

CAMPAIGN FINANCE IN CENTRAL AND EASTERN EUROPE

Lessons Learned and Challenges Ahead

IFES Reports

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Introduction

Political finance not only raises the problem of the relationship between politics and money; it also may have a decisive effect on the development of democracy.¹ Thus, the structure of funding of political parties in transition countries is an important area of public policy. A central element in a mature party system is the existence of rules and procedures governing the funding of parties and election campaigns. Political financing is influenced by, and has influence on relations between parties, politicians, party membership and the electorate – relations, which are of profound importance to the quality of democracy. Every democratic system has to regulate the flow of money into politics thus creating the political finance system. This provides the framework within which political parties and individual candidates can use money in politics.

More than a decade ago Central and Eastern Europe started its transition to democracy with the adoption of constitutions that introduced the rights to vote freely and to form political parties. The pluralistic and competitive political process was not the only value enshrined in the transition constitutions, of course – for instance, various social rights such as the right to work, to healthcare assistance, maternity and retirement benefits, and to free education, found their place in many of the East European basic laws. Typically, the ‘framers’ across the region were not occupied with the question of *the cost of the rights* they were constitutionalising. One of the consequences of their negligence was that many of the constitutional social commitments remained meaningless declarations. In the area of party funding and campaign finance, the constitutions were virtually silent, and left the regulation of this issue to the national legislatures.

During the early 1990s legislators in most of the post-communist countries were not able to regulate the institutions of political parties on a specific or long-term basis, in particular the institution of political finances. The inadequacies of the early funding regime led to the growing dissatisfaction with the systems and their future reforms, before even a decade of democracy in post-communist Europe had past. The lack of complete regulations on political party financing had a significant influence on lowering standards in public life, and in the growth of political corruption. All the substantial issues related to the system of party funding were deferred to a much later date. As a result, the current dissatisfaction with the lack of progress of political life is to a large degree based on perceived problems relating to political finance. Over the last few years, there have been eruptions of discontent with the state of democracy in general² and with political corruption, frequently associated with political finance, in particular. According to Holmes and Roszkowski, ‘Without relatively crystallised party-systems and comparatively clean political and economic systems, post-communist states will not be able to attain the levels of stability and democracy that Western states have.’³

Study Overview

This study contains information for 17 post-communist countries including: Albania, Armenia, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Georgia, Hungary, Latvia, Lithuania, Macedonia, Moldova, Poland, Romania, Russia, Slovakia and Ukraine study. In terms of the methodology, both primary and secondary sources have been used. This report is based on the following research:

¹ Council of Europe. 1989. *Financing of political parties: a cornerstone of pluralist democracies*, Strasbourg.

² Recently published reports show that over 60% of people in Poland, Hungary and the Czech Republic are dissatisfied with the current stage of democracy. See *Reczpospolita* 31.05.2000.

³ See Holmes and Roszkowski (eds).1997.*Changing Rules –Polish political and economic transformation in comparative perspective*. Institute of Political Studies Polish Academy of Science, p. 7. See also World Bank Report 11.10.1999. *Korupcja w Polsce (Corruption in Poland)*.

- (1) review of the legislation regulating party and campaign finance in the respective countries;
- (2) information provided by representatives of Central Election Commissions from the researched countries;
- (3) interviews with in-country experts on party finance;
- (4) reports prepared by the Organization for the Security and Cooperation in Europe, the National Democratic Institute for International Affairs;
- (5) reports in the media;

The study analyses regulations related to the financing of political parties, presidential candidates and parliamentary campaigns. Measures concerning political financing are divided into laws and subventions; both have a direct impact on the cost of party democracy⁴. Regulations and subsidies may be conveniently listed under following categories, ranked by the frequency with which they occur in the post-communist countries:

(1) free radio and/or television broadcasting (for candidates and parties)	100%
(2) subsidies-in-kind (grants to party groups in the legislature, free postage for election literature, free use of public buildings, etc.)	94%
(3) disclosure regulations (requirements to submit for official scrutiny and to publish financial accounts)	88%
(4) complete or partial bans against foreign donations	82%
(5) direct public funding of parties and/or candidates	76%
(6) spending limits (on parties and/or candidates)	59%
(7) contribution limits (restrictions on the amounts permitted as donations to election campaigns or to parties)	47%
(8) tax relieves (income tax relieves, tax credits, matching grants on political donations)	24%
(9) bans on paid political advertising	18%

The statistics indicate that, in general, political money is a subject to greater regulation in post-communist countries than in established democracies. However, when it comes to regulations and subsidy systems in Central and Eastern Europe the issue of enforcement is the main weakness. The situation in many post-communist countries might be summed up by the following phrase 'Too many rules. Too little enforcement.'

Regulations and Sources of Funding

In CEE, the regulatory frameworks have attempted, with varying degree of success, to: (1) prohibit certain sources; (2) limit individual or group donations to candidates or parties; (3) introduce direct and indirect state subsidies⁵.

• Foreign donations

Due to their recent history, most of the post-communist countries are sensitive to external political influences. For this reason, the process of nation-state building or liberalization causes particular regulations to be enacted concerning the funding of politics from foreign sources. Generally speaking, Political parties are, banned from receiving foreign donations in all Central European countries except Croatia, Bosnia and Herzegovina and the Czech Republic. Regulations concerning foreign contributions are mostly restrictive and negative, i.e. they limit foreign donations in both quantitative and qualitative ways. The most common limitation imposed is one of funding prohibitions on foreign governments. In Lithuania, Poland, Russia and Ukraine, political donations cannot be accepted even from companies with foreign investments. In Bulgaria, political parties may receive donations from foreign citizens up to \$500 (donations from single

⁴ The total spending for routine operations and campaign purposes by parties.

⁵ See Table in appendix

individuals), and up to 2000 \$ (donations from a group of people). However, no more than one donation may be received from the same person or the same group of people within a calendar year. In Lithuania, political parties and political organizations may be funded by Lithuanian citizens residing abroad, and political party organization divisions established in locations inhabited by Lithuanian communities. Finally, some countries, including Russia, ban political contributions from any stateless person.

- **Anonymous donations and contribution limits**

In Central Eastern European countries, the regulatory frameworks have also attempted, with a varying degree of success, to prohibit certain sources and limit the amount of permitted contributions. Firstly, the two most common prohibitions on sources concern state enterprises and anonymous donations. Lithuania, Russia and Ukraine have also prohibited corporations with shares belonging to the State or Local Government from making political contributions. Moreover, in Lithuania, political parties and political organisations also cannot receive any donations from trade unions, charities, foundations and religious organisations. Secondly, of the countries reviewed, almost half, including Bosnia and Herzegovina, Bulgaria, Latvia, Macedonia, Poland, Romania, Russia and Ukraine, have introduced limits on contributions to parties and/or individual candidates in the elections.

Most post-communist countries have opted to prohibit anonymous donations. However, Bulgaria, and Lithuania have taken the view that reasonable amounts of anonymous donations cannot undermine the democratic process. The Polish legislation makes an exception for the presidential elections - anonymous donations are to be deposited in bank accounts as separate from the rest of campaign funding. Bulgarian laws stipulate that anonymous donations must not exceed 25% of the total party income. In Lithuania, a single anonymous donation cannot exceed USD 25, but the total of these donations is not limited.

Types of Banned Contributions

Country	Foreign donations banned	Trade Union donations banned	Corporate donations banned	Government contractors donations banned	Other types of donations banned
Albania	Partly	YES	no	no	YES
Armenia	YES	YES	YES	YES	YES
Azerbaijan	YES	no	no	no	no
Belarus	YES	YES	YES	YES	YES
Bosnia and Herzegovina	no	no	no	YES	YES
Bulgaria	YES	no	no	YES	YES
Croatia	no	no	no	no	no
Czech Republic	no	no	no	no	YES
Estonia	Partly	no	no	no	YES
Hungary	Partly	no	no	no	YES
Latvia	YES	no	no	no	YES
Lithuania	Partly	YES	no	no	YES
Macedonia	YES	YES	no	no	YES
Moldova	YES	no	no	no	YES
Poland	YES	YES	YES	YES	YES
Romania	Partly	no	no	?	YES
Russia	YES	no	no	no	YES
Slovakia	YES	no	no	no	YES
Slovenia	YES	no ?	no	no ?	YES
Ukraine	YES	no	Partly	no	YES

Sources: Study by the authors and Michael Pinto-Duschinsky of political finance laws and subsidies in post-communist countries.

Regulations of Expenditures

The regulation of political expenditure generally involves restrictions concerning direct vote buying or limitations on the expenditures of political parties or individual candidates (both parliamentary and presidential). According to Ware 'One means of attempting to stop a 'freeding frenzy' among parties in their search for funds is to restrict how much they spend on very costly activity – namely election campaigning'.⁶ Still, limits on parliamentary candidates 'do little under modern conditions to control political expenditure as a whole.'⁷ They are simply ineffective and illogical without a similar national-level limit on political parties and 'third parties'.

However, the limits on campaign expenditure should by no means be perceived as an ideal legal mechanism that all regimes in the process of democratisation should utilize in attempting to regulate campaign finance. Particularly in authoritarian regimes, imposing low and strict limits on campaign expenditure might marginalize opposition and as a result aid the non-democratic regimes. Furthermore, in some CEE countries the artificially low legal limits on permitted campaign spending makes the reporting of political party expenditure irrelevant. Limits on the permissible amount of campaign expenditure are a common feature in nearly two-thirds of the post-communist countries surveyed; such limits are applied either by determining a ceiling or by applying a formula (for instance, a multiple of the average monthly wage).

⁶ Burnell and Ware (1998), p. 240

⁷ Pinto-Duschinsky (1981), p. 268

Political Finance Laws and Regulations – Campaign Spending Limits

Country	Any Spending Limits	On Parties	Amount (USD millions)	On Presidential Candidates	Amount (USD millions)	On Parliamentary Candidates	Amount (USD)
Albania	no	no	n.a.	n.a.	n.a.	no	n.a.
Armenia	YES	YES		YES		YES	
Belarus	YES	no	n.a.	YES	0.0125	no	n.a.
Bosnia and Herzegovina	YES	YES		no	n.a.	no	n.a.
Bulgaria	YES	YES	0.5	YES	0.9	no	n.a.
Croatia	no	no	n.a.	no	n.a.	no	n.a.
Czech Republic	no	no	n.a.	n.a.	n.a.	no	n.a.
Estonia	no	no	n.a.	n.a.	n.a.	no	n.a.
Georgia	Partly	no	n.a.	?	?	no	n.a.
Hungary	YES	YES	13.9	n.a.	n.a.	no	n.a.
Latvia	no	no	n.a.	n.a.	n.a.	no	n.a.
Lithuania	YES	YES	0.3	no	n.a.	YES	14,250
Macedonia	YES	YES	?	YES	?	YES	?
Moldova	YES	YES		n.a.	n.a.	YES	
Poland	YES	YES		YES	3.0	YES	
Romania	no	no	n.a.	no	n.a.	no	n.a.
Russia	YES	YES	0.7	YES	1.2	YES	29,639
Slovakia	YES	YES	0.3	YES	0.1	no	n.a.
Slovenia	YES	YES		YES		YES	
Ukraine	YES	no	n.a.	YES	0.38	no	n.a.

Sources: Study by the authors and Michael Pinto-Duschinsky of political finance laws and subsidies in post-communist countries.

According to Pinto-Duschinsky, 'ban on paid political advertising on TV is arguably far more effective than formal limits on parties' spending in limiting the costs of electioneering.'⁸ However, in terms of regulating campaign spending, only 18% of the Central Eastern European countries have prohibited parties or candidates from purchasing advertising time on television. Ware argues that 'The idea of this approach is to prevent the frenzied drive for money that the possibility of saturating the airwaves with advertising might generate; it is also intended to provide a certain equality of access to viewers – at least equality among similarly sized parties.'⁹ Only Bosnia-Herzegovina, and Slovakia have introduced a ban on paid political advertising, while Poland has introduced limits to such expenditures.¹⁰

Yet, the opponents of the paid advertising ban claim that such regulations on the coverage of the campaign not only clearly limit the possibilities for media to inform comprehensively and objectively on elections but might marginalize opposition and as a result aid the non-democratic government by allowing it to take advantage of state-controlled TV. They argue that in countries where there is a problem of interference with the election process and the use of public media for the advantage of particular electoral contestants, allowing limited paid advertising can contribute to more open and lively political discussion.

Another important factor must be taken into consideration where the application of limits in Central Eastern European countries is concerned—inflation or, as has been the

⁸ See Pinto-Duschinsky 2001. *Handbook on funding of parties and election campaigns – overview*. International IDEA, p. 22

⁹ Burnell and Ware (1998), p. 241

¹⁰ The Act of 28th May, 1993 On elections to the Sejm of the Republic of Poland, art. 142-145

experience of some of these countries, hyperinflation. In Bulgaria, a 1991 spending limit was applied to the 1997 elections, but by 1997, inflation had reduced the value of the Leva by 3200 percent. Candidates' maximum allowable expenditure on the campaign, 30,000 Leva, had been reduced to the equivalent of just US\$20.

Finally, the way in which the reported statistics have reflected changes in spending limits is demonstrated by the financial reports of the presidential candidates and electoral blocs (see ANEX 1). The Russian, Polish and Ukrainian examples of presidential elections show that spending limits have proved in practice to be irrelevant, having been introduced at unrealistically low levels. These rules have also made it difficult to assess true levels of expenditure. Another example is that of the 1998 campaign for the election of governor in the Krasnoyarsk region, where General Alexander Lebed defeated the bureaucrat-technocrat Zubov (former governor of Krasnoyarsk). According to expert estimates, Lebed spent about \$12 million, while Zubov spent only \$4 million. Yet the official spending limit for the race was little more than \$160,000.¹¹

Public Funding

Public subsidies for political parties have already become a dominating feature of most democracies, being used in 78 per cent of Central Eastern European countries.¹² However, the debate on direct subsidies continues to this day, in spite of the fact that their various forms have been in operation for decades.¹³ For most of the post-communist countries, public funding of parties and candidates (either in the form of reimbursement of electoral expenditures, or annual subventions) has been the only effort to diversify the sources of political money, and decrease the plutocratic influence in politics.

Generally, two major types of model have emerged in the region – one with significant public funding, and one with predominantly private funding coming mainly from corporate sources, or wealthy individual donors. It should be noted, however, that both of these models exhibit sustained legislative efforts to equalise the chances of political contestants in financial terms: the countries without public funding, as a rule, feature various contribution and expenditure restrictions, free air-time on electronic media, and some forms of in-kind support for parties and candidates.

Formally, only Latvia, Moldova and Ukraine do not envisage forms of public funding. Yet, countries such as Bulgaria and Russia provide only nominal financial support, covering a tiny fraction of political expenditures. In other countries, such as Albania, public funding has been introduced very recently, and any conclusions about the actual characteristics of the model will be premature. Still, there is the case of Belarus, where public funding of candidates in elections is fully within the discretion of the president of the country – whether public funding in this case is an element of democratic government or an instrument to suppress and control the opposition is an open question.

One possible explanation for refraining from giving direct state support to political contenders is a lack of state resources at the time of adoption of the relevant legislation, which led to a lesser involvement of the state. However, the absence of state subsidies may be related to an existence of one or two major parties that have access to rich corporate funding and try to frame political competition in a particular way. But, is there a correlation between the establishment of a particular party funding model, and other features of the political regimes in the CEE countries? All of the 'central case' countries

¹¹ <http://www.ispr.org/proba1.html>.

¹² Study by the author and Pinto-Duschinsky of political finance laws and subsidies in sixty countries. A revised version will be published in the forthcoming International IDEA Handbook on the Funding of Parties and Elections, to be published in Stockholm by International IDEA.

¹³ Nowhere has this debate been clearer than in Britain. See Pinto-Duschinsky (1981), pp. 4-8. The arguments about public subsidies are included in Nassmacher (1989), pp. 247-259; Ware (1998), pp. 242-243.

without public funding - Bulgaria, Latvia, Moldova, Russia, Ukraine - happen to be countries with a high 'state capture' index according to a 2000 study of the World Bank. Especially telling seems the average share of the respondent firms in these five countries directly affected by 'illegal donations' to political parties - 34.4 %, when the average for all transition countries is 20. Similarly, on average, countries without public funding have a much higher index of 'buying of legislative votes'.

These data suggest that the lack of public funding correlates with the opportunity for corporations and wealthy individuals to 'capture' the policy-making capacity of the transition states. This problem has recently been given a lot of exposure and is generally perceived as a problem of 'corruption'. Fundamentally, however, it is a question of the autonomy of the democratic institutions, and the deficiency of democratic representation. Put somewhat differently, this is a process of degradation of democracy and its transformation into oligarchic forms of government. It is by no means coincidental that the political landscape of Russia and Ukraine is inhabited by 'clans,' 'oligarchs,' and other non-democratic centres of power.

The hypothesis about the correlation between the lack of public funding and state capture is not fully supported by the data, however. State capture is a form of political corruption in which the policy-making capacity of the state becomes dominated by private interests.¹⁴ The formation of clans comprising politicians, bankers, and high administrators is one type of regime affected by state capture. Systematic governmental favouritism is another form of state capture.¹⁵ It is logical to assume that countries in which the demand for political money has been reduced by the introduction of public funding, the political elites would enjoy greater autonomy vis-à-vis private interests, which would reduce the probability of state capture.

Yet, countries with significant public funding, such as Slovakia and Croatia, have also developed forms of state capture. The 'capturing' of the state in these cases seems to have been a product of oppressive majorities around Meciar and Tudjman, who have managed to frustrate the opposition and occupy the key economic positions in the countries. Having this in mind, it is obvious that public funding cannot be seen as a remedy against state capture on its own. Other measures, some of which may not be connected with political finance at all, must be taken in such cases. Thus, empowering the opposition through a more sophisticated system of separation of powers, ensuring the autonomy of the judiciary and the administration against political pressure, establishing independent public electronic media, may all be seen as steps towards the reduction of the probability of state capture. When accompanied with this type of measures, public funding of political parties will no doubt be much more efficient in keeping private interests at arms length vis-à-vis the government.

Of course, it could be argued that public funding has disadvantages of its own and that it is an unsatisfactory solution - even if it may be seen as a necessary one - to the fundamental problem - the lack of popular participation in political life. One problem with the introduction of significant public funding, for instance, is the "etatistisation" of the political parties, which become dependent on state subsidies, and progressively alienated from their voters.¹⁶

On the other hand, in certain cases, the choice of a model without significant public funding has been dictated by the desire of the governing parties or politicians to preserve

¹⁴ See *Anti-corruption in Transition: A Contribution to the Policy Debate*, World Bank, 2000.

¹⁵ See Daniel Smilov, 'Structural corruption of party-funding models: governmental favouritism in Bulgaria and Russia.' Paper presented at the Princeton University-Central European University Joint Conference on Corruption, Budapest 30 October - 6 November

¹⁶ See Christine Landfried, "Political Finance in West Germany", in *Comparative Political Finance among the Democracies*, ed. Herbert E. Alexander and Rei Shiratori, Westview Press, 1994.

their competitive advantages. The clearest example of such a development has been the Russian evolution of party funding and campaign finance. After the dissolution of parliament in 1993, President Yeltsin saw the establishment of political parties as a major threat to his rule: therefore, both the electoral system and the rules on party funding were designed to encourage individual candidates and ad hoc electoral alliances.¹⁷ The 'established' parties had no major institutional advantages, since the President preferred a relatively weak and fragmented Duma, which would be easier to control. Until 2001, there was no comprehensive regulation concerning political parties.¹⁸ The new law adopted under President Putin does change the situation to an extent, but it is too early to judge how it is going to be applied in practice. In short, the lack of significant public funding and other institutional advantages served the strategic goal of starving the opposition of resources. The pro-presidential parties themselves were not that disadvantaged, because they, as a rule, enjoyed the support of various oligarchs, eager to gain access to presidential and governmental favours.

Similar trend could be observed in Bulgaria – the ruling parties in the country gradually scaled down public funding, because they realised that by being in power they were in a much more favourable position in terms of fundraising than the opposition. Thus, a growing *funding gap* between the government and the opposition has appeared, which could be observed both in the case of the Socialist government of Jan Videnov, and the right-wing government of Ivan Kostov.

¹⁷ See Smilov, *op.cit.*

¹⁸ Until 2001 political parties in Russia were regulated by laws on "public associations", which covered NGOs in general.

Direct Public Funding

	Any Direct Funding		Source of funding		
			From National Governments		
	To Parties	To Candidates	Pres-idential	Parliamentary	Threshold for Receiving Funding
Albania	YES	YES	n.a.	no	2.5%
Armenia	YES	YES	no	no	2.5%
Azerbaijan	YES	YES	no	YES	3% to 6 %
Belarus	YES	no	YES	no	n.a.
Bosnia and Herzegovina	YES	YES	no	no	Representation
Bulgaria	YES	YES	YES	no	1 %
Croatia	YES	YES	YES	YES	3% to 10%
Czech Republic	YES	YES	n.a.	n.a.	3 %
Estonia	YES	YES	no	no	Representation
Hungary	YES	YES	n.a.	no	1 %
Latvia	no	no	n.a.	no	n.a.
Lithuania	YES	YES	?	?	3 5%
Macedonia	YES	YES	YES	YES	3%
Moldova	no	no	n.a.	no	n.a.
Poland	YES	YES	no	n.a.	3 % to 6 %
Romania	YES	YES	no	no	Representation
Russia	YES	YES	YES	YES	2 % to 3%
Slovakia	YES	YES	no	no	3 %
Slovenia	YES	YES	YES	?	Representation
Ukraine	no	no	no	no	n.a.

Sources: Study by the authors and Michael Pinto-Duschinsky of political finance laws and subsidies in post-communist countries.

Disclosure and Enforcement

There are two ways of controlling political finance: (1) disclosure, and (2) legal enforcement; these are not exclusive of each other. Legal enforcement involves creating a system through which cash flow in politics is directly controlled. The system generally operates in a restrictive and negative way, i.e. it limits political donations in both quantitative and qualitative ways. Disclosure of political donors and reporting on political funds provides the necessary information to allow control over political money to be regulated by public opinion. The recent study by Pinto-Duschinsky has demonstrated that, in comparative terms, the Central and Eastern European countries have introduced more regulation in the area of public disclosure than Western Europe and the Americas.

Different Central and Eastern European countries exercise dissimilar strategies in order to enforce public control of political money. In the first stage of democratic transition most of the post-communist countries adopted a more *laissez-faire* stand towards the control of political finance. Liberal regulations were a natural response to the former communist system, and represented a rejection of its restrictions. The extent of regulations varied considerably between different countries, as did their enforcement. The reporting of political expenditures is a common feature in almost all the countries reviewed in this study. The only two countries where political parties need not reveal their income and expenditure accounts are Albania and Belarus. However, there are different approaches to the control of political finance in Central Eastern Europe. In Bulgaria, Croatia and Macedonia political parties must disclose their overall accounts but need not identify

individual donors. In the twelve or fifteen other countries covered by this article, both accounts and lists of donors must be revealed. Moreover, Lithuania has gone to the length of making financial records of parties and individual candidates available to a wider public on its Internet website.

The Central and Eastern European experience confirms a general point – ‘Too many rules. Too little enforcement.’ First, theoretically well-intentioned regulations requiring the production of financial statements are not necessarily effective if they fail to cover all aspects of party funding. It is of little value to demand disclosure only of particular categories of political financing. This will merely encourage the use of sources of money not subject to disclosure. Second, the lack of an independent enforcement agency is a most serious weakness that undermines the working of a successful system. Moreover, penal codes of several countries simply lack sanctions for violations of party finance rules, or they are rather symbolic.

Political Finance and Use of Governmental Resources

The distinctive feature and most serious problem of Central and Eastern European countries is that elected officials frequently use government resources for their personal campaigns and for their political parties. So-called ‘administrative resources’ are based on special treatment by local administration, state-owned media, and directors of state-owned enterprises and state-funded organizations. However, the abuse of governmental position for party-building purposes is still an understudied topic in Eastern Europe. The abundance of evidence and allegations of such abuses in Russian and Ukrainian elections, but also in other countries in the region, suggests that the dynamics of party funding could hardly be understood properly without a more careful study of this problem.

An encouraging fact is that, despite the pro-governmental bias leading to a growing gap in the funding of the governmental and opposition parties, electoral ‘surprises’ do happen in Eastern Europe on a regular basis. Instructive is the case in Bulgaria, where the financial might of the Socialist in 1997, and the UDF in 2001 did not save them from bitter electoral defeats. Meciar’s party in Slovakia, and Tudjman’s supporters in Croatia also lost key elections despite their long stay in power and the opportunity to accumulate huge resources. In some extreme cases, like the last parliamentary elections in Poland and Romania, the ruling parties could not enter the legislature at all. What is more, new major parties do appear all around the region, and in some extravagant cases they even manage to win parliamentary elections – King Simeon II’s movement in Bulgaria is an interesting, although probably aberrant example.

This evidence speaks against attributing too much influence to the mechanisms and abuse of party funding rules on the political process in the countries of Central and Eastern Europe. These countries are not so ‘captured’ after all, and the democratic process has not been entirely stifled by the interests of a few oligarchs. More troubling from that perspective seem to be Russia and Ukraine, where radical political changes concerning the centre of power – the presidential institution – are much more problematic. But this is of course due to the constitutional structure of these states. In any event, the impact of political finance models and practices on this issue would be extremely difficult to measure.

If the political finance model matters in a particular area, however, it is definitely the area of *perception* of the legitimacy of the governmental structures. Let us consider the fact, reported by the World Bank state capture study, that 42% of the firms in Bulgaria consider themselves directly affected by ‘illegal political donations’. At the time the BEEPS study was done, which is the basis of the World Bank report, there were no contribution limits in Bulgaria, and no requirements for disclosure of the name and the amount of the donations. In what sense, then, were these donations illegal? A plausible hypothesis is that most of the respondents had different ideas about the illegality of the donations, but

they converge in their common overall *perception* of the political system in the country as corrupt. Thus, despite the effort of the World Bank experts to base their study on more tangible, proxy, measures of corruption, probably a significant part of the responses they got reflected general perceptions of the 'corruption of the system as a whole'. This is all the more probable, considering the poor public knowledge of the technical intricacies of the rules and principles of party funding and campaign finance.

Additional Observations and Recommendations

Most of the governments of the post-communist countries have introduced new laws to regulate their national systems of political finance. These countries are not alone in confronting problems of reforming political finance. Herbert E. Alexander, a leading scholar in the field of political finance, claims that among the goals that regulation should seek to achieve are:

- A system that will permit or provide enough money for vigorous, competitive campaigns;
- A system that will preserve opportunities for all citizens to participate equally;
- A system that is open to emerging as well as established parties;
- A system that will prevent corruption by freeing candidates and parties and elected officials from undesirable or disproportionate influence from contributors;
- A system that will free citizens from pressure by candidates and parties to give financial support.¹⁹

The difficulties experienced by political finance reformers can be summarised by quoting Karl-Heinz Nassmacher:

Implementation of reform legislation breeds the need for more (and more complex) reform legislation.... The elaborate restrictions designed to control the flow of money into the political process have encouraged the professional politicians to engage in a creative search for potential loopholes either in the application of the existing law or when drafting necessary amendments. (Nassmacher, 1992a, 260)

The series of unending 'reforms' in a number of post-communist countries illustrate the complexity of such attempts. Success of any political finance reform requires the creation of a comprehensive and efficient regime consisting of three basic elements: 1) system of public financing, 2) adequate transparency, 3) an enforcing agency backed by legal sanctions.

Yet, it is hard to develop a satisfactory system of political finance for the following reasons:

- **Inadequate enforcement.**

Laws on funding of parties and campaigns require effective supervision and implementation. Experience from Central and Eastern Europe shows contrast between very ambitious laws and absence of any enforcement of them. However, laws are more likely to be enforced if they are realistic. According to Paltiel: "Enforcement demands a strong authority endowed with sufficient legal powers to supervise, verify, investigate and if necessary institute legal proceedings. Anything less is a formula for failure."²⁰

However, strong enforcement mechanisms (including tax inspection and police) can be used by the non-democratic regime to deprive the opposition of the right to participate effectively in the electoral process. The creation of an oppressive political finance system

¹⁹ Alexander, (2001) Approaches to Campaign and Party Finance Issues in Nassmacher. , p. 198

²⁰ Khayyam Z. Paltiel: Party, Candidate and Election Finance, study no. 22, Royal Commission on Corporate Concentration (Ottawa, Ont.: Queen's Printer, 1976), pp. 108-109

that is not controlled by a non-partisan enforcement agency might undermine the whole idea of free and fair elections, as harassment is an inherent feature of such political conditions. It is strongly recommended that an entirely independent body responsible for overseeing party finance be created.

Independent enforcement demands an agency endowed with sufficient resources to supervise, verify and investigate. Yet, in some post-communist countries politicians prefer public money with as little public control as possible. The newly created political finance systems can be left without a strong enforcing agency, if no additional financial resources are provided to meet new responsibilities. The agency's budget should preserve its impartiality, independence and professional conduct. One of the fundamentals of the independence of the agency would be the stability of its financial situation. A mechanism should be developed which stresses its autonomy while at the same time retaining a degree of accountability to Parliament for the proper use of public funds.

- **Sparse laws**

In most of the Central and Eastern European countries the party and election-related political finance legislation is fragmented across a number of legislative acts. Such regulations are not only confusing but, in most cases, contradictory and creating gaps. One possible option would be to integrate the various election laws and procedures into a single election code.

- **Unrealistically low spending limits**

The examples of regulations in many post-communist countries show that spending limits have proved in practice to be a fiction, having been introduced at an unrealistically low level. Not only have they failed to curb a political finance "arms race", but their failure has also undermined confidence in the whole system of political finance regulations. Such regulations limiting the scope of a campaign might marginalize opposition and aid the government. Interference with the election process throughout low spending limits can contribute to political censorship. In addition, the unrealistic spending limits corrupt the whole reporting system and make it difficult to assess the true levels of expenditure. Finally, when introduced, the limits should be index-linked. In order to discourage any of the parties to manipulate this figure, the limit should not be raised or lowered except on the specific recommendation of the independent enforcement agency.

- **Independent expenditure**

Another problem in controlling expenditure is independent political campaign spending. Most of the countries did not apply direct limits on independent groups spending money on behalf of a political party or presidential candidate during a campaign. The unrealistically low limits on campaign spending and funding restrictions on certain sources encourage parties to create a large number of small front organizations, so-called 'third-parties' through which campaign fundraising and expenditure can be channeled.

- **Access to media**

For post-communist countries, free access to the news media and fair coverage of the election are serious problems. There are many indications that opposition forces have limited access to the media and also, that independent media are harassed. These practices include: media outlets, critical of the government are subjected to harassment, including financial investigations; the state-controlled media demonstrate a serious pro-government bias. Such regulations on the coverage of the campaign not only clearly limit the possibilities for the media to inform comprehensively and objectively on elections, but might also marginalize opposition and aid the government by allowing it to take advantage of state-controlled TV. Interference with the election process and the use of public media for the advantage of particular electoral contestants should be investigated expeditiously and authorities should be forced to impose disciplinary action.

Conclusions

A decade after the collapse of communism, the time is ripe for a re-examination of the ways in which the right to vote and political representation in Eastern Europe have been institutionalised. Who are the actual beneficiaries of the competitive elections, which have been established in the region? Is the political process open to a plurality of interests? Are there systematically excluded minorities? Few of these questions can be answered meaningfully without a careful study of the regulations and practices of party funding and campaign finance, which have been developed in Eastern Europe. Without such an examination, one cannot be sure that the right to vote and political participation have a different fate from that of the quickly forgotten constitutional social commitments.

From this perspective, the first troubling tendency in the region is that little attention is being paid to the issue of party funding and campaign finance as a constitutional matter affecting the very fundamentals of the democratic order. A clear demonstration of this is the fact that the CEE's constitutional courts, although being very active in other areas, have, with a very few exceptions, avoided the 'political' questions of party and campaign finance. Legislatures have enjoyed broad policy discretion in the adoption of rules on political finance, with no serious input or oversight either by civil society, or a judicial body. Not surprisingly, this situation has led to the production of legislation, which contains many provisions:

- Aiming mainly to express a certain ideology;
- Attempting to establish the dominance of the pro-governmental parties, and oppress the opposition;
- Creating loopholes and lack of transparency to maximise the advantages of the major parties or political actors.

The ideology expressed by the predominant majority of the political parties and campaign finance laws in the region contains a bias towards egalitarianism and regulation.

The review of such laws has found that all of the countries covered provide for free air-time during campaigns, most have schemes of public funding and require some public disclosure of political funds. Contribution limits, and spending limits are common, though by no means universal. All these measures and techniques are traditionally employed to equalise the chances of different contestants in the political process in financial terms, and to reduce the impact of personal and corporate wealth on politics.

In comparative terms, Central and Eastern European countries have introduced more regulation in the area of public disclosure than Western Europe and the Americas. Finally, the American-style libertarian argument of 'money is speech' has been entirely absent from the Eastern European political scene – radical libertarian principles of legitimation have not been used in the area of party funding and campaign finance, despite the prominence of neo-liberalism in parts of the region.

The demonstrable ideological bias in favour of egalitarianism and regulation probably has a historical explanation: the combined effect of the communist legacy and the influence of political and legal ideas from Germany, Austria, and France. Yet, if one looks beneath the common ideological surface of the developing models, one finds different patterns of funding of politics.

Eastern European countries have failed to develop a diversified system of funding sources. In most CEE countries, money for politics comes principally from corporations or large individual contributors. Small donations are as a rule not encouraged in the CEE by forms of tax credit, by matching grants (which make state subsidies dependent upon parallel private fundraising), or by targeted tax relief on small political donations. Despite the low levels of income from membership subscriptions, there are no legislative efforts

to encourage the parties to extend their membership base – state subsidies are as a rule tied only to electoral performance and parliamentary representation.

This observation suggests a bold hypothesis: the egalitarian expectations for a well-regulated system of political finance reflecting just social principles, which the majority of Eastern European party funding models create, lead the public to bitter disappointment in the cases of irregularities, and to all-too quick conclusions that the 'system is rotten as whole'. Perception of widespread corruption is possibly a combined product both of facts, and extremely high expectations. Public perceptions should be channelled to encourage the introduction of meaningful reforms – unfortunately, sometimes they are abused by populist and authoritarian leaders, who aim to undermine democracy on the wave of an anti-corruption campaign. Therefore, in designing reforms in the area of political finance, the primary goal should be the strengthening of democracy and its major institutions.

Country Studies

Albania

Institutional Background

Albania is a parliamentary republic. The Albanian Assembly consists of 140 Deputies; 40 mandates are allocated in a single national constituency, and 100 in majoritarian, single mandate constituencies. Parties and coalitions should receive respectively 2.5% and 4% of the valid votes to participate in the allocation of the 40 mandates. Under the Constitution, the President is elected by the assembly with the support of at least three-fifths (60%) of its votes.

The June 2001 Parliamentary elections were held under a new electoral code²¹ adopted in May 2000, and amended in May 2001. This code, along with the law on Political Parties, adopted in 2000, lays out basic regulations of party and campaign finance.

Income

According to the Law on Political Parties no donations are allowed from foreign states or public/private entities as well as from domestic entities, either public or incorporated into the state bodies. There are no contribution limits.

State Support

The state provides material assistance to political parties at the time of their registration. After successful registration in the Court of Tirana the party receives subsidy of ALL 300,000 (USD 2,150).

In addition to funds provided to political parties under the 2000 law on political parties, state subsidies are granted to political parties for every national or local electoral campaign. Political parties that are registered with the Central Election Commission (CEC) for the election are entitled to funds from the budget of the state for the conduct of elections. The funds designated for the financing of the political parties participating in the election are set by the CEC within 30 days from their approval in the Assembly. The Ministry of Finance makes the payments after official notification by the CEC about the manner of division of these funds.

The funds of the state budget for the financing of political parties in the elections are divided as follows:

- 10 per cent of the amount is distributed equally among the political parties registered as participants in the elections;
- 30 per cent of the amount is distributed in an equal manner among the parties that currently have deputies in the Assembly, or, as the case may be, members of the councils of the municipalities or communes;
- 60 per cent of the amount is distributed among them in proportion to the number of votes won on the national scale in the last elections for the Assembly or in the local elections.

After elections, parties that fail to win more than 2.5 per cent of the votes cast for the allocation of the 40 national mandates must return the amounts distributed in advance. All funds are re-distributed after the conclusion of the elections among the parties that won more than 2.5 per cent of the votes, in accordance with the percentage of votes won by each of them.

²¹ The Electoral Code of the Republic of Albania, adopted on May 8, 2000.

The parliamentary election campaign starts 30 days before election day and ends 24 hours before. During the electoral campaign, the State Radio and Television provide free air time for each registered political party and the CEC, which is allocated in accordance with the following rules:

- a total of two hours are set aside for the CEC and allocated in accordance with its time requests. At least two thirds of the total time is allocated between 6:00 PM and 10:00 PM.
- each parliamentary party participating in the first round of elections is allocated equal free air time by the CEC in an amount that is no less than fifteen minutes on public television and 15 minutes on public radio.
- those parties not represented in the Assembly participating in the first round of elections are entitled to 10 minutes of air time on public television and 10 minutes of air time on public radio.

The total amount of free airtime allocated to all the political parties over the course of an electoral campaign is no more than ten hours. Public Radio and Television may not prepare or broadcast paid political advertising.

In addition to the time provided to the political parties, the CEC is provided with a total of 60 minutes of free time on public radio and 60 minutes of free time on public television for voter education each calendar year.

Further, according to the Law on Political Parties, parliamentary parties are provided with office space for their central headquarters and regional offices. When this is impossible, the state should pay for the office rental. However, there is no tax relief on donations in Albania.

Expenditures

There are no spending limits and no ban on paid political advertising. However, private radio and television may not broadcast more than five minutes a day of advertisements for each political party or independent candidate, for any kind of elections. The broadcast of commercial advertisements during the broadcast of electoral programs by both public and private media is prohibited.

Disclosure and Enforcement

All donations should be declared and registered by political parties. At the end of every year, a copy of this register (entries only) should be forwarded to the State Audit Department and a copy to the Assembly. The register should record the type of donation, its quantity and donor's details. The identity and signature of the donor are also recorded.

The State Audit Department is responsible for controlling dispersed public funds, donations and other funding.

A violation of the provided rules by public and private radio and television constitutes an administrative infraction and is punishable by a fine of between ALL 100,000 and 500,000 (USD 716 to USD 3,580). Other violations, where they do not constitute a criminal offence, are punishable by a fine of between ALL 1,000 and 2,500 (USD 7 and USD 18).

Issues and Challenges

During the 2001 Parliamentary elections there were reports of inappropriate use of State resources by the governing party for campaign purposes and isolated allegations of police harassment, and State interference in the work of election commissions. However, according to the international observer these actions did not appear to be significant enough to undermine the integrity of the elections.

Also, even though some private media granted a generally balanced allocation of time to the main election contestants, most supported one of the two main competitors. Free, equal and fair access to the mass media should be guaranteed for the future elections.

Finally, the main problem with the Albanian campaign finance model is related to the lack of an independent enforcement agency and comprehensive disclosure.

Recommendations

There is no clear authority to oversee the registration of political parties or the manner in which parties raise and spend monies during an election period. This issue could be resolved by transferring the registration of political parties from the Court of Tirana to the CEC. In that manner the CEC would be able to have a greater oversight of parties that register with the CEC for election purposes. There are very few sources of funding political parties outside state subsidies. As elsewhere in the region there is a limitation on the availability of individual contributions and the infrequent use of banking facilities and checks for financial transactions make it very difficult to monitor contributions. Tax credits for individuals is not realistic, however, it may be possible for corporate donations. Some type of expenditure disclosure and a limit on expenditures should be considered. Much of this could be done by tightening up and enforcement of existing laws. It would also be advantageous for this to be a new responsibility of the CEC. This would require a change to the electoral code in a number of areas including the establishment of an investigative unit within the CEC and the establishment of an appropriate level of fines for parties and individuals who fail to comply with the law.

Changes in the campaign finance regulations should reduce the overwhelming advantage afforded to larger parties and ensure that smaller parties have sufficient funds to purchase minimum airtime for electoral broadcasts on private channels.²² The CECs role should be increased and the introduction of separate election accounts could possibly be a mid-term goal to raise transparency. In Albania, inadequate sanctions are also a serious weakness that undermines the working of a successful election finance system.

Armenia

Institutional Background

The Constitution of the Republic of Armenia stipulates that the single-chamber parliament is chosen through a mixed system of elections. The President of the country is directly elected by the people under a two-round majoritarian system.

A Universal Electoral Code (UEC) adopted in 1999 and the Law on Public-Political Organizations regulate the area of political finance in Armenia.

Income

The UEC requires that special pre-election funds be established in order to finance campaign activities. Election funds of the candidates for the President of the Republic and parties are deposited in the Central Bank of the Republic of Armenia, and of the other candidates – in any bank, operating on the territory of the Republic of Armenia (in a special account). Pre-election funds are managed by candidates and parties. Based on the written application of the registered candidates and parties, banks open temporary special accounts. Interests are not accumulated or paid on these accounts.

²² International Election Observation Mission, 2001 Election to the Assembly of the Republic of Albania, www.osce.org.

There are several sources from which to draw campaign funding:

- personal means of the candidate;
- means allocated to the candidate by the party, which has nominated him/her;
- own means of the party;
- voluntary contributions by physical and legal persons.

The UEC sets a maximum amount of donations for legal or natural persons. For Presidential elections, a natural person cannot donate an amount exceeding 200 times the minimum salary. Contributions of legal persons are limited to 500 times the minimum salary, those of parties - to 30,000 times minimum salary, those of candidates themselves - 10,000 times the minimum salary.

For Parliamentary elections, the contribution limits are lower. A natural person cannot donate an amount exceeding 50 times the minimum salary. Contributions of legal persons are limited to 150 times the minimum salary, those of parties - to 2,000 times the minimum salary, those of candidates themselves - 1,000 minimum salaries.

The following entities are strictly forbidden from contributing to pre-election funds:

- state and municipal bodies;
- budgetary institutions (organizations);
- foreign natural and legal persons;
- persons without citizenship;
- companies, in the charter or share capital of which the Republic of Armenia or its municipalities own a share;
- organizations which have foreign means in the amount of more than 30 per cent in their share capital;
- charitable and religious organizations, international organizations and international non-governmental movements.

If, any of the aforementioned makes a donation to a party or a candidate, the amount is to be transferred to the state budget.

State Support

While the state provides no direct annual subsidies to parties, they are entitled to equal amounts of free airtime on state radio and TV stations (both national and local). Also, state-owned newspapers must provide all contenders with free advertising space in equal portions. In addition, national and municipal authorities are obliged to provide parties and candidates with space to hold pre-election meetings and rallies.

The CEC reimburses the presidential candidates, who have received at least 25 percent of the votes cast in the elections, 50 per cent of the costs during the pre-election campaign, from its means allocated for organization and conduct of elections.

The state does not offer any tax relief to political parties or donors.

Expenditures

Pre-election funds are spent through proxies of the candidate and the party. If the candidate or the party aside from the pre-election fund uses other means for the pre-election campaign, the Court, based upon the application of the CEC recognizes the registration of the candidate or the party list as out of force.

The UEC sets overall spending limits. For presidential elections, each candidate cannot spend an amount exceeding 60,000 times the minimum salary from their pre-election funds. For parliamentary elections, single candidates are prohibited to exceed the amount of 5,000 times the minimum salary but party spending is limited to 60,000 times the minimum salary.

Paid political advertisements are not prohibited by law.

Disclosure and Enforcement

The burden of disclosure is divided between parties and candidates, on the one hand, and banks holding pre-election fund accounts, on the other. The banks submit a notice to the relevant electoral commission on the contributions made to the pre-election funds of candidates and parties once in every three days. These banks are also entrusted with returning the amounts exceeding the donation ceiling. Candidates and parties submit a declaration to the electoral commissions that register them, on the use of the available amounts in their pre-election funds no later than one month after the elections. The CEC establishes the specimen of the declaration and the procedure for its submission. These declarations are published and audited by a special service set up by the Chairman of the CEC.

Furthermore, parties have to submit annual financial declarations, which are also published.

Issues and Challenges

Armenia has chosen special election accounts as a way to increase transparency of campaign funding. While there are no overall income limits for campaigning, each natural or legal person may donate only a limited amount of money. These donations, along with transactions to/from the special accounts are reported to the CEC, which publishes this information.

Although Armenian legislation requires a great deal of reporting, it seems that a good deal of this information is not extensively circulated. The interim reports from banks are not published officially but they are made available to media. Therefore, citizens may not always have official information about who donates and how much. Yet, it is exactly this information that would be very useful to voters before they make their choice in the elections.

Expert assessments indicate that, despite the prohibition to use financial resources other than those deposited in the special election accounts, larger parties tend exploit some schemes of hidden financing of their campaigns. This emerges rather characteristic of "cash economies" and calls for tighter control over the spending part of campaigns. More extensive involvement of the civil society and NGOs in campaign monitoring may bring about some changes in campaign practices of major players.

The existing electoral code seems to be somewhat unclear about sanctions for violating campaign finance regulations. While the election commissions are entrusted with overseeing the observance of campaign legislation and they may turn to the court asking to cancel the registration of a particular candidate of party for elections, the law does not spell out the exact violations, for which one can be punished in this way.

Recommendation

The particular system of special pre-election accounts adopted in Armenia creates opportunities for extensive reporting about the state of a candidate's financial standing, donors and spending level. However, the circulation of this information appears to be limited. Therefore, the state should consider steps to make the relevant information available to larger audiences. Here, publications on the Internet would be highly helpful as they are one of the fastest and cost-effective ways to communicate. These publications could then, be used by media to prepare summaries and analytical reports on campaign finance in Armenia, which are critically important to make an informed choice at the ballot box.

While further openness of campaign finance would contribute to a more transparent electoral competition, steps to reduce the circulation of unregistered cash ought to be taken. One of the measures to be considered is a steep increase of the spending limit or

even an elimination of any spending ceilings. This measure would increase the transparency of funding but it needs to be balanced with an increase in the amount of free airtime allocated to candidates and parties on the national radio and TV.

The Armenian legislation defines rather strict sanctions against violations of campaign finance rules, with declaring the registration of a candidate/list null and void if found guilty. However, the exact violations are not clearly defined and the sanctions appear to be an empty shell. Therefore, the legislators may want to consider a more specific list of violations.

Also, the enforcement of the legislation could be strengthened. As the CEC of Armenia is a rather political body, it may be less likely to enforce campaign legislation strictly. Hence, the usefulness of an independent agency overseeing and enforcing campaign finance legislation. This agency could also explore and fight illicit ways of funding political activities of parties or individual candidates.

Belarus

Institutional Background

The Republic of Belarus has a two-chamber of parliament. However, only the lower house is elected under the majoritarian system. The upper house consists of 56 indirectly elected members and 8 members appointed by the state president. The President is directly elected by the people.

The campaign finance issues are regulated by the Constitution of the Republic of Belarus adopted in 1996 and by the Election Code adopted in 2000.

Income

Financial assistance to candidates is controlled by the state that provides equal and limited funding for all contenders. In order to limit the impact of money on elections, the state establishes a special fund to which donations by political parties, NGOs, companies and Belarussian citizens may be transferred. Other sources are prohibited. Resources of this fund are equally distributed among parliamentary or presidential candidates. The legislation does not set any limits on contributions to this account. These contributions are the only form of non-state financial assistance to candidates permitted by the Belarus legislation.

Direct or indirect financial assistance to candidates from foreign sources is strictly prohibited.

State Support

The state does not provide any financial support to parties per se. However, there exist a number of forms of indirect support to candidates.

Eight state-owned national newspapers are obliged to publish political platforms of presidential contenders and candidates to the parliament. The Central Election Commission arranges for free broadcasts on national TV and radio. However, the amount of the free airtime is not specified in the legislation. Instead, it emphasizes the need for equal access of all contenders to mass media.

The state also provides limited funding to cover printing costs of campaign materials (posters, leaflets etc.). Presidential candidates are entitled to an amount equal to 2300 times the minimum monthly salary, candidates running for the parliament – 50 times the minimum monthly salary. These materials do not require a special printing permit from

authorities. In addition, the CEC publishes posters containing general information about candidates to be placed in voting centers.

Local authorities are obliged to provide space for candidates' meetings with voters free of charge. The state does not provide any tax relief to political parties, individual candidates or donors.

Expenditures

Belarussian legislation does not set any spending limits. As campaigns of individual candidates can be financed exclusively from a single state-operated fund where all the donations must be transferred and natural and legal persons have little incentive to contribute to this fund, the official spending is very low.

The Election Code does not prohibit paid political advertising on radio and TV. However, state allocations to each candidate are given to cover printing costs.

Disclosure and Enforcement

The Election Code does not set any disclosure requirements, as all donations to candidates must be channeled through a single state-operated election fund.

The CEC is entrusted with the task of enforcing campaign regulations. If information about potential violations is brought to the attention of the CEC or local election commissions, the respective commission may ask other state institutions to investigate these cases further. Upon receipt of the verification, the CEC may issue a warning or declare the registration of the violator null and void.

Issues and Challenges

Financing of campaigns in Belarus is heavily regulated by the state. The extent of these regulations has prompted some international institutions to speak of limits on free speech and expression.

The existence of a single state fund, into which donations may be transferred, discourages private donations. Thus, it exists as a theoretical option because no transfers have ever been made to the fund. A more decentralized system of campaign funding would enliven private initiative in the field of campaign finance.

No effective control mechanisms and institutions exist given the existence of widespread indirect hidden financial support to campaigns. A more decentralized campaign funding system would be likely to increase the transparency here. However, reform of the system of campaign finance in Belarus would benefit from a careful analysis of problems and issues facing other post-Communist countries with less "etatist" campaign finance systems.

Recommendations

Two issues in the realm of campaign finance in Belarus emerge as the most important ones and the following suggestions revolve around a decreased involvement of the state in the financing of political campaigns and an impartial enforcement of the legislation.

While the state does not prohibit donations by Belarussian individuals and companies, the existing system effectively discourages any non-governmental financial assistance to candidates. Given the majoritarian election system of the country, special pre-election accounts could be set up to finance campaign activities of individual candidates and these accounts could be designed to be the only legal source to finance the race. Donations by legal and natural persons, resources of the candidate as well as a state contribution (if any) would constitute the income base for these accounts. To avoid excessive impact of money on the election outcome, an income maximum for pre-election accounts per elections could be set.

In order to level the playing field and provide more equal chances for all contestants at the ballot box, the state should continue assigning of and even increase the amount of airtime it provides to candidates free of charge.

The spending under the new system would be limited by the income ceiling of pre-election accounts. However, one needs to take into account the possibility of independent spending on behalf of some candidates. This practice should be eliminated as it does distort the election race.

The system of pre-election accounts offers certain advantages in terms of transparency and administration of funding. It allows for a rather easy oversight over a candidate's financial transactions and the origins of funding. In the case of necessity, banks can be entrusted with the task of regular reporting on the state of the pre-election account of each candidate, providing the much-needed transparency of financial matters during the pre-election campaign.

The majoritarian system of elections offers a wide range of sanctions against violations of campaign finance legislation – from serious fines up to the loss of the seat (should the winner in a particular district be found guilty). However, it is critical to have an impartial and non-partisan enforcement of the legislation. Otherwise, the whole system would be discredited and enforcement could become a weapon against particular political organizations or candidates.

Lastly, it would be useful to set up a separate body to oversee financial matters of election campaigns consisting of representatives of major political parties operating in Belarus. A broad-based institution is likely to be a better warrant against narrow interests of competing candidates.

Bosnia and Herzegovina

Institutional Background

Bosnia and Herzegovina has a bicameral legislature. The House of Representatives has 42 members, elected for a two-year term by proportional representation, 28 members elected from the Federation of Bosnia and Herzegovina and 14 members elected from the Republic of Srpska. The House of the People's has 15 members, 10 elected by the Federation of Bosnia and Herzegovina Assembly and 5 members by the Bosnian-Serb Parliament.

The Parliament passed an Election Law only in August 2001, after protracted negotiations among the political parties. This law substituted the previous legal arrangement - the Rules and Regulations of the OSCE Provisional Election Commission (PEC) –, which had governed each election since 1996, despite the fact that these regulations were prepared to serve only one election.

Election campaign finance regulations were first prescribed in the PEC Rules and Regulations for the General Elections, which took place on 11 November 2000. In addition, the Law on Party Finance was passed in July 2000. The currently active rules on campaign finance were introduced by the Election Law of 2001.

Income

Generally, in Bosnia and Herzegovina, a party can obtain funds from the following sources:

- membership fees;
- contributions from legal entities and natural persons;
- income generated by property owned by the political party;

- budgets of Bosnia and Herzegovina for financing of the parliamentary groups or any subdivision thereof;
- profit from the income of the enterprise owned by the party (these include only enterprises involved in publishing and cultural activities). In addition, revenue from property and enterprises cannot exceed 20% of the total annual income of the party. The outstanding amounts are to be given to charities.

The maximum amount that may be donated to a party/candidate cannot exceed 8 average monthly salaries - for the November 2000 elections the limit stood at DEM 3,656 (USD 1,742) per year. Parties/candidates cannot accept donations from state-owned companies, or private companies with more than 25% public capital. The above-mentioned limitations were introduced for General Elections held in 2000.

State Support

Direct public funding of overall campaign expenses totals, on average, fifty percent of the overall expenditure limit. Besides, political parties that are represented in the governments are financed through the respective budgets. 30% of the subsidy is shared equally among the political parties – the rest is distributed among them in proportion to the seats they control in the chamber.

The state provides indirect support through a system of tax benefits: if a company donates a certain amount of money to a political party, then the company is not paying taxes for this amount of money.

Further, each political party is given equal time on public radio and television in order to present its platform free of charge. The precise formula of allocation of free time is given by a ruling of the Election Commission before every election.

The OSCE is permitted to provide campaign support in the form of in-kind assistance political parties, coalitions, lists of independent candidates and independent candidates, which support multi-ethnicity have a priority in in-kind assistance. This provision was introduced in 1998.

Expenditures

A political party/candidate running for elections cannot spend more than 1 KM (USD 0.488) per voter in each electoral district for the purposes of election campaigning. The above-mentioned limit was introduced for the 2000 General Elections, and was adopted in the new Election Law as well. The Election Commission must publish the Central Voter List, which is the authoritative basis for the setting of the expenditure limits.

All broadcast and print media shall abide by the Independent Media Commission Code on Media Rules for Elections. This code prohibits paid campaign ads in the public media.

Disclosure and Enforcement

The Election Law prescribes as an obligation of political parties to submit a financial report at the time of submission of Application for Certification (for participation in elections). In addition, within 30 days of the publishing of the electoral results, the parties must submit a supplementary financial report for the period the day of certification to the verification of the election results. These reports should include the following information about all incomes and expenses before and after elections:

- cash-flow;
- all incomes and expenses in relation to membership fees, contributions from abroad, contributions from individuals and legal persons, goods and services, property and operational income, loans, donations, rebates, refunds, other expenses and other resources.

- proof of identification for persons or sources of all incomes and in-kind contributions, as well as identification of a person who received a payment if over 100 KM, with a date and amount for each transaction.
- total amount of all expenses including direct campaign costs, business expenses, costs related to entrepreneurial activity, and other costs.
- amount and type of outstanding debts and obligations owed by or owed to the person or organization submitting the report.

Individual candidates are required to submit a Financial Disclosure Form to the Election Commission. Personal property statements should include information for the candidate, as well as information about close family relatives – spouse, children and dependants. To be reported are the current revenues and sources of revenues received in Bosnia and Herzegovina within the previous year; all assets including cash, bank accounts, shares, promissory notes, bonds, real estate, personal property, tenancy rights and other assets in excess of 5,000 KM. Loans and debts are to be reported as well. The property statements must be made public by the Election Commission.

For the elections carried out by the OSCE, the Provisional Election Commission (PEC) established the Election Appeals Sub-Commission (EASC) in May 1996; it officially ceased operations in April 2001. The EASC's mandate was to investigate and to adjudicate complaints involving violations of the PEC *Rules and Regulations* and other provisions.

Sanctions for failure to abide by the rules on disclosing campaign finance details were prescribed by the Election Appeals Sub-Commission. The EASC was entitled to impose disciplinary measures and/or fines on all individuals, candidates, political parties, coalitions, list of independent candidates, or bodies for breaches of certain provisions. More specifically, the EASC was entitled to:

- ban a political party, coalition, list of independent candidates or an independent candidate from running for election.
- annual certification of a political party, coalition, list of independent candidates or an independent candidate already on the ballot paper.
- remove a name of a candidate from the list and not allow his/her replacement.

The EASC could also impose sanctions such as reprimands and other measures. The PEC defined the rules for disclosure of financial details and determines the content, form, method and other reporting requirements. The PEC made all reports available for public scrutiny and undertakes measures in order to make sure all citizens have equal access to information in reports.

Under the new legal arrangements, the Election Commission is responsible for the establishment of a financial auditing service, which will review and audit financial reports submitted by the political parties. If no irregularities are found, the auditor issues a certificate, which will include information on which regional offices were audited. The auditor's certificate is attached to the financial report, which is published in the official gazette. However, if complaints are lodged, the auditor must refuse to officially confirm the audit, or must alter it in accordance with the complaint. In the event that the financial auditing service believes that a more detailed audit is required, the auditing service will be granted access to the party premises. In cases of irregularities, the Election Commission is empowered to impose fines (for illegally received funds the fine cannot exceed three times the amount of the donation). A party which has failed to submit a certified report shall be denied the right to participate in elections.

Issues and Challenges

The Bosnian system of campaign finance is an interesting case in which there is an effective disclosure and reporting mechanism engineered and realized with the help of substantial foreign assistance. One of the major worries is whether the model is self-

sustainable – in other words, whether it could be preserved in the absence of significant foreign funding and monitoring. From a theoretical point of view, the Bosnian case is interesting because it could help to calculate the costs of an efficient enforcement mechanism, in a country characterized by quite difficult political conditions.

These considerations are reinforced by the fact that the model requires a very expensive enforcement mechanism to make meaningful the various types of limits on donations and expenditure, as well as to prevent the tax-deductibility system from abuse.

For the General Elections in November 2000, nine political parties failed to submit their financial disclosure forms within the given deadline. For this breach of rules, the parties were reprimanded and warned that any additional campaign finance violations could affect their right to run for election. Twelve parties did not complete their forms properly, while others omitted the costs related to public announcements, debts, names of loan providers, rent of announcement venues, printing of posters, in-kind contributions, and costs of press advertisements. All parties were reprimanded for these violations. Some candidates were eventually removed from assemblies.

An objection to the model as a whole, which has been raised by some scholars, is the alleged bias in the enforcement of the rules in favor of particular political forces. The enforcement of the rules, it is argued in particular, has been much stricter before the present government came to power, and was relaxed afterwards. Such claims need to be verified before taken seriously, but still their very existence may be a reason for a more careful attention on the enforcement mechanism, and the role of the preferences of the international community in its operation.

Recommendations

An objection to the Bosnian model as a whole, which has been raised by some independent scholars, is the alleged bias in the enforcement of the rules in favor of particular political forces. The enforcement of the rules, it is argued in particular, has been much stricter before the present government came to power, and was relaxed afterwards. Such claims need to be verified before taken seriously, but still their very existence may be a reason for a more careful attention on the enforcement mechanism, and the role of the preferences of the international community in its operation.

As in many countries in the region, the funding of Bosnian elections is heavily dependent on either state funding, or corporate funding. For the time being, these seem to be the only available options, but the problem with them is that they do not encourage broad public participation in the political processes. Hence, the need to ensure a plurality of sources of funding for political purposes.

Instruments that encourage public participation through financial contributions could be the following:

- Matching funds formula of public funding, in which the state “matches” the membership dues and the total of small-size donations collected by the parties. Since the population of Bosnia is not affluent in comparative terms, the matching formula should reflect the difficulties the parties may face in attracting small donations. For instance, the public funding could be double the sum total of small-size donations.
- Instead of tax-relief for corporations (tax-deductibility), a system of tax credit could be designed, which will encourage small donations. Tax credit covers small-size donations (up to USD 500, for instance). If a citizen contributes USD 100 to a party, he or she is entitled to claim back part of this amount (say, USD 50.00) from the tax authorities. (A similar system of tax-credits exists in Canada.)

Sanctions against political parties violating the rules should be envisioned. The most effective sanctions of this type are fines and forfeiture of state funding for a certain period of time. A sophisticated system of fines is worth introducing in Bosnia, especially after the relative stabilization of the party system.

Since there are certain complaints about partiality in the implementation and the enforcement of the rules, special measures should be taken to improve the image of the bodies enforcing the laws, and especially the Central Electoral Commission.

Bulgaria

Institutional Background

The National Assembly of Bulgaria has 240 members, who are elected by proportional representation in multi-seat constituencies. The President of Bulgaria is directly elected by the people.

Campaign finance in Bulgaria is regulated by a number of laws on the election of parliamentary representatives as well as in the laws on local elections and presidential elections. Yet, the funding regime has been unstable and experienced notable changes since 1990.

Income

Political parties and individual candidates are not obliged to set up special election accounts to finance their campaigns. Parties and candidates may use their own means, income from assets, membership fees, direct state subsidies, and donations to carry out campaigning. Foreign citizens are also allowed to make donations. There are limitations imposed, however - USD 500 per year for individuals, and USD 2,000 per year for groups of individuals.

The fate of donations has been turbulent as, in a number of elections, there existed no limits but, in a few others, the amount of a single contribution was limited. For the 2001 parliamentary elections, the following limits were effective: BGL 10,000 (USD 4,887) for individual contributors and BGL 30,000 (USD 14,661) for companies.

Donations from foreign governments and organizations, as well as anonymous donations are banned. The political parties are not allowed to receive financial support from public enterprises and other organizations. According to the new 2001 Law on Political Parties, limited anonymous donations are allowed (up to 25% of the state subsidy).

State Support

The 2001 Law on Political Parties provided for annual public subsidies for the political parties. The amount of the subsidy was not fixed by the law but is to be determined by the state budget law. Factor to be taken into account in the distribution of the funding are the number of votes won in elections and seats in the National Assembly controlled by the parties. All parties having received more than 1% of the vote are eligible for state subsidy. The system has not been enforced yet and it is difficult to predict how it is going to operate, because the currently ruling National Movement Simeon II has a negative attitude to public funding and may envisage a minimal state subsidy in the budget for 2002.

The major form of in-kind support during the campaigns is the provision of free or subsidized airtime for parties and candidates (for presidential candidates). As a rule, free airtime is dependent on the seats in parliament the parties control. Only in the first parliamentary elections (1990), the rules for which were negotiated at the Round Table Talks, all parties had equal access to the media, and most importantly, a right to make

one presentation in the beginning and one at the end of the campaign. There were opportunities for the purchase of additional airtime at preferential prices. In subsequent parliamentary elections, there were more generous provisions of free airtime: in addition to the time for presentations, there were opportunities for so-called "thematic debates" in which the PRP had a separate and larger than the others quota. Thus in 1991 the PRP participated in two thematic debates, 90 minutes each, in which the parties had time in proportion to the seats they control in the chamber. Political broadcasts other than the free or subsidized ads on the State Radio and TV are banned. Similar patterns were followed in 1994, 1997 and 2001. In presidential elections, the candidates have the right to an opening and a closing address to the nation, as well as to several presentations during the campaign.

Expenditures

Varying spending limits have been effective since the 1990 elections. For the 2001 parliamentary elections, the following limits were introduced: for parties – BGL 1 million (USD 488,700); for coalitions – BGL 2 million (USD 977,400); for the initiative committees of individual candidates – BGL 200,000 (USD 97,740).

The Bulgarian legislation does not restrict political advertising as long as it complies with overall spending limits for political parties and candidates.

Disclosure and Enforcement

The CEC is entrusted with the duty to supervise the implementation of the electoral legislation. The decision-making procedure for parliamentary elections is by two-thirds majority. The decisions have binding character for the parties' contestants, and the national media. Under the 1991 electoral law, (principles of which were preserved in 1994, 1997, and 2001) the CEC was supposed to be appointed by the president, after "consultations with the representatives of the political parties". In practical terms, this provision gave an opportunity to the big, parliamentary parties to dominate the appointment of this body.

There are no special provisions on disclosure of expenditure and contributions in the electoral law. Depending on the seats in the legislature won by the parties in the elections, the parties have to either return part of the public support or receive additional funds. As mentioned above, many parties failing to secure parliamentary representation did not return the public subsidy: there was no special enforcement mechanism against such a failure. Furthermore, there was no sanction, envisaged by the electoral law, for violation of the expenditure limits. Since there were no special disclosure rules, the Law relied on the reporting mechanism from the Law on Political Parties.

For the period 1991-2001, the only existing reporting provision was in the Law on Political Parties, according to which the parties had to report their income and expenditure within two months after general elections. The 2001 Electoral Law obliged the parties, the coalitions and the committees to hand in their reports to the State Audit Office within one month after the elections.

The 2001 Law on Elections introduced fines for the violation of the electoral rules different for citizens and officials but still relatively low – from BGL 50 to BGL 50,000 (USD 24 to USD 24,000).

Issues and Challenges

The Bulgarian campaign finance rules are in a period of transition. The major change is that direct public funding for elections is being replaced by annual subsidies for the major parties. In theory, this will strengthen the party system and will enhance the party-centered character of the electoral process. There are serious chances, however, that the

amount of the public subsidy envisaged by the budget law for 2002 would be inadequate and symbolic.

Since 1991, the campaign finance system in Bulgaria has relied almost exclusively on private donations – the public support has been of secondary importance and almost negligible in the period 1997-2001. There was willingness on behalf of the former government to increase public funding as both a party-strengthening and an anti-corruption measure. In any event, if the new government does not increase public funding and does not strengthen the enforcement of restrictions on donations and contributions and the disclosure requirements, the model would remain highly susceptible to corrupt practices.

The involvement of the State Audit Office in the supervision and control of party reports is not a major step forward, as many believe. The practice in Hungary shows that in the absence of strict rules on political finance, the State Auditors just rubber-stamp party reports and are instrumental only as far as the accounting of the spending of the state subsidy goes. It seems that the involvement of the judicial system is a more effective means in controlling party finance.

Recommendations

Experience has shown that parties are funded almost exclusively through large corporate donations in the case of Bulgaria. Membership dues account for a tiny proportion of the income of the parties. Therefore, there is a need of non-symbolic public funding to increase the autonomy of the political elite vis-à-vis private corporate interests. Formulae encouraging membership donations and small-size private donations should be used in the allocation of the public subsidy among parties.

Current legislation is deficient in terms of reporting of the donors of the political parties. Even the income and expenditure of the parties, which are to be reported according to the law, are rarely available publicly. Many parties just refuse to report, while the rest file obviously flawed and unrealistic reports. The practice of submitting reports to a parliamentary committee does not ensure even a minimal degree of transparency. The envisaged by the 2000 party law system of reporting to the State Accounting Office is also inadequate, because the Office has no powers to effectively verify the reports. Also, the reporting forms, which are the same as the auditing documents of state institutions, are obviously inappropriate in the case of control over party funding.

The current system in practice does not envisage sanctions even for open and grave violations of the rules. Parties should be fined for filing inadequate reports, or for failing to file a report.

The current arrangement, under which the electoral commission is convened only for elections, cannot ensure systematic and thorough control over the enforcement of campaign finance rules. The commission, as a rule, is overburdened with the organization of the elections, and has little time and resources for control over the financing of parties and candidates.

Independent expenditure in elections is becoming a problem in Bulgaria – often third parties buy products or services, which are instrumental for the campaign of a particular political party. These expenditures are not counted towards the legal limit on party expenditure. The problem is not addressed at all in Bulgarian legislation. One approach is to register all NGOs and individuals that plan to incur expenses during the elections and to impose a limit on them. Another approach is to ban outright independent expenditure. Both of these approaches raise difficult definitional and enforcement problems themselves, however.

Croatia

Institutional Background

Croatia has a bicameral legislature, the Sabor. Both houses of Parliament are directly chosen by citizens by means of a proportional system of elections. There is a 5% threshold for elections to both houses of the parliament. The President of the Republic of Croatia is also directly elected by the people.

A number of legislative acts are relevant for understanding arrangements of party and campaign finance of the country: the Law on the Elections of Representatives to the Croatian State Parliament; the Law on the Election of the President of the Republic of Croatia; the Law on Political Parties; the Croatian Radio - Television Act.

Income

At least 100 adult Croatian citizens are necessary to establish a political party as a non-profit organization. The legislation foresees the following financial sources of parties:

- membership fees
- donations
- income from publishing
- sale of propaganda materials
- state subsidies

Other sources of income appear to be fairly unregulated by the legislation. The laws do not set any limits on individual contributions or the total of donations to political parties. The sources of income are not required to be publicly disclosed. These regulations apply equally to parliamentary and presidential election campaigns.

State Support

Annual state subsidy is divided among parties elected to the lower house of Sabor according to a somewhat complicated formula. One fifth of the total is divided equally among all factions. The remaining 80% are divided per deputy, so that parties with largest factions gain most of the subsidies.

In addition to subsidies, the state reimburses campaign expenses to those parties, the slates of which have garnered at least 3% of the vote nationally, and to those candidates who received at least 6% of the vote in their single-mandate districts. The government sets the total amount for reimbursement at least 30 days prior to elections.

The election law stipulates that presidential candidates who receive at least 10% of votes shall be entitled to equal compensation for electoral expenses and reimbursed from the funds allocated for financing the cost of the election.

During the campaign, parties are entitled to equal access to state TV and radio to present their election platforms and debate campaign issues. This access is granted free of charge. On state TV and radio, additional political advertisements can be placed at market prices. Other mass media are obliged to provide access of political parties on equal conditions (yet, not free of charge).

The CEC also publishes all registered candidate slates in all daily newspapers.

Expenditures

Spending by political parties and individual candidates is not regulated by the law. Expenditure limits are not set in the current Croatian legislation.

Disclosure and Enforcement

The law requires that parties declare their intended expenditures and sources of income prior to elections but does not require a full financial declaration after the elections. The law on political parties defines a number of financial sanctions against disclosure violations. However, it is not clear, which state institution is responsible for enforcing these requirements.

Issues and Challenges

The area of campaign finance in Croatia appears to have few restrictions. The notably liberal approach may have contributed to election campaigns turning into a competition of party financial might.

There are no post-election financial declarations for political parties and candidates. Introduction of such or even annual declarations would contribute to the transparency of party finance in Croatia and reduce speculations in media and among general public.

Also, the law does not specify which institution should scrutinize any party financial reports and does not foresee any penalties for violations of regulations of financial activities. This makes any effective control over campaign finance impossible despite the existence of several financial sanctions against violations of financial regulations.

Recommendations

Although a liberal approach to party/campaign finance has its own advantages, the Croatian system seems to lack a few points of leverage to make electoral competition more fair and transparent.

While spending limits may seem to be an effective measure against skyrocketing campaign costs, unrealistically low spending ceilings prompt parties to employ illicit funding schemes. Therefore, limits on contributions by natural and legal persons appear to be a more effective means of regulation of political money. The exact limit should be set high enough to decrease the temptation of using unregistered donations.

The state subsidies are intended to provide contenders with equal chances of political competition. Once Croatia practices this system, it could be retained but allocations to parties that have been close to clearing the 5% electoral threshold (for example 3% of the vote or more) would add to the legitimacy of public subsidies to political parties.

Further, a meaningful and well-functioning system of disclosure should be established in Croatia. The current practice of disclosing tentative budgets of campaigns prior to the election date is clearly inadequate, as it creates no legal obligations on the part of political organizations. Instead, parties ought to annually submit financial declarations indicating each donor, amount, date and kind of donation. In the election years, parties could be required to submit additional declarations 7-10 days before the election date with the same information. All these declarations should be made publicly available immediately.

On the other hand, sanctions against violations of campaign finance rules have to be introduced in order to make the new system meaningful. Experience of other countries indicates that the sanctions have to be clear and specific for each kind of violation. Also, monetary sanctions (penalties) could be combined with restrictions to participate in the next elections, loss of seats and other serious sanctions.

Lastly, an independent enforcement agency has to be set up to make the system operational. In a number of countries, the CEC is the agency of enforcement. However, the CEC is often a politically appointed institution that is unwilling to conduct proper investigation of possible violations. Moreover, it usually lacks specific skills and experience of carry out investigation activities, and these are typically a monopoly of the police and

the Prosecutor's Office. Therefore, this independent agency should be part of law enforcement of Croatia.

Georgia

Institutional Background

The Parliament of Georgia is unicameral. Its members are elected under a mixed system. The President of the country is directly elected by the people.

Campaign finance issues are regulated by the Unified Election Code of Georgia adopted in August 2001. All the legislation regulating campaign finance applies equally to parliamentary and presidential elections.

Income

The Georgian legislation defines political parties as non-profit organizations. Their income base consists of: (1) membership dues; (2) donations of natural and legal persons; (3) state allocations; (4) party charter-related (restricted) enterprises. Other business activities are explicitly forbidden by the law.

Political parties, however, cannot directly contribute finances to election campaigns. Each candidate or party has to establish a special election fund having an account with a Georgian bank to cover campaign expenses. Only one fund per election subject is allowed. The funds draw money from:

- state subsidies;
- candidate's own means;
- donations from private companies registered in Georgia;
- donations by Georgian citizens and political organizations.

It is administrators of the election funds that are responsible for proper use of the funding. The existing Election Code does not make references to limits of contributions.

It is inadmissible to accept the following contributions to the election campaign fund:

- from other countries;
- from persons or legal entities from other countries;
- from persons with no citizenship;
- from international organizations and movements;
- from non-entrepreneurial legal entities and religious organizations;
- from a Georgian entrepreneurial legal entity, in which there is a State share.

State Support

The state provides direct subsidies to political parties, however, only those parties represented in the parliament are eligible to receive them.

The state offers an in-kind support in the form of printing and disseminating information about candidates and main principles of their political platform. State-owned radio and TV stations are obliged to provide free of charge 3 hours of airtime (1 hour for presidential elections), equally divided among parties and election blocs.

Local newspapers are obliged to publish political platforms of parties and candidates as submitted by them. The CEC determines which newspapers and magazines are required to publish election documents at no charge.

The state offers no tax relief to donors to political parties.

Expenditures

Overall spending by political parties and candidates was limited in past legislation. The expenditure ceiling was set by the CEC. However, the new Election Code does not foresee any spending limits.

Election funds cease to exist no later than 20 days after the consolidation of the final results of the elections. Remaining funds in the account are returned to the contributing persons and legal entities, in proportion to the funds contributed.

Political advertising is not restricted. Paid-for political advertisements on state-owned radio and TV channels are not prohibited. Private media are allowed to sell their airtime for political advertising but the price for TV or radio broadcasting has to be the same for every party. Media companies must provide election commissions with the information on allocation and distribution of airtime.

Disclosure and Enforcement

The CEC is the central enforcing agency of regulations pertaining to campaign finance. It is also the responsibility of the CEC to control the observance of airtime provision regulations.

Victorious parties and candidates are obliged to submit a preliminary financial report within 8 days from the election day. These reports are checked by the Chamber of Control. However, this does not relieve them from submitting a full financial report to the CEC within 2 months from the day the official election results are announced. These reports are also verified by the Chamber of Control and the CEC. While these reports are not published officially, the information is open for public inspection.

Candidates and parties participating in elections, who do not submit a report on the election campaign fund, are banned from the right to take part in elections, including the relevant next elections.

Issues and Challenges

In a way, the Georgian regime of campaign finance resembles that of the neighboring Armenia. It foresees setting up special election accounts to finance campaigns and limiting individual contributions to those accounts. However, there are notable differences between the two countries.

The current legislation foresees no contribution or expenditure limits. It also stipulates that contestants have to submit two post-election financial reports indicating sources of income and spending. However, this provides for only partial disclosure as these reports are used by CEC for internal verification and they are not published. Parties themselves are not obliged to publish their financial reports, and only a few do it in reality. This means that average voters do not have sufficient information about campaign finance issues before making their choice at the polls and civil society has little chance of controlling fundraising and campaign spending by political parties.

The need for more transparency in this area is increasingly felt as many local observers point to tacit violations of campaign finance regulations by using large amounts of cash, circumventing the special election accounts. It seems that stronger involvement of NGOs in campaign monitoring may somewhat remedy these ills.

While this resembles the situation in Armenia, political advertising in Georgia is restricted as political ads on state radio and TV are banned. More comprehensive restrictions on paid political advertising could further cut campaign expenses but the issue of journalist professional ethics would gain tremendous salience.

Georgian legislation demands equal distribution of paid advertising as well. Moreover, if some contestants fail to make use of their share, others are also deprived of proportional share of airtime. However, it is not clear whether this highly egalitarian norm is enforced. It also highlights a broader issue of enforcement.

Most regulations pertaining to campaign finance are enforced by the CEC. However, it is not clear whether this political body can retain impartiality vis-à-vis major political players.

Recommendations

The Georgian system of campaign finance offers a mix of highly liberal elements (no spending and income limits) with notable state involvement (public subsidies; partial ban on political advertising). Harmonization could lead a more effective and fair system.

Although spending limits may appear to be an effective measure against rapidly rising campaign costs, unrealistically low spending ceilings prompt parties to employ illicit funding schemes. Therefore, limits on contributions by natural and legal persons seem to be a more effective means of regulation of political money. The exact limit should be set high enough to undercut the temptation of using unregistered donations.

Georgia has partially banned political advertising – on state radio and TV. However, this creates unequal competition for state-owned electronic media, and – what is even more important – redirects resources for advertising to privately owned media but hardly diminishes them. A ban on political advertising regardless of the form of ownership would clearly meet strong resistance but contribute notably to decreasing the campaign spending.

The system of special pre-election accounts adopted in Georgia creates opportunities for reporting about the financial standing, donors and spending level by each candidate or party. However, these possibilities are far from exhausted *de facto*. Therefore, a better disclosure practice could be adopted: banks holding the special pre-election accounts could regularly report all financial transactions in these accounts, and this information could be made publicly available to the general public and, particularly, mass media. This information would be especially important for voters prior to making their decision at the polls.

As there have been indications that notable amounts of unregistered cash have been used in the election campaigns, the state could encourage involvement of non-governmental organizations in monitoring of campaign finance. While this effort does not warrant against any violations, it offers an opportunity to independently explore and report on issues of campaign finance in Georgia.

Also, the enforcement of the legislation could be strengthened. As the CEC is a rather political body, it may be less likely to enforce campaign legislation strictly. Hence, the usefulness of an independent agency overseeing and enforcing campaign finance legislation. This agency could also explore and fight illicit ways of funding political activities of parties or individual candidates.

Hungary

Institutional Background

Hungary is a parliamentary republic. The National Assembly has a single chamber, and its members are elected under a mixed system. A number of legislative acts are relevant for studying campaign finance of the country, including the 1989 Law on the Election of Members of Parliament (amended in 1994), and the 1990 Law on the Operation and Financial Functioning of Political Parties.

Income

According to the law on the operation and functioning of political parties²³, substantial support is allocated from the national budget to any party, which gains at least 1% of all the votes cast in the parliamentary elections. In addition, a party's funds and property may originate from membership dues; support provided by the national budget, property or funds donated by individuals or independent corporations. Also property or funds left to the party in private individuals' last will and testaments, or funds arising from economic activities, or the post-tax profits arising from corporations or personal companies established by the party serve as sources of income. Parties are not obliged to set up any special election accounts for campaigning purposes.

No contribution limits apply to the donations of foreign nationals, or non-profit organizations.

State-owned corporations and/or financial institutions may not provide a party with support in the form of funds or property, and a party for its part may not accept any funds or property offered by national financial institutions or national corporations. A party may not accept property or funds from the government of another country, or any donations from anonymous sources.

State Support

Hungary provides significant direct funding to political parties. To qualify, a party must gain at least 1% of all votes cast in parliamentary elections. Twenty-five per cent of the total funds provided by the national budget for the support of political parties is distributed equally among parties, which hold seats in the parliament. The remaining 75% of funds are distributed to parties on the basis of votes gained by the parties or their candidates in the first lawful round of parliamentary elections. The amount of funds to be used to support political parties is determined by the law on the national budget. Funds from the national budget are distributed on a quarterly basis.

In addition, each party putting forward candidates for election is entitled to support from the state budget in proportion to the number of candidates presented. Independent candidates are entitled to receive the same amount as party candidates. As in the case of party support, dispensable aggregate funds are determined by the budget.

The most important form of indirect funding is the access to free airtime on the state broadcast media. National broadcasting agencies are obliged to broadcast political advertisements free of charge at least once between the 18th and 3rd days before the elections. On the last day of the election campaign, the Hungarian Radio and the Hungarian Television transmits the electoral summary reports prepared by parties with national lists free of charge. Parties are also supported in their campaign efforts by the provision of public premises and necessary equipment under equal conditions.

Expenditures

The regulation of political expenditures concerns limits placed on political parties and individual parliamentary candidates expenditure. Limits on campaign expenditure of parties account for 1 million HUF (in addition to the subsidy accorded by the state for individual candidates).²⁴ Thus, parties cannot spend more than the national limit and the individual expenditure ceiling multiplied by the number of contested mandates, that is, HUF 386 million (USD 1,364,124).

Paid party political advertisements are not banned.

²³ See: Law no. XXXIII of 1989 on the operation and financial functioning of political parties and Law no. LXII of 1990 (Modification of Law no. XXXIII. of 1989 on the operation and financial functioning of political parties).

²⁴ In 1998, this amount came to HUF 25'819 (approx. USD 88) per candidate.

Disclosure and Enforcement

The Law on Political Parties calls on parties to prepare annual financial reports, which are to be made public in the Hungarian Gazette by March 31. Donations over HUF 500,000 (USD 1,767) as well as the contributions over HUF 100,000 (USD 353) from foreign sources must be displayed separately, along with the names of the contributors. Regulations stipulate that parties and independent candidates running in the national elections must disclose in the Legal Gazette within 60 days of the second round of elections their campaign finance accounts, listing the amounts and breakdown of campaign expenses by category and, more significantly, naming their financial sources.

In terms of enforcement, the National Auditor's Office is entitled to check the legality of political parties' financial affairs. The National Auditor's Office (AZS) carries out a yearly audit of those parties, supported by the national budget in any given year. If the AZS finds that a party has violated the law in its financial dealings it provides directions to rectify affairs in accordance with the law. In the case of a serious breach of the law, or if a party does not adequately comply with the AZS' directions, the Chair of the AZS calls for legal proceedings in a court of law against the party. For instance, those parties found to have exceeded HUF 1 million (USD 3,534) campaign expenditure limit must pay twice the unlawful amount to the treasury.

Issues and Challenges

State funding of political parties is an important factor in the operation of Hungarian democracy. Already in 1990 the proportion of state funding in the total party budgets accounted for 93% of the Independent Smallholders' Party budget, 88% of the Christian Democratic People's Party budget and 24% in the case of the Hungarian Socialist Party. However, critics believe that Hungary should reform its state funding and introduce tax credits for donations to political parties as a way to galvanize small and medium donations.

Further, in Hungary, the current limits on campaign expenditure of political parties need to be increased as their level is artificial.

In terms of campaign finance disclosure the issue of donations in kind is not sufficiently regulated by current legislation. Finally, the ASZ is not empowered to initiate investigation if it judges the books of a party to be suspicious. The suggestion of ASZ in 1993 to introduce a penalty amounting to 15% of public subsidy received has to date not been accepted. Thus, a system of public financing without full disclosure and an enforcement backed by legal sanctions may encounter problems in a longer run. Such an enforcement agency in Hungary seems to be in need of a strong authority endowed with legal powers to supervise, verify, investigate and if necessary institute legal proceedings.

Recommendations

According to the ASZ, the only expenses qualifying as campaign expenses are those classified as such by the nominating organization, and which appear in the bookkeeping records before the accounting deadline. The law does not define the concept of the election campaign from a financial point of view, or the expenses that may be included under the concept of election expenses or the campaign period. The regulations on the publication of the report also require completion and more accuracy. The law remains too vague on the financing of the campaign, which allows for too many different interpretations regarding what is and is not campaign spending.

The law contains no penalties for election-related violations. It states that certain acts are illegal, such as breaking the campaign silence, but says nothing about a penalty for such violations. In connection with the election of eight MPs during the recent by-elections, two parties (the MDNP (*Hungarian Democratic People's Party*) and the Green Democrats) published their data beyond the limits of the deadline, while one nominating organization

(the Third Side for Hungary Association) has not published any reports to date. The law does not sanction the failure to publish the information in question.

According to the Law on Political Parties, the ASZ biennially audits the financial management of the parties that receive subsidies from the state budget on a regular basis. Disclosure makes little sense if information is not made available in a timely and comprehensive manner. There is a strong argument in favor of at least an annual audit of parties' finances.

The procedure for candidate's registration is open to abuse or at least accusation of abuse. All eligible voters are sent a candidate nomination coupon, on which is printed their name, address and ID number. Each voter is then entitled to write on this coupon the name of the candidate they would like to propose for candidature in a Single Mandate Constituency. According to the OSCE, the method of using nomination coupons for candidate registration should be reconsidered, since there were allegations of buying the coupons from eligible voters.

Latvia

Institutional Background

Latvia is a parliamentary republic. Deputies to the single-chamber Saeima are chosen through the proportional system. The parliament also elects the president of the country.

The Law on Public Organizations adopted in late 1992 laid guidelines for organizational structure and stipulated the registration procedure of political organizations. But it was vague on funding. The 1995 Law on Party Financing and the 1995 Law on Parliamentary Pre-Election Campaigns laid out more detailed regulations.

Income

The 1995 Law on Party Financing introduced a number of important limitations on previously almost unregulated field of political finance. Campaigning expenses are to be covered from party accounts. According to the law, the legal sources of income for a party are:

- membership dues;
- donations (by both natural and legal persons);
- profit from party enterprises;
- other income not prohibited by the current legislation.

A single benefactor (natural or legal person) is not allowed to donate more than LVL 25,000 (USD 41,700) per year per party.

Parties are prohibited to receive donations from enterprises where the state or a municipality holds 50% of shares or more, from state or municipal institutions, from religious organizations, from stateless persons as well as from foreign or anonymous sources. If an anonymous donation is received, it has to be transferred to a separate fund controlled by the Ministry of Justice, which subsequently redistributes those donations to all registered parties. The legislation specifically prohibits setting up foundations for the purpose of financing a political party.

State Support

The law does not foresee any direct state subsidies to political parties. Moreover, parties do not enjoy any taxation privileges or exemptions although they (just like other non-profits in Latvia) do not pay income tax. Similarly, donations to political parties are not tax-exempt.

The Law on Pre-election Agitation before Saeima Elections lays out basic rules regulating the use of advertising in public media in parliamentary election campaigns. Most importantly, it foresees limited amount of free airtime on national TV (two 10-minute segments) and radio (two 10-minute segments) for all slates registered for the respective parliamentary elections. It also provides for adequate in-kind compensation to other slates if one or several slates have been given free airtime in addition to the amounts specified in the law.

Another form of indirect state support is publication of political platforms of parties running in the elections free of charge. The text of the programs cannot exceed 4.000 characters. These publications are freely available.

Expenditures

There are no limits on the total campaign spending or income as long as a party complies with limitations for individual donations. Also, parties are not obliged to submit special pre- or post-campaign financial declarations.

Advertising is *de facto* unlimited, and the legislation does not require equal price policy for all contenders in either state or private media.

Disclosure and Enforcement

Since 1995, all registered political parties have to submit annual financial declarations to the Ministry of Justice and the State Revenue Service, containing detailed information about the amount and the sources of income as well as aggregate data on spending. These declarations are freely accessible after publishing them in the official gazette "Latvijas Vēstnesis". Failure to submit a declaration on time may result in disbanding the party following a court order.

The Ministry of Justice is the foremost institution entrusted with enforcing party financial regulations. The National Council of TV and Radio supervises allocation of free airtime on public radio and TV and also observance of laws regulating pre-election campaign in the media.

The sanctions for violations are weak and primarily of administrative character.

Issues and Challenges

Latvia is one of the few Eastern European countries where there are no direct state subsidies to political organizations. Parties themselves support introduction of the subsidies and a draft law is already in the legislative pipeline. However, future prospects of the draft are notably unclear as an absolute majority of voters oppose the move.

Instead, they favor more transparency and accountability in the area of campaign finance. While financial declarations are submitted annually, they are not sufficiently scrutinized and verified against other readily available sources of information. This contributes to the use of unaccounted-for funds to cover campaign expenses, which leads to distorted political interactions.

Another area of concern stemming from insufficient financial control is political advertising. While there are no limits on paid political advertising, the legislation requires it be clearly demarcated from other ads in broadcasts. This stipulation is not always observed and hidden advertising is a common practice on TV.

Recommendations

Given the notably liberal regime of party finance in Latvia, a number of suggestions have been made to increase the involvement of the state and introduce direct public subsidies

to political parties. However, the public has a clearly negative attitude towards such a move, and it may turn out to be counterproductive for a number of reasons.

Rather than relying on injection of additional financial resources into party accounts, which would ultimately lead to inflation of advertising prices, it may be useful to create incentives to alter the strategy of election campaigns.

Heavy restrictions on paid-for political advertising on radio, TV, and in print media would lie at the heart of an alternative approach. Instead, the total of free air-time given to each of the registered slates should be substantially increased and divided into smaller segments so that they can be used for broadcasting of short ads. A considerably increased amount of registration deposit would serve as a deterrent to small, opportunistic political organizations. The frequency of reporting would also be increased in election years to gain fuller information about the sources of funding of contenders. While the current annual limit for donations (USD 41,700 per year per party) could be kept intact, an independent controlling unit ought to be set up to implement the legislation on party financing and control the financial declarations of parties. That unit could be part of the Latvian Anti-corruption Bureau that is in the process of making.

Clearly, both models have their advantages and drawbacks. Direct subsidies create a reasonably stable and secure income basis for major parties. As such, they are ideal for covering routine costs like administrative expenses and staff salaries, which in turn creates more favorable conditions for organizational strengthening of political parties. The system of state subsidies would be an easy-to-administer solution that could be presented as a major anti-corruption measure. Further, it enjoys wide support among the political elite and would bring Latvia in line with many other European countries.

However, apologists of this approach tend to disregard an important financial fact. Simple calculations demonstrate that the total amount of subsidies disbursed over a full electoral cycle of four years would barely cover 50% of the 1998 campaign costs alone (municipal elections not counted in!). Moreover, the campaign costs continue to rise. These calculations disregard the likely increase in administrative costs of parties after the state subsidies are introduced.

The alternative proposal of dramatic reduction of political advertising in mass media would sharply cut the spending level, given the structure of campaign expenses in Latvia. Thus, it would also reduce the acute need for funding and create conditions for changes in the relationships between parties and major donors.

Lithuania

Institutional Background

Lithuania has a semi-presidential political system. The single-chamber Seimas is chosen through a mixed election system and the state president is elected directly by the people.

In Lithuania, the area of campaign finance is regulated by a number of legislative acts: the Law on Presidential Elections; the Law on Elections to the Seimas; the Law on Elections to Local Government Councils of the Republic of Lithuania; the Law on the Control of the Funding of Political Campaigns of the Republic of Lithuania. The many laws lay out a fairly strictly regulated regime of campaign finance.

Income

Pre-election campaigns are financed out of special accounts set up by respective parties or candidates. The legislation prohibits financing a campaign from other sources. If the State Tax Inspectorate establishes that payment for electoral campaign items or services was

made from funds other than the special election account, the amount paid shall be recovered without suit from the receiver and transferred to the State budget.

Money from these sources accumulate in the special accounts:

- financial resources of political parties;
- candidate's own funds;
- state subsidies (via parties);
- donations by natural and legal persons.

No limit is set on the donations of financial supporters, however, the amounts transferred to the special election account shall not exceed a fixed limit. In a parliamentary election campaign, the maximum amount of money permitted for campaigning shall be in the amount of 50 average monthly wages (AMW) for an individual candidate in a single mandate district and 1000 AMWs for lists of candidates in a multi-member district²⁵.

If the amount of money transferred to the election account exceeds the established sum, the surplus is to be transferred to the State budget. However, such a miscalculation on the part of political organizations has never been reported.

Parties and candidates are prohibited to accept resources (gifts and donations in cash) from state and municipal institutions and organizations, in which the state or a municipality owns more than 50 per cent of shares. It is prohibited to receive funds from legal and natural persons of foreign countries, with the exception of citizens of the Republic of Lithuania and persons of Lithuanian origin as well as branches of party or political organizations of the Republic of Lithuania founded in areas populated by Lithuanians. Anonymous donations exceeding USD 25 are also banned.

State Support

Direct state subsidies to political parties were first introduced in 2000. Parties that have gathered at least 3% of votes in parliamentary and municipal elections are eligible for the subsidy. The total of state allocations to all parties cannot exceed 0.1% of the state budget. The actual amount of the subsidy to each party depends on the number of votes garnered. Presidential contenders receive a subsidy of USD 2,500 each.

Funds from the state shall be used to pay for the time on state radio and TV, for the printing of campaign poster of a candidate in one-candidate electoral area, as well as for publishing election programs and lists of candidates in newspapers. For example, in the 2000 elections to the Seimas, this amounted to 9 per cent of the total state resources allocated for the elections to the Seimas.

Both parties and candidates running for the Seimas as well as presidential contenders are given limited free airtime on national TV and radio to present their political platforms.

The Lithuanian legislation provides for no tax discounts for legal or natural persons donating money to political parties or special election accounts.

Expenditures

Expenditure limits are not set in legislation but they exist de facto. As the campaign efforts can be financed from special election accounts only and as there exists an overall limit for each such account, the spending cannot exceed this limit.

Disclosure and Enforcement

All resources (gifts and donations in cash) shall be registered in gift lists indicating the name and address of the supporter. Ten days before the election, political parties and

²⁵ In 2000, the average monthly salary equaled LTL 1,100 or USD 275. Hence, the spending limit in single-mandate districts was USD 13,750, in multi-mandate districts USD 275,000.

candidates are required to file with the CEC reports concerning the funds received and their utilization. They also have to submit the list of all financial supporters.

Twenty-five days after the announcement of final election results, final reports concerning sources of funds and their utilization is to be filed. Relevant documents justifying all income and spending shall be attached. If a party fails to file the report about the latest election it will be required to pay a double deposit to submit candidates for registration in the next election.

The reports are supposed to be reviewed by the State Tax Inspectorate, which issues its conclusions. Then the CEC publishes the final reports, lists of sponsors and conclusions of the Tax Inspectorate in press and on the Internet.

The legislation, however, does not provide for serious sanctions against violators of campaign finance regulations. Only forgery of financial declarations is a criminal offence.

Issues and Challenges

The Lithuanian system of campaign finance has recently been changed by introducing direct state subsidies to political parties. It remains to be seen what effects this move will have on the overall patterns of funding the political activities.

After the Law on the Control of the Funding of Political Campaigns came in force, voters and public authorities were enabled to control the funding of political campaigns. Presently, voters have a better understanding about who provides financial support to political parties and candidates. A problem is created by the lack of the universal declaration of income, which makes it impossible to check whether the funds of the supporter of a political campaign have been gained in a legal way.

However, one has to keep in mind that introduction of separate election accounts *per se* does not enhance transparency in campaign funding. This appears to be particularly true for cash-based economies where many financial transactions are done unrecorded. On the other hand, use of hidden funding seems to be rather low due to high spending limits.

In early 2001, the Lithuanian State Tax Inspectorate announced its findings about party electoral campaign financial reports for parliamentary elections of 2000. It appeared that some parties and candidates had not opened the special election account and financed electoral campaign by cash. Another common problem was that some donations were not registered in the special donation collection sheets²⁶.

Another issue is anonymous donations. The legislation allows receive small anonymous donations of up to USD 25. In fact, this creates excellent loophole to funnel unidentified resources into party coffers and avoid adequate transparency of campaign funding.

Finally, the lack of noteworthy sanctions for violating campaign finance rules does not contribute to the emergence of fully transparent regime of political funding. However, the Lithuanian media do pay close attention to financial aspects of political campaigns, partly compensating the absence of legal instruments.

Recommendations

It will take some time to fully assess the latest reform of party finance in Lithuania particularly because the introduction of direct state subsidies is to be regarded as a profound change. However, there seems to be room for further improvements.

²⁶ Nerijus Prekevicius. Lithuanian Political Parties after Introducing State Subsidies. Paper presented at the conference "Party Finance and Corruption" held in November 2000 in Riga, Latvia.

It appears that state subsidies do not fully compensate for routine and campaign expenses of political parties. Therefore, individual and corporate donors also support Lithuanian political organizations. Given the trend towards an increase in campaign spending, there will likely emerge a growing pressure to increase the overall income limit for campaigns of single candidates/slates or even remove it completely. Campaign expenses in new democracies seem to grow faster than the average wage (which is at the heart of the Lithuanian limits), and unrealistic income ceilings will prompt parties/candidates to use hidden schemes of campaign finance.

The Lithuanian legislation has left a serious loophole obscuring the transparency of party finance in the country – the source is not required to disclose for donations less than USD 25. Therefore, parties have a perfectly legal channel to transfer large amounts of money of unknown origin to their accounts. The importance of this channel may well increase after the enforcement of the existing legislation on party/campaign finance is strengthened. Eliminating this opportunity would be a contribution to the transparency of funding of politics in Lithuania.

Lithuanian experts have pointed out that the legality of a donor's funds is impossible to prove due to a lack of universal income declarations. Introduction of such declarations would help not only increase the transparency of party finance but also assist in fighting money laundering.

Despite a rather detailed legislation, a number of individual candidates and parties have failed to comply with legal requirements pertaining disclosure over the last several years. This behavior is facilitated by a lack of sanctions against violation of party finance legislation. Only forgery of financial declarations constitutes a criminal offence. This clearly calls for introduction of serious measures, which, in the case of Lithuania's mixed election system, can easily include loss of the seat in the Seimas if the victor in a single-member district is found to be guilty of violating campaign finance rules.

Lithuanian media have been active in monitoring and analyzing financial reports submitted by political contenders. However, there appear to exist opportunities for increased accountability in this realm, particularly after tighter sanctions are introduced. An independent agency for control and enforcement of party/campaign finance legislation seems to be appropriate as the existing state of affairs partly stems from weak enforcement. Such an agency could be placed under the control of the state president who, under the Lithuanian constitution, is directly chosen by the people.

Macedonia

Institutional Background

Macedonia is a Parliamentary republic. The parliament of Macedonia consists of a single chamber. Its members are elected under a mixed electoral formula. The Macedonian president is elected directly by the people.

The general rules on campaign finance in Macedonia are laid down in the 1994 Law on Political Parties and they apply to both parliamentary and presidential elections. The 1998 law on parliamentary elections introduced a number of modifications for parliamentary campaigns.

Income

During election campaigns, all contributions are to be channeled through bank accounts designated for electoral funds. According to the 1994 Law on Political Parties, the lawful sources of funding of political parties in Macedonia are:

- membership dues;

- private contributions and bequests;
- income from own assets;
- the state budget.

According to the law on political parties, there are limits on contributions both by individuals and organizations. During election campaigns a contribution could not exceed 200 times the average monthly salary in the country as determined by the Republican Institute of Statistics. Outside of election periods, contributions may not exceed the average salary 100 times. (Currently, the average salary stands at around USD 147).

Donations are prohibited from foreign organizations and individuals, state and local authorities, and enterprises owned by the state. In 2001, the Constitutional Court of Macedonia invalidated part of the party law, according to which the parties could own firms. Currently, the political parties have no right to own companies.

Apart from the general restrictions in the party law, the parliamentary election law of 1998 introduced another restrictions – campaigns may not be financed by citizen associations, ethnic or religious foundations.

State Support

All parties who have obtained more than 3% of the vote in national elections but are not represented in the Parliament are entitled to an equal share of 30% of the total state subsidy for political parties. The remaining 70% is divided among the parties represented in the parliament in proportion to the seats they control in the legislature.

Besides, those parties that have elected candidates in the parliament have the right to reimbursement of electoral costs – they receive 15 MD (USD 0.23) for every vote they have received in the elections. The same principle was introduced for the 1999 presidential elections. In addition, presidential candidates who go to the second round of elections receive another 15 MD (USD 0.23) for every vote they get in the second round.

According to the parliamentary electoral law, two-thirds of all budget funds appropriated for elections go for the administration and the organization of the election, and only one third is for the reimbursement of the electoral costs of the contestants.

Limited indirect state funding is also available. Local authorities provide space for posters for parties and candidates. The parliament may introduce a scheme providing free access to the public media before every election.

Expenditures

In 1998, an overall expenditure limit for both candidates and parties was introduced. For candidates it was 15 MD (USD 0.23) for every registered voter in the electoral district. For parties – 15 MD (USD 0.23) for every registered voter in the single national electoral district. The same rules were included in the presidential election law of 1999. However, there are no general restrictions on political advertising either in the party law or in the parliamentary election law.

Disclosure and Enforcement

The law on political parties requires that the political parties keep records of their income and expenditure, and stipulates that the sources of funding of the parties must be made public.

Disclosed must be the type, the amount, and the source of funding. As envisaged by the party law, control over the reporting procedure is exercised by the state financial control organs.

The only meaningful sanction envisaged by the Law on Political Parties is a fine amounting to two average monthly salaries for the financially responsible person of a political party, who fails to produce evidence relating to donations received by public enterprises and organizations.

The law on parliamentary elections introduces a number of enforceable sanctions. Firstly, there are fines for the parties in cases of violation of the designated electoral account principle - 200,000 –300,000 MD (USD 3,000 to USD 4,500). Similar fines for parties apply if they fail to produce the necessary reports of their finances, as well as in cases of violation of the overall expenditure limits. The financially responsible persons in the parties are also to be fined in cases of the above-mentioned violations. Also, if contestants use funds that are proven by a court verdict as acquired by criminal means, their election could be nullified – this applies to both parties and candidates.

Issues and Challenges

The problems with the Macedonian model could be mainly with its enforcement. Both the presidential and the parliamentary elections in the country were marred by various allegations of fraud and manipulation of the electoral results. Usually, electoral fraud is a much more difficult for perpetration crime than campaign finance violation. The widespread character of electoral fraud would suggest that campaign finance violations, which go unpunished, are even more common. If this is true, the focus should be on the improvement of the enforcement agencies (CEC and its branches).

Also, the amount of the sanctions and the restrictions on expenditure and contributions should be fixed in the right way. In general, limits on expenditure and contributions should not be unnecessarily restrictive and damaging for the right of freedom of expression. They should not be set very high as well, which would make them meaningless.

It seems that the prohibition of paid electoral advertising in the mass media is more efficient in the countries of transition than overall expenditure limits. This is so because its enforcement and monitoring are much easier. Therefore, if there are problems with the implementation of the laws, a move towards the introduction of restrictions on the purchase of airtime and space in the printed media might be more efficient. This should be balanced against the right to freedom of expression, however.

Recommendations

The biggest problem in Macedonia seems to be the lack of transparency in the area of party and campaign funding. There is no efficient mechanism of public disclosure of the accounts of parties and candidates. Moreover, the enforcement mechanism is weak – the envisioned sanctions are small and non-effective. Reports by international organizations have indicated that there are problems with the regulation of campaigns especially in the print media. The lack of adequate regulation leads to the reliance by the media on internal rules, which sometimes may lower the quality of the campaign and contribute to its over-partisan character.

Also, the amount of the sanctions and the restrictions on expenditure and contributions should be fixed in the right way. In general, limits on expenditure and contributions should not be unnecessarily restrictive and damaging for the right of freedom of expression. They should not be set very high as well, which would make them meaningless.

The institutional strengthening of the role of the CEC may contribute to the improvement of the enforcement of campaign funding rules. Other options, which are worth considering, include the involvement of the State Accounting Office, or the Constitutional Court as bodies reviewing party accounts. Judicialization of the review seems to be an appropriate option for Macedonia, because of the over-politicization of the other branches of power in the country. Moreover, the Constitutional Court of Macedonia has proven its readiness to interfere with public funding by taking a major decision on party firms in 2001.

Moldova

Institutional Background

The rules on campaign financing in Moldova are part of the Universal Electoral Code, adopted on November 21, 1997. The Code, however, mainly deals with the financing of the CEC by the state, and has no detailed rules on campaign financing *per se*. The law on political parties provides additional regulations of campaign finance.

Income

The Moldavian legislation provides for creating special electoral accounts to finance election campaigns of political parties and candidates. The electoral accounts accept contributions from Moldavian corporations and individuals, as well as personal funds of the candidates.

The Law on Parties and Other Public-Political Organizations provides that the funds of the parties come from:

- Membership fees;
- Income from publishing activities;
- Donations from corporations and individuals;
- Income from sales of books.

As a rule, limits on contributions exist, and they are set by the CEC before every election.

A number of financial sources are prohibited. Electoral accounts may not accept contributions from foreign states, citizens, organizations or agencies, stateless persons, charities and religious organizations or Moldavian citizens who are less than 18 year old. Anonymous donations and contributions from organizations financed by the Moldavian state budget are also banned.

State Support

There are no forms of direct public funding for political parties but the state offers interest-free loans to parties and candidates. The amount of the loans is to be determined by the CEC. Candidates who gather less than 6% of the vote are required to repay the loan within two months after the elections. Others have to return them within four months after the elections.

Another form of indirect state funding is the free access to the media. The financed by the state budget media (both electronic and the press) provide free airtime (or space) to the candidates and parties, for the announcement of their programs and for other election-related materials. The media must also provide free time for political discussions among the candidates. The production costs of the media spots are to be covered by the electoral contestants.

Candidates have the right to paid leave during the campaign, as well as to compensation for travel costs incurred on the territory of their district (except for taxi fares).

The local authorities are obliged to provide electoral contestants with facilities for meetings with voters. The local authorities also provide the contestants with free space for electoral posters.

Expenditures

Campaign spending is limited by law. For parties and electoral blocks the limit is set at 1million Lei (approx. USD 78,700), for independent candidates it is 30,000 Lei (approx. USD 2,360). However, political advertising is not restricted (within the overall spending limits).

Disclosure and Enforcement

The burden of reporting is placed largely on commercial banks that have opened election accounts. It is the banks that inform the CEC about contributions to the electoral accounts of candidates and parties within 24 hours. According to this procedure, not the parties and contestants, but the banks are responsible to provide information for the financial standing of the contestants in the election. The contestants, however, could be asked by the banks about the sources of their income, if they are (somehow) not evident or clear from the wire-transfer.

The candidates present financial reports to the CEC every week. Reports include income and expenditure. CEC announces the reports 'periodically'.

Within a month after the elections, the financial reports of the candidates and parties must be published in the press. Other sources of funding not declared in the 'electoral account' are prohibited.

The Supreme Judicial Chamber (Supreme Court) is empowered to cancel the registration of a candidate in cases of violations of the rules relating to the use of non-declared funds or contributions from foreign donors. The SC should decide on the case within five days, but not later than the day of elections.

Issues and Challenges

The Moldavian system is not clearly party-centered or candidate-centered, and it is not evident which are the major actors in the electoral process: are they the political parties, or ad hoc electoral alliances and individual candidates. If there is a need to strengthen the party system in Moldova, it could be useful to curb some of the benefits for individual candidates and ad hoc alliances, and to create more institutional benefits for political parties in terms of allocation of free airtime, use of interest-free credits, and other forms of in-kind state support.

Secondly, it seems that the rules are more capable of ensuring transparency of the individual candidates' campaign finances, rather than those of parties and electoral blocs. This is so because of the structure of sanctions: an individual candidate may lose his parliamentary seat in certain cases of violations, while there are no similar sanctions for political parties. This is a general problem, which is very difficult to tackle – the most reasonable answer to this problem is the introduction of severe fines for the political parties. Fines will be effective only against established parties, however – ad hoc electoral alliances may well go bankrupt after the elections, at no cost to their individual members, many of whom could be in parliament, enjoying special immunities. This is yet another argument in favor of making the established political parties major players in the electoral process.

Thirdly, the system of the 'electoral fund' is very difficult to enforce in societies where most of the financial transactions do not use electronic wire-transfer, and where cash payments are predominant. The electoral fund may be just a façade of the party and candidate financing – a lot more goes on in the form of cash transactions. Therefore, it seems that the focus in such societies should not be so much on limits of contributions and overall expenditure, but on restrictions of certain forms of commercial advertising in the press and the electronic media.

In order these restrictions not to lead to infringement of the right to freedom of speech, however, some forms of (indirect) state funding should be provided for, such as more free air-time and media space.

Recommendations

The most important players are political parties and this should be reflected clearly in the Moldavian legislation. However, it seems that the rules are more capable of ensuring transparency of the individual candidates' campaign finances, which is mostly irrelevant, rather than those of parties and electoral blocs. This is so because of the structure of sanctions: an individual candidate may lose his parliamentary seat in certain cases of violations, while there are no similar sanctions for political parties. This is a general problem, which is very difficult to tackle – the most reasonable answer to this problem is the introduction of severe fines for the political parties. Fines will be effective only against established parties, however – ad hoc electoral alliances may well go bankrupt after the elections, at no cost to their individual members, many of whom could be in parliament, enjoying special immunities. This is yet another argument in favor of making the established political parties major players in the electoral process.

The system of the 'electoral fund' is very difficult to enforce in societies where most of the financial transactions do not use electronic wire-transfer, and where cash payments are predominant. The experience from the Russian elections, for instance, shows that the electoral fund is just the façade of the party and candidate financing – a lot more goes on in the form of cash transactions. Therefore, it seems to me that the focus in such societies should not be so much on limits of contributions and overall expenditure, but on restrictions of certain forms of commercial advertising in the press and the electronic media.

In order these restrictions not to lead to infringement of the right to freedom of speech, however, some forms of (indirect) state funding should be provided for, such as more free air-time and media space.

When designing campaign finance regulation for Moldova, one should have in mind the widespread and acknowledged by the government problem of corruption (both in terms of 'state capture' and 'administrative corruption').²⁷ In view of this problem, it seems reasonable to strengthen the 'autonomy' of political actors vis-à-vis donors from the civil society: public funding of political parties, either direct or indirect, may be beneficial for this purpose. This could be combined with restrictions on the forms of expenditure (and mostly the expensive advertising in the press and the electronic media).

Campaigns are poorly funded in Moldova, which lowers the quality of political discussion of ideas. In the absence of other significant sources of funding, public funding may be the only option. Yet, it could be given according to an appropriate matching-funds formula, which would encourage popular participation in the funding of parties (see the section on Bosnia and Bulgaria).

Impartiality of the public media should be also guaranteed. Reports from the last elections show that the public TV of Moldova clearly favored the governmental party. Media campaigning appears to be over-regulated in Moldova, which impedes public discussion.

Finally, since around 35% of the Moldavian population is comprised of national minorities electoral rules and campaign finance rules in particular, should not be designed as to discriminate against minority parties. If a public funding scheme is introduced, it should take into account the existence of minority parties, and should give them resources for participation in a fair competition.

²⁷ See the 2000 report of the World Bank *Anticorruption in Transition*.

Poland

Institutional Background

The Polish parliamentary-presidential system provides for a two-chamber Parliament. The lower chamber (Sejm) is elected under a PR system and upper chamber (Senat) is elected under an FPTP system (from 2 to 4 senators in each constituency), both for a four-year term. The President of Poland is directly elected by the people for five-year term. The political culture of Poland is party oriented and the term political finance applies to the funding of inter-election routine activities as well as campaigns.

As a result of the recent, comprehensive campaign finance reform Poland has completely new regulations concerning political funding. The Presidential Election Law²⁸ and Law on Political Parties²⁹ were reshaped to a large extent. The new Parliamentary Election Law was introduced in May 2001.

Income

In the case of Presidential elections, legal entities and other organizational units can contribute to candidates' campaigns. The financial resources of a candidate's committee should be deposited in a bank account, however funds coming from legal entities, excluding political parties, and from anonymous donors, gained in public collections, have to be deposited in separate sub-accounts.

A different arrangement is used for parliamentary elections. The funds of an election committee of a political party may be derived only from the Election Fund. Financial resources collected for the Election Fund may be derived from transfers of political party own sources, donations (from natural persons only), legacies, and bank loans.

Poland has set limits on all private contributions. In the case of Presidential elections, the total amount of money contributed by an individual for one committee cannot exceed the equivalent of 15 minimum monthly wages on the day preceding the beginning of the election campaign. The total amount of money contributed by another subject, with exclusion of political parties, may not exceed for one committee, more than 100 times of the minimum monthly wage. Moreover, the total amount of contributions that exceed 2 minimum monthly wages, with exclusion of funds gained in public collections, may be paid only by a check, bank draft or bankcard.

The regulatory frameworks have attempted, with varying degree of success, to prohibit certain sources and limit the amount of allowable contributions. The two most common prohibitions on sources concern legal entities and foreign donors. Poland has prohibited all legal entities from making political contributions to political parties and parliamentary candidates. In the case of Presidential Elections contributions from legal entities, excluding political parties, shall not exceed 60% of the spending limit. Financial resources of legal entities contributed for election campaigning may be derived from their profits only. Also, political donations cannot be accepted from any foreign sources.

In addition, Presidential Election campaign expenditures cannot be met from the funds derived from:

- state and municipal institutions;
- state-owned enterprises, and other economic subjects with the participation of the State Treasury, units of local administration, municipal unions and other municipal legal persons, as well as associations and other corporations of units of local administration – excluding public companies;

²⁸ The Act of 27th September 1990 on Election of the President of the Republic of Poland.

²⁹ The Act of 27 June 1990 on Political Parties (Journal of Laws of the Republic of Poland No. 98, item 604; No. 106, item 668 of 1998, and No.46, item 499 of 2001).

- legal entities, excluding political parties, which have used public funds within the two years of proclamation of election;
- subjects dependent, in the meaning of the Act on Public Trading in Securities, on subjects listed in sub-paragraphs 2 to 5;
- individuals, excluding Polish citizens residing abroad, who do not permanently reside on the territory of the Republic of Poland;
- foreign nationals, residing in Poland;
- legal entities who are not located in the territory of the Republic of Poland;
- other subjects who are not located in the territory of the Republic of Poland but have legal capacity to enter into commitments and acquisition of rights on their own behalf;
- legal entities with participation of foreign nationals, excluding public companies;
- foreign diplomatic missions, consular offices, special missions and other foreign and international organizations which exercise the rights to immunity and diplomatic or consular privileges, coming from agreements, acts of law or internationally ascertained customs.

State Support

According to the new 2001 Election Law, political parties receive reimbursement of campaign expenses and also direct annual subsidies. A political party, whose election committee participated in elections, political party being a member of a coalition, as well as the election committee of electors have the right to a subsidy (called *subject allocation*) from the State budget for each mandate of a deputy or senator gained. The amount of the *subject allocation* is established by dividing the amount of expenditure shown in the election reports of committees which have got at least one seat (mandate) by the number 560.³⁰ The expenditures shown in election reports shall participate in the above calculation to the amount not exceeding expenditure limits.

In addition, political parties that:

- formed their own election committee in the elections to the Sejm and have gained in those election at least 3% valid votes given for its constituency lists of candidates for deputies; or
- are members of an election committee in the elections to the Sejm and such committee has gained in that elections at least 6% valid votes given for its constituency lists of candidates - receive, during the term of office of the Sejm, a subvention for its statutory activities paid by the State budget.

Indirect state subsidies have contributed significantly to party financing in Poland. There are various kinds of indirect subsidies but two are of particular importance:

- free broadcasting;
- subsidies for parliamentary groups.

The free access to state radio and television is equally distributed among all presidential candidates. During a general election, parties have the right to broadcast their election programs at no cost on both state television and radio. In addition to that, each election committee may broadcast limited, paid election programs on public and non-public radio and television. Rates charged for the broadcast time cannot exceed 50% of those charged for commercials.

Secondly, an important source of money for Polish political parties consists of specific grants paid to parliamentary caucuses and individual parliamentarians (excluding salaries). The demarcation of different kinds of public funding is a controversial matter; however, these funds should be classified as a source of indirect subsidies for political parties from the state's budget. Political parties would not be able to operate effectively

³⁰ The number 560 is obtained by adding the nominal number of members of the Sejm [460] and of the Senate [100]

without access to these parliamentary resources³¹. For countries with low direct subsidies to political parties these indirect subsidies play an important role for non-parliamentary activities.

Expenditures

The regulation of political expenditures generally concerns limits placed on political parties, or individual candidates (both parliamentary and presidential) expenditure. Limits on the allowable amounts of party expenditure are a common feature; such limits are applied either through a determined ceiling or through a formula (multiplication of average monthly wage). Moreover, the expenditures incurred by an election committee and devoted for election campaigning, realized in the character and methods proper for advertising, including press advertising, shall not exceed 80% of the central limit.

For parliamentary elections, the election committees cannot exceed following spending limits:

- a constituency limit – established for an election committee which, in the elections to the Sejm or to the Senate, has registered a candidate or candidates in one election constituency only; or
- a multi-constituency limit - established for an election committee, which, in the elections to the Sejm or to the Senate, has registered candidates in more than one constituency.

The expenditure limit is calculated as the sum of 1 (one) PLZ for each elector of the country included in the register of voters. According to this formula, the national limit for the 2001 elections is approximately PLZ 29 million (USD 7.01million). In addition, the election campaigning expenditures realized in the manner and on the basis common for advertisements activity, including press publications, cannot exceed 80% of the national limit.

The expenditures of a committee in presidential elections may not exceed the total of PLZ 12 million (USD 2.9million).

Disclosure and Enforcement

In the first stage of democratic transition, Poland adopted a more *laissez-faire* stand towards the control of political finance. Regulations were rather symbolic, and parties had little restriction in seeking financial sources, the laws often failing to provide an independent controlling agency.

Current regulations require that party, independent parliamentary candidates and presidential candidates' accounts be reported (in case of political parties on an annual basis). After the Parliamentary Elections, a committee submits to the National Electoral Commission, within 3 months following the polling day a report, later called "election report", on receipts, disbursements and financial liabilities of the committee, including bank loans and specifying conditions set forth by the lending institution, along with a written opinion of a competent auditor concerning the report. Then, the National Electoral Commission appoints an auditor; the cost of preparing a report is covered by the State Budget. The National Electoral Commission also publishes election reports of election committees in the Official Gazette within a month following the submission of the report.

The regulations concerning the disclosure of private contributions are a common feature to parliamentary and presidential elections in Poland. The National Election Commission facilitates the access to the list of contributions made by individuals for the benefit of an

³¹ Political parties with parliamentary representation receive money through their MPs' and Senators' offices for running their local offices, as well as the necessary equipment for operating these offices, and a certain number of postage-free envelopes for parliamentary correspondence.

election committee of a coalition or to the election committee of the voters. However, in Poland no disclosure is required for political donors.

Issues and Challenges

The Polish case proves that, in countries undergoing political transformation, there should be a clear set of rules and strict control over political funds. Since political parties are not private businesses but perform a public function, their financing is a matter of public interest. Unfortunately, in Poland the issue of legal regulations on the activity of political parties and its finance-related aspects did not receive proper attention in the first years of transformation.

In general, the Polish example of the 2000 Presidential Elections showed that spending limits have proven in practice to be a fiction, having been introduced at an unrealistically low level. Not only have they failed to curb a political finance 'arms race', but their failure has also undermined confidence in the system of political finance regulations.

An additional problem of controlling expenditure is connected with the issue of independent political campaign spending. Before 2000, Poland did not directly apply limits on independent groups spending money on behalf of a political party or presidential candidate during a campaign.

Another issue is related to candidate's individual campaigns. There are severe sanctions applying to election committees in case one of their 1020 candidates (total number of candidates to Sejm and Senate) break campaign finance regulations. Although these provisions seem to have been based on good intentions, the concern remains that they are vulnerable to arbitrary and harsh application.

As a result of the recent political finance reform, a system of considerable public financing was introduced. However, this should be supported by full disclosure and a strong enforcing agency capable to supervise, verify and investigate. Poland has introduced considerable public funding; now it is time to introduce strong public control.

Recommendations

Events in Poland show that a lack of enforcement might destroy any reform. As a result of the recent political finance reform, a system of considerable public financing was introduced. However, the newly created system might be left without a strong enforcing agency, as no additional financial resources were provided to the National Election Commission to meet its new responsibilities.

Enforcement demands an independent agency endowed with sufficient resources to supervise, verify and investigate. The agency's budget should preserve its impartiality, independence and professional conduct. One of the fundamentals of the independence of the National Election Commission would be the stability of its financial situation. A mechanism should be developed which stresses the NEC's autonomy while at the same time retaining a degree of accountability to Parliament for the proper use of public funds. It is recommended that the NEC's budget should be proposed by the CEC to the Parliament. The relevant committee should approve the budget without unnecessary interference.

Further, the reliability of campaign finance data cannot be properly controlled. The outside observer does not have access to all information as money transfers between campaign and party coffers often go unnoticed. Party annual reports are not only published separately from the campaigns report but also a few months later. Only a comprehensive approach to reporting can produce a complete picture. Reporting needs to cover all levels of a party's organization (national and local) and its activity (campaign and routine). As

regards publication of annual accounts of income and expenditure of political parties, the accounts as submitted should have to carry an auditor's certificate.

In general, the Polish example of the 2000 Presidential Elections showed that spending limits have proven in practice to be a fiction, having been introduced at an unrealistically low level. The new national spending limit should be set substantially above the amounts spent by the two main candidates in 2000. A figure of \$10 million is suggested.

An additional problem of controlling expenditure is connected with the issue of third-party political campaign spending. At the moment, third parties do not have a generic definition. The recommendation is that any individual or organization that incurs election expenses should be subject to an expenditure limit.

A further recommendation is related to candidates' individual campaigns. There are severe sanctions applied to election committees in case one of their 1020 candidates (the total number of candidates to Sejm and Senate) break campaign-finance regulations. Although these provisions seem to have been based on good intentions, the concern remains that they are vulnerable to arbitrary and harsh application.

Finally, Polish election-related legislation is fragmented across a number of legislative acts. One possible option would be to integrate the various election laws and procedures in a single election code. This would be a particular advantage given that the recent political finance reform introduced detailed regulations for presidential and parliamentary elections, but has left local government elections and referendums unreformed.

Romania

Institutional Background

The Romanian Parliament has two chambers. Members of both chambers are elected by proportional representation. The president of Romania is chosen directly by the people.

The general model of funding of political parties in Romania is laid down in the 1996 Law on Political Parties. However, the Law on Parliamentary Elections describes the model of campaign finance. All campaign finance rules set out in the law on parliamentary elections apply to presidential elections as well, unless special regulations apply.

Income

According to the current legislation, the lawful sources of political financing are:

- membership dues;
- donations and bequests;
- income from private activities of the party;
- annual subventions from the budget according to the budget law.

The 1996 Law on Political Parties imposes restrictions for non-budgetary resources (donations). These restrictions vary with the character of the year (electoral – non-electoral) and with the source of the donation - individual or corporate. For electoral years donations may amount to 0.01 % of the GDP while they are only half this amount for non-electoral years. A private person may not donate in a year more than 100 times the minimum wage - approximately USD 3,600- while companies may not donate more than 500 times the minimum wage.

The legislation defines a number of prohibited financial sources:

- state institutions;
- state-owned companies and joint ventures with majority participation by the state;

- foreign sources except for foreign organizations with which local parties are affiliated, viewing the European and American party foundations and institutes, in particular.

State Support

Annual budgetary funds³² are allocated by the Parliament and to the parties through the General Secretary of the Government. The total amount may not exceed 0.04 % of the GDP. Subsidies are indeed a significant source of income for Romanian parties. For 2000 this sum represented ROL 48 billion, or approximately USD 2.4 million. The criteria of eligibility for parties are the following: either to have a parliamentary party in either house of the parliament (with at least one parliamentary faction) or have 2 % of the votes for non-parliamentary parties. Three types of subventions are set according to these criteria:

- *base subvention*: (1/3 of the total subsidies) given to parties which have *parliamentary factions* (at least ten deputies) in one of the two Chambers after convening the newly elected legislature;
- *proportional subvention*: a lump sum proportional to the number of MPs.

However, the *total subvention* given from the budget to a party after all these allocations cannot be more than *five times the base subvention*. Therefore, any leftover subsidies are to be given to parties having collected over 2% of the votes nationwide.

Indirect state support takes various forms. Free airtime is granted to political parties represented in the parliament - in proportion of their Parliamentary representation. Other political organizations pay subsidized prices for advertising on state radio and TV. The local authorities provide special places for posters for parties, coalitions, and independent candidates.

Expenditures

The law formally forbids political corruption through donations to political campaigns. It stipulates that all donations consisting of goods and money made with the evident goal of obtaining an economic or political advantage are forbidden.

The spending in a campaign is not limited but paid political advertising through the press, radio and television during the electoral campaign is prohibited.

Disclosure and Enforcement

The list of persons who donate sums amounting to more than 10 times the minimum wage must be published in the Official Gazette no later than the 31st of March of the following year. But this important regulation has proved to be insufficient, as there is no specific control of this norm. Examples are quite notorious: PDSR has failed to publish such a list ever since the law was passed in 1996, it did not publish on March 2000 the list for 1999 though there were quite numerous scandals in the papers about illegal contributions going to this party. Also, the National Liberal Party did not. Even parties that did comply with the law seemed to offer incomplete information. In addition, a party does not have to report contributions as long as the total amount of contributions (from all sources) does not exceed 20% of the state subsidy in a year.

A system of authorized financial agent, registered with the Ministry of Economy and Finance was introduced in 1992. Both parties and independent candidates should have their financial agents. The receipt of funding that is not authorized by the agent is a "petty offence", according to the law, bringing a sanction between ROL 15,000 and ROL 45,000 (USD 1 and USD 3).

³² <http://domino2.kappa.ro/mj/superlex.nsf/Emitent/C861457C667C104BC12564FB003A6E1A?OpenDocument>
text of the law in Romanian only.

Issues and Challenges

The general weakness of the Romanian model seems to be the lack of transparency and the ineffectiveness of the enforcement mechanisms relating to disclosure and the limits on contributions. Several huge political scandals have overshadowed Romanian politics, and party funding was an important element in each of them. Especially problematic is the disclosure of the major donors of the political parties: major parties, as the PDSR and the National Liberal Party have failed to produce the required reports, while the reports of the rest of the parties are, in the view of most of the observers, unreliable.

The lack of sanctions against such types of violations seems to be the greatest problem of Romanian campaign finance, which provides a major incentive for corrupt practices. It is obvious that the system of electoral agent is inefficient in the prevention of violation committed by political parties. Sanctions like suspension of state subsidy, return of state subsidies, and financial fines seem to be much more effective, if set at a proper level.

Other problems, which are not dependent solely on campaign finance regulation, have proven the alleged interference by the government in the workings of the public media during elections. Special sanctions for such types of violations should be provided for, but, most importantly, there should be a reliable and authoritative system of monitoring of the campaign, whose verdict may be used as a basis for the imposition of sanctions.

Recommendations

The lack of sanctions against such types of violations seems to be the greatest problem of Romanian campaign finance, which provides a major incentive for corrupt practices. It is obvious that the system of electoral agent is inefficient in the prevention of violation committed by political parties. Sanctions like suspension of state subsidy, return of state subsidies, and financial fines seem to be much more effective, if set at a proper level.

Electoral laws do not have provisions for disclosure and transparency of financing of parties – a flaw which is amplified by the inefficiency of the general disclosure provisions of the party law. Therefore, specific requirements for disclosure during the electoral campaign and immediately after elections are needed in Romania.

No adequate sanctions are envisaged by the electoral laws, a defect which is not remedied by the party law. Sanctions should be mostly fines, especially when the violators are the political parties themselves. The logic of the arrangements should be to show that it does not pay off to violate the rules.

There is an ambiguity in current legislation on the issue of public funding of elections. Electoral rules authorise the parliament to pass a special law on state subsidies. However, parliament has passed no such law thus far. If there is no public funding, there should be measures eliminating the dependence of the parties on large corporate donations. If reliance on small private donations is unrealistic, some forms of public funding of elections may prove necessary.

There is a limit on political broadcasts to be observed by the media (120 minute per day), which could be seen as a violation of freedom of speech constitutional provisions. Also, some of the deadlines for media in order to qualify for participation in the electoral campaign may be seen as too restrictive and inadequate.

Since there are obvious problems with the enforcement of campaign finance rules, the creation of a permanent electoral commission may strengthen the observation of the rule of law. The commission should be equipped with adequate powers to supervise the electoral accounts of the parties, to make them public, and to impose sanctions in cases of violations.

Russia

Institutional Background

The Parliament of the Russian Federation, the Federal Assembly, is divided into two chambers: the upper Federation Council and the lower State Duma. The Federation Council was created to represent Russia's regions and has 178 deputies, two from each of Russia's 89 Subjects. One of the members is the locally elected executive head. The other is the head of the regional legislature, elected by regional deputies.

The State Duma consists of 450 members, elected through two types of mandates: a party-list vote, whereby 225 seats are divided among those parties that clear a 5 percent vote barrier; and 225 seats distributed through single-member constituencies on a first-past-the-post basis. The Russian president is chosen directly by the people. The 1999 Law on the State Duma Elections and the 1999 Federal Law on the Election of the President of the Russian Federation regulate the area of campaign finance.

The Russian legislation requires special election funds be set up to finance campaign efforts of respective candidates or political organizations. Electoral funds of single parliamentary candidates may be formed only from the following sources:

- the own money of a registered candidate, which shall not exceed one thousand times the minimum wage;
- amounts allocated to a candidate, a registered candidate of the electoral association which nominated him/her (from sources other than the electoral fund of the electoral association), electoral associations of the electoral bloc that nominated him/her (from sources other than the electoral fund of the electoral bloc), which shall not exceed 5 thousand times the minimum wage established by federal law as of the date on which the decision to hold the election was officially published;
- money equally allocated by a district election commission to each registered candidate in that district;
- voluntary donations of individuals and legal entities in the amount not exceeding 100 times (for each natural person) and two thousand times (for each legal entity) the minimum wage.

During parliamentary elections, electoral funds of electoral associations, electoral blocs may be formed only from the following sources:

- the own monetary resources of an electoral association, electoral bloc, not exceeding 100 thousand times the minimum wage;
- the funds allocated by the Central Election Commission of the Russian Federation to electoral associations;
- voluntary donations of individuals and legal entities not exceeding more than 150 times (for each citizen) and 20 thousand times (for each legal entity) the minimum wage.

Electoral funds of presidential candidates may be formed only by the use of the following financial resources:

- a candidate's own money in the amount not exceeding the minimum monthly wage by more than two thousand times and for a candidate for whom the repeat voting was declared by more than three thousand times;
- amounts allocated to a candidate by the electoral association, which nominated him/her, electoral associations of the electoral bloc, which nominated him/her, the total sum not exceeding by more than 200 thousand times the minimum monthly wage.

- voluntary donations of individuals and legal entities to an amount not exceeding by more than 400 times for each individual and 40 thousand times for each legal entity the minimum monthly wage.
- money allocated to a registered candidate by the Central Election Commission.

Regulations also prohibit certain sources. No donations to electoral funds of presidential candidates, parliamentary candidates, registered candidates, electoral associations or electoral blocs are allowed from:

- foreign states, citizens, legal entities and international organizations;
- stateless persons;
- citizens of the Russian Federation under 18 years of age;
- Russian legal persons with foreign participation if the share of foreign capital exceeds 30 per cent of their charter (authorized) capital
- bodies of state power and local self-government;
- state-owned and municipal enterprises, institutions and organizations;
- legal persons with a state or municipal share in their charter (authorized) capital exceeding 30 per cent;
- charity organizations and religious associations as well as organizations established by them;
- anonymous donors
- legal entities registered less than a year before voting day.

State Support

The Russian legislation provides for direct state subsidies to various subjects. In the Duma elections of 1999 direct state subsidies to all political parties rose from USD 1 million in the 1995 elections to USD 4.6 million. Even individual candidates received direct state subsidies – a grand total of USD 38.91 each; this accounted for 0.06% of their total spending allowance. The introduction of direct state subsidies for individual candidates did little to change the dominant private funding of candidates and parties.

According to the 1999 Federal Law on the Election of the President of the Russian Federation, applying to the 2000 Presidential elections, money should be allocated to all presidential candidates registered by the Central Election Commission of the Russian Federation not later than 40 days before voting day.

Free airtime is equally distributed among all presidential candidates in Russia. In Russian Presidential Elections the election law gives each candidate 80 minutes of free airtime on workdays on TV channels and radio stations. The free airtime saves each candidate approximately RUR 10 million (USD 352,000) from campaign funds. A registered candidate can choose the form of the election campaign, but half of the free airtime must be given to televised debates of contenders. The campaign is also broadcast by regional television. Moreover, candidates can also buy time on both private and state-owned TV channels.

Grants for party representation in Parliament are an important supplement to the party's central and local offices and can also be used for campaign activities.

Expenditure

The regulation of political expenditure generally concerns limits placed on political parties, electoral associations or individual candidates' (both parliamentary and presidential) expenditure. The maximum amount of all expenditures from an electoral fund of a parliamentary candidate from his/her electoral fund may not exceed 10 thousand times the minimum wage. The maximum amount of all expenditures from an electoral fund of an electoral association or electoral bloc should not exceed 250 thousand times the minimum wage established by federal law as of the date on which the decision to hold the election was officially published.

In the case of presidential candidates in Russia the maximum total amount of expenditures of a candidate, from his/her electoral fund cannot exceed by more than 300 000 times the minimum monthly wage (for the repeat voting the limit is 400 thousand times the minimum monthly wage).

Paid party political broadcasts are not banned.

Disclosure and Enforcement

There are two ways of controlling political finance: (1) disclosure, and (2) legal enforcement; these are not mutually exclusive. Legal enforcement involves creating a system through which cash flow in politics is directly controlled. The system generally operates in a restrictive and negative way, i.e. it limits political donations in both quantitative and qualitative ways. Disclosure of political donors and reporting on political funds provides the necessary information to allow control over political money to be regulated by public opinion.

A presidential candidate, parliamentary candidate, an electoral association and electoral bloc are required to open a special electoral account with branches of the Savings Bank of the Russian Federation. A presidential candidate, parliamentary candidate, an electoral association and electoral bloc have to keep all records of the money contributed to and spent from their electoral funds. Moreover, presidential candidates, parliamentary candidates, electoral associations, electoral blocs should file financial reports with appropriate election commissions within the following periods:

- the first financial report – when the documents required for registration are submitted to the appropriate election commission;
- the second financial report - not earlier than 20 days and not later than 10 days before voting day;
- the final financial report – not later than 30 days after the official publication of election results. The final financial report shall be submitted together with the primary financial documents confirming contribution of money to and expenditure of sums from an electoral fund.

The copies of financial reports of registered candidates, electoral associations and electoral blocs that registered federal lists of candidates shall be handed over to the mass media by the appropriate election commission within five days of their receipt. There is no disclosure required on political donors in Russia.

Issues and Challenges

The situation in Russia illustrates that the cost of political campaigns has risen considerably, particularly in respect to the mass media. However, the artificial level of the threshold makes the reporting of political party expenditure irrelevant. In the 1999 Duma Elections, individual candidates were allowed to spend USD 65,000 and electoral blocs USD 1.7 million. In addition, some candidates paid an electoral deposit of 2,000 times the minimum wage (approximately USD 7,000) for a single mandate candidate and 50,000 times the minimum wage (approximately USD 170,000) for a party list. These amounts represented about 10% of the allowable campaign spending limits and had to be paid from the electoral fund.

Not surprisingly the press has reported that unofficially national blocs spent considerably more. Later interviews with Russian senior politicians from the Right Forces Alliance (SPS) confirmed that the Bloc spend over USD 30 million on its campaign. In general, the Russian example shows that spending limits have proven in practice to be a fiction, having been introduced at an unrealistically low level. Not only have they failed to curb a political finance 'arms race', but their failure has also undermined confidence in the whole system of political finance regulations.

An additional problem of controlling expenditure was connected with the issue of independent political campaign spending. The Central Election Commission determined that the book "In the First Person. Conversations with Vladimir Putin" should be considered as campaigning material for the presidential candidate. As a result, the candidate's electoral fund had to pay for its publication and distribution.

Further, under the current law, sanctions for any financial irregularity or infraction involved no less than rejection or annulment of registration, or removal of a mandate. These provisions raise the concern that they are vulnerable to arbitrary and inconsistent application.

Finally, in Russia, informal political actors – financial groups and political "oligarchs" dominate the political spectrum. Political parties are included into the structure of an "oligarchy" to act as its legitimate vehicle of engagement in public policy and lobbying. They are supported by their own controlled mass media and the key industries. A situation where political power is the sole avenue to wealth has inflicted enormous damage to Post-Soviet countries. Thus, Russia should consider changing the structure of campaign sources, increasing the level of public funding both for parliamentary and presidential elections.

Recommendations

On June 21, 2001 the State Duma adopted a new law on political parties. On the surface, this new law seems to be exemplary. It offers significant public funding as major incentives for political parties to take the task of disclosure of their funding sources seriously. However, despite the attractive theoretical advantages there may be severe practical problems, as the experience of Russia was previously demonstrated.

Article 33 of the law on political parties, dealing with federal budget funds allocation to political parties, will enter into force only after the next election but not later than January 1st, 2004. As stated in articles 35 and 38 and the tax inspection will have the power, also on its own initiative to make enquiries concerning all aspects of the political parties' accounts. Strong enforcement mechanisms (including tax inspection) can be used by the non-democratic regime to deprive the opposition of the right to participate effectively in the electoral process. When there is selective, partisan enforcement of campaign finance regulations, it serves to reduce electoral competition and can lead to long periods of one-party/individual regime. The creation of an oppressive political finance system that is not controlled by a non-partisan enforcement agency might undermine the whole idea of free and fair elections, as harassment is an inherent feature of such political conditions. All this considered, it is strongly recommended that there should exist a body responsible for overseeing party finance, which, is entirely independent of the both central and regional government.

All following recommendations apply to either Duma elections or presidential campaigns. In recent years the cost of political campaigns has risen considerably, particularly in respect to the mass media. However, the artificial level of the threshold makes the reporting of political party expenditure irrelevant. In the 1999 Duma Elections, individual candidates were allowed to spend USD 65,000 and electoral blocs USD 1.7 million. Connected with unrealistic spending limits an additional problem of controlling expenditure is independent political campaign spending.

In the case of presidential candidates in Russia the maximum total amount of expenditure of a candidate may not exceed 300,000 minimum monthly wages (USD 920,000 in 2000). The spending limit has been introduced at an unrealistically low level and should be significantly increased to reflect the reality of Russian presidential campaigns.

Both expenditure limits, in the case of the Duma Elections and Presidential Elections should be harmonized with the newly introduced limits on political parties' incomes. According to the new law on political parties, the total amount of annual donations received by a political party or its regional branch should not exceed 10,000,000 times the minimum monthly wage. Such a limit is disproportionately higher than other campaign expenditure limits.

Candidates have to pay an electoral deposit of 2,000 times the minimum wage (approximately USD 7,000) for a single mandate candidate and 50,000 times the minimum wage (approximately \$170,000) for a party list. These amounts represented about 10% of the allowable campaign spending limits and had to be paid from the electoral fund.

Further, under the current law, sanctions for any financial irregularity or infraction involved no less than rejection or annulment of registration, or removal of a mandate. These provisions raise the concern that they are vulnerable to arbitrary and inconsistent application.

Slovakia

Institutional Background

The Slovakian parliament - National Council of the Slovak Republic - has a single chamber. Its 150 members are chosen by proportional representation. The president of Slovakia is directly elected by the people.

The following acts of legislation regulate campaign finance of the country: the 1998 Law on Parliamentary Election, the 1999 Law on Presidential Election and the 1994 Law on Limitation of Expenditures of the Political Parties.

Income

Only donations from the individuals with permanent residence within the territory of the Slovak Republic, from legal entities based within the territory of the Slovak Republic or from political parties and movements registered in the Slovak Republic are allowed. The Candidate for the Presidency or political parties cannot receive donations from the State, nor organs of state administration or organs of municipal government.

State Support

The state offers direct subsidies to political parties provided they have gained certain support in parliamentary elections. After the verification of parliamentary elections, the chairman of the National Council of the Slovak Republic informs the Ministry of Finance about the number of valid votes cast for every political party. A political party which received more than three percent of the total number of valid cast votes in the Slovak Republic in the elections is paid SKK 60 (USD 1.28) for each such vote from the state budget.

Indirect state support is also provided in a number of ways. During the presidential campaign each Candidate has equal access to mass media. Slovak Radio (SRo) and Slovak Television (STV) allocate not more than one hour of their broadcasting time per Candidate, 10 hours of broadcasting time in total. The claim for the broadcasting time must be filed at least five days before the start of the campaign, or it shall lapse. SRo and STV shall provide for distinct identification and separation of this broadcasting from other programs.

During the period of parliamentary election campaigning every running party is ensured equal access to the mass media. Political parties can conduct election campaigns through

radio or television broadcasting only on SRo and STV. Election campaigning is prohibited in the radio broadcasting and television broadcasting of private license holders. The use of local public loudspeakers for election campaigning is not permitted, except for announcements concerning the holding of election meetings. SRo and STV reserve 21 hours of broadcasting time for the election campaign, which is divided evenly among running political parties.

Expenditures

According to the Law on limitation of expenditure of the political parties, the spending limit for a political party during the parliamentary elections is SKK 12 million (USD 256,960). This sum covers the expenses by the respective party and by third parties on its behalf. However, the law does not restrict size of contributions to political parties and candidates.

The candidate for the President can use no more than SKK 4 million (USD 85,653) for his/her pre-election campaign. This sum covers the expenses the candidate paid off or is to pay off, including expenses third persons paid off or committed to pay off for the presidential candidate. If candidates exceed the campaign expenditure limit, the Ministry of Finance shall impose a penalty amounting to ten times the amount by which the limit was exceeded.

Disclosure and Enforcement

The candidate for the Presidency is obliged to keep a register of all donations received for his/her campaign, and donors of the gifts, and announce in writing to the Ministry of Finance of the Slovak Republic the total sum of the funds received for his/her campaign and the total sum of the funds spent on his/her campaign. The presidential candidate discloses donation from a natural person if the value exceeds SKK 10,000 (USD 214) and from the legal entity if the value exceeded SKK 100,000 (USD 2,140).

Moreover, the publisher of periodicals, operator of radio and TV broadcasting, operator of the advertisements posted in public places and any individual or legal entity who produced an advertising program, poster, leaflet or other advertising material in favor of the presidential candidate is obliged to announce in writing to the Ministry of Finance of the Slovak Republic the funds spent by individual Candidates for the Presidency for the campaigning pursuant to this law that they publicized, broadcast or produced. Candidates for President and natural persons and legal entities shall submit the statement no later than 30 days after the presidential election day. In the statement the natural person and legal entity shall also state the sums corresponding to the usual prices for advertising, sponsored programs, commercials and other advertising material of programs that they published, broadcast or produced in favor of individual candidates for the President free of charge or for a lower price.

The Ministry of Finance shall impose a penalty of up to SKK 2,000,000 (USD 42,800) on a presidential candidate or legal entity that does not fulfill their reporting duty.

Issues and Challenges

The Slovak system of political finance is libertarian in character. Disclosure rules are rather weak, and their implementation hard to enforce. Moreover, spending limits are very low and difficult to implement.

Access to the news media and coverage of the election were serious problems during the 1998 Elections. In fact, the ruling of the Constitutional Court of 18 March 1999, found most of the restrictions introduced by Election Law unconstitutional. There were indications that some political forces did not have fair access to the media and that some independent media were harassed including: (1) media outlets, critical of the government were subjected to harassment, including financial investigations; (2) the state-controlled

media demonstrated a serious pro-government bias; (3) parties were denied the opportunity to purchase paid advertising time³³.

According to the Election Law, parties could conduct their media campaign only on public STV and SRo. Political campaigning in private electronic media was forbidden. At the same time, both STV and SRo had to allocate equally 21 hours to the parties running in the elections, yet, outside those 21 hours it was forbidden to broadcast election speeches and election programs and to publish any external expressions which promote the contesting political parties. At the same time, according to the law, media appearances of senior officials such as the Prime Minister and the Speaker of Parliament do not violate the law.

Recommendations

Regulations on the coverage of the campaign not only clearly limit the possibilities for media to inform comprehensively and objectively on elections but might marginalize opposition and aid the government by allowing it to take advantage of state-controlled TV. The main recommendation is that the public media should comply with the letter and spirit of provisions of the law requiring strict impartiality toward all political parties, blocs and candidates. Interference with the election process and the use of public media for the advantage of particular electoral contestants should be investigated expeditiously and authorities should be forced to impose disciplinary action. In addition, allowing limited paid advertising can contribute to more open and lively political discussion.

In addition, during the Presidential Elections, the role of the CEC should be strengthened. Following the OSCE recommendations, consideration should be given to the creation of a permanent CEC, which would be a stronger enforcement agency. Moreover, the powers of the CEC are restricted and in some areas it is unclear how far their competencies extend.

Furthermore, because the electoral framework is fragmented it is often unclear which body has the authority to rule on complaints, appeals and make legal clarifications. An example of this concerns complaints regarding candidates' activities outside the official campaign period, where it is not clear which body has the competence to rule on this issue.

According to the OSCE report on previous parliamentary elections, the opposition 'repeatedly stated that it was clear that HZDS was by far exceeding the spending limit. The variety of billboards and the campaign material that was handed out for free to participants, as well as free meals, was more substantial with HZDS and subsequently reinforced this allegation.'³⁴ Spending limits introduced by the law on limitation of expenditure of the political parties are very low and difficult to enforce. The spending limit for political parties during the parliamentary elections is SKK 12 million (USD 256, 960). In the case of presidential elections, the presidential candidate can use no more than SKK 4 million (USD 85,653) VAT incl. for his/her pre-election campaign. It would be necessary to increase the spending limits of both parliamentary and presidential elections to more realistic levels.

Finally, as in many other post-communist countries, Slovakian election-related legislation is fragmented across a number of legislative acts. One possible solution would be to integrate the various election laws and procedures in a single election code.

³³ 1998 OSCE/ODIHR Election Observation Report: 'The Slovak Republic Parliamentary Elections – September 1998' p.17-18.

³⁴ OSCE/ODIHR Election Observation Report: 'The Slovak Republic Parliamentary Elections – 25 and 26 September 1998' p.16.

Ukraine

Institutional Background

The Ukrainian Parliament – the Supreme Council – has 450 members who are chosen under a mixed electoral system. The president of Ukraine is directly elected by the people.

A number of legal acts regulate the issues of financing of political parties and election campaigns in Ukraine, with the 2001 Law on Political Parties, the 1999 Presidential Election Law and the 2001 Parliamentary Election Law among them.

Income

The Law on Presidential Elections provides for the formation of a personal election fund to finance the activities of a candidate's pre-election campaign. Contributions might come from candidate him/herself, political parties, Ukrainian citizens, and corporations registered in Ukraine. Donations from state-owned companies, governmental structures, foundations and organizations, local self-regulation establishments, or foreigners and persons without citizenship, foreign corporate bodies, corporations with foreign investments, charities and religious unions, corporations, organizations and establishments with debts to the budget of all levels are not allowed.

Similar funds operate for the purpose of campaigning for parliamentary elections. They can be supplied by donations from private persons (citizens of Ukraine) and corporations. State organizations and corporations, local self-regulation bodies, foreign persons and corporate bodies, anonymous persons, international organizations and unions are forbidden from contributing to these funds.

State Support

Ukraine is among those countries providing no direct public funding. In addition, indirect state subsidies have not contributed significantly to campaign finance. Beside free access to mass media, the CEC is responsible for printing election posters for political parties or electoral party blocs which register lists of candidates, amounting to 5 copies for each polling station and publishing pre-election platforms in two Ukrainian newspapers.

In addition, the district electoral committee should print election posters for candidates registered in the respective constituency, amounting to 2,000 copies for one candidate and hand over to each candidate no less than three quarters of that amount.

In addition, an important source of money for Ukrainian political parties and candidates consists in specific grants paid to parliamentary caucuses, individual parliamentarians (excluding salaries) and even deputies of the Kiev City Council. Generally, grants to parliamentary groups and individual legislators are a useful supplement to campaign budgets.

Free broadcasting is the most important kind of indirect subsidy in Ukraine. According to the existing legislation, airtime is distributed in a manner that ensures that principles of equality are maintained among presidential candidates and political parties. It is forbidden to include in information TV programs propaganda for political parties, electoral party blocs, individual candidates, or political advertising. Political advertising must be detached and indicated as such.

In addition, political parties, electoral party blocs or lists of candidates that are registered in a multi-member constituency are entitled to publish free of charge their election programs (up to 7,800 characters) in state-owned periodicals. Candidates in single member constituencies have a similar entitlement but their programs should be half that length.

The existing legislature of Ukraine does not provide for benefits to citizens and corporations that contribute financially to parties or candidates during the preparation and conduct of election campaigns.

Expenditures

The regulation of campaign expenditures generally concerns limits placed on political parties, or individual candidates' (both parliamentary and presidential) expenditure.

For the 1999 Presidential elections, the size of an election fund of a presidential candidate could not exceed 10, 000 times the untaxed minimum monthly wage, and a donation of one private person or company may not exceed 100 times the untaxed minimums (one minimum equals UAH 17 or USD 3.12). During the 1998 parliamentary elections, there were no limits on the spending by parliamentary candidates, political parties or campaign blocks. As to amounts in the personal electoral funds of individual candidates in the single-mandate districts, in some cases they had up to UAH 70, 000 (USD 18 to USD 128,818). An additional problem of controlling campaign expenditure is connected with the issue of independent political expenditure. Ukraine does not directly apply limits on independent groups spending money on behalf of a political party or presidential candidate during campaign. In fact, presidential candidates, political parties and parliamentary candidates use foundations, associations and different non-governmental organizations to indirectly run their election campaign.

Currently there are no advertising restrictions. The 1996 Law on advertising does not regulate the process of distribution of political advertising. However, the parliament passed the law "On political advertising and political campaigning" on the first reading in June 2001.

Disclosure and Enforcement

The Ukrainian legislation has entrusted the CEC with the oversight of and control over observance of campaign finance regulations. The CEC enforces the regulations on publishing information about the sources of the election campaigns funds for financing. It also inspects the receipt and use of personal election funds of presidential candidates, engaging employees of the bodies of State Tax Administration of Ukraine as well as banking institutions holding appropriate accounts for the conduct of auditing.

Information on the size and sources of contributions to the fund of a candidate, as well as financial statements on the use of these funds are published by the CEC in "Holos Ukrainy" and "Uriadovyi Kuryer" newspapers within seven days of the day of elections.

The objective of disclosure of political finances is to make candidates' accounts a subject of public knowledge and political debate. Indeed, Ukraine needs public control of political money as, according to the experts, the percentage of undeclared funds used in the Ukrainian elections amounts to 60-70% of the total.³⁵ But disclosure is not always neutral between opposing candidates. In some cases, extensive disclosure procedures created additional delays of three to four days, often leading to the disruption of election campaigns of opposition candidates due to the lack of funds. This, indeed, encouraged the use of sources of money not subject to disclosure.

Issues and Challenges

As Ukraine stands at a crossroads in its democratic transition, there are many questions concerning its political transition and the issue of political finance. The Ukrainian experience confirms a few general points.

³⁵ There are many reasons for using undeclared money and certainly one of them is fear of harassment. See survey of 26 experts conducted by Agency 'Centre for Forecasting of Social, Economic and Political Process', January 1999.

In countries like Ukraine, the institutional imperfection of the political market, restricted access to the media even for those with capital, and discrimination in the allocation of free media coverage limit the electoral efficacy of money. The distinctive feature of post-Soviet countries is that money alone is not a sufficient condition for proper political communication. It has to be combined with "administrative capital, that is, control over the administrative and regulatory apparatus. So-called "administrative resources" are based on special treatment by local administration, state-owned media, directors of state-owned enterprises and state-funded organizations. A favored party or presidential candidate receives undocumented and 'free' services, uses state facilities, and attends organized meetings with "working collectives"

The lack of an independent enforcement agency is, yet, another serious weakness that undermines the working of a successful election finance system. Strong enforcement mechanisms can be used by the regime to deprive the opposition of the right to participate effectively in the electoral process. When there is selective, partisan enforcement of campaign finance regulations, it serves to reduce electoral competition and can lead to long periods of one-party/individual regime. However, total disclosure should not be an essential component for all election finance systems. Under certain conditions, strong control of political funding and certain administrative restrictions might suppress opposition. The delicate process of democratization, although it faces a struggle with political corruption, requires a certain degree of privacy and freedom from harassment. The creation of an oppressive political finance system, which is not controlled by a non-partisan enforcement agency might undermine the whole idea of free and fair elections, as harassment is an inherent feature of such political conditions. It is true that during the transition period a party in power tends to use the state apparatus to its advantage. Thus, party finance enforcement with a strong authority might not be an ideal formula for all countries in transition.

Finally, the problem with political finance in Ukraine is less one of the total amount of money being spent than of how the money is raised. The lack of a diverse source of funding raises questions about the undesirable influence of donors. Ukrainian parties, pressurized by the dynamic and high cost of the electoral struggle, have had reason to be keen on accepting large contributions from wealthy individuals and corporations. In Ukraine, informal political agents - financial groups and 'oligarchs' appear to dominate the political spectrum. Most of the Ukrainian political parties are included in the structure of an 'oligarchy' to act as its vehicle of engagement in public policy and lobbying. A situation where political power is the sole avenue to wealth has inflicted enormous damage to the country. Ukrainian fragmented and non-institutionalized party system encouraged and still encourages big business to form client circles and run their own parties to directly control the decision-making process.

Recommendations

On October 18, 2001, the Ukrainian parliament passed a new election law. Each of Ukraine's three parliamentary elections since the country's independence has been regulated by a different election law.³⁶ Just as the 1998 law took into account several shortcomings of the 1994 law, according to a 2001 OSCE report, the new legislation "makes substantial improvements compared to the previous legislations."³⁷ Despite improvements, shortcomings remain in the new legislation and its partisan enforcement. In addition, in 2001 a new law on political parties was adopted by the Verkhovna Rada. Unfortunately, it does not offer any public funding or any other incentives for political parties to take the task of disclosure of their funding sources seriously.

³⁶ For analyses see the National Democratic Institute's election reports. www.ndi.org

³⁷ See www.osce.org

The distinctive feature and most serious problem of post-Soviet countries is that elected officials frequently use government resources for their personal campaigns and for their political parties. So-called 'administrative resources' are based on special treatment by local administration, state-owned media, and directors of state-owned enterprises and state-funded organizations. The election law requires "impartial treatment of parties (blocs) and candidates ... by bodies of state power, bodies of local self-government, their officials and officers, and heads of enterprises, institutions, and organizations." [Article 10.2.7]. Yet, a favored party or presidential candidate receives undocumented and free services, uses state facilities, and attends organized meetings with working collectives. According to election observers, partisan interference by executive branch officials into the election process constitutes the most common violation. Ukrainian elections are characterized by abuses of power and illegal expenditure of public funds by government authorities in the following way:

- government spaces have been used for campaign purposes;
- public employees have been working on political campaigns and citizens have been pressured to join parties or blocs, or to work for certain candidates;
- government authorities have interfered in campaigns;
- government authorities have denied public facilities and services to candidates, parties or blocs.

Government officials and state institutions, including the public media, should comply with provisions of the law that require strict impartiality toward all political parties, blocs and candidates, that prohibit interference with the election process and that bar the use of state resources for the electoral advantage of particular electoral contestants. All credible reports of improprieties and violations should be investigated, and if necessary swift disciplinary action should be imposed.

Another major weakness of the current legislation relates to the question of third-party expenditure. The new law places unrealistically low limits on campaign spending. Party spending may not exceed approximately 2,400,000 Hryvna (approx. USD 470,000), whilst single-mandate candidate spending may not exceed approximately 160,000 Hryvna (approx. USD 32,000). Parties are tempted to create a large number of small front organizations, so-called 'third-parties' through which campaign expenditure above the national limit could be channeled. Different NGOs fund billboard or TV advertising, printing materials, opinion polling, research, etc. According to *Ukrainska Pravda*, an internet newspaper, over USD 1,073,000 was spent on SDPU (o) TV advertising by NGO under the party's control. At the same time, the party's official spending on TV advertising amounted to merely USD 7,900.³⁸

The lack of an independent enforcement agency is yet another serious weakness that undermines the functioning of a successful election finance system. Strong enforcement mechanisms can be used by the regime to deprive the opposition of the right to participate effectively in the electoral process. When there is selective, partisan enforcement of campaign finance regulations, it serves to reduce electoral competition and can lead to long periods of one-party/individual regime. In addition, the imprecision of the election law - which does not define "election campaigning" - contributes substantially to selective enforcement. Faced with a vague law, state authorities can ignore almost all regime party's violations.³⁹

Finally, the problem with political finance in Ukraine is less one of the total amount of money being spent than of how the money is raised. The lack of diverse sources of funding raises questions about the undesirable influence of donors. The principle of not

³⁸ www.pravda.com.ua, 11.03.2002

³⁹ See Committee of Voters of Ukraine (CVU) report for January 2002; <http://www.cvu.kiev.ua>

financing political subjects directly from the state budget is a step aimed at weakening the already existing political parties and the democratic opposition in particular. Significant public subsidies for political parties would encourage their institutionalization, consolidation and stability. It will also increase transparency of their funding. Subsidies to political parties should also be provided for the purpose of assisting them in their parliamentary activities.

Appendix A. Campaign Finance Regulations in CEE Countries

	SUBSIDIES				REGULATIONS				
	Any direct public funding	Any tax relief	Any free broadcast	Any subsidies in kind	Any public disclosure	Any contributions limit	Any spending limits	Ban on foreign donations	Ban on paid political advertising
Albania	Yes	No	Yes	Yes	No	No	No	Partly	No
Belarus	No	No	Yes	Yes	Yes	No	Yes	Yes	No
Bosnia/Herzeg.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Bulgaria	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No
Croatia	Yes	No	Yes	Yes	No	No	No	No	No
Czech Rep.	Yes	Yes	Yes	Yes	Yes	No	No	Yes	No
Estonia	Yes	No	Yes	Yes	Yes	No	No	Yes	No
Hungary	Yes	Yes	Yes	Yes	Yes	No	Yes	Partly	No
Latvia	No	No	Yes	Yes	Yes	Yes	No	Yes	No
Lithuania	Yes	No	Yes	Yes	Yes	No	Yes	Partly	No
Macedonia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Moldova	No	No	Yes	Yes	Yes	No	No	Yes	No
Poland	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No
Romania	Yes	No	Yes	Yes	Yes	Yes	No	Partly	No
Russia	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No
Slovakia	Yes	No	Yes	No	Yes	No	Yes	Yes	Yes
Ukraine	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No
	76 %	24 %	100 %	94%	88%	47%	59%	82%	18%

Note: In Belarus, funds are given specifically for the publication of leaflets and posters, etc. This tied funding is listed as “Yes” under “Subsidies in kind” but “No” under “Any direct public funding”.

Source: Janis Ikstens, Daniel Smilov and Marcin Walecki, “Campaign Funding in ACEEEO Member Countries”, Report presented at the tenth annual conference of the Association of Central and Eastern European Election Officials (ACEEEO), Brijuni, Croatia, 13–17 October 2001..

Appendix B. Financing a Presidential Election Campaign: Major Candidates' Spending in Russia, Ukraine and Poland

Figures for expenditure are in US\$ million.

Russia		Ukraine		Poland		Poland		Poland		Poland	
Presidential Elections 1996*		Presidential Elections 2000**		Presidential Elections 1999***		Presidential Elections 1990		Presidential Elections 1995		Presidential Elections 2000****	
Candidate	Exp.	Candidate	Exp.	Candidate	Exp.	Candidate	Exp.	Candidate	Exp.	Candidate	Exp.
Lebed	2.83	Zyuganov	0.869	Moroz	0.214	Mazowiecki	0.597	Kwasniewski	1.373	Kwasniewski	2.999
Zhirinovskiy	2.72	Titov	0.866	Tkachenko	0.195	Walesa	0.581	Walesa	1.121	Krzaklewski	2.680
Yavlinskiy	2.72	Yavlinskiy	0.840	Kuchma	0.154	Tyminski	0.351	Pawlak	0.544	Olechowski	0.491
Yeltsin	2.42	Putin	0.451	Vitrenko	0.125	Cimoszewicz	0.192	Kuron	0.529	Kalinowski	0.528

Notes:

* Official spending limit US\$2,850,000.

** Official spending limit US\$920,000.

*** Official spending limit US\$385,000.

**** Official spending limit for 2000 US\$3,000,000. N/A for 1990 and 1995. Marcin. N/A meaning no available or not applicable?

Sources: Annual reports for 1990, 1995, 1996, 1999 and 2000. Tabulated by the author.

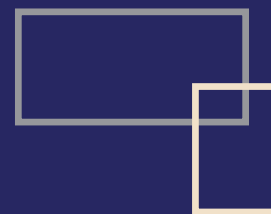
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