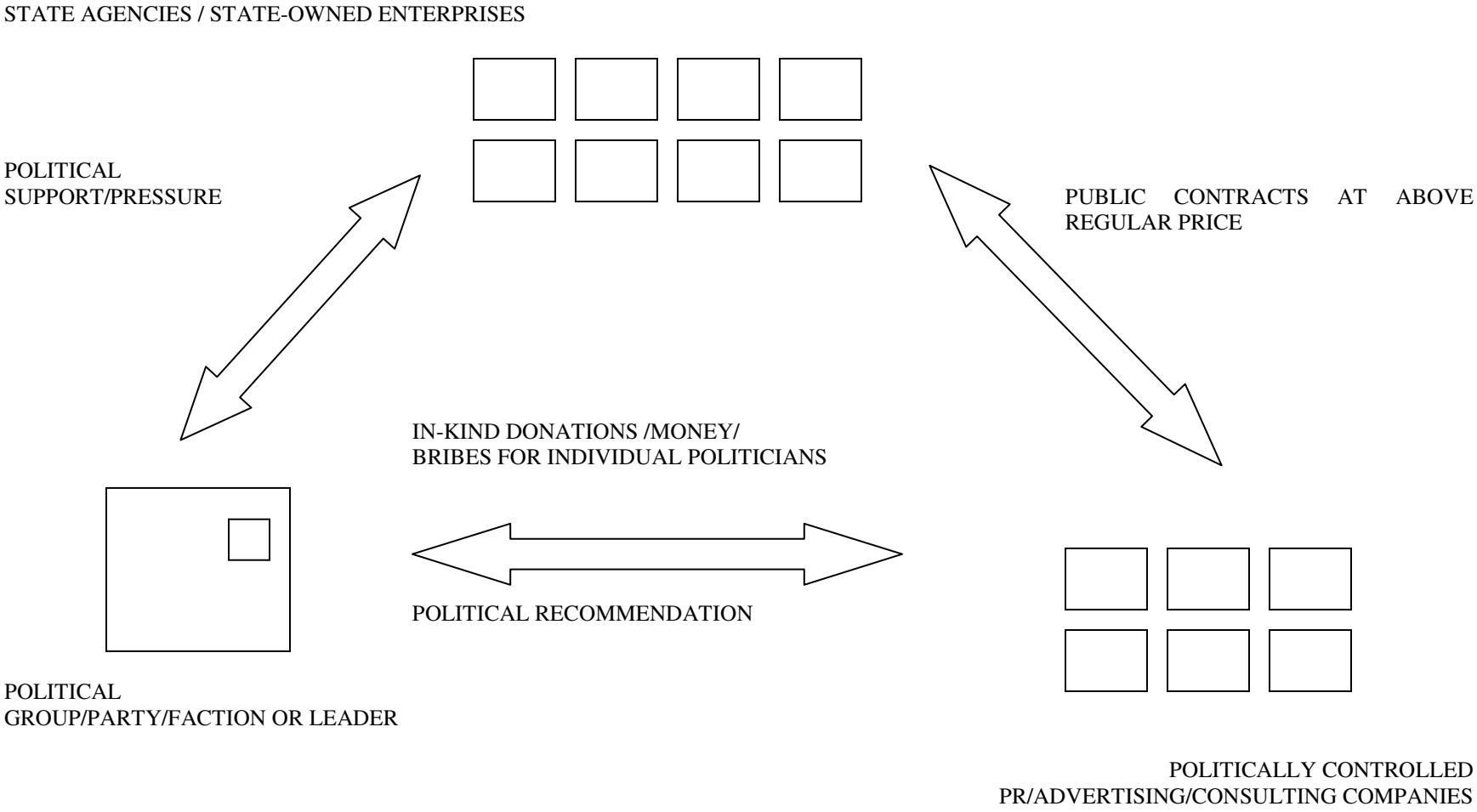
[215] Before the 2000 presidential elections, Polish Copper funded the stay of Marian Krzaklewski, chairman of Solidarity and presidential candidate, at the Bornit Hotel in Szklarska Poręba. The chairman participated in media training worth several thousand dollars.

[216] In 1999, it was reported to the Prosecutor's Office that KGHM had lost 32 million dollars in the Republic of Congo.

[217] According to a World Bank report, "[…] progress in liberalizing the economy, strengthening bureaucratic accountability and promoting political contestability might be expected to place some, albeit still imperfect, constraints on the extent to which individual firms can capture the state.' See *World Bank*, Policy Research Working Paper No. 2444.

Table 5

Abuse of State Enterprises: the Triangular Arrangement



Although the official statistics are obviously inadequate and unofficial information can only provide estimated amounts, it is nevertheless possible to draw a picture of real sources of political money in Poland. In contrast to official statistics, Polish political parties received on average at least three to four times more funding between 1997 and 2001 than officially reported. There are several reasons for this. Firstly, although in theory party budgets became public and were standardized by the 1997 law, in practice the law did not include most of the indirect state subsidies and in-kind donations. Moreover, the law proved ineffective in ensuring that the parties reveal their total income, including their local structures and individual parliamentary candidates. Finally, the legal regulations prohibiting party financing by public companies had, in reality, a limited effect. The official information and the unofficial story disclosed in different press articles and interviews diverge considerably in this regard.

Furthermore, as public subsidies were only symbolic, the parties depended increasingly on illegal contributions from state enterprises and plutocratic funding. In addition, owing to the widespread presence of political parties in public administration as well as in the public sector, the funding of political party routine activity has increasingly relied on the abuse of state resources. Almost all political parties receive money from their MPs, councilors and other holders of public office. It is estimated that "party taxes" have provided, and continue to provide, approximately 20 million to 30 million zlotys annually. Moreover, the political parties have taken over a large part of the public administration, nominating mid-level party bureaucrats as "political advisors" to senior governmental officials. Over the last few years, the SLD, the PSL and especially the Freedom Union have been the most efficient of the parties at collecting "party taxes" and creating "political advisors."

In addition, Polish political parties receive various forms of indirect state funding and in-kind subsidies, such as reduced rent for office buildings and free radio and television broadcasting. It is estimated that all major parties have received some 40 million zlotys of indirect and in-kind subsidies. Moreover, despite the formally marginal role of plutocratic donations, research has confirmed that political parties receive considerable amounts of money from corrupt sources. In fact, Polish parties have started to use front organizations, such as companies and foundations affiliated with a party, in order to collect these funds.

Although the Polish 2001 reform certainly provided a greater access to transparent and direct public funding to those parties that had achieved electoral success, it would be premature to conclude that this legislation marked the end of the protracted transitional period in Polish political finance. Even so, it has indicated a clear move from the post-communist model of shadow funding in the direction of the Western model, which is characterized by a more transparent and accountable system of political finance.

III. Conclusion

It is much easier to introduce elections or to abolish censorship than to ensure that all political actors compete on a level playing field. The failure to put a stop to the financial supremacy of the former regime parties, partly resulting from the Polish "pact-governed transition" and the deferred dissolution of the Polish United Workers Party, had an unforeseen harmful effect on Poland's efforts to create the political institutions necessary for democratic consolidation. The substantial differences between the funding of the post-communist parties and the post-Solidarity movements became a certain and permanent characteristic of the Polish political finance system. For instance, in 1999–2000 the expenditure of the Polish Peasant Party (PSL) was on average 25.5 times higher than that of the Labor Union (UP), and the financial imbalance between parties has influenced the process of political competition and party consolidation.

It has been suggested that the lack of diverse sources of money is the major problem of political parties in post-communist regimes, indicating that those parties have not yet reached a high level of institutionalization. But they are, rather, characterized by irregular flows of funds and relatively non-diversified financial sources where large anonymous donations are of fundamental importance. It is evident that some features of political funding in the post-communist systems are broadly similar to those of the former communist era. For example, Polish parties have continued to use improper channels of funding, involving state enterprises and governmental agencies and demanding contributions as a condition for obtaining public sector employment.

It may be premature to conclude with an explanation of how the new Polish regulations function, as they were introduced only in 2001; thus, a clear understanding of the extent and impact of new public funding arrangements in Poland must await further investigation. The data presented suggest, however, that the increase in scope of public subsidies had a positive effect, since it diversified the sources of funding. Although it is hard to analyze how successfully direct public funding will remove the practices of abusing state resources and plutocratic funding that has fuelled the financial corruption of the past, public funding limits the opportunity for corporations and wealthy individuals to exercise external control, capturing political parties and their policy-making capacities.

Furthermore, the official data included in this study illustrate that the level of campaign expenditures in Poland has risen, particularly with respect to the period 1990–2002. The increase in political expenditure, higher than in most established Western democracies, was particularly evident in the case of parliamentary elections; however, in contrast to most established democracies, the role of the paid media is of secondary importance as the overwhelming proportion of funds goes into printing materials, including billboards. On the other hand, if one were to include the cost of politics in an authoritarian regime and particularly the cost of the 1989 elections into its analyses, this thesis would prove that remarks concerning the "cost explosion" in Polish politics should be treated with caution.

The result of the 2000–2002 political finance reform was that Polish regulations became close to those of Continental Western Europe and more sophisticated than the legislation of most other post-communist states. The new legal framework made an important contribution to the Polish political finance system through promoting greater openness in political finance, prohibiting contributions from undesirable sources, providing substantial public funding to the major parties, limiting campaign expenditure on certain kinds of advertising such as political broadcasting, and strengthening the enforcement agency (NEC). However, the current political finance system is far from perfect since it has failed to encourage popular funding. As the evidence has shown, a lack of popular funding could become a fatal problem for Polish consolidated democracy. Indeed, each country has to find its equilibrium of public versus private funding, an equilibrium relevant to its own stage of democratization. The Polish case has shown that implementation of the arguable solutions, such as complicated requirements concerning contributions, brought about a negative effect that must be corrected again through new electoral reforms. Indeed, many new democracies, including Poland, will still continue to search for a better system of regulating money in politics. This will be a long-term process with new reforms being proposed, designed and enacted.

Party Funding in Russia

Jeff Gleisner[218]

I. Description of the Party-Funding Model

This chapter analyzes the development of the Russian party-funding model, with a specific focus on legislation passed in 2001. The chapter is based on analysis of legal documents and interviews with politicians and experts.

Russia did not have a law dealing specifically with political parties and their funding before July 2001. Between 1990 and 2001, party legislation fell under successive editions of a law that covered all civic associations.[219] Indeed, the word "party" had to wait until July 1998—when the law was amended—to make its legal debut. In this law "political parties" were described as one type of "civic organization," which itself was just one species of "civic association." New clauses, according parties special rights as "political civic associations," were inserted in the law.

However, parties continued to enjoy great freedom from outside regulation of their activities, including their financial affairs. Attempts were made throughout the 1990s, by parliamentarians keen to safeguard Russia's new political freedoms, to legislate parties expressly. A law on parties was passed by the State Duma in July 1995, but was vetoed by the Council of the Federation. The Committee on Civic and Religious Associations, which drew up the law, also drafted a bill on party funding.[220]

The parties did not feel a need for legislation. So long as their electoral rights were guaranteed, they were happy. Campaign finance was the only aspect of party funding closely regulated by law. A fresh legislative initiative on parties had to wait for the election of a new president in April 2000. A presidential law on parties, drafted in the Central Election Commission, was given its first State Duma reading in February 2001.[221]

1.1 Laws and Regulations on Party Funding

[218] The bulk of the material on which this article is based was collected during a seven-week visit to Moscow from May to July 2001. The author wishes to acknowledge the help of the following individuals in Moscow: Vladimir Lepekhin, Irina Gavrilova, Tatyana Khol'shennikov (State Duma); Yevgenii Koloshin, Yevgenii Tarasov (Central Election Commission); Alexander Ivanchenko (Independent Institute of Elections); Yuri Moskovsky (Fatherland); Ivan Rybkin (Socialist Party of Russia); Nikolai Kharitonov (Agrarian Party of Russia); Victor Zelenkin (Union of Right Forces); Mikhail Mizulin (Civil Service Academy); and Anna Rumyanina (Ministry of Justice). For their hospitality and support, the author thanks Olga Sidorovich and her staff at the Institute of Law and Public Policy (Moscow) and Alexander Dron. The final acknowledgement goes to Daniel Smilov, Michael Pinto-Duschinsky and the participants in a workshop on party funding and election finance held in Budapest in November 2001 for their challenging encouragement.

[219] "Ob obshchestvennykh ob'edineniyakh," April 14, 1995. Moscow: Izd. Os' – 89, 2000.

[220] "O finansirovanii politicheskilkh ob'edinenii," n.d.

[221] Federal'nyi Zakon. "O politicheskiikh partiyakh," Gosudarstvennaya Duma, December 28, 2000. According to the head of the Duma's working group on the law, Vladimir Lepekhin, the legislation was the product of a small group, comprising two members each of the legal departments of the presidential administration and the Central Election Commission, two experts (including himself) of the Duma Committee on Civic Associations and Religious Organizations, and two of the committee's elected members.

In July 2001, the law on civic associations, as it applied to parties, gave way to a law on political parties, of which approximately one third was devoted to funding. This law did not complete the legislative picture, since the statute did not govern the funding of party factions in Parliament. Furthermore, as our analysis will show, its rules themselves were incomplete.

1.1.1 Party Funding Law before 2001

The funding rules for parties after the 1998 amendments retained most of their previous flexibility. Until 1998, parties were permitted to draw unrestricted amounts of income from an unlimited variety of sources, with a minimum level of accountability to their members, to the state and to the Central Election Commission. After 1998, "political civic associations" were however barred from receiving "financial and other material assistance for activity linked with their participation in elections from foreign states, organizations and citizens."[222]

Generally, parties were allowed to fund themselves as they saw fit. If they possessed recreational facilities, for example, it was the parties' decision whether or not to charge for their use. Parties were allowed to own virtually anything. The law obliged parties to include in their charters an account of how they formed their "monetary resources" and property holdings. But the law did not require parties to designate in their rules a business manager. And while ownership of party resources was vested in the "whole party," no mechanisms were put in place to ensure that members could give effect to these putative powers. Parties were not required to be internally democratic.

Their external reporting duties were minimal, too. They were obliged to make their accounts available for inspection, and upon request to provide the registering organ (Ministry of Justice) with copies of their tax returns. They were not required to reveal the identities of donors. Disclosure rules applied only for the limited periods when party activities fell within the jurisdiction of election laws. So, for example, foreign-funded election training could be conducted before the period in which it fell under the rules governing campaign finance, which forbade it. This deficient funding regime came to an end in July 2001.

1.1.2 The Law on Political Parties [223]

This law seeks to create parties that are national in scale. Parties are to be of a minimum size and spread. They are to have no less than 10,000 members, with a minimum of 100 members in each of the 45 "subjects of the federation," and 50 members in each of the remaining 44 "subjects." Previously, parties were only required to have 5000 members in order to qualify as "electoral associations."

As they must be national in scale, so parties cannot be sectional in their appeal. Parties espousing religious, racial, ethnic and professional causes are forbidden. But, parties espousing social justice are permitted. Regionally based parties are not legally prohibited, but they are effectively ruled out by the clauses on membership. Parties may not be composed of members drawn from "a single profession." The law forbids collective membership.

Parties have to follow a tightly regulated sequence of legal steps in order to register. The registering body consists of the federal and regional organs of the Ministry of Justice.

[222] "Ob obshchestvennykh ob'edineniyakh," op. cit., p. 35.

[223] This summary is limited to the articles of the law that have implications for funding. The text used throughout the chapter is the amended version of the law passed by the Duma at its third reading and later signed by the president: Federal'nyi Zakon."O politicheskikh partiyakh," Proekt No. 4355–3 v tret'em chtenii.

The legal process begins with the federal registration of an organizational committee, comprising not less than ten persons. This committee arranges the founding party congress, at which a minimum of 150 "delegates" from 45 regions and republics has to be represented.

The congress elects the party's governing organ, approves the party's rules—which have to comply with democratic norms—and adopts a program. The party then has to register itself nationally, after which it registers its regional branches with the local organs of the Ministry of Justice. The process is completed when the Ministry of Justice approves the regional registration documents.

After registration, the registering organs have extensive supervisory powers over parties. The Ministry of Justice is authorized to check that parties obey the law, observe their own rules and. pursue their stated aims. The ministry has to confirm annually that parties do not fall below the minimum membership requirement and have the requisite number of regional organizations. Ministry representatives are entitled to attend all party meetings.

The Ministry of Justice can suspend a party that infringes its own rules or breaks the law on parties. However, a suspension order cannot be issued during an election. Also, parties that have entered the State Duma on a party list cannot be suspended within five years of their election. Parties may appeal to the courts against a suspension.

Parties are obliged to contest elections. The law establishes minimum norms for participation in parliamentary, presidential, gubernatorial, regional and municipal elections. Membership of an electoral bloc counts as participation. The norms range from contesting a federal presidential election to fielding candidates at municipal elections in at least half of the subjects of the federation. Failure to meet the norm in one of the above elections over a given five-year period is a ground for suspension.

Parties are now the *only* type of organization that is allowed to participate in elections. Civic associations may join an electoral bloc with parties, but they are not entitled to put up their own candidates for election. The law does not regulate the activities of civic associations other than in their capacity as members of an electoral bloc.

1.2 Party Structures Dealing with Party Funding

The Law on Political Parties outlines a basic party structure required by law. A party's organizational committee must appoint a financial manager, who has to open a bank account. This information must be lodged with the Ministry of Justice. The funding of the committee's work falls within the rules on donations and disclosure. The funds and property accumulated by the committee are transferred to the party after its founding congress.

The charters of the political associations represented in the Council of the State Duma since 1993 are other sources of information on party structure. These charters generally seek to answer three questions: who has overall authority for party funding, how is day-to-day financial management carried out and what internal arrangements are made for control and scrutiny?

In outlining party funding structures, party charters differ little from one another, although some are more elaborate than others. Overall funding authority is usually vested in a representative body such as a central council, and operational decision-making is devolved to a smaller grouping. A majority of parties have an officer with financial responsibilities (the financial director of the SPS is a member of the party's executive committee). Most parties make some provision for auditing their accounts. The SPS and "Yabloko" do not

allow party officials and the occupants of elective posts to sit on their audit commissions. The SPS allows its Revision Commission to call on specialist help. None of the charters mentions codes of conduct. [224]

There is a tendency in Russian party-funding structures for an overlap of major party and parliamentary roles. In the CPRF, for example, the key figures in the party-funding structures also hold top parliamentary jobs. The party's business manager is deputy head of the apparatus of the party's State Duma faction, and the head of the apparatus is a secretary of the CPRF's central committee and an elected member of the State Duma. An enquiry about the financial management of "Yabloko" also led to the State Duma. The SPS has a more professional set-up, in which there is a clear separation of party and state. It has, at the party's headquarters, a finance department headed by a financial manager.

1.3 Membership Dues and Affiliation Fees

Table 1

Party Membership Dues

[224] Sources: *Ustav obshcherossiiskoi politicheskoi organizatsii "Politicheskaya partiya Soyuz Ravyikh Sil," Proekt* (May 21, 2001); *Agrarnaya partiya Rossii. Programma I Ustav* (1998); *Obshcherossiiskoe obshchestvenno-politicheskoe dvizhenie zhenshchin rossii. Ustav.Programma* (1997); *Ustav obshcherossiiskoi politicheskoi obshchestvennoi organizatsii "Ob'edinenie Yabloko"* (1998); *Programma I ustav. Liberal'no-demokraticheskoi partii rossii* (2000); *Ustav obshcherossiskoi obshchestvennoi organizatsii "Kommunistecheskaya partiya rossiiskoi federatsii"* (1997); *Ustav Sotsialisticheskoi partii Rossii* (1996).

Party	Rules on membership dues
Union of Right Forces (SPS)	Dues payable; no fixed rate; income from dues stays with party organizations. (Not in charter)
Fatherland	Dues payable; no fixed rate
"Yabloko"	Members expected "to participate in the activities of the Association by practical or material means"
Women of Russia	Does not levy dues
Agrarian Party of Russia	Dues levied at 1 percent of members' monthly income; primary organizations may waive dues for non-working members.
Communist Party RF	Dues levied at 1 percent of member's income; territorial organizations may reduce by 0.5 percent dues of pensioners, students and other members. Dues divided between regional, primary and central party organizations in the ratio of 60/20/20.
LDPR	Members pay 1 percent of monthly income in dues or "material Equivalents." Party levies a joining fee.
Socialist Party of Russia	Dues paid to account of party's ruling organs. Dues divided 50/50 between regional organizations and federal organs

As Table 1 shows, parties made a variety of arrangements for the payment of dues. Since the accounts of Russian parties (before 2002) were not available for public inspection, it is not possible to estimate the amount of income they collect in dues or to determine what proportion these dues represent of total party income. Given the loose reporting requirements, it is quite possible that the parties do not themselves know the answers to these questions. The "Yabloko" regional secretary quoted earlier stated that that 5 percent of his organization's income in 1998–2000 came from membership dues.[225] His organization allowed its members to pay what they could afford. The Socialist Party chairman, Ivan Rybkin, stated in June 2001 that party members contributed 10 percent of the party's income.[226]

1.4 Private Donations

According to the new legislation, most donations have to be made through credit organizations. Donations may be paid in "kind," but these have to be given monetary equivalent value. Donations are allowed from organizations and individuals. Anonymous donations are prohibited.

[225] Yabloko secretary, op. cit.
[226] Interview with author, June 20, 2001.

The law adopts the donor exclusion rules already in operation for Russian elections. These prohibit donations from foreign states, organizations and citizens; stateless persons; Russian nationals under the age of 18; Russian profit-making organizations with a foreign capital stake of more than 30 percent; international organizations and international social movements; state and municipal organs; organizations with 30 percent or more state or municipal holding; military bases and organizations, law-and-order organs; charities and religious associations; organizations that have not been registered for more than a year; and as stated, anonymous donations.

However, parties are allowed to raise a small amount of donation income in cash. Also, they may collect joining fees and membership dues in cash; no ceilings are placed on money collected this way.

The law places an annual ceiling on donations from individuals and organizations. In addition, a limit is placed on the total amount of donor income a party may receive in a year. It also specifies the amount regional and national organs are allowed to collect in donations. Donation ceilings are expressed as multiples of the minimum monthly wage (MROT), and together they yield the donation structure depicted in Table 1.

Until 2001, the legislative regulation of private donations to parties was principally within the framework of Russia's election laws. Donations to political parties between elections were virtually unregulated. This alone makes it a difficult subject for researchers. But there are three further factors that complicate the study of donations.

First, the terms "individual," "corporate" and "state or municipal," when applied to money in Russia in the 1990s, do not necessarily refer to discrete donors. For example, how is a donation made by a manager on behalf of a business organization without the consent of its legal owners to be classified (Khlebnikov, 2001)?[227]

Secondly, where is the boundary between "state" and "corporate" to be drawn when "the majority of the private capitalist institutions which came into being in Russia in the 1995-98 period were kept afloat only by the informal financial channels of the state" (Pastukov, 1999: 13).

Third, the widespread use of cash in making donations effectively places party funding beyond the reach of investigation, and consequently regulation. The State Dumas's decision to allow a modest amount of cash donation in the law on parties was greeted with the outraged cry of *chernaya kassa* ("the black cashbox") by the president's representative at the State Duma.[228]

With these caveats in mind, we propose a number of generalizations about "private donations" to Russian parties, based on well-informed secondary sources. We have made sparing use of unconfirmed reports.[229]

The main source of private funding for Russian parties between 1995 and 2001 were the country's "financial–industrial groups." Between 1994 and 1998 these groups appeared to

[227] Khlebnikov points out that the Berezovskii's wealth was based, not on ownership, but on control over the cash flows of the "financial-industrial" group under his authority.
[228] Gosudarstvennaya Duma Stenogramma zasedanii, Biulleten' No. 95 (543), May 23, 2001, p. 35.
[229] The sources include Pappe, 2000; Mukhin, 2000; and Makfol and Petrov, 2000. Also A.A. Mukhin (2001) *Biznes-elita i gosudarstvennaya vlast': Kto vladeet Rosiei na rubezhe vekov?* Moskva: "Gnom I D."

have money to burn on politics.[230] After the August 1998 financial crisis, funds for parties became scarcer, and all parties, except for the Kremlin-backed "Unity" party, had problems funding their parliamentary election campaigns in 1999.

The principal beneficiaries of private funding were the "parties of power." Russia's gas and oil giants, Gazprom and Lukoil, consistently funded Kremlin-sponsored parties. "Our Home is Russia" (1995–98) and "Unity" (1999). It was only during a period of disarray in the Kremlin—one that lasted from the August 1998 crisis to autumn 1999—that these companies began to sponsor the regionally based "party of power" "Fatherland–All-Russia." It was noticeable how they reduced their funding of this bloc as soon as "Unity" came on the scene.

The main liberal opposition parties also enjoyed significant funding support from Russian conglomerates. The Most Group, headed by Vladimir Gussinskii, consistently supported "Yabloko" from 1993, both with funds and with favorable treatment on NTV, the independent TV channel then owned by the group. "Yabloko" was also funded by Yukos–VNK, a diversified conglomerate with wide interests in banking, oil and light industry headed by Mikhail Khodorovskii, whose career was built on CPSU money.

By all accounts, Gussinskii also funded both the SPS (in 1999) and its "democrat" predecessor "Russia's Democratic Choice." But the SPS's chief fund-maker and architect, as indicated, was Igor Chubais, chief executive of RAO "EES Russia." It is probable that the SPS enjoys the financial support of banking groups with Western connections and interests such as Alfa Group as well. In the 1999 State Duma election, the SPS is believed to have received financial support from "Siberian Aluminium," a fast developing business group.

The CPRF and the Agrarian Party, both large State Duma groupings in each of the post-1993 parliaments, also had links to significant private donors. Before its collapse in the wake of the August 1998 crisis, SBS Agro-Bank, which handled Russian government credits to agriculture, enjoyed close relations with the Agrarian Party's State Duma faction. And on the CPRF one analyst writes:

Officially subsisting on membership dues, this party is widely integrated into the financial system of contemporary Russia, having connections with companies arising on the base of the Soviet economy. At the same time the CPRF is closely linked with enterprises of the military–industrial complex, energy and machine-construction. It also has a working relationship with leading financial–industrial groups and financial and political groups that exercise a significant influence on Russian politics—such as Gazprom and the group around Luzhkov (Makfol and Petrov, 2000: 114).

An important role in forging these connections has been played by a number of "red businessmen." These include Victor Vidamov, president of Rosagropromstroi, who since 1998 has had a seat on the CPRF presidium, and Valerii Vorotnikov, president of a private security firm, VZOR, who was number 11 on the party's 1999 State Duma list. The

[230] An unidentified source quoted in Osipov (Osipov, 1995: 126) states that Gazprom contributed 5 billion roubles to the 1995 election campaign of "Our Home is Russia," and that the banks which took part in party construction paid a "monthly election tax" of between 500 million and 1 billion roubles.

CPRF also has connections with the Russian Academy of Agricultural Sciences, which is believed to control a number of commercial and educational ventures.[231]

There has been much speculation about the funding of Russian parties by organized crime. Among political leaders of national significance, Vladimir Zhirinovsky, the LDPR leader, is the one that has made the most significant gestures towards the criminal world. In 1998, in order to attract voters, he described his part as one able to promote the interests of 'bureaucrats, bankers and criminal structures specializing in economic crimes.'[232] The LDPR has also opened its doors to individuals with dubious pasts.

1.5 Tax Status of Political Parties

Three areas of Russian taxation law are relevant to the tax status of political parties: tax on profits, value added tax, and tax on individuals.[233]

In Russian law political parties count as non-commercial organizations. They are therefore not taxed on income received from donors. Before 2002 there were few external checks on the way non-commercial organizations disposed of such income.

From January 2002 tax officials are to verify that this income is used for the ends stated in the charters of such organizations. This is part of a drive by the authorities to clamp down on tax evasion by organizations claiming a spurious non-commercial status. New tax registers are to be drawn up for non-commercial organizations. Also with respect to their business activities, parties are now required to make quarterly tax returns on their profits.

Parties are similarly charged VAT at 10 percent on political advertising in the press and electronic media. Party activities that do not involve "the production of goods and services" are exempt from VAT. Also, parties are not charged VAT on income from economic activity for the preceding tax quarter that does not exceed 1 million roubles. Parties do not pay VAT on income from their charitable work.

The tax code makes no special provision for the employees of political parties. Parties cannot pay tax on individual incomes from the funds of the organization. There are no tax breaks for individual donors to political parties (but see Appendix I). Philanthropic assistance to parties is likewise not tax exempt (parties do not qualify as charities). The *per diem*s of party employees working away from home are not subject to tax.

1.6 *Party Assets*

The law seeks to unify party finances. It does so by amplifying and extending current rules regarding party assets. It reaffirms common ownership of party property. It states that the

[231] Luke March, private communication.
[232] *Moscow Times*, September 14, 1999.
[233] This section is based on the presentations of senior officials of the Ministry of Taxation to a seminar on the financial aspects of the 2001 law on political parties hosted by the Central Election Commission on February 7, 2002. The materials of the seminar were published in May 2002 as *Pravovye aspekty deyatel'nosti politicheskikh partii* (Moskva: Tsentral'naya izbiratel'naya komissiya, 2002). Further information on the seminar is to be found in an appendix to this chapter.

assets of local and regional party organizations belong to the party as a whole. Lower party bodies are entitled to make use of these assets. They have their own balance sheets, and pay their own bills. However, the central party has to make good any shortfalls in their income. Both central and regional party bodies have to appoint someone authorized to answer for financial matters. Parties must hold their funds in bank accounts, and only one account is allowed per organization.

By a decree of the Russian president published on August 25, 1991, the assets of the Soviet Communist Party (CPSU) and the Communist Party of the Russian Socialist Federation (CP RSFSR) were "declared" to be state property. The decree covered all types of property, including funds held in banks in Russia and abroad. The Ministry of Finance and Russia's banks were ordered to make an inventory of these assets, which were to be disposed of by the federal government and local authorities. The contents of this inventory were never published (Rudinskii, 1999: 204–14).[234]

Since 1991 there have been rumors about the "secret funds" of the CPSU. Neither the press nor court interlocutors succeeded in uncovering any such funds. It might be argued that the reason why no evidence was found was that the Party's undeclared assets had already been "departised" by their conversion into bank or trading capital. In 1990, Gorbachev was believed to have transferred the entire Chernobyl Fund, to which the Party had made a R500 million donation, to the fledgling commercial bank Menatep, run by Mikhail Khodorovskii.

Pavel Khlebnikov claims that the KGB pursued a strategy after 1990 of putting undeclared Communist Party money into banks and trading companies. He refers to a secret memorandum that the First Administration of the KGB is alleged to have drawn up in 1990 for Kruchin (Khlebnikov, 2001: 59). A difficulty for the "Klebnikov" view is the fact that, as late as August 5, 1991, the head of the Humanities Department of the CPSU, acting on the instructions of Gorbachev, drew up a memorandum urging the Party to find "imaginative ways of preserving Party property before they are forced to forfeit it." A copy of this memorandum was presented to the Constitutional Court.

The case for hidden Party assets thus remains unproven. Also unproven is the claim that the Party had either capitalized its assets or changed their form of ownership to any significant degree before they were appropriated by the new regime.

The fullest account of CPSU assets remains, therefore, the evidence given to the press in 1991 and to the Constitutional Court in 1992 by the Party's own officials. In March 1991 Kruchin put the value of the property owned by the CPSU at R4.7 billion (approximately $35 billion at 2001 prices). This valuation resulted from a decision of the Twenty-eighth Congress to draw up an inventory of Party assets.

Kruchin divided the assets into three categories: (a) Party offices and establishments such as Party schools, (b) publishing facilities and (c) recreational facilities and sanatoria. Falling under the first category are the central Party establishments, valued at R133 million; the business department of the Central Committee, holding R763 million more on reserve in its own account; 3700 administrative buildings valued at R2 billion that had been provided at the Party's own expense and in the possession of local Party organizations; 1,000 buildings jointly financed and shared with non-Party bodies such as soviets, and a further 200 premises now used as Party offices that had once belonged to non-Party organizations; and finally, the 337 buildings that the Party rented out.

[234] Rudinskii, whose sympathies lay with the communist side, was the secretary to the court

By 1998 the main Russian parties had obtained premises to house their headquarters' staff. The Agrarian Party, which had its center of operations in the 1993 State Duma elections in the Ministry of Agriculture, was now quartered in palatial premises. By 2001, following the bankruptcy of Agro-Bank, one of its main sponsors, it had moved to more modest surroundings. The Agrarian Party employs around fifteen staff members at its new Moscow office.

"Democratic Russia," which is now united with other liberal groupings in the SPS, has preserved its core *aktiv*, who are among the 30 full-time staff employed at SPS headquarters. The SPS shares its premises with a foundation known as the "Movement for Democratic Initiative" (DDI). The foundation is the owner of the building it jointly occupies with the SPS. It is not uncommon for a Russian party to rent its premises from a foundation closely associated with it. The central offices of the Socialist Party of Russia, for example, belong to a foundation called *Soglasie* ("Agreement"). The party chairman is a member of the foundation's governing council.

Parties – or parts of them – may have their offices in publicly owned buildings. The Consultative Council of "Fatherland", for instance, is based in the Moscow House of Civic Associations, which is the property of the Moscow government. The terms of this arrangement are not clear.[235]

1.7 Party Press

All the major political parties publish newspapers or magazines. Some parties, such as Fatherland and Yabloko for instance, publish up to three different publications. Usually they are published weekly, monthly or bi-monthly. The circulation varies between several thousands to a hundred thousands. The exception is a monthly LDRP with the circulation of 500,000 copies. All but one of the newspapers featured in Table 4 is currently registered, wholly or in part, in the name of the parent party. The exception is "Red Square," which is registered in the name of the Socialist Party chairman.

1.8 Party Business

Parties are permitted to engage in a limited range of business activities. They are restricted to carrying on business in just three areas: media and publishing, real estate and the production of party souvenirs. Although the law bans donations from charities, it allows parties to operate them.

Russian parties, by all accounts, do not earn significant income from economic activity. We noted that the CPSU, immediately prior to its demise, was beginning to augment its income with business earnings. There were reports in 1991 that it was proposing, with unnamed Western banks, to create an international bank in Moscow. The Party's business managers, at the *Izvestiyia* press conference, refuted these reports. Party money donated to the Chernobyl Fund is, however, believed to have found its way into the nascent Russian commercial banking sector (Mukhin, 2000: 210).

[235] The switchboard at the House of Civic Organizations announced itself as "Fatherland" when the author rang for an appointment in June 2001.

There are limited opportunities for parties to engage in business under the Law on Political Parties. Even the list of economic activities allowed by the law was practically forced upon the Central Election Commission. The CPRF, which in common with many Russian parties is currently experiencing financial problems, was particularly unhappy with the clauses on "economic activity." It proposed, without success, that parties be allowed to charge for educational activities.[236] And it made common cause with the SPS in seeking – again unsuccessfully – to exclude from the law a clause outlawing any economic activity not permitted by the legislation.[237] The LDPR was another party that did not like the law's grudging attitude to economic activity. It tried, in vain, to exempt business earnings from reporting requirements, and it had earlier opposed the ban on anonymous donations.[238]

The main business opportunities for Russian parties are in the media and the stock market. The CPRF currently has a project to create its own TV channel. We would expect the SPS, in particular, to earn money from stocks and shares. Parties that receive significant "donations" from their leaders are possibly financed by such sources.

1.9 Party Foundations

As non-membership organizations, party foundations are a significant political resource in a society with weak parties. They are an important way of promoting causes and individuals perceived to be of actual or potential influence. Foundations are also a way of attracting support from sources that prefer not to be directly associated with parties.

However, the main attraction of foundations for party leaders may be that they free them from control by party members. Foundations provide political entrepreneurs with an independent resource base. Putting party funds in a foundation is a way of protecting assets; vesting the ownership of party property in a foundation serves the same end.

Western governments and foundations ran numerous programs of assistance to Russian parties in the first post-communist decade. This aid was invariably directed at parties and movements professing a liberal democratic ideology. "Democratic Russia" and "Yabloko" were the main beneficiaries. A "Yabloko" regional secretary reports that "practically" the entire apparatus of his organization attended training courses in Moscow and St.Petersburg funded by the US National Democratic Institute, which also paid for a study trip he made to Washington. This money was channeled through the central headquarters of the party.

1.10 Public Funding of Political Parties

Parties are to receive a small amount of *direct* state funding. The state is to finance parties directly in two ways. Annual payments are made to parties that receive 3 percent of the federal constituency vote, or win 12 single-mandate seats, yet receive less than 2 percent of the federal constituency vote in the State Duma elections. An annual payment is also made

[236] Tablitsa No.2, op.cit., popravka 339. The Committee on Civic Associations and Religious Organisations recommended that the Duma accept this amendment; the President's representative at the Duma insisted on its rejection.
[237] Tablitsa No. 2-1, op.cit., popravka, 490
[238] Ibid., popravki, 525, 464

to parties whose candidate receives 3 percent of the vote in the presidential election. Parties that qualify for state funding are to receive a percentage (0.005) of the minimum monthly wage (MROT) for each vote cast for them.

Parties allied in a bloc, unless they have come to a different arrangement, receive equal amounts of funding. Parties receive their funds within three months of the publication of the State Duma election results, and not later than a year after the conclusion of the presidential election. This money is transferred directly from the state budget into party bank accounts.

Altogether approximately one million dollars was made available annually for distribution to "winning" parties in 2004. Parties are not obliged to accept state funding.

The law also sets up *indirect* forms of state support for parties. It gives state and municipal bodies the right to provide parties with access to public media, premises and communications. But it does not oblige them to provide such access. Should the right be exercised, the following conditions apply: (a) parties must be accorded *equal* access to these facilities, and (b) with respect to premises and communications, access must be provided on the same terms as for other users. These facilities may be used during elections for campaign purposes and between elections for "social and political actions."

Table 2

The 2001 Rules on Party Donations and State Funding

Funding source	**Ceilings – annual**	**Totals – annual**
1. Individual donors	10,000 x MROT	$37,000
2. Donations from organizations	100,000 x MROT	$3.7 million
3. Cash donations	10,000 x MROT	$37,000
4. Total party donations (to regional organizations)	300 million x MROT (200,000 x MROT)	$37 million ($0.75 million)
5. Annual state funding for parties receiving 3 percent of State Duma Party List votes or winning 12 State Duma single-mandates and 2 percent of the List vote.	Number of votes x 0.005 MROT	$2.5 million
6. A single payment from the state budget to parties whose presidential candidate receives more than 3 percent of the vote.	Number of votes x 0.005 MROT	No information.

Note: MROT stands for the minimum monthly wage: 300 roubles. A law passed in February 2000 states that MROT for *non-wage* purposes is one-third of this figure. The leader of the Central Election Commission working group on parties, Yelena Dubrovina, confirmed in February 2002 that non-wage MROT (100 roubles) would be used for determining funding limits: see *Pravovye aspektyi deyatel'nosti politicheskikh partii*

(Moskva: Tsentral'naya izbiratel'naya komissiya Rossiiskoi Federatsii, 2002), p. 16. The dollar totals are based on mid-2001exchange rates.

1.10.1 General Direct Funding

There is no direct public funding of party activities unconnected with the fulfillment of their parliamentary functions between elections in Russia. The system of annual state funding for parties came into force until after the parliamentary elections scheduled for December 2004.

Public funding of party factions and deputy groups of the State Duma has existed since December 1993. The framework for this funding is an internal Duma regulation governing the work of party factions and deputy groups. This regulation provides for bilateral agreements between faction/group leaders and the senior officer of the Duma apparatus. The relevant clause of the 1998 agreement governing the Agrarian Deputy Group reads: "The level of funding is determined by the size of the group. Outlays on the apparatus of the group and on the material-technical provisioning of the group is dealt with in the expenditure accounts of the State Duma."[239]

Enquires among deputies regarding published copies of the Duma expenditure accounts yielded no results, nor were published copies publicly available. A senior member of the Committee on Legislation states that the Duma's budget cannot be accessed on its website. She herself has never seen a copy of the Duma's accounts.[240] It is the business department of the presidential administration that funds the Duma.

Nevertheless party factions and deputy groups - at least with respect to premises and certainly relative to committees – do not appear suffer as a result of the bilateral agreements. Their leaders usually have for their personal use two private rooms and a bathroom; one or two large offices for use by their closest staff; and for faction and group meetings, a conference room, plus a large vestibule. Larger groupings, in addition, have numbers of smaller rooms at their disposal along the corridor running from the faction or group vestibule.

The 2001 law on political parties does not deal with the financing of parliamentary factions. Their funding continues to be determined by political negotiations. This arrangement cannot be wholly explained by the aversion of deputies to putting their affairs on a legal footing. They have been very conscientious legislators with respect to their individual arrangements. Legalizing the funding of party factions, however, would re-open

[239] Polozhenie ob apparate Agrarnoi deputatskoi grupp v Gosudarstvennoi Dume Federal'nogo Sobraniya Rossiiskoe Federatsii', September 23, 1998, p. 2.

[240] Interview with author, June 8, 200. The deputy head of the Duma apparatus, I.V.Grankin, states that in 1998 the Duma had a budget of 692,069,000 roubles, compared with a budget for the presidential administration of 726,553,700 roubles. He also states that the Duma had a deficit on current expenditure of approximately 13 percent, which significantly rose after the 1998 financial crisis. See I.V. Grankin (1999) *Parlement Rossii.* Moskva: "Konsaltbankir", p. 120. It is interesting that Grankin himself takes these figures from newspaper articles.

a number of other issues, notably the questionable status of deputy groups.[241] It would probably also necessitate a law on the federal assembly.

1.10.2 Direct and Indirect Funding of Deputies and Their Assistants

On June 23, 1999, the State Duma agreed on the final amendments to a law passed five years earlier on the status of deputies.[242] Twenty-two of the law's 55 articles deal with the material, welfare and employment rights of deputies, their families and their assistants. These rights confer both direct and indirect funding benefits.

On salaries, the law reaffirms equal pay for deputies, and equal pay with federal ministers. The chairmen of the Duma and the Federation Council receive the same salary as the prime minister (the chairman of the Council of Ministers). Deputies of a Parliament that has run its course receive one month's severance pay.

Deputies have 50 percent of their travel and removal expenses paid for them upon taking up and leaving office; they are reimbursed a further 25 percent of the expenses of each family member. Deputies with 1–3 years of service have pension rights worth 50 percent of their final salary; this rises to 75 percent for deputies with three years or more service.

Deputies are paid annually a further two month's salary to meet their health needs. Deputies can claim expenses to the sum of five times the annual minimum wage. They have 48 days annual paid leave. Ex-deputies and their spouses are entitled to return to their former jobs or must be found an equivalent position. In the event of the Duma being dissolved, deputies are paid immediately three month's salary, and they and their families receive free removal and travel expenses to their permanent place of residence.

Deputies from outside Moscow are housed in flats furnished and provided by Parliament. All deputies have free and unlimited personal use of internal travel and communications. They receive comprehensive life insurance and unlimited medical insurance. Deputies are entitled to the same level of health and rest care as federal ministers. The law guarantees deputies an appropriately equipped office. They are provided with a rent-free office by their local authority for constituency work.

Deputies are allowed to employ five paid assistants, and may use up to thirty unpaid volunteers. Each Duma-based assistant has to be provided with working space. Assistants are engaged only for duties linked to a deputy's parliamentary work; but they may take up other part-time employment. Deputies are allocated a sum of money 1.65 times their own annual income for the salaries of assistants. The amount paid to each assistant is at the

[241] It is claimed by some prominent deputies and lawyers that there is no constitutional basis for giving deputy groups the same rights as party factions in the governance of the Duma. Grankin advocates the abolition of deputy groups (Grankin, op. cit., p. 121).

[242] 'O vnesenii izmenenii i dopolnenii v Federal'nyi zakon. "O statuse deputata Soveta Federatsii I statusa deputata Gosudarstvennoi Dumy Federal'nogo Sobraniya Rossiiskoi Federatsii," June 23, 1999.

discretion of the deputy. Although assistants are officially employed in connection with parliamentary work, they are often diverted to party tasks.[243]

1.11 Reporting, Disclosure, and Enforcement

Party funding rules derive their force from reporting requirements and sanctions. The 2001 legislation is stronger on the first element than the second. Parties are obliged to submit an annual return to the tax authorities not later than March 20. This return must cover the sources and amount of income received by the party, its regional organizations and any registered sub-units; show how this money was spent; and also value party property, providing evidence of its registration. Parties have to submit a separate report for their campaign expenses.

The tax organs have the right to check a party's return and to inspect the books of its regional organizations and any registered sub-units. The Ministry of Justice must post parties' financial returns on a special Internet site not later than two months following their submission to the federal tax organs. The Ministry of Justice has one further funding-related duty. As the organ responsible for ensuring that party charters conform to the new law, it exercises oversight with respect to the way the funding sections are written. But control over substantial funding matters belongs to the tax organs.

The law does not, however, specifically penalize infringements of funding rules. These are treated the same way as other infringements of the law, namely with warnings from the Ministry of Justice, backed up by the threat of suspension, leading to possible closure. The ministry is not permitted to suspend a party for alleged funding misdemeanors during elections. The law is silent on what role, if any, the tax police is to play in enforcing funding rules.

1.12 Political Scandals

In general, there have been scandals linked to campaign finance, but not to party funding in Russia. Party funding was not used as a weapon in the "information wars" of Russian oligarchs between 1996 and 2000.[244] In fact, the media paid little attention to political finance between elections. The major Duma election funding scandal occurred in 1999 when the Central Election Commission refused to register the Liberal Democratic Party due to an unsatisfactory personal financial declaration by its leader, Vladimir Zhirinovsky. The Supreme Court upheld the commission's decision.

[243] The leader of the apparatus of the Agro-Industrial Deputy Group supported this observation.

[244] Mukhin, writing about the years covered by the second Yeltsin presidency, identifies three rules of Russian information wars: (i) "don't go after an opponent who is already down," (ii) "don't destroy a business which in future might be yours," and (iii) "everything else is permitted". The second rule may explain why parties were largely left alone by "media killers" (Mukhin's term for journalists who specialized in destroying reputations) before the 1999 Duma elections, when the third rule came into play (in the media attack on "Fatherland"), unimpeded by the restraining factor of rule number (i). See Mukhin, 2000: 6 ff. For a scholarly account and analysis of the information warfare of the 1999–2000 election cycle, see A. Tsuladze (2000) *Bolshaya manipulyativnaya igra:tekhnologii politicheskikh manipulyatsii v period vyborov 1999-2000*. Moskva: Alogoritm.

Parties are, however, implicated in (potential) institutional scandals. For instance, Duma deputies, have been accused of taking bribes. In 1997, a Moscow newspaper with a taste for scandal, *Moskovskii komsomolets,* published a so-called "golden price list" for the services of deputies.[245] A written question to a minister was said to carry a $5000 price tag, while a piece of legislation was priced at "millions of dollars." The Duma was awash with rumors during the1999 impeachment crisis that officials of the presidential administration were paying individual deputies $10,000 not to vote to impeach the president.[246]

1.13 Non-Governmental Organizations

Russian NGOs did not pay party funding much attention before 2000. Political finance generally was the preserve of a few specialists, with links to the Central Election Commission and the Duma Committee on Civic Associations and Religious Organizations. The chief NGO link was the Moscow office of the "International Foundation for Election Systems" (IFES) which, in 1999, became the "Institute for Research into Election Systems" (IRIS) and a self-managing Russian NGO.

In January 2000, a second NGO specializing in elections was formed. It calls itself the "Independent Institute for Elections," and is headed by Alexander Ivanchenko, who chaired the Central Election Commission from 1995 to 1999. The institute, which is registered as a non-commercial organization, sells a variety of election-related legal services to individuals and organizations. In January 2000, the institute began to publish an expensive-looking monthly journal: *Elections: Legislation and Technology*.

II. Analysis of the Party-Funding Model

2.1 Transparency and the Legality of Party Funding

The Chairman of the Central Election Commission identified three features of the 2001 law that, in his view, provided for financial transparency:

- mandatory accounts in credit organizations for all political parties,
- the obliging of parties to present financial accounts covering their income and expenditure (including that of their regional organizations) and also including valuations of their property and details of its registration,
- the prohibition of cash donations from individuals and organizations, and extending to political parties the donor eligibility rules already in force for federal elections (which include a total ban on anonymous donations).[247]

[245] "Zolotoi prais-list," *Moskovskii komsomolets,* October 28, 1997.
[246] The author observed the entire two-day impeachment proceedings from inside the Duma where the rumors were circulating. In addition to rumors about individual deputies, there were stories of an entire faction being bought.
[247] Gosudarstvennaya Duma. Stenogram zasedanii*,* Byulleten' No. 74, (522), Chast' I, p. 26.

The law—as already noted—makes two exceptions to the ban on cash payments. First, to quote Veshnyakov, "the norm does not extend to joining fees and membership dues, where this norm is not stipulated in the party rules."[248] Secondly, the ban on cash donations was relaxed at the bill's second reading, in order to permit a modest amount of income to be collected this way.

2.2 Structural Biases in Favour of Some of the Political Parties

2.2.1 The Law on Political Parties and "a Level Playing Field"

Russia's election laws, by capping campaign expenditure, have sought to prevent parties and candidates from gaining unfair advantages over their rivals by spending vastly greater amounts of money. By limiting the amount of donation income that can be collected from different categories of sponsors, they seek also to prevent parties and candidates from becoming too reliant on a single funding source.

The limits placed on donations to parties both mirror and subsume the rules on election finance. There are annual ceilings on donations from individuals and organizations and on the amount of annual donation income parties can collect regionally and nationally. The ceilings for elections, though set separately, are covered by these rules, so parties have to include election accounts in the annual reports they make to the tax authorities.

There was no discussion of the ceilings placed on donations during the passage of the Law on Political Parties in the State Duma. However, the law became tougher, in this respect, as it progressed, since only at the second reading was a ceiling placed on donations from individuals.

Since we do not have information on the annual income and expenditure of existing parties, we can only speculate on the meaning and likely effects of these limits. The combination of a high party maximum and relatively low ceilings for individuals and organizations appears designed to consolidate parties. This reinforces the rules on party formation, yet runs the danger of preventing parties from legally financing their operations. A $100,000 ceiling on individual donations is not generous set against the estimated $2 million needed to create a party from scratch in Russia.[249]

The rules on direct state funding are likewise informed by a notion of fairness inasmuch as the amount parties receive depends on their popularity, as measured by votes or seats. But parties first have to receive 3 percent of the party list vote or win 12 single-mandate seats in order to qualify for support. The 3 percent rule is stricter than the system of state funding it replaces, whereby electoral associations that received less than 2 percent of the votes cast in State Duma elections had to return their campaign subventions to the CEC. This rule was motivated by a desire to discourage frivolous balloting. But the new rules on party membership and regional representation should be sufficient guarantee of a party's influence on the electorate.

[248] Ibid., p. 44.

[249] *Russkii focus,* No. 23, September 17–23, 2001. This estimate of a Moscow-based PR consultancy may be on the high side, since it assumes a top-down "capital intensive" party built entirely from scratch. A party like the CPRF, for example, which is more "labor intensive," and can call upon an unpaid army of activists for political mobilization, could be created more cheaply.

A Russian analyst, writing in the CEC's monthly journal, *Elections*, warned that, "it would be wise for Russian legislators to take into account the fact that in certain countries, for example the FRG and France, the constitutionality of a percentage barrier as a condition of state funding has been contested" (Romanenko, 2001: 23). He argues that all parties participating in Duma elections should be funded by the state. Parties achieving less than 1 percent of the party list vote, in his view, should be given equal amounts of state funding. He also suggested 3–5 single-mandate seats as a qualification rather than the 12 seats imported into the law at its second reading.[250]

On indirect forms of state funding, the law states that parties are to enjoy access on "equal conditions" between elections to public media, premises and communications. The access is initially not presented as an obligation, but as a right of state and municipal authorities. In the case of public media, the expression "guarantee of access" was tacked on to the law at its second reading.[251]

The law does not say how equal media access is to be achieved. Equality contradicts the principle of proportionality that applies to direct budget financing. The State Duma rejected a proposal to institute a system of free party political broadcasting in state and local media.[252] Since the terms of media access are not specified, the expression "guarantee of access" is correspondingly hollow.

On premises and communications, the law does state what parties may be charged. The charges will plainly vary between different regions, towns and cities: this can probably be contained within a definition of "equal conditions." However, there is no "guarantee of access" to these facilities.

Overall, the law leaves an alarmingly large amount of discretion to the authorities in determining the level and degree of indirect public support for parties between elections. Parties may simply not receive the indirect forms of public support envisaged in the law. A more likely scenario is that some parties will be supported, but not others.

But this, too, will vary across the country. If the intention was to give parties the appearance of support without committing further public money, the framers of the law are to be congratulated.

2.2.2 Corporations and Party Funding

Russian companies have given generously to political parties across the political spectrum since 1993. There are two main reasons for this support. First, privatized and powerful sectors of the economy have sought to protect their gains and advance their interests by funding parties sponsored by the presidential administration—the so-called "parties of power" (Golosov and Likhtenshtein, 2001: 6–15).

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[250] The draft passed at the first reading specified 2 percent as the qualifying party list figure. This was revised upwards to 3 percent at the second reading (apparently on the insistence of "Unity"), but to placate opponents a single-mandate qualification was added to the bill. The Agrarian Party, which has strength in single-mandate constituencies, but a weak party list presence, is a beneficiary of the revised rules.

[251] There was considerable disquiet among Duma deputies over the absence of a right of access, and unsuccessful attempts were made to amend the bill so as to *oblige* state and municipal authorities to afford parties such access (Tablitsa 2–1, op. cit., popravka 353). The Committee on Civic and Religious Organizations acknowledged that a "guarantee of access" "does not oblige state and municipal organs to provide airtime and newspaper space, but that parties do now have the right to put to them the question of guarantees" (ibid. 356).

[252] Tablitsa No. 2–1, op. cit., popraka 357

Second, business has been forced into party politics owing to the absence of an effective framework for legitimate lobbying in Russia. One analyst offers this as an explanation for why Russian parties have been captured by what he calls "clan-like corporate business and bureaucratic groupings;" "participation in party politics serves as a method of self-identification and a space in which one can struggle for a place in the sun" (Kulik, 2001).

A close observer of business and politics in Russia, Sergei Peregudov, notes a tendency for Russia's major corporations to bypass parties in the Russian legislature in 1999– 2000:

> Here we observe a clear tendency to the direct representation of individual corporations. The direct participation of the biggest corporations in the process of the Duma elections themselves is growing, where they take on the role of electoral machines. One result of this kind of activity is the formation of an inter-faction grouping, "Energy," numbering more than 70 members. […] Whichever way one looks at it, there is a basis for saying that in the principal legislative organ of the country, corporations are not only represented by their supporters or "intermediaries," but also frequently participate directly in the law-making process (Peregudov, 2001: 21–2).

This development is a symptom of the poorer circumstances of Russian business following the 1998 financial crisis. "After August 1998," writes Pappe, "not a single IBG (with the possible exception of Gazprom) possesses a resource in sufficient quantity to enable it to pressurize or even bargain on equal terms with a single structure of federal executive power."

The "intrigues" surrounding the 1999 Duma election support Peregudov's conclusion. The businessmen who took part in "Operation 'Unity'" (Boris Berezovsky, Roman Abramovich) owed their influence to personal factors, not to "structural power."[253] Peregudov believes that the "corporatization of party-political representation" is a temporary aberration, brought about by "the weakness of parties." "Much," he says, "will depend on how the process of party construction proceeds following the enactment of the new law on parties and how things map out in single-mandate constituencies, where the role of parties is extremely weak" (Peregudov, 2001: 22).

The law on parties leaves untouched two "structural" questions affecting corporations and party funding. First, business disillusionment with parties is primarily a disenchantment with "parties of power". Funding "parties of power" has not so far proved to be a good investment in Russia; the law on parties does not address the institutional factors that have helped bring about their swift demise.[254] The second "structural" question returns us to the issue of transparency. So long as lobbying lacks legitimacy in Russia, business and bureaucratic groups will be forced to use hidden means of influencing policy, including covert party funding.

2.2.3 "Administrative Resources" and Party Funding

[253] As noted by Peregudov (Peregudov, 2001: 18). For Boris Berezovsky's role in the 1999 Duma elections, see Khlebnikov, 2001: 293–4.
[254] See Golosov and Likhtenshtein, 2001.

Russian parties may enjoy unfair "funding" advantages over their rivals owing to their informal links with strategically placed public officials. These connections provide parties with "social capital" in the form of "administrative resources." Much political competition in Russia takes place in informal settings of this kind. By definition, "administrative resources" are not on public view, yet we catch occasional glimpses of them, particularly at election times.

III. Conclusion

There is a struggle taking place in Russian politics. It is a struggle between advocates of universal norms and rules in politics and administration and those who would prefer to conduct the country's business in informal institutions. The power and resources are largely with the latter camp. The "rule of law" party has on its side the constitution and the formally democratic institutions that have evolved in Russia since 1993. This is one context for the law on political parties.[255]

The rules on party funding are intended to place Russian party finances on an honest and open footing. They also aim to prevent parties from being captured by a handful of rich businessmen. At the same time, the rules on party construction put a premium on well funded parties, thereby aggravating the financial difficulties parties were already experiencing when the law was enacted. Where are the new funds to come from?

The proportion of state funding is modest, and is unlikely to be increased.[256] Private donors may be attracted to parties by their new respectability and the impulse given to party consolidation. But they will be concerned about having their identities revealed to the tax authorities. (It is not clear what information will be made public.) They will rightly resent being the victims of one-sided transparency.

The way to address this anxiety is to extend to state institutions the openness that parties are now expected to exemplify. There is also a case for allowing small donors to retain their anonymity. We believe that some of the enthusiasm for transparency is fed by an unjustified equation of anonymity and criminality.

In any event, parties henceforth will need to generate much of their funding from their own resources. They will, in a sense, have to become financial corporations. The era in which Russian parties were alleged to be "playthings of media holdings and outside influences" may be passing. But this does not guarantee party democracy. Party members will have to forfeit their freedom not to think about money, if power is not to pass to their own financial elites. The SPS delegate who sought to focus party minds on the mundane task of fund-raising may be the democratic activist of the future.

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[255] The politics of the new party law are not the subject of this paper. If pressed, we would characterize these as "hesitant corporatism." By "corporatism" we mean a system of licensed interest representation under which the state accords a monopoly on representation to selected political subjects in exchange for varying degrees of control over demand articulation and leadership selection. The law on parties qualifies as "hesitant corporatism," in our view, because of the tentative nature of the state controls. *Pravovye aspekti deyatel'nosti politicheskikh partii*. Moskva: Tsentral'naya izbiratel'naya komissiya, 2002.

[256] Besides, a significant increase in the level of state funding would call for a different justification for state support to that presented in the law, where budget funding for parties is (misleadingly) described as "compensation" for election expenditure. More material—judging from the results of the "civic expertise" of "We—the Citizenry"—is the lack of popular support for state funding.

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Party Finance in Serbia

Vladimir Goati

Introduction

The 11 years between 1990 and 2001 saw tumultuous changes in all the post-communist countries of Southeastern Europe, but in many ways the Serbian experience was unique. In order to understand party financing in Serbia, one needs to understand the uniqueness of that country's recent history.

Serbia was at the beginning of this period, in 1990–1991, one of the six constituent republics of the Socialist Federal Republic of Yugoslavia (SFRY). Since April 1992, it has been joined with Montenegro in a federal union. This would be a matter of historical interest only were it not for the fact that at the time of writing the future of this union is uncertain. A significant part of the political establishment in Montenegro supports independence. In fact, in many ways, Montenegro acts as an independent state, and for a long time now only minority Montenegrin parties have participated in the work of the federal bodies. In these circumstances, Serbia, the other republic in the federation, functions as an independent state, leaving the union a largely notional affair.

The process of the SFRY's disintegration in the early 1990s ended with declarations of independence by four of its constituent republics: Slovenia, Croatia, Bosnia-Herzegovina and Macedonia. In Croatia and Bosnia-Herzegovina, the breakaway led to war, because the Serbian regime of Slobodan Milosevic (president of Serbia from 1990 until 1997 and also president of the then governing Socialist Party of Serbia) believed that the SFRY should be dismantled along ethnic lines rather than in accordance with the borders of its constituent republics. Belgrade refused to recognize the authority of the new states of Croatia and Bosnia-Herzegovina over areas where there was a Serbian majority. This led to a series of vicious inter-ethnic wars (1991–1995) in which the rebels enjoyed the full support of the Serbian authorities.

The international community, however, insisted that the SFRY be dismantled into its constituent republics and regarded Serbian support for secessionists in Croatia and Bosnia-Herzegovina as interference in the internal affairs of sovereign states. Since the Federal Republic of Yugoslavia (established on April 27, 1992 by Serbia and Montenegro) persistently rejected UN calls to withdraw the Yugoslav army and paramilitary formations from Bosnia-Herzegovina, the Security Council imposed economic sanctions on May 30, 1992, tightening them twice the following year. These sanctions completely isolated the FRY's economy from international markets and brought it to the edge of the abyss. Only at the end of 1995 were these sanctions partially lifted, when the FRY accepted, under the terms of the Dayton Agreement, the judgment of the international community on the territorial integrity of Croatia and Bosnia-Herzegovina. Nevertheless, an outer wall of sanctions remained, since the authorities in the FRY were systematically breaching human and civil rights, especially those of ethnic minorities such as the Albanians, the Hungarians and the Muslims. Moreover, the government of the FRY failed to implement the recommendations on state democratization formulated by the OSCE at the end of 1996. The outer wall of sanctions against the FRY survived until October 5, 2000, when Slobodan Milosevic was forced from power.

Following its failure to accept the Rambouillet Agreement, the FRY was, from March 24 until June 10, 1999, at war with NATO. After much loss of life and the destruction of its

economy, the FRY was forced to withdraw its military and police units from the Kosovo and Metohija region, which became a protectorate of the UN.

Not surprisingly, a decade of inter-ethnic war, sanctions and NATO bombing brought the FRY economy to its knees. Gross National Product in 2000 amounted to only 45 percent of GNP in 1990, and industrial production to only 30 percent of output in 1990. Average monthly income fell in the same period from approximately €350 to €100, and the percentage of the population below the poverty line rose from 6 percent to 38 percent. In terms of socio-economic indices, the FRY was similar only to Bosnia-Herzegovina, where civil war had been raging for four years.

Until October 5, 2000, one could speak about the survival of the "old regime" in Serbia. Although the 1990 Serbian constitution established political pluralism, the ex-communist Socialist Party of Serbia still played a central role. To begin with, the party, along with its charismatic leader Slobodan Milosevic, enjoyed the broad support of the Serbian electorate. In the first parliamentary elections in 1990, the SPS won 46.1 percent of the votes and 77.6 percent of the seats, while Milosevic himself won 65.3 percent of the votes in the presidential election. However, in successive elections (1992, 1993, 1997) support for the ruling SPS declined, which was why it formed the so-called "black-red coalition" in March 1998 with the ultra-nationalist Serbian Radical Party (SRS) and the extremist Yugoslav Left (JUL), whose president was Milosevic's wife, Mirjana. Although the SPS was only one of the members of the coalition government, it was in reality the backbone of the ruling political order and of the FRY itself. During this period, the SPS totally "colonized" the state apparatus, making it impossible to distinguish between party and state. Acting as general manager of the entire Serbian economy, the SPS vigorously opposed privatization, which would have loosened its grip on the economy as a whole.

The end came on October 5, 2000, when the Democratic Opposition of Serbia (DOS) removed the SPS and its president, Slobodan Milosevic, from power. During its first year in office, that coalition, consisting of some 18 parties, introduced a series of fundamental reforms that transformed the social and political environment of Serbia. Among the most important of these reforms were the replacement of the ruling political elite, the abolition of the regulations restricting the freedom of the opposition and violating civil liberties, the entry of the FRY into important international organizations, and the beginning of the privatization process. Since October 5, 2000, Serbia has become more like the other post-communist countries of Southeastern Europe.

Political pluralism in Serbia dates back to late 1989. By the end of 1990, 49 parties had been registered, a number that rose to 161 in 1996 and to 227 in early 2001. This plethora of parties was the result of easy conditions for registration (only 100 signatures were required). However, many of the parties registered have only ever existed on paper, and, approximately, a mere one in ten participates actively in political life. And among the active parties one can identify an even narrower group, those that won at least 5 percent of the vote in at least one of the five elections held before 2002: the elections of 1990, 1992, 1993, 1997 and 2000. The parties that satisfy this criterion are following: the Democratic Party (DS), the Democratic Party of Serbia (DSS), the Socialist Party of Serbia (SPS), the Serbian Radical Party (SRS), the Serbian Renewal Movement (SPO) and the Party of Serbian Unity (SSJ). The total membership of political parties in Serbia peaked in mid-2001 at an estimated 800,000, i.e. 10 percent of the Serbian population (Kosovo and Metohija excluded). The first pluralist elections were held over two rounds in 1990 according to a majoritarian electoral system. All the subsequent elections (1992, 1993, 1997 and 2000) were organized on the basis of proportional representation.

With this brief history in mind, let us now turn now to the issue of party financing in Serbia.

I. Description of the Party-Funding Model

1.1 Laws and Regulations on Party Funding[257]

The first law relevant to the issue of political finance was the Law on Political Organizations in Serbia, passed on July 19, 1990. As suggested by the title of this law, lumping political parties together with other organizations was less an accident than a sign of Serbia's reluctance to accept the multi-party system long after it had been adopted in all other former SFRY republics. According to this law, political organizations were allowed to acquire funds from membership fees, donations, contributions, legacies, the state budget and other sources, as well as from "economic activities" (Article 16). Although the law did not impose financial ceilings on contributions, it did forbid parties to acquire resources from "foreign persons" (legal and natural). This law did not provide direct financial assistance to the parties for the first pluralist elections in 1990, but such state support was introduced subsequently. Naturally, this state of affairs suited the ruling SPS, because that party, relying on its members in the "socially-owned enterprises," was able to furnish its own election funds. Under the terms of the Law on the Election of National Representatives (1990), the state did provide indirect aid to parties in the form of free space and airtime in the media.

In 1991, the Serbian Parliament passed the Law on the Participation of the Republic in the Financing of Political Organizations. Parties that gained seats in the elections of 1990 were to receive the equivalent of a monthly salary for each of their representatives in the National Assembly. According to the Serbian Constitution (1990), the National Assembly consists of 250 representatives. The 1991 law thus assigned the parties a sum equivalent to 3000 monthly salaries annually (250 x 12). This was worth approximately €700,000.[258] It was the ruling SPS that insisted on linking subsidy to seats gained rather than to votes cast. This was hardly surprising given that in the 1990 election the SPS gained 77.6 percent of the seats with only 46.1 percent of the vote. It should be mentioned here that the election law was forced through by the SPS in September 1990, without prior consultation with the opposition.

Party financing was first regulated in a systematic way in the Law on the Financing of Political Organizations (1992). Although this law uses the phrase "political organizations" rather than parties, it identifies the following legitimate sources of income: membership fees, income from parties' own property, credits, donations, legacies, and revenues from the budget. Parties are forbidden to obtain funds for their activities from foreigners, from governments of foreign countries, from foreign companies, from state bodies, from local government bodies and other legal entities with the exception of citizens' associations, and finally from anonymous persons when such contributions exceed 3 percent of a party's net annual income from the budget. This law requires parties to keep proper accounts and subjects their operations to the scrutiny of the Service for Payment Operations and Financial Surveillance.

According to the Law on the Financing of Political Organizations, the state supplies the equivalent of 6000 average net salaries in the month preceding the budget. Half of the total sum is distributed to each party in proportion to the number of deputies in the republic's parliament, and half in proportion to the votes obtained in the previous election. Although in

[257] See the table at the end of this study.

[258] Party revenues are expressed in deutschmarks at the 2000–2001 market rate—i.e. the "black market rate"—, because the nominal value of the Yugoslav dinar against the deutschmark was often been many times higher than the market one. Since the dinar/deutschmark exchange rate changed rapidly—often daily—, our estimates contain a margin of error of plus or minus 10 percent.

accordance with the above law the number of average salaries allocated to the parties was doubled in comparison with 1991, in 1992 the total sum increased by only 25 percent (€900,000). In the following years, owing to the fall in average salaries and the dramatic devaluation of the dinar, the allocation was significantly down on 1992 and 1991 levels. In the budget of 1993, €120,000 was set aside for the financing of political parties, but since by the end of 1993 the value of the dinar was shrinking by two percentage points an hour, the real value of the resources allocated amounted to a fifth of the original sum at best. With the stabilization of the dinar in 1994, the situation started to improve. This is illustrated by the following data on state aid to the political parties: 1994—€210,000; 1995—€300,000; 1996—€390,000. In addition to state support for the routine operations of the parties, the Law on the Financing of Political Organizations (1992) provided for the equivalent of 1500 average monthly salaries (in 1992 worth @225,000) for the expenses of electoral campaigns, to be distributed in equal amounts among the parties that won seats in the previous election.

To the financial resources provided by the above law should be added the indirect subsidies prescribed by the Law on the Election of National Representatives, according to which parties are entitled, at election time, to free use of the media.

The next relevant law in this field, named the Law for the Financing of Political Parties, was adopted in July 1997. In the same way as in the 1992 law, the parties were allocated a sum amounting to 6000 average salaries. However, the new law changed the basis on which the salary was calculated. Instead of the reference point being the value of a salary in the month preceding the budget, the allocation was calculated according to the value of a net salary in the month prior to allocation, thereby reducing the effects of possible devaluation. According to this law, donations to parties by companies, enterprise groups and other legal entities were limited to a maximum of 50 average salaries per month (approximately €3750), while for natural persons no limitations were prescribed. This law also changed the way money was assigned to parties for the financing of election campaigns. Instead of equal amounts to all parties, half the money had to be paid before the elections in proportion to the existing number of deputies, and the other half afterwards in proportion to the number that had been elected. The Law on the Election of National Representatives (1997) secured, as did the previous election law, free access to the media for the parties in the pre-election period. The Law on the Election of National Representatives that came into force in October 2000 gave the same right to the parties.

Party finance is subject to regulation by laws at the federal as well as the republican level. After the collapse of Milosevic's régime, the newly elected Federal Assembly passed, in December 2000, the Law on the Financing of Political Parties. According to this law, 0.2 percent of total budget revenue must be reserved for parties represented in the federal parliament. One fifth of that sum is distributed in equal amounts among the parties that have representatives in the Assembly. Half of the remaining 80 percent is allocated to the Citizens' Council and the other half to the Council of the Republics of the Federal Assembly. Within both councils the funds are shared among the parties in proportion to the number of their members. The level of subsidy given to parties for their expenses in an election year is also determined as a proportion (0.25 percent) of total budget revenue. The above law prohibits donations from the same sources as those prohibited in the corresponding republican law of 1997. The only difference is that the federal law states that anonymous income should not exceed 5 percent of the income from the federal budget, instead of the 3 percent prescribed by republican law.

This federal law exposed the enormous amount of property (houses, apartments, office premises, enterprises and motor pools) that the Communist League of Yugoslavia (SKJ) and the Socialist League of the Working People of Yugoslavia (SSRNJ) had acquired during the period of the "self-government socialism" in 1990. According to Article 13 of that law, such

property had to be declared federal government property within six months. Finally, the federal law in question—as well as the previous republican laws—obliged parties to keep accounts and granted the relevant federal bodies the right to challenge the legality of their operations. However, the law did not oblige parties to make these accounts available for public inspection. (This is why the present analysis of party financing is based on partial data, whether obtained by the researcher from private contacts, presented in the media by party officials, or revealed by state bodies in cases where there was financial irregularity.)

This lack of transparency protects the financial operations of the parties from close scrutiny. However, it would be wrong to believe that if all documents were to be made publicly available, transparency would be achieved: until Serbia's electoral October revolution of 2000, the parties did not record their most important revenues at all.

1.2 Public Funding

1.2.1 Direct Funding

Based on the letter of the law, state aid was given to the parties for routine activities and for election campaigns. From the Serbian budget of 1999, around €290,000 was disbursed to parties; in 2000, the figure was around €300,000. For the December republican election campaign in 2000, parties were paid around €40,000, and in the same year (from the federal budget) around €40,000 for the federal elections, two thirds being paid to the parties in Serbia and one third to the parties in Montenegro. The Serbian budget for 2001 included the sum of @436,000 for financing the work of political parties.

Until October 5, 2000, legitimate state subsidies formed only a small portion of the state resources that the ruling SPS appropriated directly for its needs. Based on a report published at the end of October 2001 by the Serbian Ministry of Finance, approximately €21 million had been spent illegally by the SPS, and around €44 million had been squandered for no specific purpose. The investigation also revealed that the greater part of the budget had been used for car purchases or loans (which were not repaid) for the enterprises whose owners or managers were ministers in Serbia's coalition government (SPS–JUL–SRS), while the smaller part had been paid illegally to the ruling parties. Thus, Serbia's minister for science paid €11,300 to the SPS and €3050 to the SRS and the minister of trade paid €8,330 to the SPS. For their part, two other ministers (the minister for property transformation, trade, tourism and transportation and the minister for the protection of the natural environment) paid a total of €20,120 to the SPS. In mid-2001, criminal charges were brought against 25 ex-ministers of the Serbian government, as well as against ten deputy ministers and directors of Serbian administrative bodies.

With the resources of the state at its disposal from 1990 until 2000, the ruling SPS easily satisfied its day-to-day needs, and in addition had enough money to bribe the leaders of the opposition parties. Two examples illustrate this well. The first occurred after the conflict in 1993 between the SPS and its ally the ultra-nationalist SRS. In order to prevent attempts by the latter to block legislation at the federal level, the SPS provoked a split in SRS that led to five federal representatives leaving to form the "Serbian Radical Party - Nikola Pasic" (SRS-NP). As a reward, the SPS gave each of the five representatives in question €50,000 or an apartment in Belgrade. The second example concerns allegations (not denied by the SPS) that during 1993 and 1994 it gave "some €5 million to support the breaking up of the opposition" to the president of the SRS, Vojislav Seselj (Slavujević, 1999: 115, end note 48). These

examples, as well as the illegal use of budgetary funds described above, are apparently only the tip of a vast iceberg of corruption.

1.2.2 Indirect Funding

As we have already seen, the parties in Serbia also receive indirect assistance from the state, in the form of free access to the media during election campaigns. It should be stressed first of all that this right of access was not exactly abused in republican elections, since all parties and groups of citizens were allocated equal slots within a previously determined electoral space. However, the large number of participants—from 17 to 50 parties and groups of citizens, some of which were completely unknown to the public—reduced the time available to each, and also eroded the interest of the voters. That the large number of participants in Serbian elections was not accidental but deliberately engineered by SPS was shown by the fact that just before the elections, new political parties with names resembling those of existing opposition parties were formed in order to create confusion among the voters. Such parties tended to disappear without trace after the elections, hence their popular nickname: "meteor parties."

The SPS not only reduced the access of opposition parties to the media in the ways described above, but also secured coverage for itself in primetime news programs. Research shows that in the seven days leading up to the 1990 elections, the popular "Second News" frequently mentioned important officials of the SPS, while completely ignoring opposition leaders (Antonić, 1993: 10). Exactly the same situation occurred before the parliamentary and presidential elections in 1992, before the parliamentary elections in 1993, and before the parliamentary and presidential elections in 1997 (Džuverović et al., 1994; Goati, 2001). Unequal access to the media was one of the reasons the independent experts and OSCE monitors gave for refusing to consider the four elections free and fair. Even in the republican elections of December 2000—these were held after the October revolution—equality of access to the media had still not been achieved. At those elections the DOS coalition took precedence over the parties of the old regime (SPS–JUL–SRS), although the inequalities of media access were less marked than in the previous elections.[259]

1.3 Donations

In the struggle against Milosevic's "party state," the opposition parties were forced to rely on donations from individuals and organizations, not only from within the country, but also from abroad, despite the fact that foreign donations had been outlawed. In the first half of the 1990s, the opposition parties received large amounts of money from wealthy individuals inside the country. This is well illustrated by the sum of more than €1 million that one donor, Dragan Milacic, gave the SPO.[260] Compared with that amount, the €100,000 that the banker Jezdimir Vasiljevic ("Boss Jezda") donated to the ruling SPS in 1992 seems very moderate, although after his flight from the country the party returned the money to the bankrupt's company, the Jugoskandik Bank. Many rich businessmen, fearing the wrath of the ruling regime, did not give cash to the opposition parties in a public, legally permitted way, choosing instead to give it to party leaders in secret. We may assume that in return the opposition parties arranged for these "party patrons" to be elected to party management committees and/or to Parliament. This was itself a form of political corruption. Although there is little

[259] Gredelj, Stjepan "Preizborna kampanja pred izbore u decembru 2000." […].
[260] *Politika*, September 2, 1994.

direct evidence, it is noticeable that some wealthy individuals became representatives in the National Assembly after only a short period of party membership (or even with no party experience at all).

Money-for-power deals were encouraged in Serbia by the fact that in 1992 a proportional electoral system came into effect in which the composition of the electoral list and the order of candidates on it were largely determined by party leaders. In such a closed-list proportional system, individuals who are at the top of the list have the greatest chance of being elected. Were party leaders to head up the lists with little known or unpopular candidates, the list as a whole would not be viable. This obstacle was neatly sidestepped in the Law on the Election of National Representatives (1992), according to which a party was obliged to select only one third of its MPs according to the party list, leaving it free to choose the other two thirds from among candidates who in had not been voted for by the electorate at all.

Under the electoral law adopted in October 2000, a party's discretion, which had been confined to two thirds of the mandates, was extended to all of them. According to Article 84 of this law, parties were required to submit the names of the candidates from the list to whom they had assigned the election mandates not later than ten days *after* the announcement of the election results, when their share of the vote was known. For party managers to decide on the composition of Parliament after the citizens have voted represents an extremely non-democratic solution. Furthermore, it encourages corruption by prolonging competition between the contenders for a party's mandate even after the voting has finished. Regarding donations from abroad, there were two important types of source: the first was emigrants' organizations and rich individuals, and the second international organizations and funds. In the first half of the 1990s, the most important sources of finance for Serbian opposition parties were gifts by emigrant organizations and of individuals in Western European countries, the USA, Canada and Australia (the "Serbian diaspora"). According to the testimony of one of the leaders of the SPO (for a long time the most influential opposition party), money contributed by the Serbian diaspora from 1990 up to the end of 1993 paid more than half the party's expenses. Subsequently, this source of income dwindled, partly because the SPO (and the Serbian opposition as a whole) failed to win the elections of 1990, 1992 and 1993, and partly because most of the money ended up in the pockets of the opposition leaders. The official media made sure that the mutual recriminations over the misuse of emigrant money received the fullest coverage.

In the second half of the 1990s, the opposition parties came to rely more and more on another illegal source of aid: international organizations and funds. In order to estimate the considerable sums involved, we are forced to rely on the anonymous testimonies of opposition party leaders and activists. According to reliable estimates, the DOS campaign for the September 2000 parliamentary and presidential elections was financed mainly by international organizations and funds to the tune of around €2 million. Some of the support was channeled to the DOS in the form of technical assistance (computers, cars, faxes and cellular phones). Some consisted of indirect assistance in the form of contributions to non-governmental organizations whose help to the DOS included electoral education, the motivating of the citizens to go and "vote for change" (i.e. for DOS) and organizing 37 music concerts (with the motto "It's Time"), which preceded the rallies of DOS candidates. Some was spent on opinion polls; some was handed confidentially to party officials for campaign expenses.

1.4 Membership Fees

Although party membership fees at the end of 2001 accounted for a relatively small proportion of party revenues (5–15 percent), membership fees are mentioned in the statutes of all Serbian parties.[261] It is interesting to note that in the 1992 statutes of the DSS, payment of the membership fee was not listed among a member's obligations, although in the same document the party identified membership fees as one of its sources of income (Article 62, Statutes of the DSS). In fact, for DSS the membership fee was facultative rather than obligatory, each member being required to contribute to the party what he or she could afford (Article 6). The statutes adopted by the DSS in 1998 identify payment of the membership fee as one of a member's obligations.

Membership fees vary from party to party: at the end of 2001, in the SPS, DSS and SPO it was €0.5 per month but in the DS it was only €1.5 annually. Until October 5, 2000, the SPS had a compulsory membership fee, but party leaders discouraged mention of it so as "not to irritate the members," which in view of the financial insignificance of such fees is understandable. The importance of the membership fee is greater, of course, in those parties with a higher membership, parties such as the DSS (around 120,000 members), the DS (around 100,000), the SPS (around 90,000) and the SRS (around 70,000). As a rule, income from membership fees is used to cover the expenses of local organizations. In some Serbian parties, members who carry out professional duties in the state and/or party are obliged to give a greater percentage of their salaries than are others. Party and state officials of the SPS set aside 3 percent of their income and SPO officials 10 percent. Some workers' parties in West European countries also require those employed in state bodies and in the party apparatus to give more of their income to the party than others.

1.5 Party Economic Activity

Serbian parties, especially the SPS, receive part of their income from their own companies. In October 1992, a member of the Executive Board of the Main Committee of the SPS, Tomica Raicevic, declared: "Two thirds of our revenue is realized from economic activity and renting out business premises. Outside the Vojvodina, the SPS has 25 companies and agencies, with the income from which 114 SPS municipal councils with 750 employees are financed" (Slavujević, 1999: 109, end note 37). In this respect, the SPS was, until October 5, 2000, in a far stronger position than the opposition parties. The advantage that the SPS enjoyed over the opposition resulted from the fact that it inherited considerable funds from the SKJ, together with business premises and a motor pool, all of which, after 1990, facilitated the expansion of party businesses. On top of that, the SPS received part of its income through fictitious contracts with its own firms on the one hand and with state enterprises managed by its members on the other. The purpose of such contracts was obviously to camouflage donations and other one-sided gifts as business transactions.

II. Analysis of the Party-Funding Model

After the revolution of October 5, 2000, the SPS, once the ruling party, lost not only the advantages is had enjoyed over other parties, but also the property it inherited from the SKJ and the SSRNJ. Although the six-month term fixed by law for the listing of that property and for its transfer to the FRY expired on June 28, 2001, the commission for the registration of SPS property did not publish its findings. This was because the law did not take into

[261] Article 9 of the Statutes of the DS; Article 7 of the Statutes of the DSS; Article 11 of the Statutes of the SPS; Article 4 of the Statutes of the SRS; Article 12 of the Statutes of the Party of Serbian Unity, Article 9 of the Statutes of the SPO.

account the fact that the other republics of the former SFRY – Slovenia, Croatia, Bosnia-Herzegovina and Macedonia, all of them now independent states – also had a claim on the property of the SKJ and SSRNJ. Whether the property was to be transferred to the federal government (as prescribed by the law) or to the bankrupt estate of the SFRY mattered very little as far as SPS was concerned: the SPS no longer owned it.[262]

Having lost power and property, SPS became, according to a member of the executive board of the main committee of the party, Dmitar Segrt, "threatened by bankruptcy." According to that official, who was expelled from the party in October 2001, the SPS owed its creditors around €4.5 million. Even if the figure was exaggerated, the debts for which the party was being sued were huge. The SPS owed approximately €1.75 million for television slots (for the September 2000 elections) to Radio Television of Serbia, and around €0.5 million to newspaper agency Politika, which the SPS owned. If there had been no political revolution on October 5, 2000, all debts would have been quietly "forgotten." As one anonymous official of the SPS put it, "While we were in power, nobody dared ask us for the money. Now they are all asking."[263] In the words of the same official: "We created a system in which the greatest wealth was power and when that collapsed, our party funds collapsed too. As a party, we do not have today any significant firms, hotels, newspapers or hidden sources of income. We lived for years exploiting power, relying on the large systems that we used to control – Elektroprivreda Srbije, Telekom, Sartid, Simpo, together with various mines. We lived from the rackets; we used to appoint directors everywhere and since they used to finance us, we knew exactly how much they poured into party funds."[264]

Lack of money has forced the SPS to reduce its party apparatus many times. According to the statements of a high SPS official, before October 5, 2000 SPS municipal councils in Belgrade contained 10 full-time SPS employees and the city council 40; however, by the mid-2001, only one full-time SPS employee remained on the Belgrade municipal councils and two to three on the Belgrade city council.[265] Based on the same ratio, we would estimate that before the regime change the number of people permanently engaged in the whole of the SPS was between 1500 and 2000. We base this estimate on the fact that SPS had municipal organizations in all 165 municipalities of Serbia (Kosovo and Metohija excluded), city bodies in Belgrade, Nis and Novi Sad, provincial bodies in the Vojvodina, and finally central bodies in Belgrade. It is, however, important to note that the categories "permanently engaged" and "permanently employed" are not the same. In order to avoid paying tax, parties "engage" individuals (technical staff particularly), paying them illegally or per contract, meaning that the number of individuals permanently employed in parties is markedly lower than the number that permanently participate in party work. In the case of the SPS this disparity was even greater, because it permanently engaged for party activities the individuals who were permanently employed in state bodies or para-state organizations.

III. Conclusion

As stated above, the federal law adopted in December 2000 made more generous the provisions for the financing of political parties. The decision of the new authorities to regulate financing at the federal level, and not, as used to be the case, at the republican level, was the

[262] It is worth mentioning here that the Usce Palace (18,000 square metres of usable interior space and 5.5 hectares of land), which belonged to the SKJ and the SSRNJ and which was later used by the SPS, was destroyed in a NATO air raid in 1999.
[263] *Vreme*, October 18, 2001.
[264] Ibid.
[265] Ibid.

result of a decision to consolidate the financial position of the parties as soon as possible after the fall of the Milosevic regime. It was not possible to achieve this objective by a republican-only law, because there were dual authorities at the republican level until the elections of December 23, 2000, while in the Federal Assembly the DOS, together with its coalition partners from Montenegro, had a large enough majority to pass the law quickly. This federal law prescribes that for the administration of parties represented in the Federal Assembly at least 0.2 percent of budget revenues (which worked out at €1.5 million) should be set aside. From that sum, the parties of Serbia received around €1 million, and the Montenegrin parties €0.5 million. Taking into account the direct donations from the Serbian budget (€600,000), the parties in that republic were funded from both budgets to the tune of approximately €1.600,000, much more than in previous years.

Taking into consideration the weakness of the laws on party financing at both the federal and the republican levels, the government of Serbia announced at the beginning of 2001 the adoption of a new law. In order to speed up the adoption of that law, the Center for Free Elections and Democracy published at the beginning of November 2001 a model for a law on party financing. That model received support from the OSCE, and was well received by the majority of political parties and by the wider public. The model involved state financial aid for party financing (at least 0.1 percent of budget revenues), strict control of parties' financial operations, a total ban on anonymous donations, a ceiling on donations by domestic legal entities and physical persons, and, finally, a ban on the use in parliamentary and presidential elections of private resources greater than the amount received from the budget.

With the adoption of this law, or something like it, greater transparency will be achieved in Serbia regarding the financial operations of the parties, which—as we have described in this essay—are mostly carried out in the "gray zone." But one must be realistic; Serbia is in the process of a giant transfer of state assets into private hands, as was the case with the majority of post-communist countries of Southeastern Europe in the first half of the 1990s. That process is not sufficiently controlled by federal and republic regulations, and even where such regulations do exist, they are not co-ordinated. It is not unreasonable, therefore, to suppose that in the next few years some of the proceeds of privatization will find their way into party funds and probably into the private accounts of party leaders.

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Table 1

Legal Regulations Governing Party Financing in Serbia

Year	Title	Enactor Serbia – FRY		Main Provisions	Valid Until	
1990	Law on Political Organizations	+		Party can acquire funds from membership fees, donations, contributions, bequests, and the budget. It is forbidden to obtain funds from foreign persons or foreign entities.	1992	
1991	Law on Participation of the Republic in the Financing of Political Organizations	+		A party is entitled from the budget to the number of average monthly salaries equal to the number of its members in Parliament.	1992	
1992	Law on the Election of National Representatives		+	For the expenses of the election campaign, 1000 average monthly salaries in the economy of the republic in question are provided from the budget.		
1992	Law on Election of Representatives in the Citizens' Council of the Federal Assembly	+		For the costs of the election campaign, 3000 average net monthly salaries in the FRY in the month preceding the elections are provided.		
1992	Law on the Financing of Political Organizations	+		The following party revenues are permissible: revenues from their own property, credits, donations, legacies, bequests and budgetary support. The parties cannot acquire funds from state bodies, foreign persons/entities, or revenues from anonymous donors that exceed 3 percent of annual party income. The parties receive from the budget 6000 average net monthly salaries annually. For election campaigns the parties are provided with an additional 1500 average monthly salaries in the republic in the previous month.		
1997	Law on the Financing of Political Parties	+		The sources of party income are: membership fees, income deriving from their own property, from ownership rights in enterprises, credits, donations, legacies, testaments and budget. It is forbidden to acquire funds from the governments or other bodies and organizations of foreign countries, funds from state bodies of the FRY, or funds from anonymous persons that exceed 3 percent of the net income of the party		

				in the previous year. Parties are given monthly 500 average monthly salaries for the previous month, distributed in proportion to the number of their representatives. In a year when elections are held, the parties are given 2500 average salaries for the previous month.		
2000	Law on the Financing of Political Parties		+	The party acquires revenues from the following: membership fees, voluntary contributions, donations, bequests, its own property, its property rights in enterprises, from credits, and from the budget. It is forbidden for a party to acquire funds from governments and organizations of foreign countries, from foreign persons, from state bodies except from budget sources, from institutions dealing with assets in state property, from public enterprises in which the state holds more than 10 percent of the founding capital, or from anonymous donors in an amount higher than 5 percent of its resources from the budget. The means for party activities are provided every year in the federal budget to the tune of 0.2 percent of budgetary revenues. For election expenses, parties are assigned at least 0.25 percent of budgetary revenues.		

Party Funding in Slovenia

Jurij Toplak

I. Description of the Party-Funding Model

1.1 Background on Political Party Funding: Laws and Regulations

Until the 1980s, in Slovenia, as in other countries of Central and Eastern Europe, multi-party elections and political parties that competed with each other were regarded as institutions of the past or as vestiges of the capitalist Western world. However, in the 1980s, ideas concerning freedom of speech and association, as well as about multi-party systems and democratic elections, were heard increasingly. In 1989, the Constitution of Socialist Republic of Slovenia (the country was then a part of the Socialist Federal Republic of Yugoslavia) was amended to allow the free establishment of political parties. However, at that time it was impossible to predict how important the issue of party financing would be, or how precisely this area would need to be regulated.

Another important piece of legislation that was adopted in 1989 was the Political Association Act.[266] Most of the disputes that arose during its passage through the National Assembly concerned party financing. Approximately half of the deputies supported financing parties from the state budget, while the other half rejected state financing altogether. Eventually a budgetary-financing model was adopted. According to the 1989 Political Association Act, political parties receive budgetary funds in proportion to the number of their members in the National Assembly, with the actual amount for distribution being determined by the budgetary law. The financial operations of the parties are declared to be public, but no regulations concerning the supervision of these operations are enumerated. In addition to budgetary financing, parties are allowed to receive donations from individuals and legal entities, as well as to use membership fees as a source of funding.[267]

The 1990 Assemblies Election Act is another law that contains provisions on party financing.[268] The law limits campaign donations by individuals to the equivalent of an average monthly salary and campaign donations by legal entities to the equivalent of ten average monthly salaries.[269] After elections every candidate or party must submit a financial report on the campaign to the appropriate assembly. This provision requiring a financial report showing – at least partly – data on the financial operations of a party is the only regulation of its kind; the Political Association Act does not include provisions for reporting party finances.

The Republic of Slovenia's constitution, adopted in December 1991,[270] contains no provisions on political parties or their financing.[271] The constitutional text originally proposed

[266] "Zakon o političnem združevanju." *National Gazette SRS* n. 42/98, 3/90, 35/90.
[267] See Arts. 20–23 of the Political Association Act.
[268] "Zakon o volitvah v skupščine." *National Gazette SRS* n. 42/98, 5/90, 9/90, 10/90, 45/90. The first democratic elections in Slovenia were held in April 1990 at national and local level.
[269] See Art. 115 of the Election of Assemblies Act.
[270] Slovenia became independent on June 25 with the adoption of The Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia (Temeljna listina o samostojnosti in neodvisnosti Republike Slovenije). *National Gazette RS/I*, n. 1–4/91. The Constitution was adopted on December 23, 1991.

did contain a provision requiring political parties to make public data on their assets and financing.[272] However, this provision was not adopted in the final version of the constitution.

During the infancy of the Republic of Slovenia, the public had no opportunity to examine party finances, since the proposed constitutional provision on public disclosure of party finances was not adopted and the Assemblies Election Act was not in force. This legal vacuum created the potential for corruption. Even so, there was no will or consensus among the parties in power to change this situation. In 1992, when the new Elections Act was adopted,[273] a new Political Parties Act was proposed. This was, however, not passed. Another Political Parties Act was proposed in 1994 and adopted,[274] along with the Election Campaigns Act.[275]

In 1999 the Constitutional Court declared Article 23 of the Political Parties Act unconstitutional, since it facilitated funding from the state budget for parliamentary parties only.[276] In 2000, Parliament changed the article in such a way that all parties winning at least 1 percent of the votes cast at national elections receive funds from the state budget.[277] Previously the parties given such funds received them in proportion to the number of votes they won. According to the new regulation, 10 percent of the entire budgetary funding allocated for the parties is distributed equally among all parties entitled to state funding, and the remaining 90 percent is divided in proportion to the number of votes received by them.

The financing of political parties in Slovenia is subject to regulation by the following:

- Political Parties Act;
- Election Campaigns Act;
- Ordinance on the Contents and Form of the Annual Reports and the Shortened Annual Reports of Political Parties;[278]
- the constitutions and regulations of political parties.

Most of the rules on party funding are included in Section IV, entitled "Party Financing", of the Political Parties Act. Article 21 enumerates the sources of party financing, which are:

- membership dues;
- donations from private persons and legal entities;
- revenues from property;
- gifts;
- djustrightlegacies;
- budgetary allocations;
- profits from companies owned by the parties.

The Political Parties Act contains more detailed rules regarding these sources of financing, mostly those from private donations, budgetary allocations and companies owned by the parties. The act also includes rules on the financing of the parties' youth organizations

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The Constitution of the Republic of Slovenia (Ustava Republike Slovenije). *National Gazette RS* n. 33/91, 42/97, 66/00.

[271] The only constitutional provision that mentions political parties is the provision prohibiting policemen and armed forces regulars from being members of political parties. See Art. 42 (4) of the Constitution.

[272] See Art. 42a of the draft text of the Constitution and the parliamentary discussion of the article in Cerar, Miro and Anton Perenič (eds.) (2001) *Nastajanje slovenske ustave*. Ljubljana: Državni zbor, 112, 461–465.

[273] "Zakon o volitvah v Državni zbor." *National Gazette RS* n. 44/92, 60/95, 66/00 (Constitutional act for the amendment of Art. 80 of the Const. of the RS).

[274] "Zakon o političnih strankah." *National Gazette RS* n. 62/94, 70/00.

[275] "Zakon o volilni kampanji." *National Gazette RS* n. 62/94, 17/97.

[276] See Cons. Court Decision U-I-367/96 of March 11, 1999.

[277] "Act on Changes and Amendments to the Political Parties Act" (Zakon o spremembah in dopolnitvah zakona o političnih strankah). *National Gazette RS* n. 70/00.

[278] "Pravilnik o vsebini in obliki letnega poročila in skrajšanega letnega poročila političnih strank." *National Gazette RS* n. 2/01.

and prohibitions on financing from abroad, as well as rules on financial reporting and the supervision of party finance. In addition, the act contains rules on the financing of parties by municipalities and ends with a section stating the fines for political parties and individuals responsible in cases where the law has been broken.

Some rules on the financing and reporting of the financial situation of political parties are included in the Election Campaigns Act. However, these rules primarily govern the refunding of party campaign costs. This represents a significant financial resource for parties, which are allowed to receive €0.30 for each vote they receive in parliamentary elections.[279] They also receive €0.10 for each vote their candidate receives in presidential elections.[280] Also, local party organizations receive refunds of their expenses in local elections, both municipal and mayoral.[281] Parties are not allowed to receive more in refunding than they present in their election campaign expenditure reports.

Among the other regulations, the Ordinance on the Contents and Form of the Annual Reports and Shortened Annual Reports of Political Parties should be mentioned. This law specifies the contents of the financial reports, which have to be submitted yearly. It also contains the blank forms for the financial reports to be filled out by the parties. Each individual party is governed by its own constitution and regulations, within the limits laid down by law, naturally.

1.2 Party Structures Dealing with Party Funding

Slovenian law does not regulate the structure of political parties: internal structure and organization are matter for the parties themselves. However, the Political Parties Act demands that parties have a constitution, as the founding document of their party, and also a political program. The constitution must define the party body responsible for the financial operations of the party.[282] Generally speaking, there are three levels in each party. The highest body in the party is usually the congress, which is akin to the parliament of the party. It is also the largest body (containing from 50 to 500 members) and it convenes once every two or four years. A smaller body is usually called the Party Council and has from 8 to 150 members. Typically, it meets once every two months or so. The smallest body is the presidium or executive council; this is the operative body of the party.

The financing of Slovenian parties is generally regulated by party constitutions. However, detailed provisions on financing are included in other party documents, usually in some kind of party regulations dealing with party financing. Comparative analysis shows that there are no major differences among the major parties with regard to financing. None imposes voluntary restrictions on its sources of funding in its founding document. In their constitutions, most just replicate the provisions in the Political Parties Act that regulate party funding. They regulate funding in more detail in a separate special document. However, there are some differences between the parties in the field of funding. Some regulate funding in documents adopted by the presidium, even though the presidium is a body that deals extensively with finances. Others have a more "democratic" way of adopting this document, i.e. the document is proposed by the presidium or other "executive" body and adopted by some wider body, e.g. the Party Council. Furthermore, some parties regulate the funding of local boards in detail while others leave the regulation to the local boards themselves.

[279] Art. 21 (1) of the Election Campaigns Act.
[280] Art. 22 of the Election Campaigns Act.
[281] Art. 24 of the Election Campaigns Act.
[282] Art. 19 (8) of the Political Parties Act.

The following paragraphs give an overview of the relevant provisions of the party statutes of the Slovenia's most important political parties. For over a decade, Liberal Democracy of Slovenia (LDS)[283] has been the leading party, winning every parliamentary election between 1992 and 2004. In 2004, however, it got defeated by Slovenian Democratic Party (SDS)[284].

The constitution of the Liberal Democrats states that the party collects financial resources for its operation from membership fees, state budget allocations, donations, and other sources.[285] The document, which regulates financing in a more detailed way, is adopted by the executive council, i.e., the narrowest body.[286] The secretary general conducts these operations, and it is he or she who is responsible for the material and financial operations of the party. He also prepares the party's annual report.[287] There is also a supervising committee in the party; this supervises financial operations at the local and national level.

The constitution of the SDS regulates party finances in more detail than do those of other parties. However, all these details are included in the party's Regulations on Financial Operations, adopted by the Party Council.[288] According to the regulations, three people are authorized to sign contracts and to conduct other financial operations: the president of the party, the secretary general of the party and the vice-president (or another member of the presidium authorized by the presidium). In practice, as well as in accordance with additional provisions in the regulations, it is the secretary general who manages financing on the national level. It is he or she who signs the contracts and he or she who is responsible for the legality of party financing.

The financing of the Social Democrats[289] is regulated very loosely by the party's constitution. Detailed rules on financing and the administration of the party's property are laid down by the party's Regulations on Financial Operations, a document adopted by the party's presidium.

The constitution of the Slovenian People's Party largely replicates the financial provisions of the Political Parties Act,[290] although it also includes detailed provisions on membership dues. The financial operations of the party, as well as the membership dues, are set by regulations proposed by the executive board and adopted by the party council. The

[283] Liberalna demokracija Slovenije (LDS). The Association of Socialist Youth of Slovenia (Zveza socialistične mladine Slovenije, or ZSMS) began as an offshoot of the communist party and became the leading political party in Slovenia. Later it changed its name to become the Liberal Democratic Party (Liberalnodemokratska stranka, or LDS); after that it formed (with three minor parties) the Liberal Democracy of Slovenia (LDS).

[284] Slovenska demokratska stranka (SDS). Previous names of the party are Social Democratic Association of Slovenia (Socialdemokratska zveza Slovenije, or SDZS), Social Democratic Party of Slovenia (Socialdemokratska stranka Slovenije, or SDSS), and Social Democratic Party (Socialdemokratska stranka Slovenije, or SDS).

[285] Art. 75. of the Constitution of Liberal Democracy of Slovenia (Statut LDS). Available online at www.lds.si (January 1, 2002).

[286] The document is called the Ordinance on Accounting and Financial and Material Operations of the Party (Pravilnik o računovodstvu ter o finančnem in materialnem poslovanju stranke); it was adopted by the executive council of the LDS on November 5, 1999.

[287] See Art. 33 of the Constitution of Liberal Democracy of Slovenia.

[288] Ordinance on Financial and Material Operations of the SDS (Pravilnik o finančnem in materialnem poslovanju SDS), adopted by the SDS presidium on July 25, 1995.

[289] The Slovenian Communist Association (Zveza komunistov Slovenije, or ZKS) changed its name to Party of Democratic Restoration (Stranka demokratične prenove, or SDP) and later to Social Democratic Restoration (Socialdemokratiska prenova). Later it formed with some minor parties the United List (Združena lista, or ZL), and subsequently changed its name to United List of Social Democrats (Združena lista socialnih demokratov, or ZLSD) and finally to Social Democrats (Socialni demokrati, or SD).

[290] Slovenska ljudska stranka (SLS). Originally the Slovenian Farmers' Association (Slovenska kmečka zveza, or SKZ), it adopted the name Slovenian People's Party (SLS) after the first democratic elections. In 2000 it formed with the Christian Democrats (Slovenski Krščanski Demokrati, or SKD) the SLS–SKD and in 2001 changed its name back to Slovenian People's Party (SLS).

constitution of the party also gives the executive board the power to re-allocate all the party's assets in the case of need.

1.3 Membership Dues and Affiliation Fees

Most political parties in Slovenia collect membership fees from their members. These fees vary from €5 to €20. Some parties have lower rates for students or retired persons. It should be noted that some parties do not collect membership fees at all. For example, the Youth Party of Slovenia,[291] between 2000 and 2004 a parliamentary party, has a symbolic membership fee of only 1 Slovenian tolar (which is less than €0.01). The highest membership fees are in the Social Democrats. This party expects members to pay 1 percent of their net salary every month to the party, although it also allows them to pay less.

There are no legal limits on membership dues. Membership dues are considered private donations when the party submits its annual report to the authorities. In the report, membership dues and private donations are added together. Therefore, private donations cannot be concealed as membership fees for purposes of avoiding reporting and disclosure requirements. If an individual donates an amount larger than three monthly salaries in one year, the party must report it, regardless of whether it was given to the party as a donation or as a membership fee. It is therefore difficult to know the actual percentage of membership dues in party income, since donations and membership dues are often presented as one amount in the reports. Some parties do present membership dues and donations separately, while the others put them together. When the parties present membership fees in their reports separately, the amount collected through membership fees varies from about 4 percent of party income (in the case of the LDS) up to 18 percent (in the case of the SD, formerly ZLSD). The SD collects about €250,000 annually through membership fees, while the leading party, the LDS, collects about €80,000 annually through membership fees.

Political parties are not officially affiliated with trade unions, although there are some trade unions that are more or less linked to certain parties. However, there is no institutionalized relationship between parties and trade unions. Political parties do not receive monetary support from trade unions even though trade unions are allowed to make political contributions. The law does not prescribe any restrictions on trade-union donations. Similarly, political parties have no institutionalized relationships with employers' associations, chambers of industry and other sorts of business association. Just as there are links between trade unions and social democratic parties (the SD and SDS), so there are links between the LDS and various business and managers' associations, since it is well known that most managers have ties with the LDS, which has been the governing party in Slovenia for the last decade.

Slovenia has a large Diaspora abroad, especially in Argentina. Slovenians who are citizens of both Slovenia and their host country mostly vote for conservative parties, namely the Slovenian People's Party or New Slovenia.[292] Many are also members of these parties. However, Slovenian law does not allow parties to receive funds from abroad, with the result that these people are not entitled to pay membership fees.

1.4 Private Donations

[291] The Stranka Mladih Slovenije (SMS) was established just before the national elections in 2000. To everybody's great surprise, it passed the 4 percent threshold and won four parliamentary seats.

[292] Nova Slovenija (NSI) is a new party, established in 2000. Its president returned to Slovenia from Argentina in 2000. The party won eight seats in the 2000 parliamentary elections.

The Political Parties Act allows individuals, corporations and other kinds of legal entity to make donations to political parties.[293] According to the law, the term "private donations" also includes services given free of charge and services supplied at prices lower than those charged to regular customers. The corporation or individual providing services to a party has to issue a receipt to that party regardless of the fact that someone else is paying for the service or that the service is free. The law does not differentiate between legal entities and natural persons with regard to donations: the same rules and restrictions apply to both.

Private donations are restricted. Donations given by an individual or corporation to a particular party in one year cannot exceed 10 average monthly salaries. Since average gross monthly salary in Slovenia in 2001 was about €900, the largest donation allowed was approximately €9000.

Donations that exceed 3 average monthly salaries have to be reported in the annual report. The party must report the name and address of the individual or corporation donating such an amount. Should there be more than one donation by the same donor in a particular year, these donations are seen as one donation for the purposes of reporting. Therefore, if donations by one donor in the course of a year exceed three monthly salaries, they must be noted in the annual report.

Foreign citizens and legal entities are prohibited from making political donations. Political parties are prohibited from receiving any kind of donation, gift or service from abroad.[294]

The financing of parties from abroad is a topic frequently discussed in Slovenia, especially as one of the most recent scandals arose in connection with the foreign funding of parties. A not-for-profit organization, called Kalander's Society, received several thousand pounds sterling from Britain's Labour Party for the organizing of an educational event. However, leaders of the Social Democrats are members of Kalander's Society. The party has admitted that Kalander's Society spent funds on a seminar organized mainly for members of the party. Current issues include visits abroad. For example, if the leader of a Slovenian party visits a colleague in a political party in another country, can the foreign party pay the cost of that visit?

1.5 Tax Status of Political Parties

Parties are considered as not-for-profit organizations and are therefore not taxed on their income. There is no special regulation concerning the tax status of parties, with the result that the tax laws binding most legal persons also bind political parties. If a party owns a commercial firm, and it can only own firms engaged in cultural and publishing activity, this firm is required to pay taxes just like every other commercial firm. When a party buys office materials or computer equipment, it has to pay value added tax (VAT) in the same way as every other buyer.

Donors in Slovenia are encouraged by means of tax incentives to make political donations. Individuals have a right to deduct party donations and membership dues from their income tax. However, they cannot deduct more than 3 percent from the total amount of income tax they are obliged to pay.[295] Legal entities are entitled to deduct their donations

[293] On donations see Art. 22 of the Political Parties Act.
[294] See Art. 21 (6) of the Political Parties Act.
[295] See Art. 9 of the Income Tax Act (Zakon o dohodnini). *National Gazette* 71/93, 2–4/94, 7/95, 44/96.

from corporation tax. However, the amount they are allowed to deduct is limited to the equivalent of three average salaries of the company's employees.[296]

1.6 Party Firms

Political parties in Slovenia are permitted to own commercial firms, but such ownership is subject to several restrictions. As mentioned above, parties can only own publishing firms or other firms whose activities are related to culture.[297] Secondly, incomes received by a party through such firms should not exceed 20 percent of total party income.[298] If more than 20 percent of a party's income comes from the profits of its firm or firms, the party has to donate the excess to a charitable organization.

Looking at the present situation in Slovenia, it is only the SDS that owns such firms. A few parties did own firms to publish newspapers, but these newspapers did not bring the profits they were intended to. In the mid-1990s, the Slovenian People's Party had the largest number of members, although it never won a majority of votes in the elections. It even published its own newspaper, *Slovenske brazde*. In 2000, the party lost a large number of members and public support in general; it lost the parliamentary elections and the newspaper that same year. The Slovenian Democratic Party is the only party that holds stocks; it owns a 50 percent share in the publishing house Nova Obzorja, which publishes the weekly newspaper *Demokracija.*

Although funding of the parties through their firms is not worth mentioning in detail, it must be said that some parties receive a large income from renting out their property. These parties are the successors of the former "communist organizations," from which they inherited real estate.

1.7 Party Foundations

There are no legal provisions preventing Slovenian political parties from establishing party foundations, research institutes or other kinds of not-for-profit organization. The most common form of not-for-profit organization in Slovenia is the *društvo*, or society. However, these can be established only by natural, physical, persons, and not by legal entities. A political party cannot establish a *društvo*, although a group of its members has a right to do so.[299] However, a party can, as a legal entity, establish a foundation (*fundacija*) or an institute (*zavod*, *inštitut*).[300]

In reality, parties tend not to establish foundations. When they do so, there are no special limitations on their funding compared with that of other, non-partisan, foundations. However, parties have established a number of societies in order to raise funds through them. As mentioned above, these societies are set up by "groups of individuals," so it cannot be proven that a particular party has established them.

The only well-known example of a partisan not-for-profit organization is Kalander's Society, an organization established by a group of members of the ZLSD party. This

[296] See Art 25 (2) of the Act on the Profits Tax on Legal Entities (Zakon o davku na dobiček pravnih oseb), 72/93, 20/95, 34/96.
[297] See Art. 21 (2) of the Political Parties Act.
[298] See Art. 21 (3) of the Political Parties Act.
[299] See "The Societies Act" (Zakon o društvih). *National Gazette RS* n. 60/95, 89/99.
[300] On foundations see "The Foundations Act" (Zakon o ustanovah). *National Gazette RS* n. 60/95; on institutes see "The Institutes Act" (Zakon o zavodih). *National Gazette RS* 12/91, 8/96.

association received a grant from the Westminster Foundation that it spent on its campaign. We shall return to this in more detail later on.

1.8 Party Assets

In Slovenia, unlike some other Central and East European countries at the end of 1980s, the communist party did not collapse completely. After the establishment of the multi-party system, it ran in elections against the new political parties under its old name, Association of Slovenian Communists. The Association of the Socialist Youth of Slovenia, an offshoot of the party, ran as a separate political entity. Later on, these organizations changed their names and transformed themselves into modern political parties. Again, unlike elsewhere in the region, the assets of the Slovenian Communist Party were never nationalized, becoming instead assets of the Social Democratic Reform Party and later of the Social Democrats. The assets of the Association of the Socialist Youth of Slovenia became assets of the LDS. These parties, especially the Social Democrats, now rent out real estate assets in their possession and receive a substantial income from so doing. In an interesting case,[301] the small Liberal Party (Liberalna stranka) together with its secretary general as an individual plaintiff sued the Ministry of Finance claiming that the assets of the former communist party and those of the Association of the Socialist Youth of Slovenia should had been nationalized. The court turned the plaintiffs down on the grounds that they did not have sufficient standing in such a case.

In Slovenia there was no restitution of property to political parties operating before the communist takeover. The most obvious reason for this was that no new party or other legal entity could prove a legal connection to the parties of fifty years ago.

All parties, except for the successors of the communist party and its satellites, had to start from scratch and were disadvantaged in comparison to those that developed from the communist party and its youth organization. At present, most parties rent their offices, although in some cases they own them.

Except for the already mentioned SDS newspaper *Demokracija*, political parties do not have a newspaper published by a company. However, most publish internal bulletins, which are distributed to party members only.

1.9 Public Funding

1.9.1 Direct Funding

State budget allocations are an important source of funding for Slovenian political parties. All parties that received at least 1 percent of the votes cast in the previous parliamentary elections are eligible for state budgetary funding.[302] Another requirement for state funding is that a party places a candidate on the ballot in at least 6 of the 8 electoral districts in Slovenia, although in practice all the parties do this. When the Political Parties Act was adopted in 1994, only parliamentary parties were eligible for state budgetary funding. Since parties need 4 percent of the votes cast in order to enter Parliament and since there were between 6 and 8 parliamentary parties, minor parties had little chance of receiving funding from the state budget. As already mentioned, on the basis of a constitutional complaint filed by four minor parties the Constitutional Court declared this regulation to be

[301] Administrative Court Decision U 706/99-4 of October 19, 2000.
[302] See Art. 23 (1) of the Political Parties Act.

unconstitutional.[303] In 2000, Parliament amended the law to allow all parties that received at least 1 percent of the votes cast to be eligible for public funding. If two parties run for election together, they need at least 1.2 percent of the vote to be eligible for funding; if three or more parties run together, the figure is 1.5 percent or more of the vote.

Parties do not receive funds in equal amounts since such a distribution would be unfair to the large parties. Neither do they receive funds in proportion to their success at the elections, since such a distribution would give the winning parties about 30 times more than the minor parties. According to the scheme adopted by the law,[304] 10 percent of the budget resources meant for political parties is distributed equally among all the parties eligible for public funding. The other 90 percent is distributed among parties according to their success at the last parliamentary elections. If two or more parties ran together and there was no agreement between them concerning the distribution of state funds, then these funds are distributed among them equally.

The total amount of budget resources allocated to political parties must not exceed 0.017 percent of the gross domestic product in the year preceding the year the Budget Act is adopted. Funds are paid every month and can be stopped should a party fail to issue annual reports on its finances as required by law.

In addition to the central state government, municipalities, too, are allowed to finance political parties, although they are not obliged to do so. If municipal finance is given, then parties are funded in proportion to their success in the previous municipal election. All parties that received at least 50 percent of the votes needed for the election of at least one member of the municipality have the right to receive funds from it. Non-elected parties can also receive funds, which are limited to €0.15 per vote received or to 0.2 percent of the resources received by the municipality for the performance of its constitutional and legal tasks.[305]

Local sections of the parties do not receive direct public funding. All public funds, including those from municipalities, are paid directly to the party headquarters and internal distribution of funds is an internal party matter.

The state not only pays the salaries of members of Parliament, but also provides parliamentary parties with state-salaried secretaries, assistants and researchers. In Slovenia MPs do not have their own secretaries or assistants. MPs are organized according to their party affiliation into so-called MPs' clubs. Essentially, each party has its own MPs' club. Any independent, non-partisan MPs form a special MPs' club, while the two MPs representing national minorities form their own MPs' club. Each club receives one secretary general and two research assistants. MPs' clubs with eight or more members receive one additional research assistant for the first eight MPs and an additional research assistant for every additional six members. Each club has a secretary.

In practice, this means that parties have between 4 and 13 members of paid staff; [306, 307] in 2002, there were 53 such members in all.[308]

1.9.2 Indirect Funding

[303] Constitutional Court Decision n. U-I-367/96 of March 11,1999.
[304] See Art. 23 (3) of the Political Parties Act.
[305] See Art. 26 of the Political Parties Act.
[306] Four is the smallest possible number of staff: secretary general, secretary and two research assistants. In 2002, four out of nine MPs' clubs had four members of staff each.
[307] In 2002, the Liberal Democracy of Slovenia MPs' club was the largest with 13 members of staff. The LDS held 34 out of the 90 seats in the National Assembly.
[308] "Ordinance on the Organization and Work of Parliamentary Bodies" (Odlok o organizaciji in delu služb Državnega zbora). *National Gazette*, n. 124/00. The ordinance is dated December 21, 2000.

Parties use legislature premises intended for their MPs' clubs for party activities also. They also have special premises for party headquarters and local offices. These premises are rented at market rates, and officially the renting of such premises cannot be negotiated at preferential prices.

In Slovenia political parties do not enjoy free airtime on television and radio for party statements and presentations. However, they can agree with journalists or editors to receive such free airtime. There is no law guaranteeing the possibility of publishing party statements. The law gives no privileges in connection with advertising in newspapers or other media.

During the election campaign period, which lasts 30 days, the above state of affairs changes somewhat. The National Television Act prescribes that Slovenian national (state-owned) television has to give a certain part of its program time to the political parties for free so that they can present their platforms and candidates to voters.[309] It is not defined how much time must be granted to the political parties, but it is prescribed that at least one third of the time has to be given to the non-parliamentarian political parties and independent candidates.[310] Within this time all parties must have equal opportunities for presentation. The law prescribes free airtime, therefore, only on national television. Even so, all the commercial (i.e. private) television stations have allowed political parties free presentations, although only the largest ones have done so, and in a very unequal way.[311]

1.10 Reporting and Disclosure

According to the Political Parties Act, parties have until March 31 each year to submit their annual financial reports to Parliament.[312] However, before parties do this, they have to submit them to the Accounting Court, before February 28, for checking and evaluation.

The report has to contain all the incomes and expenditures of the party during the previous year. All donations exceeding three average monthly salaries must be included, together with the names and addresses of the donors. The report must contain all the data on the party's assets. All changes of property must be explained in the report. If a party's property has grown in value by more than five average salaries as compared to the previous year, the financial sources of such increases must be accounted for in the report.

Political parties that received state or municipality funds, as well as parties that received donations greater than three average monthly salaries, must publish a short version of their report in the *National Gazette of the Republic of Slovenia*. In practice, this means that only minor parties, those receiving less than 1 percent of the vote, do not have to publish their financial reports in the *National Gazette*.

If the report is not compiled in accordance with the law, the president of the parliament can demand that the report be corrected in a period determined by him or her. If a party does not comply with the rules regarding financial reporting, public funding is discontinued until that party meets its obligations. The exact contents of the annual report and

[309] "Zakon o RTV Slovenija." *National Gazette RS* n. 18/94, 88/99, 79/01.

[310] How important free television time is to the parties was shown by the high number of lawsuits filed against national television after the national elections of 1996. See Krašovec, Alenka (2000) *Moč v političnih strankah.* Ljubljana: Fakulteta za družbene vede, p. 161.

[311] A representative of the largest private television company, Pop TV, said that his firm decided to give free time only to parties that were of interest to the viewers. Krašovec, Alenka (2000) *Moč v političnih strankah.* Ljubljana: Fakulteta za družbene vede, pp. 161–162.

[312] On party reports see Art. 24 of the Political Parties Act.

the contents of the short version of the report are defined by the Ordinance on Contents and Form of the Annual Report and the Short Annual Report of Political Parties.[313]

1.11 Enforcement

The agencies responsible for the enforcement of party funding rules are the following:

- Ministry of Finance;
- Ministry of the Interior;
- Accounting Court;
- Parliament (National Assembly).

The Ministry of Finance is responsible for the enforcement of Chapter IV of the Political Parties Act; this is chapter that regulates party funding. The Ministry of the Interior is responsible for all other sections of the Political Parties Act, while the Accounting Court evaluates the regularity of the parties' annual financial reports. Parliament has the power to stop public funding if a party does not comply with the rules regarding the submission and publication of the financial reports.

The law provides for sanctions

- if a party does not donate any excess income from its corporations and property to a humanitarian organization within 30 days;
- if a party is deleted from the register of parties and funds from the state budget are not returned within 30 days;
- if a party receives funds or services from abroad;
- if a party receives a donation which exceeds 10 average salaries;
- if a party receives funds from a prohibited source, e.g. a state-owned corporation;
- if a party does not submit its annual report on time to the Accounting Court;
- if a party does not submit its annual report on time to the National Assembly;
- if a party does not publish a short version of its annual report in the *National Gazette* on time.

Parties judged to be in breach of the regulations are subject to fines ranging from €5000 to €25,000 and to confiscation of funds where appropriate.[314]

If a corporation or an individual businessman funds a party with donations amounting to more than 10 average monthly salaries in one year, then the prescribed fine varies between €5000 and €25,000. The person responsible at the corporation that violates the law regarding funding is fined between €400 and €1000. If a corporation or individual businessman does not give an invoice for goods or services supplied to a party, the fine also varies between €5000 and €25,000, and the person responsible at the corporation that violates the law regarding funding is fined between €400 and €1000. If public corporations, humanitarian organizations, religious organizations, local governments, or corporations whose capital is at least 50 percent publicly owned fund a party, they are fined between €5000 and €25,000 and the person responsible is fined between €500 and €2500.[315] A party that does not submit its annual financial report on time to the Accounting Court or to the National Assembly, or does not publish the short version of the annual report in the *National Gazette* on time, is also punished

[313] "Pravilnik o vsebini in obliki letnega poročila in skrajšanega letnega poročila političnih strank." *National Gazette RS* n. 2/01.
[314] See Arts. 28–31 of the Political Parties Act.
[315] Art. 29 of the Political Parties Act.

by withdrawal of public funding until the party fulfills its obligation. The appropriate legislative committee orders the withdrawal of public funding.[316]

1.12 Party Funding and the Constitutional Court of Slovenia

There are two important constitutional cases concerning the funding of political parties. It was four minor non-parliamentary parties that brought the first of these to the Constitutional Court.[317] According to the law in force at that time, only parliamentary parties were entitled to receive funds from the state budget.[318] Since the electoral threshold was set at 3.2 percent,[319] those parties that received less than 3.2 percent of the vote in national elections received no funds from the state budget. The minor parties claimed that money gives parties the chance to exist; therefore, parties that receive no budget funding cannot compete on equal terms with those that do receive funding. The court agreed with this view and ordered the National Assembly to change the law within six months. The court took the view that the government should be neutral in the contest between political parties and should not give unequal chances to different parties. The court held that there was no justification for discrimination against minor parties, and that the right to an equal vote had been violated. Furthermore, the court held that Parliament should set a certain threshold for budgetary funding. However, this threshold should be set in such a way that only parties with no real chance of success would be denied budgetary funds.

As we have seen, the Constitutional Court did not strike down the law: had it done so, all political parties from the time of the decision onwards would have enjoyed the right to receive funds from the budget. Instead, the court ordered Parliament to change the law within six months. The National Assembly did so a year and a half after the Constitutional Court decision had been published. It changed the law just before the next parliamentary elections took place, thereby prolonging the period in which the parliamentary parties were not obliged to share budgetary funds with the non-parliamentary parties.[320]

The second case came to the Constitutional Court by way of two local politicians, both of whom had been elected to city councils not by way of party lists, but by way of "lists of independent candidates." They claimed that the law wasdiscriminatory, since it allowed budgetary funding to the political parties but not to the groups of independent representatives. The court decided that neither the functions of individual representatives, nor those of groups of representatives were comparable with the role of political parties. A group of voters proposing a list of independent candidates cannot be compared with a political party in either an organizational or a functional sense. On these grounds, the court concluded that the

[316] See Art. 24 (4) of the Political Parties Act.

[317] See Constitutional Court Decision n. U-I-367/96 of March 11, 1999. The case was brought to the court by the National Labor Party (Nacionalna stranka dela), the New Party (Nova stranka), the Slovenian Republicans (Republikanci Slovenije), and the Party for Legally Equal Provinces (Stranka enakopravnih dežel).

[318] Art. 23 of the Political Parties Act.

[319] Until 2000, the threshold was set at "three parliamentary seats." In practical terms, this meant that a party had to receive about 3.2 percent of the vote. In 2000, the Slovenian Constitution was amended and the threshold set at 4 percent of the votes. See "Constitutional Act for the Amendment of Art. 80 of the Constitution of the Republic of Slovenia" (Ustavni zakon o dopolnitvi 80. člena Ustave RS). *National Gazette RS* n. 66/00. On the changes to the Slovenian constitution see Toplak, Jurij (2001) *Spremembe ustave Republike Slovenije*. Maribor: Pravna fakulteta Univerze v Mariboru.

[320] The decision was issued on March 11, 1999 and the law making changes to the Political Parties Act came into force on August 23, 2000. See "The Act on Changes and Amendments to the Political Parties Act" (Zakon o spremembah in dopolnitvah zakona o političnih strankah). *National Gazette RS* n. 70/00.

constitution did not guarantee the funding of individual representatives, nor that of groups of such representatives.[321]

1.13 Scandals[322]

Slovenian law prohibits political parties from receiving funds from abroad. However, the law is very vague and raises numerous questions, e.g. the right of parties to collect regular membership fees from members residing abroad. Some parties have many members abroad, especially in South America, where there is a large Slovenian community. A second question – one that has been raised repeatedly in the media – is whether Slovenian party officials are allowed to visit conferences or other kinds of meeting abroad when the costs of such a visit are covered by the host organization.

The first scandal on the issue of financing from abroad arose when the Slovenian People's Party took out a loan of €400,000 in Austria. Several different laws were broken in this case, and additionally the money was brought over the border in cash.

There was another scandal regarding overseas financing. Members of the United List of Social Democrats, later renamed to Social Democrats, established a not-for-profit organization called Kalander's Society. A few months before the national elections, Kalander's Society received some €22,000 from Britain's Westminster Foundation for Democracy. The United List of Social Democrats then raised loans from Kalander's Society to the sum of €18,000. Kalander's Society also organized seminars visited by ZLSD members; one of these seminars took place during the electoral campaign.[323]

Other scandals over party finance include some classic cases of corruption. In 1992, the minister of science, a member of the Green Party, signed a contract with a brick company for the co-financing of brick production. The company received a grant of about €13,000 and later donated the same sum to the Green Party. The same minister also co-funded another company's production of bricks and that company received a grant of €18,000, plus another €15,000 by way of an interest-free loan. Immediately after the company received these funds, it sent part of the money to another company, which then donated it to the Green Party.

Although the law prohibits parties from receiving funds from public institutions and state-owned companies,[324] in 1995 the LDS received funds from four different public libraries and several state-owned companies. The party even presented all these funds in its annual report, but no legal action was ever taken (Krašovec, 1997: 210–227).

The most famous scandal took place during the 1996 election campaign, when the pharmaceutical company Lek paid €27,000 to a marketing agency. The money was spent on the election campaign of the Slovenian People's Party. It was said that the party returned the favor by putting one of Lek's managers in one of the top places on its party list, thereby assuring her a seat in Parliament.[325] The scandal began with an article in the newspaper *Mladina*, which is famous for scandalous stories and has been frequently sued. In this case, the party leader sued the newspaper, although the story of the party suing the magazine became far more famous than the alleged illegal financing.[326] At the end of the day, the

[321] See Constitutional Court Decision n. U-I-372/98 of May 17, 2001.
[322] The author is not asserting that the criminal offenses described here actually took place, but is simply relating the scandals regarding illegal party funding as reported by the Slovenian media.
[323] Sever, Jani "Vroči funti." *Mladina* 32/01, August 13, 2001, p. 13.
[324] Art. 25. of the Political Parties Act.
[325] Štamcar, Miha and Jani Sever "Nepoštene ljudske igre." *Mladina* 11/98, March 17, 1998, pp. 16–18 and Štamcar, Miha and Sebastijan Ozmec "Neuspešno prikrivanje." *Mladina* 12/98, March 24, 1998, pp. 16–19.
[326] See, for example, the reports from the courtroom and other articles on the court procedures: Podobnik, Marjan "Odškodnina 25,000,000 SIT za duševne bolečine." *Mladina* 14/98, April 7, 1998, pp. 20–21; Štamcar, Miha

magazine was unable to prove illegal financing of the SLS, although the party failed to win any damages in court. The other scandals described above also ended without conclusive punishment. The minister of science was charged with a criminal offence, but was not convicted. In the case of ZLSD and the Westminster Foundation, statutes of limitation prevented the party from being fined. In the remaining cases, either statutes of limitation prevented the parties and their officials from being fined or there was insufficient evidence to prove illegal funding.

II. Analysis of the Party-Funding Model

2.1 Transparency and Legality of Party Funding

The Slovenian legal system uses a combined funding model that allows both budgetary funding and private donations. With regard to the first source, budgetary funding in Slovenia is fairly generous. Parties spend this money on their regular operations and not on election campaigns, for which they receive additional budgetary funds. A second major source of funds in Slovenia is donations, although according to official reports donations make up less than 25 percent of total party incomes and some parties do not even collect donations at all. Budgetary funds account for about 74 percent of party funds during election years, and about 80 percent during non-election years.[327] Therefore, according to the official reports, parties receive most of their funds from the state budget. However, the correctness of these official reports is questionable, since many donations are not reported to the authorities.

Table 1

Share of Budgetary Funds in Total Party Income from 1996 to 2000 (in Percent)[328]

	LDS	**SDS**	**SLS**	**SKD**	**ZLSD**	**DeSUS**	**SNS**	**Average**
1996	83	74	81	80	39	67	96	74
1997	85	78	88	80	43	84	99	80
1998	82	60	78	79	44	76	99	74
1999	81	70	77	75	56	92	100	79
2000	78	73	–[329]	–	40	76	100	73

Source: Official reports

"Avtogol s političnim ozadjem." *Mladina* 14/98, April 7, 1998, pp. 16–19; Štamcar, Miha "M. Podobnik vs. Mladina." *Mladina* 20/98, May 18, 1998, pp. 18–20; Štamcar, Miha and Jani Sever "Marjanova navadna tatvina." *Mladina* 21/98, May 25, 1998, pp. 16–18; Žerdin, Ali H. "Vrnitev spomina v virmanski aferi." *Mladina* 21/98, May 25, 1998, pp. 16–18; Žerdin, Ali H., "Enostavna tatvina." *Mladina* 22/98, June 1, 1998, p. 16; Ogorevc, Blaž "Muke na sodišču." *Mladina* 25/98, June 22, 1998, pp. 16–18; Sever, Jani "Podobnikove priče se zapletajo." *Mladina* 25/98, June 22, 1998, p. 19.

[327] See Table 1 below. In 1996 and 2000 there were parliamentary elections and in 1998 there were local elections. In 1997 there were presidential elections, but there was no real campaign since it was obvious that an independent candidate, Milan Kučan, would win the elections easily. In 1999 there were no elections.

[328] The table is based on data in Krašovec, Alenka (2000) *Moč v političnih strankah.* Ljubljana: Fakulteta za družbene vede, pp. 154–168, and The National Assembly *Party Financing* (the maps containing annual reports), 411-01/93-30, map III (1997–1999) & map IV (2000).

[329] The Slovenian People's Party (SLS) and the Slovenian Christian Democrats (SKD) joined in 2000. From the financial reports for 2000 it was impossible to define the funding of these parties.

This table shows the share of budgetary funding in total party income. The only party with a low share of budget funding is the SD, since it has two sources that other parties do not have: a large membership and the real estate inherited from the former communist party that it rents out. On the other side, some parties rely solely on budgetary funds. Presently, parties receive substantial funding from the budget and do not complain that they are under-funded. Of course, the story is different during election campaigns, yet even then parties join together when they need more budgetary money. In 1996, just days before the elections, Parliament amended the Election Campaigns Act in such a way that it doubled the budgetary funds received by the parties to cover their election campaign costs.

A strong dependence on budgetary funds tends to turn Slovenian parties into cartel parties.[330] However, one must remember that the official reports are probably not accurate. According to some authors, in Austria only 12–15 percent of party funds are included in the reports (Nassmacher, 1989: 258). It is difficult to predict the share of the funds that is actually included in the Slovenian reports. It has been argued that less than half of the actual funds are reported.[331] However, there are ways by which the parties could be forced to enter their funds in the reports. One is to set a maximum share of total party income that can be obtained by the party from the state budget. In some countries, according to such a rule, parties cannot receive more than 50 percent of their funds from the budget.[332] This way they are forced to include different types of donations in the reports. If they do not, they do not receive budget funds. There is another positive consequence of introducing such a rule: parties will be forced to have more contact with the people, and they will try to have as many members as possible. This will bring them closer to the people and it will help prevent so-called etatization of the political parties.[333]

Table 2

Income of Major Slovenian Parties in 2000 (in Euros)[334]

	LDS	**ZLSD**	**SDS**	**DeSUS** [335]	**SNS** [336]
Budget	1,480,600	564,400	821,700	250,000	125,170
Membership dues	94,100	249,300	266,900[337]	6,600	50
Donations	242,300	205,900		7,500	0
Other	80,100	382,400		65,600	70
Together	1,896,100	1,402,000	1,131,100	329,700	125,190

[330] The author believes that this strong thesis is further supported by the fact that parties very much work together when enacting laws that result in financial benefits for them.

[331] See, for example, Vogrič, Sonja H. "Če mi boš dal za kavo, boš služil." *Dnevnik*, May 16, 1998, p. 24.

[332] In Germany the Constitutional Court ruled on April 9, 1992 that public funds cannot exceed 50 percent of total party income.

[333] A number of experts consider that the introduction of budgetary funding results in the lowering of the number of party members since the parties realize that they no longer even need members. See, for example, Alexander, 1989: 75).

[334] The National Assembly *Party Financing* (the maps containing yearly reports), 411-01/93-30, map III (1997–1999) & map IV (2000). The values have been converted from Slovenian tolars to euros based on the Slovenian tolar – Deutschmark exchange rate in mid-2000.

[335] Democratic Retired People's Party (Demokratska stranka upokojencev Slovenije, or DeSUS). It has been a parliamentary party since 1996.

[336] Slovenian National Party (Slovenska nacionalna stranka, or SNS). It has been a parliamentary party since 1992.

[337] The donations and membership fees are presented as one amount in the report of the SDS.

Source: Official reports

The above table shows party funds as the parties disclosed them in their official reports. As we have said, the accuracy of the reports is questionable. Although parties did have to submit reports, until 2000 but there were no exact standards on how the funds were to be classified. In 2000 the law was amended so that parties now have to fill out a special form ensuring that the configuration of the reports is uniform for all parties. However, membership dues and small private donations (amounting to less than three average salaries) are still not separated, but are shown as one amount. Large private donations—from three to ten average monthly salaries—must be reported separately. Furthermore, according to the reports, parties never receive any donations larger than three average salaries,[338] making it impossible to find out how much money parties actually receive from membership dues and how much from small donations.

According to some specialists, parties in Slovenia often receive donations from firms in the form of employment. A company wanting to make a donation will employ a person who works not for the company but for the party. The employee receives a salary from the company, but he never goes there; he works all the time at party headquarters. It is estimated that about half of the people working at party offices are actually employed somewhere else.

One of the most common ways of avoiding the law is for the bills of parties to be paid directly by corporations. Since according to the documents everything appears as though the beneficiary party had nothing to do with the payment, such illegal donations are very difficult to prove. In reality, not just dinners are paid for in such a way, but also television spots, leaflets, posters, and so on.

There are several possible methods for improving the transparency and legality of party funding. One solution often proposed is to introduce heavy penalties for violation of legal rules. Heavy penalties may deter flagrant disregard of the legal restrictions; however, they would have less impact on the types of illegal practice described above. It is difficult to prove such practices and therefore difficult to punish transgressors. Another proposal would be to introduce clear, detailed rules on funding and reporting. Slovenia amended the funding law in this direction in 2000, but not sufficiently to stop the types of illegal practice described above. A measure that has not yet been used in Slovenia is the establishment of civil society organizations to monitor the reporting of party funding. While in most East European countries there are a number of organizations that exercise control over the actions of the political parties, in Slovenia there have been no such bodies. The establishment of such an organization could help achieve better transparency and legality of party funding. However, these organizations have no enforcing authority and are powerless if their findings and suggestions are ignored.

One measure that would be needed in Slovenia is to change the law so that each television spot and each poster would include a statement to say who is paying for it. In many developed democracies, political television spots include such statements. This way it would be impossible for a donor to pay for a spot instead of a political party. Such an amendment to the law would not eliminate all corrupt practices, but it would be an efficient measure to limit them.

2.2 Structural Biases in Favor of Certain Political Parties

[338] There are a very few exceptions. Parties usually claim that they did not receive any money from large donors, but occasionally parties report one or two such donations.

There are two kinds of bias that can exist in the area of party finance. The first is legal and therefore set by the law. It means that laws are designed in such a way that a certain political party or a group of parties is favored over another. A second form of bias is deeper, showing in the privileges that some parties have over others in their relation with the government, the media and economic centers.

According to the Political Parties Act as it was adopted in 1994, parliamentary parties were favored over non-parliamentary parties. According to that law, only parliamentary parties received public funding. As already discussed, the law was amended in 2000 so that now minor parties are entitled to receive public funds. Another example of the larger parties being favored by the law is the regulation of presentations in the media during election campaigns: the law offers much more airtime to the larger parties than to the minor parties.[339]

However, the second sort of bias is much more important than the kind entrenched in the law. First, Slovenian political parties did not begin from the same starting point. In 1990, during the first election campaign, there were two political blocs. The first one, the communist party and its satellites, was very well known to the public, while the other, the reformist bloc, was not. The first had the entire media behind it; the second had no journalists or editors on its side. It was estimated that during the election campaign candidates from the communist party and its satellites appeared in the media several times more often than did opposition candidates. Furthermore, the old parties had all the economic power behind them, while the newly established parties had no assets at all. It should be remembered that in Slovenia the real estate owned by the communist party was not nationalized, but inherited by the communists' successor party, the United List of Social Democrats.

For almost fifteen years, the situation remained virtually unchanged. In Slovenia, the Liberal Democratic Party has been in power since 1992. The largest state-owned corporations, such as banks and telephone companies, had not been privatized. In addition, many companies have been privatized only partly. Since the government owns all these companies, it also appoints the directors. Since the same party had held office for twelve years, all economic power was concentrated around this party.[340] It is obvious that when it came to party funding and the financing of campaigns, this party had great advantages over the others. It was not until 2004 that the LDS lost elections.[341] SDS and the coalition partners took over the government and the access to the funding sources is somewhat more balanced now.

There is a similar situation regarding the media. Public opinion on political issues is shaped almost entirely by the media. Even during election campaigns Slovenian parties do not organize public meetings or mount large-scale poster campaigns. Most impact on the voters is achieved through appearances in the media. However, in the area of democratization of the Slovenian media, little has changed during the first decade after the independence. The only conservative-oriented newspaper, *Slovenec*, went bankrupt very quickly. One of the main reasons for this situation is that the government still holds shares in different newspaper houses and therefore can exert major influence over the selection of editors and directors of newspapers. As mentioned above, the same party had kept its hold on government for a decade years now, and this party was the legal successor of one of the communist party's

[339] On the impact of television party presentations and candidate confrontations on electoral outcome in Slovenia see Boh, Tomaž (2001) "Samopredstavitev strank in medstrankarska soočenja kot orodje političnega prepričevanja." *Teorija in praksa* 38(5), pp. 832–847.

[340] How much influence the government in Slovenia has over the economy was best illustrated in the autumn of 2000, when the LDS lost its hold of the government for three months. The new government replaced large numbers of managers and other personnel holding important positions in the Slovenian economy. After three months, when LDS returned to power, all these managers lost their jobs and were replaced by new ones appointed by the incoming government.

[341] For the detaliled overview of the 2004 elections, including the description of the Slovenian election system, see Toplak, Jurij. The parliamentary election in Slovenia, October 2004. *Electoral Studies* 2006 (Forthcoming).

satellites. When SDS won elections in 2004, the new government managed to remove many of the old directors and newspaper editors. As a consequence, the political views of the media reports became more balanced.

2.3 Ensuring an Open and Inclusive Political Process by Diversifying the Sources of Funding

In many countries of Central and Eastern Europe, the major problem is that parties do not receive sufficient funding, making them highly susceptible to corrupt pressures. There is no easy answer to this problem. There are several models used in Western democracies, but unfortunately, the conditions for Western-type funding systems do not exist in Eastern Europe. Private funding through millions of small donations works well in the United States, but no one has yet been able to persuade the average citizen of Eastern Europe to donate to a political campaign when her or she is unsure whether there will be enough money for food for the rest of the month. Living standards are just too low to sustain a funding system that relies on large numbers of small donations.

The generosity of its public funding is probably one of the reasons why Slovenia does not have problems with corruption to the degree the other Central and East European countries do. However, this does not mean that there is no corruption in Slovenian politics. Cases of party employees officially employed in economic corporations have been mentioned. One difference in Slovenia is that corrupt practices are not as widespread as they presumably are in most other post-communist countries. A look at the scandals of the last decade leads produces the same conclusion; there were only a few such scandals and all can be considered minor ones.

While most countries of Central and Eastern Europe have the problem of their parties not being adequately funded, Slovenia has a different problem. Slovenian parties are very well funded. It has to be remembered that they receive public funding twice. First, they receive funding according to the Political Parties Act; second, they receive a refund of their campaign expenses for parliamentary, presidential and local elections. With the exception of the beginning of the transition period a decade ago, political parties have never complained of insufficient funds. During the election campaign, when parties realize that they need more campaign funds, they jointly amend the campaign law in order to receive more money from the budget. Such practices result in the etatization of the parties and alienation of citizens from politics. Parties realize that they do not need citizens any more, just on the day of the elections. There are various consequences of such an attitude. First, parties have fewer members and do not even try to attract them. For example, the LDS, the leading Slovenian party for more than a decade, had only about 5000 members at the peak of its power. This number equals the number of the party's candidates in the last local elections. Furthermore, even the largest Slovenian parties do not have enough members to fill the seats they win in local elections. The Slovenian case is a classic example of what Katz and Mair call "cartel parties" (Katz and Mair, 1995). Cartel parties have neglected their social role and have focused only on their institutional role. They have increased their funding from the budget and have alienated the people from them. They have become quasi-governmental organizations, representing the state in society and not society in the state.

Comparative analyses have discovered similar phenomena in many Central and East European countries (Lewis, 2000: 94–122). Two of the most common features of East and Central European parties are elitism and a top-down construction. Party members play a relatively marginal role within the organization of the party and issues of intra-party

democracy are ignored (Lewis, 2000: 103–104). This results in a decline of the party "on the ground" and a strengthening of the party's central office. Limited party membership in a society has a number of negative consequences. It results in the whole of society having a negative view of politics, the parties and the state in general.[342]

As a result, the issue of how to bring the parties back to the people should be considered. One way of doing this might be to change the party funding model to encourage parties to have as many members as possible and to make public funding partly dependent on a successful donation component, e.g. a rule stipulating that public funds cannot exceed 50 percent of a party's income. If the law provided public funding that matched the sum of the amounts collected from small private donations, this would force Slovenian parties into a greater dialogue with citizens. Such a rule has been mandated by the German Constitutional Court in 1992, for instance.[343]

III. Conclusions

The progress of legal regulation and transparency in Slovenia over the last decade leaves one optimistic, especially when the present situation is compared to the one ten years ago or to the situation in many other countries in Central and Eastern Europe. Between 1989 and 1994 party funding was regulated minimally. In 1994, new party funding legislation was adopted, and in 2000 it was amended to ensure greater transparency of party incomes.

During the past ten years there have been few scandals in the area of party funding and campaign financing. However, this does not mean that there are no illegal practices in this area: it is simply that the public, as well as the parties themselves, do not consider this to be an important issue. According to the polls, public opinion believes that there is plenty of corruption in the area of public funding, but nevertheless does not regard it as an important issue. Reform of party funding in Slovenia cannot be expected anytime soon. Neither the public, nor the political parties are striving for reform in this area. There are also no NGOs in Slovenia seeking such a reform. There is probably no need for any radical reform of the law to limit corruption, although there could be some amendments to ensure stricter supervision over party funds, detailed reporting and the regulation of disclosure. Party funding reform should happen, but not simply as a means to reduce corruption. Generous public funding has transformed parties into quasi-governmental organizations and they have completely forgotten that their primary purpose is to represent the views and interests of the people. As argued above, they are better representatives of the state in society rather of society in the state. This so-called etatization of the parties reduces the number of members and increases citizens' alienation from the state. The end result of such a situation is a so-called "partitocracy," or government by political parties. Reforms should be undertaken to bring the state and the government back to the people; reform of the party funding system is one of the most important among the changes necessary.

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[342] In Slovenia in mid-1996 9.6 percent of the population were members of political parties while at the end of the same year this percentage was only about 6 percent. In 2002, only about 3 percent of the population were party members. In neighboring Austria 16.5 percent of the population were members of the parties in the same period of time. On party membership see Krašovec, Alenka (2000) *Moč v političnih strankah*. Ljubljana: Fakulteta za družbene vede.

[343] Decision of the Constitutional Court of Germany of April 9, 1992. Slovenian Constitutional Court faced the same issue in 2005 but rejected the aplication on the procedural grounds. Decision U-I-155/03 of 24 March 2005.

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Party Funding in Ukraine

Oleh Protsyk and Marcin Walecki

Introduction

Since Ukraine gained its independence more than a decade ago, the transition to a democratic political system has been a difficult and slow process. This chapter discusses the evolution of norms and rules for party and campaign finances and assesses the effects of these rules and norms on the transition process in Ukraine during the 1991-2002 period. By the end of this period Ukraine has established many of the institutions necessary for a functioning democracy, but in practice they remain largely hollow. The regime has been slow to develop a coherent system of strong political parties. Moreover, President Leonid Kuchma dominates Ukraine's political system, concentrating authoritarian power in his hands and posing serious challenges to the development of democracy. The chapter reviews both formal legal provisions regulating issues of party and campaign finance and informal rules and norms that shaped the patterns of financing politics in a former Soviet republic. The analysis of both formal and informal mechanisms is essential for developing a better understanding of complicated and contradictory process of the institutionalization of a pluralistic party system in Ukraine.

I. Description of the Party-Funding Model

1.1 Laws and Regulations on Party Funding

During the decade following the collapse of communism in Ukraine, several legislative bills were introduced to regulate party finance in the country. Initially, the Law on Civil Organizations, passed by Parliament in June 1992, addressed different aspects of party functioning. The law sought to establish the basic principles of party organization and functioning in the former Soviet republic of Ukraine, which had declared its independence in 1991. The Law on Political Parties, first introduced into Parliament in mid-1998, was finally adopted in April 2001. It elaborated on the principles and mechanisms of party finance first introduced in the 1992 law. Besides these two key legislative documents, various other laws on local, parliamentary and presidential elections contain important provisions that deal directly with issues of party funding during electoral campaigns. A draft law on political advertisements, introduced into Parliament in spring 2001, is another piece of legislation that promises to have a substantial effect on how parties raise and spend money on day-to-day and campaign advertisements.

Reflecting the immaturity of civil and political society and responding to certain political expediencies of state building, the 1992 Law on Civil Organizations attempted to regulate the activity of civil associations (non-governmental organizations) and political parties at the same time. Although the law clearly distinguished between civil associations and political parties, the encompassing of both types of social organization within the same legal provisions blurred the distinction between political parties and non-governmental associations. The law gave the legislature power to determine the maximum size of individual and annual contributions to political parties, power to award tax benefits to party organizations and foundations, and power to create a special parliamentary commission to carry out the annual review of the financial activities of political parties. In practice, all these

provisions remained ineffective. During both the 1990–94 and the 1994–98 parliamentary terms, the deputies chose not to exercise their rights to regulate and monitor the financial activity of political parties.

Several other provisions of the 1992 law dealt explicitly with party finance. The law prohibited political parties from establishing commercial enterprises, with the exception of mass-media outlets, and limited the commercial activity of political parties to the sale of media products and political literature and the organization of festivals, exhibitions and other public events with a social or political agenda. The law established criteria for fundraising: parties were prohibited from raising funds from foreign entities of all kinds (states, international organizations, companies and individuals), government bodies, state enterprises and anonymous contributors. At the same time, the law did not provide political parties with any form of public funding, direct or indirect.

The 2001 Law on Political Parties was the lawmakers' response to the gradual maturing of political parties and the growing salience of various aspects of party functioning in the political system. Building on the 1992 Law on Civil Organizations, the new law sought to provide a comprehensive regulatory framework for the functioning of political parties in Ukraine. The controversial nature of the law was demonstrated by the numerous alternative drafts that were proposed, and also by the time the bill took to get through the legislature: it was introduced into Parliament at the beginning of the 1998–02 parliamentary term, but was finally enacted only in April 2001.[344] There is a high degree of continuity between the 1992 and 2001 laws regarding the financial aspects of party functioning. The similarities and differences between these laws will be addressed in the course of discussing the substantive issues that provide the main structure for this paper.

1.2 The Character of the Electoral System and Its Impact on Campaign Finance

With regard to parliamentary elections, at the national level political parties and blocs run centralized campaigns, whereas in the 225 single-mandate constituencies individual candidates run local campaigns. Generally speaking, the electoral system is party orientated with a strong element of individual local campaigning (particularly as it allows for independent candidates in single-mandate constituencies).

In Ukraine, the process of registering candidates and parties (blocs) is particularly demanding in terms of time and resources. The bureaucracy can easily control and, when necessary, slow down the entire registration procedure. Under the Article 43 of the 2001 Law on the Election of People's Deputies of Ukraine, election deposits are set at 60 times the minimum pre-tax monthly salary, presently 1020 hryvnyas (roughly $200) for a candidate in a single-mandate constituency and 15,000 times the minimum monthly wage (255,000 hryvnyas, or roughly $48,000) for each party or party bloc list in the national multi-mandate constituency. Election deposits are returned to parties (blocs) that are awarded deputy's mandates and to deputies elected in single-mandate constituencies. However, in case of an electoral showing that results in the non-election of a candidate, and in case of cancellation of the registration, the election deposit is transferred to the state budget of Ukraine.

[344] For a comparative table of the alternative draft laws, see Materialy do Kruglogo Stoly (2001) *Zakon pro Politychni Partii v Ukraini: Ukrains'ka Dijsnist' ta Evropeis'ki Perspectyvy*. Kyiv: Laboratoriia Zakonodavchyh Initsiatyv.

1.3 Party Structures Dealing with Party Funding

The statutes of the eight parties that broke the 4 percent threshold barrier in the 1998 elections declare that the party convention is the body that has ultimate control over party property and finance. Party conventions, according to the statutes, delegate various functions of financial management to the coordinating or executive party bodies. There is some variation in the degree of delegation with regard to budgetary functions. As a rule, parties delegate authority for the drawing up budgets and the overseeing of their implementation to the political councils or boards that coordinate and direct the executive bodies between party conventions. Only a few parties choose to approve budgets at party conventions. Since most party statutes specify that regular party conventions take place less than once a year, the central political councils or boards are very important decision-makers with regard to party finance.

A second difference between the parties is the degree of delegation of financial authority from central offices to the regional and local party organizations. Both the 1992 Law on Civil Associations and the 2001 Law on Political Parties allow, but do not require, regional organizations of parties to obtain separate legal status. Building upon this plurality of legal forms, party statutes vary in how much independence and control over local finance the local organization should have. Only in a few cases is the relationship between central and local party budget sufficiently specified in the founding documents. The statute of the (United) Social Democratic Party of Ukraine, for example, stipulates that 25 percent of local party income goes to the central budget and is used for funding the national programs.

Internal review and control over finances are exercised by auditing commissions that feature prominently in the statutes of all the major parties. Unlike provisions concerning the relationship between central and local party finances, the statutory provisions dealing with the formation, rights and responsibilities of the auditing commissions are detailed. This particular feature is partly a function of the specific institutional memories of the Soviet period. The Central Revision Committee of the Communist Party of the Soviet Union was an all-powerful body that shaped the internal politics of the CPSU over many decades. The Popular Rukh of Ukraine and Ukrainian Popular Rukh, two offspring of the major anti-communist party Rukh, are the only ones not to have provisions concerning auditing commissions in their statutes. Despite their well-elaborated status, the auditing commissions are not very influential in party life. There have been no reports in the national or central party press of major financial issues involving the auditing commissions.

1.4 Membership Dues and Private Donations

Without exception, provisions concerning membership fees can be found in the statutes of every major party. However, only the statutes of the Communist Party of Ukraine specify that membership fees constitute a principal source of party income. Some parties have introduced several types of membership fee. The statutes of the (United) Social Democratic Party of Ukraine distinguish between entrance, membership and special purpose fees. As a rule, it is the party convention that determines the amount of membership fees and the procedures for their payment. Membership fees do not constitute a principal source of income for any major political party with the possible exception of the Communist Party.

Political parties in Ukraine do not publish details of their budgets. There is no annual disclosure of parties' financial standing or sources of funding.[345] The only financial

[345] Pidluska, Inna (2000) Ukraine: Trends in Development of Political Parties and Party Financing in an Emergent Democracy. Kyiv: Ukrainian Center for Independent Political Research.

information publicly available is in the parties' annual reports to statistical agencies, although at the time of writing this data was unobtainable.

There is, however, some consensus among academics and policy analysts that official party budgets do not reflect a political party's true income and expenses. Recently, growing attention has been paid by the academic community to the various forms of involvement of powerful business interests in party politics.[346] The major unreported financial inflows into party politics are attributed to the so-called oligarchic groups. While many of these accounts fail to provide operational definitions of the term "oligarch" or "oligarchic group," the combination of extensive economic resources accumulated in the course of economic reforms and political power acquired through formal or informal links to the highest level of executive government is a defining characteristic of these terms. The (United) SDPU, Hromada and the Greens—three of the eight political parties that broke the 4 percent barrier in the 1998 parliamentary elections—have been consistently identified as being controlled by a single oligarchic group with specific business interests. Academic research has also shown that the fortunes of many centrist factions, formed from deputies elected to the 1998–2002 Parliament from the single-member constituencies, are also inextricably linked to specific business interests.[347]

There are no legal restrictions on donations by professional associations and trade unions. Business associations, however, has not yet become prominent in financing political parties. This is partly due to their own organizational weaknesses. Having their own political ambitions and dissatisfied with the established channels of influencing politics, the leaders of The Ukrainian Union of Industrialists and Entrepreneurs, the most powerful business association in Ukraine, initiated the creation of the Party of Industrialist and Entrepreneurs of Ukraine in February 2000.[348]

During the first post-communist decade, trade unions were not actively involved in party politics. The Federation of Trade Unions, the major umbrella organization, has remained largely outside party politics and under the control of a non-partisan executive government. The Communist Party, a political organization with the most extensive ties to the workers' movement, can only consistently rely on the support of the fringe "All-Ukrainian Workers' Union." The latter was established with the backing of socialist and communist parties in December 1994.[349]

No detailed information is available on the size of contributions or donations made by businesses, professional associations or individuals to the political parties. While both laws regulating party finance oblige political parties to publish their budgets, there are no specific requirements in either law regarding the disclosure of specific budget categories. As noted earlier, although the 1992 Law on Civil Associations empowered Parliament to determine the maximum amount of contributions or donations to political parties, successive parliaments have consistently failed to establish such figures. Since no figures have been established, another provision of the law—namely, publishing the names of donors whose contributions exceed the amount specified by Parliament (Art. 26)—has no practical implications. In the 2001 Law on Political Parties, deputies chose not deal with this issue at all and the law contains no provisions establishing limits on contributions.

Both laws maintain restrictions on the nature of contributions. The 1992 Law on Civil Associations prohibits political parties from accepting contributions from state bodies

[346] Tomenko, Mykola and Volodymyr Olijnyk (2000) *Partiyna Elita Ukrainy*. Kyiv: Logos; Wilson, Andrew (1997) "The Ukrainian Left: In Transition to Social Democracy or Still in Thrall to the USSR?" *Europa-Asia Studies* 49(7).

[347] Protsyk, Oleh and Andrew Wilson (2003) "Center Party Politics in Russia and Ukraine: Power, Patronage, and Virtuality,", *Party Politics,* Vol. 9 (6)

[348] Tomenko & Olijnyk, Ibid.

[349] Wilson, Ibid.

and state enterprises; from foreign states; from companies, organizations and enterprises that are more than 20 percent foreign- or state-owned; and from anonymous donors (Art. 22). The 2001 Law on Political Parties lists the same categories of prohibited donors, but in the case of enterprises with state or communal ownership does not provide any quantitative indicators regarding the size of the state or communal share. The law also prohibits contributions or donations from parties that do not belong to the same electoral bloc and from charities and religious organizations (Art. 15).

While the 1992 law did not specify the exact mechanism of control over contributions, the 2001 law requires banks to report to the Ministry of Justice any unlawful contributions and donations (Art. 15). The enforcement of this provision is likely to prove to be highly problematic given the lack of specific expertise and interest in the banking system with regard to tracing the origins of contributions.

1. 5 Campaign Donations

In Ukraine, the regulatory framework has attempted, with a limited degree of success, to prohibit certain sources of funding and to limit the size of permitted contributions. In total, during the preparations for, and the holding of, the 1998 parliamentary elections in Ukraine, the cost to the government budget of the election campaign reached 138.9 million hryvnyas (some $57 million). Political parties/election blocs officially received more than 7.8 million hryvnyas (some $3 million), approximately 5 percent of the total amount spent on the election. Contributions were made by political parties (4.1 percent), by Ukrainian citizens (4.5 percent) and most of all by legal entities (91.4 percent). As most of the money came from legal entities, it is clear that large and medium-size Ukrainian companies played a very direct and active role in supporting political parties and campaign blocs. Ten parties and campaign blocs received donations from individuals. Only seven parties and campaign blocs used their own money to finance campaigns. In practice, according to Ukrainian experts, one political party (or bloc) needed, for the 1998 election, $3–7 million in order to mount a serious campaign.[350]

Articles 34 and 35 of the Law on the Election of the President of Ukraine (1999) provided for the creation of personal election funds to finance the pre-election campaigns of candidates running for presidential office. Such funds consisted of contributions by the candidates, political parties, Ukrainian citizens and corporate bodies registered in Ukraine (excluding state-owned companies).

Regulations introduced in 2001 brought significant changes. First, the Ukrainian regulations concerning foreign contributions are negative, i.e. they limit foreign donations in qualitative ways, meaning that political donations cannot be accepted from a foreign citizen or stateless individual. Furthermore, these regulations brought in limits on private contributions; in the case of parliamentary elections, the total sum contributed by an individual for one committee cannot exceed the equivalent of 10,000 minimum pre-tax monthly salaries. Also, anonymous donations and contributions from natural persons who are subjects of entrepreneurial activity with debts to a public budget are banned.

[350] See Rozumkov Centre *National Security & Defence* No. 12, 2001, p. 39.

Table 1. **Distribution of Party Funds by Sources (in Hryvnyas) – Major Parties, 1998**

	Party	Total	Political parties	Provided by Legal entities	Ukrainian citizens
1.	People's Democratic Party	1,915,936.30	1,000	1,914,936.30	-
2.	Green Party	1,128,487.50	–	1,127,487.50	1,000
3.	Party for Regional Revival in Ukraine	793,568.90	–	754,802.90	38,766
4.	"NEP" Bloc of Democratic Parties	742,000	92,000	650,000	-
5.	"TOGETHER" Labor Party and Liberal Party Bloc	705,935	–	705,935	-
6.	Party for National Economic Development of Ukraine	700,000	–	700,000	-
7.	(United) Social Democratic Party of Ukraine	529,900	–	529,900	-
8.	Ukraine Labor Bloc	406,600	–	386,600	20,000
9.	Christian Democratic Party of Ukraine	217,062	–	187,990	29,072
10.	All-Ukrainian Movement – Hromada	190,132	190,132	–	–
11.	SLON Social Liberal Union Bloc	131,483	–	13,022	118,461
12.	Agrarian Party of Ukraine	125,000	11,000	101,000	13,000
18.	Communist Party of Ukraine	24,934	–	2,491.10	22,443.50
13.	Progressive Socialist Party of Ukraine	Unavailable	Unavailable	Unavailable	Unavailable
14.	Reforms and Order	Unavailable	Unavailable	Unavailable	Unavailable

Note: The 1998 exchange rate (annual average): USD 1 = Hryvnya 2.45
Source: The Parliament of Ukraine. Elections 1998. Central Electoral Commission. Section 19, p. 673.

1.6 Campaign Expenditure

Generally speaking, the regulation of political expenditure involves restrictions concerning direct vote buying or limitations on the expenditures of political parties or individual candidates (both parliamentary and presidential). Limits on the permissible level of campaign expenditure are a common feature in Ukrainian elections; such limits have been applied either by establishing a ceiling or by applying a formula (e.g. a multiple of the minimum monthly salary).

The Elections Law of 1993 restricted campaign spending to the unrealistically low level of 6 million karbovanets per candidate (the equivalent of $160 at the time of the election), and required that campaign expenditures be distributed through a process controlled by the local electoral commissions. In some districts this amount was insufficient to purchase even one minute of advertising on independent television or a one-page advertisement in an independent newspaper.[351] In addition, the law did not address the issue

[351] See International Republican Institute Report *Ukraine, Election Observation Report – March 27, 1994*. p. 8; see: www.iri.org

of how campaign finance limits were to apply to a second round of voting (i.e. run-off elections).

During the 1998 parliamentary elections there were no limits on parliamentary candidate, political party or campaign bloc expenditures. According to the official financial reports, the undisputed leaders in terms of an effective campaign were the Communist Party of Ukraine (912 hryvnyas ($370) per mandate) and the Progressive Socialist Party of Ukraine, which spent 790.80 hryvnyas ($320) per mandate. At the same time, the People's Democratic Party ran one of the most expensive campaigns, spending 100,009 hryvnyas ($41,000) per mandate. The amounts in the personal electoral funds of individual candidates running in single-mandate districts ranged from 100 hryvnyas to 700,000 hryvnyas ($286,000).

In the case of the 2002 parliamentary elections, the expenditure limit for a party or bloc was established at the level of 150,000 minimum citizen's monthly incomes (MCI). According to this formula, the national limit for the 2002 elections was approximately 34,350,000 hryvnyas ($6.87 million). Moreover, for parliamentary elections, the expenditure made from the election fund of a candidate for a deputy registered in a single-mandate constituency could not exceed 10,000 minimum citizen's monthly incomes (MCIs), the equivalent of 33,000 hryvnyas ($6,600).

Finally, another important issue related to the costs of party competition and election expenditure concerns expenditure by non-party individuals and organizations that play a part in election campaigns. Various NGOs fund billboard or television advertising, the printing of materials, opinion polls, research and so forth. Over $1,073,000 was spent on (United) Social Democratic Party of Ukraine television advertising by NGOs under the party's control. At the same time, the party's official spending on television advertising amounted to a mere $7900.

In fact, Ukraine, similarly to most post-communist countries, does not impose direct limits on independent groups spending money on behalf of a political party or presidential candidate during a campaign. The unrealistically low limits on campaign spending along with funding restrictions on certain sources encourage parties to create a large number of small front organizations — so-called "third parties" — through which campaign fundraising and expenditure can be channeled.[352]

Limits on campaign expenditure should not be seen as an ideal legal mechanism for states in the process of democratization to utilize in their attempts to regulate campaign finance. Particularly in non-democratic regimes, imposing low and strict limits on campaign expenditure might marginalize opposition and, as a result, aid the non-democratic regime, by allowing it to take advantage of other resources, such as state-controlled television. Furthermore, in Ukraine the artificially low legal limits on permitted campaign spending make the reporting of political party expenditure irrelevant, as in the case of India and Poland.

1.7 Think Tanks and Party Foundations

Ukrainian law allows political parties to establish "institutions and organizations" to realize goals and objectives declared in their statutory documents (Law on Civil Associations, Art. 20). Although there are no explicit provisions in the laws that prohibit political parties from establishing commercial enterprises, it would be against the law to found a commercial firm other than a mass-media enterprise, since such a firm would be at variance with a party's statutory goals and its status as a non-profit organization.

[352] See *Ukrainska Pravda* Internet newspaper for March 11, 2002 at www.pravda.com.ua

Party foundations in the classical Western sense do not exist in Ukraine. The common characteristic of the vast majority of the Ukrainian think tanks and research institutes is their unaffiliated status. At the same time, informal knowledge concerning partisan preferences and the political origins of research institutions has developed rapidly in the policy-making community. There are certain indicators of partisanship, such as party-affiliated persons on the management of think tanks, systematic biases in research questions and research outputs, and so forth. For an intelligent observer of Ukrainian politics, it can be easy to uncover the links between the majority of research institutions and specific political parties.

How do political parties benefit from close, albeit predominantly informal, co-operation with NGOs and research institutions? Besides the traditional functions of these organizations—the generating of new ideas, the supplying of intellectual expertise and the providing of temporary shelter for party activists—, NGOs and research institutions help to finance some of the activities designed by political parties. The average regional seminar dealing with issues of electoral education or local self-government and financed by a grant from a Western foundation brings together policy experts, local officials, journalists and party activists. While during the first or the official part of the seminar issues of general interest are discussed, during the remainder party activists are trained and issues of party building addressed in a select circle of party functionaries.

Certain political parties benefit financially from close control of charity foundations and other types of NGO that deal with specific social problems. These organizations often receive state funds, although in many cases the money does not necessarily come from the state budget. Using various types of administrative leverages (tax officials, firemen, health inspections and regulatory agencies), the executive government forces business enterprises to make "voluntary" contributions to specific charity funds and social welfare NGOs. The same administrative pressures are used to keep such NGOs compliant with government-backed initiatives, ultimately leading to the use of NGOs funds for political purposes. During the early years of transition, well-connected individual businessmen or business groups acted as brokers in such transactions. In recent years, it is increasingly the so-called "centrist" political parties, those that are fully financed by business and backed by the government, that exercise control over the finances of such charity foundations.

In this respect, analysts most often cite the story of the All-Ukrainian charity fund "Social Protection." Allegedly, the fund was used in 1999 to finance the presidential campaign of the incumbent president, Leonid Kuchma. Oleksandr Volkov, a close adviser to the president and a businessman whose name became notorious owing to numerous allegations of money laundering in Western Europe, was a campaign organizer. He was also a founder of the "Democratic Union" political party that claimed to be of centrist orientation. Local units of this new party, according to some analysts, were frequently created within the organizational infrastructure of the "Social Protection" fund.[353]

[353] Tomenko & Olijnyk, Ibid.

1.8 Party Assets

The Communist Party of Ukraine lost its assets following the unsuccessful August 1991 Moscow coup, which prompted the presidium of the Ukrainian Parliament to impose, initially, a temporary suspension and then an outright ban on the activity of the party structures of the CPU. The campaign to lift the ban on party activities, to revive party organizations and to reclaim nationalized party property started almost immediately after the suspension was imposed. By the second half of 1992 and early 1993, opposition to the ban had become especially prominent.[354]

Despite the efforts of communist deputies in Parliament to re-legalize the old CPU and substantial popular support for this, no restoration of the party's property took place. A resolution issued by the presidium of Parliament in May 1993 allowed citizens who held communist views to establish party organizations but did not restore the old CPU.[11] Therefore, when the CPU was reborn in spring-summer 1993, it was formally a new party with no control over the property of the former Communist Party of Ukraine.

Similarly to their budgets, the assets of political parties are not public knowledge in Ukraine. The 1992 Law on Civil Associations had no specific provisions requiring political parties to publish information about their assets. The 2001 Law on Political Parties does include a specific clause that requires political parties to publish information concerning their assets in the national press on an annual basis. To date, neither of the major political parties has published such information.

The magnitude and the size of party property are difficult to estimate from indirect sources. Central party offices, potentially the major items on the property lists of political parties, are usually rented rather than owned. There are no formal legal rules that would allow political parties preferential terms on the rent or the lease of property. In practice, political parties bargain hard and sometimes secure special deals on property rents. According to the analysts, the quality of deals often depends on the character of a party's relationship with the local authorities, which have a major role in deciding the terms of rent.

1.9 Public Funding

Political parties in Ukraine do not receive direct public funding from the country's budget. Ukrainian laws contain no provisions that would commit a certain percentage of the state budget to political parties, nor do they envisage any other direct forms of public money for them. The lack of such finance increases the importance of other forms of public funding. It also magnifies the impact of hidden financing on party politics.

The issue of direct public funding became prominent in Ukrainian politics during the 1998–2002 parliamentary term, when several discussions of alternative drafts of a law on political parties took place. No less than four alternative draft laws submitted contemplated direct state funding, demonstrating the importance that the various political forces attached to the issue. The differences between the finance-related articles of the

[354] Wilson, Ibid.

alternative drafts concerned eligibility conditions and precise share of budget allocation rather than general principles of direct public funding.

One source of direct public funding that is available for parliamentary parties comes from the expenses allowed in the budget of Parliament for the financing of deputies' parliamentary activities. An individual deputy is entitled to assistants paid for from the budget of Parliament. Party-affiliated members of Parliament usually have assistants who are experienced party activists. If a party faction meets the recognition threshold—at least 25 seats in the 1994–98 term and 14 in the 1998–2002 parliamentary term—, it is entitled to a faction secretariat similarly financed from the budget of Parliament. The faction leadership usually distributes the secretariat posts—secretariat head and members—among younger party activists.

In addition, indirect state subsidies contribute relatively insignificant amounts to campaign finance. The 1998 budget, for example, allocated 255 million hryvnyas (about $ 100 million) for the 1998 parliamentary and local elections. The 1999 presidential elections cost taxpayers 154,377,000 hryvnyas (about $40 million in the 1999 exchange rate) (Pidluska 2005). A major part of these funds was spent on ensuring that parties and candidates had equal access to the media, printing "guaranteed" campaign literature and providing other services. Besides free access to the mass media, there were specific indirect subsidies from the state budget such as the printing of five election posters per polling station for each of the political parties/party electoral blocs with registered lists of candidates, the publishing of texts of pre-election posters in the *Holos Ukrainy* and the *Uryadovy Courier* newspapers, and the printing of 2000 election posters per registered candidate per constituency and the handing over to each candidate of no fewer than three quarters of these last-mentioned posters. In addition, an important source of money for Ukrainian political parties and candidates consists of specific grants paid to parliamentary caucuses, to individual parliamentarians (excluding salaries) and even to members of the Kiev City Council.

Funding youth organizations can be also considered as one form of indirect public funding for political parties. The youth organizations of such parties as the Communist Party of Ukraine, Rukh, the (United) Social Democratic Party of Ukraine and others are active members of the Ukrainian National Committee of Youth Organizations (UNCYO), an umbrella organization for youth groups. The UNCYO is financed from the state budget. The organization also has substantial discretion over the distribution of funds it receives from the budget. Although the above-mentioned youth groups are registered as non-governmental organizations, their activities are closely linked to the political parties whose labels and—sometimes—ideological orientation they share.

Finally, political parties in Ukraine enjoy certain financial benefits as a result of their non-profit status. They do not pay taxes on their income. The Law on the Taxation of Profits of Enterprises, which is the principal piece of legislation dealing with issues of party taxation in Ukraine, exempts political parties from taxes on contributions and donations as well as on income from publishing and other program-related activity. There are, however, no tax benefits in the form of tax deductibility for political donations or tax credits for party donors. Some analysts consider the lack of incentives for businesses to make donations to political parties, non-government organizations and charities to be a major flaw in the taxation system in Ukraine. The functioning of political parties is however affected by the oppressive system of payroll taxes. A political party, like any

other employer in the country, has to make a number of contributions to the state budget from its payroll system. The party has to contribute to social security, unemployment and several other types of state fund for each full or part-time employee on its payroll. Given that these contributions impose a heavy financial burden on parties, it is financially challenging for a political party to rely on significant numbers of professional party functionaries for its work.

1.10 Reporting, Disclosure and Enforcement

Both the 1992 Law on Civil Associations and the 2001 Law on Political Parties requires political parties to publish their annual budgets. Yet neither law specifies in detail the items (shares of membership fees, private contributions, size of contributions and so forth) that should be included in these disclosures, or the actual place of publication. Nor are there any parliamentary resolutions or decisions by regulatory bodies that address these issues. The absence of specific details regarding the rules for the publication of party budgets probably contributes to the general atmosphere of legal defiance that characterizes parties' attitudes to their obligations. As already mentioned, no party budgets have been published in the major national newspapers during the first post-communist decade.

More fundamental reasons for ignoring this requirement are rooted, however, in the sensitivity of information contained in party budgets. As will be discussed in greater detail in the second part of this chapter, politicians across the political spectrum have strong incentives not to reveal information concerning their day-to-day finances and their corporate sponsors. Both pro-government and opposition parties have serious stakes in preserving the existing system of non-transparent party finance.

The prevalence of these specific incentives also explains why the major party players in Parliament were uninterested in establishing a party finance commission. As already discussed, the 1992 law prescribed that a special commission composed of representatives of all political parties in Parliament be set up to review the annual financial activity of the parties and to report its findings to Parliament (Art. 26). No such commission has ever been constituted. The 1992 provisions authorizing Parliament to establish ceilings for individual and total annual contributions (Art. 8) have also been ignored.

The provisions of the 1992 law that deal with the government bodies responsible for exercising control over the financial activities of political parties lack specific details. The legislation declared that state tax inspectors were responsible for the control of all issues related to the tax payments of political parties. It also mentioned unspecified "financial agencies" to be responsible for controlling the size and sources of contributions to political parties (Art. 25). The legislation stipulated that the courts should establish whether contributions are made in accordance with the law and should take any decisions concerning the transfer of unlawful contributions to the state budget (Art. 26). As with many other provisions of this law, there were no precedents for how these norms were to be applied. Other sanctions envisaged—warnings, fines, a temporary ban on specific activities, a temporary ban on all activities, and even liquidation—were not linked explicitly to violations of the financial rules.

The financial information on political parties that is collected by tax inspection agencies is not publicly available. State tax inspectors in Ukraine are notorious for their secrecy and non-transparency: very little information is disclosed and made available for outside analysis. Requests for detailed information are usually ignored and formal guidelines that would oblige tax inspections to disclose such information are non-existent.

The 2001 Law on Political Parties is even less specific on details of financial reporting, disclosure and enforcement. The article concerning financial reporting contains only two clauses: one is the requirement to publish annual party budgets and the other obliges parties to "keep their accounts in accordance with an established order" (Art. 17). There is a mere mention that the Ministry of Justice and the Central Electoral Committee are the agencies responsible for the general enforcement of the norms of disclosure (Art. 18). One specific provision that deals with monitoring and enforcement of party funding rules is the clause that requires banks to inform the Ministry of Justice about any illegal contributions to party accounts. These contributions have to be transferred by political parties to the state budget or will be confiscated in accordance with a court order (Art. 15).

Unlike the 1992 law, the new legislation does not provide a role for tax inspectors in monitoring party finance. The lawmakers' desire to avoid provisions that would directly refer to tax inspectors as party finance controlling agencies indicates their growing concern with the politicization of government agencies. The executive agencies charged with various functional tasks were increasingly used to promote the political goals of the incumbent government during the second term of Kuchma's presidency. The exact wording of the party finance clauses in the 2001 law was influenced by the lawmakers' desire to limit the involvement in party matters of agencies controlled by the executive government.

Indeed, Ukraine desperately needs public control over political money since, according to the experts, the percentage of undeclared funds used in the Ukrainian elections accounts for 60–70 percent of the total.[355] In terms of campaign finance in the early stage of democratic transition, Ukraine adopted a *laissez-faire* attitude towards the disclosure and reporting of campaign finance. During the 1998 elections, no limits were placed on contributions or spending for the campaign, although parties were to set up special bank accounts for the purpose of campaigning and were to submit records to the Central Electoral Commission a week prior to the elections. Of the 30 parties and blocs registered, 23 informed the CEC about the opening of bank accounts and submitted their financial reports on time.

One of the positive aspects of the more recent Ukrainian legislation is the introduction of the "doctrine of the agency" and the establishment of "election funds." Under current legislation applying to parliamentary elections, each party or is required to have no more than two financial managers with responsibility for the management of the party's financial resources. A parliamentary candidate registered in a single-mandate constituency may be a manager of his own election fund or may nominate no more then one manager of it. Election fund managers are obliged to keep records of all the income

[355] There are many reasons for using undeclared money and certainly one of them is the fear of harassment. See the survey of 26 experts conducted by the Centre for Forecasting of Social, Economic and Political Process, January 1999.

and expenditure of the election fund. In addition, they are required to submit to the CEC a financial statement on the receipt and use of campaign resources within five days of the close of the poll.[356] A party (or bloc), as well as parliamentary candidates, must open a bank account for their election fund at least 50 days prior to the elections. All expenses have to be covered solely from the electoral fund from day one of the campaign. Such regulations force parties to maintain separate accounts for campaign activities, and to conduct and report all campaign activities through relevant accounts.

However, the 2001 Law on the Election of People's Deputies of Ukraine has not specified whether the financial reports produced by parties and candidates should be public and, if so, whether they should be published by the CEC or by the party (bloc) in question. Furthermore, according to Article 36, Section 6 of the law, a voluntary contribution to an election fund has to be made solely by means of a transfer through a banking institution or post office following presentation of the necessary documents. The idea was to identify every single donor by way of the banking system. Such legal requirements have, however, discouraged thousands of supporters and have corrupted the entire system of grassroots voluntary donations. It seems that harsh restrictions in practice proved very controversial, since they did not allow for any legitimate contributions in cash.

In addition, legal regulations concerning contributions from legal entities (companies, foundations and so forth) with debts to state bodies at any level seem to be difficult to enforce. In practice, during the campaign, committees have a limited ability to check every single contribution and the source of it, since there is no effective system for the establishment of a donor's tax status.

In Ukraine, the agency responsible for the enforcement of campaign finance rules is the Central Electoral Commission. The CEC has the responsibility of ensuring the equal enforcement of campaign laws across the country; part of its enforcement authority is delegated to the lower-ranking electoral commissions at the regional and district levels. In addition to providing adequate conditions for subjects of the electoral processes to start their own personal electoral funds, in 1998 the Central Electoral Commission acted to bring about the auditing of most of the electoral funds. This function is shared between the Central Electoral Commission, district election authorities, tax authorities and banks. CEC Regulation No. 5 of February 13, 1998 (entitled "On Some Issues of How to Conduct Investigations into the Formation of the Personal Electoral Funds of Political Parties, Campaign Blocs and Candidates for Deputy of Ukraine") approved a methodology whereby the state tax administration would maintain such supervision. The state tax administration made 2426 checks with regard to the income and expenditure of the personal electoral funds.

During election campaigns, the 2001 Law on the Election of People's Deputies of Ukraine permits the CEC, constituency electoral commissions and banking institutions to conduct random audits of the receipt, accounting and use of election funds. In addition, the law empowers the CEC to ask the State Tax Administration to verify the personal financial declarations submitted by a candidate and his or her family. These regulations, which are open to abuse, can put the party or candidate in question under serious administrative pressure.

[356] The form of a financial statement must be approved by the CEC at least 60 days prior to polling day.

According to the 1997 Law on the Central Electoral Commission, it is the CEC that enforces the Law on the Election of the President of Ukraine and the Law on the Election of People's Deputies of Ukraine. In particular, the CEC published detailed information about campaign finance in 1998 and 1999. However, in 2002, despite numerous requests from the OSCE Election Observation Mission, the Central Electoral Commission did not provide international observers with the figures for spending by political parties.[357]

In practice, the government of President Leonid Kuchma continued to harass opposition leaders and their supporters in the run-up to the 2002 parliamentary elections. Opposition activists were detained, and the offices of papers that gave positive coverage to the opposition campaign were raided, on the grounds they had allegedly evaded taxes. Borys Feldman, a business partner of Yuliya Tymoshenko, a former deputy prime minister, received a nine-year prison sentence for tax evasion and financial mismanagement.[358]

One of the concerns is that violations of the campaign finance provisions may entail selective application of the legislation in order to remove opposition parties and candidates from the electoral process. One of the most evident examples of selective enforcement was witnessed during the June 2002 by-elections, in which Oleksandr Zhyr, a renowned anti-corruption activist and a former head of the Rada commission of inquiry into the Gongadze case, was a candidate. The election authorities in Dnipropetrovsk Oblast revoked Zhyr's candidacy a day before the election, arguing that he had engaged in improper campaign spending.

Political finance regulations identify different types of offenses and provide for a range of penalties and sanctions depending on the seriousness of the offense. An analysis of the sanctions stipulated by the Ukrainian legislation reveals the existence of four main categories: a) financial sanctions including modest monetary fines, b) larger fines for serious violations, varying from the equivalent of $250 to the equivalent of $25,000, c) criminal sanctions for significant violations that undermine the integrity of the elections and (d) withdrawal of public funding.

The most severe sanction is imposed on a political party or bloc that uses funding sources other than its election fund or exceeds the maximum amount of expenses set by the law. In such cases, the Central Electoral Commission can cancel its decision regarding the registration of a party or party bloc.

1.11 Scandals

Political corruption is a prominent issue in Ukraine. According to International Foundation for Election Systems surveys, the percentage of Ukrainians who say that corruption is a common problem has remained high: 87 percent in 1994, 84 percent in 1996, 89 percent in 1997 and 88 percent in 1999. The December 2000 survey shows that 93 percent of adult Ukrainians claim that corruption is common in their society, and

[357] See OSCE Election Report Ukraine Parliamentary Elections, March 31, 2002.

[358] International Helsinki Federation for Human Rights, *2002 IHF Annual Report*; www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=2654 www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=2654

most of them (75 percent) believe that it is "very common." Concerning the seriousness of corruption, a large part of the population also thinks of corruption as a grave problem.

In 1999, a Geneva court convicted Pavlo Lazarenko, a former prime minister of Ukraine, of money laundering and confiscated $6.6 million from his Swiss bank account. Lazarenko pleaded guilty to two charges of money laundering in connection with which, according to his lawyer, he "confused," in 1993–94, his public office as a regional governor with private commercial interests. Furthermore, the governments of Antigua and Barbados announced that Lazarenko's bank accounts were used for laundering $80 million. While in jail in San Francisco, Lazarenko faced charges of laundering $114 million allegedly stolen while he was in office.[359]

The September 2000 disappearance and killing of investigative journalist Heorhiy Gongadze raised severe concerns regarding the targeting by the authorities of journalists who engaged in critical political reporting, including coverage of alleged corrupt funding of the current regime. Gongadze's Internet-based newspaper *Ukrainska Pravda* focused on exposing political corruption in Ukraine, and issue profoundly embarrassing to the country's regime and one that eroded its political legitimacy. In November 2000, an audio recording was released containing conversations between President Kuchma and other senior government officials discussing the desirability of Gongadze's removal. The recording was judged to be authentic in 2002.

Finally, the Ukrainian problem of money in politics is not limited to illegal funding or pressures on politicians or journalists. A particularly dangerous form of political finance-related corruption occurs when politicians bribe the voters or electoral officials in an organized manner. Uncontrolled and systemic vote buying leads to a point where voters approve even illegal contributions and massive abuse of state resources as long as they can benefit personally from corrupt politicians' "charity." The importance of vote buying should not be underestimated.

Old-fashioned electioneering revolves around vote buying, gift giving (also called "humanitarian aid"), and labor-intensive techniques of reaching individual electors, all of which tend to be very expensive, although not transparent, and lead to a growing level of political corruption. If politicians bribe voters, someone has to provide them with the necessary resources. The need to finance expensive campaigns characterized by a high level of vote buying introduces great incentives to favor special interests and attract large non-transparent funding from undesirable sources.

Table 2. **Public Perceptions in Ukraine on the Acceptance of Money to Vote for a Politician or Political Party, 2000–2003 (Size of the Sample Given in Parentheses)**

	11–12/2000 (1500)	**9/2001 (1500)**	**9/2002 (1200)**	**9/2003 (1200)**
Happens very often	46%	48%	39%	41%

[359] See www.dailynews.yahoo.com/h/nm/20000630/wl/ukraine_lazarenko_dc_1.html

Sometimes	25%	24%	30%	25%
Not very often	10%	8%	9%	9%
Not at all	2%	3%	2%	5%
Don't know	17%	18%	20%	19%
No answer	1%	–	–	–
Source: International Foundation for Election Systems, *Attitudes and Expectations: Public Opinion in Ukraine*, pp. A1–43				

Vote buying in Ukraine also involves the use of state funds (welfare and social funds) among disadvantaged social groups in order to collect signatures to support candidate nominations in advance of the elections and to secure their vote on the day of the election. State companies, state-supported enterprises, institutions and NGOs provide services and goods to voters, and organize special events paid for by the city councils, such as concerts and festivals with free food and alcohol. Thus, with old-style patronage politics still playing an important role in Ukraine, one might expect—assuming that this is more costly than the new media politics—that the levels of illegal spending would lead to growing political finance-related corruption, non-transparent funding of politics and the undermining of the process of further democratization.

II. Analysis of the Party-Funding and Campaign –Finance Models

Political parties have become increasingly important players in Ukrainian politics. While in the early 1990s politics was excessively personalized, the changes in electoral laws and the internally-driven organizational maturation of political parties during the late 1990s have made parties more capable of articulating voters' preferences and of influencing the decision-making process in Ukraine. The newly acquired ambitions of political parties require more funding. In raising financial resources political parties face numerous challenges that are discussed below.

2.1 Transparency and Legality in Party Funding

The majority of political parties in Ukraine face serious difficulties in securing funding for their activities. The complete absence of budget financing for day-to-day party expenses and the lack of indirect public funding are the key factors that make it challenging for political parties to maintain their operations. Scarcity of public money and insufficiency of membership dues makes the contributions of corporate sponsors especially critical for sustaining the financial vitality of political parties.

The extreme dependence on corporate donations has had at least two negative effects on the Ukrainian party system. First, parties are increasingly dependent on special interests and must cater to the private needs of their major institutional contributors. Even political parties with traditionally strong ideological or programmatic linkages to voters — the Communist Party of Ukraine, Rukh and the Socialist Party of Ukraine — increasingly have to compromise their programmatic standing in order to ensure financial support. According to analysts, the inclusion of business leaders in electoral lists and

lobbying for certain pork-barrel bills in the legislature are some of the indications of the compromises made (Tomenko and Wilson, 2002).

Second, parties have also become much more vulnerable to complete "capture" by individual business groups. The latter can either "buy" an existing party label or finance the creation of a new one. Under an attractive party label, one can find an opportunistic party machine devoid of any coherent ideology and geared to pursue the economic interests of the oligarchic leadership. The party thus becomes a device to secure political benefits as regards major policy issues.[20] In the context of Ukraine, context parties run by powerful business groups tend to claim "centrist" orientations, thereby contributing to additional voter confusion over the meaning of ideological labels.

Besides the lack of public funding, another major obstacle to ensuring greater transparency and legality is the executive government's "handling" of political competition. During Kuchma's presidency, it has become standard practice to use various executive agencies—such as the police, tax authorities, fire service and health inspectors—to raid businesses suspected of being sympathetic to opposition parties.

It is a common belief among opposition party leaders that the executive government would use stricter rules on reporting and disclosing financial information to undermine their financial stability.[21] Those businesses that contribute to political parties are very vulnerable to all sorts of government inspection. These businesses are forced to operate in semi-legal ways, owing to the ever-changing system of government regulation of business activity and to the confiscatory nature of taxation and various social security dues. Corporate sponsors that make contributions have strong reasons to press politicians to conceal the sources of their funding.

It is not only business support of the opposition that violates legal norms. Oligarchic business groups that "own" some of the centrist parties prosper in the shadow economy. The parties they control are similarly uninterested in more transparent mechanisms of reporting and disclosure. More detailed disclosure would reveal their dependence on a very few corporate sponsors. Revealing even a semi-realistic budget—e.g. under-reporting revenues and expenditures—might only strengthen their negative image as "money barrels" by providing analysts with grounds to compare declared and real expenses. Analysts usually estimate the expenses of these parties by summing up the real costs of political advertisements, party-sponsored mass events, estimates of organizational expenses, and so on.

The parties of the political left — in the Ukrainian context, this means primarily the Communist Party of Ukraine — is traditionally less reliant on corporate financial sponsorship owing to a large pool of volunteers and a highly stable core electorate. However, deprived of public funding and facing intense inter-party competition, these parties have also become increasingly aware of the importance of attracting corporate sponsors.

Overall, neither of the major political forces represented in the Ukrainian legislature has a specific interest in party finance reform. Gross violation of the provisions of the 1992 Law on Civil Associations became possible because of the dominance of this anti-transparency coalition. Although different considerations motivate the members of this coalition, the end result was that many finance-related provisions of the law were simply ignored. The provisions disregarded included the formation of a special parliamentary commission for the annual review of parties' financial activity, the

establishment of a maximum amount for individual and total contributions to political parties and the publication in the national newspaper financed by Parliament of the names of individuals whose contributions exceed the maximum amount.

The same coalition was responsible for the lack of specification with regard to the financial aspects of party functioning in the 2001 Law on Political Parties. Parliamentary deputies opted to keep the financial provisions of the law very general. There are no detailed procedures for financial reporting and disclosure, and there are no clear provisions concerning the penalties for financial violations. The law does not establish any special agency to monitor and enforce party finance rules. As agencies responsible for enforcement, the Ministry of Justice and the Central Electoral Commission are charged only with supervising the general norms of the law.

The stability of this coalition was, however, fragile. The coalition agreed to maintain the status quo regarding party finance regulations for very different reasons. The electoral cycle of 2002 and 2004 (parliamentary and presidential elections) might change the balance of power between legislature and executive, break the existing status quo in the legislature and force legislators to revisit the rules of party finance. (At the time of going to press, this possibility seems increasingly remote.)

In the meantime, the elements of a vicious cycle have been established in the system of party finance in Ukraine. The shadow economy finances the party system, and parties respond to the needs of semi-legal businesses by lobbying special interests in the legislature and by securing various concessions and favors from the executive. These practices endure over time, thus ensuring the proliferation of financial non-transparency in both the economic and the political field. Introducing public finding and limiting the omnipotence of the executive should be the first steps on the way to a more transparent and legal system of party finance. Only when these changes are in place will it become feasible to overhaul the existing financial practices with the help of detailed rules on funding, heavy penalties for violation of these rules and special enforcement agencies to supervise party finance.

In common with most post-communist countries, Ukraine has high disclosure requirements, including the obligation to report the names of donors to political parties. Yet the percentage of undeclared funds used in election campaigns accounts for 60–90 percent of the total.[360] While there are many reasons why such large amounts of money go undeclared, the biggest is the fear of politically motivated harassment. Disclosure can be abused by non-democratic regimes to deprive the opposition of the right to participate in the electoral process. It provides information that can be used by partisan enforcement mechanisms (including tax, fire inspection and police bodies) against opposition parties, their contributors and the independent media.

There is ample evidence that the main opposition forces in Ukraine were harassed by the regime during the 1999 presidential elections and during the 2002 parliamentary elections, and subjected to strong administrative restrictions.[361] For

[360] Centre for Forecasting of Socio-Economic and Political Processes *Survey on Shadow Funding of the Ukrainian Political Parties*. Kiev, January 1999; Anatolij Romaniuk, *Parliament* No. 3–4. Kiev: Laboratory for Legislative Initiatives, 2003.

[361] For a detailed description of physical assaults, political harassment and the administrative restrictions imposed on opposition parties and their supporters, see OSCE *Ukraine Parliamentary Elections 31 March 2002*, May 27, 2002; US Department of State *Ukraine—Country Reports on Human Rights Practices 2002*, March 31, 2002; and Razumkov Centre *National Security and Defence Report* No. 12. Kiev, USEPS.

instance, in the presidential election, contributors to the campaign of opposition candidate Oleksander Moroz were, according to local press accounts, asked to report to local state tax inspection branches and explain the sources of their money.[362] Not surprisingly, most of Moroz's corporate donors insisted on full privacy and broke the disclosure laws. After the election, a dozen small retail companies, whose details had been published in Moroz's financial declaration, were subjected to harassment by different state inspectorates and several were forced into bankruptcy. Publishing houses (such as Migrodinaka and Topografic) that produced campaign materials for opposition candidates received similar treatment from administrative bodies after the election.[363]

The risk that disclosure of financial support given to the political opposition can expose donors to harassment in authoritarian and semi-authoritarian regimes is compounded by the paternalistic nature of the economic systems in such countries. Those engaged in economic activity in autocracies generally have to be linked to the regime, and this magnifies the potential impact of commercial reprisals for supporting opposition parties. In turn, this influences the environment for opposition political parties, since it excludes the private sector as an important transparent funding source for them.

In short, where enforcement of campaign finance regulations is highly partisan, full public disclosure as an instrument of transparency may be abused rather than used. Full disclosure can allow an authoritarian regime to weaken opposition parties by undermining the financial support given by their sympathizers or allied interest groups. For a democracy to function, a vibrant opposition, able to participate in free and fair elections, needs to exist. Ukraine has not yet reached this stage of political development, and still uses its disclosure laws to prevent democracy progressing. Until it does reach this stage, opposition parties will continue to require a high degree of privacy and freedom from harassment, while their donors will be forced to remain anonymous.

2.2 Structural Biases in Favor of Some of the Political Parties

The executive government led by the president dominates the functioning of the political system in Ukraine. The semi-presidential constitutional framework envisaged the president as a neutral arbiter between the different branches of government. In practice, the president has turned into a partisan political player with his own political interests and priorities. Leonid Kravchuk and Leonid Kuchma both lacked party affiliation during their bids for presidential office; moreover, both lacked organized party support during their campaign. Both tried to maximize their power and chances of re-election by relying extensively on the administrative resources of the executive government. Political parties that were politically loyal to the president received access to government resources and enhanced their chances in inter-party contests.

This reliance on administrative resources for party building is manifest in many ways. For example, party organizations can be established by drawing on the personnel

[362] *Tovarysh* No. 33 (August 1999).
[363] Interview with O. Moroz, leader of the Socialist Party, Kiev, March 2001.

and infrastructure of executive agencies. Local state administrations help to ensure publicity and membership growth. Municipal bodies can provide better terms when it comes to renting party offices. The local tax administration can "encourage" local businesses to make contributions to the party, and local electoral commissions are used to ensure the party's electoral success during the elections.

The extensive use of executive agencies to achieve the partisan became possible mainly due to lack of institutional safeguards such as the autonomy of the courts, freedom of the mass media and independence of the public administration. While substantial efforts were made to introduce meritocratic principles in civil service recruitment and career advancement, the implementation of administrative reforms was hindered by recurrent partisan interventions on behalf of the presidential administration.

The consolidation of the party system and the reduction of parties' dependence on individual business groups could be facilitated by certain electoral rules and norms of budget financing. Since the Ukrainian economy is not based on a single industrial or natural resources sector, no single business group enjoys anything approximating to full control of the economy. At the same time, analysts consistently identify the lobbies formed on the basis of the energy sector, metallurgy, and agriculture as being the most influential in national politics. Not only sectional lobbies, but also business groups operating across different sectors of the economy have become increasingly interested in "acquiring" political parties rather than just in lobbying them.

The existing fragmentation of the party system makes it feasible for business groups "to buy" a party. For example, the 14-member threshold for forming a parliamentary faction in the 1998–2002 Parliament encouraged several business groups and individual oligarchs to form their own factions. Following electoral success in single-member districts, these parliamentary factions are routinely under the management of the business group leaders themselves. The phenomenon of deputies' "traveling" from faction to faction became quite widespread in the 1998–2002 Parliament. At the high point of factional multiplication, there were 15 factions formed by PR-list and SMD deputies in the Parliament (Protsyk and Wilson, 2001).

According to the numerous accounts, a market for MPs' votes and faction affiliations exists in the Ukrainian Parliament,. Thus, according to one account published in the mainstream journal, a parliamentary faction would pay a new MP between $20,000 and $50,000 (depending on his/her political weight) plus about $1,500 as a monthly salary. When Hromada faction of the former Prime Minister Lazarenko was formed, the same account claims, its deputies received approximately $30,000 to $40,000 each. Nevertheless, this was still a profitable business, since Hromada managed to seize control of the most influential committees, such as those dealing with the budget, the combating of corruption, and the parliamentary agenda. Emolument does not simply involve cash payments, as evidenced by the fact that the ex-government party PDP guaranteed to its faction members substantial privileges through the cabinet. Ninety new members joined the faction hoping to gain access to state property. The same source reports that in the Ukrainian Parliament the cost of votes is discussed openly. During the political uncertainty after the 1999 presidential elections, one vote by an MP is reportedly cost approximately $10,000 to $15,000).[364]

[364] *PiK* magazine (Kiev) "Like Respectable Women, Respectable Politicians Cost a Lot." March 2–9, 2000 issue.

III. Conclusion

Unlike their counterparts in many Central and East European democracies, political parties in Ukraine have only recently started to occupy a prominent place in the country's politics. Owing to many subjective as well as objective factors, the public remains cautious and skeptical about the role political parties aspire to play in a political system dominated by unaffiliated executive and informal cliental networks. During the recent 1999 and 2002 elections, despite some progress towards free and fair elections, several international organizations raised serious concerns about the electoral process. The European Parliamentary Assembly reported threats to journalists and the use of the president's governmental resources for his re-election campaign. The Organization for Security and Co-operation in Europe and the Council of Europe both expressed concern that the state-controlled media were manipulated and limiting the access of presidential challengers. Last but not least, President Kuchma faced the key allegation that he used the State Tax Administration to harass opposition candidates. Instead of ensuring fair and transparent elections, this government enforcement agency was allegedly used by the government to help deprive the opposition of its right to participate effectively in the electoral process. As Ukraine stands at the crossroads between democracy and repression, there are many questions concerning its political transition and the issue of political finance.

In countries such as Ukraine, institutional imperfections of the political system, restricted access to the media even for those with capital, discrimination in the allocation of free media coverage, restrictions on the activities of the democratic opposition, selective enforcement and systemic corruption all serve to limit the electoral efficacy of money. The distinctive feature of the post-Soviet countries is that money needs to be combined with administrative resource, i.e. control over the administrative and regulatory state apparatus. So-called "administrative resource" is based on special treatment by local administration, state-owned media, directors of state-owned enterprises and budget-funded organizations. A favored party or presidential candidate receives undocumented and "free" services, uses state facilities and resources, and attends organized meetings with "working collectives."

Furthermore, the lack of diverse sources of money raises questions about the undesirable influence of donors. Ukrainian parties that are under pressure from the dynamics and high costs of electoral struggle have had good reasons to abuse state resources and to accept large contributions from plutocratic funding. As a result, the informal political agents—financial groups and "oligarchs"—dominate the political spectrum. Many Ukrainian political parties are, indeed, part of an "oligarchy," i.e. they serve as its vehicle of engagement in public policy and lobbying. A situation in which political power is the sole avenue to wealth has inflicted enormous damage on the country. The country's richest individuals lavishly spending their money to secure a seat in the Rada are an indication of how intertwined government and business have grown over the past decade.

Appendix 1. Funds Spent by Political Parties in Ukraine up to March 27, 1998 (the March 19

	Party/coalition and the date the account was opened	Funds in total	In total	Funds spent			
				Mass media		Including	
				Radio, television	Papers	Meetings with supporters	Distributi of printe material
1	Communist Party (01-21-98)[365]	76,639.1	76.613,7	38.267,9	35,975.26	1,231	1,125.52
2	Socialist and Peasant Coalition (12-23-97)	107,267.00	107,266.10	10,580.00	–	3,672.00	75,700.0
3	Green Party (12-25-97)	1,128,487.50	1,118,281.50	839,544,10	53,166.70	–	225,455.2
4	Peoples Democratic Party (02-27-98)[366]	2,255,936.30	1,715,890.50	1,113,398.50	8,745.00	–	403,658.0
5	All-Ukrainian Movement – *Hromada* (01-29-98)	190,132.00	190,132.00	144,464.90	38,577.00	2,201.00	34,889.1
6	Progressive-Socialist Party of Ukraine (03-25-98)[367]	11,072.00	11,071.60	10,953.00	–	–	102.00
7	(United) Social Democratic Party of Ukraine (02-06-98)	529,900.80	529,899.30	366,409.00	103,101.70	23,651.60	550.00
	In total:	4,299,434.70	3,749,154.70	2,493,617.40	239,565.66	30,755.60	741,479.8
	Percentage by source	**-**	**100.00**	**66.51**	**6.38**	**0.82**	**19.80**

Note: The 1998 exchange rate (annual average): USD 1 = Hryvnya 2.45
Source: The Parliament of Ukraine. Elections 1998. Central Electoral Commission

[365] 912 hryvnyas per seat in Verkhovna Rada
[366] 100,900 hryvnyas per seat: the most costly campaign.
[367] 790.80 hryvnyas per seat: the most efficient campaign.

Appendix 2.Value at Market Prices of Advertisements Placed by Political Parties/Blocs as a Percentage of the Election Fund Maximum (the March 2002 parliamentary elections) Figures Given in USD.

	Political Party	Direct political advertisements	Social advertisements	Together	Percentage
1.	(United) SDPU	7,898	1,073,492	1,081,389	47.4
2.	Green Party of Ukraine	110,992	113,958	224,951	9.9
3.	"Women for the Future"	178,225	4,418	182,642	8.0
4.	Ukrainian Unity of Christians	102,337	50,276	152,613	6.7
5.	"Apple"	146,005	0	146,005	6.4
6.	"Our Ukraine"	134,960	0	134,960	5.9
7.	"For a United Ukraine!"	130,252	0	130,252	5.7
8.	Democratic Party and Democratic Union	53,782	0	53,782	2.4
9.	"New Generation of Ukraine"	33,512	6,545	40,057	1.8
10.	Socialist Party of Ukraine	33,318	0	33,318	1.5
	Total	1,030,675	1,248,689	2,279,364	100.0

Source: Coalition of NGOs of Ukraine "Freedom of Choice," elections monitoring report, Kyiv, 2002.