



Parliamentary Project Support Division

Seminar on the funding of political parties and electoral campaigns: legislation and control mechanisms

organised by the Parliamentary Assembly of the Council of Europe, in Paris, on 10-11 December 2015

Meeting report

The objective of this seminar was to raise awareness among MPs in Eastern Partnership member states (Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, Ukraine) of good practices and lessons for regulation of the financing of political parties and election campaigns. The seminar consisted of two main sessions.

Session 1 on “Public funding, monitoring institutions, citizen supervision: what impact on increasing transparency?”

The session was opened by the General Rapporteur (Quentin Reed), who briefly summarised i) the different types of corruption that may occur in the financing of political parties and election campaigns – corruption internal to political parties, contributions in return for advantages, and the misuse of state resources for electoral purposes; and ii) international standards relating to political finance, particularly the Council of Europe 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 but also the Venice Commission/OSCE-OHDIR Guidelines on Regulation of Political Parties.

The session was addressed by “Mr Jens-Oscar Nergård (Norway), Member of the Group of States against corruption (GRECO) of the Council of Europe; and Mr Romain Colas, Member of the French National Assembly and rapporteur of the Assembly on assessing the relevance of the laws and regulations on the funding of electoral campaigns and political parties. Mr Nergård underlined how difficult political finance is to regulate and enforce, and the need to balance different priorities against each other – notably parties’ need for money vs the need to curb corruption. Mr Colas described the key components of the French system of state funding of parties, and stressed the way in which state funding is combined with limits on spending.

Both Mr Nergård and Mr Colas underlined the importance of trust as a foundation for good regulation – in particular, public trust in parties in order for state funding to be publicly accepted, but also trust in the impartiality of mechanisms to enforce political finance regulations. The discussion in the session focused on what is the ideal system of oversight and enforcement. Mr Colas described how the French oversight structures have become more powerful in recent years, obtaining more investigative powers and stringent sanctions that can be imposed on parties that violate spending limits or restrictions on donations. Mr Nergård noted the risks of giving an oversight body too many powers. Mr Reed argued that official oversight can never be sufficient alone, and needs to be combined with oversight by the media and civil society. The representative from Georgia strongly endorsed both

Programmatic Cooperation Framework for Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine and Belarus

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these points, and argued that proper oversight cannot be achieved in a system where the judiciary and enforcement bodies in general are not independent.

Session 2 on “**An effective sanctioning system?**” built on the discussion of Session 1. This session was addressed by Marcin Walecki (Poland), Head of the Democratization Department at OSCE/ODIHR and Ms Inga Jaunskunga (Latvia), Head of Division of Control of Political Parties Financing, Corruption Prevention and Combating Bureau of Latvia (KNAB). Mr Walecki outlined four building blocks that are necessary for effective control of political finance: internal party controls, and independent political finance regulator, civil society/media, and voters themselves. He reiterated the risks of having strong oversight where the rule of law is not sufficiently consolidated. Specifically, Mr Walecki argued that the tendency in post-communist countries to establish stringent sanctions (such as deregistration of a party or criminal penalties) should be limited, and that the great majority of sanctions should be of an administrative nature and varied in proportion to the severity of violations. He also underlined one of the main problems of political finance regulation, namely the very common problem of a huge enforcement gap.

Ms Jaunskunga described the Latvian system, based on oversight by KNAB. She described the strengths of Latvian regulation as the requirement for all party funding to be disclosed publicly, the independence of KNAB and its wider remit covering not only political finance but also asset declarations and conflict of interest. Nevertheless, she concluded that oversight has not been entirely effective, not least due to parties’ ability to find ways to circumvent regulations (for example campaigning being conducted by other entities). Particular interest in the discussion of oversight was expressed by the representatives from Kyrgyzstan, where parties reportedly financed the most recent elections without any real control, and the formal oversight in place is divided between institutions.

The General Rapporteur summed up the main lessons of the session as follows:

Concerning financing rules:

- While international standards are a vital source of guidance, countries should identify and analyse their own specific problems before designing solutions.
- Such analysis should not focus too narrowly but take account of a wide range of factors – for example the nature of parties themselves (and problems inside them), the nature and integrity of elections, the integrity of institutions. It should also encompass other areas of regulation such as procurement, media, state companies. If corruption is systemic, political financing practices cannot be addressed through political finance regulation alone.
- Countries vary, and the appropriate regulations will vary. For example, prohibitions on foreign funding will be much more necessary in some countries than others, the right balance between public and private funding will vary, and the dangers of vote-buying will vary massively.
- Regulations must be realistic, and in particular care should be taken to avoid establishing rules that will not be implemented or are too hard to enforce.
- A key condition for regulations to work is that there is sufficient trust, especially of parties and citizens in the impartiality of oversight, but also of citizens in parties themselves (for example in order state funding to be accepted).
- A key principle of good regulation is balance – in particular, i) aiming for parties to rely on a mixture of financial sources rather than one, ii) not relying on one mechanism (such as limits on donations) to achieve too much different, and iii) tailoring sanctions to the severity of violations. A key aspect of balance is to attempt to reduce the cost of elections, rather than trying only to prevent parties raising or spending money.
- Regulations should combine “sticks” with “carrots”, in order to provide incentives for parties to comply with regulations. For example, subsidies should not be provided without parties fulfilling certain conditions first, such as filing proper financial reports.

Concerning oversight and enforcement:

- In line with international standards, regulation works better when oversight is concentrated in one institution rather than scattered across more institutions.
- Oversight will be toothless if the oversight has insufficient resources. It is likely to be ineffective or even counterproductive if the oversight body lacks independence. Even well-functioning oversight is likely to be compromised if the judiciary or law enforcement lacks independence.
- Official oversight is only one component of at least four that are necessary for political finance to be held accountable. A key lesson is that regulators rarely detect violations – rather they help underpin the reporting and legal framework that allows media or civil society to uncover violations – which the oversight body can then pursue.
- As required by international standards, sanctions should be effective, proportionate and dissuasive. Sanctions that are too lax will not encourage compliance, and ones that are too stringent may dissuade regulators from imposing sanctions, or on the contrary be abused if oversight is subject to undue influence.