

Hand-out for panel discussion: four current topics in election campaign financing in Serbia and the Czech experience

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Introduction

The Czech chapter of the Transparency International network has been actively monitoring election campaigns in the country since 2013, when the first direct election of the Czech president took place. Since then, it has been monitoring election campaigns every single year, as two political cycles of national government, regional governments, and communal governments took place.

TI Czechia has developed and possesses a profound knowledge on the campaigns monitoring which enables us to share good experience with other countries, as well as to advocate for amelioration of the current law back home. Already within the first years of the national monitoring, TI Czechia came up with recommendations for changes in the former law and formulated clear standards and principles that should have been included in amendments of the laws within the Electoral Code.

The amendments reflected several of these recommendations and overall introduced legislative changes that were previously outlined by GRECO and the European Commission, alike.

1. Donations from party members shall be reflected in the financial reports;
2. To establish rules for the valuation and reporting of in-kind contributions, including loans and other goods and services provided at a price below the usual price;
3. To consolidate the parties' accounts to include operations of entities directly or indirectly related to that political party;
4. To publish the financial reports of the parties in a way that will facilitate the access of the public to these reports;
5. To require much more detailed campaign spending disclosure and more frequent donations reports in connection with election campaigns;
6. To ensure that candidates running their own campaign are subject to standards similar to the parties;
7. To implement measures to strengthen the independence of auditors who verify and confirm the accounts of political parties;
8. To establish an independent body for supervision the funding of political parties; to ensure that this body has a mandate, authority, but also adequate resources for effective and proactive control, investigation and sanctioning;
9. To introduce sanctions for all violations of the law on political parties.

Transparent data on campaigns costs during campaigning

The Czech Electoral Act states that an election campaign means any type of promotion of a candidate / political entity that is regularly a subject of a payment. According to the law, financing of the election campaign includes all expenditure connected to the election campaign valued in money. Only the funds deposited in a voting account can be used for expenses. The use of the services of consultants, marketers, PR experts and social networks and the like, which serve to promote the candidate entity or its candidates, can be considered an integral part of the election campaign.

The so called voting account (electoral account) is established under electoral laws separately for each election and used to finance the election campaign. The account must be so-called transparent. In the words of the law, this means that it must allow remote free and uninterrupted access for third parties to display an overview of payment transactions. In order for a bank account to be considered transparent, the account must be able to view all transactions currently posted by the bank at any time. (A technical design that displays transactions only retroactively for a certain time interval is not considered a transparent account.)

Considering the transactions on these accounts, the purpose of the payment must be stated. Neither the electoral laws nor the law on political parties specify the content of this communication. It is essential that the description of the purpose of the transaction clearly states which transaction it is or for which purpose it is to be carried out (eg gift for election campaign / operation, transfer to election account, transfer to operating account, etc.). The scope of the communication is at the discretion of the principal.

Political parties are encouraged to make sure that they actually set up a transparent account with the bank that meets the conditions of the law. A failure to open such account in a situation where its establishment is mandatory is then a misdemeanor for which there is a risk of sanctions.

Oversight of the campaigns – the Office

The Office for the oversight of the financing of political parties and movements is an independent body established under the Electoral Code of the Czech republic that has been last amended in the 2016.

The office supervises the management of political parties, political movements and political institutes. The Office supervises the annual financial reports submitted by the parties and movements, it carries out its own control and discusses administrative offenses and imposes sanctions in accordance with the law.

The head of the Office is appointed by the president who obtains two nominees – each nominated by one Chamber of the Parliament.

The candidates for the members of the Office (there are four) are nominated by the Senators, by Deputies, and by the Supreme Audit Office. The Senate then votes to pick the four candidates.

Limits of overall expenditures and donations in the campaigns

The limits for Czech election campaigns were set in 2016 following GRECO recommendations. In the most observed general election, where voters choose the members of Chamber of Deputies (lower chamber of Czech Parliament), the total limit for a campaign has been set to CZK 90 million (approx. € 3,5 million). For other election campaigns, there are also fixed limits corresponding to the expected costs of a campaign. The only exception is the election for local assemblies, where it would be tricky

to regulate a “campaign” in a village consisting of 100 voters on one hand and election in Prague on the other.

Financial limits on election campaigns can prevent people or groups with seemingly unlimited resources from spending money with no boundaries, as they would value gaining political power over costs invested in such campaign. When political parties know in advance, what their maximum spending on a campaign should be, they tend to avoid drowning millions just in order to have more grandiose campaign than the opponents. Setting a limit makes parties think how to prepare an efficient campaign.

Any limit on campaign finances would be non-functional, if there were no tools for controlling the expenses of parties and candidates. An oversight authority plays the key role of keeping eye on the total spending in a campaign, but such an authority cannot only rely on data provided by the parties. It has to be able to determine the real cost of particular expense, put value to in-kind contributions, track down sponsors of political advertisement, and to sanction those, who exceed the set limits or break the law in order to lower their expenditure. Otherwise, the limits would be only on paper and cannot bring the desired effect.

Campaign financing by third persons

There are always non-partisan actors in political campaigns, who can significantly support political candidates, even financially. Thus it makes sense to regulate the role of these “third persons” in order to secure the legitimacy of their presence in the campaign but also to ensure legality of their deeds on the other hand.

In the Czech Republic, it is an Act No. 322/2016 Coll., On Electoral Code that limits third persons’ campaign spending and requires the third persons to set up an on-line transparent bank account and an official website. The campaign of a “third-person” has to be imprinted as well. Non-imprinted campaign can be put to an end by the authorities and its running sets the ground for investigation and sanctioning. The registered third-person entity receives a registration number and the Office for the Oversight of the Finances of Political Parties and Movements publishes relevant data on them.

This requirement on one hand **formalizes political activities of all actors in the campaign** (including civic movements etc.), on the other it **effectively prevents anonymous “black” campaigns**, crypto-campaigning and rigging of the campaigns by foreign influence groups. Yet, it also opens a schism among the parties and their tools and means for campaigning.