



RIGA GRADUATE SCHOOL OF LAW

**FINANCING OF POLITICAL PARTIES:
EFFECTIVENESS OF REGULATION –
THE LATVIAN EXAMPLE**

MASTER'S THESIS

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SUMMARY

The following paper uses controversial issue of party financing as an example to explore the effectiveness of a particular regulation. The aim of the paper is to give an objective overview of the issue of political party financing in Latvia that may be worth reading while elaborating and before adopting new regulations in the sphere. Author discusses the situation in Latvia thus giving the analysis and recommendation for particular circumstances of party finance in country.

At the first chapter of the paper main further-used concepts are analysed, looking for answers to questions like: what means effective regulation and what are the preconditions for regulation to be effective? What is the difference between effectiveness and efficiency? Besides, a glimpse is made on legal theories surrounding these concepts.

As legislation on financing of political parties is studied, the next chapter of the paper searches for main ideas about political parties and the notion what is the aim of financing regulations. Consequently, the answer allows formulating the aim and objectives of party finance regulations introduced in Latvia, and seeing the main problems obstructing the reaching of the aim – that is done in the following chapters of the paper.

The present problems in Latvia include, first, rise in price of election campaigns, second, lack of control and transparency, third, expensiveness of control, forth, unfairness in political struggle, and financial barriers to enter it, fifth, threat of corruption and illegal influences of sponsors, sixth, violation of limitations and restrictions, and final, fall-off in public trust is political parties.

The main part of the paper is devoted to the analysis of concrete regulations – which of proposed or recommended means can be the most effective to reach the stated aim and overcome the problems. The system that seems to operate the best is one based on a reasonable balance between public and private funding. The balance is sought for Latvia and, by exploring the regulations known in the world, the author has concluded that some of these could be more effective than others. Explored are the regulations on disclosure, control and sanctions, income, expenditure regulations, and regulations on public funding.

On discussing regulations the author has arrived at a conclusion that in the present situation, there are two tracks to follow – first, lessen the need of money, and, second, promote the situation when parties are not dependant on one rich sponsor but gets money from many supporters. By establishing that currently also the public is making pressure on the politicians, it has been concluded that political will has turned to seek effective legislation to impose a certain amount of discipline on party funding, thus restoring public confidence in the party system.

At the end of the paper the author concludes that regulations on party finance in Latvia could simultaneously promote both tracks: first, by prohibiting campaigning in mass media (that presently constitutes the biggest part of parties' expenditure) and providing free advertising time in the same media thus reducing the necessity for money. Second, as donation limits per person have been lowered, promote the transparency of donations, and by tax policy encourage citizens to involve in financing of political parties.

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INTRODUCTION

The aim of this paper is to explore the effectiveness of a particular regulation, using controversial issue of party financing as an example.

Regulations concerning party funding differ from state to state and although recommendations have been prepared both by European Union and Council of Europe institutions, the finding of most effective regulation in a concrete situation should be up to the State— it can recognize the main objective of regulation in a particular situation and circumstances, it can recognize the main obstacles to be overcome, and it can possibly evaluate society and addressees of a newly adopted law and their reaction to it. The State (from inside) is the one who can assess and fulfil the conditions for legislation to be effective. Therefore it is possible to evaluate the effectiveness of a particular regulation only with regard to particular state, thus in this paper the situation in Latvia will be used as a research field. The intention of the paper is to give a sort of independent expert opinion on the issue of political party financing in Latvia that may be worth reading while elaborating and before adopting new regulations in the sphere.

Currently little academic work in Latvia is done in analysing effectiveness of particular legislation. This especially applies to the party finance regulation. Hence sources used in this paper primarily are international researches and recommendations (the European Union, The Council of Europe, also Transparency International), research and analytical work done by political scientists (Michael Pinto-Duschinsky (U.K.), Jānis Ikstens (Latvia)). However the analysis of political scientists mainly focuses on pros and cons of particular legislation, not effectiveness of it. Thus this paper tries to fill this gap in legal academic analysis.

At the first chapter of the paper main used concepts are analysed, looking for to the questions like: what means effective regulation and what are the preconditions for regulation to be effective? What is the difference between effectiveness and efficiency? Besides, a glimpse is made on legal theories surrounding these concepts.

As legislation on financing of political parties is studied, to survey effectiveness of any regulation, it is necessary to establish main ideas about political parties, their meaning in society, aims and objectives. From these ideas (that can be found in the books on political thought and theory) the notion what is the aim of financing regulations can be derived. Accordingly the next chapter is searching for explanations on meaning and role of political parties in democratic state. Consequently, the answer allows formulating the aim and objectives of party finance regulations introduced in Latvia and seeing the main problems obstructing the reaching of the aim – that is done in the following chapters of the paper.

The main part of the paper is devoted to the analysis of concrete regulations – which of proposed or recommended means can be the most effective to reach the stated aim and overcome the problems. Thus explored are the regulations on disclosure, control and sanctions, income, expenditure regulations, and regulations on public funding.

Very little in paper is touched the issue on political will to adopt the limiting regulations. Nevertheless, in spite of common scepticism on politicians, paper has been written with a presumption that, firstly, politicians are representatives of society – electorate is voting for them in elections, thus they cannot be scoundrels of the blackest dye. Secondly, most politicians are willing to introduce changes and do to the overall society good, but they have to comply with the “rules of the game” just to get into the parliament by obtaining sufficient support in elections, even if they do not think these rules should be upheld.

To participate in elections successfully, money is needed. The traditional model of political party living completely or largely on the regular contributions of their members does not apply anymore in practice. The importance of other sources of income has increased and these developments have created new opportunities for potential influence on the part of those willing to give money to a political party. The role of legislation is to prevent both the increasing influence of those giving the money and parties engaging in activities other than representation of society (like fund raising).

Current trend of legislation seems to include mainly adoption of new and stricter sanctions for cases where law cannot be enforced. Absurdness of the approach is obvious but this practise remains. Of course, social behaviour and attitudes are tough to change, however imposing sanctions do not change the attitude. Usually people disobey the rules because they think that the rule is either needless and unnecessary or simply stupid. Changing one law after another—from void phrases and unreasonable sanctions to useful mechanism can change attitude of the society towards the law thus changing level of legal culture in the state. However, this is a long and labour-consuming task. Evidently, the first steps have been done (the welcomed recent amendments will be observed in the paper), and hopefully, this paper will contribute in helping to make the next step in the direction of more effective regulation on financing of political parties.

1. DISTINCTION BETWEEN EFFICIENCY AND EFFECTIVENESS

Concept of effectiveness

Content of concepts “effectiveness” and “efficiency” in relation to any regulation is revealed in the methodology used for public policy analysis. This methodology has elaborated the “decision criteria” – criteria that are used to evaluate possible solutions of problems and to make recommendations. There are six main criteria’ types marked out: besides *effectiveness* and *efficiency* also into account should be taken criteria of *adequacy* (the extent to which a given level of effectiveness satisfies the needs giving rise to a problem), *equity* (results in a more just distribution of resources, including effects and effort, in society), *responsiveness* (how policy satisfies the express needs, preferences, or values of citizens), and *appropriateness* (appropriate choice of the objectives)¹:

- Effectiveness is a criterion according to which an alternative is recommended if it results in maximum achievement of a valued outcome (effect), apart from efficiency considerations. It is often measured in terms of units of products or services or monetary value (purely technically).
- Efficiency is a criterion referring to the amount of effort required to produce a given level of effectiveness. Due to the morphological similarity these terms can be confused while efficiency is a term referring to more economic solution, not achievement of result.

A borderline among those criteria is smooth – effectiveness can be dependent on adequacy or appropriateness of measures. Forward in the analysis the main emphasis will be made on the effectiveness criterion, however the considerations relating to the other criteria are common and necessary. In fact, only when all the criteria are taken into account when adopting a new regulation, it can be truly effective.

What can a law do – purpose and function of legislation

The origins of discussion on effectiveness of a rule started by the idea of ‘**living law**’: it appeared in the last decades of the 19th century, when legal positivism (at that time being on the peak of its development) became challenged both from inside the legal profession and outside. One of most important critics was Eugen Ehrlich, who later in his *Sociology of Law* (1922) and *Fundamental Principles of the Sociology of Law* (1936) stated that legal positivism’s definitions of law made impossible to understand law’s reality as social regulation and included only those aspects of it that tended to have little relevance for the experience of most people.² According to Ehrlich, only those norms or rules that are actually followed in social life are the real “living law”. For him the “life” of a norm meant effectiveness of it – if a norm had been adopted in the response to the social needs and in accordance with customs and general (moral) principles of society, it is going to be effective – obeyed and enforced.³

¹ William N. Dunn, *Public Policy Analysis: An Introduction*, Second Edition, Englewood Cliffs, New Jersey 07632, Prentice Hall, 1994, at p. 282-89, 328-30.

² Roger Cotterrell, *The Sociology of Law: An Introduction*, London, Dublin, Edinburgh, Butterworths, Second edition, 1992, at p. 26.

³ Ibid, at p.27.

Important is difference between the concepts of **purpose** (what it is thought it ought to do) and **function** (what law does) of **law**. Although both *function* and *purpose* have a point in effectiveness analysis, some authors deny the content of term “purpose of a law” and have introduced a term “naïve instrumentalism” to describe the assumption that all laws have specific purposes against which their effectiveness can be measured. On this light, the function of the law may have no relation at all to the original purpose for which the Statute was passed. However, by accepting that the function of the law has no relation to its purpose, firstly, the long-known method of interpretation – teleological interpretation – loses its meaning. Secondly, this allegation is in conflict with overall practice administered by States and international organizations – like the European Union or the Council of Europe that have used to explain purpose and goals of the particular regulation (convention, directive or regulation) in its preamble that can be used later to understand and to interpret the very text of it. Therefore, it seems that denying the significance of the purpose of law yield critics.

In theory these are called **functionalists** – authors⁴ recognizing the task of law in meeting the needs of society and maintaining appropriate relations between members of society. They see law as solving three kinds of problems:

- ☒ goal attainment (keep the system moving towards goals, whatever they may be),
- ☒ pattern maintenance (creating, maintaining and restoring values, energies and motives in society), and
- ☒ adaptation (to the broad conditions of the environment).⁵

In attainment of goals and changing values law operates as an agency of power, an instrument of government to introduce changes in society and the state (**legal instrumentalism**). That is because one of the preconditions for **social change** (non-repetitive alteration of established modes of behaviour in society) is changes in the social structure (patterns of social relations, established social norms).⁶ Nowadays it has become clear that law actually acts upon society rather than being simply an aspect of society thereby it can be deliberately used as an instrument to change the patterns of social life, however, thus moving away from moral rules, and becoming more alien to society.⁷ Therefore the approach of legal instrumentalism is used in this paper – both have happened: law is seen by legislator as instrument to attain social changes, and law has become alien to society.

Legal instrumentalism further has studied also the impact of law on individuals – whether is it possible to “make people good through law”, in addition concluding that as a matter of fact it is wrong to ask whether law can influence behaviour. The question should be stated: in what circumstances and due to what internal mechanisms can the influence of the law be alleged. Moreover – there are ever more proofs that influence of the law is not dependent neither on the dominant attitudes in the community nor severity of the sanctions.⁸ State sanctions are virtually irrelevant – most people voluntarily fulfil their duties, acting out of habit, to avoid social consequences of deviance, like quarrels, loss of status, gaining a bad reputation, or to save goodwill in business. So the *real* sanctions of law arise from the fact that in general no

⁴ Like Talcott Parsons, Emile Durkheim, Karl Llewellyn.

⁵ Roger Cotterrell, *The Sociology of Law: An Introduction*, London, Dublin, Edinburgh, Butterworths, Second edition, 1992, at p. 82.

⁶ See reference to L.M.Friedman and J.Ladinsky, *Social Change and the Law of Industrial Accidents*, 1967, in Roger Cotterrell, *The Sociology of Law: An Introduction*, London, Dublin, Edinburgh, Butterworths, Second edition, 1992, at p. 47.

⁷ Ibid, at p. 44-45

⁸ Leon Mayhew, “Sociology of law”, in Talcott Parsons (eds) *American Sociology: perspectives, problems, methods*, New York, London, Basic Books, Inc., Publishers, 1968, (edition in Russian: Леон Мейхью, «Социология права», in *Американская социология: перспективы, проблемы, методы*, Москва, «Прогресс», 1972, at p. 230).

one wants to be excluded from associations of the life – from the ties of citizenship, family, friends, profession, church, business community, and so on. Refusal to conform to a norm leads to the weakening of the bonds that tie the individual to society.⁹ Thereby it can be concluded that sanctions are needed for a law to be effective although the effectiveness does not depend so much on the objective severity of sanctions as on subjective attitude of individual towards the sanction – that should be something that either in direct or indirect way excludes violator from something sought-after. This condition is particularly important to stress in current situation in Latvia: when often new and stricter sanctions are adopted aiming to force the society in obeying the rule.

Efforts to influence the behaviour of society may be done intentionally through so called “**educative legislation**” – it can be used to promote ideals or understanding of rights (especially human rights). On the other hand – there are examples in history of grotesque and costly failures to alter deep-rooted patterns of social behaviour, and the best-known example is the attempt in United States in the 1920s and 1930s to prohibit the manufacture, transportation and sale of alcohol for beverage purposes.¹⁰ This illustration reminds that how the law is put into effect is as important as its content.

Although the **effectiveness** of a law can be established only after a period of time when law has come into force and the *real* results can be seen, it is possible to foresee the effectiveness of the law taking into account the mechanisms how the law operates and circumstances that influence the operation of the law. Alternatively beforehand the **legal impact study** can be carried out – its object is assessing the effects of particular legislation or decision on behaviour or attitudes by primarily focusing on the implementation of specific laws at a particular place and time. Impact studies provide important evidence of the effect or lack of effect of particular law and, being a tool for understanding how a legal rule fits into social and political system, can contribute to general understanding of a law.¹¹

Studies in the **effectiveness** of law started at the beginning of the 20th century by American jurist Roscoe Pound, and by now main characteristics have been identified for a law to be effective. These include:

- Conditions relating to the norms – norms should respond to the social economical, cultural psychological and political circumstances, i.e. objective situation and level of legal culture in the state;
- Conditions relating to enforcement of the law – enforcement practice should respond the postulates stated. Moreover – law cannot enforce itself but a law that cannot be enforced or invoked can hardly shape behaviour;
- Conditions relating to persons – to ensure high effectiveness of the law society should be educated and the high level of consciousness and morals facilitated, then requirements of the law will be appreciated and observed. This means that law primary deals with the “outside” – observable behaviour, not “inside” – attitudes and beliefs, of people and things, where latter should be taken into account in elaboration of new laws.¹²

⁹ Roger Cotterrell, *The Sociology of Law: An Introduction*, London, Dublin, Edinburgh, Butterworths, Second edition, 1992, at p. 29-30.

¹⁰ Ibid, at p.55.

¹¹ Ibid, at p. 34-35.

¹² See: American jurist Roscoe Pound (*The Limits of Effective Legal Action*, 1917, cited in Roger Cotterrell, *The Sociology of Law: An Introduction*, London, Dublin, Edinburgh, Butterworths, Second edition, 1992, at p. 51.

In elaborating the conditions of effectiveness successful researches have been done resulting in the following framework list:¹³

- (1) the source of new law should be authoritative and prestigious;
- (2) law must appear compatible with cultural assumptions and with the most general accepted patterns of legal development (reason why norms borrowed from other countries often are ineffective);
- (3) pragmatic models for compliance must be identified – law must not be utopian but practical in its aims;
- (4) the element of time – the shorter the transition time the easier the adaptation to the change required by law;
- (5) enforcement agents must be committed to the behaviour required by the law even if not to the values explicit in it;
- (6) positive sanctions (provisions for grants, subsidies, tax concessions) are as important as negative (various forms of punishment);
- (7) effective protection must be provided for the rights of those who would suffer as a result of evasion or violation of the law – an incentive should be given to use legislation.

Nevertheless, the criteria often are not taken into account by practitioners.

Assessment of effectiveness – methods

Presently in Latvia (and in Europe at large) the attitude towards legislation is as towards a tool to change some situation or behaviour. Unconsciously politicians are approaching legal instrumentalism – in using law as means to start and conduct social changes. The scheme of a common situation is simple –there is a problem in State needing a solution. To achieve that solution law is used as a tool. However the result often differs from the expected or planned solution, and then it is said that legislation was ineffective. According to this approach, the effectiveness of a legal norm can be measured by comparing the objectives stated at the beginning, before adopting the law, and the results, the objective reality that has changed or has not changed due to the adoption or enforcement of this law.

From the point of view of the effectiveness researches, illustrative is the example of Italy: when Italy first in 1974 adopted the law on State financing of political parties, the reformers thought it will (1) eliminate political corruption, (2) create and maintain the conditions of fair party corruption, (3) provide for a greater circulation of political elites and an easy access of non-professional politicians to elective offices. Unfortunately, the law not only failed to fulfil these expectations but also created new problems, for instance, strengthened fragmentation and discouraged citizens from political participation.¹⁴ Further in the paper the analysis of Latvian current legislation and proposals on legislation will be carried out, basing on the theories mentioned before, not to follow the Italian example.

¹³ Enlisted by William M. Evan (*Law as an Instrument of Social Change*, 1965), see: Roger Cotterrell, *The Sociology of Law: An Introduction*, London, Dublin, Edinburgh, Butterworths, Second edition, 1992, at p. 5963.

¹⁴ Pasquino Gianfranco, *Party finance and Corruption in Italian politics*, Paper presented at the Corruption and Party Finance Conference. Riga, Latvia, 24-26 November 2000.

2. POLITICAL PARTY: MEANING

As previously contended, for assessing the effectiveness of particular legislation all four components of the scheme should be identified, that is: the problem, the aim and the objectives, the means – i.e. regulations, and the result. However, to identify the problems and aims and to reach conceivable assessment, closer exploration of the object of regulation is needed to understand the meaning and the role of political party in the democratic state. Next chapter will observe the content of concept “democratic state”, meaning of civil society and need of public participation, and the role of political parties.

Democracy: a modern definition

The 18th century definition of “democracy”, that accords with the contemporary juridical notion of “democracy”, refers to the participation of society in public decision making, the sharing of public power and mutual supervision, the rule of law, dignity of man, and the like.¹⁵ For Aristotle democracy meant the value of **popular participation** in the affairs of the *polis* in ancient Greece. His model has been adjusted to the contemporary democracy in a form of indirect or representation democracy, thus ensuring political participation of citizens through the medium of elections that are seen as efficient and democratic way of organizing political succession, believing that elections facilitate the limited but popular involvement of citizens in decision making through political succession.¹⁶

Political participation and role of political parties

Civil Society – it is the sphere of society where individuals freely associate in relationships, actions and organizations that are not dependent on state intervention, institutions or regulations. It involves activity that is something more than just living in a state and conforming to its rules – this activity delimitates goals and structure of society and its government. Civil society (and political parties as part or organizational form of civil society) itself determines the objectives and principles of political life, resulting in the establishment of the government.¹⁷

Hegel posited a clear distinction among the three dimensions of an individual’s life:

- family – “particularist altruism”,
- civil society – “universal egoism” – the domain of social and economic interactions between individuals, based on self-interest, and

¹⁵ See Rousseau, *Social Contract* (1762), book III, chapter 4, cited from: M. Cohen, Nicole Fermon (eds), *Princeton Reading in Political Thought*, Princeton, New Jersey, Princeton University Press, 1996, at p. 280, also Egils Levits, “Interpretation of Legal Norms and the Notion of “Democracy”, *LHRQ* (Latvian Human Rights Quarterly), 1997, #4, at p.66.

¹⁶ Barrie Axford, Ben Rosamond, “Political participation”, in B.Axford, G.K. Browning, R. Huggins, B. Rosamond, J. Turner, with A. Grant, *Politics: An Introduction*, London and New York, Routledge, 1997, at p.116.

¹⁷ John Locke, *Second Treatise of Government*, Of Civil Government, cited from: M. Cohen, Nicole Fermon (eds), *Princeton Reading in Political Thought*, Princeton, New Jersey, Princeton University Press, 1996, at p. 243; see also Adam Ferguson, *An Essay on the History of Civil Society*, Cambridge, Cambridge University Press, 1995, at p.121; John W. Harbeson, “Civil Society and Political Renaissance”, in *Civil Society and the State in Africa*, Boulder, Colo: Lynne Rienner, 1994, at p.15-16., Gary K. Browning, “Political thought”, in B. Axford, G. K. Browning, R. Huggins, B. Rosamond, J. Turner, with A. Grant, *Politics: An Introduction*, London and New York, Routledge, 1997, at p. 196.

- the State – “universal altruism”.¹⁸

Civil society is the dimension between the individual (family) and the State: through it the individual can turn the State’s attention to his interests and problems and work out any solution.

The **development** of the modern democratic state has been paralleled by the emergence of mass political parties.¹⁹ Terms “civil society” and “political parties” first emerged in the USA. Only after 1850 (the French Revolution) the first “modern” political parties emerged in Europe.²⁰ At present, parties have become the principal way in which the demands and expectations in society can be expressed and channelled. Political parties **emerged** in two main ways: through electoral committees and parliamentary groups (internal way), and from trade unions, philosophical societies, newspapers, unions of farmers and agricultural cooperatives, and churches (external way).²¹ The process was promoted through social and economic circumstances like secularization, voluntary associations, and communications together with transportation.²² Almost simultaneously with emergence of new social phenomena – political parties – emerged the need to regulate them, to establish some borderlines (“rules of the game”) thus eliminating the causes of anarchy.²³

Political parties – they embody the privilege of man, next to the right of acting for himself, to combine his exertions with those of his fellow creatures and act in common with them.²⁴

Parties are the institutions bringing together people for the purpose of exercising power ruling the State and seeking to represent more than a single, narrow interest in society²⁵ thus giving a possibility also to the minority to associate in order, firstly, to show their numerical strength and so to diminish the moral power of the majority; and, secondly, to stimulate competition and thus to discover those arguments that are most fitted to act upon the majority.²⁶ Their main task is to establish the link between individuals and the State (government) and to express the interests of society during the public decision-making process thus enforcing “sovereign power of the people in the State”.²⁷

¹⁸ G.W.F. Hegel, *Philosophy of Right*, cited from: M. Cohen, Nicole Fermon (eds), *Princeton Reading in Political Thought*, Princeton, New Jersey, Princeton University Press, 1996, at p. 425, 431.

¹⁹ Richard Huggins, John Turner, “The politics in influence and control”, in B.Axford, G.K. Browning, R. Huggins, B. Rosamond, J. Turner, with A. Grant, *Politics: An Introduction*, London and New York, Routledge, 1997, at p. 372.

²⁰ Maurice Duverger. *Les Partis Politique*, (1964), (edition in Russian: *Политические партии*, Москва, Академический Проект, 2000, at p.21).

²¹ Maurice Duverger. *Les Partis Politique* (edition in Russian *Политические партии*, Москва, Академический Проект, 2000, at p. 22, 29-30).

²² See: Joseph lapalombara and Myron Weiner, *Political Parties and Political Development*, (1966), cited in Anthony M. Orum, *Introduction to Political Sociology. The Social Anatomy of the Body Politic*, 2nd ed., Prentice-Hall, Inc., Englewood Cliffs, New Jersey 07632, 1983, at p. 201.

²³ Jack Lively, *The Social and political thought of Alexis de Tocqueville*, Clarendon Press, Oxford, 1965, at p. 139-140.

²⁴ Alexis de Tocqueville, *Democracy in America*, 1839, at Book 1, Chapter 12 Political associations in the United States, Section: Utility of associations among a democratic people, text available also on the Internet at <www.tocqueville.com>, last visited on 18.08.2003.

²⁵ Jessica R. Adolino, Charles H. Blake, *Comparing public politics: issues and choices in six industrialized countries*, Washington, CQ Press, 2001, at p. 50.

²⁶ Alexis de Tocqueville, *Democracy in America*, 1839, at Book 1, Chapter 12 Political associations in the United States, Section: Utility of associations among a democratic people, text available also on the Internet at <www.tocqueville.com>, last visited on 18.08.2003.

²⁷ Latvijas Republikas Satversme (Constitution of Republic of Latvia), 15.02.1922, Article 2.

Role of political parties

Considering the role and goals of political parties, besides winning the elections, structuring the vote, policy and issue development, and many others, also questions arise on representation and funding of political parties. Parties are the focus for political participation – each party (at least theoretically) represents particular interests or social classes. When competing for political power parties confirm the representation of somebody's interests through elections. Although democratic elections are the most peaceful and approved form of the race for power, money is needed to participate and to hope for a win. Where should the money come from? When stressing the issues of political participation, representation of individuals, and asserting minority's opinion, it seems that society is more interested to promote political parties. Accordingly, then society should finance them. On the other hand, political parties are connected to democracy itself – the functioning of democracy in the state is dependent on the existence of political parties. Thus the State (in order to continue its existence and development as a democratic state) is no less than society interested in maintenance and development of political parties.

Political parties play a role not only inside one state – the **European Union** in the Treaty of Nice as well as in the project of European Constitution has stressed the role of parties as factor of integration within the Union, their contribution in forming a European awareness, means to express the political will of the citizens of the Union.²⁸

Therefore it can be concluded that political parties form the bridge between society and the state and it is equally significant for both shores it connects – they cannot exist one without the other. This truth cannot be stressed too much, especially when considering issues of party funding – both sides need political parties, and accordingly, both sides should bear them, and take part in their support and promotion.

Delimitation and definition of a political party

Once the decision has been taken to support political parties with assistance and funding (private, public or both), the potential beneficiaries (receivers) should be identified. One solution is to give a precise definition of what constitutes a political party, or stipulate the criteria to be met in order to be entitled to aid in the Constitution or in a law. States have adopted different solutions, dependant on particular situation, traditions and culture, for example, in France the Constitution provides that political parties and groups, besides complying with the principles of national sovereignty and democracy, should contribute to the use of suffrage.²⁹ This is a common type of provision in the Constitution (adopted also in Spain, Lichtenstein), if the party issue is mentioned in the Constitution at all – more often Constitutions say nothing on political parties. This requirement emphasises party's *modus operandi* – to participate in elections.³⁰ The same criterion is used to distinguish **political parties and interest groups**: political parties exercise interest aggregation, while interest

²⁸ The EU project of European Constitution, Part One, Title VI: The democratic life of the Union, Article 35a "Political Parties at European level". Text identical to the Article 191 of Consolidated version of the Treaty Establishing the European Community, as amended by Treaty of Nice, Rome, 25 March 1957, Official Journal C325 of 24 December 2002, in force from 1 February 2003.

²⁹ The French Constitution, 04.10.1958, Article 4, available in English also on the Internet at: <<http://www.assemblee-nat.fr/English/8ab.asp>>, last visited on 26.08.2003.

³⁰ Jacques Robert, "REPORT", in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF (2001)008)*, adopted by the Commission at its 44th Plenary Meeting, (Venice, 13-14 October 2000), Strasbourg, 23 March 2001, at part I, section D, available on the Internet at: <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html)>, last visited on 26.08.2003.

groups carry out interest articulation.³¹ This requirement is important when exploring Latvian example – from 55 political parties registered in Latvia (August 2003),³² in last elections participated only 20 (and 6 entered the Parliament).³³

³¹ Richard Huggins, John Turner, “The politics in influence and control”, in B.Axford, G.K. Browning, R. Huggins, B. Rosamond, J. Turner, with A. Grant, *Politics: An Introduction*, London and New York, Routledge, 1997, at p. 373.

³² Information from registering authority available on the Internet at: <<http://www.ur.gov.lv/index.php?T=3&a=24>>, last visited on 26.08.2003.

³³ In 7th Saeima the respective numbers where: 21 participated, 6 were elected. Information from: <http://www.saeima.lv/informacija/likumdeveju_vesture.html>, last visited on 26.08.2003.

3. REGULATIONS ON PARTY FINANCING: AIM AND OBJECTIVES

The “ideal democracy” model, as observed previously, contains political parties exercising the role of mediator between individuals and state. These are parties respecting fundamental human rights and principles of democracy, whose activities are directed to achieve common good and to protect the interests of that part of society whose representatives they are. The aim of laws on political parties is to promote political participation – individuals engaging in political (State’s) life through political parties. Likewise this vision contains parties expressing different views and interests existing in the society – its different social groups.

Objectives (intermediate to achieve this aim) include:

- (a) Control over the rise in the costs of campaigning,
- (b) fairness and equality in the political struggle
- (c) independence of parties from money and sponsors,
- (d) elimination of decision buying (corruption),
- (e) rise in political participation and activity (more active civil society),
- (f) openness and transparency in political life, especially regarding finances.

It can be objected that those adopting any regulations or limitations in the sphere of political parties are politicians thus writing the laws directly for themselves. We cannot exclude the purpose of leading coalition elaborating the law-project also to restrict competitors or give some advantage to themselves. Nevertheless, it is presumed that politicians care about the State and society and the political will is to set free from sponsors and make elections fairer. Simultaneously, parliamentarians can allege that any adopted limitations can make more inconvenience for their competitors than themselves.

4. PROBLEMS IN PARTY FINANCING

To reach the aims and objectives enlisted before, a number of obstacles are to be overtaken. These obstacles in everyday life are called – problems in party finance. The problems are reflected in mass media, in proposals for legislation amendments, international and domestic conferences, and international documents (recommendations, regulations).

The first problem in operation of political parties is their dependence on money – every party wishing to enter Parliament has to organize effective election campaign which is impossible without money. Moreover, effective campaign costs a huge amount of money – it is outside doubts that election results depend on money.³⁴ Thereby costs of campaigns rise dramatically. However, the real price of campaigns is impossible to establish due to shielded contracts with mass media, concealment of advertisement prices, fictitious declared expenditures. The enforcement of openness (transparency) in financing of political parties and control on expenditure is in acknowledged difficulty.³⁵ This gives rise to consequent problems³⁶:

- unfairness – money may distort electoral competition – uninformative but expensive and populist campaigns influence the election results³⁷;
- corruption – parties may be tempted to give improper favours in return for political contributions thus causing possibility of buying the decisions and overall influence of the big sponsors;³⁸
- financial barriers against standing for political office – citizens who are not rich may be deterred from putting themselves forward as candidates for public office, income of the political parties are dependant on the financial position of its supporters;³⁹

Besides, the decline of traditional means of party finance (membership dues, donations as well as business contributions – because politics have become less ideologically driven) has

³⁴ See party declarations on Internet at: <<http://www.knab.gov.lv>>, also Soros Foundation, Transparency International – Latvia, *Analysis of political party expenditure and revenue before the 8th Saeima elections*, 2002, abstract available also in English on the Internet at: <<http://www.policy.lv/index.php?Id=102629&lang=en>>, last visited on 26.08.2003, also Veronique Pujas, Working Paper: France, submitted for II Workshop on corruption and political party finding in La Pietra, Italy, October 2000, at p. 56, available also on the Internet at: <http://www.transparency.org/working_papers/thematic/france_paper.html>, last visited on 26.08.2003; see also FN 37, FN 40.

³⁵ See also: Annotation to the project of amendments in the law on financing of political parties, available on the Internet at <www.saeima.lv/bin/lasa?LP1105_0>, last visited on 26.08.2003; Keith Ewing, Corruption in party financing: the case for global standards, in Transparency International, *“The Global Corruption Report 2001”*, at p.186

³⁶ See: Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 1.3. Some major problems of political finance.

³⁷ In the UK one of the reasons for new legislation adopted 1999/2000 was Labour party's concern over the ability of the Conservative Party to outspend it in general election campaigns – Labour Party saw restrictions on campaign spending as ideal means for reducing possible Conservative Party's advantage during campaign, see Seyd Ben “Electoral Systems and Party Funding”, in J. Jowell, D.Oliver (eds.), *The changing constitution*, 4th edition, Oxford University Press, Oxford, 2000, at p.309.

³⁸ See: Fifth Report of the Committee on Standards in Public Life, *Standards in Public Life. The Funding of Political Parties in the United Kingdom* Volume 1: Report, Presented to Parliament by the Prime Minister by Command of Her Majesty, October 1998, available on the Internet at: <<http://www.archive.officialdocuments.co.uk/document/cm40/4057/volume-1/volume-1.pdf>>, last visited on 26.08.2003, paragraphs 2.6, 2.7 at p. 24-25.

³⁹ Michael Pinto-Duschinsky, “Party and Candidate Financing”, in ACE website version IFES, UNDESA, IIDEA, available on the Internet at: <<http://www.aceproject.org/main/englixh/pc/pcd.htm>>, last visited on 26.08.2003

lead parties to seek alternative, and often illegal, sources of funds.⁴⁰ Accordingly temptation to evade any limitations or disclosure regulations appears, and in case of insufficient control the limitations are severely violated. Moreover, it is impossible to ensure *full* (absolute, throughout) control, even a control and supervision over donations (to eliminate fictitious donors, money laundering) is burdensome. All enlisted circumstances together cause fall-off in public trust, and without public trust political parties cannot play its designed role.⁴¹

The problems concerning party finances can be rephrased under six major ethical questions⁴²:

- ☒ *Misconduct* question. Do the ways in which political parties are funded currently cause Ministers, opposition leaders, and others to behave in ways that they ought not to behave? For example, do party donations by individuals or companies, in effect, buy privileged access to Ministers? Do they influence policy? Do they influence the awarding of contracts? Clearly, they should not do any of these things.
- ☒ *Fairness* question. The contentions underlying this question are (a) that some parties have much more to spend during elections than others, (b) that the fact that some parties have more to spend than others gives the former an electoral advantage and (c) that this advantage is, in some sense, 'unfair'.
- ☒ *Over-spending* question. Are the political parties simply spending far too much on election campaigns? Nowadays many feel that the scale and expense of modern campaigns is unacceptable because it offends voters and may thereby alienate them from the political process. Worse, the scale and expense of modern campaigns may also help to create the impression that, irrespective of party, 'money talks' – thereby further alienating the voting public.
- ☒ *Civic engagement* (or the political participation) question. Strong, healthy political parties are essential to the functioning of a strong, healthy democracy. In particular, strong and healthy parties are necessary as a means of recruiting ordinary citizens into decision-making positions at all levels of government, local as well as national, and also as a means of engaging very large numbers of people in the whole democratic process.
- ☒ *Party effectiveness* question. This question relates to the parties' ability to perform their other principal functions: namely, acting as a check on the government of the day (of whichever political party) and developing in opposition new ways of thinking about issues and new policies that are realistic and capable of being implemented in government.
- ☒ Question of *freedom*. To what extent and at what point and with what justification is the state entitled to intervene to curtail freedom and rights of privacy in relation to the getting

⁴⁰ It was found in a research made in France after well-known Elf affair (the research conclusions equally applicable to the Germany and CDU – Kohl case) hypothesis were formulated concerning the situation of political parties in Europe from 1970s to the present day. Other reasons included ethical degeneration of political parties in exploitation of public sector and legitimacy crisis in the political sphere (conflict of interest and corruption issues) increasing need for finance by political parties during 80s and 90s, growing bureaucratization of party organization, increasing costs of campaigns, linked to the expanded role of mass media – allowing to make universal appeals rather than communicate to their supporters directly, the changed nature of political competition – these are leadership-lased contests – see Veronique Pujas, "Working Paper: France", submitted for *TI Workshop on corruption and political party finding* in La Pietra, Italy, October 2000, at p. 5-6, available also on Internet: <http://www.transparency.org/working_papers/thematic/france_paper.html>, last visited on 26.08.2003.

⁴¹ Seyd Ben "Electoral Systems and Party Funding", in J. Jowell, D. Oliver (eds.), *The changing constitution*, 4th edition, Oxford: Oxford University Press, 2000. p. 309.

⁴² Fifth Report of the Committee on Standards in Public Life, *Standards in Public Life. The Funding of Political Parties in the United Kingdom* Volume 1: Report, Presented to Parliament by the Prime Minister by Command of Her Majesty, October 1998, available on the Internet at: <<http://www.archive.officialdocuments.co.uk/document/cm40/4057/volume-1/volume-1.pdf>>, last visited on 26.08.2003, paragraphs 2.14-2.27. At p.26-28.

and spending of money intended for the use of political parties (privacy concerning both— parties and donators)? Most feasible is that freedom should prevail save where an overriding public interest can be identified calling for some limitation. Indeed, it is impossible to maintain all existing freedoms and at the same time to ensure that public concern about the funding of the parties is dissipated.

5. REGULATIONS AIMING TO SOLVE PROBLEMS IN PARTY FINANCING

Earlier in this paper it was found that in a problematic situation where any changes are needed in the system or in patterns of behaviour, one of means to attain the desideratum is by using the law – alteration of regulation by amendments or adoption of a new law that radically reverses the party finance system in the state. Afterwards the problems in system of political party finance were represented. Here further the regulations that have been used or are recommended by authorities for dealing with the problems, as well as advisable regulations will be examined. The regulations are classified under the following categories each aiming to solve a concrete part of a problem, these are: disclosure regulations, control and sanctions regulations, and regulations on parties' expenditure, income, and state support.

It is impossible to model an “ideal” scheme of party finance system for an abstract state – for a law to be effective it must comply with cultural assumptions in the state.⁴³ Therefore Latvian example with the features of Latvian situation is used as an example. The sources containing regulations for Latvian political parties include both domestic and international instruments. Domestic regulation is incorporated in two main laws – Law on financing of political parties (1995)⁴⁴ as amended in 2002 and Law on campaigning before Parliament elections (1995).⁴⁵ Besides, relevant clauses are inserted in the Code of Administrative Offences⁴⁶ and Law on Corruption Prevention and Combating Bureau.⁴⁷ The overall observation of those laws forebode that legislation on party finance until 2002 was very liberal and first limitations, restrictions and control mechanisms become introduced by amendments and laws adopted in 2002 - 2003. The international instruments have been prepared and adopted by Council of Europe (that has involved in party finance debates actively during past five-seven years) and its bodies: Committee of Ministers,⁴⁸ Parliamentary Assembly of the Council of Europe (PACE)⁴⁹ and PACE Political Affairs Committee,⁵⁰

⁴³ See classification on page 10, see also FN 3 on Ehrlich's views on the issue.

⁴⁴ Politisko organizāciju (partiju) finansēšanas likums: LR likums// Latvijas Vēstnesis, 02.08.1995. (Law on financing of political parties (author's translation), official publication in Latvian Herald, 02.08.1995, available only in Latvian).

⁴⁵ Par priekšvēlēšanu aģitāciju pirms Saeimas vēlēšanām: LR likums// Latvijas Vēstnesis, 11.08.1995. (Law on campaigning before Parliament elections (author's translation), official publication in Latvian Herald, 11.08.1995, available only in Latvian).

⁴⁶ Administratīvo Pārkāpumu kodekss (Code of Administrative Offences – author's translation, available only in Latvian), adopted in 07.12.1984, published in: Ziņotājs, 01.01.1984, Nr.51, in force from 01.07.1985.

⁴⁷ Korupcijas novēršanas un apkarošanas biroja likums: LR likums// Latvijas Vēstnesis, 30.04.2002. (Law on Corruption Prevention and Combating Bureau (author's translation), official publication in Latvian Herald, 30.04.2002, available only in Latvian), in force from 01.05.2002.

⁴⁸ The Committee of Ministers of 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*, adopted by the Committee of Ministers on 8 April 2003 at the 835th meeting of the Ministers' Deputies.

⁴⁹ Council of Europe, Parliamentary Assembly, *Motion for resolution “Financing of Political Parties”*. Doc.8470, 13 July 1999, available on the Internet at: <<http://assembly.coe.int/Documents/workingdocs/Doc99/EDOC8470.htm>>, last visited on 26.08.2003; Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/adoptedtext/TA01/EREC1516.htm>>, last visited on 26.08.2003.

⁵⁰ PACE Political Affairs Committee, *Report “Financing of political parties”*, Doc. 9077, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/workingdocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003.

Venice Commission⁵¹, Group Of States against corruption (GRECO),⁵² expert workshops⁵³; European Union (on the basis of Article 191 of Treaty of Nice); OECD (Anti-corruption convention).⁵⁴ In addition, international NGOs like Transparency International and Association of Central and East European Election Officials (ACEEEO) have carried out researches and delivered nonbinding recommendations.⁵⁵

Council of Europe has adopted a wide range of instruments relating to party finance regulation including also recommendations of Committee of Ministers, Parliamentary Assembly, Commissions, and Congress of Local and Regional Authorities of Europe, t.i.:

- The Committee of Ministers of 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 (Committee may request member states to inform it of the action taken by them with regard to such recommendations).⁵⁶
- The Parliamentary Assembly of the Council of Europe Recommendation 1516 (2002)⁵⁷ Financing of political parties (in conclusions inviting Committee of Ministers to adopt common rules against corruption in the funding of political parties and election campaign).
- The Congress of Local and Regional Authorities of Europe (CLRAE).⁵⁸ Recommendation (2000) 86⁵⁹ and Resolution 105 (2000)⁶⁰ on the financial transparency of political parties and their democratic functioning at regional level.

⁵¹ The European Commission for Democracy through Law of the Council of Europe, better known as the Venice Commission, see <<http://www.venice.coe.int>>, last visited on 26.08.2003.

⁵² GRECO has elaborated the following COE conventions: Council of Europe. *Criminal Law Convention on Corruption*. Strasbourg. ETS no.173, 21.01.1999; Council of Europe. *Civil Law Convention on Corruption*. ETS no.174. Strasbourg, 4.11.1999.

⁵³ Like an expert workshop on *Transparency of the financing of political parties and their democratic functioning*, consisting of experts and members of the Secretariat from the Parliamentary Assembly of the Council of Europe (PACE), the Congress of Local and Regional Authorities of Europe (CLRAE), the Multidisciplinary Group on Corruption (GMC), the Venice Commission, the Steering Committee on Local and Regional Democracy (CDLR), and academics and representatives of intergovernmental and nongovernmental organizations. The aim of this workshop is to take stock of Council of Europe documents and instruments concerning transparency of the financing of political parties, and outline the Council's philosophy in this field, as well as to draft a manual on financing of political parties. See: Council of Europe, Congress of Local and Regional Authorities of Europe, Chamber of Regions, Integrated Project "Making democratic institutions work", *Transparency of the financing of political parties and their democratic functioning* Expert workshop, 18 October 2002, Draft Meeting Report, available on the Internet: <http://www.csd.bg/news/rtabpart_report.PDF>, last visited on 26.08.2003.

⁵⁴ Keith Ewing, Corruption in party financing: the case for global standards, in Transparency International, *The Global Corruption Report 2001*, at p.187.

⁵⁵ Council of Europe, Congress of Local and Regional Authorities of Europe, Chamber of Regions, Integrated Project "Making democratic institutions work", *Transparency of the financing of political parties and their democratic functioning*, Expert workshop, 18 October 2002, Draft Meeting Report, available on the Internet: <http://www.csd.bg/news/rtabpart_report.PDF>, last visited on 26.08.2003, at paragraph 4141, 46.

⁵⁶ Council of Europe, *Statute of the Council of Europe*, European Treaty Series - Nos 1/6/7/8/11, London, 5.V.1949, Article 15(b).

⁵⁷ Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/adoptedtext/TA01/EREC1516.htm>>, last visited on 26.08.2003.

⁵⁸ Consultative body with authority to submit proposals, recommendations and opinions to the Committee of Ministers and to the Parliamentary Assembly, established by Statutory Resolution (2000) 1 relating to the Congress of Local and Regional Authorities of Europe (adopted by the Committee of Ministers on 15 March 2000 at the 702nd meeting of the Ministers' Deputies), on aims and powers see Article 12.

⁵⁹ Council of Europe, Congress of Local and Regional Authorities of Europe, *Recommendation 86 (2000) on the financial transparency of political parties and their democratic functioning at regional level* adopted in the 7th session of CLRAE, Strasbourg, 23-25 May 2000.

- The Venice Commission – the Council of Europe Commission for Democracy through Law – has carried out extensive research on legal regimes for the funding of political parties across Europe (report drafted in 2000) and on that basis have adopted Guidelines on the financing of political parties (CDL-INF(2001)008) and Guidelines on elections (July 2002) to respond to the needs for certain harmonisation. The Guidelines set minimum standards areas of restrictions and control of donations, transparency and sanctions.
- The Steering Committee on Local and Regional Democracy (CDLR) has prepared a Model initiatives packet to be adopted in high-level conference at the end of 2003; this document consists of list of ethical standards, examples of good practice– in the field of party finance about 60 examples of good practice are included.
- The Multidisciplinary Group on Corruption (GMC), established in 1994 with a mandate to draft a number of legal instruments for the fight against corruption, its work has been taken up by GRECO has adopted a Draft Recommendation concerning party and campaign financing.
- Conference Conclusions, like Madrid Conclusions adopted 3rd European Conference of specialised services in the fight against corruption “Trading in influence and illegal financing of political parties”.⁶¹

In the **European Union**, the first report on the Funding of political parties in European Community member states appeared in 1991. Now the EU has established the status of European political parties in the Union level by introducing Article 191 of the Treaty of Nice.⁶² In accordance with this article the Parliament and the Commission has started the codecision procedure to adopt the Regulation on the statute and financing of European political parties (proposal 2003/0039(COD)), although it is believable that it will result on regulation on financing, not statute of European political parties.⁶³ According to Article 11 of proposal, it will be binding in its entirety and directly applicable in all Member States (including Latvia, after joining the EU). Although at the moment of writing this paper, Parliament has accepted the proposal only in the first reading and committees continue introducing their proposals, main trend of regulations can be observed. This regulation (and funding from EU budget) will apply only to political parties in European level (European political parties) – parties seeking to be represented in the European Parliament.⁶⁴

⁶⁰ Council of Europe, Congress of Local and Regional Authorities of Europe, *Resolution 105 (2000) on the financial transparency of political parties and their democratic functioning at regional level*, adopted in the 7th session of CLRAE, Strasbourg, 23-25 May 2000.

⁶¹ 3rd European Conference of specialised services in the fight against corruption “Trading in influence and illegal financing of political parties”, 28-30 October 1993, Madrid (Spain), conclusions available on the Internet at: [http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Combating_economic_crime/Conferences_of_specialised_services/1998\(Madrid\)Conclusions.asp](http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Combating_economic_crime/Conferences_of_specialised_services/1998(Madrid)Conclusions.asp), last visited on 26.08.2003.

⁶² Article 191: “(1) Political parties at European level are important as a factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union. (2) The Council, acting in accordance with the procedure referred to in Article 251, shall lay down the regulations governing political parties at European level and in particular the rules regarding their funding.” Consolidated version of the Treaty Establishing the European Community, as amended by Treaty of Nice, Rome, 25 March 1957, Official Journal C325 of 24 December 2002, in force from 1 February 2003.

⁶³ Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliament's Report on first reading of Codecision procedure, A5-0170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: http://www.icampus.ucl.ac.be/conrad/BED0001/document/EBED722003/com2003_0077en01.pdf, last visited on 26.08.2003, in Amendment 10 for Article 1, justification.

⁶⁴ “...associations of citizens, or federation of political parties from Member States, recognised by or established in accordance with the legal order of at least one Member State and contributing at European level to forming and expressing the political will of the citizens of the Union while being represented in, or seeking to be

Before starting analysis of separate regulations, interesting approach to the regulations on party finance introduced by Justin A. Nelson should be mentioned. Having a micro-economical view on campaign financing he distinguished between regulations trying to limit the overall supply (amount) of private money in the political system, a supply-side reform, and regulations trying to decrease politicians' demand and desire for private money, a demand-side reform.⁶⁵ The main Nelson's argument is that most efforts in campaign finance have failed because of over-emphasis on the supply side while not using demand-side reforms that in addition are not so constitutionally problematic (especially regarding human rights).⁶⁶ Nelson offers a view on relationship among party and sponsors as a free-market relationship: some people (contributors) want to give money to parties or candidates, while other people (parties) want to spend that money.⁶⁷

represented in, the European Parliament" , source: Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliaments Report on first reading of Codecision procedure, A50170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: <http://www.icampus.ucl.ac.be/conad/BEDE0001/document/EBED722003/com2003_0077en01.pdf>, last visited on 26.08.2003, Article 12.

⁶⁵ Justin A. Nelson, "The Supply and Demand of Campaign Finance Reform," in *Columbia Law Review*, Vol.100, No.2, March 2000, at p. 530.

⁶⁶ *Ibid*, at p. 524, 530.

⁶⁷ In exchange for "goods" – some kind of policy, ideology, like in Latvia, before elections in 2002 former president of Latvian Bank opened the bank account and asked people to donate for "new, clear and open politics". Contributors believe they will have something in return (influence, tax-break, a photo with President or higher sense of self-worth); it is said that individuals give money to parties for two broad reasons: to back the party or candidate or to benefit from contribution, see: Justin A. Nelson, "The Supply and Demand of Campaign Finance Reform," in *Columbia Law Review*, Vol.100, No.2, March 2000, at p. 528529.

6. EFFECTIVENESS OF THE REGULATIONS – PROBLEMS IN APPLICATION AND ENFORCEMENT

The instruments listed in the previous chapter will be considered in assessing the separate regulations. As regulation model for Latvia is sought, domestic instruments and Council of Europe recommendations will be analysed, using the ideas adopted by the European Union only as example as these apply to supranational level – European political parties.

1. Disclosure regulations

The significance of regulation

Disclosure of parties' money means that party's accounts, resources, and expenditure are made public (in ideal situation also concluded contracts are publicly available). Disclosure is often seen as main regulation in fight against illegal financing of political parties and corruption – without it lessens the meaning of other regulations. Besides, it ensures the public interest to know about parties' finances and how parties obey the imposed restrictions. Transparency is seen as achievable through regular accounting - mandatory submission of financial declarations to an independent public authority⁶⁸ - and informing voters about funding received by political parties.⁶⁹ However, excluding broad phrases as “regular accounting”, “avoid secret donations” and “need of transparency”, international instruments give no hint how to enforce the disclosure of party finances. Similarly the EU plans to ensure openness in European political parties' finances through annual reports published by parties, declaring their revenue and expenditure and a statement of their assets and liabilities, and declaring their sources of finance by providing a list specifying the donors and the donations given by each donor (for donations exceeding EUR 1000).⁷⁰ Issue to solve concerning this regulation is: can the disclosure of facts and links between donors “play the trick” and show the voters this party in unpleasant light thereby reducing party's willingness to accept that money and risk not to get the votes?

⁶⁸ The Committee of Ministers of 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*, adopted by the Committee of Ministers on 8 April 2003 at the 83rd meeting of the Ministers' Deputies, at Article 3(a), Article 12, 13; 3rd European Conference of specialised services in the fight against corruption “Trading in influence and illegal financing of political parties”, 2830 October 1998, Madrid (Spain), Conclusions 5,6,; see also Gherardo Colombo, “Sanctions and remedies in case of illegal financing of political parties”, Madrid, 19 October 1998, opening speech of the 3rd European Conference of specialised services in the fight against corruption “Trading in influence and illegal financing of political parties”, 2830 October 1998, Madrid (Spain), at 1b; Venice Commission, *GUIDELINES*, adopted by the Commission at its 46th Plenary Meeting, (Venice, 9-10 March 2001), in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF(2001)008*, Strasbourg, 23 March 2001, available on the Internet at: <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html)>, last visited on 26.08.2003, at section A, paragraph 7, at section B, paragraph 12.

⁶⁹ Council of Europe. Congress of Local and Regional Authorities of Europe. *Recommendation 86 (2000) on the financial transparency of political parties and their democratic functioning at regional level*, article 10-12; Council of Europe. Congress of Local and Regional Authorities of Europe. *Resolution 105 (2000) on the financial transparency of political parties and their democratic functioning at regional level*, article 9, 10.

⁷⁰ Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliaments Report on first reading of Codecision procedure, A5-0170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: < http://www.icampus.ucl.ac.be/conrad/BEDE0001/document/EBED722003/com2003_0077en01.pdf> last visited on 26.08.2003, in Amendment 10 for Article 1, justification, in Article 4.

State practice

Declarations of donations are common in almost all European countries,⁷¹ while vary the purpose of declaration (for tax purposes) or requirements (for donations exceeding certain sum). Usually declarations are submitted to the public authorities, and authority publishes the declarations once a year (in Estonia quarterly),⁷² only Hungary and the Netherlands require direct publications by parties themselves. Only some countries require all donations to be declared, most of countries specify the size of donation above which it must be declared and that size varies considerably.⁷³ In almost all countries where declarations of donations have to be done, the donor must be identified, however in the Netherlands donor's identity is not made public if he wishes his donation to remain confidential.⁷⁴ Sanctions on not compliance with disclosure requirements are provided in most states, and vary from imposing small fines till prohibition to participate in the next elections.⁷⁵

The regulation varies also for the close-standing funds and institutions that exist to channel money to a party: in some countries⁷⁶ the same rules as for donations to parties apply also to those organisations, but Germany, Portugal and also Latvia forbid donations from such organisations. In spite of Council of Europe requirement for member states to apply the relevant rules also to entities related to political parties, such as political foundations,⁷⁷ in most countries the matter does not seem to be regulated.

⁷¹ Except Albania, Cyprus, Luxembourg, Malta, Portugal, Spain and Sweden, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section IV. Openness.

⁷² Except Austria, Belgium, Liechtenstein and Switzerland where declaration are not published, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section IV. Openness.

⁷³ Even in EU counties - Euro 3,000 (Portugal), Euro 4,500 (The Netherlands), Euro 1000 (Germany), 10% of an average monthly salary (Poland and Slovenia), 10 basic salaries (Romania), 10% of total state funding to the party (Spain), source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section IV. Openness.

⁷⁴ Except Liechtenstein, Moldova, The Netherlands and Switzerland, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section II. Accountability and regulation.

⁷⁵ In Albania, Belgium, Finland, Greece, Ireland, Italy, Turkey and the UK, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section IX. Sanctions.

⁷⁶ In Albania, Belgium, Finland, Greece, Ireland, Italy, Turkey and the UK, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section, IV. Openness.

⁷⁷ Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the

Latvia

The Latvian law until 2002 provided duty for political parties to submit annual income and expenditure declarations. The article on disclosure provided that any person who can donate money [!] and journalists have free access to those declarations (in the Ministry of Justice). Sanctions in case parties did not comply with report requirements provided authority for Minister of Justice, after a warning, to dissolve the party through the court.⁷⁸ This new wording was fully ineffective – annual declarations were submitted late, were incomplete and meaningless, but no court cases on dissolving a political party were introduced.

Draft of 2002, amending the party finance law, detailed the requirements for annual reports – broadened of term “donation”, by including also intangible property, rights, providing services (also on cost that is lower than fair market price), and included requirements for detailed expenditure declaration.⁷⁹ Even more – now parties should submit declarations also before and after elections (on planned and real campaign expenditure).⁸⁰ Any person can also approach the control institution, Corruption Prevention and Combating Bureau (KNAB), to be acquainted with declarations.⁸¹ In addition, all the declarations are published in the official newspaper and on the Internet in 10 days after received.⁸² This page is KNAB portal⁸³ and, at least theoretically, all the donations parties have received from January 2, 2002 are published there as well as declarations on provisional and real election expenditures, and annual financial declarations. Operation of such Internet page is approvable giving wider possibility for persons to obtain this information, although the present situation in Latvia is that only one fifth of population – those, working in offices, mainly in Riga – have access to the Internet.⁸⁴

Evaluation

According to theory elaborated by J.A.Nelson, disclosure is one of the few regulations lessening the demand for money – parties are not so interested in money if electorate knows where the money comes from.⁸⁵ On the other hand, the impact of disclosure depends strongly on society – in Latvia this does not prevent parties from taking money. The fact of party accepting sizable donations would appear in newspaper headlines but are forgotten quickly and do not influence public opinion for long. Besides, the influential donations can be done through third persons.⁸⁶ Nevertheless, this cannot be an argument not to integrate further

Internet at: <<http://assembly.coe.int/Documents/adoptedtext/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph F, point i.

⁷⁸ Politisko organizāciju (partiju) finansēšanas likums: LR likums// Latvijas Vēstnesis, 02.08.1995. (Law on financing of political parties (author's translation), official publication in Latvian Herald, 02.08.1995, available only in Latvian), before amendments adopted in 06.06.2002, in force from 27.06.2002, Article 8.

⁷⁹ Ibid, Article 8.

⁸⁰ Ibid, Article 8.1, Article 8.2.

⁸¹ Ibid, Article 9.

⁸² Ibid, Article 4.3.

⁸³ <<http://www.knab.gov.lv>> , last visited on 26.08.2003

⁸⁴ According to the *BMF/TNS* quarterly made research *e-Track & e-Ratings* results Internet during last 6 months was used by 22 % of population in Latvia, source: <<http://www.bdh.lv/?Lang=lv&fullarticle=true&category=showuid&id=1940>>, last visited on 26.08.2003.

⁸⁵ Justin A. Nelson, “The Supply and Demand of Campaign Finance Reform,” in *Columbia Law Review*, Vol.100, No.2, March 2000, at p.542.

⁸⁶ Example is A.Lembergs – „everybody knows” that he influences parties (he is one of the richest persons in Latvia), at the same time, there are directly by him donated 0 lats for any of the parties, see Articles in Latvian newspapers: Edgars Galzons, “Finanšu pārskati apliecina, ka LA īpašnieki, visticamāk, meklējami Ventspilī”// “Diena”, 12.08.2003 (“Financial declarations show that most probably owners of LA should be looked after in Ventspils” – author's translation, available only in Latvian), Laima Linuža, Pret Latvijas „šleserizāciju” un „laksavizāciju”// “Lauku Avīze”, 05.06.2003 (“Against “politization” of Latvia” – non-translatable word-

disclosure requirements in legislation – exactly opposite – by enforcing control and following the changes in the economic situation in the state (hopeful lessening impact of shadow economy), ever more donations and expenditure will become disclosed. Additionally, at least in Latvia, disclosure is also a supply-side regulation: there are donators, who do not want (possibly, even more than parties receiving the money) anyone (society) to know they support any political party.

Role of legislation - theoretical decision

Previously in the paper the major ethical questions were stated for regulations to solve.⁸⁷ In elaborating disclosure regulation, legislator has to balance two sets of them – misconduct question and questions of freedom and civil engagement.

- First is the disclosure regulation aiming to provide society's control and information for society on parties' finances. Electors have the right to be informed about the parties which they are being asked to vote for, including which financial interests are backing each party (i.e. party campaigning for third operator in telecommunications are less credible if it has been sponsored in high proportion by present two operators). Disclosure is a safeguard against corruption.⁸⁸

AND

- Disclosure may deter possible donators from giving money (if donation is like political participation, donations are desirable in democracy). It can happen also due to possible sanctions, when supporting opposition party, thus weakening political opposition. If voting is secret then also donations should remain secret.⁸⁹

Disclosure is standing on the borderline between the right to political privacy of individual (donators, political parties and persons to whom parties pay) and the public interest to have protection against potential corruption. However, according to European Convention of Human Rights, firstly, interference of right to privacy is allowed if it is in accordance with law, necessary in democratic society and in the interests (for the protection of the rights) of others.⁹⁰ So it is in situation of disclosure of donations to political parties. Secondly, the right to privacy concerns among others non-revelation of irrelevant and embarrassing facts and protection from disclosure of information given or received by the individual confidentially.⁹¹ Information regarding donations is neither irrelevant, nor confidential, thus disclosure of donations cannot be considered as violating right to privacy. States often seek a compromise by disclosing donations exceeding certain limit, while this limit can be misused by donators not willing to disclose their identity to the public (i.e. donate sums not exceeding declaration limit, use family members and other third persons). Finally, if persons involve in a kind of

play, author's translation, available only in Latvian); Aivars Ozoliņš, "Nevainīgs jautājums"// "Diena", 05.06.2003 ("Innocent question" - author's translation, available only in Latvian).

⁸⁷ Description of questions see above, also FN42.

⁸⁸ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.3. Disclosure.

⁸⁹ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.3. Disclosure.

⁹⁰ Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 November 1950, Article 8(2).

⁹¹ Council of Europe, Consultative Assembly, Twenty-First Ordinary Session (Third Part), Texts Adopted (1970), cited from van Dijk, P., van Hoof, G.J.H, in collaboration with Heringa A.W (et al.), *Theory and Practice of the European Convention of Human Rights*, 3rd ed., Hague, London, Boston, Kluwer Law International, 1998.

political activity, even only by donating money, they should understand they enter a sphere of maximum openness. If openness causes any significant consequences in a private life, i.e. in a work place, then these consequences should be treated and challenged as discrimination on the ground of different political opinion.

Role of legislation – practicalities and recommendations

After legislator has found the borderline and decided on the desirable level of disclosure, the legislation should be prepared in accordance to practicalities of particular situation. The bad news is that disclosure rules are hard to enforce and easy to evade. Besides pure control issues (examined later), following overall problems can be isolated:

- For disclosure to be effective it should, like control, include also individuals and organizations (funds) linked to parties. The problem is to define which are “the persons linked to the parties” and whether there are any data on these persons that can be published not violating privacy (data protection).
- Effective disclosure would cover also mass media and PR agencies – in Latvia after elections there was a discussion concerning contracts between parties and TV companies – whether control institutions can ask to show them, and whether these contracts can be published. TV companies objected. However, if there is no right for control institution to inspect these contracts, many of regulations concerning disclosure and expenditure become void. Alternatively, these contracts could be disclosed first to the public authority, which assures whether the sums declared are correct. Only in case control institution finds violation contracts could be disclosed to mass media and public.
- Timing between donations, declaration, and elections. If periods are long, impact of disclosure lessens; similarly submission of declarations after elections is useless in the terms of informing electorate. In contrast, too frequent declarations are burdensome – if reports are prepared, i.e., 4 times a year, parties have to employ a number of accountants. Latvian requirement on extra reports before elections thereby seems reasonable (generally – once a year), while after-election reports may be interesting for media and for control institutions – these cannot influence the vote anymore.
- Identification of indirect donations – including loans, free services, provision of equipment, buying of party publications. Should all these be disclosed like donations? In Latvia the new amendments broadened the term “donations”, including also services, intangible property, thus implying that also these should be disclosed.
- Commercial activities – in Latvia parties can engage in commercial activities and this gives more space for masked donations and more work for control institutions.
- Methods of publication – declarations should be accessible for everyone (every voter) who has interest to inspect them; either published in the official newspapers or in separate brochures, or accessible on the Internet or in office of control authority and in local governments.
- Types of disclosure⁹²:
 - Should accounts be submitted to the public authorities (for checking, also ensure that in case of public subsidies, grants are used according to the regulations) to be published (to inform society)? Not to burden parties too much the most efficient solution is to submit reports and donation lists to authorities (either annually as reports or weekly as donation-lists). Then public authority is in charge of official

⁹² Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.3. Disclosure.

publications and updating the Internet site in accordance with data submitted by the parties.

- Should emphasis be on income (publishing donations) or expenditure (for what and how much party spends)? Answer depends on other regulations introduced – when there are any bans on expenditure, disclosure relates also to the expenditure.
- Division between campaign and non-campaign costs. It is a system introduced in Germany, but effective only if both are published, otherwise campaign costs are shielded under everyday expenditure.
- Amount of detail required – in some countries more detail is required on corporate donations, but at the situation in Latvia, when owners of company can “take out” money from company’s accounts (shadow economic), such distinction would be unreasonable.
- Donations through third persons, masked donations, is an issue that should be combated through control mechanisms. In informing society on suspicious donations mass media is involved.
- Responsibility for disclosure – usually rests in parties, together with effective sanctions for non-compliance, however in cases of illegal donations, sanctioning the donors is recommended.

Conclusion

Although it seems that there are more practical problems than benefit from disclosure regulation, attitude of political parties towards disclosure regulations is encouraged to change. Recent example on former Bank of Latvia governor Einars Repše showed that legal requirements are not the only way to increase transparency in political financing. He opened a party website,⁹³ even before official website in KNAB portal was opened, where everyone could see the listing of all the donations coming into his coffers. As this happened before elections, this action and transparency of financing gained popularity in society and allowed his party to obtain 26 seats in the parliament.⁹⁴ Such examples show the way how “law can play the trick” – it is gainful for parties to obey the law and to fulfil the requirements of disclosure thus promoting trust of society in the party and its policy.

2. Regulation of control and sanctions

The significance of regulation

No doubt, any regulation is useless if there is no possibility to control enforcement of its requirements and to impose sanctions in case of violation. There are three issues legislator has to incorporate in control regulation: (a) subjects exercising control; (b) their authorities; (c) sanctions. In drafting control rules it is more important than anywhere to take into account the effectiveness conditions mentioned before.⁹⁵ Thus it is important that the act establishing control authority and defining its powers is authoritative (better law, not government regulations), it must be realistic and take into account the (economic) situation in state, and should include also positive sanctions.

⁹³ <<http://www.jaunaislaiks.lv>>, last visited on 26.08.2003.

⁹⁴ Martin Brusis, Iris Kempe, Wim van Meurs, “Central and Eastern Europe and the Baltic States”, in Transparency International, *Global Corruption Report 2003*, p.180; <<http://www.saeima.lv/latvian/rezultat1.html>>, last visited on 26.08.2003.

⁹⁵ See list on page 10.

The importance of independent monitoring, supervision and common fight against illegal funding of political parties has been emphasised in international documents,⁹⁶ inviting member states inter alia to introduce a duty for financial institutions to notify of suspicious cash deposits or withdrawals, suspicious transfers and promote exchange of information.⁹⁷ With regard to sanctions Council of Europe instruments recommend to entail effective and dissuasive sanctions proportionate to the severity of the offence⁹⁸, including meaningful sanctions, like criminalization of illegal financing of political parties,⁹⁹ partial or total loss or mandatory reimbursement of state contributions and the imposition of fines, or, when individual responsibility (i.e. personal enrichment in conflict of interest) is established, annulment of the elected mandate.¹⁰⁰

State practice

In most states reports submitted by the parties are subjected to some review by an external body. Controlling institutions' degree of independence varies – in some countries official auditors review the financial reports and balances, and the advantage is that these persons are well trained in examining complex financial transactions and accounts (Austria, Germany, Italy).¹⁰¹ In other countries special bodies for monitoring party financing are created (like Electoral Commission in UK - independent of any government department and reporting directly to Parliament).¹⁰² Controlling institution can be composed from members of Parliament or representatives of different executive branches and institutions (like Belgium and Russia)¹⁰³ leaving doubts to its independence, as opposed to the French example where Commission is composed of nine members (three members of the *Conseil d'Etat*, *Cour de Cassation*, and Court of auditors) appointed for five years.¹⁰⁴ France has elaborated a two-step system, where National Commission on Election Campaign Accounts and Political

⁹⁶ The Committee of Ministers of 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*, adopted by the Committee of Ministers on 8 April 2003 at the 835th meeting of the Ministers' Deputies, at Articles 14-16.

⁹⁷ 3rd European Conference of specialised services in the fight against corruption "Trading in influence and illegal financing of political parties", 28-30 October 1993, Madrid (Spain), conclusions available on the Internet at: [http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Combating_economic_crime/Conferences_of_specialised_services/1998\(Madrid\)Conclusions.asp](http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Combating_economic_crime/Conferences_of_specialised_services/1998(Madrid)Conclusions.asp), last visited on 26.08.2003, Conclusions 13, 14.

⁹⁸ Venice Commission, *GUIDELINES*, adopted by the Commission at its 46th Plenary Meeting, (Venice, 9-10 March 2001), in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF(2001)008*, Strasbourg, 23 March 2001, available on the Internet at: [http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html), last visited on 26.08.2003, at section C, paragraph 13, 14.

⁹⁹ 3rd European Conference of specialised services in the fight against corruption "Trading in influence and illegal financing of political parties", 28-30 October 1993, Madrid (Spain), conclusions available on the Internet at: [http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Combating_economic_crime/Conferences_of_specialised_services/1998\(Madrid\)Conclusions.asp](http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Combating_economic_crime/Conferences_of_specialised_services/1998(Madrid)Conclusions.asp), last visited on 26.08.2003, Conclusions 8, 9, 11, 12.

¹⁰⁰ Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>, last visited on 26.08.2003, at section 8, paragraph E, point i.

¹⁰¹ PACE Political Affairs Committee, *Report "Financing of political parties"*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>, last visited on 26.08.2003, at paragraph 89.

¹⁰² Ibid, at paragraph 90-92.

¹⁰³ Ibid, at paragraph 95.

¹⁰⁴ Ibid, at paragraph 96.

Funding is the control institution, and its decisions can be appealed in Constitutional Council (having high authority in France), whose decision is final.¹⁰⁵

The nature of offences varies, depending on the restrictions imposed, these concern violations concerning disclosure requirements¹⁰⁶, regulations concerning donations¹⁰⁷ or spending.¹⁰⁸ Sanctions can be directed both against the party as such as well as against the individual party member personally involved in the situation. In many countries breach of some of the rules on political party funding constitutes a criminal offence.¹⁰⁹ Harsh punishments are foreseen in Italy for the acceptance of impermissible donations: the penalty is 6 months to 4 years imprisonment and a fine up to three times the sum that was illegally accepted. Moreover, public funding will be reduced by a sum double the amount of money illegally accepted or not properly reported (similar are the sanctions with regard to European political parties in EU regulation).¹¹⁰ In addition to that, the person involved may be disqualified from the exercise of public functions.¹¹¹ Sanctions containing a reduction of public funding are common in states with public funding, it can be withheld if a balance or financial report is not submitted properly until the shortcomings have been remedied.¹¹² Moreover, violations of the provisions on the financing of election campaigns may lead to the withdrawal of the admission to the

¹⁰⁵ See FN:137.

¹⁰⁶ For example: failure to disclose income or its source, failure to declare donations over a certain sum, false accounting, fraud, companies and organisations failing to reveal donations in annual returns, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VIII. Criminal law.

¹⁰⁷ For example: accepting illegal income, exceeding the limit in making or accepting donation, failure to notify acceptance of anonymous donations over a certain sum, accepting foreign donations, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VIII. Criminal law.

¹⁰⁸ For example: exceeding election expenditure limits, failing to make an election expense return, making a false election expense return authorities, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VIII. Criminal law.

¹⁰⁹ Belgium, Croatia, Cyprus, Estonia, France, Georgia, Greece, Romania, Ireland, Italy, Malta, FYR Macedonia, Turkey, the United Kingdom, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VIII. Criminal law.

¹¹⁰ Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliaments Report on first reading of Codecision procedure, A5-0170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: <http://www.icampus.ucl.ac.be/conrad/BEDE0001/document/EBED722003/com2003_0077en01.pdf>, last visited on 26.08.2003, Opinion of the Committee on budgetary control, in Article 5, 6.

¹¹¹ PACE Political Affairs Committee, *Report "Financing of political parties"*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 101.

¹¹² Italy, France, Germany, the Czech Republic – source: PACE Political Affairs Committee, *Report "Financing of political parties"*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 105.

elections and the invalidation of the election result (Russia).¹¹³ Overall sanctions for the offences vary widely from one country to another, ranging from small fines to imprisonment for up to 10 years and can include also disqualification from standing for election for up to 10 years, loss of right to vote for up to 5 years, ineligibility for appointment as magistrate or public official for 2-10 years, award of seat to election opponent, or dissolution of party.¹¹⁴

Latvia

Currently control over parties' finances is exercised by KNAB – it is the institution to which annual, pre, and after election financial declarations are to be submitted, the institution which checks the declarations and punishes the parties. Sanctions until recently included only KNAB's power, after its warning on non-submission or submission of uncompleted declaration has been ignored, to start proceedings in the court to dissolve the party.¹¹⁵ Thereby welcomed are latest amendments in Code of Administrative Offences providing authority to KNAB to impose a fine for non-compliance with requirements on completion of financial declaration (50-250 lats, t.i. 80-400 Euro) and for non-compliance with limits on financing or donations (500-10000 lats, t.i. 800-16000 Euro).¹¹⁶ The accepted illegal donations (donations through third persons or anonymous donations) should be repaid to the state. Currently the first case has been introduced on illegal donations accepted by Party of Greens and Peasants. At first the KNAB was in quandary against whom the criminal case could be started. At the moment of writing this paper the process has just started and it is hard to give the conclusions. However the present trends show that it would be advisable to impose the sanctions not only to the party but also to the donators or persons shielding illegal donations. In the mentioned case there were "donators" that could not explain where the donated money has come from – if we believe them, too many heritages seem to be obtained during so short time.¹¹⁷ In addition, reasonable suspicions arise, whether until next elections electorate will not already forget this case, and mass media most probably will forget to remind them.

New proposal has been submitted to the government at the end of August 2003, on providing authority to the KNAB to access the information in the credit institutions (banks) on individual accounts without public prosecutor's sanction.¹¹⁸ Providing of such authority would likely promote effective functioning of the KNAB. The problem concerning operation

¹¹³ PACE Political Affairs Committee, *Report "Financing of political parties"*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 110.

¹¹⁴ Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section IX Sanctions.

¹¹⁵ Politisko organizāciju (partiju) finansēšanas likums: LR likums// Latvijas Vēstnesis, 02.08.1995. (Law on financing of political parties (author's translation), official publication in Latvian Herald, 02.08.1995, available only in Latvian), Article 10.

¹¹⁶ Administratīvo Pārkāpumu kodekss (Code of Administrative Offences – author's translation, available only in Latvian), adopted in 07.12.1984, published in: *Zinotājs*, 01.01.1984, Nr.51, in force from 01.07.1985, with amendments of 19 June 2003, Article 166.34; 214.2.

¹¹⁷ Sanita Jemberga, "ZZS kasē atrod lielus nelikumīgus ziedojumus, iespējama krimināllieta"// "Diena", 22.08.2003 ("In the pay-box of ZZS huge illegal donations are found, possible criminal case" – author's translation, available only in Latvian); LETA news agency; Ansis Rūpols, "KNAB: zaļie zemnieki nelikumīgi iekasējuši 75 000 latu, 22.08.2003 ("KNAB: green peasants have illegally collected 75000 lats" – author's translation, available only in Latvian).

¹¹⁸ LETA news agency, "Atvieglots iespēju saņemt informāciju"// "Diena", 22.08.2003. ("The potential to receive information will be facilitated" – author's translation, available only in Latvian).

of KNAB is also its legal status – currently it is liable to the Prime Minister that can raise doubts to its political independence.

In Latvia also Central Election Commission exists, but its work is concerned with preparation of elections, referenda and administration of excitation of new legislation, not issues of party finance.¹¹⁹

Issues to regulate

Three categories of **subjects** that can exercise control functions can be distinguished:

1. **State institutions** – either courts (including Constitutional Courts), exercising control (terminating illegal activities, imposing sanctions or even dissolving the offending political party) in response to the applications of persons (representatives of political parties, mass media or others); or public control institutions, including State financial bodies (KNAB, State revenue agency, Auditor General, Courts of Auditors) exercising control over submitted (or non-submitted) declarations. Effective example is French model.
2. **“Arbitral” institutions** – established on the basis of political representation thus being politically neutral and effective due to mutual character. Usually such institutions supervise a concrete sphere (like Central Election Commission or National Radio and TV Council), and operate in accordance with principles of administrative procedure, by imposing sanctions on violators depending on severity of violation. The sanctions (from fine until dissolution of a party) can be challenged before the court. Usually quite effective although cannot evade political influence (Belgium, Russia).
3. **“Agents” of civil society** – unbiased supervisors, usually non-governmental organization, like *Transparency International* exercising monitoring of political advertisements, comparing the data with those declared by the parties and informing the voters of the acquired results. Recently becoming more effective.

Instruments public authority can use to control parties include, firstly, reporting requirement imposed by law on political parties, making it compulsory for each political party to explain the origin of the funds at its disposal. Secondly, control institutions can audit and check, or even amend submitted reports. Thirdly, control institution can impose sanctions in case of incompliance.

Sanctions imposed by authority, should be effective and proportional, but most important – discouraging. They should cause the situation that it is disadvantageous to evade party finance rules – unreasonable to take a big risk for little benefit. Advisable could be positive sanctions. The negative sanctions should be important for possible violator – either reduction in the amount of state aid granted the subsequent year, repayment of received illegal donations for a party, or loss of mandate for an elected official. Sanctions can be imposed on both: on the party violating the rule (i.e. accepting illegal donation), and on the person donating (if a person cannot prove the legal origins of the money).

Practicalities in enforcement

In control process the step containing checking and auditing parties' declarations is the most problematic – it is the process where effectiveness of all the other regulations is ensured: if the limitations and bans cannot be controlled, they cannot be expected to be obeyed. However

¹¹⁹ Par Centrālo vēlēšanu komisiju: LR likums// Latvijas Vēstnesis 20.01.1994. (Law on Central Election Commission (author's translation), official publication in Latvian Herald, 20.01.1994, available only in Latvian), Article 4.

it is clear that absolute control over parties' finances is impossible, due to considerations stated below, thus it is meaningless to impose too many limits and bans on parties. The main issues that legislator should consider when drafting party finance law are:

- Financing control has to include also individuals and organizations (funds) linked to parties – this is the possibility to evade limits and restrictions (like education funds in Germany that are often used to divert political money). To be fully effective, financial disclosure thus requires a very broad application to:¹²⁰
 - election campaigns and other campaigns (including internal),
 - referendum campaigns,
 - election campaigns by individual candidates,
 - national party organizations,
 - local party organizations,
 - personal political funds of individual politicians,
 - interest groups participating in political campaigns (third parties),

However, such control can become too expensive to be efficient.

- Control institution should have the right to inspect contracts concluded among parties and mass media and PR agencies, otherwise regulations concerning disclosure and expenditure loose meaning. To discourage parties and media, after control institution finds violation of party finance laws, contracts could be disclosed to public.
- Internal party organization can be a problem in states where parties have regional bureaus. To evade donation limits and disclosure requirements, it is possible to donate smaller sums to each of the bureaus. This can be evaded only by introducing strict accountancy mechanism between central party office and regional bureaus even for small-sum donations;
- Commercial activities – in Latvia parties can engage in commercial activities and this gives more space for masked donations and gives more work for control institutions.
- Problem is donations through third persons – masked donations. In Latvian case, the exploration of the list of donations published on the Internet rise doubts on genuineness of this list – whether the sums indicated are the only sums gotten, whether the donators indicated are the real payers: a number of big donations (9000, 9700 lats) often are done in one day; Latvian “oligarchs” who, according to mass media,¹²¹ has big (financial) influence in political life, do not appear in list of contributors a single time. Also specialists of control institution have noticed *money of uncertain origin* – the money donated by persons without registered business activities or legal persons whose financial accounts rise doubt whether they have spare money to donate.¹²² To solve this problem, control institution has to co-operate with state revenue agencies, inspecting legal and natural persons. By merging list of donators (elaborated by control institution) with list of

¹²⁰ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at overview, p.16.

¹²¹ Edgars Galzons, “Finanšu pārskati apliecina, ka LA īpašnieki, visticamāk, meklējami Ventspilī”// “Diena”, 12.08.2003 (“Financial declarations show that most probably owners of LA should be looked after in Ventspils” – author’s translation, available only in Latvian), Laima Linuža, Pret Latvijas „šleserizāciju” un „laksavizāciju”// “Lauku Avīze”, 05.06.2003 (“Against “politization” of Latvia” – non-translationable word-play, author’s translation, available only in Latvian); Aivars Ozoliņš, “Nevainīgs jautājums”// “Diena”, 05.06.2003 (“Innocent question” - author’s translation, available only in Latvian).

¹²² Sanita Jemberga “Visvairāk neskaidras izcelsmes naudas LPP, TP un ZZS kašēs” // “Diena”, 04.06.2003 (“Biggest amount of money of uncertain origin in the accounts of LPP, TP and ZZS” - authors translation, available only in Latvian).

tax non-payers or other suspicious companies or individuals (elaborated by tax control institution), the suspicious donations and money of uncertain origin could be identified.

Recommendations

Taking into consideration the previously mentioned issues, the conclusion is that KNAB should closely co-operate with other state control institutions – the exchange of information, cooperation in investigation in criminal matters, and establishment of common data basis should be supported. Nevertheless, state cannot and never will ensure full control in this system – too much control means too much money invested in this operation and the result is inefficient economically. What makes control inefficient and ineffective is level of shadow economy that cannot be eliminated by party finance law solely. Party finance law can only provide that in a case public authority in a course of investigation (that is taking place regularly) will find any violations, sanctions are going to be severe to both party and donator, who cannot prove the legality of donated money.

Issue to be considered in Latvia is legal status of control institution – currently it is liable directly to the Prime Minister. If regulation of political independence are included in the Constitution (like it is with Constitutional court and State Control), its status would change – Constitution being most authoritative law in the state could promote prestige of control institution.

Another way is to support the rights of the non-governmental bodies – mass media, NGOs (like Transparency International projects) – to control parties' finances and thus encourage society to take part in this process. These subjects can serve as indicators showing where the public authority should pay attention. The role of legislation then is to enhance the prestige of media and NGOs by providing the right of those institutions to submit a copy of research results to the public authority, which afterwards is under the duty to check the submitted reports (either articles prepared for newspapers, or stories for TV news, or researches done by NGOs), investigate these reports and in two or three weeks time publicly give response to it. However, right to submit complains cannot be given to the individuals – if individual is interested in the topic, that person can approach either investigative journalist or join NGO – a single person is not able to prepare a relevant research. Moreover, individual complaints will create a burden not help to the authority. Introducing such provisions can, firstly, promote the development of civil society, secondly, the stories in mass media will gain the prestige and will not be forgotten in days after published. Abuses of these rights by mass media are possible but, since public authority afterwards gives its evaluation on information, it is *infra dig* for newspaper to receive comments that article was manufacture.

Problem could be that political parties are not keen to adopt such kind of legislation; however, it is also up to society to encourage politicians to start the changes. For example, in Argentina process has started with campaigning monitoring done by Transparency International. The contracts on disclosure were concluded with political parties. After monitoring the campaigns, the results, including non-compliance with contracts by parties and discrepancies between declared and observed expenditure, were publicly presented to society shortly before elections.¹²³

¹²³ See more at: <<http://www.poderciudadano.org.ar>> and <<http://www.transparency.org>>; interview with Chief of Argentina's Transparency International Christian Greenberg available on the Internet at <<http://www.policy.lv/index.php?id=102299&lang=en>>, last visited on 31.07.2003.

3. Expenditure regulations

Limits on permitted expenditure

The significance of regulation

By this regulation limits are set on the sum party can spend for election campaign. Related are regulations limiting spending by third parties during elections campaign, but third parties' activities are usually treated as donations-in-kind, thereby explored together with contribution limits. The aim of introducing expenditure limits is to lessen costs of campaigns thus promoting equality among richer and not so rich parties. Views have been expressed that control on spending is one of the most important regulations – until steps are taken to control demand for money, it will be impossible to regulate its corrupt use;¹²⁴ only setting the upper limit of campaign expenditures is effective solution to combat expensive election campaigns and trading of influence.¹²⁵ However opponents are in the view that spending limits is a supply-side regulation, firstly, because they try to limit overall amount of money available to spend and, secondly, most important, such regulations do nothing to change the incentives of parties not to take money (especially if it is possible to evade control mechanism, money can always be spend).¹²⁶ Then all the expenditure parties have can be divided into campaign and non-campaign expenditure where limits are set only on campaign expenditure. Issue related to spending limits is requirement to establish separate funds or accounts for campaign financing – for distinguishing between campaign and non-campaign expenditure.

State practice

Existing legislation in Latvia does not provide any limits for parties' expenditure.

In Europe few countries impose limits on the amount a party may spend annually,¹²⁷ however campaign expenditure is limited more often.¹²⁸ There are countries (like Armenia, Lithuania)

¹²⁴ Keith Ewing, Corruption in party financing: the case for global standards, in Transparency International, "The Global Corruption Report 2001", at p.193.

¹²⁵ Venice Commission, *GUIDELINES*, adopted by the Commission at its 46th Plenary Meeting, (Venice, 9-10 March 2001), in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF(2001)008*, Strasbourg, 23 March 2001, available on the Internet at: <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html)>, last visited on 26.08.2003, at section B, paragraph 8; 3rd European Conference of specialised services in the fight against corruption "Trading in influence and illegal financing of political parties", 28-30 October 1993, Madrid (Spain), conclusions available on the Internet at: [http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Combating_economic_crime/Conferences_of_specialised_services/1998\(Madrid\)Conclusions.asp](http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Combating_economic_crime/Conferences_of_specialised_services/1998(Madrid)Conclusions.asp)>, last visited on 26.08.2003, Conclusion 1; Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph B.

¹²⁶ Justin A. Nelson, "The Supply and Demand of Campaign Finance Reform," in Columbia Law Review, Vol.100, No.2, March 2000, at p. 530.

¹²⁷ For example Belgium, Portugal and Russia, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VII. Expenditure.

¹²⁸ Besides Belgium, Portugal, Russia also Armenia, Bulgaria, Poland, France, Georgia, Greece, Hungary, Ireland, Lithuania, and Slovakia, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at VII. Expenditure; Ānīš Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā: pētījums par ACEEEO 18 dalībvalstīm», in J.Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas

where election campaigns can be financed from single account and, in case of violation of this rule, it is even possible to cancel the registration for particular party for elections.¹²⁹ Interesting rule is introduced in Poland – the election campaign expenses on advertising in mass media (TV, radio and press publications) cannot exceed 80% of national limit set for election expenses (however this rule was violated without sanction in presidential elections in 2000).¹³⁰ Example on independent political campaign spending encountered Russia – before elections a book “In the first person. Conversations with Vladimir Putin” was published. Central Election Commission considered this as campaigning material and candidate’s electoral fund had to pay for its publication and distribution.¹³¹

Evaluation- theoretical decision

The limit on campaign expenditure seems to be an effective solution for over-spending problem in election campaigns. However spending limits are hard to enforce and this limitation has proven to be ineffective in most of the states it has been introduced. The reason states have not abolished it is the argument that limits are at least partly observed (like speed limit 50km/h will not prevent from driving 60km/h but usually will deter from going on 100km/h)¹³². At the same time, there are cases (like India) where spending is estimated regularly to reach six times the legal limit.¹³³

This allows predicting that if introduced in Latvia, it will be fully ineffective– due to political culture, interests, but mainly due to density of shadow economy that allows evading limitations easily. In addition, enormous control from public authorities is needed to enforce this regulation. Therefore even if effectiveness could be reached that would be inefficient solution. Taking into account previously mentioned pro and con arguments and the practice of other countries, it is believable that limits on expenditure is one of the most ineffective (due to inefficiency) regulations and there is no need to introduce them in Latvia.

Practical issues in enforcement

In case legislator nevertheless decides to adopt rules on spending limits, there are issues to be considered. Spending limits normally apply to campaign costs only, and not to expenditure related to parties’ everyday activities, thus problems arise in distinguishing campaigning expenditure:

- In some countries law defines a period of time during which all expenditures count as election expenses, so in UK pre-election period is defined as one year while in Japan

Sociālo Zinātņu Institūts, 2003, at p.11, Identical text in English: Ikstens J., Smilov D., Walecki M, “Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO”, available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEO-campaign-finance-01-31.pdf>, last visited on 27.08.2003.

¹²⁹ Jānis Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā : pētījums par ACEEEO 18 dalībvalstīm », in J.Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, at p.17, Identical text in English: Ikstens J., Smilov D., Walecki M, “Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO”, available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEO-campaign-finance-01-31.pdf>, last visited on 27.08.2003.

¹³⁰ Ibid, at p.46-47.

¹³¹ Ibid, 2003, at p.33.

¹³² Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.4 Limits on permitted expenditure.

¹³³ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Annex 3 The scourge of non-enforcement of laws about political financing.

these are twelve days. However, how should the situation in case of extraordinary elections be solved? How to diminish possibility for parties to time their spending that sums for campaign are paid shortly before qualifying period starts?

- Specification, which items during this period qualify as campaign spending – not all expenditures before elections constitute campaign costs: rent for permanent headquarters, salaries for permanently employed – should these be considered as campaign expenditures? What about opinion polls, if they are run regularly but results used in campaign? This issue can become important in cases where elections are held in only one constituency – then only a little part of spending is meant for campaign.¹³⁴
- Specification on which organizations the spending limits are to apply – both are possible: to channel money through third organizations intentionally, and to organize unlimited number of interest groups agitating without limitations. On the other hand, it is a freedom for any person to express one's views on certain policies or parties.¹³⁵ The possible solution is to require third parties to register if they propose to engage in significant campaign expenditure.¹³⁶

When limits are introduced, the public authority has to evaluate the reports, check them, if there is reasonable doubt on genuineness – make corrections, and impose sanctions. Political parties should have the right to appeal this decision in the court.¹³⁷

Bans against certain types of expenditure

The significance of regulation

Another regulation concerning expenditure of parties during pre-election campaign is a prohibition of certain spending positions, for example, any spending on campaign in mass media, or private mass media, or TV; corrupt practices (bribing voters, buying the votes) This regulation can be introduced independently or together with expenditure limitation examined before. For example, European Union's regulation on European political parties prohibits the use of union's funds for financing national campaigns and explicitly enlists the allowed kind of spending.¹³⁸

¹³⁴ Such situation can arise in municipalities – in autumn 2003 in Latvia there were extraordinary elections in only one municipality, in small town. However the parties who took part in these elections were supposed to follow the same rules concerning declaration of campaign expenditure as before Parliament elections.

¹³⁵ Case of *Bowman v. the United Kingdom* (141/1996/760/961) Judgement of 19 February 1998, ECHR, will be addressed in section on donation limits

¹³⁶ Fifth Report of the Committee on Standards in Public Life, *Standards in Public Life. The Funding of Political Parties in the United Kingdom* Volume 1: Report, Presented to Parliament by the Prime Minister by Command of Her Majesty, October 1998, available on the Internet at: <<http://www.archive.officialdocuments.co.uk/document/cm40/4057/volume-1/volume-1.pdf>>, last visited on 26.08.2003, at p. 132, R 55.

¹³⁷ French case (system often works like this): French Elections Code (Articles L.52 1117) provides the limits for the campaign expenses- a maximum sum is fixed depending on the number of inhabitants in a constituency. National Commission on Election Campaign Accounts and Political Funding is the control institution – it publishes campaign accounts, approves them and, “after adversarial proceedings”, rejects or amends them. Where the amount of a declared item of expenditure is less than the usual price, the Commission calculates the difference and adds it to the campaign expenditure after asking the candidate to provide any evidence relevant to an assessment of the facts The same procedure is applied in respect of all direct or indirect benefits, services and gifts in kind received by the candidate. If the accounts have not been filed within the prescribed period, if they have been rejected or if – where appropriate after amendment – the Commission refers the case to the Constitutional Council. Consequences of exceeding the ceiling on election expenditure include: (a) Non reimbursement of campaign expenditure; (b) Payment of a sum equivalent to the amount of the excess; (c) Disqualification; (d) Criminal proceedings – A fine of FRF 25,000 (judgement of 1997) and (or) a sentence of one year's imprisonment. Source: *Pierre-Bloch v. France*, 21.10.1997. European Court of Human Rights. (120/1996/732/938), at §24-26, 33-28.

¹³⁸ Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliaments Report on first

State practice

In Europe only in some countries are particular items of spending restricted. Usually parties in all countries are free to spend their funds on whatever they choose in furtherance of their political activities. Most often expenditure for radio and television publicity is restricted.¹³⁹ It is possible to ban use of State funds for campaigning (like in the Netherlands).¹⁴⁰ The Britain's Corrupt and Illegal Practices (Prevention) Act of 1883, whose standards have been accepted widely in the world, banned (1) bribery of electors, (2) "treating", i.e., the offer of inducements of meat, drink and entertainment, (3) payments to electors for the exhibition of posters, and (4) payments for the conveyance of electors to and from the poll.¹⁴¹

Latvia

Existing parties' finance legislation regulates mainly parties' income, while agitation laws accent campaigning in TV and radio. There is no prohibition on any spending. As a result corrupt practices are known and not combated in Latvia – in 1995 Saeima elections People's Movement for Latvia outvoted other parties due to campaign with "individual treatment" – giving medicine and bananas to the voters and transporting them to polling-station,¹⁴² also in 2002 elections there was a deputy from party "Latvijas Ceļš" who transported voters to the polling-station and regaled them with alcoholic beverages, claiming that such "organising of electorate" is not illegal.¹⁴³

Evaluation

As bans on political advertising and bribery are most common among the bans on certain types of expenditure, the criteria affecting legislator's attitude towards those two will be

reading of Codecision procedure, A5-0170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: <http://www.icampus.ucl.ac.be/conrad/BEDE0001/document/EBED722003/com2003_0077en01.pdf>, last visited on 26.08.2003, Article 7.

¹³⁹ Belgium, Brazil, Bosnia Herzegovina, Czech Republic, France, Israel, Ireland, Italy, Malta, The Netherlands, Norway, Portugal, Romania, Spain, Sweden, Switzerland, Turkey, UK, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VII. Expenditure; Jānis Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā: pētījums par ACEEEO 18 dalībvalstīm», in J. Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, at p.11, Identical text in English: Ikstens J., Smilov D., Walecki M, "Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO", available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEO-campaign-finance-01-31.pdf>, last visited on 27.08.2003; Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at overview, p.16.

¹⁴⁰ Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VII. Expenditure.

¹⁴¹ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.1 Bans on corrupt practices.

¹⁴² 16 seats in Saeima, however after half a year the fraction dissolved and deputies formed new fractions or became "independent deputies", source: <http://www.saeima.lv/informacija/likumdeveju_vesture.html>, last visited on 26.08.2003.

¹⁴³ Ivars Andiņš "Par Repši vai par Šņabīti"// "Lauku Avīze", 08.10.2002 ("For Repse or for vodka" - author's translation, available only in Latvian); LETA news agency, "Rudevičs atzīst, ka čigāni vesti uz vēlēšanām Rīgā"// „Diena”, 16.10.2002 ("Rudvics admits that gypsies have been transported to Riga" - author's translation, available only in Latvian).

discussed. Concerning **political broadcasting** there are three ethical questions to be observed: over-spending and fairness versus freedom questions. Overspending and fairness are convincing arguments to enact bans in the law – prevention of “financially powerful groups from obtaining a competitive political advantage” is a legitimate aim to interfere into freedom of expression in form of campaigning in TV.¹⁴⁴ However this interference should be necessary in democratic society and European Court of Human Rights in assessing restrictions in Switzerland considered that powerful financial groups can undermine fundamental role of freedom of expression in a democratic society, but alternatively, if a political broadcasting is participating in ongoing general debate affecting the general interest, prohibition of it will result in violation of rights guaranteed in the Article 10 of European Convention for the Protection of Human Rights and Fundamental Freedoms.¹⁴⁵

On the practical side – advertisements in TV are rarely participating in general debates, most often they only show smiling faces expressing general promises. Thereby bans on political broadcasting in mass media are seen as a realistic way to lessen expenditure during election campaign thus lessening the impact of money on the results of the elections without burdening the State budget. By looking on declarations on campaigning expenditure submitted by parties after Saeima elections in 2002, it can be seen, that biggest amounts of money are spent on campaigning in electronic media (from 41%¹⁴⁶ till 69%¹⁴⁷ or even 77%¹⁴⁸ of spent money is paid for advertisements in TV and Radio). If state considers to ban paid political advertising, free broadcasting time (or time for information on party' programme) in state owned mass media should be provided. Against such regulation are private mass media (the profit lessens) and richest parties who are loosing the advantage they had before. Simultaneously, ban on campaigning in electronic mass media alone can prove ineffective – in the UK case, after ban on campaigning in TV, the spending for other kinds of advertisement (press, posters) rose dramatically.¹⁴⁹

Enforcement hardship roots in interest by both – parties and mass media – to evade limitations. However, also in states where political advertising is permitted there is a density of hidden campaigning (either to have more advertisements or to hide the real spending). Thereby regulation that defines hidden campaigning and determines sanctions is necessary: a complex regulations dealing with everyday spots and news-stories (it is normal that government activities are reported more often than opposition, while any concealments and misinterpretations should be eliminated). Regulations on how much time should be given to each party in the daily news were suggested in the UK however legislator understood how meaningless would be regulations like these. It is practically impossible to control timing for each person speaking in TV debate – it is up to the journalist, his professionalism and neutrality, to guarantee equal possibilities for everyone.¹⁵⁰ Nevertheless, it is probably one of

¹⁴⁴ Case of VgT Verein Gegen Tierfabriken v. Switzerland (Application no. 24699/94), Judgement of 28 June 2001, ECHR., at paragraph 61.

¹⁴⁵ Ibid., at paragraphs 71-75.

¹⁴⁶ LVL 211368 from LVL 514467 - Declaration on campaigning expenditure, party „Latvijas Ceļš”, available on the Internet at: <http://www.knab.gov.lv/str/78_lc_vid_2002.pdf>, last visited on 26.08.2003.

¹⁴⁷ LVL 504586 from LVL 734310 - Declaration on campaigning expenditure, party „Tautas Partija”, available on the Internet at: <http://www.knab.gov.lv/str/78_lc_vid_2002.pdf>, last visited on 26.08.2003.

¹⁴⁸ LVL 341440 from LVL 442012 - Declaration on campaigning expenditure, party „Latvijas Pirmā Partija”, available on the Internet at: <http://www.knab.gov.lv/str/78_lc_vid_2002.pdf>, last visited on 26.08.2003.

¹⁴⁹ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available at <http://www.idea.int/publications/funding_parties/funding_overview.pdf> at Chapter 3, Regulations and subsidies: a practical guide, section 2.10 Political broadcasting.

¹⁵⁰ Ibid.

most effective regulations due to easiness in introducing and possibility to delegate a lump of control to NGOs like Transparency International.

In comparison, it is relatively easy to eliminate **bribery of voters** – this agitation method is not so popular: too many resources (direct effort) needed to persuade relatively small number of voters. Moreover, due to secret voting it is impossible to assure on the actual vote (requirement to prove actual voting is, beyond doubt, a violation of free and secret elections). Nevertheless, if legislator choose to introduce this ban, there exists problem in defining what campaigning can be called a bribery of voters – where is the borderline between gifts to charity and bribery? Gifts for restoration a village school, books for libraries always raise doubts. British court in 1911 considered that “gifts to hospitals, churches, chapels, libraries and clubs of all kinds have never been considered bribery”.¹⁵¹ Possibly criterion could be whether this charity gives benefit for wider society for a longer period. On the other hand, does not it transform a salary paid for volunteer engaging in campaign process into a bribe? The use of bribery reflects the overall level of culture in the party – when direct bribery was first used in Latvia, this party got 16 seats in Saeima but already during first half a year these MPs changed the party membership and party dissolved.¹⁵² In contrast – parties are established to fight for interests of group it represents, not „wider society” even if it is formed from a population of a village receiving first cinema session for seven years.

4. Income regulations

According to classification adopted by Karl von Beyme, party funding has three main forms – internal, external and state funding.¹⁵³ On each of income sources due to their diverse qualities different regulations apply.

A. Internal financing (intra-party sources): according to Beyme, this is simple and innocuous way of finance, composed of:

a. **Membership fees**: this part of income has a tendency to diminish both in the most states of the world and in Latvia. In Latvia these sums constitute between 0% (“Jaunais laiks”,¹⁵⁴ “Latvijas Pirmā Partija”,¹⁵⁵ POA “Par cilvēka tiesībām vienotā Latvijā”,¹⁵⁶) and 6% (“Tēvzemei un Brīvībai” (3%),¹⁵⁷ Latvijas Zaļā partija (6%),¹⁵⁸ Latvijas Sociāldemokrātiskā

¹⁵¹ East Division of the Borough of Nottingham case [1911] 60’M & H 297 at 308, cited in Hughes “Electoral Bribery”, Griffith law review 7, no2, 1998,213.

¹⁵² Information from Saeima homepage: <<http://www.saeima.lv/latvian/rezultat1.html>>, last visited on: 26.08.2003.

¹⁵³ Robert Williams, “Aspects of Party Finance and Political Corruption”, in R.Williams (ed.) *Party Finance and Political Corruption*, Macmillan Press, 2000.p.3-7.

¹⁵⁴ LVL 0 from LVL 508623 - Declaration on financial activities, party „Jaunais Laiks”, available on the Internet at: <http://www.knab.gov.lv/str/92_jl_fdd_2002.pdf>, last visited on 26.08.2003.

¹⁵⁵ LVL 0 from LVL 539741 - Declaration on financial activities, party „Latvijas Pirmā Partija”, available on the Internet at: <http://www.knab.gov.lv/str/104_lpp_fdd_2002.pdf>, last visited on 26.08.2003.

¹⁵⁶ LVL 0 from LVL 272786,50 - Declaration on financial activities, POA “Par cilvēka tiesībām vienotā Latvijā”, available on the Internet at: <http://www.knab.gov.lv/str/163_pcvl_fdd_2002.pdf>, last visited on 26.08.2003.

¹⁵⁷ LVL 16250 from LVL 550104 - Declaration on financial activities, party „Tēvzemei un Brīvībai”, available on the Internet at: <http://www.knab.gov.lv/str/95_tb_fdd_2002.pdf>, last visited on 26.08.2003.

¹⁵⁸ LVL 2177 from LVL 36505 - Declaration on financial activities, party „Latvijas Zaļā Partija”, available on the Internet at: <http://www.knab.gov.lv/str/99_lzp_fdd_2002.pdf>, lastvisited on 26.08.2003.

Strādnieku Partija (2,6%)¹⁵⁹) of the parties' total income. As a world-wide average, membership fees represent only about 10-15% of party incomes;¹⁶⁰

b. **“Party tax”**: a certain amount of income members of parliament pay to the party which they represent. Arrangements of this sort are frequently laid down in the parties' statutes and provide for voluntary or mandatory payments by parliamentarians, sometimes including also supporters working in the executive and legislative branches of government when they owe their position to a certain party. Party tax seem to constitute a widespread source of income for parties in European states¹⁶¹ (i.e. in Estonia, the Moderates, all the members of parliament and ministers who are members of Moderates pay regularly 500 kroons (approximately 30 Euro) to the party every month – this sum is reported as private donation¹⁶²);

c. **Profits of party owned companies**: these include income from investments, sale of party newspapers and other publications. However these classical forms of business are no longer profitable and parties engage also in other areas, like marketing, shopping centres, and house construction (in Austria).¹⁶³ However involvement in business activities give rise to suspicions of corruption thus economic activities which have nothing to do with the parties' general function (representation of society's will) is problematic and therefore often banned.¹⁶⁴

B. External financing – these are contributions from natural and legal persons – Bayme saw the biggest problems there, asking for motives of those who make substantial contributions to political parties. Is it not like in the saying “he who pays the piper calls the tune”?¹⁶⁵ Nevertheless, in the countries where public funding has not been introduced (like Latvia), external financing composes the main part of party's income.

C. State funding – formed by direct (money payment) and indirect (like services that are free of charge, free broadcasting time) state support to the political parties. It is sometimes presented as a way of freeing political parties from the obligations created by their dependence on income from trade unions or business groups, however possibility exists for parties to become dependant on state funding (tendency observed in Germany).

Contribution limits

The significance of regulation

This regulation provides limitations to the sum a person (member or outside supporter) can donate for one party in a certain period. It is a classic supply-side regulation, trying to lessen

¹⁵⁹ LVL 14549 from LVL 557211 - Declaration on financial activities, party „Latvijas Sociāldemokrātiskā Strādnieku Partija”, available on the Internet at: <http://www.knab.gov.lv/str/106_lsdsp_fdd_2002.pdf>, last visited on 26.08.2003.

¹⁶⁰ Kanev Dobrin, *Party finances and political corruption*, Paper presented at the Corruption and Party Finance Conference, Riga, Latvia, 24-26 November 2000, at section 2.

¹⁶¹ PACE Political Affairs Committee, *Report “Financing of political parties”*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 10.

¹⁶² Pantus Keit, *Party funding in Estonia*, Paper presented at the Corruption and Party Finance Conference, Riga, Latvia, 24-26 November 2000, at section 3.

¹⁶³ PACE Political Affairs Committee, *Report “Financing of political parties”*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 13.

¹⁶⁴ Ibid, at paragraph 15.

¹⁶⁵ Robert Williams, “Aspects of Party Finance and Political Corruption”, in R. Williams (ed.) *Party Finance and Political Corruption*, Macmillan Press, 2000.p.4.

sum of money in circulation. The main objective of this regulation is to lessen the influence of one or few rich sponsors (treat of corruption). It is often emphasized that the sources of money are much more important than the ways the money is spent (it makes difference whether 1million spent in campaign is received from 10 000 donators or from two persons each donating half million).¹⁶⁶ Therefore regulation should encourage citizens' participation and simultaneously lessen opportunities for improper influence and corruption by setting a legal limit on the maximum sum of donations.¹⁶⁷

State practice

In Europe limits on expenditure are more common than limits on contributions, in addition they are more often introduced in Central and Eastern Europe (in every second country).¹⁶⁸ Nevertheless, EU Regulation project provides that European political parties will be allowed to receive only up to EUR 15 000 per donor annually,¹⁶⁹ besides Council of Europe recommends introducing some limit for donations.¹⁷⁰

The problem of *soft money*, money not declared and donated mainly by corporations evading the limits provided in the law, is problem defined in the U.S., arisen again in 1999-2000 president's elections where both Bush and Gore each spend about 463 million US dollars, *soft money* mainly.¹⁷¹ Even the disputed Buckley v. Valeo¹⁷² (reaffirmed in the 2000 case of

¹⁶⁶ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.5.

¹⁶⁷ Venice Commission, *GUIDELINES*, adopted by the Commission at its 46th Plenary Meeting, (Venice, 9-10 March 2001), in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF(2001)008*, Strasbourg, 23 March 2001, available on the Internet at: <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html)>, last visited on 26.08.2003, at part B, paragraph 6; Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph A, point i, point v. (d).

¹⁶⁸ Limits are introduced in: Armenia, Belgium, Bosnia, Bulgaria, France, Greece, Latvia, TŝFYR Macedonia, Poland, Portugal, Romania, Russia, Slovenia, Spain Turkey, Ukraine; source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section III. Donations, updated by info from Jānis Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā: pētījums par ACEEEO 18 dalībvalstīm», in J. Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, at p.11, Identical text in English: Ikstens J., Smilov D., Walecki M., "Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO", available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEO-campaign-finance-01-31.pdf>, last visited on 27.08.2003.

¹⁶⁹ Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliaments Report on first reading of Codecision procedure, A5-0170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: <http://www.icampus.ucl.ac.be/conrad/BEDE0001/document/EBED722003/com2003_0077en01.pdf>, last visited on 26.08.2003, in Article 4.

¹⁷⁰ The Committee of Ministers of 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*, adopted by the Committee of Ministers on 8 April 2003 at the 835th meeting of the Ministers' Deputies. Article 3.b.ii.

¹⁷¹ Keith Ewing, Corruption in party financing: the case for global standards, in Transparency International, "The Global Corruption Report 2001", at p.188.

¹⁷² Buckley v. Valeo, 424 U.S.1 (1976).

Nixon v. Shrink Missouri PAC¹⁷³) stating that limits on permitted expenditure are against the first amendment of the Constitution (freedom of expression), concluded that limits on contributions are constitutional for a reason that donation only expresses that a person supports a political party not disclosing the reasons why.

Interesting example comes from Japan, where in a decision of 24 June 1970 the Supreme Court held that private firms could contribute funds to political parties, on condition that such financing did not constitute or become a means of exerting pressure on the parties concerned.¹⁷⁴

Latvia

The 1995 party finance law provided the limit for contributions on 25000 lats¹⁷⁵, while 2002 law reduced it to 10 000¹⁷⁶. The positive aspect of new draft is broadening of the term donation, including in addition intangible property, rights, providing services (also on cost that is lower than fair market price).¹⁷⁷ Although the possibilities to evade disclosure and limits are not taken into account in elaboration of the new provisions, they show the trend to limit also indirect donations. Currently there is no administrative or court practice on how the indirect donations (in kind) are evaluated and controlled. In all probability, problems can arise.

Legislator's choice – theoretical decision

Two axioms should be kept in mind discussing donation issue: first, the state and its citizens are both entitled to support political parties, and, second, support from state or citizens must not interfere with the independence of political parties.¹⁷⁸ Thus it is unreasonable to limit the right of citizens to support political parties but it is hard to draw the borderline where support reaches into improper influence.

Another issue to consider are the subjects and activities attributable to limits – if term “donations” is broadened to include also services, limits apply also to the value of services donated. Hence limits similarly can apply also to the third party campaigning done in favour of a certain party. However here collisions with human rights principles can appear: limiting the amount of money third persons can spend on direct political activity means limiting their freedom of expression. That was the main conclusion done by Buckley v. Valeo in the U.S. but also Europe has come to similar conclusions. European Court of Human Rights in 1998 faced application of Mrs. Bowman complaining on Representation of the People Act 1983 providing limits for campaigning done by third parties on five sterling pounds.¹⁷⁹ The

¹⁷³ Nixon v. Shrink Missouri Government PAC, 120 S. Ct. 897 (2000), see John W. Dean, “Let the next fight begin: Campaign finance reforms goes to court”, Findlaw Legal Commentary, 29.03.2002, available at: <<http://writ.corporate.findlaw.com/dean/20020329.html>>, last visited on 26.08.2003.

¹⁷⁴ Jacques Robert, *REPORT*, adopted by the Commission at its 44th Plenary Meeting, (Venice, 13-14 October 2000), in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF (2001) 8)*, Strasbourg, 23 March 2001, available on the Internet at: <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html)>, last visited on 26.08.2003, at paragraph 3.

¹⁷⁵ Politisko organizāciju (partiju) finansēšanas likums: LR likums// Latvijas Vēstnesis, 02.08.1995. (Law on financing of political parties (author's translation), official publication in Latvian Herald, 02.08.1995, available only in Latvian), Article 4(2) in wording after amendments done by law of 06.06.2002.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid, Article 2(2) in wording after amendments done by law of 06.06.2002.

¹⁷⁸ The Committee of Ministers of 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*, adopted by the Committee of Ministers on 8 April 2003 at the 835th meeting of the Ministers' Deputies. Article 1.

¹⁷⁹ Case of Bowman v. the United Kingdom (141/1996/760/961) Judgement of 19 February 1998, ECHR, paragraph 10-12 - Mrs. Bowman, being executive director of society for the Protection of the Unborn Child,

European Court of Human Rights recognizing the restriction of freedom of expression considered whether it is “prescribed by law”, follows legitimate aim and is “necessary in democratic society” and found that the limiting provision “constituted as a total barrier to Mrs Bowman’s publishing information with a view to influencing the voters in favour of an anti-abortion candidate. It is not satisfied that it was necessary thus to limit her expenditure to GBP 5 in order to achieve the legitimate aim of securing equality between candidates, particularly in view of the fact that there were no restrictions placed upon the freedom of the press to support or oppose the election of any particular candidate [...]”.¹⁸⁰ The Court accordingly concluded that the restriction was disproportionate to the aim pursued and there has been a violation of freedom of expression secured by Article 10 of the Convention.

Practical issues in enforcement

After legislator has stated the limits on contributions it considers appropriate and necessary for a particular situation, practical problems concerning enforcement and control of those limits arise: the limited amount should **not** be **too low** – the possibility for voluntary supporters to participate freely in campaigning should not be deterred by unreasonable (GBP 5) limit on spending.

The main issue is that often both giver and receiver are intentionally interested to evade the limits, and then it is easy to find the loopholes. How to combat dividing the donation in smaller sums to donate through family members and friends? Corporations can donate through subsidiaries and owners. Although donation through **third persons** is prohibited,¹⁸¹ it is hard to prove mediation. Is it up to the public authority to check the financial situation of each donator (but what if rich friends are used as a shield)? Individual donators are more difficult to control (in comparison with corporations), and this could be the reason why during last years the amount of individual contributions *vis-à-vis* corporate donations is growing.¹⁸² Here the mass media should play its control role – to remind the electorate before elections on suspicious donations (either by using third parties or done through institutions (funds) linked to the political parties) received by parties.

Related issue is income coming from party’s **business activities** – should it be limited? In practice, legal restrictions on commercial activities of political parties are rare, seemingly, there have been no problems or scandals on this.¹⁸³

Donation in kind of services (for free or for lower cost), property given for use, help in campaign organization (lawyer, PR) – these are donations that are hard to prove but on the other hand these do not constitute the greatest part of parties’ money and are contributed by true supporters who are ready to donate their time and efforts (not only money) to the party. Nevertheless, the service has to be identified and evaluated. Usually when identifying

before the parliamentary elections arranged to have some 1,5 million leaflets distributed in constituencies throughout the U.K., emphasizing each parties’ position towards abortion issue.

¹⁸⁰ Case of Bowman v. the United Kingdom (141/1996/760/961) Judgement of 19 February 1998, ECHR, paragraph 47.

¹⁸¹ Politisko organizāciju (partiju) finansēšanas likums: LR likums// Latvijas Vēstnesis, 02.08.1995. (Law on financing of political parties (author’s translation), official publication in Latvian Herald, 02.08.1995, available only in Latvian), Article 6(3) in wording after amendments done by law of 06.06.2002.

¹⁸² Jānis Ikstens, “Partiju finansēšana un korupcijas ierobežošana Latvijā: alternatīvu risinājumu analīze”, Soros foundation, Rīga, 2001, at p.10 (Party financing and elimination of corruption in Latvia: analysis of alternative solutions – author’s translation, available only in Latvian on the Internet at: <http://www.politika.lv/polit_real/files/lv/partfinans.pdf>, last visited on 26.08.2003).

¹⁸³ PACE Political Affairs Committee, Report “Financing of political parties”, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 16.

voluntary participation, it is supposed that a service is considered a donation if it constitutes a person's professional activity (but what about a criminal law or international arbitration lawyer who has done research and gives consultation in national campaigning laws?). Evaluation of those services is no easier (except if it is clearly professional activity). Obviously, when limits on donations are applied also to services, public authority has to have the right to identify and assess these donations-in-kind, and parties should have the right to challenge this decision. In Latvia where the term "donations" has been broadened to include also donations-in-kind this question has been left unanswered and will most likely cause problems.

Bans against certain types of contributions

The significance of regulation

This regulation forbids parties to accept donations coming from certain sources: most often these are foreign donations, donations from legal persons (companies), state owned companies, religious organizations, and consequently – donations from unidentified sources.¹⁸⁴ This is a supply-side regulation, limiting the supply (amount) of money from certain groups (especially ban on donations from corporations that constitute considerable proportion of parties' money), having the main objective to limit the possible influence of those groups.

State practice

Following regulations are known in Europe:

Restrictions on donations, permissible or impermissible donors or donations most countries restrict donations either by amount or by source: usually states ban certain sources of donations,¹⁸⁵ while UK's new bill on the contrary gives the list of "permissible donors" which include individuals registered in an electoral register in the UK; companies registered

¹⁸⁴ The Committee of Ministers of 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*, adopted by the Committee of Ministers on 8 April 2003 at the 835th meeting of the Ministers' Deputies. Article 5-7; 3rd European Conference of specialised services in the fight against corruption "Trading in influence and illegal financing of political parties", 28-30 October 1993, Madrid (Spain), conclusions available on the Internet at: [http://www.coe.int/T/E/Legal_Affairs/Legal_cooperation/Combating_economic_crime/Conferences_of_specialised_services/1998\(Madrid\)Conclusions.asp](http://www.coe.int/T/E/Legal_Affairs/Legal_cooperation/Combating_economic_crime/Conferences_of_specialised_services/1998(Madrid)Conclusions.asp), last visited on 26.08.2003, Conclusions 3,4; Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>, last visited on 26.08.2003, at section 8, paragraph A, point v. (a),(b),(c),(e); Venice Commission, *GUIDELINES*, adopted by the Commission at its 46th Plenary Meeting, (Venice, 9-10 March 2001), in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF(2001)008*, Strasbourg, 23 March 2001, available on the Internet at: [http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html), last visited on 26.08.2003, at section A, part b, paragraph 6.

¹⁸⁵ Like German Law on Political Parties enlists the "impermissible" donors: political foundations and parliamentary groups; corporate bodies or associations which are exclusively and directly created and working for non-profit, charitable or church purposes and anonymous donors in cases where the donation exceeds 500 euro or "fake" donors who are obviously merely passing on the donations of third parties not named; donations from professional organisations. Moreover donations of more than 1,000 euro are qualified as impermissible if they come from outside German jurisdiction, source: Germany's "Law on Political parties (Party Law)", amended version of 31.01.1994 (Federal Law Gazette I, Page 149), last amended pursuant to Article 1 of the Law dated 28 June 2002 (Federal Gazette I, Page 2268), available on the Internet at: http://www.bundeswahlleiter.de/rechtsgr/e/partg_e.htm, last visited on 27.08.2003, Article 25 (2).

in the UK or elsewhere in the EU if carrying out business in the United Kingdom; registered political parties; trade unions; and similar.¹⁸⁶

Donations from organisations are prohibited rarely (Belgium, France, San Marino). Some countries prohibit donations from certain kinds of organisation, such as government agencies, religious bodies, charities, private enterprises providing public services or enterprises partly owned by the state. Donations from state-owned companies are prohibited also for European political parties.¹⁸⁷ Sometimes donations from organisations are treated differently from those made by individuals.¹⁸⁸

Donations from abroad: is the most common ban in Europe (especially Central and Eastern Europe¹⁸⁹) with the exception of subsidies given by the European Community for the elections of the European Parliament.¹⁹⁰ It is often introduced in form of a partial ban (allowing smaller donations, literature, or equipment from international political organisations).¹⁹¹ Besides, reasons for adopting such ban can differ – in Romania this prohibition was designed to prevent the opposition presidential candidate from using his fortune he amassed in the UK during the campaign.¹⁹²

The danger of improper influence: influence exercised by trade unions or professional associations is a problem, for instance, in Austria and Germany.¹⁹³ Particular interest in influencing political parties may arise on the part of enterprises if they are competing for contracts with the State. Still, donations creating conflicts of interest are not addressed by the

¹⁸⁶ PACE Political Affairs Committee, *Report "Financing of political parties"*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 20.

¹⁸⁷ Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliaments Report on first reading of Codecision procedure, A5-0170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: <http://www.icampus.ucl.ac.be/conrad/BEDE0001/document/EBED722003/com2003_0077en01.pdf>, last visited on 26.08.2003, in Article 4.

¹⁸⁸ For example: Greece, Ireland, Italy, Portugal, Romania, San Marino, Spain; source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section at section III Donations.

¹⁸⁹ See: Jānis Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā: pētījums par ACEEEO 18 dalībvalstīm», in J. Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, at p.11, Identical text in English: Ikstens J., Smilov D., Walecki M., "Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO", available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEO_campaign-finance-01-31.pdf>, last visited on 27.08.2003.

¹⁹⁰ PACE Political Affairs Committee, *Report "Financing of political parties"*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 22.

¹⁹¹ Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section III. Donations.

¹⁹² Steven D. Roper, "Campaign Finance Laws and Corruption in Romania", Paper presented at the Corruption and Party Finance Conference, Riga, Latvia, 24-26 November 2000., p.7-8.

¹⁹³ PACE Political Affairs Committee, *Report "Financing of political parties"*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 23.

great majority of countries. Only some countries¹⁹⁴ compel a party in government to return a large donation when it makes a decision directly and immediately affecting the interests of the donor (or forbid donations made by public enterprises or by private ones which are contracting with the State¹⁹⁵). Of course, a gift given specifically to induce that decision would presumably in most, if not all, countries amount to the crime of bribery or trading in influence.¹⁹⁶

Anonymous donations: in general anonymous donations are prohibited thus not allowing the banned categories or undisclosed individuals to donate money. However regulations differ, anonymous donations can be banned completely (as in Latvia), or state can allow acceptance of small sum (25\$ as was in Lithuania), while in Bulgaria anonymous donations can constitute up to 25% of amount received from the State.¹⁹⁷

Latvia

In Latvia it is prohibited for the parties to accept donations from state-owned companies and state organizations (this applies both to Latvia and to other states), as well as from stateless persons. It is prohibited to donate through third persons and explicit ban on anonymous donations is included.¹⁹⁸ When amendments in 2002 were prepared, there was an initiative to include prohibition to accept donations from warrantees and public procurement competition winning companies for two years after this fact.¹⁹⁹ To regret, this proposal was not included in the amendments.

Theoretical issues to be considered

Several ethical questions are to be considered by legislator to decide whether and which sources of contributions ought to be banned – these are questions on misconduct (not to allow influence from unacceptable sources) and civil engagement (to promote it).

¹⁹⁴ Like France, Italy, Romania, Slovakia and Turkey source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section III Donations.

¹⁹⁵ Spain, the Netherlands, Romania, Slovakia and Turkey, source: PACE Political Affairs Committee, *Report "Financing of political parties"*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 24, 26; Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section III Donations.

¹⁹⁶ Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section III Donations.

¹⁹⁷ Jānis Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā : pētījums par ACEEEO 18 dalībvalstīm », in J.Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, at p.24, 36, Identical text in English: Ikstens J., Smilov D., Walecki M., "Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO", available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEOcampaign-finance-01-31.pdf>, last visited on 27.08.2003.

¹⁹⁸ Politisko organizāciju (partiju) finansēšanas likums: LR likums// Latvijas Vēstnesis, 02.08.1995. (Law on financing of political parties (author's translation), official publication in Latvian Herald, 02.08.1995, available only in Latvian.), Articles 6,7

¹⁹⁹ Project for Law on financing political parties, adopted in the Committee of Ministers, in 10 December 2001, annotation available on the Internet at <<http://www.politika.lv/index.oho?id=101244&lang=lv>>, last visited on 26.08.2003, this project has not been adopted as amendments or new wording of the law.

With regard to **foreign donations** – it may be argued that right to contribute money to parties should be limited to those individual citizens who are entitled to vote – if foreigners are banned from voting, why should they be permitted to influence election results by financial contributions? Although elections necessarily are affected by foreign influences– either from books and newspapers, or from like-minded parties abroad (like Social democrats have worldwide organizations), it makes difference whether it is more moral (ideological) support or direct financial support. Thus acceptable would be support-in-kind coming from collaboration parties in other countries (paid visits, conferences, consultations, researches), although it again opens the door for misuse of regulation then direct campaign financing (as the U.S. was shocked when Clinton’s campaign was financed by China and Thailand,²⁰⁰ similarly would Latvia be shocked if leading party’s campaign opens up to be sponsored by Russia). In contrast, foreign donations can help also in establishing democracy– like in 1980s when in Poland Solidarity movement challenged the Communist regime it was supported by material aid from overseas that was both necessary and justified.²⁰¹

Argumentation regarding influence on election results can be applied also to **legal persons** – since only individuals and not organizations are allowed to vote, only individuals can contribute money to parties. In reality, it is still a disputable question whether act of donating money is altogether similar to the act of voting. Besides, corporations may have proper interests which employers, shareholders or consumers are not able to express– this is a way of group action.²⁰² More rational is ban on donations from **state-owned enterprises** – these would constitute a state support to a particular party. Moreover, if the donation is given to a ruling party, the possibility of conflict of interest (misuse of state property for individual purposes) may arise. Donations from **religious organizations** are sometimes banned, firstly, because religious organizations also gain money in form of donations and, secondly, in democracy state should be separated from the church (any religion).

Limitation to be introduced in Latvia is ban on donations creating **conflict of interest**. Thus ban on donations made by private enterprises winning in public procurement competitions or somehow contracting with the State is advisable. Also the rule introduced in some countries compelling a party in government to return a large donation when it makes a decision directly and immediately affecting the interests of the donor could be enforced.

Taking into consideration mentioned unwelcomed sources of donations, it is reasonable to introduce also ban on **unidentified donations** to restrict the possibility to evade limitations by donating anonymously. In Latvia currently there is absolute ban on anonymous donations, mainly because fund-raising events or rallies (where donations necessarily are unidentifiable) are unpopular. However this regulation does not promote organization of such events.

²⁰⁰ Dean McSweeney, “Parties, Corruption and Campaign Finance in USA”, in R.Williams (ed.), *Party Finance and Political Corruption*, Macmillan Press, 2000.p.54.

²⁰¹ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.6 Bans against certain types of contributions; see also Venice Commission, *GUIDELINES*, adopted by the Commission at its 46th Plenary Meeting, (Venice, 9-10 March 2001), in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF(2001)008*, Strasbourg, 23 March 2001, available on the Internet at: <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html)>, last visited on 26.08.2003, at section C, paragraph 3.

²⁰² Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.6 Bans against certain types of contributions.

Nevertheless, by introducing any bans on certain types of contributions parties will lose a part of their income. Thus the legislator should either somehow compensate it (i.e. by state subsidies) or make this money unnecessary (by limiting ways to spend it). Otherwise parties will be tempted to look for loopholes in the control mechanism to evade limitations.

Practical issues in enforcement

In introducing any of the limits practicalities arise, especially problematic for the legislator is regulation of **foreign donations**. The main problem concerns the definition of a foreign political payment: who is a foreigner? Should citizenship, permanent residency or “genuine link” with the country (resident as opposed to a citizen permanently living in another country) be a criterion? Should the EU citizens in an EU country be treated as foreigners? About corporations the issue becomes even more complicated – there are different criteria and different approaches in different states how nationality of a corporation is determined (place of registration, seat, or place from where the company is controlled). In addition, corporations can donate through subsidiaries and branches, thus evading also limits on donations if introduced. Similarly, with regard to a ban on donations from corporations, in practice it is still possible to donate a company’s money by declaring it as a private donation either from managing staff or from shareholders, thus referring back to the control, enforcement and supervision mechanism.

Another way to evade limits and bans on donations is by giving loans to the parties.²⁰³ Loans can be given for a long term and without interest, and can be never meant to be repaid. The easiest way for the state to evade one more aspect of parties’ finances to control (who are the persons giving the loan, when should the loan be repaid, is not this a hidden donation) is an absolute ban on loans. Latvia has chosen to ban the loans, and this decision can be approved.

5. State funding and support

State funding is regulation aiming to enhance party effectiveness (ability to act without thinking of financial support), simultaneously seeking to solve issues of misconduct, unfairness, over-spending, and freedom questions. State support to political parties can be either direct – through state subsidies in money, or indirect – providing free of charge services, supporting parliamentary groups or encouraging (by tax relief) private persons to donate to the parties.

Measures designed to encourage donations – tax relief

The significance of regulation

Tax privileges for donations and membership fees constitute a mixed type of funding: they encourage private financing through public means. Political parties do not benefit directly from the tax relief accorded to their members and donors but benefit indirectly since this increases the readiness of citizens to give money to parties. Indirect subventions, such as tax relief, are one of the most favoured methods of state intervention in the finances of political parties – these assist parties only if they themselves make efforts to collect money. Two most common measures are: (a) income tax relief for donors – especially if it is applied to relatively small donations to encourage them, thus encouraging citizens’ participation in the activities of political parties, including their financial support to parties²⁰⁴; (b) political parties are relieved from income tax payments from donations.

²⁰³ Transparency International – Czech Republic, *CPA Manual on party finance*, 2002, at p.18, available on the Internet at: <<http://www.party-finance.org/documents/brozura-angl.PDF>>, last visited on 27.08.2003.

²⁰⁴ Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the

State practice

Both forms of state support are known in Europe, although only some allow a donation to a party to be deducted from the donor's taxable income.²⁰⁵ However relief from income taxes for donors has proved to be effective in promoting smaller donations. System called "tax credit" to promote small donations has been elaborated in Canada. It operates in a way that for every donation of up to \$CAN 100 by an individual tax-payer, there is tax credit of 75%. This means that the tax payer will end up by contributing \$25 while party receives \$100. The credit falls to 50% for additional donations between \$100 and \$550 and to 33.3% for donations between \$550 and \$1150.²⁰⁶ More popular in Europe is income tax relief for political parties,²⁰⁷ sometimes liberation from other taxes (including VAT) in case of economic activities is provided, thus danger appears that parties are created merely for the tax relief (case of Bulgaria).²⁰⁸

Latvia

In Latvia the income parties receive from donations are exempted from income tax. In addition, persons donating to the parties are partly liberated from respective state fees.²⁰⁹ The relief on income tax for legal entities donating to NGOs (like religious organizations; social, charity, educational, sport NGOs, health and environment protection organizations) are provided but not for donors to political parties and individual donors. However this income tax relief likely will be abolished (as disadvantageous for state budget), the respective amendments are already promulgated in the State secretaries' meeting.²¹⁰

Internet at: <<http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph A point i.

²⁰⁵ Bosnia, Estonia, France, Germany, Hungary, Italy, partly in Switzerland, Macedonia, Portugal and San Marino – source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VI State funding; Jānis Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā: pētījums par ACEEEO 18 dalībvalstīm», in J.Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, at p.11 and following. Identical text in English: Ikstens J., Smilov D., Walecki M., "Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO", available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEO-campaign-finance-01-31.pdf>, last visited on 27.08.2003.

²⁰⁶ Fifth Report of the Committee on Standards in Public Life, *Standards in Public Life. The Funding of Political Parties in the United Kingdom* Volume 1: Report, Presented to Parliament by the Prime Minister by Command of Her Majesty, October 1998, available on the Internet at: <<http://www.archive.officialdocuments.co.uk/document/cm40/4057/volume1/volume-1.pdf>>, last visited on 26.08.2003, at Appendix VI, Tax Credits For Donations To Political Parties: Note By The Inland Revenue, at p. 250.

²⁰⁷ Known also in Albania, Canada, Estonia, Finland, Germany, Hungary, Ireland, Malta, Moldova, Norway, Portugal, Romania, San Marino, Slovakia, Spain, Turkey, source: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VI State funding.

²⁰⁸ Kanev Dobrin, *Party finances and political corruption*, Paper presented at the Corruption and Party Finance Conference, Riga, Latvia, 24-26 November 2000, p.3.

²⁰⁹ Politisko organizāciju (partiju) finansēšanas likums: LR likums// Latvijas Vēstnesis, 02.08.1995. (Law on financing of political parties (author's translation), official publication in Latvian Herald, 02.08.1995, available only in Latvian.), Articles 3, 5.

²¹⁰ Jana Saulīte, "NVO satrauktas par uzņēmumu ienākuma nodokļa atlaizīgu samazināšanu ziedotājiem"// LETA news agency, 17.07.2003 ("NGOs worries on reducing income tax relief for donors"- author's translation, available only in Latvian).

Arguments that influence legislator's decision

Less difficult is to answer the question on party income tax – it is easy to administer and encourages donors by assuring that money donated will rest with the party and will not be paid to the state as tax. Likewise administration is not costly for VAT relief, however there is bigger risk of possible abuse. Moreover, tax exemptions may be granted only for operations strictly connected to the parties' political activity.

More problematic is income tax relief for donors – the main argument in favour of it is that a system of tax relief which increases the value to political parties of smaller donations is likely to encourage the parties to make greater efforts to obtain them. For example, in Germany, where a system of tax relief was introduced in 1974, it has changed the pattern of donations given to political parties tending to favour small donations.²¹¹ However other states, like the UK, have rejected this proposal as inefficient – it would amount to state for the same cost as direct subsidies.²¹² The additional argument against tax relief for donors is administration costs and decrease of income in the state budget.

Taking into account the previously mentioned arguments nevertheless it can be recommended for situation in Latvia to introduce tax relief for individual donors, especially for smaller donations, thus encouraging civil engagement in party finance.

Public subsidies

The significance of regulation

Two theoretical models of party finance have been developed in party financing – Continental model and Anglo-Saxon model. Continental model provides substantial subsidies from the state to political parties – in the form of direct payments (Italy, Spain, Denmark), in form of reimbursement of limited campaign expenses (France), or in form of funding that cannot be used for campaigning (The Netherlands). This model is common in Europe and Latin America. Anglo-Saxon model provides minimal state support and emphasises the openness and disclosure in party finance, it emerged in the USA and the UK.²¹³

Until the 1950s it was virtually unknown to make a grant of tax-payers' money to a political party. On question how emerged and developed the state funding for political parties, so popular nowadays, theories have been developed. In "Handbook on funding of parties and election campaigns" seven (!) possible explanations are described²¹⁴:

(1) Direct financial subventions could be a result of long-term development – initially candidates had to finance not only their campaigns but also organizations of elections (printing of ballots, vote counters' salaries). Later at first small salaries to elected members

²¹¹ Fifth Report of the Committee on Standards in Public Life, *Standards in Public Life. The Funding of Political Parties in the United Kingdom* Volume 1: Report, Presented to Parliament by the Prime Minister by Command of Her Majesty, October 1998, available on the Internet at: <<http://www.archive.official-documents.co.uk/document/cm40/4057/volume-1/volume-1.pdf>>, last visited on 26.08.2003, p.95-96, paragraph 8.6, set out in full in Appendix VI, Tax Credits For Donations To Political Parties: Note By The Inland Revenue, at p. 250 and following.

²¹² Seyd Ben "Electoral Systems and Party Funding", in J. Jowell, D.Oliver (eds.), *The changing constitution*, 4th edition, Oxford University Press, Oxford, 2000, at p.313.

²¹³ Jānis Ikstens, "Partiju finansēšana un korupcijas ierobežošana Latvijā: alternatīvu risinājumu analīze", Soros foundation, Rīga, 2001, at p.5 (Party financing and elimination of corruption in Latvia: analysis of alternative solutions – author's translation, available only in Latvian on the Internet at: <www.politika.lv/polit_real/files/lv/partfinans.pdf>, last visited on 26.08.2003).

²¹⁴ see: Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.7 Public subsidies.

appeared, followed by activities of public authorities in voter registration, and subsidies in-kind to relieve the campaigning costs – free postage, premises for meetings. Thus the direct subsidies are just a logical step of continuing state support process;

(2) Hidden state funding existed also before 1950s in form of so called “political patronage” – once a party leader had been elected, the money was used for party’s purposes (i.e., giving jobs to supporters). In reality, tax-payers were already paying to parties, now it only has become open and formal;

(3) Public funding has been introduced as a reaction to corruption scandals (like Puerto Rico 1957, Japan 1994, Britain 2000, Latvia is following the track);

(4) Development of new, costly technologies has contributed to rise in price of campaigns, and shortage of money to pay these expenses leads to demand of state aid;

(5) In “emerging” new democracies party organization system is rudimentary and party memberships – small. Thus state support with finances is an understandable response;

(6) In established democracies state aid is interpreted as a response to the general decline in membership and support;

(7) As ideas spread easily, it is just a new method introduced that has become a trend and fashion.

State funding is seen as a regulation lessening the parties’ demand for money, and it is worth sacrifice a relatively small sum from state budget to attain more open political system.²¹⁵ On the other hand, there is an argument maintaining that contribution of more money cannot deter parties from wanting even more.²¹⁶

State practice

Public funding becomes ever more popular in Europe – almost all countries provide regular support to parties to a greater or lesser extent²¹⁷. Each country has its own method of calculating the amount of support, the systems being based broadly on the percentage of votes secured in elections, or the number of legislative seats won, or a combination of the two.²¹⁸

Some states grant “lump sums” to political parties and also here conditions differ, where it is conditional to certain electoral success, it may require at least five members elected in parliament (Austria) or at least one candidate elected into one of the two chambers of

²¹⁵ Justin A. Nelson, “The Supply and Demand of Campaign Finance Reform,” in *Columbia Law Review*, Vol.100, No.2, March 2000, at p. 554.

²¹⁶ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International IDEA, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.7. Public subsidies, subsection 2.

²¹⁷ Except Byelorussia, Moldova, Ukraine, Malta, *Switzerland*, the *United Kingdom*, in Italy it is recently reintroduced – as financing of campaigns, and Latvia, see: PACE Political Affairs Committee, *Report “Financing of political parties”*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 33.

²¹⁸ See: Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States’ replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VI. State funding; Īānis Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā: pētījums par ACEEEO 18 dalībvalstīm», in J.Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, Identical text in English: Ikstens J., Smilov D., Walecki M., “Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO”, available on the Internet at <http://www.wifes.org/reg_activities/Pdf/ACEEEO-campaign-finance-01-31.pdf>, last visited on 27.08.2003.

parliament (The Netherlands).²¹⁹ Overall practice of giving lump sum is favourable for smaller parties which receive relatively more. In other states a party can only qualify for this kind of funding if it has demonstrated a broad support among citizens.²²⁰ A specific form of public funding linked to the success in elections is applied in Germany: political party receive 0,70 euro for each vote cast for its list, and 0,38 euro for each euro of membership fee collected or private donation obtained. In order to favour smaller donors, only up to 3,300 euro per natural person will be taken into account.²²¹ Public funding can be used as a tool to achieve other aims – like in France public funding can be obtained if 50 % of candidates on a list are women. Otherwise funding is reduced proportionally to the actual percentage of women on the list.²²² One more example of state funding supporting some groups is seen in Slovakia, Sweden and the United Kingdom where parliamentary parties in opposition receive state support not given to parties in government, to help opposition parties carry out their parliamentary work.²²³

The practice more common in Central and Eastern Europe states (also in Germany²²⁴) is to delimit the total sum for public funding (either lump sum or percentage form state budget or GDP), which is divided among the parties after elections. Part of the sum (25% in Hungary, 30% in Macedonia, 15% in the EU²²⁵) is divided in equal shares among all parties participating in elections, but the rest – proportionally to the election results.²²⁶ To combat

²¹⁹ PACE Political Affairs Committee, *Report “Financing of political parties”*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 36.

²²⁰ Ibid, at paragraph 38, 42.; France example - financing according to votes obtained is only possible if candidates have been presented in at least 50 constituencies or if the party qualifies for a lump sum.

²²¹ PACE Political Affairs Committee, *Report “Financing of political parties”*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 42,43.; Germany’s “Law on Political parties (Party Law)”, amended version of 31.01.1994 (Federal Law Gazette I, Page 149), last amended pursuant to Article 1 of the Law dated 28 June 2002 (Federal Gazette I, Page 2268), available on the Internet at: <http://www.bundeswahlleiter.de/rechtsgr/e/partg_e.htm>, last visited on 27.08.2003, Article 18 (3).

²²² PACE Political Affairs Committee, *Report “Financing of political parties”*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 44.

²²³ Multidisciplinary Group On Corruption (GMC), Working Group on the Funding of Political Parties (GMCF), Summary of Member and Observer States' replies to Political Party and Candidate Funding Questionnaire, GMC (99) 23 revised, available also on the Internet: <[http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20\(1999\)%2023%20revised.asp](http://www.coe.int/T/E/Legal_affairs/Legal_cooperation/Combating_economic_crime/Corruption/GMC%20(1999)%2023%20revised.asp)>, last visited on 26.08.2003, at section VI State funding.

²²⁴ “The maximum total volume of state funds which may be paid to all parties each year shall be 133 million euros (absolute upper limit)”, Germany’s “Law on Political parties (Party Law)”, amended version of 31.01.1994 (Federal Law Gazette I, Page 149), last amended pursuant to Article 1 of the Law dated 28 June 2002 (Federal Gazette I, Page 2268), available on the Internet at: <http://www.bundeswahlleiter.de/rechtsgr/e/partg_e.htm>, last visited on 27.08.2003, Article 18 (2).

²²⁵ Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliaments Report on first reading of Codecision procedure, A5-0170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: <http://www.icampus.ucl.ac.be/conrad/BEDE0001/document/EBED722003/com2003_0077en01.pdf>, last visited on 26.08.2003, Opinion of the Committee on budgetary control, in Article 9.

²²⁶ Jānis Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā : pētījums par ACEEEO 18 dalībvalstīm», in J.Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, at p.39, 58, Identical text in English: Ikstens J., Smilov D., Walecki M., “Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO”, available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEO-campaign-finance-01-31.pdf>, last visited on 27.08.2003.

dependence on state funding the rule can be introduced that funding from budget cannot exceed some percentage of party's budget (75% in the EU for European political parties, 50% in Germany).²²⁷

Latvia

At present in Latvia there is no direct public funding to political parties (only indirect subsidies-in-kind to parliamentary groups of political parties), although discussions arise once and again, and pros and cons for possible introduction of direct public funding are evaluated.

Pros and cons – theoretical decision

There are a number of arguments used by opponents and supporters of direct state funding, the main being:

FOR:

- (1) independency from sponsors thus lessening the threat of corruption;²²⁸
- (2) fairness – private funding depends on wealth of supporters;²²⁹
- (3) parties should not collect money from private backers because they need money to play their essential role in democratic society;
- (4) public subvention can even help to increase party membership – when parties have money to employ organizers to recruit those members;
- (5) it is in the interests of pluralism;²³⁰
- (6) it is possible to organize state funding by not promoting dependency upon public money;
- (7) money spent for direct funding can be even lesser than money spent on helping to avoid dependency upon private donations;
- (8) predictability of financing;
- (9) public funding on the basis of election results protects parties from outside pressure and at the same time reflects the real importance of each of them;²³¹

²²⁷ Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliaments Report on first reading of Codecision procedure, A5-0170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: <http://www.icampus.ucl.ac.be/conrad/BEDE0001/document/EBED722003/com2003_0077en01.pdf>, last visited on 26.08.2003, Opinion of the Committee on budgetary control, in Article 9; Germany's "Law on Political parties (Party Law)", amended version of 31.01.1994 (Federal Law Gazette I, Page 149), last amended pursuant to Article 1 of the Law dated 28 June 2002 (Federal Gazette I, Page 2268), available on the Internet at: <http://www.bundeswahlleiter.de/rechtsgr/e/partg_e.htm>, last visited on 27.08.2003, Article 18 (5).

²²⁸ Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph A, point ii.

²²⁹ Venice Commission, *GUIDELINES*, adopted by the Commission at its 46th Plenary Meeting, (Venice, 9-10 March 2001), in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF(2001)008*, Strasbourg, 23 March 2001, available on the Internet at: <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html)>, last visited on 26.08.2003, at part A, subsection a. Public financing, paragraph 4; Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph A, point ii.

²³⁰ See: Council of Europe, Congress of Local and Regional Authorities of Europe, *Resolution 105 (2000) on the financial transparency of political parties and their democratic functioning at regional level* adopted in the 7th session of CLRAE, Strasbourg, 23-25 May 2000, Article 12.

²³¹ ECHR on the system according to which political parties are subsidized by the state on the basis of the results of the elections – Case of Association A, Y and Z v. Federal Republic of Germany, D&R 5(1976), (Application 6856/74), ECHR, p.90 (93-94).

AGAINST:

- (1) experience has shown that state funding does not significantly reduce political corruption and parties' desire for money – there is no certain sum needed, desire for money is desire to obtain it generally;
- (2) theoretical fairness is illusion – state funding has to be divided according to some criteria (elaborated by those parties that are forming the government) that will seem unfair for someone getting less;
- (3) independence from state – parties receiving state funding cannot play the mediator role between state and society so effectively anymore; the link between party and electorate weakens – civil engagement question discussed before;²³²
- (4) parties become bureaucratic, passive and decreases the role of members – public is unhappy;²³³
- (5) it leads to centralization of parties and lessens internal democracy;
- (6) state budget resources are spent, sometimes even excessively;
- (7) state funding supports parties not having sufficient support in society and designed to liquidate while making for new parties harder to enter the political stage;²³⁴
- (8) taxpayers are forced to support financially the parties which they do not approve politically.²³⁵

State support should not exceed the level necessary to achieve the objectives of the parties, since excessive reliance on state funding can lead to the weakening of links between parties and their electorate.²³⁶

Practical issues in enforcement

Not considering whether state funding is desirable and efficient, practicalities arise also on determining the sum (or objectives of spending compensated) that should be given to each party. Following issues can be distinguished:

- **Objective** of money given – either to compensate campaign expenditure (up to certain limit) or it is money for party's non-campaign expenditure that must not be spent in a campaign.
- **Sum given:** either it is equal to every party (lump sum), or proportional to the votes received in last elections, or dependant on other funding party has obtained (like in Germany

²³² Fifth Report of the Committee on Standards in Public Life, *Standards in Public Life. The Funding of Political Parties in the United Kingdom* Volume 1: Report, Presented to Parliament by the Prime Minister by Command of Her Majesty, October 1998, available on the Internet at: <<http://www.archive.officialdocuments.co.uk/document/cm40/4057/volume-1/volume-1.pdf>>, last visited on 26.08.2003, at paragraph 7.19 at p.91; Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph A, point iii.

²³³ Fifth Report of the Committee on Standards in Public Life, *Standards in Public Life. The Funding of Political Parties in the United Kingdom* Volume 1: Report, Presented to Parliament by the Prime Minister by Command of Her Majesty, October 1998, available on the Internet at: <<http://www.archive.officialdocuments.co.uk/document/cm40/4057/volume-1/volume-1.pdf>>, last visited on 26.08.2003, at paragraph 7.23, at p. 92.

²³⁴ Ibid, at paragraph 7.20, at p.91-92.

²³⁵ Ibid, at paragraph 7.19, at p. 91.

²³⁶ Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph A, point iii.

where parties can obtain from state only 50% of party's budget, thus it is disadvantageous to hide donations because it lessens the funding party will receive from state.²³⁷

- **Which parties** will get the state funding – either all, or those which took part in elections, or only those receiving certain number of votes or seats in Parliament

Simultaneously issues should be regulated, whether state funding is determined only in accordance to Parliament or also municipal elections, and what happens in case parties split or merge. International documents suggest that public financing must be aimed at each party represented in Parliament,²³⁸ it should, “on the one hand, be calculated in ratio to the political support which the parties enjoy, evaluated on objective criteria such as the number of votes cast or the number of parliamentary seats won, and on the other hand enable new parties to enter the political arena and to compete under fair conditions with the more well-established parties”.²³⁹

Conclusion – situation in Latvia

Recently (in 2001) Legal Reform Consultant Bob Dahl recommended to adopt annual state budget subsidies for political parties in Latvia, in order to support and strengthen the role of political parties in democratic development, lessen parties' reliance upon private funding, and encourage parties' acceptance of and compliance with stronger regulation and effective disclosure.²⁴⁰ However in the present situation, this recommendation does not seem reasonable – first, because initially “stronger regulation and effective disclosure” mechanism should be elaborated and enforced (this work has started already and seems that is going to be effective), and secondly, in the present situation when there is no “free money” in the state budget and economy measures are introduced even in the spheres like health care and education, devotion of money to parties (in fact – to politicians themselves) will rise discontent in society. In case amount of state subsidy is calculated for each vote received in elections (Ministry of Justice considered such option), in the present situation of common distrust to political parties that can result in inactivity of voters in elections; although opponents to this view maintain that money paid for each vote will approximate the parties to the electorate.²⁴¹

²³⁷ Germany's “Law on Political parties (Party Law)”, amended version of 31.01.1994 (Federal Law Gazette I, Page 149), last amended pursuant to Article 1 of the Law dated 28 June 2002 (Federal Gazette I, Page 2268), available on the Internet at: <http://www.bundeswahlleiter.de/rechtsgr/e/partg_e.htm>, last visited on 27.08.2003, Article 18 (5).

²³⁸ Venice Commission, *GUIDELINES*, adopted by the Commission at its 46th Plenary Meeting, (Venice, 9-10 March 2001), in Council of Europe, Venice Commission, *Guidelines and report on the financing of political parties (CDL-INF(2001)008*, Strasbourg, 23 March 2001, available on the Internet at: <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)008-e.html](http://www.venice.coe.int/docs/2001/CDL-INF(2001)008-e.html)>, last visited on 26.08.2003, at part A, subsection a. Public Financing, paragraph 3.

²³⁹ Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph A, point ii.

²⁴⁰ Bob Dahl, “Financing of Political Parties in Latvia: Transparency, Regulation and State Subsidies”, Prepared for the Ministry of Justice, Republic of Latvia, November 2001, at p. 13-14, available on Internet at: <http://www.politika.lv/polit_real/files/lv/0_pol_part_financ.pdf>, last visited on 21.08.2003.

²⁴¹ Rūdolfs Kalniņš, “Par politisko partiju finansēšanas variantiem”// “Latvijas Vēstnesis”, Jurista Vārds. 12.12.2000, Nr.39(192), (“On alternatives on financing of political parties” – authors translation, available only in Latvian).

Subsidies-in-kind

The significance of regulation

Subsidies-in-kind is form of indirect public funding, involving the provision of services rather than money. The most important in countries where TV and radio is widespread is the provision of free broadcasting time, other subsidies contain provision of free or on reduced cost newspaper advertisements, poster sides, postal services, and public premises for party offices and meetings with electorate. Subsidies-in-kind are also all payments done for parliamentary groups, like office rents or assistant salaries. In countries like Russia state support is directed to whole electoral system – state organizes campaigns to invite electorate to participate in elections.²⁴²

The subsidies-in-kind in form of free broadcasting time or free advertisements is demand-side reform as lessens the need of parties to attract more capital to finance the campaigns. Thereby not surprisingly that indirect state funding is supported by international instruments,²⁴³ as one of regulations directly lessening the price of campaigning.

State practice

Two groups of subsidies-in-kind can be distinguished: support for parliamentary work of political parties, and provision of free services (mainly during election campaigns). Funding for parliamentary work of fractions and groups exist in a number of countries and can be either granted as a lump sum and a sum paid per seat (i.e. Denmark, Belgium, Spain), or as pure technical support (the European Parliament).²⁴⁴ In the United Kingdom parliamentary work only of opposition parties is financed through specific funding.²⁴⁵ Regarding free services, the most popular support form is free broadcasting time on radio and television – known in 87% of states in the world.²⁴⁶ Common is also granting of premises and free advertisements in state-owned newspapers. Often provision of free broadcasting time is accompanied with ban on spending on campaigning in mass media,²⁴⁷ while other states

²⁴² Passive electorate is a problem in Russia, even Law on election had to be amended now stating that elections are valid if at least 25% of electorate in Moscow and 10% in regions have participated, see: A. Mēters, “Krievijā reklamē nevis partijas, bet piedalīšanos vēlēšanās”// „Diena”. 23.02.2002, (“Campaigning in Russia not for parties but for taking part in elections” – author’s translation, available only in Latvian).

²⁴³ Council of Europe, Parliamentary Assembly, *Recommendation 1516 (2001), Financing of political parties*, Adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001, available on the Internet at: <<http://assembly.coe.int/Documents/AdoptedText/TA01/EREC1516.htm>>, last visited on 26.08.2003, at section 8, paragraph A, point iv.

²⁴⁴ Proposal for a Regulation of the European Parliament and of the Council on the statute and financing of European political parties (interinstitutional file: 2003/0039 (COD)), In European Parliaments Report on first reading of Codecision procedure, A5-0170/2003, COM (2003) 77 final, 21 May 2003, available on the Internet at: <http://www.icampus.ucl.ac.be/conrad/BEDE0001/document/EBED722003/com2003_0077en01.pdf>, last visited on 26.08.2003, Opinion of the Committee on budgetary control, in Article 6.

²⁴⁵ PACE Political Affairs Committee, *Report “Financing of political parties”*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 45, 46.

²⁴⁶ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.10 Political broadcasting.

²⁴⁷ For example, UK, Bosnia, Slovakia, source: Ānis Ikstens, Daniels Smilovs, Marcins Valeckis «Politisko partiju un kampaņu finansēšana Austrumeiropā: pētījums par ACEEEO 18 dalībvalstīm», in J. Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, at p. 11, Identical text in English: Ikstens J., Smilov D., Walecki M., “Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO”, available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEO-campaign-finance-01-31.pdf>, last visited on 27.08.2003.

choose to adopt detailed regulations how parties can obtain broadcasting time (i.e., how much air time is given for free, how much paid advertising is allowed, which party is first to choose timing etc.).²⁴⁸ Other forms of free services include specific funds supporting the print media run by parties (Austria); political scientific institutes (Netherlands) or political youth organisations (Netherlands), however subsidies in such specific activities are rare in Europe.²⁴⁹

Latvia

In Latvia state support is indirect and in both forms of subsidies-in-kind. Parliamentary support appears as providing of offices for parliamentary groups, covering office fees, salaries for members of parliament and their assistants, and secretaries. Free services covers free air time in state owned radio and TV – giving twenty minutes free air-time for each party.²⁵⁰ Law also bans campaigning during spots and news (hidden advertising), and provides equality guarantees (although only in state-owned media).²⁵¹

The imperfections of this law are discovered in lack of regulation on campaigning in private media – no equality guarantees are included, in addition no provision is included regarding campaigning in newspapers (possibly due to situation that there is only one state-owned newspaper in Latvia – official herald).

Practicalities concerning provision of free broadcasting time

If a legislator has decided to entitle the political parties free broadcasting time, it can face following questions:

- Should all the parties receive equal broadcasting time or amount of time should depend on the results in previous elections (then how about new parties)?
- Should the timing be dependant on number of candidates party have and number of constituencies where it takes part in elections?
- Should parties be given free broadcasting time only during election campaigns or all the time?

The main issue in political broadcasting (this concern also paid advertisements) is how to establish system where all the parties are **equal**. If is somehow possible in state-owned media, then in private-owned media regulations should be complex. Possible solution is an absolute ban on advertising in private media, nevertheless hidden advertising issue remains. Equality – this means all (1) equal free air-time; and (2) equal prices for equal amount of advertisements (including private), and (3) equal opportunities to get at campaigning.

²⁴⁸ For example, Bulgaria, source: Jānis Ikstens, Daniels Smilovs, Marcins Valeckis “Politisko partiju un kampaņu finansēšana Austrumeiropā: pētījums par ACEEEO 18 dalībvalstīm”, in J.Ikstens (ed.) *Partiju finansēšana: Latvijas pieredze pasaules kontekstā*, Rīga, Baltijas Sociālo Zinātņu Institūts, 2003, at p.11, Identical text in English: Ikstens J., Smilov D., Walecki M., “Party and campaign funding in Eastern Europe. A study of 18 member countries of the ACEEEO”, available on the Internet at <http://www.ifes.org/reg_activities/Pdf/ACEEEO-campaign-finance-01-31.pdf>, last visited on 27.08.2003

²⁴⁹ PACE Political Affairs Committee, *Report “Financing of political parties”*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 47.

²⁵⁰ 10 minutes during 29th- 8th day before elections and 10 minutes during 7th-day before elections. Par priekšvēlēšanu aģitāciju pirms Saeimas vēlēšanām: LR likums// Latvijas Vēstnesis, 11.08.1995. (Law on campaigning before Parliament elections (author’s translation), official publication in Latvian Herald, 11.08.1995, available only in Latvian.) Article 5.

²⁵¹ Par priekšvēlēšanu aģitāciju pirms Saeimas vēlēšanām: LR likums// Latvijas Vēstnesis, 11.08.1995. (Law on campaigning before Parliament elections (author’s translation), official publication in Latvian Herald, 11.08.1995, available only in Latvian.), Articles 7., 10.,12., 13.

With regard to private media – any regulations drawing towards equality necessarily influences freedom of media: it will be put under restrictions (on amount of advertisements, prices) and, in addition, private media can have its own political affinities. Moreover, parties can have their own media (especially newspapers) – should then equality be safeguarded also here? Besides, what to do in case when a truly neutral media faces the problem it cannot publish all the advertisements parties would like to publish (there is only one front page for each day's issue)? Also TV can face situation that several parties want to have advertisements directly after evening news. How to solve this situation? Transparency International– Latvia has initiated that media should publish their policy on disposal of advertisements – newspapers objected, one of the reasons could be that they often do not have any “policy” – the one, who first buys advertisement spot, gets it.²⁵² Illustration of overdone equality requirements is Turkey – here TV campaigning is financed by the state, but these are solely face-to-camera ads. Even a dress-code for candidates is established.²⁵³

Alternatively it is possible to stress the **disclosure (openness)** of advertising – if media cannot be restricted, it can be asked to disclose all the contracts concluded on campaigning (amounts, prices, payers). The requirement of disclosure can violate business interests but here requirement can be justified as proportional and being in the interests of society. Moreover – media has a choice – whether conclude this contract and then be ready to disclosure requirement, or not conclude it.

To summarise, regulations providing subsidies-in-kind, especially free broadcasting time, should be supported. If they are introduced together with limitations or ban on paid political advertising, it is possible to keep under the high costs of campaigning. The positive aspects of subsidies-in-kind is that after the problem is solved on how much of subsidies each party should get (equal time or amount for everybody, or depending on votes, or support of society or other) it is relatively easy to enforce this regulation. It is easier to enforce than requirement on expenditure limits, and it is more effective on lessening parties' desire for money. Control should be established to eliminate hidden campaigning; here great support can come from NGOs, like Transparency International institutions. Parties can have a willing to pay for getting more campaigning thus hidden campaigning should be banned and severely sanctioned – for both: parties and mass media, so that it does not pay off to risk.

²⁵² Lase Inta, Egle Ināra, Arāja Dita. LC piedāvā medijiem noteikt visām partijām vienādus reklāmas nosacījumus.// „Diena”, 08.12.2001 (““Latvian Way” proposes to establish equal advertising requirements for all political parties” – author’s translation, available only in Latvian).

²⁵³ Michael Pinto-Duschinsky, *Handbook on funding of parties and election campaigns*, Stockholm, International Idea, forthcoming 2003, overview available on the Internet at <http://www.idea.int/publications/funding_parties/fpp_overview.pdf>, last visited on 26.08.2003, at Chapter 3, Regulations and subsidies: a practical guide, section 2.10 Political broadcasting.

CONCLUSION

The system of regulations on financing of political parties is in a permanent fluctuation– state cannot stop amending and improving this system. No ideal model has been adopted anywhere in the world. Also Latvia is on this way of looking for the best model possible.

This paper has discussed the various regulations that are or could be introduced in the Latvian model of party financing and some conclusions have been reached.

At the beginning of the analysis the main present problems in Latvia were set apart. These included, first, rise in price of election campaigns, second, lack of control and transparency, third, expensiveness of control, fourth, unfairness in political struggle, and financial barriers to enter it, fifth, threat of corruption and illegal influences of sponsors, sixth, violation of limitations and restrictions, and final, fall-off in public trust in political parties.

It has been said that there is no ideal model for the financing of political parties, however, the system that seems to operate the best is one based on a reasonable balance between public and private funding.²⁵⁴ The balance must be sought individually for each country and this paper by exploring the regulations known in the world has concluded that some of these could be more effective in the present situation in Latvia than others.

We have discussed the disclosure regulation – vital, core regulation serving in the interests of public who want to know, and simultaneously lessening the demand of money from the side of political parties. Regulation that could be used by the parties also as campaigning tool – more disclosure involves more trust to the party.

Another key issue is control and sanction regulation – we concluded that it is impossible and too costly to provide (ensure) absolute control over parties' finances in the current situation in Latvia, with current level of shadow economy. Nevertheless, this does not mean that control should be abolished, on the contrary – control is becoming ever more effective (also due to more authority given to the control institution) and together with overall development will expand. Moreover, control functions should be delegated to the society through NGOs – monitoring parties' campaigns and expenditure and informing the electorate on findings.

On discussing income and expenditure regulations we arrived at a conclusion that in the present situation, there are two tracks to follow – first, lessen the need of money, and, second, promote the situation when parties are not dependant on one rich sponsor but get money from many supporters. And although that seems impossible nowadays when parties have become less ideologically driven (and that has happened due to need to attract donors) – it is still possible. Actually, the public is making pressure on the politicians, therefore political will has turned to seek effective legislation to impose a certain amount of discipline on party funding, thus restoring public confidence in the party system.

With regard to expenditure regulations, we concluded that stating a limit on permitted expenditure would be ineffective due to impossibility to control and probability of unpunished violations. On the contrary, ban on a certain types of expenditures, mainly advertising in electronic mass media, if combined with provision of free broadcasting time in the same media, would be one of the most effective regulations reducing the price of election

²⁵⁴ PACE Political Affairs Committee, *Report "Financing of political parties"*, Doc. 9077, Appendix 1, Financing of Political Parties in Comparative Perspective, 4 May 2001. Available on the Internet: <<http://assembly.coe.int/Documents/WorkingDocs/doc01/EDOC9077.htm>>, last visited on 26.08.2003, at paragraph 16.

campaigns; thus promoting also fairness among parties and lessening the influence of sponsors.

Concerning parties' income the main emphasis was made on indirect donations in form of services or loans. These donations are hard to prove and control thus opening the door for violations. We established also that there are certain groups, donations from which are unacceptable either due to their possible influence on election results (foreign donations, donations from legal entities or religious organisations) or because they constitute indirect state support and promote unfairness (donations from municipalities or state-owned companies). We concluded that problem is donations done through third parties, thus evading limitations and restrictions incorporated in law thereby this is the issue control should focus on.

In discussing public funding effectiveness for Latvian situation it was found that presently public direct funding is inappropriate for Latvia due to overall shortage of money in state budget and public distrust in the political parties, while indirect funding can be promoted (free broadcasting time in mass media), and especially tax policy established to promote individual donations.

Thus regulations could simultaneously promote both tracks: first, by prohibiting campaigning in mass media (that presently constitutes the biggest part of parties' expenditure) and providing free advertising time in the same media thus reducing the necessity for money. Second, as donation limits per person have been lowered, promote the transparency of donations and by tax policy encourage citizens to involve in financing of political parties.

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