

Financing political parties and election campaigns – guidelines

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Foreword

Scandals, extensively reported in the media and underpinned by judicial investigation, have awakened the public opinion to the problem of illicit party financing and its relation to corruption. Such scandals have not diminished the importance of political parties as pillars of representative democracy, but they have made it evident that clear rules and transparent accounts are the key to restoring or preserving citizens' trust in parties and politicians.

Money matters in politics because parties need ever-increasing resources for administration and election campaigns. But money should not be allowed to buy access to decision-making power. How to sanction illicit donations and prevent trading in influence? Should the state impose limits on corporate donations? Should parties receive public funding? Should campaign expenses be limited by law? The Council of Europe has recently set standards to guide its member states towards finding their own answers to these questions.

Financing political parties and election campaigns – guidelines, prepared by the Council of Europe's integrated project "Making democratic institutions work", examines the advantages and disadvantages of different options for applying the Organisation's standards, without prescribing an ideal model. Its unambiguous message is that whatever the rules a country adopts, they should be so designed as to ensure a level playing field for all parties competing in the political arena and guarantee their independence.

Walter Schwimmer
Secretary General of the Council of Europe

Preface

Financing political parties and election campaigns – guidelines is published as part of the Council of Europe's three-year integrated project "Making democratic institutions work" (2002-04). It has emerged out of a workshop, held in Strasbourg on 18 October 2002, on the topic of "transparency of the financing of political parties and their democratic functioning", which brought together various Council of Europe bodies, non-governmental organisations and academics. One of the tasks of the meeting was to inventory Council of Europe documents and instruments dealing with this theme, to collect information on related activities by other organisations and to discuss how to bring them together in a practical set of guidelines.

As its point of departure, the manual uses the guidelines set forth in Committee of Ministers Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and electoral campaigns, adopted on 8 April 2003 (see appendix). This important legal instrument, the first of its kind at international level, is the culmination of extensive exploratory, analytical and political work of different Council of Europe bodies, which has progressively led to the adoption of common standards for the setting-up of transparent systems for the funding of political parties in an effort to prevent corruption.

The purpose of the manual is to outline different options and alternatives, legal principles and methods of party financing, public control of party financing, as well as their implications for transparency and accountability. It should be noted that the rules regarding financing political parties should apply *mutatis mutandis* to the funding of electoral campaigns and to the funding of political activities of elected representatives.

The manual is primarily based on the practice of party financing and control in European states, and includes specific examples which illustrate the advantages and disadvantages of the various alternatives. It is intended to be a practical guide, and it is hoped that it will be of use to party officials, public officials dealing with financial control of party activity, political parties, media professionals, civil society, as well as the wider public.

Based predominantly on Council of Europe documents, the guidelines, principles and recommendations in this manual should be thought of as a compendium of Council of Europe instruments on the financing of political parties and public control of political finance (see references for a list of the documents used). They do not represent the opinion of the author, nor do they

necessarily coincide with guidelines other organisations may have issued on the subject.

Finally, I would like to acknowledge the invaluable assistance of Cédric Foussard in preparing this manual.

*Ingrid van Biezen
Birmingham, August 2003*

Introduction

Citizens in European democracies today are showing a growing concern with the improper influence of financial means on political decisions and with corrupt practices linked to political parties. In addition to corruption-related issues, in some countries organised crime is an issue connected with the financing of political activities. Because political parties are an essential element of pluralistic democracies, their gradual loss of independence is a serious and worrying situation.

In recent years, a number of scandals linked to the financing of political parties have emerged in several Council of Europe member states. The ensuing erosion of legitimacy of parties and politicians has demonstrated that this issue must be addressed as a matter of urgency in order to prevent the loss of citizens' interest in the political life of their respective countries and their loss of trust in the political system.

In order to maintain and increase the confidence of citizens in their political systems, Council of Europe member states must adopt rules governing the financing of political parties and electoral campaigns. The Council of Europe is of the opinion that the general principles on which these rules should be based must comply with Committee of Ministers Recommendation (2003)4 on common rules against corruption in the funding of political parties and electoral campaigns (see appendix).

The conditions in which political parties exercise their activities have changed over recent decades and nowadays they need substantial financial resources to gain visibility and to obtain political support for their ideas. Therefore, the Council of Europe considers that the regulation mechanisms must take these realities into account and empower political parties to obtain sufficient resources to carry out their tasks and functions.

The rules on financing political parties and on electoral campaigns must be based on the following principles: a reasonable balance between public and private funding, fair criteria for the distribution of state contributions to parties, strict rules concerning private donations, a threshold on parties' expenditure linked to election campaigns, complete transparency of accounts, the establishment of an independent audit authority and meaningful sanctions for parties and candidates who violate the rules. These principles are outlined in more detail in the following pages.

The reader will note that some of the principles are expressed prescriptively (“should”) and other permissively (“may”). This reflects the political consensus reached by the Committee of Ministers on common rules for the fight against corruption in the funding of political parties and election campaigns, thereby drawing the boundary between what is required and what is simply tolerated in Europe today.

Parties in contemporary democracies need appropriate funding in order to carry out their core activities.

Political parties are vital political institutions for contemporary democracy. They are essential for the organisation of the modern democratic polity and are crucial for the expression and manifestation of political pluralism. Political parties perform a variety of functions, all of which are to some degree quintessential to modern liberal democracy. Parties perform an important function as a channel for integrating individuals and groups in society into the political system; they mobilise and socialise the general public, particularly at elections; and they constitute the core vehicles for the articulation and aggregation of social interests. Political parties furthermore fulfil an important role in the recruitment of political elites by nominating and selecting candidates for public office; they are essential for the organisation of government; and perform an important policy-making function by making political decisions and implementing these in political practice.

Party democracy

In legal and constitutional terms, the place of political parties in liberal democracies has traditionally been somewhat ambiguous. This is in part a consequence of the historical conception of parties as private associations, as a result of which the state would not interfere in their activities through public law. It is also reflective of a longstanding negative attitude towards political parties, which have long been seen as adverse to the general interest or as overriding the interest of the individual. Much of this changed in the immediate post-war period, when a more positive connotation came to be attached to the role of political parties in representative democracy and when, beginning with the restoration of democracy in Italy and the Federal Republic of Germany, the key role of political parties became acknowledged also in constitutional terms. This practice has since been followed in constitutional revisions in many other polities, including the European Union, to the point that pluralism, political participation and competition in many democratic constitutions have come to be defined almost exclusively in terms of party. Despite widespread popular discontent with political parties and politicians, it is acknowledged that political parties in principle constitute a positive contribution to contemporary democracy and that political participation

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and competition through and between parties is essential for sustainable democracy.

The cost of democracy

In order to carry out their core activities, political parties need appropriate funding. The relationship between money and politics, however, is controversial and much of the debate on the role of money is concerned with the improper influence of money on the democratic political process and with the illegitimate personal enrichment of politicians. While the shady aspects of finance and politics should not be ignored, the relevance of money extends beyond illegitimate sources that flow into party coffers and the pockets of politicians. The scope of political finance has a wider relevance in the context of the functioning of democracy and should thus be seen as broader than merely involving illicit transactions. More generally, political activity involves expenses which should be seen as the necessary and unavoidable costs of democracy. Because money is one of the most essential resources for political parties, which are the principal protagonists of modern democracy, it plays a critical role in the democratic process. In order to function properly, political parties need to maintain their party organisations, to employ party personnel, to conduct election campaigns and to communicate with the electorate at large. In order to carry out these and other necessary functions, appropriate financial resources need to be available to political parties. Because of the potentially distorting effect money may have on the democratic process, however, it is important that the role of money in politics is properly regulated by public law.

Legal regulation

Most contemporary European states have taken substantial legislative action in recent years to regulate the practice of party financing. Often, public legislation has developed in connection with, or as a reaction to, corruption scandals or other improper influence on political decisions through financial means. The fact that a classic, liberal and non-interventionist democracy such as the United Kingdom, where political finance has traditionally been to a large extent unregulated, has recently adopted a far more legalistic and regulatory approach to the issue can be seen as exemplary of this development.

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The traditional type of party financing, primarily or almost exclusively through membership fees, is no longer viable for most parties in modern democracies. Private means of financing other than through membership fees, either from within or outside the party, are not without problems. Contributions by parliamentarians to their party deducted from their allowances may constitute a concealed form of public funding and are difficult to reconcile with their independence and constitutional free mandate, in particular when the payment constitutes a de facto obligation. Other private sources such as donations run the risk of establishing inappropriate links between donating money and specific political decisions. In this context, the mere impression of misuse may in itself be sufficient to erode public confidence in the political system and its political actors and may thereby undermine the legitimacy of democracy.

Putting more emphasis on public funding may limit the potential influence of private individuals or companies. The disadvantage, however, is that it increases the dependence of parties on the state. This may encourage political parties to rely too much on public money at the expense of safeguarding the linkages with and interest of those whom they are supposed to represent. Moreover, if public funding is provided, due consideration should be given to the equality of chances for political participation of both established parties and political newcomers.

The best solution probably lies in a healthy mix of different sources of income, including both private and public funding. Strict limitations should be imposed on certain sources and the amount of private donations, while state funding should be allocated on the condition that the accounts of political parties are subject to external audit by specifically authorised public organs. Complete transparency of the financing of political parties should be ensured with a view to avoiding any potentially undesirable influence of money on party politics and policy.

Any system of party financing and the limitations it imposes on political parties and their financial sources will only be effective with strong mechanisms of control and sanctions for eventual violations. Control bodies should therefore be composed of independent members and be provided with sufficient means (including investigative powers, and financial and technical equipment) for effectively exercising their monitoring function.

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The structures of legal frameworks should be unambiguous, understandable and transparent. They should address all components of the system of party and candidate financing necessary to ensure democratic participation and competition between parties.¹

The term “legal framework of party financing” generally refers to all legislation and pertinent legal and quasi-legal material or documents related to the funding and financial operations of political parties. The terminology may vary and not all elements may be available within a given country.

Specifically, the “legal framework of party financing” includes, where applicable, constitutional provisions, laws on political parties and laws on the financing of political parties and election campaigns as passed by the legislature, and all other laws that impact on the financing of political parties. It also includes electoral laws if and where they entail provisions related to the financing of parties, candidates and election campaigns. It encompasses relevant directives, rules, decrees and other regulations with legal force passed by the legislature or issued by the government or other relevant authorities, as well as codes of conduct, voluntary or otherwise, which may have a direct or indirect impact on the practice of party financing. It is important to note that each successively lower authority should not be able to make provisions to the legal framework of party financing which contradict or are otherwise inconsistent with those of a higher authority.

National legislation

Although governments are free to develop their legal frameworks, there is a need for written law (as opposed to customary law or administrative policies) to govern the financing of political parties, candidates and election campaigns. The written law is more readily subject to judicial interpretation and review, and is more useful to interested parties, including electors.

Legal aspects relevant to party finance may be incorporated in the electoral law, a law on political parties or a separate law on the financing of political parties, candidates and election campaigns. One single and special law on party financing is highly desirable and is recommended. It encourages consis-

1. This section is based on and adopted from *International electoral standards: Guidelines for reviewing the legal framework of elections*, chapter 2, Idea, International Publications: 2003.

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tency in financing practices whilst fostering unified implementation of the law in connection with all regular financial activities of political parties and all elections. Such an approach also simplifies the drafting process in cases where amendments to legislation are needed. However, in some cases, particularly in federal systems, such an approach may not be feasible and specific legislation for the financing of regional parties and elections may need to be adopted.

Regardless of whether party financing is regulated through a general law on political parties, the electoral law, a specific law on the financing of political parties, or a combination of these, certain principles are fundamental to finance legislation. More specifically, the legal framework should be objective, clear, transparent and publicly accessible. To that effect:

- Legislation should be stated in clear and unambiguous language.
- Legislation should avoid conflicting provisions between laws governing the activities of political parties and laws governing their financial activities.
- Legislation should avoid conflicting provisions between laws governing the financing of national and sub-national parties, and between laws governing the financing of national and sub-national election campaigns.
- Legislation on party financing should at least cover fundamental issues such as traditional sources of finance, private donations, public subsidies to political parties, the financing of election campaigns and provisions for disclosure, reporting, monitoring and enforcement.
- Legislation should be published and made readily available for the intended users, including political parties, candidates for public office and the general public.

Political parties and candidates should be partly financed through private means. Private sources of funding may be internal or external to the party.

Traditional sources of financing

The main traditional sources of internal party financing are membership fees, income from property, revenue from party activities such as the sale of newspapers or other party publications, fundraising activities, party festivals and other social events, and occasional public collections. Political parties are private voluntary associations which should in principle be in control of their own financial affairs, although these may be subject to some degree of state regulation. Laws governing the internal resources of parties should avoid interfering unnecessarily with the independence of political parties. As a rule, public laws should be, and in practice have been, framed fairly liberally, prohibiting or restricting only those forms of fundraising which have no real connection with a party's *raison d'être*. Commercial activities, such as the ownership or the acquisition of shareholdings in commercial companies are one such example, and are often strictly limited if not prohibited on these grounds.

Membership fees

The traditional sources of internal party financing, and the regular membership or affiliation fees in particular, can generally be regarded as the most democratic and legitimate form of party financing. Membership contributions are an attractive form of party finance because they are donated on a voluntary basis and, notwithstanding material incentives which may underlie an individual's motivation to join a party or clientelist services which are offered to party membership, they do not imply a direct pay-for-service relationship. Membership contributions are not accompanied by direct demands for influence on programming decisions or access to party-related functions. From a normative point of view, membership fees are therefore the most unproblematic form of party financing. Parties with a large number of members, and relying for the greater part on fee-paying members, must pay heed to a greater number of citizens than more elitist parties, which may be privileging the policy preferences of the party's economic sponsors over those of

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others. Parties with a close connection to their grass roots through their fee-paying members are in a better position to ensure that their leaders are closer to representing the broader interest of the people at large rather than the narrow interests of large contributors. Membership contributions guarantee a certain degree of influence of party members on official party politics without allowing single financially privileged persons or groups too much influence.

However, it must be acknowledged that membership fees are increasingly hard to acquire. Over the past decades, the relevance of membership subscriptions for the financing of party activity has been steadily declining. One reason for this is the increase in other sources of funding (such as public subsidies), which has diminished the relative importance of party membership. However, in countries where there is no public funding, the amount of membership contributions has, in certain cases, diminished quite dramatically as well. In the British Labour Party, for example, the contribution of the membership fees to the party's overall annual income dropped from more than 50% in 1992 to approximately 25% in 1997. One reason for this is that the party (and parties throughout Europe in general) have suffered from a rapid decline in the number of party members, resulting in a reduction in the income derived from membership subscriptions in both absolute and relative terms.

For parties in the more recently established democracies in southern Europe (Greece, Spain and Portugal) and in central and eastern Europe, membership fees are often even less important than in the older democracies. Because of the relatively low standard of living and the lack of a democratic participatory culture, in some post-communist democracies such as Romania or Ukraine, membership fees have never been an important source of income, and parties do not often encourage their members to make direct payments to the party organisation. In general, there is virtually no tradition of membership dues collection. The possibility for political parties to raise membership fees is usually not legally restrained, although it may be explicitly allowed by law. The exact amount of membership fees to be levied is normally regulated by the parties themselves. Often, they fix a minimum fee and apply a system of progressive contribution rates according to income, or they provide for a reduced fee for low income groups. By adjusting the amount of fees members have to pay, parties can make joining a party more or less attractive. Low barriers may facilitate affiliation to the party, or conversely, high barriers may act as a deterrent to individuals.

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It has to be kept in mind that membership subscriptions do not constitute a pure source of private funding if they are encouraged by tax privileges for members. This aspect will be discussed in more detail below.

Profits of party-owned businesses

Classical forms of party-owned businesses in particular are the sales of party literature and newspapers and the ownership of publishing companies affiliated to the party. Parties may also run their own recreation facilities, provide social security services, own travel agencies, sports teams, banks and housing projects. Since these are usually no longer profitable areas, parties may be tempted to venture into other areas which are economically more attractive. In Austria, for example, political parties have developed commercial activities in areas such as marketing, shopping centres, and house construction through companies owned or shared by the party.

Such practices may be susceptible to corruption or at the very least have given rise to suspicion of corruption, as it is evident that certain economic activities (such as house construction for example) may very well profit from favourable political decisions. Therefore, it is clear that economic activities which have little to do with the *raison d'être* of a party are highly sensitive and problematic. Although they are often strictly regulated, outright legal bans on commercial activities are rare, if only because this may pose constitutional problems. One of the most far-reaching legal provisions curtailing commercial party enterprises was in force for a short period in the Czech Republic, where political parties were neither allowed to be commercially active under their own name nor allowed to participate in legal entities with commercial purposes, even if the activities pertained to a classic field such as publishing. In a recent case, however, the Czech Constitutional Court set aside these provisions. Under new amended legislation, political parties may now buy shares in publishing companies, cultural events and companies with which they have advertising contracts.

The growing importance of other sources of party financing such as state funding, corporate financing and private donations, poses a challenge for the legitimacy of party financing. At the same time these developments can also be seen in a more positive light: they open up the possibility to diversify the available sources of income and may thereby create an opportunity for greater checks and balances.

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States should consider introducing rules which limit the value of donations to political parties and candidates.

Because private donations may run the risk of establishing inappropriate links between money and specific political decisions, it is advisable that state laws adopt a set of general principles on private donations. Measures taken by states governing donations to parties should provide specific rules to avoid conflicts of interests, avoid prejudice to the activities of political parties, ensure transparency of donations and avoid secret donations. Public law should be tailored such that it does not endanger the autonomy of political parties and that it ensures their independence.

Benefits of private donations

Historically, private donations have been a crucial source of income for political parties. While the traditional mode of financing is no longer sufficient for parties which face the ever increasing expense of political participation and competition, donations continue to constitute a crucial source of income for parties in most European countries. In contrast to public funds or membership fees, which are more or less fixed or depend on the electoral performance or parliamentary strength of a party, money obtained through donations is more open to a party's own capacity to raise external funds. This gives parties a greater degree of flexibility to generate their own income. Furthermore, private funds are desirable in that they encourage citizen participation in the activities of political parties and maintain a linkage between parties and their grass-roots supporters. Private funding is therefore seen by some as more desirable and legitimate than public funding, which may produce overly bureaucratic parties governed from the top without connection to supporters on the ground.

Problems with private donations

The lack of predictability of private contributions, however, also makes it a liability for parties as it does not provide them with a stable source of income to rely on. In addition, the unequal access to and the unequal distribution of private donations may have an effect on the equality of political participation and competition. Equal competition can be seriously undermined by gross financial disparities between political forces, giving the better resourced

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parties a substantial advantage over their competitors. In 1993, for example, the governing party in the Slovak Republic raised three times as much money as all the other twenty-two parties taken together. Therefore, private financing can also be perceived as unfair, especially in societies with great disparities of wealth.

Granting moneyed interests access to political leaders, moreover, may unduly concentrate political influence in a few hands, may make politicians too dependent on certain private interests rather than the interest of the electorate at large or the party membership. It may also raise suspicions that political influence can be bought. To the extent that costly electoral campaigns largely determine the outcome of the elections, it is clearly undesirable that parties depend on or represent the interests of closely allied financial contributors.

Private financing is an essential source of funding for political parties, but private donations in particular may create unwanted opportunities for influence and corruption. Private contributions are more desirable than public subsidies provided they are donated in relatively small amounts by individual electors. It is the large private donations (especially secret ones) which give rise to problems of inequality and corruption. It is therefore important that legislation is adopted which counteracts the imbalance in opportunities for political participation and in competition generated by unequal access to private donations, and which also curtails the potentially corrupting effects of private funding.

Restrictions on private donations

One way to limit the concentration of private influence on party politics is through setting limits on the acceptable amount of contributions. There are two basic approaches which address this concern (apart from external control and transparency efforts):

- through public law, states can establish restrictions on the permissible amount of donations;
- states can impose certain conditions on the qualification of donors or donations.

Limitations on the amount of private contributions may consist of a maximum threshold on the amount of money that may be accepted from a single source, whereby different ceilings may apply for different types of donors. Restrictions

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may also consist of a limit on the total sum of acceptable private contributions. Different thresholds may exist for different types of party activity such as routine operational costs, parliamentary or presidential elections.

If a limit in force only applies to the amount of money an individual donor may contribute, rather than to the total sum of permissible private donations, then the law may contain a loophole, allowing wealthy contributors to divide up a large donation into various smaller ones. If only the total sum but not the amount per donor is restricted, parties could still come to depend on only a few donors or a single private donor. In order to reduce the concentration of money in only a few hands and to diminish the dependence of parties on a small number of private donors, a combination of both a maximum threshold on the amounts per donor and the total sum of donations per year is advisable. In Belgium, for example, maximum thresholds of 20 000 BEF per donor per year to a single party apply, and an aggregate of 80 000 BEF applies to all parties.

Transparency of donations and avoiding secrecy

Transparency is generally thought of as being an effective precaution against the improper influence and favouritism that arise from large undisclosed donations in that it allows the public to form its own opinions about party integrity. Rules which require a party to maintain and make available for public scrutiny records identifying donations exceeding a certain value and their donors, may be said to embody the principle of transparency. A secret donation is understood to be one which does not appear in the accounts of the party and which may be contrasted with that of an anonymous donation, which does appear in the party accounts, but the donor is not identified

However, in some of the less-consolidated democracies, the acceptance of secret donations up to a reasonable amount may be necessary to avoid political persecution of donors.

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States should consider the introduction of rules which define or set limits on the acceptable sources of donations to political parties and candidates.

Regulation of contributions to political parties can also be achieved through limits on the acceptable sources of contributions. In general, states should

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take measures aimed at limiting, prohibiting or otherwise strictly regulating donations from:

- corporate entities/business enterprises;
- legal entities which provide goods or services for any branch of the public administration;
- legal entities under the control of the state or other public authorities;
- individuals, public or private legal entities of foreign nationality;
- anonymous sources.

Qualification of donors

Regulations on the qualification of donors can take two basic forms. Germany provides an example of the first approach, which is through the identification of “impermissible donors”, outlining the types of donors which are excluded from making financial contributions to political parties altogether or whose donations are strictly limited. A second approach, such as recently adopted in the United Kingdom, provides a positive list of “permissible donors”. In contrast with this negative list of impermissible donors the positive identification of permissible donors entails a potentially more restrictive approach, as no donations may be accepted from a person or entity not included on the list (or if the receiving party cannot ascertain the identity of the donor). If a party in the United Kingdom receives a donation not fulfilling these requirements, it is obliged to return the donation, if possible, or to send it to the Electoral Commission.

Corporate donations

States should take measures aimed at regulating donations from corporate entities in order to prevent big money from being in command of political decision making. In practice, direct contributions to parties from business companies remain a significant source of financing, although they are generally less important than in the past. This is in part due to the introduction of state subsidies, which has made the relative size of donations from private business decline. In addition, the increasingly stringent legal frameworks on party financing, establishing ever stricter regulations on corporate donations have made donations from business enterprises submerge under the surface of legality. Some countries, such as France (see Box 1 below) and Belgium have

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even imposed an outright ban on donations from corporate entities. In the same vein, in a desperate attempt to limit the influence of plutocratic financing, Poland has recently decided to prohibit donations by corporate organisations, foundations and associations.

Box 1: Prohibiting corporate donations – the case of France

Should business enterprises be entitled to donate money to political parties and candidates? French law has moved towards an increasingly stringent and restrictive approach on this question.

Legislation enacted in 1990 authorised corporate donations but only under certain conditions. It was not unlawful for a firm to donate money to political parties if such contributions were seen to be in keeping with its corporate purpose. The law also limited the amounts that could be donated, stipulating that the total amount could not exceed a certain sum specified on an annual basis. Contributions could not be paid directly to political parties but had to be paid to separate financing associations. A positive incentive for corporate donations was created by making contributions deductible for corporate income tax purposes.

The existence of an upper limit for donations in itself contains the notion that corporate donations to political parties may involve some degree of trading influence. When, in the wake of a series of illicit financing and corruption scandals, this idea assumed concrete proportions, new legislation was passed in 1995.

The new law makes it illegal for private business to donate money to political parties and candidates. Private financing by corporate entities is ruled out so as to ensure the independence of candidates and, by extension, political parties, from corporate interests. As a consequence, political activity is now financed primarily from public funds.

Transparency has furthermore been encouraged by adopting extremely stringent procedures for private donations. Donations of over €150 to support a particular candidate's election campaign have to be made by cheque. Since individual donations to candidates are tax deductible, each donor has to produce a receipt from a counterfoil book issued by the National Committee for Campaign Accounts and Political Financing.

Donations from public and semi-public entities

States should take measures aimed at limiting, prohibiting or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration. States should furthermore prohibit donations from legal entities under the control of the state or of other public authorities.

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In many countries, public enterprises or companies with a certain percentage of shares controlled by the state and institutions of public administration (the proportion varies from country to country) are not permitted to make a contribution to political parties. Such donations must come from private funds. This type of rule is aimed at avoiding a concealed form of public funding. While public subsidies should be available to all political parties on the basis of objective criteria rationally fixed by statute or public law, donations and bequests are selective expressions of support for one party as opposed to another. For that reason, neither the state nor any undertakings connected with it in any way should be permitted to make this type of selective contribution to a particular party.

Donations from interest associations

The most important sources of funding from interest associations are employers' organisations, which primarily fund middle-class parties, and trade unions, which support working-class parties. In Europe, organisational links have been traditionally very strong between labour parties and associated trade union movements. Interest organisations may want to support parties for a variety of reasons: because collective action may be more effective than individual action, for example, or because they support government policies or are lobbying for a change of policy. Trade union funding, moreover, has been seen as essential to compete with the much larger funds available to middle-class parties from corporations and wealthy individuals. Historically, union funding has been an expression of an organic unity between the economic and political branches of the labour movement.

However, a situation in which political donations to parties are channelled through interest associations, especially if the latter expect their contributions to influence public policy, may run the risk of improper political influence. Moreover, contributions from an organised interest association may be donated without the consent or irrespective of the views of its members.

The latter argument underpins the rationale for prohibiting trade union contributions in North America. While in Europe trade unions are not frequently prohibited as donors to political parties, in Canada unions were banned from making political contributions in 1920 and in the United States in 1943. The justification for barring union contributions here was that the union's majority should not be able to use funds collected from all members to

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support candidates that a minority may oppose. While this argument has some merit, there may be other and less extreme ways of solving the problem. In Britain, for example, trade unions have traditionally been allowed to contribute to political campaigns provided that (a) they raise the funds contributed through a political levy that is kept separate from regular union funds, (b) the creation of the political fund be approved by ballot of the members, and (c) any member so desiring may “contract out” of the political levy without penalty. Similarly, in Denmark, trade unions and also employers organisations are allowed to give money collected from their members to political parties with the proviso that any member must be offered the possibility of opting out of the scheme. In the United States, the employees or members of an organisation that is barred from making political contributions can form a political action committee (PAC) with substantially the same effect.

Similar arguments may be raised with regard to minority shareholders in corporations. For this reason, regulations may be considered which would make company donations legally permitted only if they are approved in advance by the company in a general meeting or by a (qualified) majority of the shareholders. In this case, the decision by the company directors or managers would be subject to approval on a broader base. In case of a violation of such provisions, the company should have the statutory right to recover the amount of the donation. In general, it is advisable that shareholders or any other individual member of the legal entity should have the legal right to be informed of a donation to a political party.

Anonymous donations

States should adopt provisions which regulate anonymous donations to parties. Anonymous donations should be limited or prohibited. From the standpoint of equality of the democratic process and the transparency of political finance, it would perhaps be best to prohibit any type of anonymous donation. In actual practice, however, it is also advisable that provisions regarding anonymous donations be such that the administrative burdens of parties are kept proportionate by excluding low-value donations from the obligation to refuse anonymous donations. Therefore, a maximum ceiling should be set on both the amount of anonymous donations parties may receive from a single source and on the total amount of anonymous donations a party or candidate may receive in a given year or for a particular election campaign.

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The legal framework of party financing should specifically limit, prohibit or otherwise regulate contributions from foreign donors.

The secret funding of politicians and parties by foreign governments has a long history. The example of the Soviet Union financing communist parties abroad is particularly well known. Not only foreign governments, however, but also foreign intelligences agencies have engaged in covert funding activities. During the Cold War, for example, the CIA was actively involved in funding anti-communist political organisations.

While these practices have recently largely lost their relevance, a more common practice today consists of foreign funding of political parties through political foundations and research institutes. These often receive government subsidies to provide financial support to politicians and parties in countries where democratic institutions are still in their infancy. These funds are usually less secretive and are channelled in such a way as to ensure the neutrality of the donor governments.

When it comes to foreign money funding politicians and parties, a distinction should thus be made between secret and clandestine activities with a political purpose, on the one hand, and legal activities often explicitly targeted at democracy building.

Pros and cons of foreign donations

Various objections, of principle as well as of practice, can be raised against foreign contributions. The most important principled objection to foreign donations to political parties is that it interferes with the autonomy and sovereignty of domestic politics. More pragmatic objections include the difficulties involved with ensuring the accountability of the donor and the fact that they may remove an incentive for parties and politicians to raise money from their own supporters.

Foreign donations do not always have a subversive intention and may in fact be a welcome contribution to democracy-building efforts. In countries with a poorly developed civil society and weakly organised political parties especially, financial contributions from abroad may play a positive role in helping to create the institutions needed for democracy.

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Democracy building

While many countries have adopted legal provisions which restrict foreign donations or have imposed a complete ban on such donations, a large number of others have left this matter virtually unregulated. On the whole, and probably rather paradoxically, more recently established democracies in southern, central and eastern Europe tend to be more restrictive with regard to donations of foreign origin than most of the older western European democracies. At the same time, it is relatively well-known that many of these parties in recently established democracies received substantial financial support from abroad, especially in the early years of the transition. Communist parties in post-authoritarian southern Europe were known to be financed by the Soviet Union, for example, while other parties received support from their west European and particularly West German sister parties and their associated research institutes. This included not only the direct transfer of financial but also of human and technical resources. Foreign financial aid to parties in southern Europe significantly diminished after the demise of the communist regimes in eastern Europe and particularly the unification of Germany, after which German financial aid was mostly directed towards the east. In addition to the financial support from western Europe, many democratising countries in eastern Europe have relied heavily on the financial assistance of the United States. In Bosnia and Herzegovina, the important role of international assistance in post-war restructuring explains why certain foreign contributors are allowed to donate money to national political actors.

Some countries have imposed an outright ban on foreign donations. Bulgaria, for example, prohibits political parties from accepting financial assistance, donations or legacies from foreign countries, organisations or anonymous sources. Others allow certain types of foreign donations while prohibiting others. Estonia, for example, excludes donations from foreign public institutions. Hungary prohibits donations from foreign states but permits donations from foreign individuals or organisations, while Portugal allows donations from foreign individuals but not from foreign organisations.

Only a few of the older democracies have adopted legislation explicitly limiting foreign financing of parties and politicians, the most notable exceptions being France and Germany. In Germany, for example, donations by individual citizens of European Union member states which are lower than €1000 are permitted, but those from non-German legal entities are prohibited, unless a

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majority of the company shares is in the hands of German or other EU citizens, or unless their headquarters are located in Germany or a EU member state. Furthermore, donations to the political parties of national minorities are exempt from regulations prohibiting foreign donations.

7

State legislation may adopt special provisions for financing the electoral campaigns of political parties and candidates.

Since campaigning constitutes a special type of party activity, the types and amounts of necessary resources are likely to be different from those required to sustain the party's daily functioning. Furthermore, and despite the fact that modern day electioneering may have become an almost uninterrupted activity, campaigning is likely to be heavily concentrated in particular periods, reaching its peak immediately before election day.

Given their special nature, election campaigns may be subject to a financing regime different from that of normal party operations. State legislation may therefore adopt special provisions covering the amounts and sources of permissible private donations, expenditure limits and the criteria for state subventions for the financing of elections. However, the considerations underlying the advantages and disadvantages of different types of private and public funding are the same, regardless of whether they concern election campaigns or routine party activity. The framework of party finance legislation should therefore be inspired by a common set of principles which applies *qualitate qua*, to both the financing of routine operational costs and the financing of election campaigns.

8

The state should consider adopting measures to prevent excessive funding requirements of political parties and candidates, such as establishing limits on expenditure for electoral campaigns.

Limits on party and campaign expenditure are a device used to avoid excessive increases in the cost of party politics, control inequalities between political parties and restrict the scope of improper influence and corruption. In the absence of an upper threshold on expenditure, there are no limits to the escalation of campaign costs. This can be prevented by setting legal limits on election expenditures. Expenditure limits should also be seen as a means to prevent candidates or parties from buying votes. Unrestricted spending gives

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an unfair advantage to those with access to money and may make elected officials excessively dependent on contributors at the expense of being responsive to the public at large. In order to ensure equality of opportunities for the different political forces, electoral campaign expenses should have a fixed ceiling.

Freedom of speech

Expenditure limits may imply that government restricts freedom of speech for some elements of society and enhances the relative voice of others. In a liberal democracy, this is a serious concern which cannot be dismissed out of hand. By establishing limits on campaign expenses, governments tread a thin line between restricting the freedom of speech and the desire to curtail moneyed interests in elections. This tension is embodied in the different approaches to campaign finances adopted in the United States and Europe.

While European campaign finance is moving towards more restrictive regulation of campaign expenditure, this practice is in sharp contrast with the more permissive tradition in the United States, where spending by candidates is not limited (except for presidential candidates who voluntarily accept spending limits in exchange for public subsidies). In fact, the US Supreme Court ruled in 1976 that expenditure limits for political campaigns violate freedom of speech. No significant political expression can be made without monetary expenditure: broadcasting, hiring a hall, displaying posters and advertising in the print media all cost money. Particularly in an era of mass electorates, the freedom to disseminate speech was held to be as significant as the freedom to speak. The Supreme Court considered that the existing limitations on expenditure violated the First Amendment to the Constitution and were thus unconstitutional.

The European approach has been to accept restrictions to campaign expenditure on the grounds that freedom of expression does not entail the freedom to use wealth to get the less prosperous to listen to one's views. In addition, restrictions on campaign expenditures can be justified with a view to controlling the potentially disruptive role of money in politics. In the United Kingdom, for example, while there has traditionally been little regulation of party financing and virtually no public funding, limitations are set on campaign and election expenditure.

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Expenditure limits

Expenditure limits can either restrict the total amount a party or candidate may spend, or they can limit the amount spent in particular ways and on particular activities. This could mean that some forms of expenditure would be banned altogether. These limits may consist of an absolute sum per candidate or party (such as in the UK), a certain amount relative to a statutory yardstick such as the minimum wage (as in Portugal or the Russian Federation), while in France and Spain the maximum sum is fixed depending on the number of inhabitants in the constituency.

If limits on expenditure are adopted, the question of to whom they apply must be dealt with in order to ensure the effectiveness of expenditure control. Expenditure limits can apply to parties, to candidates or to both. If limits apply only to candidates, but not to parties, for example, the British experience indicates that the regulations may be largely rendered inoperative, as parties can easily bypass the spending limitations allowed to their candidates. One solution to this is to establish limits for both parties and candidates. Another solution has been adopted in the United States, which is to consider spending by parties on behalf of their candidates as contributions and regulate the amounts of permissible donations by public law.

In order to be operative, restrictions on campaign expenditure should also clearly identify what counts as election expenditure and what does not, and should clearly distinguish between campaign and non-campaign spending. Restrictions should also take into account the question of timing and establish a reasonable demarcation of when the campaigns begin. Even though the campaign for one election may really begin almost immediately after the conclusion of the last election, campaign expenditure regulations should clearly identify a formal campaign period. If this period is too short, the effectiveness of spending limits is seriously undermined. Finally, regulations on election expenses should also set reasonable limits on expenditure. They should not be so low as to disable any effective political competition, nor too high to constitute a meaningful ceiling on expenses in practice.

In Ukraine, for example, spending limits have proved in practice to be a fiction, as they have been established at unrealistically low levels, which has encouraged parties to bypass legal regulations by creating large numbers of small front organisations. The legal framework has not only failed to prevent a political finance “arms race” but has also made it difficult to assess the real

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levels of expenditure and has thus undermined transparency of political finance. More generally, it has undermined public confidence in the whole system of political finance.

The state should provide support to political parties and candidates in order to prevent dependence on private financial donors and guarantee equality of chances. State support may be financial.

State support to parties can be provided in a variety of forms, which can be subsumed under two broader headings: direct and indirect support. Both forms of assistance are essential contributions to the healthy functioning of parties.

Traditionally, political parties in western Europe have primarily depended on private contributions to finance their activities. Socialist and social-democratic parties have often secured a structural flow of income from the fees paid by their members and the donations from affiliated trade unions. Liberal and conservative parties have generally relied on contributions from wealthy individuals or donations from private business. Government financing of the political process, if at all, occurred mainly indirectly. Public funding for political parties is a relatively recent phenomenon in European democracies.

Introducing public financing

The Federal Republic of Germany was among the first democracies in western Europe to grant public funding to national parties. A small budget allocation was appropriated in 1959, while a legal basis for substantial state subsidies was created in 1967. Many countries followed the German example and introduced public subsidies to political parties, often first to the parliamentary groups and later to the central party organisation (see Box 2 below). In more recently established democracies, such as in southern Europe or post-communist eastern Europe, state support for parties was often introduced on a relatively wide scale during or immediately after the transition to democracy. Switzerland is unique among the west European democracies in that, on the federal level, no public subsidies are available for party organisations or election campaigns. In Ireland and the United Kingdom (with the exception of Northern Ireland) only the parliamentary groups but not the central party receives direct financial support from the state.

In the United Kingdom, the possibility of introducing some form of public funding to political parties was extensively discussed with a view to the elaboration of the new Political Parties, Elections and Referendums Act, but was ultimately rejected (apart from setting aside a modest sum of £2 million per

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year for so-called policy development grants in order to allow parties to finance policy research). One argument put forward against public funding was that taxpayers should not be forced to support parties financially which they did not approve politically. In addition, it was argued that public funding would preserve the status quo by making it more difficult for new parties to enter the existing party system. Public funding was also regarded as increasing the distance between the political elite and the citizen who is to be represented.

Box 2: Direct state support to political parties

Country	To parliamentary group	To central party organisation
Austria	1963	1975
Belgium	1971	1989
Denmark	1969	1987
Finland	1967	1967
France	1989	1989
Germany	1968	1959
Ireland	1973	–
Italy	1974	1974
Netherlands	1964	1999
Norway	1960	1970
Sweden	1965	1965
Switzerland	–	–
United Kingdom	1975	–

Source: Katz and Mair 1992; Nassmacher 2001

There are also good arguments in favour of state funding, which have motivated the majority of countries to introduce public financing schemes. There are essentially three main reasons why the state may want to provide financial support to political parties: to compensate for the growing cost and the increasing scarcity of resources, to guarantee free and fair political

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competition, and to limit the potentially disruptive role of interested money. State support makes up for the increasing cost of contemporary democracy, facilitates equality of chances for political parties and guarantees sufficient independence from private donors.

Increasing costs and decreasing revenues

Politics in modern democracies has become progressively more expensive. This has been the result of the increased use of the mass media and more cost-intensive campaigning techniques. It is also a consequence of the internal professionalisation of parties. The overall resources of parties have increased substantially. The central headquarters and parliamentary groups are now better staffed than they were twenty to thirty years ago, the annual income of parties has increased substantially and they are spending more and more money on election campaigns.

The increasing amount of money needed for parties to continue ensuring the democratic process is coupled with a decrease in revenue. In recent years, political parties have suffered from a growing disengagement of citizens from conventional politics, which can be seen from the substantial decline in the number of party members. As a consequence of the erosion of their membership organisations, parties have lost a substantial share of their reservoir of volunteers who would work for the party as unpaid employees or who would carry out labour-intensive campaigning activities. To compensate, they have recruited larger numbers of paid professionals, which has made party activity more expensive. At the same time, the decline in membership has deprived parties of an important source of revenue by reducing significantly the amount of income derived from membership subscriptions.

Parties in modern democracies cannot reasonably be expected to raise all necessary monetary income themselves. A role should therefore be granted to the state to provide financial support to political parties. State support can help parties meet the ever-increasing cost of democratic politics and can compensate for the scarcity of internal financing. Public subsidies thus bridge part of the gap between voluntary donations and necessary party spending.

This is especially relevant in the more recently established democracies. Because the pre-democratic authoritarian and totalitarian regimes impeded the existence of competing political organisations, few parties survived

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decades of non-democratic rule. The very “newness” of the regime often meant that very few parties had historical roots dating back to the pre-authoritarian period, as much of their organisational structure had been eradicated by the repression of a non-democratic regime. Political parties themselves had been created only recently and could not draw on a developed organisational infrastructure or institutionalised links with organised and individual interests for financial assistance. In such a context, there are few alternative resources available except for state subsidies, which serve as compensation for a general scarcity of financial resources.

Equality of political competition

A second reason for the state to be directly involved in the financing of political parties can be associated with concerns for equal opportunities, fairness, and the equality of political competition. Not all parties are equally resourceful and those which cannot successfully tap into the resources of private contributors should not be disadvantaged. This primarily concerns smaller parties, parties whose political programme is unlikely to appeal to wealthy or established interests, and newly established parties which lack links with affiliated interest organisations. State subventions can serve to facilitate a level playing field by enabling new, small and less resourceful parties to compete on a more equitable basis with the dominant and financially more privileged ones.

The concern with equality of political competition and participation has a special relevance in the newer democracies, in particular in the post-communist states. Here, state subsidies were in part intended to compensate for the disadvantages confronting newly created parties when competing with the materially and financially secure successors of the Communist Party. Whether they remained organisationally and ideologically virtually identical to the former ruling party or whether they aimed for a radical break with the past, communist successor parties often inherited much of the organisational, material and financial assets of the former ruling party. Financial support from the state was needed to compensate the newly created parties for the competitive advantages of many of the communist successor parties.

Limiting the role of private money

State subsidies also restrict the influence of private money and thus limit its potential for distortion of the democratic political process. When financing

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political parties from private contributions, there is always a concern that certain private interests rather than the general public interest will come to guide the behaviour of parties and elected officials. Public funding relieves parties from having to satisfy their financial supporters and can therefore reduce the potentially excessive influence of private contributors at the expense of the population at large, and have a diminishing effect on corrupt practices.

10

The state may contribute – directly or indirectly – to the operational cost of party activity, election campaigns and the functioning of parliamentary party groups.

Political parties are the central institutions of any democratic political system and the financing of parties by the state is a means of assisting parties to fulfil their core functions. Party activity is carried out in a variety of arenas, including parliamentary work, election campaigning and routine operational activities, and states wanting to support the activities of political parties may provide subventions to support each of these types of activity. State support to parties may come in a variety of forms. Essentially, direct funding of parties rests on three pillars, underscoring the three key arenas of party activity in modern democracies: subsidies for the routine operational cost of parties, subsidies for campaigning activity and subsidies to parliamentary party groups. The general tradition of direct public financing in most of western Europe is that it is party- rather than candidate-oriented. However, in countries with a more candidate oriented electoral system, such as those which elect (some of the) candidates to parliament in single-member constituencies, state money for election expenses may sometimes be available for individual candidates.

Operational activity

The way parties are organised may vary substantially, but the organisational structure of most parties will consist of the national headquarters and branches at the regional, provincial and local levels. Parties may show a greater or lesser degree of internal party activity at all these organisational levels. The local branches may play an important role in the recruitment of new members and as a place for the training and education of the rank-and-file, for example, while the regional and provincial assemblies and the national party congress serve as forums for discussion and as sites for the development

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of the political programme and electoral strategy. In addition, the party organisation constitutes the channel through which party officials and public office holders are selected and held accountable to the party membership.

Part of the normal cost of parties in contemporary democracies includes the development and maintenance of the sometimes extensive party structures organisation in order to sustain all the activities of the party organisation. Public support for the operational cost of party activities may be provided to assist parties in their daily functioning. Usually, this money is provided in the form of a non-earmarked annual sum. It is intended for the maintenance of the party organisation, the payment of party employees and more generally, for extra-parliamentary activities with no direct electoral purpose.

Electoral subventions

A crucial dimension of a democratic political system is competition between opposing political forces. For this purposes, political parties and candidates present themselves at regular intervals to the public vote. Public relation activities at electoral times are therefore a key political activity. Elections are held with such a high frequency, occurring at local, provincial, regional, national and European levels and, in a number of countries, for both legislative and presidential elections, that parties campaign nearly all-year round. In the periods immediately before elections, campaign activity will be at its highest, with parties distributing leaflets and posters, sending out direct mailings, broadcasting political messages on radio and television, and so on. Technological changes, the use of the mass media, and the professionalisation of election campaigns through an increased use of consultants and public relations agencies have made campaigning increasingly expensive in recent years.

In addition to the subsidies for their routine operational activities, parties may be provided with direct state support to assist with electoral expenditure. Support for election campaigns usually consists of a one-off subsidy granted to every party participating in elections (providing it meets certain thresholds) and serves specifically to compensate for the cost of electoral campaigns. Electoral subsidies may be given for the reimbursement of national, sub-national and supra-national elections, and parliamentary and presidential elections.

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Subsidies to parliamentary groups

Parties may also receive state subsidies to support the activities of the parliamentary groups. Indeed, in most European democracies parliamentary party group activity is supported by the state, and this type of aid is in fact one of the oldest types of state subsidy in existence. Often, parties are provided with a lump sum, giving each party an equal amount of money, in addition to a fixed sum for every parliamentary seat.

Particular provisions apply in the United Kingdom, where only parliamentary work of opposition parties is financed through specific funds (so called “Short money” in the House of Commons, “Cranborne money” in the House of Lords). The purpose of this money is to assist opposition parties in carrying out their parliamentary duties, in particular that of holding the incumbent government to account. The money is used to provide research assistance for front bench spokesmen, assistance to the opposition “whips” offices and office staff for the leader of the opposition.

Although they may be included in the law on party financing, provisions for the subventions to parliamentary groups are normally regulated by parliamentary standing orders. The means granted under this heading are not officially considered as party financing and consequently are not usually included in the parties’ financial accounts. However, parliamentary activity cannot easily be separated from party political activity. Since parliamentary work constitutes one of the most visible and vital activities of political parties, it seems appropriate to consider parliamentary activity as party activity and state funding of parliamentary party groups as an element of party financing. The lack of integration of parliamentary group accounts with those of the party, however, may be problematic with regard to the transparency of overall party financing.

Indirect funding

In addition to direct subventions to support operational activities, electoral campaigns and parliamentary group work, parties may also receive various forms of in-kind subsidies and indirect funding, such as free radio and television broadcasting, a reduced postal rate, or various types of tax exemptions. Even though not direct, this type of public support (which is discussed in more detail below) assists parties in carrying out their general activities and supports their core functions in a democratic state.

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11

Political parties may receive indirect support from the state.

States may provide indirect assistance to parties in a variety of forms. They may cover the cost of meeting rooms and free poster sites, support party media, youth organisations and research institutes, provide discounts on public services (such as postage), free or discounted broadcasting time on public television channels, and grant tax incentives.

Free broadcasting and media access

One of the most widespread features of modern electioneering is the allocation of time to political parties to allow them, free of charge, to deliver their messages on television and radio. Given the overwhelming importance of television as a medium of political communications, this “free time” is a vital benefit-in-kind, though it is hard to calculate its commercial value. The method and principles of allocation of free broadcasting time are usually similar to those of direct funding: parties are either given an equal amount of time or the time for party political broadcasts is allocated proportionally according to party performance in the previous general election. In order to meet the requirements for such state aid, a party must obtain a minimum of votes and/or must compete in a fixed number of constituencies.

State support for parliamentary groups

Members of Parliament and party groups within the legislature often receive payments for research, office expenses, secretarial and administrative assistance and so forth. These payments are usually intended to allow individual members of parliament and parliamentary party groups to carry out their legislative duties. Some of the money is likely to be used for partisan political purposes and therefore constitutes an extra source of indirect public funding of the political parties.

State subsidies to political foundations

In addition to the direct subsidies to parties and candidates, in a number of countries (such as Germany, the Netherlands, Austria) additional money is available to political foundations or research institutes. These organisations are closely connected although often not formally associated with a political party and generally carry out work that benefits the parent party. They typically conduct courses to educate party members or sympathisers in political

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work, for example, or they may be responsible for policy research or provide assistance to sister parties in foreign countries.

On the positive side, the financing of party foundations can be seen as justified and valuable because it provides parties with a crucial additional resource and thus enables them to fulfil their core functions in the democratic system. If political participation is important, parties should be in a position to organise political education programmes for their members and supporters. If parties are to present policy alternatives to those of the civil servants' assisting the government, they should receive funding to be able to carry out policy research. The 1991 report of the Canadian Royal Commission on Electoral Reform and Party Financing accepted this line of argument when it proposed additional state aid to create a network of party foundations in Canada on the European model.

Critics of party foundations may argue that they exist to fill legal loopholes. Since they are technically autonomous institutions and thus independent of their parent parties, they are in a position to receive public funds which (for various constitutional or legal reasons) cannot be given by the state directly to the parties themselves. In this sense, party foundations serve to disguise the full extent of the parties' reliance on the public purse from the electors.

Tax incentives

A common device used to encourage private donations to parties is to make them tax free or tax deductible. Tax privileges for donations and membership fees constitute a mixed type of funding because they encourage private funding through public means. The public element of this type of funding consists of the public treasury's subsidising such gifts (in total or in part) by foregoing the tax that it would otherwise receive on that amount of money. In order to ensure that the system does not favour rich donors, tax concessions should be limited to only small or medium-sized donations.

A system of tax concessions by which donations are tax deductible reduces the liability for tax depending on the donor's marginal tax rate. The relative tax benefit is therefore higher for higher income donors. This may pose problems with regard to equality of opportunity for political parties. In this light, in 1958 the German Bundesverfassungsgericht (Constitutional Court) ruled that a tax privilege equally accorded to all parties and donors was unconstitutional since it disproportionately benefited the higher income donors

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and parties which usually attracted their support from these groups of voters. A system of tax credits, on the other hand, involves a reduction in the actual amount of tax paid. Unlike tax deduction, therefore, it is less dependent on levels of income.

Tax concessions for political donations may encourage political participation and engagement in party activity. Parties benefit indirectly rather than directly from any tax relief accorded to their members and donors, as it encourages citizens to donate money to political parties. Conversely, a use of the tax system to benefit political parties by which some or all forms of donations for political parties are tax exempt helps parties directly, but does not encourage donations to them.

In a number of countries, donations and membership fees do not benefit from any tax relief scheme. One example is the United Kingdom, where the idea of tax exemptions was rejected on same grounds as that of state support for political parties.

“Party taxes”

A more controversial form of indirect financing would be contributions from members of parliament, which are sometimes called party taxes. This is a form of financing by which members of parliament pay a certain amount of their remuneration as a parliamentarian to the party which they represent. Arrangements of this sort are frequently laid down in the party statutes and provide for voluntary or mandatory payments by members of parliament. Occasionally, party taxes are not confined to members of parliament but also apply to high-ranking civil servants or judges who owe their position to a certain party. Because most countries started out with sometimes generous allowances to individual members of parliament and parliamentary groups before funding to political parties became available, party taxes, and especially contributions from elected representatives, are a widespread practice across European states. They may involve substantial amounts of money and constitute an important source of income for some parties. In Romania, for example, the amount that members of parliament are obliged to pay to their party may be as much as 20% of their salary.

In countries where direct subsidies to parties are not available, financial contributions from their public office holders are often the only source of public support. In Poland, where state support to parties was not introduced until rel-

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atively recently, party taxes have come to assume a spectacular importance. The relevance of this form of fund raising received a further impulse with the 1998 administrative reform, as a result of which parties considerably increased their number of local councillors. Party tax tolls now apply to most national MPs, the hundreds of party members holding elective or appointed public office, members of advisory boards and, above all, to thousands of local councillors.

While this type of source is sometimes treated as a private donation, it is perhaps best understood as an indirect – or some would argue disguised – form of public funding. This is especially true if contributions from parliamentary deputies to their party are mandatory. This is all the more so if party taxes constitute a widespread practice and therefore are likely to be taken into account by parliamentary representatives when deciding on the amount of their own remuneration.

There are few, if any, states which explicitly prohibit the financing of parties through contributions made by their public-office holders. In the Russian Federation, the law which constrains this type of financing for civil servants even excludes parliamentary representatives from these restrictions, thereby openly acknowledging their lawfulness. However, the practice of party taxes is problematic from a constitutional point of view, as it is questionable whether this form of financing is compatible with the notion that parliamentarians have a free mandate. Moreover, it may be asked if it violates legal stipulations in some countries, such as those set forth in the Basic Law in Germany, which states that the independence of parliamentary deputies shall be secured through the payment of an adequate remuneration. If parliamentarians are paying significant amounts of money to their party, this might imply that their independence is endangered. Alternatively, it may indicate that their remuneration is significantly higher than absolutely necessary.

12

Objective, fair and reasonable criteria should be applied regarding the distribution of state support. The state should enable new parties to enter the political arena and compete under fair conditions with more well-established parties.

The levels of political support should be calculated on the basis of objective criteria. The criteria most frequently used are the number of votes cast for a party, the number of parliamentary seats obtained or a combination of the

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two. Other criteria are also conceivable, such as the size of the party membership, for example, although that is less commonly found in political practice. Public funding should enable new and smaller parties to participate on an equal footing with parties having more financial resources. The extent to which the system of public funding creates a level playing field and facilitates the entry of new parties into the system depends in part on the method of allocation of state subsidies.

Allocation of state support

Broadly speaking, two basic principles can be employed for the allocation of state support to political parties and candidates. According to the principle of “strict proportionality” public subsidies are allocated in relation to the levels of popular support, usually measured in relation to the number of votes cast for the party or candidate in the national legislative elections and/or the number of seats obtained in parliament. Following a principle of “strict equality”, each party or candidate receives an equal sum of money, or a lump sum (often referred to with the German term *Sockelbetrag*) regardless of its electoral strength or parliamentary size.

States often use a combination of the principles of proportionality and equality, and may use different systems for the financing of operational activities and election campaigns. This frequently results in highly complex and sophisticated regulations. In Hungary, for example, 25% of the state money for routine organisational activities is distributed equally among all parties that have obtained a seat in parliament, while the remaining 75% is distributed on the basis of the votes obtained in the first round of the parliamentary elections. This system proves slightly advantageous to smaller parties.

A more complex system is applied in the Czech Republic, where a lump sum is paid to parties only if a minimum of 3% of the vote has been obtained and which is increased for every 0.1% of the vote, up to 5% of the votes obtained. If more than 5% of the vote is obtained, the lump sum remains at the same level, although parties receive a fixed sum of money per year for each parliamentary seat in addition to the lump sum.

Generally speaking a system which provides lump sums is more favourable to smaller parties, which would receive comparatively larger amounts of money under such a system than in one exclusively focused on levels of electoral

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support. As a rule, therefore, the “equality principle” makes the system more advantageous to smaller parties than the principle of “strict proportionality”. Some of the disadvantages for smaller parties, however, can also be accommodated in systems which allocate state money exclusively on the basis of electoral success. In Germany, for example, parties receive a higher sum (€0.85) for the first 4 million votes obtained in the federal, European and *Land* elections than for the remainder of the votes (€0.7).

Moreover, if the amounts of state subsidies themselves are not regulated by law, a system based on the equality principle may provide opportunities for manipulation by the bigger parties and thus penalise the smaller ones. This could be observed in Austria, where the lump sum first was pushed up from 4 million Austrian schillings in 1975 to 14 million in 1985, only to be reduced to 3 million AS in 1987 when the Green Party entered parliament with eight deputies. This illustrates that the positive effects to smaller parties may be offset by systems where parties in power enjoy a relatively large leverage to adjust freely the amount of public subsidies.

Electoral systems

There is abundant variation in electoral systems across the world and there is no “best” electoral system suitable to all. Furthermore, there are no universally recognised standards or goals electoral systems should adhere to. However the type of electoral system is important in the area of party financing as it may exert an important influence over the distribution of state support. This is true in particular for systems where state money to parties is distributed in part on the basis of the number of parliamentary seats.

When translating votes into parliamentary seats, almost all electoral systems tend to have a concentrating effect. That is, they have a tendency to distort the result in favour of larger parties over smaller ones, and to reduce the number of parliamentary parties in comparison with the number of parties contesting the elections. This is true regardless of whether an electoral system is based on proportional representation or a majoritarian system, although the extent to which the system has a concentrating effect tends to be higher in majoritarian systems.

Any system of party financing which allocates money on the basis of parliamentary seats automatically incorporates the distorting effect of the

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electoral system. If the levels of popular support are the main criteria for the allocation of state subsidies, it would seem more appropriate to take the number of votes (or an alternative direct measure of popular support such as party membership), rather than an indirect measure which adds in the mechanical workings of the electoral system.

Thresholds

The establishment of thresholds to qualify for state support constitute another legislative tool to adjust public subsidies to a greater or lesser degree in favour of smaller parties. Thresholds also serve as a more or less arbitrary cut off point above which popular support is considered sufficient to qualify for state subventions, thus avoiding state subsidising for every party contesting the elections. Thresholds will usually be established on the basis of a certain percentage of the vote (around 1% or 2%) or on a minimum number of parliamentary seats (often only one), or a combination of the two. In Austria, for example, annual subsidies are given to parties which hold at least five seats in parliament or have polled more than 1% of the vote. Sometimes, although it is not very common, a threshold is established at an absolute number of votes. Portugal, for example, has set the threshold for annual subsidies at 50 000 votes. In practice, this equals about 0.6% of the electorate. Parties and lists of linguistic minorities are sometimes exempt from the requirement to pass the threshold for state funding.

If there is any public funding, it should facilitate equal chances for all parties. From this point of view, funding which is conditional on quite significant levels of success in elections gives rise to criticism, as, for example, with the electoral subsidies in the Swiss cantons of Fribourg and Geneva (5% of votes in proportional elections, 20% in case of majority voting). With regard to thresholds, the general rule of thumb is that the higher the threshold, the less beneficial the system will be for smaller parties.

Systems which use the number of seats for the allocation of state support often have an inherently somewhat higher threshold, the extent of which depends on the proportionality of the system. In Spain, for example, the method of allocation of state subventions for election expenses significantly intensifies the already disproportional tendencies inherent in the electoral system by establishing an extraordinary high threshold (of 3% of the vote at the constituency level) for parties to qualify for state subsidies. As a result, the

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two bigger parties, the Partido Popular (PP) and the Partido Socialista Obrero Español (PSOE) collected between 82% and 89% of the total of electoral subsidies between 1986 and 1996, while oscillating between 65% and 76% of the vote. The skewed distribution of seats and hence of state money is even more pronounced for the Spanish Senate elections, due to the majoritarian system of seat allocation. In the 1996 elections, for example, Izquierda Unida failed to acquire a seat in the upper chamber and thus did not receive any financial compensation for its approximately 6.8 million votes, despite being the third largest party in terms of the number of votes obtained at national level.

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State support should be limited to reasonable contributions. The state should ensure that any support from the state and/or citizens does not interfere with the independence of political parties and candidates.

Linkages with grass roots and the state

The funding of parties should aim to strike a balance between private and public financing of internal party affairs and external activities. On the one hand, a disproportionate dependence on private contributions may distort the democratic process in favour of certain private interests. Excessive reliance on state funding, on the other hand, can lead to the weakening of links between parties and their electorates. Parties should therefore be encouraged not to neglect seeking financial support from their voting clientele. The unwelcome consequences of such neglect are a loss of fund raising potential and a loss of grass-roots linkage. The continuous erosion of the traditional links with society may undermine the legitimacy of the parties and ultimately threaten their very existence. That a too close relationship between parties and the state may undermine the legitimacy of parties and the political system is illustrated by the case of Italy, where, encouraged by the proliferation of corruption scandals, an overwhelming majority of the population voted in favour of completely abolishing public funding for political parties in a 1994 referendum. It is therefore in the interest of the parties themselves, and also in the broader interest of the democratic system, that efforts are made to preserve a solid linkage between parties and society.

In the current context of an increasing disengagement of society from party politics and a growing reluctance to donate money to them, parties may find

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it extremely difficult to raise funds. The availability of money from the state, moreover, may make it seem unnecessary for parties to raise money through private or voluntary fundraising. Every system of party financing should avoid parties becoming almost entirely dependent on the state and should be designed such that it does not remove key incentives for parties to establish a structural relationship with society.

Legal maximum to state subsidies

There are several options to ensure that the funding of parties strikes a healthy balance between private and public money. One way is to establish legal limits on the amounts of public subsidies to prevent them from skyrocketing. This can be achieved through a system of public funding whereby the amounts of state subventions are legally regulated. In Portugal, for example, all state subsidies are by law related to a fixed proportion of the national minimum wage (see Box 3 opposite). This is also true for a number of countries in post-communist Europe, such as Poland, Romania, Russian Federation and Slovak Republic.

In the absence of such legal limits on the amount of state support available to political parties, such as in systems where the amount of money is decided upon annually and taken out of the national budget, there are very few limits to the escalation of the subsidies. Even though the actual amount of money may need the ultimate approval of parliament, systems of public funding where the subsidies are not established by law give governments a potentially larger leverage to adjust freely public subsidies to their needs. In Spain, for example, the 1987 budget saw a 150% increase in the subventions to political parties. Part of the reason why the Socialist Government resorted to this excessive rise of the budget that year was its involvement in a costly campaign in favour of Nato membership, for which state subsidies were used in part as compensation. This furthermore illustrates that in a situation of single party governments which command an overall majority in parliament, one single party may be in a disproportionately advantageous position if it is given unregulated decision-making power over the amounts of state subvention.

Ultimately, of course, it will be the political parties themselves which decide on the amount of state support. Rather than seeing an increase in available revenues as a means to a political end, fund raising is often perceived as an end in itself. When faced with the option of either increasing their own

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income (regardless of the political benefit this may also have for another political party) or endorsing financing schemes only when it will give them a competitive advantage over other parties, parties will often opt for the former. A system of public funding which fails to regulate legally the amount of state support, provides at worst built-in incentives for an escalation of state subsidies. At best, it offers few incentives for parties not to be overly generous with themselves.

The legal regulation of the amount of state support available to political parties may thus help to keep the amount of state money under control. It may also diminish the likelihood of parties becoming too dependent on the state and neglecting links with their grass-roots supporters.

Box 3: State subventions in Portugal

State financing of political parties in Portugal was introduced in 1977, a few years after the start of the revolution which triggered the transition to democracy. Initially, state subventions were available only to political parties to finance their routine, everyday organisational activities. Only in 1993 was additional state funding for election campaigns introduced. The new principles of state funding were laid down in a new law, passed that same year, on the financing of political parties and election campaigns.

All state subventions – annual and electoral – in Portugal are by law related to the national minimum wage. Annual subventions for routine party activity are based on the number of votes, such that the subsidies parties receive amount to 1/225 of the monthly minimum wage for every vote obtained in the most recent election to the Assembleia da República, the Portuguese Parliament. For the reimbursement of election expenditures, the total amount of state subsidies is based on the legal minimum wage. For national and local elections, the total sum of state support available amounts to 2500 minimum wages. For presidential and regional elections the total amount available is 1 250 and 250 minimum wages respectively.

The subsidies for electoral campaigns are distributed among the parties contesting the elections according to a system which combines the principles of equality and proportionality. For national legislative elections, 20% is distributed equally over the participating parties and candidates and the remaining 80% is divided in proportion to the obtained electoral result.

Only parties contesting the elections in at least 51% of the constituencies and which obtain at least 2% of the votes (5% in case of the candidates contesting the presidential elections) are entitled to state reimbursement of their electoral expenditures. The legal threshold to qualify for annual state subsidies currently stands at only 50 000 votes, which equals about 0.6% of the electorate.

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Matching funds

Another way of achieving a more equitable balance between public and private funding and avoiding unwarranted dependence on a few large contributors is through a system of matching funds, whereby state subsidies are provided (in total or in part) on the condition that an equivalent amount of money has been raised from private donations. The best known example here is probably that of Germany, where parties receive €0.38 of public subsidy for every €1 contributed privately, and where the total of state subsidies to any given party may not exceed the sum of private contributions.

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The legal framework for party and candidate financing should include provisions for disclosure, reporting, monitoring and enforcement.

One of the central questions of party financing is how to design the legal provisions such that public trust in political parties can be ensured and fostered. Transparency of party financing must be considered as crucial in this respect. The lack of transparency surrounding private contributions in particular may negatively affect the legitimacy of the democratic process. In order to enhance transparency, states should adopt regulations on the reporting of party accounts and the disclosure of the identity of the donors. In addition to the rules concerning the extent of private and public funding of political parties, party financing legislation should include disclosure and enforcement provisions which enhance the accountability of political parties. Important elements of the legal framework should include rules which oblige parties to publish their financial accounts and which subject them to independent scrutiny. In case of evasions of obligations, breaches of the law or attempts to fraud, clear and enforceable sanctions should be imposed.

To this effect, party financing legislation should include stipulations regulating at least four distinct aspects relating to the transparency of political finance:

- **Disclosure:** rules which oblige political parties to open up their financial accounts and reveal information on their levels of income, including the identity of donors, and expenditure.
- **Reporting:** regulations stipulating that party accounts be made public and reported to the appropriate institution.
- **Monitoring:** provisions for an independent body to inspect and control party accounts.
- **Enforcement:** a legal system of sanctions to ensure that regulations on party financing are not evaded and to impose penalties when the law is breached.

The provisions regarding transparency, control and enforcement of party financing should be laid down in public law. Almost every legal framework of party financing will include some provisions for disclosure, reporting, monitoring and enforcement (see Box 4 below). This is especially true if parties are entitled to funding from the state (although some countries, such as Denmark,

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make exceptions for the requirements on disclosure and reporting for parties which do not receive public funding).

A situation, such as that in Switzerland, where parties receive no public funding and where no disclosure or reporting rules exist, remains an exception. Another is that of Sweden, where respect for the internal autonomy of parties outweighs concern with public control. Sweden has virtually no statutory control over restrictions on party financing and its policy is based on voluntary agreements rather than compulsory state legislation. Only the appropriation of public subsidies is based on statutory law. The Netherlands has recently moved away from this liberal position since the 1999 law on party financing transformed rather vague and informal agreements into public law.

Box 4: Public control of party finance

Country	Finance law	Disclosure and /or reporting	Limits on private donations	Limits/bans on corporate donations	Limits/bans on foreign donations	Limits on expenditures
Albania	yes	no	no	no	yes (limit)	no
Austria	yes	yes	no	no	no	no
Belgium	yes	yes	yes	yes (ban)	no	yes (party/campaign)
Croatia	yes	yes	no	no	no	no
Czech Republic	yes	yes	no	n/a	yes (ban)	no
Denmark	yes	n/a	no	no	n/a	n/a
Estonia	yes	yes	no	no	yes (limit)	no
Finland	no	n/a	no	no	no	n/a
France	yes	yes	yes	yes (ban)	yes (limit)	yes (campaign)
Georgia	yes	yes	yes	yes (limit)	yes (limit)	yes (party/campaign)
Germany	yes	yes	no	no	yes (limit)	no
Greece	yes	yes	yes	yes (limit)	no	yes (campaign)
Hungary	yes	yes	no	no	yes (limit)	yes (campaign)
Ireland	yes	yes	no	no	no	yes (campaign)

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Italy	yes	yes	no	no	no	yes (campaign)
Latvia	yes	yes	yes	yes (limit)	yes (ban)	no
Lithuania	yes	yes	no	yes (limit)	yes (limit)	yes (campaign)
Luxembourg	yes	no	no	no	no	n/a
Moldova	yes	yes	no	no	yes (ban)	no
Netherlands	yes	yes	no	no	no	no
Norway	no	yes	no	no	no	n/a
Poland	yes	yes	no	no	yes (ban)	no
Portugal	yes	yes	yes	yes (limit)	yes (limit)	yes (party/campaign)
Romania	yes	yes	yes	yes (limit)	yes (limit)	no
Russian Federation	yes	yes	yes	no	yes (ban)	yes (party/campaign)
Slovak Republic	yes	yes	no	no	yes (ban)	yes (campaign)
Slovenia	yes	yes	yes	yes (limit)	yes (ban)	n/a
Spain	yes	yes	yes	yes (limit)	yes (limit)	yes (campaign)
Sweden	no	yes	no	no	no	no
"The former Yugoslav Republic of Macedonia"	yes	yes	yes	yes (limit)	yes (ban)	yes
Switzerland	no	no	no	no	no	no
Ukraine	n/a	yes	yes	n/a	yes (ban)	yes
United Kingdom	yes	yes	no	no	no	yes (campaign)

Source: Ingrid van Biezen, "Political parties as public utilities", *Party Politics*, 2004, (forthcoming publication)

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In practice, legal regulations about the extent of detailed disclosure that is required, what exactly has to be reported in detail, how the reports should be published, to which authority parties should report, and which potential sanctions are in place for not adhering to the law, vary widely. There may be different laws dealing with different aspects of the subject. Transparency and enforcement provisions may be included in the law on the financing of political parties, candidates and election campaigns, in the law on political parties, or, where pertinent to elections, in the electoral law. In Germany, the obligation of political parties to account publicly for their finances is even enshrined in the constitution.

Often there are too many laws and too little enforcement for the process of political finance to be effective. In general it is advisable to avoid a situation in which various laws and various enforcement agencies deal with different aspects of political finance. The most efficient and effective approach is to adopt one single law which regulates money in politics, which lays down disclosure and reporting rules and which authorises one single agency to enforce the law.

Regulation on disclosure, reporting, monitoring and enforcement should aim to strike a balance between stringency and flexibility. It should not be too vague, or otherwise no real possibility for enforcement exists. Conversely, if regulation is too rigid, political actors may feel it is too intrusive and limits their freedom of manoeuvre. An unnecessarily detailed framework of legislation may in fact encourage parties and candidates to evade the rule of law and thus be counterproductive to its intentions. However, full disclosure, regular reporting, independent monitoring and effective enforcement are essential for a transparent system of political finance. Disclosure requires systematic reporting, auditing, public access to records and publicity. Monitoring requires an enforcing agency backed by legal sanctions, and enforcement demands a strong authority endowed with sufficient legal powers to supervise, verify, investigate and if necessary institute legal proceedings. All these essential elements are needed to encourage a proper process of party finance.

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The legal framework for party and candidate financing should include provisions for disclosure of sources of income and of expenditure.

Disclosure and reporting of information on party finances is crucial to the transparency of political funding, and it provides the cornerstone for public

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monitoring. Two elements need to be taken into account in disclosure requirements. One is the wish of external agents to acquire information about the financial supporters of a party (transparency). The other is the donor's wish to preserve the privacy of her or his political preferences (privacy). Legislation in most countries has adopted a compromise view, albeit weighted in favour of the transparency argument, and has established a demarcation line for small donations, which can be made without identifying the donor, and for larger donations, for which the identity of the donor needs to be disclosed.

Disclosure regulations

Disclosure rules vary greatly in what is required to be revealed, by whom and to whom. Public legislation on disclosure should adopt the following guidelines:

- Disclosure provisions should distinguish between income and expenditure.
- Donations exceeding a certain minimum threshold should be disclosed.
- Donations should be itemised into standardised categories.
- Disclosure provisions should distinguish between the financing of political parties and the financing of candidates.
- Disclosure provisions should distinguish between routine party finances and electoral finances.
- Disclosure rules should include both national and local party finances.
- Disclosure should be a responsibility of both donors and of parties and candidates receiving donations.
- Party reports should be disclosed to an official auditing body and to members of the public.

Transparency vs. privacy

In most circumstances, disclosure of party income and expenditure should be seen as in the public interest. The main argument in favour of disclosure rules is that they enhance transparency and may prevent improper financing. The type and sources of financial support may inform the electors of the party's type of policies, activities and political style and thus may reasonably be expected to influence electoral choices. Voters should therefore be entitled to know who the financial supporters are of the different political parties and

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candidates they vote for. In addition, disclosure of political donations makes it easier to detect (and thus potentially to avoid) political corruption. If a corporate entity would donate a large sum of money to a political party and would subsequently benefit from favourable government decisions or acquire a favourable public contract, public disclosure of political contributions will make it easier to detect such possibly questionable transactions.

An important argument against disclosure which cannot easily be dismissed is that it constitutes an unjustified infringement on both individual privacy and the autonomy of political parties as private associations. From this point of view, private donations to political parties can be seen as a way of expressing political support or a form of political participation similar to the act of voting. The argument here is that, like the absence of secret voting, free choice and participation in politics is likely to be inhibited if donors are forced to declare themselves openly, since the disclosure of political donations would effectively compel private donors to declare their political allegiances. It was on these grounds that, prior to the mid-1990s, political donations in Denmark could be given without disclosing the identity of the donor.

There are three particular circumstances where potential donors may have a legitimate reason to avoid making their political gifts known to the authorities or to the public. First, public officials (such as judges, civil servants, members of the armed forces, local government officers and so on) are expected to maintain a stance of political neutrality, even though they are entitled to vote and to contribute to political parties. Disclosure requirements may inhibit them from making donations. Second, businesswomen/men may feel that they will be discriminated against when it comes to awarding local and national government contracts if they are known to have supported a particular political party or candidate. Third, and probably most clearly contrasting with the principles of a democratic system, disclosure rules may inhibit contributions to opposition parties and candidates in countries where there is a dominant ruling party, especially where the opposition is barely tolerated. In these circumstances, citizens will hardly have the courage to support opposition candidates openly, and disclosure will thus strongly favour the incumbent party or regime.

Disclosure regulations should aim at striking a compromise between transparency and privacy which is acceptable as well as practical.

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States should require the accounts of political parties and of candidates to specify all donations received by the party, including the nature and value of each donation. Accounts should be made public, at least in summary form.

The objectives of disclosure are to promote accountability and to reduce the potential for corruption. In order to increase openness, it is advisable that the sources of party income be specified by the law. This would oblige parties to distinguish between various sources of income, such as state subventions, membership fees, private donations, contributions of public office holders, profits from party companies, profits from property, bank loans, services, and so on. With regard to private donations, a distinction should be made between contributions from individuals, from corporate entities and anonymous donations, all of which should be recorded separately. Reporting private donations simply as an aggregate entry obviously obscures transparency. In order further to enhance transparency and comparability across parties, party reports should adopt a standard format.

Since 1984 Germany has provided a good example of how to shape parties' financial reports. They must include income and expenditure, debts and assets of the entire party organisation at all levels (including local branches, as well as state and federal headquarters). Reports are organised according to a standard format prescribed by law. Both the elements of comprehensive reporting and a standardised format for financial reports provide additional devices for effective monitoring over time and between parties.

Thresholds

Legislation should be adopted which itemises private donations. The right to privacy should prevail when political donations are relatively small, but for large donations the identity of the donor should be disclosed so as to enhance transparency and to prevent corrupt financing.

One of the crucial issues is, of course, where to establish the threshold of donations above which the identity of the donor needs to be disclosed. In Germany, this question has been brought before the Constitutional Court several times. In some countries, even relatively modest contributions must be itemised, while in others only large contributions need to be listed individually.

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The recent situation in the UK provides for a differentiated approach to the threshold question (see Box 5 below).

Box 5: Disclosure and reporting – the case of Great Britain

The new Political Parties, Elections and Referendums Act of 2000 in Great Britain offers a differentiated approach to the question of which threshold to establish for disclosure of the identity of political donors. Moreover, it varies the reporting requirements according to the sensitivity of the period in question.

Before the adoption of the new act, there was no obligation for parties to report private donors. The Labour Party voluntarily published the names of those donating more than £5000 in a year, but without specifying the sum of the donations.

The new law envisages the publication of donor and sum on a quarterly basis in cases of absolute or aggregate donations of more than £5000. If more money is donated by a particular donor in a given year, any sum exceeding £1000 (absolute or aggregate) must be recorded. During a national parliamentary election period, donation reports will have to be submitted weekly. Otherwise, parties need to provide quarterly donation reports.

Certain obligations are also imposed on the donor. Records need to be kept of all donations above £200. Furthermore, in order to avoid evasion of reporting requirements, in particular by donating a large number of smaller sums below £200, the donor is required to report to the Electoral Commission if the overall sum exceeds £5000. Donations by private companies of more than a total of £200 must be disclosed in the company director's report.

A threshold which is too high may be unsatisfactory from a perspective of transparency and accountability or limiting improper private influence on party finance. However, the threshold should not be so low as to inflate the reports with numerous minutiae and thus equally endanger transparency and accessibility. Critics of the US system, for example, where all political action committees (PACs) must disclose the name, mailing address, occupation and employer of each individual contributor who gives more than USD 200 in one year, have argued that these requirements in practice engender a lot of information which is virtually impossible to process. Full disclosure can thus place an administrative burden on political parties without really contributing towards openness and accountability.

Disclosure regulations should aim at striking a compromise between transparency and privacy which is acceptable as well as practical. A suitable solution

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is to consider small donations as a form of political participation or an occasional expression of political support which are unlikely to constitute an improper source of influence, and to exempt these from being fully disclosed. Disclosure should start at a threshold above which an individual contribution may be considered “interested money” and may be expected to have some potential towards influencing political decisions.

Cash transactions

As cash transactions cannot be followed up afterwards, public control of party financing is further supported if major contributions and expenses are required to be routed via bank accounts. Legislation should prohibit donations in cash, especially donations exceeding the legal threshold, and should require that these be made by cheque or bank transfer in order to identify the donor entity. Restrictions on cash transactions have the further advantage of impeding exploitation of the loopholes in the law on donations limits. A wealthy donor may be tempted to evade the law by breaking up a large donation into various smaller ones, for example. Routing through bank accounts enables tracking of the identity, address and sometimes occupation or employer of the donor. Frequent donations from a single address may suggest irregularities, and the appearance of many senior employees of the same corporation among the donors to a specific party may indicate that salaries have been increased to create room for a “routed” corporate donation, which should be prohibited.

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Rules concerning donations to political parties should also apply to all levels of the party organisation and to all entities which are related, directly or indirectly, to a political party or are otherwise under its control.

Another question that state legislation needs to address is whether the reporting obligations and publication requirements only affect the national party or also include lower echelons of the organisation. In some countries, financial reports include only the finances of the central party, leaving local parties, ancillary enterprises, and independent factions to raise and spend funds without reporting. Conversely, only candidates, not the central parties, were traditionally required to report their expenditure in Britain. In either case, this opens the possibility that parties and politicians will be able to evade control by transferring questionable items from a budget that must be publicised to one that is not.

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Local party organisations

If party accounts are to be comprehensive, they would need to include not only the finances of the national party organs but of the regional, provincial and local party organisations as well. While the finances of the central party headquarters would need to be approved by professional accountants, smaller organisational units of the party may find it nearly impossible to comply with the same rules. This is especially true for local branches run primarily by volunteers, which lack the funds and material resources to adhere to professional standards of accounting. Moreover, if the lower echelons of party organisation are required to produce reports which are separate from those of the national party, this may lead to a massive administrative overload. On the other hand, if national party headquarters are required to include information from the lower levels of the organisation, this may produce an undesirable level of centralisation and bureaucratisation of political parties.

There are no definitive remedies to this dilemma. One possible solution would be to require lower accounting standards from local party organisations. The disadvantage here is that activities on the local level, as well as money transfers from the national party to the lower echelons, would escape close public scrutiny, thereby creating opportunities for illicit financing practices. Another solution would be to absolve the national party organisation from the responsibility of gathering statistics from the local organisations. The disadvantage here is that the burden of collecting information on a multitude of local and frequently amateur organisations will fall on the regulatory body, which is unlikely to be adequately equipped for such an enormous task.

Affiliated organisations

Similar considerations apply to organisations affiliated to political parties, such as research institutes or political party foundations. These organisations are usually at least formally autonomous institutions and are thus in principle at arms length of the party. Frequently, they are subject to a separate financing regime, whereby they may receive money from the state, for example, to carry out specific activities. State subventions to research institutes or political party foundations are often subject to the condition that they may not be used for direct partisan purposes. In practice however, it can be safely assumed that financial transactions between parties and their affiliated organisations will occur frequently, which may contravene the letter of the law. Ideally,

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therefore, entities connected with political parties should be required to keep proper books and accounts in order to facilitate public monitoring of the lawfulness of their financial activities. States should adopt legislation which requires that donations from legal entities to political parties are registered in the books and accounts of the donor entity. Moreover, for the purpose of openness and transparency, the accounts of political parties should be consolidated to include the accounts of the entities connected with the party.

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States should require political parties and candidates to make their full accounts publicly available at regular intervals. At the very least, parties and candidates should present a summary of their accounts, including records of donations and expenditure.

With a view to transparency, the legal requirements of disclosure should be linked to the obligation to report. Reporting requirements are intended to enhance the accountability of political parties, and to fight political corruption or influence buying and selling. For this to be achieved, at least four criteria need to be fulfilled:

- Reports should be timely.
- Reports should be public.
- Reports should be detailed and comprehensive.
- Reports should be understandable to the public at large.

Intervals of reporting

For reporting to be effective, they should be timely. This requires that parties should submit reports at regular intervals. Separate reporting requirements should be adopted for operational activities and electoral activities. For routine operational costs, reports should include all income and expenditure related to the maintenance of the party organisation, the employment of paid party personnel and all activities with no direct electoral purpose. Reporting at annual intervals would seem suitable. Special records of all direct and indirect expenditure should also be required on electoral campaigns for each political party and each candidate. Reporting on election activities should more or less follow the electoral cycle. Ideally, reports should be available in time to allow a candidate's opponent, the authorities or the public to investigate and

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publicise any questionable transactions before the elections. Reports that can be delayed long after interest in the election has waned are unlikely to be of much deterrent value. An example of a particularly stringent law can be found in the United States, which requires quarterly reports, plus a report complete through the twentieth day after the election, filed no later than thirty days after the election.

The need for timely reports also implies that the interval between submission of the party accounts to the relevant authority and its date of publication should be kept reasonably short. A negative example in this regard is the case of Spain. Although parties are required to report to the audit court (Tribunal de Cuentas) within six months after the end of a calendar year, the transparency of the general process of party financing tends to suffer from huge delays in publication, since the final party reports are published only after the relevant parliamentary commission has adopted the conclusions and recommendations of the court. As a result, by 1997, only the annual reports for the period between 1987 and 1992 had been published in the *Boletín Oficial del Estado*. Even though the controlling authority has access to the party reports, the lack of publicity given to them implies that the public at large is kept uninformed about the parties' financial situation. This will only negatively affect the transparency of party financing.

Public reporting

The example above illustrates that an additional key requirement is for reports to be public. However, in some cases, it is not clear that requiring reports also implies that they must be made public, as is indeed the case in Spain. Although the Tribunal de Cuentas has the authority to make inquiries to parties about their financial accounts and to require further clarification on the source of donations, it is not obliged to publish this information in its final report. In the US, on the other hand, disclosure and public reporting are the cornerstone of public monitoring of political finance. As a consequence, US regulation emphasises the right of the public to know and to judge the candidates' sources of support.

Publication requirements

Effective reports should be detailed and comprehensive. They should include accounts of both donations to and expenditure by the party. The sources of

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income and the categories of expenditure should be standardised and specified by the law. Reports should adopt a common format in order to facilitate comparisons over time and between parties.

Publication requirements also need to strike a balance between the need to provide a full and detailed picture of a party's financing, on the one hand, and public accessibility for other interested parties, candidates and the public at large, on the other. An effective scrutiny of the party accounts would require access to a detailed overview of a party's financial situation. However, such comprehensive reports may be too complex to be fully intelligible to the ordinary citizen. Conversely, while an abbreviated version of the accounts in the form of a summary may be easier to comprehend for the non-expert, this inevitably entails reducing very intricate accounts to more simplified reports, which may result in crucial information being obscured.

Any system of publication which relies exclusively on either comprehensive or comprehensible accounts is bound to impede the openness and transparency of party financing in one way or other. One way to strike a balance between these seemingly contradictory requirements is for the law to oblige parties (or the relevant authorities) to provide for two separate reports, one detailed and comprehensive and one summary, and to require each to be published in an appropriate medium. In Belgium, for example, a summary of the financial reports must be published in the official journal while the complete reports are contained in parliamentary documentation. In France, reports on the parties' bank accounts have to be published in full in the *Journal Officiel*, whereas reports on expenditure in electoral campaigns are published by the commission on financing election campaigns in a simplified version. In Italy, the party reports have to be published in full in the *Gazzetta Ufficiale* while at the same time they also have to be published in two national newspapers, one of which must have a national distribution.

Accessibility

The stipulation in Italian law that financial reports must be published in a national newspaper adds a further and more concrete dimension to the accessibility of party accounts: in whatever form they are published, it should not be too complicated for the public to get hold of them. Effective publicity therefore requires that reports be readily available to the public and the media. An example to the contrary can be found in the Czech

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Republic, where parties are merely obliged to make their reports available to the parliamentary office. This inevitably implies that the reports are less easily accessible to ordinary citizens, especially those who happen to live far from the parliamentary building or even live outside the national capital. However, the mere availability of the reports, whether in the national newspaper, on a particular website on the Internet, in a parliamentary paper or at the office of a specific agency, does not guarantee that they can provide the basis of a public discussion. Reports also have to be comprehensible for potential users.

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States should provide for independent monitoring of the funding of political parties and electoral campaigns. Political parties and candidates should be required to present regular accounts to an independent authority.

Independent monitoring should include supervision over the accounts of political parties regarding their regular sources of income and expenditure, their routine operational costs as well as their election expenses. In most European states, parties' financial reports are subject to some review by an external body, although the degree of independence of the controlling commission varies. The authority and autonomy of the institutions entrusted with controlling party financing clearly has an impact on the effectiveness of control. In addition, a greater degree of independence of the auditing institution may enhance public confidence in the procedures and contribute to a greater legitimacy of parties and political finance. More generally, states should promote the specialisation of personnel in the fight against illegal funding of political parties and election campaigns.

With regard to the monitoring agency, legislation on political finance should determine:

- the procedure for appointment of its members, including their term of office and safeguards for their independence;
- the definition of their specific powers and activities, such as the interpretation of relevant laws, the checking and publishing of party accounts, the publication of reports, the investigation of suspected violations of the law or the application of sanctions;

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- the types of breaches of the law to be sanctioned and the specific sanctions to be applied for different types of violations;
- the procedures for appeals against decisions of the agency.

Independent audit

Financial reports are likely to be effective only if they are subject to independent audit. The Federal Election Commission in the United States provides an outstanding negative example in this respect: with the exception of presidential campaigns, campaign reports are audited only if the Federal Election Commission receives a signed and notarised complaint and at least four commissioners vote to pursue the investigation. Because the commission is bi-partisan, meaning that it consists of three democrats and three republicans, the chance that four votes will be mustered to investigate any but the most flagrant violations by major party candidates is slim.

In other countries, financial reports and balances are often reviewed by official auditors. This has the advantage of relying on professionals who are trained in examining complex financial transactions and accounts, and who can thereby be expected to act as independent experts rather than partisans. Even in the case of a less partisan composition of auditing institutions, however, there still remains the question of who is eligible for this office, and how these officials will be selected. In Germany, auditors with close links to a party to be reviewed may not be appointed as auditors for its financial reports. In Austria, the auditors for reviewing the parties' reports are appointed by the Minister of Finance from a list of people suggested by political parties, which gives the parties themselves a potentially large influence over the composition of the auditing body. In Belgium, the controlling commission is composed of an equal number of members of the House of Representatives and the Senate, which similarly may give rise to doubts about its independence as an institution of control. Likewise, a body composed of representatives of different executive branches, as in the Russian Federation, would probably not provide for sufficient independence. In contrast, the French commission responsible for controlling the regular financing of political parties and election campaigns is composed of members of a variety of institutions independent from parliament and government (including members of the Conseil d'Etat, the Court de Cassation and the Court des Comptes), leaving much less room for doubt about the independence of the members of the commission.

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A completely impartial and non-partisan controlling commission is difficult to achieve in practice. Some agencies have more safeguards favouring non-partisan action or more control over potential conflict of interest situations than others. In-built safeguards against partisan influence of the governing parties, in particular on the auditing body, involve procedures for its method of selection and its composition, on the one hand, and its freedom of manoeuvre, on the other. Members who have the status of supreme court judges, state auditor or national ombudspersons are likely to display a greater degree of impartiality than purely partisan appointments. The auditing commission membership should be multiparty and include minority parties and members of the opposition. Commissioners should not be eligible for re-appointment; those holding lifetime or one-term appointments are the least likely to be influenced by partisan interests. Furthermore, there should be no budgetary strings attached which curtail the powers and restrict the scope of activities of the controlling commission should it criticise the government or major political parties. The auditing commission should be free from political pressure in carrying out its activities, and should be free from party intervention when appointing its staff.

Investigative capacity

In order to be effective, the regulatory body must also have the autonomous capacity to seek out violations. The American Federal Election Commission in the United States provides a negative example in this respect as well, as it has no investigators of its own. A similar situation arises in Spain and Portugal, where the auditors have little capacity to investigate party accounts beyond the information that parties themselves are willing to report and thus have to rely almost exclusively on the information provided by the parties themselves. Currently, the most advanced model of the investigative capacity of an auditing body is probably that of the United Kingdom, where the Electoral Commission may do simply anything (except borrow money) which is calculated to facilitate, or is conducive to the carrying out of any of its functions.

The appointment of specialised personnel to the judiciary, police or other competent authorities would greatly facilitate the fight against illegal funding of political parties and electoral campaigns. Furthermore, increased international co-operation and information exchange is needed to ensure transparency of cross-border movements of capital and to assist investigators

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overcome obstacles in tracing funds and identifying revenues of parties and candidates. All investigations should respect the privacy standards enshrined in the European Convention on Human Rights.

Period of tenure

Finance legislation should also address the question of the period of tenure of the auditors. In Italy, for example, auditors are appointed for the entire legislative period. In the United Kingdom, the members of the Electoral Commission are appointed for up to ten years, with the possibility of reappointment. Removal from office is possible only by address of the House of Commons to that effect, which can be made only if the speaker's committee has decided that at least one of the grounds for removal has been fulfilled. The longer auditors stay in their function and the more difficult it is to replace them, the more the position of the auditing institution is reinforced. However, a long period of tenure of the auditors coupled with a relatively weak auditing court which lacks autonomy *vis-à-vis* political parties may endanger the overall independence and transparency of the monitoring process.

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States should require that any infringement of rules concerning the funding of political parties and election campaigns be subject to effective, proportionate and dissuasive sanctions.

The existence and effective imposition of sanctions plays an important role in discouraging parties and party officials from attempting to evade the rules of public accountability and transparency. Legal regulations on disclosure and reporting, and provisions for monitoring and control are of little value if they are widely disregarded and if offences go undetected and unsanctioned. Party finance thus needs a system of concrete and effective sanctions to act as a deterrent to violations of the law.

Violations of the law

Laws relating to the financing of political parties are often disregarded. One reason for this is, in certain cases, the existence of a culture of disregard for the rule of law among political parties and candidates. Occasionally, informal "non-aggression" pacts exist between political parties and candidates,

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because none of them wishes to initiate a legal challenge against their political opponents for fear of retaliatory actions against themselves. As a result, politicians tend to turn a blind eye to the law.

A second reason is that the institutional framework does not create sufficient incentives to comply with the law, or that its enforcement mechanisms lack in effectiveness. Controlling commissions may not possess sufficient investigative authority; they may lack qualified personnel or material resources. In addition, the system of sanctions in case of violations of the law may be inadequate, and as a result political actors may prefer to pay relatively small penalties rather than abide by the rules.

While cultural attitudes may be difficult to change, public legislation on party financing should aim to create a framework of incentives for compliance with the law. This can in part be achieved by establishing an effective system of sanctions to be applied in case of violations of the existing regulations. Legislation should specify the different kinds of violations, identify who is to be held accountable and which penalties apply for which type of irregularities.

In certain cases, the effectiveness of sanctions can be impeded by rules for lifting immunities enjoyed by elected representatives. GRECO (the Council of Europe's Group of States against Corruption) has recommended in many of its evaluation reports that countries consider reducing the list of categories of officials covered by immunity and/or reducing the scope of immunity to a minimum. As a rule, immunity should be an exception and should not be maintained if there is evidence that the suspect used her or his official position to gain undue advantage. They should clarify that immunity is not to be used as a personal privilege but attached to a particular function.

Types of offences

Frequently occurring types of offences are the evasion of legal restrictions on donations, exceeding the limits on campaign expenditure and violation of reporting requirements. Breaches of the law may also occur over the use of a party name or trademark, the rules for registering nominated candidates, and bribery of voters and other parties and candidates. Possible sanctions for these offences are forfeiture of the relevant donations, administrative fines, loss of public funding. In case of severe violations of the law, parties and candidates may face a loss of public office, or even prison sentences. If unlawful actions

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cast doubts on the validity of the election results, the elections themselves may be declared void.

Penalties

Sanctions and adequate penalties for specific offences will have to be stipulated by the law. Penalties can vary between relatively light administrative sanctions, such as the forfeiture of contributions obtained in contravention to laws or regulations or the forfeiture of (part of) a party's or candidate's entitlement to public funding, to heavy penalties such as the loss of a parliamentary seat or criminal prosecutions leading to indictments and imprisonment (see Box 6 below). It is important that the law establishes sanctions in proportion to the gravity of the offence and does not penalise a minor violation such as exceeding donation or expenditure limits with a severe penalty such as the loss of civil or political rights. Conversely, serious breaches of the law should not be penalised too lightly.

Box 6: Sanctions against illegal funding

- Administrative fines
- Forfeiture of illegal funds
- Cut in public subsidies
- Loss of reimbursement for election expenses
- Ineligibility for future state funding
- Loss of parliamentary seat
- Disqualification from standing for future elections
- Ineligibility for appointment as a public official
- Imprisonment
- Dissolution of party
- Cancellation of election results

In order to enforce compliance with the transparency regulations, one approach is to establish relatively light penalties, such as small or medium-sized fines. Because relatively moderate fines are often easy to impose, there

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will be an added incentive for the authorities to enforce them. Heavy penalties such as imprisonment or loss of a parliamentary seat, on the other hand, will lead to such protracted legal battles that enforcement will become especially costly and, as a result, the law will rarely be enforced. Another problem with overly severe penalties is that they may unduly damage new and relatively inexperienced parties and candidates. They may even deter new actors from entering the electoral arena while leaving established parties, which are likely to know the most effective ways around the law better than new parties, unaffected. A disadvantage of the soft touch approach, however, is that it may not do enough to make political actors abide by the rules, as the costs of paying a relatively small fine may be lower than complying with the rule of law.

Accountability

Sanctions can be directed both against the party and against the individual party official or party member personally involved in an illicit transaction. The level of accountability may vary per country and depend to some degree in part on its government structure and political institutions. In a candidate-oriented political system, such as where the electoral system is majoritarian, offences may be more easily related to individual candidates. If successful candidates were proven guilty of serious violations, they may stand to forfeit their parliamentary seats. Such a penalty may be less appropriate and more difficult to implement for list systems of proportional representation, where it is the party rather than an individual candidate which presents itself to the voters and where individual responsibility for unlawful actions is more difficult to establish.

It is not always easy, or even possible, to determine who should be held accountable for violations of the law. Unlawful actions may be undertaken on behalf of a candidate or party without their explicit authorisation, for example. If the party hierarchy were to be held responsible for every unlawful action at the lower level, they would risk being penalised for actions over which in practice they had little or no control. On the other hand, if candidates or parties are largely liable, the temptation would be great to defer responsibility so that top level politicians would not suffer any consequences. The system of sanctions should therefore clearly outline who is to be held accountable for which type of infringement of the law.

Appendix

Recommendation Rec(2003)4 of the Committee of Ministers on common rules against corruption in the funding of political parties and electoral campaigns

(Adopted by the Committee of Ministers on 8 April 2003 at the 835th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that political parties are a fundamental element of the democratic systems of states and are an essential tool of expression of the political will of citizens;

Considering that political parties and electoral campaigns funding in all states should be subject to standards in order to prevent and fight against the phenomenon of corruption;

Convinced that corruption represents a serious threat to the rule of law, democracy, human rights, equity and social justice, that it hinders economic development, endangers the stability of democratic institutions and undermines the moral foundations of society;

Having regard to the recommendations adopted at the 19th and 21st Conferences of European Ministers of Justice (Valetta, 1994 and Prague, 1997 respectively);

Having regard to the Programme of Action against Corruption adopted by the Committee of Ministers in 1996;

In accordance with the Final Declaration and the Plan of Action adopted by the Heads of State and Government of the Council of Europe at their Second Summit, held in Strasbourg on 10 and 11 October 1997;

Having regard to Resolution (97) 24 on the twenty guiding principles for the fight against corruption, adopted by the Committee of Ministers on 6 November 1997 and in particular Principle 15, which promotes rules for the financing of political parties and election campaigns which deter corruption;

Having regard to Recommendation 1516 (2001) on the financing of political parties, adopted on 22 May 2001 by the Council of Europe's Parliamentary Assembly;

In the light of the conclusions of the 3rd European Conference of Specialised Services in the Fight against Corruption on the subject of Trading in Influence and Illegal Financing of Political Parties held in Madrid from 28 to 30 October 1998;

Recalling in this respect the importance of the participation of non-member states in the Council of Europe's activities against corruption and welcoming their valuable contribution to the implementation of the Programme of Action against Corruption;

Having regard to Resolution (98) 7 authorising the Partial and Enlarged Agreement establishing the Group of States against Corruption (GRECO) and Resolution (99) 5 establishing the Group of States against Corruption (GRECO), which aims at improving the capacity of its members to fight corruption by following up compliance with their undertakings in this field;

Convinced that raising public awareness on the issues of prevention and the fight against corruption in the field of funding of political parties is essential to the good functioning of democratic institutions,

Recommends that the governments of member states adopt, in their national legal systems, rules against corruption in the funding of political parties and electoral campaigns which are inspired by the common rules reproduced in the appendix to this recommendation, – in so far as states do not already have particular laws, procedures or systems that provide effective and well-functioning alternatives, and instructs the Group of States against Corruption – GRECO to monitor the implementation of this recommendation.

Appendix – Common rules against corruption in the funding of political parties and electoral campaigns

I. External sources of funding of political parties

Article 1 – Public and private support to political parties

The state and its citizens are both entitled to support political parties.

The state should provide support to political parties. State support should be limited to reasonable contributions. State support may be financial.

Objective, fair and reasonable criteria should be applied regarding the distribution of state support.

States should ensure that any support from the state and/or citizens does not interfere with the independence of political parties.

Article 2 – Definition of donation to a political party

Donation means any deliberate act to bestow advantage, economic or otherwise, on a political party.

Article 3 – General principles on donations

- a. Measures taken by states governing donations to political parties should provide specific rules to:
 - avoid conflicts of interests;
 - ensure transparency of donations and avoid secret donations;
 - avoid prejudice to the activities of political parties;
 - ensure the independence of political parties.
- b. States should:
 - i. provide that donations to political parties are made public, in particular, donations exceeding a fixed ceiling;
 - ii. consider the possibility of introducing rules limiting the value of donations to political parties;
 - iii. adopt measures to prevent established ceilings from being circumvented.

Article 4 – Tax deductibility of donations

Fiscal legislation may allow tax deductibility of donations to political parties. Such tax deductibility should be limited.

Article 5 – Donations by legal entities

- a. In addition to the general principles on donations, states should provide:
 - i. that donations from legal entities to political parties are registered in the books and accounts of the legal entities; and
 - ii. that shareholders or any other individual member of the legal entity be informed of donations.
- b. States should take measures aimed at limiting, prohibiting or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration.
- c. States should prohibit legal entities under the control of the State or of other public authorities from making donations to political parties.

Article 6 – Donations to entities connected with a political party

Rules concerning donations to political parties, with the exception of those concerning tax deductibility referred to in Article 4, should also apply, as

appropriate, to all entities which are related, directly or indirectly, to a political party or are otherwise under the control of a political party.

Article 7 – Donations from foreign donors

States should specifically limit, prohibit or otherwise strictly regulate donations from foreign donors.

II. Sources of funding of candidates for elections and elected officials

Article 8 – Application of funding rules to candidates for elections and elected representatives

The rules regarding funding of political parties should apply *mutatis mutandis* to:

- the funding of electoral campaigns of candidates for elections;
- the funding of political activities of elected representatives.

III. Electoral campaign expenditure

Article 9 – Limits on expenditure

States should adopt measures to prevent excessive funding requirements of political parties, such as, establishing limits on expenditure on electoral campaigns.

Article 10 – Records of expenditure

States should require particular records to be kept of all expenditure, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate.

IV. Transparency

Article 11 – Accounts

States should require political parties and the entities connected with political parties mentioned in Article 6 to keep proper books and accounts. The accounts of political parties should be consolidated to include, as appropriate, the accounts of the entities mentioned in Article 6.

Article 12 – Records of donations

- a. States should require the accounts of a political party to specify all donations received by the party, including the nature and value of each donation.
- b. In case of donations over a certain value, donors should be identified in the records.

Article 13 – Obligation to present and make public accounts

- a. States should require political parties to present the accounts referred to in Article 11 regularly, and at least annually, to the independent authority referred to in Article 14.
- b. States should require political parties regularly, and at least annually, to make public the accounts referred to in Article 11 or as a minimum a summary of those accounts, including the information required in Article 10, as appropriate, and in Article 12.

V. Supervision

Article 14 – Independent monitoring

- a. States should provide for independent monitoring in respect of the funding of political parties and electoral campaigns.
- b. The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.

Article 15 – Specialised personnel

States should promote the specialisation of the judiciary, police or other personnel in the fight against illegal funding of political parties and electoral campaigns.

VI. Sanctions

Article 16 – Sanctions

States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions.

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