



Academic Council on the United Nations System

**EVALUATION OF POLITICAL FINANCING LEGISLATION IN
SERBIA**

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Introduction

Political parties indisputably play a major role in shaping democratic political systems all over the world. Although there are many different types of democratic governments and therewith varying rights and duties that are attributed to political parties, they nevertheless perform a variety of tasks necessary for ensuring the democratic governing of a state. Among the various functions of political parties, some of the most important are the aggregation and formulation of interests of certain groups of society, the development of competing policy proposals and therewith the provision of choices to the electorate, the selection of candidates for office, the organization of the legislature, and the formation

and coordination of government activities. ¹With performing these activities political parties are placed in the very heart of any democracy.²

Given that parties are so thoroughly ingrained in democratic processes, it is of a great significance to understand how campaign finance laws in practice affect them. ³

In general two overall challenges with political financing can be distinguished. The first category refers to the capability of money flows in politics to harm the democratic process, be it through illicit funds, vote buying and an uneven electoral process, all of which can be summed up as political system challenges. The other category refers to political finance control challenges, which involve the effective monitoring of political finance.⁴

In order to oppose this threat to democracy imposed by party financing, the international community is increasingly interested in making it subject to public law thus regulating party financing through introducing policy regulations.

1. Research Question

This paper focuses on political financing legislation in Serbia. The aim of the paper is to provide an in depth examination of the current legal framework on political financing in Serbia in order to assess the present state in this field. The authors chose to analyze Serbia, finding it is an interesting country for three reasons. Firstly, Serbia is the country that does not have well-established democratic culture and multi-party system. Namely, after more than half of century of being under the communist regime, Serbia went through democratic changes in 2000. Thus, the democracy in Serbia is still very young and needs to be improved. Secondly, Serbia was granted candidate status to the European Union (hereinafter: the “EU”) in March 2012 and has recently opened first chapters of Accession

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² Augustine Magolowondo, Elin Falguera, Zefanias Matsimbe, Regulating political party financing, <<http://www.idea.int/publications/regulating-political-party-financing/loader.cfm?csModule=security/getfile&pageid=57052>> accessed 29 October 2015

³ Augustine Magolowondo, Elin Falguera, Zefanias Matsimbe, Regulating political party financing, <http://www.idea.int/publications/regulating-political-party-financing/loader.cfm?csModule=security/getfile&pageid=57052>, accessed 29 October 2015;

See also Ray La Raja, The Potential Effects of Public Funding on Political Parties, Prepared for a conference on public financing, January 28-29, 2006, University of Wisconsin Madison

⁴ Reginald Austin, Maja Tjernström, ‘Funding of Political Parties and Election Campaigns’ (International IDEA handbook series) <http://www.idea.int/publications/funding_parties/upload/full.pdf> accessed 29 October 2015

negotiations.⁵ This is important, since in order to become a member of the EU, a country needs to meet the criteria of accession, entitled the “Copenhagen criteria”. One of those criteria requires the candidate countries to have stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. Regulations on political financing, its enforcement and oversight institutions are therefore also subject to this criterion, as they work towards preventing corruption, which would undermine democracy. Finally, Serbia is an interesting case to analyze, since it undertook some initial steps towards changing the earlier state in this field. Particularly, Serbia enacted the new law on financing of political activities in 2011.⁶

The initial step of approaching the research question will be setting out the international law framework in this field. It will further be assessed whether the provisions of Serbian law comply with the ideas on political financing of the international community. Also, the evaluation of the effective law enforcement will be provided. In the end, the paper considers a regional comparison of political finance regulations in order to provide recommendations for strengthening the Serbian institutions and legislations in this field.

2. Political Financing Regulations in the United Nations System

2.1. The United Nations Convention against Corruption

The significance of party financing is also reflected in a number of international treaties and strategic documents from international institutions. While there are no explicit conventions on political financing *per se*, there are a number of important treaties and conventions that focus on the connected topics of transparency and accountability in politics that reflect on the issue of party financing. The United Nations Convention against Corruption (hereinafter: the “UNCAC”) is one of the enforcement instruments implemented by the United Nations Organization on Drugs and Crime (hereinafter: the

⁵ European Neighborhood Policy and Enlargement Negotiations- Serbia (European Commission website), http://ec.europa.eu/enlargement/countries/detailed-country-information/serbia/index_en.htm, accessed 29 October 2015

⁶ The Serbian Law on Financing Political Activities (International Foundation for Electoral Systems website), <http://www.ifes.org/publications/serbian-2011-law-financing-political-activities-legal-provisions-and-recommendations>, accessed 29 October 2015

“UNODC”) to prevent and fight corruption. The UNCAC also devotes a section concerning candidature for and election to public office in article 7.3, which states:

“Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.”⁷

2.2. The United Nations Sustainable Development Goals

The fact that the fight against corruption is high on the agenda of UNODC and United Nations System (hereinafter: the “UN”) in general is also reflected in the 2030 Agenda for Development and its Sustainable Development Goals (hereinafter: the “SDG”), which have been adopted during the United Nation’s Sustainable Development Summit in September 2015.⁸

Out of the 17 SDGs, SDG 16 explicitly address the fight against corruption including the promotion of peaceful and inclusive societies for sustainable development, the provision of access to justice for all, as well as the building of effective, accountable and inclusive institutions at all levels.⁹

Out of the ten sub-targets of the mentioned goals, there are two targets that explicitly focus on corruption and transparency. These are:

- 16.5: Substantially reduce corruption and bribery in all their forms
- 16.6: Develop effective, accountable and transparent institutions at all levels¹⁰

The two targets also reflect the two main challenges when it comes to party financing. Whereas the first target could be attributed to the regulation of money flows, the second addresses the monitoring of the same.

3. Regulations from Other International Organizations and Institutions

⁷ The UNCAC entered into force on in 2005 and there are now 140 signatories to the Convention. That is a good indicator for the high priority attributed to the issue of corruption in general and as well as the issue of preventing corruption in party financing. See: United Nations Convention against Corruption (United Nations Office on Drugs and Crime website), https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf, accessed 1 May 2015

⁸ United Nations Sustainable Development Summit 2015 (Sustainable Development website), <https://sustainabledevelopment.un.org/post2015/summit>, accessed 30 September 2015

⁹ United Nations Sustainable Development Goals (Sustainable Development website), <https://sustainabledevelopment.un.org/topics>, accessed 30 September 2015

¹⁰ *Ibid.*

3.1. European Union and Council of Europe

The importance attached to the prevention and fight against corruption and the establishment of accountable and transparent political institutions by the UN system is also reflected in policy documents of other international institutions. One of the institutions is the EU. Since the Republic of Serbia is the candidate state for the membership in the EU, it will be of special importance for it to meet the obligations under the EU treaties and directives. Even before the adoption of the Convention against Corruption, the Council of Europe (hereinafter: the “Council”) issued a recommendation of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns in 2003.¹¹ In this recommendation the Council acknowledged the importance of political parties as a fundamental element of the democratic system of states and demanded therefore that the funding of political parties and electoral campaigns in all states be subject to standards to prevent corruption. In order to enforce these claims, the recommendation comprises six chapters that address different points of concern with regard to party financing in relation to external sources of funding, sources of funding of candidates for elections and elected official, electoral campaign expenditure, transparency, supervision and sanctions.¹²

With the conviction that corruption poses a serious threat to the rule of law and democracy in its member states, the Council set the target of raising awareness on preventing corruption in the funding process of political parties. In order to do so effectively, the council went so far as to establish the Group of States against Corruption (hereinafter: the “GRECO”) in 1999 in order to monitor the compliance of its member states with the organization’s anti-corruption standards through mutual evaluation.

State Union of Serbia and Montenegro joined GRECO on 1 April 2003. However, after the declaration of independence of Montenegro in 2006, Republic of Serbia became the successor state.¹³

The GRECO monitoring comprises of an evaluation procedure, during which all Members States are evaluated within one Evaluation Round that covers specific themes,

¹¹ Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns (Council of Europe website), [https://www.coe.int/t/dghl/monitoring/greco/general/Rec\(2003\)4_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/general/Rec(2003)4_EN.pdf), accessed 20 October 2015

¹² Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns (Council of Europe website), [https://www.coe.int/t/dghl/monitoring/greco/general/Rec\(2003\)4_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/general/Rec(2003)4_EN.pdf), accessed 20 October 2015

¹³ http://www.coe.int/t/dghl/monitoring/greco/general/members_en.asp

leading to recommendations aimed at furthering the necessary legislative, institutional and practical reforms; and of a compliance procedure designed to assess the implementation of recommendations taken by the States.¹⁴

3.2. The Organization for Economic Co-operation and Development Framework on Financing Democracy

The Organization for Economic Co-operation and Development (hereinafter: the “OECD”) has also focused on political financing. With its Framework on Financing Democracy, the organization aims at providing policy regulations that regulate the financing of political parties and electoral campaigns. The main concerns of the Framework for financing Democracy relate to the public funding of parties and candidates, private funding, spending limits, disclosure on funding, independent and efficient oversight, as well as monitoring and sanctioning.

4. Legal Framework in Serbia

Although there already exist substantive policy documents and guiding principles from several international organizations, it is important to thoroughly consider and evaluate the regulatory framework on party financing at the national level. This comprises the consideration of structural and institutional factors that impact on suitability and effectiveness of different political finance regulations.¹⁵ It has to be taken into account that every state faces specific challenges when it comes to money and politics. These range from a lack of political interest in instigating reform, due to the fear for instance of the governing party to lose influence, or wealthy interests that try to hinder reforms. The context might also comprise to consider the society’s attitude towards the government and political parties in general.¹⁶

Additionally, what is politically desired may vary from country to country, even between countries that might be otherwise similar. Therefore, political goals of each country need to be taken into consideration when evaluating political finance regulations. While in many countries in Europe political parties play a crucial role in forming a political opinion

¹⁴ http://www.coe.int/t/dghl/monitoring/greco/general/4.%20How%20does%20GRECO%20work_en.asp

¹⁵ Reginald Austin, Maja Tjernström, Funding of Political Parties and Election Campaigns (International IDEA handbook series), http://www.idea.int/publications/funding_parties/upload/full.pdf, accessed 29 October 2015

¹⁶ *Ibid.*

and forming national policies also during non-election years, in other countries political parties only appear in the public debate during electoral campaigns, hence their financing needs differ accordingly.

Turning to Serbia, what we are actually facing in the practice of political funding in Serbia is the unavoidable *quid pro quo* that usually represents the law abuse and the essence of corrupt behavior. All parties competing in the electoral process, naturally, are in attempt to win elections. To win the political competition, parties need a good campaign and marketing. Good campaign, however, is very expensive and the public sources are limited (according to the legal framework in Serbia, as we will substantiate in the next chapter). And, according to calculation made by CESID, based on average advertisement prices, annual costs of political campaign are about 7.900.000 EUR. This is where the problem of potential corruption arises. In order to avoid the money barrier parties turn to private funds. In practice, that means that party often has to “sell something” to secure enough finances to stay in the game.¹⁷ In other words, there is a transaction, *quid pro quo*, and the subject of such a transaction is the promise that the party will benefit its donors, in case of winning the elections. Financial investors and lobbyists are more than interested in those "transactions", since the benefit they are obtaining by becoming a party to the transaction, is the privileged position in future economic competitions (public procurements, privatizations, taxes, etc.). The described process represents the way in which the free market, state regulations and political decisions become a commodity, something that actually can be purchased.¹⁸

The first laws that were regulating the area of financing political activities in Serbia, both titled Law on Financing Political Parties, were enacted in 1997¹⁹ and subsequently in 2003²⁰. Before that, there were only few norms outlined in several different laws mentioning the financing of political parties. The Law on Financing Political Activities (hereinafter: the “Law”) that is currently in force was adopted by the Parliament in 2011²¹ and was amended once since. Although the Law introduced some good solutions, we cannot be idealistic to expect that the good legal framework itself is enough to prevent all potential abuses of the political process. Its purpose should be to prevent the biggest

¹⁷ Vanja Bajović, Savo Manojlović, Corruption and Financing of Political Parties - Case of Serbia (2013), Working Papers n° 21 / 2013 OBEGEF, 7, <http://www.gestaodefraude.eu/wordpress/wp-content/uploads/2013/01/wp021.pdf>

¹⁸ *Ibid.*

¹⁹ Law on Financing Political Parties, *Official Gazette of the Republic of Serbia*, No. 32/97.

²⁰ Law on Financing Political Parties, *Official Gazette of the Republic of Serbia*, No. 72/03

²¹ Law on Financing Political Activities – the Law, *Official Gazette of Republic of Serbia*, No. 43/2011 and 123/2014.

abuses, those that shake the system to its core, that represent serious danger to the process and society. That is when we can say that the regulatory framework is good and efficient. Furthermore, it is important to notify that the laws in this area have to be realistic; they have to depict and regulate actual state of political and social scene. That is why we will in the next chapters we will present accepted solutions according to the Law and identify potentially disputable approaches of the Law.

4.1. Law on Financing Political Activities

Law on Financing Political Parties went through the legislative procedure in 2011. The Law differs from the previous laws not only by the solutions accepted, but also by its title. The previous laws, as it was mentioned before, were regulating the issues of financing political parties solely. This Law, in our opinion, has more accurate approach and terminology, since in this area, the subject of law regulation should not only be financing of political parties, but of all political activities.²² Political actors may not only be political parties but also groups of citizens and coalitions (that may be constituted not only from political parties).²³

The subjects of Law regulation are sources of financing, records and control of financing political activities of political parties, coalitions, and groups of citizens.²⁴ According to the Law, the sources of financing political activities can be both public and private.²⁵ In that way, it was achieved that the flaws of those sources of financing are compensated.²⁶ Public sources can come from Republic of Serbia, and administrative locals.²⁷ Private sources of funding can be member participations, donations, inheritance, loans from banks and other organizations.²⁸ Since public sources are limited²⁹ and usually do not cover all regular and electoral costs, parties turn to private sources. Namely, according to the Article 20 of the Law, public sources are limited to 0,07% of Serbian budget tax income overall.

From the spectrum of allowed private sources, donations remain the most controversial sources of funding from the perspective of corruption. As we have previously mentioned,

²²Savo Manojlović, *Op.cit.*, 276.

²³ The Law, Art. 2

²⁴ The Law, Art. 1

²⁵ The Law, Art. 3

²⁶ Peter Mair, *Party System Change: Approaches and Interpretations* (Oxford 1997), 144.

²⁷ Law on Financing Political Activities, Art. 14

²⁸The Law, Art. 7

²⁹ The Law, Art. 16 and 20

it would be naive to expect that financial magnates would contribute to the funding of the party without assuming a certain *quid pro quo*. Nonetheless, the Law tried to reduce the negative effects of private funding. The solution accepted was not an innovative one, but it was implemented from the comparative law. Namely, the Law limits the amount of donations that can be given annually.³⁰ The purpose of the imposed limitation is to enable for just one person to influence the activities of the party by giving a big amount of money. On the contrary, when a lot of small donations are given, the dispersion of the influence on the party is bigger.³¹ The Law also introduces the list of prohibited donors.³²

4.2. Financial transparency

Financial transparency is one of the most important elements when it comes to financing political activities, especially political campaigns. It is one of the methods of controlling parties funding sources and spending. In that respect the Law introduced the provision that imposes the obligation on the political parties to submit financial reports. Under the Law political parties are obliged to submit two financial reports: annual financial report and financial report on electoral campaign.³³ The new Law also tried to influence the existent practice of cash payment contribution to the campaigns in Serbia by obliging political party to open special bank-account for electoral campaign.³⁴ The politicians in Serbia, nonetheless, were against this provision.³⁵ This fact led to the present solution, which was adopted as the result of the compromise –cash payments up to certain amount remained as an option, as long as a receipt is issued. Considering that, cash payments are still a threat to financial transparency, having in mind possibility of covering real donors and donations by issuing of fictive receipts.³⁶

³⁰Donations from the private donors that are natural persons are limited to 20 average monthly salary in Serbia. Donors, legal entities, can contribute to the campaign of the certain political entity up to 200 average monthly salary in Serbia. See, Art. 10 of the Law

Prohibited donors- why are they prohibited The Law, Art. 10

³¹S. Manojlović, Op. cit. 283

³² The Law states the prohibition of financing political entity, *inter alia*, by foreign states, foreign natural persons and legal entities, except international political associations; anonymous donors, public institutions, public enterprises, companies and entrepreneurs engaged in services of general interest, institutions and companies with state capital share, other organizations discharging administrative authority; trade unions, associations and other non-profit organizations, churches and religious communities; gaming industry; importers, exporters and manufacturers of excise goods, legal entities, etc. This list is reasonable since it has its ratio in preventing the unjustified influence from foreign entities on the national sovereignty, or the corruption that may arise from the connection of political entities with state enterprises or organizations. See Art.12 of the Law

³³ The Law, Art. 28 and 29.

³⁴ S. Manojlović, Op. cit. 286

³⁵ *Ibid.*

³⁶V. Bajović, S. Manojlović, Op. cit., 20

Cost analyzes of electoral campaign in 2007 made by Transparency Serbia³⁷ found that parties running for the elections allegedly financed majority of their costs from public sources. The results of the survey, however, are not in accordance with the economic calculations of electoral campaign costs. If we compare the spending for electoral campaigns in 2007 and 2012 (see Annex), we will see significant increase in reported campaign costs. Apart from the fact that in 2007 only local elections were organized (while in 2012 were organized both parliamentary and presidential elections), the adoption of the new Law gave the Anti - Corruption Agency stronger monitoring authority. However, there are still certain tendencies of political parties to cover the real costs. As we already pointed out, annual costs of political campaign are about 7.900.000 EUR. That implies no political party reports duly its actual campaign costs.³⁸

What also proved to be an issue that represents the threat to a financial transparency is that the financial reports (both annual and campaign) are often submitted incomplete. They contain only few limited information about private sources of funding. It goes to that that *“some parties have claimed they do not have any individual donors and that state funding covers all their financial needs.”*³⁹ What is more, majority of the biggest political parties reported donations from the companies that are not registered in Serbian Registry Agency. Logical explanation is that such companies were temporarily established in order to give donations to certain political party and cover real donors.

Having all the aforementioned in mind it is necessary for the Anti – Corruption Agency (hereinafter: the “Agency”) to play the significant role in achieving the financial transparency that is the essence for non – corrupted political funding. The best way to do that for the Agency is to exercise its powers under the Law extensively and create unified practice in treating the illegal behavior of the political parties.

4.3. Anti-Corruption Agency

The Anti-Corruption Agency Act, which was enforced in 2010, established the Agency as an autonomous and independent public institution which general authorization is combating corruption in the Republic of Serbia. The Agency is being funded by the budget of the Republic of Serbia and this represents its sole source of funding. The Anti-

³⁷ (unpublished analyze), Transparency Serbia

³⁸ S. Manojlović, Op. cit., 284

³⁹V. Bajović, S. Manojlović, Op. cit. 22

Corruption Agency Act contains a list of competencies that are given to the Agency. Among many competencies, the most important are monitoring and organizing the coordination of the state bodies in the fight against corruption, participation with other state bodies in drafting regulations in this field, keeping a register of the officials, and a register of property and income of officials. Moreover, it plays an important role in the field of education and prevention of the corruption, and in order to fulfill this task it cooperates with civil society organizations and research organizations. The Agency bodies are the Director and the Board with nine members, whereas none of them, meaning the Director and the members of the Board are allowed to be in a political party, and/or political entity. Nevertheless, political influence in appointing the members of the Board is not absolutely excluded since the Administrative Committee of the National Assembly, the President of the Republic and the Government are nominating one member each, and in the end, the National Assembly elects all members of the Board.

The Law gave the jurisdiction to the Agency in controlling and monitoring the financing of political parties, and identified it as the main body responsible for these activities. The monitoring is being made both during the election campaign, and during non-election period.

According to the Law, the Agency has the right of direct and free access to bookkeeping records and documentation and financial reports of a political entity and to engage relevant experts and institutions.⁴⁰

A political entity shall at the Agency's request and within the time frame set by the Agency which may not exceed 15 days, submit to the Agency all documents and information necessary to the Agency to carry out tasks from its purview set forth under the Law.

In the course of election campaign, a political entity is required upon the request of and within the time frame set by the Agency, which may not exceed three days, to submit information necessary to the Agency to carry out tasks from its purview set forth under this Law.⁴¹ Moreover, the Law obliges the administrative bodies of the Republic of Serbia, autonomous province and local government; banks, as well as natural persons and legal entities financing political entities performing for and/or on their behalf particular service to cooperate with the Agency and forward all requested data. This obligation

⁴⁰ The Law, Art. 32

⁴¹ *Ibid*

supersedes any other restriction or limitation that may appear in any other regulation.⁴² The Agency is being given the possibility after controlling financial report of political parties, to forward a request to the State Audit Institution to audit them.⁴³ It was stated that one of the problems the Agency is facing is the shortage of staff for reviewing the reports during the election campaign.⁴⁴

It is important to emphasize which are the sanctions established by the Law for the political entities in case of non - compliance. The Agency itself does not have the authority to punish, thus the main powers it has in this case is issuing a warning measure, initiating misdemeanor proceedings. Only in one particular case the Agency is allowed to press criminal charges. This has not happened still in practice since it is very difficult to prove the intent mentioned above in a particular case. On contrary, so far the Agency had initiated numerous misdemeanor proceedings against political identities whereas many of them resulted in convictions but with minimal fines. In case of conviction, Article 42 of the Law predicts another sanction for political entities and that is loss of funds from public sources allocated for financing of regular work of the political entity for the coming calendar year. This sanction could be considered as adequate but the percentage of this loss is tied to the fine, which was in most cases, as stated above, minimal. The core of the problem in the sanction system for disobedience of the political entities in sense of this Law is the fact that very few powers, almost none are invested in the Agency and the main player is the prosecutor's office and the court. The decision to raise the indictment or to start the misdemeanor proceeding, as well as the investigation lies in the hands of the public prosecutor. Moreover, the courts have the final say in the domain of choosing the fine in the range given by the Law. According to European Commission report from 2006, the most critical problem is the insufficient protection of judges and prosecutors from political influence.⁴⁵

⁴² *Ibid*

⁴³ Law On Financing Political Activities, *Official Gazette of the Republic of Serbia*, No. 43/11 and 123/14, Art.34 (Organization for Security and Co-operation in Europe web site), <<http://www.osce.org/serbia/80544?download=true>>, accessed 1 November, 2015

⁴⁴ See more 'The Serbian 2011 Law on Financing Political Activities, Legal Provisions and Recommendations for Enforcement', p. 13, (IFES web site), <http://www.ifes.org/sites/default/files/the_serbian_2011_law_on_financing_political_activities.pdf>, accessed 13 December, 2015

⁴⁵ Judges are subject to a 3-year probationary period before permanent appointment, during which they would be particularly vulnerable to such influence. One year later, Venice Commission (2007) called attention to the problem of excessive role of the parliament in the selection/approval process of judges. Vanja Bajović, Savo Manojlović, Corruption and Financing of political parties-Case of Serbia, p.22, <<http://www.gestaodefraude.eu/wordpress/wp-content/uploads/2013/01/wp021.pdf>>, accessed 2 November 2015

Considering the above mentioned, the revision of the current Law is necessary. The most recent changes did not address the essence of the said problem, and hence, were widely criticized by the experts and civil sector. The Agency agreed with the newest amendments to the Law, which allow the funds for financing regular work of political entities are used for covering the costs of the political campaign, stating that this political entities already have the right to obtain funds for the purpose of the elections which results in budget funds being allocated twice for same purpose

5. Comparative Solutions

While observing the comparative solutions it is most prudent to examine the practice of the other Balkan countries, which dealt with the same problem in the past and went through the process of the European integration and now are EU member states. These countries, among others, are Croatia and Slovenia.

When we take a look at Croatia's institutional framework regarding monitoring and controlling of financing political activities it is clear Croatia does not have special institution formed for that purpose, but this control is being conducted by two public bodies. This competence is divided between the State Electoral Commission and the State Audit Office. This solution allows the control of financial reports to be *ex lege* assigned to the financial experts who can conduct their thorough examination. Nevertheless, the State Electoral Commission employs only graduate lawyers, and it was criticized that it lacks people with knowledge.⁴⁶ In Croatia, various non-governmental organizations have warned of irregularities related to the financing of governmental organizations have participated in various activities including media monitoring, pointing out the abuse of budgetary funds, cooperation with political parties, candidates and the like. Representatives of the State Electoral Commission and the State Audit Office, as well as the majority of political parties, have assessed that the non-governmental organizations that oversee the political financing are effective, or very effective in practice. In the same way, the majority of political parties have evaluated these NGOs as fully independent, with the same opinion being reported by party accountants. The experts who participated in this study indicated that the investigating activities of NGOs (Transparency

⁴⁶ Hrvoje Mataković, Transparency in funding of political parties, p. 22, <http://www.transparency.hr/upload_data/site_files/4020857531824441163427522303_transparency-in-funding-of-political-parties-2013.pdf>, accessed 2 November 2015

International Croatia and GONG) in Croatia have shown a higher level of efficiency in monitoring campaign financing than the State Electoral Commission.

The biggest contribution to the fight against corruption in Croatia that was widely recognized and commended, was made by the Office for Suppression of Corruption and Organized Crime (hereinafter: USKOK). USKOK is a specialized department of the State Attorney's Office of the Republic of Croatia. Established in 2001, USKOK has the mandate to investigate and prosecute corruption based on its establishing legislation. It also has the mandate to direct police investigations and conduct prosecutions in corruption and organized crime cases within its jurisdiction.⁴⁷ The existence of such specialized and independent body showed to be a very good solution that gave significant results in practice, and the greatest one is definitely the indicting of Croatian former prime minister. The investigation, which has taken nearly two years, has found that more than 9,3 million EUR was drawn in this way from ministries and public enterprises from the end of 2003 to July 2009, of which Ivo Sanader kept at least 2 million EUR for himself, while the rest went into the "black fund" of the Croatian Democratic Union. It is not entirely clear what the Croatian Democratic Union has done with the money - it may be assumed that it was used to fund election campaigns.⁴⁸

Slovenia, on the other hand, established a judicial body for monitoring and controlling the financing of political entities, *i.e.* Court of Audit. However, the Court of Audit can only check the accuracy and legality of the regular reports submitted by the parties. It has no power to check on substance the origin of funding and the financial flows. The sanctioning system provided for in current legislation in cases of breaches of the Political Parties Act appears to be ineffective.⁴⁹

At its 19th regular session on 21 November 2013, the National Assembly of the Republic of Slovenia adopted the Act Amending the Political Parties Act (hereinafter: the "ZPolS-E") and entered into force on 18 December 2013. It became applicable on 1 January 2014. ZPolS-E has introduced several novelties, particularly in the areas of funding of political parties and preparing annual reports: - the prohibition of financing of a party is extended to all legal persons, sole proprietors and individuals who independently perform

⁴⁷ Anticorruption authorities, snapshot: Croatia, <<http://www.aauthorities.org/country/hr>>, accessed 3 November 2015

⁴⁸ Hrvoje Mataković, 'Transparency in funding of political parties', p. 21, <http://www.transparency.hr/upload_data/site_files/4020857531824441163427522303_transparency-in-funding-of-political-parties-2013.pdf>, accessed 2 November 2015

⁴⁹ Annex Slovenia to the EU Anti-corruption report, p. 8, (European Commission web site) <http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_slovenia_chapter_en.pdf>, accessed 26 October 2015

activities; - a party has to assign contributions acquired in contravention of that Act to charity no later than in 30 days from receipt of the contributions.⁵⁰

When it comes to monitoring, the role of the non-governmental sector, i.e. NGOs and civil society organizations is not to be underestimated. In this regard, Poland is one of the countries where the improvement was made since during the 2009 European Parliament elections the irregularities were lower than before. In this particular case, Stefan Batory Foundation report showed that "(...) the scrutiny and monitoring of third sector organizations and media, played a role in ensuring campaign committees obeyed the regulations."⁵¹ This result was enabled by the monitoring mechanism, which was conducted on national and regional level in two phases. In the first phase, specially trained volunteers researched local media campaigns, Internet advertisements and campaign expenditure.⁵²

6. Recommendations

The Balkan countries that are EU member states are facing similar challenges in domain of political funding and monitoring, as Serbia does. As stated above, Slovenia being the most prominent ex-Yugoslav country has serious issues regarding the transparency of political financing. Nevertheless, certain positive changes were made in these countries that should be taken into consideration and possibly applied in Serbia.

The role of the Agency is recognized as one of the most important in this domain, and thus it should strengthen its position and preferably be given wider competencies. To be more specific the augmentation of staff for the purpose of reviewing the reports as well as their additional training are desirable. Moreover, it was shown that the Agency has very little influence when it comes to investigating and sanctioning the offenders. The Agency should be allowed to fine political entities in the case of breaching the imperative provisions of the Law, instead of waiting for the final enforceable judgment of the court. When it comes to criminal investigation, establishing of special independent institution that resembles aforementioned USKOK in Croatia should be considered. For non-compliance (*i.e.* failing to submit the report, or complete report on financing), more

⁵⁰ Slovenia-United Nations Office on Drugs and Crime, p.1, (UNODC web site), <https://www.unodc.org/documents/corruption/WG-Prevention/Art_7_Measures_related_to_political_parties_and_election_candidates/Slovenia.pdf>, accessed 1 November 2015

⁵¹European Parliament Elections 2009, Monitoring Report on Campaign Financing, p. 6,

<<http://www.batory.org.pl/doc/European%20Parliament%20Elections%202009.pdf>>, accessed December 14, 2015

⁵² See more 'European Parliament Elections 2009, Monitoring Report on Campaign Financing',

<<http://www.batory.org.pl/doc/European%20Parliament%20Elections%202009.pdf>>, accessed December 14, 2015

severe sanctions ought to be enforced, such as bigger fines, or in more serious cases even being banned from participating in the elections, or removal from the register of political parties.⁵³

The role of non-governmental sector in monitoring proved to be rather useful in Croatia. If the strong and effective system for monitoring compiled of the Agency and civil organizations is to be built, we strongly believe that it would contribute to the bigger transparency and diminish illegal behavior of the political entities. Active engagement of the media is necessary, because it contributes to the transparency, as well, and further enables public influence and pressure during the monitoring. One of the main preconditions for such cooperation is already fulfilled in Serbia and that is disclosure, *i.e.* the financial reports ought to be made public on the website of the Agency and political parties.

Conclusion

Political parties represent one of the most important pillars of democratic political system in every country. Their role is to formulate different interests of certain groups in society, select candidates for office, and coordinate government activities, as well as to play important role in the legislative process. In order to participate effectively in the democratic process the sufficient amount of funding is of great importance for political parties. However, as we have substantiated in the previous chapters, it is essential for the democracy that this process is carefully regulated and monitored. In order to comply with the rule of law requirements, corruption among subjects with greatest political power has to cease to exist. The significance of establishing accountable and transparent institutions is internationally recognized by the UN system and other international organizations, such as, for instance, Council of Europe and OECD. Serbia is also a signatory to the UNCAC, which devotes a section particularly on party and candidate financing. As the EU candidate state, Serbia is obliged to fulfill certain requirements in this domain set by the EU treaties and regulations. The shaping of legislation in the area of financing political started in the nineties. The newest Law on Financing Political Activities that is currently in force, was adopted in 2011, and applies to the date along with the newest amendments. Many of its provisions represent the improvement compared to the earlier

⁵³ This solution was introduced in certain legislations but it is questionable, since it is in collision with the freedom of association, which is guaranteed by the Art. 65 of the Constitution of the Republic of Serbia

laws since it establishes an independent institution which main competence is preventing and fighting corruption, and widens transparency of political financing. Nevertheless, the existing provisions are not fully implemented and different reports state that there is a lot work to do to improve in this area, In our opinion, the best way to achieve that, as we have stated before, is to establish independent institutions and create the safe, non-corrupt public awareness to produce the environment that will be the base for the sane legal framework and transparent democratic procedure.

Annex

*Table 1: Spending for electoral campaigns
(Source: Transparency Serbia, unpublished survey)*

	2007	2012
The Democratic Party	133.391.053 (1.688.494 EUR)	563.289.835 (4.773.642 EUR)
The G17+	65.632.867 (830.795 EUR)	437.077.608 (3.704.047 EUR)
The Liberal Democratic Party	74.489.380 (942.903 EUR)	214.693.053 (1.819.432 EUR)
The Serbian Radical Party/ The Serbian Progressive Party	119.474.109 (1.518.035 EUR)	343.859.454 (2.914.063 EUR)
The Democratic Party of Serbia	112.924.820 (1.439.428 EUR)	68.356.879 (579.295 EUR)
The Socialist Party of Serbia	43.779.197 (554.167 EUR)	152.770.491 (1.284.665 EUR)

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