



Party Law in Modern Europe

The Legal Regulation of Political Parties in Post-War Europe

Party Regulation in Europe: A Comparative Overview

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The Legal Regulation of Political Parties

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Introduction¹

Party regulation has received growing consideration from the scholarly literature in recent years.² The increasing attention towards this phenomenon reflects a trend of proliferation in European countries adopting rules which affect political parties in their internal organization, their external activities, or their financial management. Yet, with the possible exception of party finance, comparative research about the different aspects of party regulation is still scarce.

This paper collects information on the regulation of political parties in thirty-three European democracies, selected within the framework of the ‘The Constitutional Regulation of Political Parties’ and ‘Re-conceptualizing Party Democracy’ projects.³ The primary sources of this analysis are the countries’ Constitutions, party laws and party finance laws.⁴ Other relevant laws, country-based literature and the evaluation reports issued by the Group of States against Corruption (GRECO) constitute important secondary sources.

All country reports follow a similar structure. They describe, where it applies, the provisions referring to political parties in the national constitution, the party law and the party finance law. Particular attention is devoted to key issues such as party registration requirements, restrictions on party activity or identity, thresholds and allocation mechanisms for the public funding of political parties, regulation of private donations, as well as to the institution of authorities for the external oversight over the political parties’ activities.

¹ This paper forms part of a larger research project *Re-conceptualizing party democracy* which is funded by the European Research Council (ERC_Stg07_205660).

² Cf., Katz, R.S. (2004). ‘Democracy and the Legal Regulation of Political Parties’, paper presented at the USAID conference on ‘Change in Political Parties’, Washington DC, 1 October; Janda, K. (2005). ‘Adopting Party Law’, working paper series on Political Parties and Democracy in Theoretical and Practical Perspectives. Washington DC: National Democratic Institute for International Affairs; Müller, W.C. and Sieberer, U. (2006). ‘Party Law’, in R.S. Katz and W. Crotty (eds.), *Handbook of Party Politics*. London: Sage, pp. 435-45; van Biezen, I.(2012). ‘Constitutionalizing Party Democracy: The Constitutive Codification of Political Parties in Post-war Europe’, *British Journal of Political Science*, 42/1, pp. 187-212.

³ The ‘The Constitutional Regulation of Political’ was funded by the UK Economic and Social Research Council (ESRC); ‘Re-conceptualizing Party Democracy’ project is funded by the European Research Council (ERC). Both are directed by Prof. Ingrid van Biezen.

⁴ Legal texts are available in English at www.partylaw.leidenuniv.nl.

AUSTRIA

Constitution

Political parties were already mentioned in the Austrian Constitution of 1920 (art. 35). After 1945, the number of constitutional articles mentioning political parties has grown from four (arts. 26, 35, 55, 147) to sixteen, as in the latest constitutional amendment of 2007. A tendency of increasing regulation of political parties in the Austrian constitution can be observed in particular from the early 1980s. Fourteen out of the sixteen articles of the Constitution refer to political parties in the context of the establishment of procedural and administrative regulation in the parliamentary, the electoral and the governmental domains (arts. 26, 35, 55, 81a, 117, 148g, 52a, 26, 95, 52b, 151, 55, 36, 26a). Article 10 mentions political parties in the context of the fundamental principles of expression of the political will and respect for national independence and political democracy, and article 147 specifies the incompatibility of party membership with positions in the Constitutional Court.

Party Law and Party Finance Regulation

The most important piece of legislation on political parties is the Federal Act on the Functions, Financing and Election Campaigning of Political Parties (also named as the Political Parties Act) introduced in 1975 and last amended in 2008.⁵ This law mostly deals with party finance regulation. While the initial provisions define the democratic functions of political parties (art. 1.1 and 1.2), their free formation and their freedom of activity (art. 1.3) and the documentation to be deposited at the Federal Ministry of the Interior (art. 1.4), the remaining (sixteen) articles focus specifically on matters of financial management.

Under art. 2 “each political party shall, upon request, be granted public funds [...]”. Public funding in Austria is earmarked for purposes of ‘public relations activities’, namely advertising and campaigning. State support is granted to both parliamentary and non-parliamentary parties, provided that they received in an election to the National Council more than 1 per cent of the valid votes cast. Articles 5-8 deal with

⁵ Long title: ‘Bundesgesetz über die Aufgaben, Finanzierung und Wahlwerbung politischer Parteien; Short title: ‘Parteiengesetz‘ – PartG – StF.

the provisions on the financing of campaign expenses, distributed to political parties in proportion to the percentage of votes received. Finally, articles 9-14 establish the rules on the monitoring of the campaign expenses by a Commission, and define its nomination procedure and its specific tasks.⁶

Besides to political parties, public funding is also granted to parliamentary groups since 1963. The law was amended in 1985 by the Federal Act Facilitating the Activities of the Parliamentary Groups of the Electoral Parties in the National Council and in the Federal Council, also known as Parliamentary Group Funding Act.⁷ The contribution provides a basic amount to be distributed to all parties equally and an extra contribution depending on the groups' actual strength in the parliament. Additional money is moreover provided to "citizenship-related education" by political parties (named 'party academies'), since the establishment of the 1984 Federal Act on the Promotion of Citizenship-Related Education in the area of Political Parties and of Journalism, also known as the Journalism Subsidy Act.⁸

No restrictions are established in Austria on the private funding of political parties, neither on the amounts of the donations nor on their sources. Similarly, no restrictions are established on party expenditures.

Specific rules have been adopted prescribing political parties to report their income and their expenditures. Under art. 4 of the Political Parties Act, political parties must keep records regarding the use of their funds, in accordance with the objectives stated by law. Moreover, political parties receiving public funding must render public account on their income and expenses. Such records are audited yearly by two certified public accountants. Donations exceeding a specified threshold (Euro 7,260) must be reported separately, and must be submitted to the President of the Board of Audit including the details of the donors' identity. Control over the publication of the political parties' financial statements is performed by the Federal Chancellery.

⁶ Articles 14 and 15 contain information on the previous amendments and on the entry into force of the law.

⁷ Long title: 'Bundesgesetz, mit dem die Tätigkeit der Klubs der wahlwerbenden Parteien im Nationalrat und im Bundesrat erleichtert wird'; Short title: 'Klubfinanzierungsgesetz' - KlubFG - StF.

⁸ Long title: 'Bundesgesetz über die Förderung politischer Bildungsarbeit und Publizistik 1984'; Short title: 'Publizistikförderungsgesetz' (latest amended in 1997).

BELGIUM

Constitution

The Belgian Constitution does not mention political parties, which remained considered as voluntary associations with no juridical status until the establishment of a party finance law in 1989.

Party Law

No specific party law has been enacted in Belgium. A definition of political parties was provided for the first time by the Belgian legislator by the party finance law adopted on the 4th of July 1989. The party finance law defines a political party as an “association of natural persons, with or without legal personality, participating in the elections [...], presenting [...] candidates for the representative and senator mandates in each (electoral division) within a Community or Region and that, within the boundaries of the Constitution, law, decree or ordinance, intends influencing the expression of popular will as defined by its statute or programme” (art.1.1).

Party Finance Regulation

Forms of indirect public funding existed already before 1989, through the financing of the parliamentary groups (firstly introduced by the Senate in 1970 and by the Chamber of Deputies in 1971, and afterwards followed by all Belgian Councils), through parliamentary funding, and with the allowance to parties of a number of advantages for running their election campaigns.

The Belgian party finance law, adopted on the 4th of July 1989, and latest amended in 2008,⁹ defines political parties, their properties and their expenditures, established a Control Commission to monitor the parties' electoral expenses and their financial

⁹ ‘Wet Partijfinanciering’; ‘Loi financement des partis politiques’. Long title: ‘Wet van 4 juli 1989 betreffende de beperking en de controle van de verkiezingsuitgaven voor de verkiezingen van de federale kamers, de financiering en de open boekhouding van de politieke partijen’; ‘Loi relative à la limitation et au contrôle des dépenses électorales engagées pour les élections des chambres fédérales], ainsi qu'au financement et à la comptabilité ouverte des partis politiques’. Document available at : http://www.ejustice.just.fgov.be/cgi_loi/loi_a.pl (accessed in January 2012).

reports (Chapter 1), and established the conditions and the contours of their public and private financing (Chapters 2 – Chapter 5). A separate appendix specifies the documentation required for the completion of the parties' financial reports.

Public funding is granted to all political parties having elected at least one member in the Chamber of Representatives or in the Senate. Under art. 16, the total annual subsidy assigned to each political party consists of a lump sum, and of an additional sum for each valid vote received. As further condition for parties to be able to benefit from public funding, the Belgian legislator decided upon the duty of parties to commit themselves to the rights and freedoms guaranteed by the European Convention on Human Rights and Fundamental Freedoms. In case a party demonstrates “manifestly and through more concordant indices its hostility towards the rights and the fundamental freedoms” it is no longer allowed to public financing (arts. 15, 15bis and 15ter).¹⁰ Political parties in Belgium do also benefit of indirect forms of public funding, through tax exemptions for communication material and free media broadcasting.

The private funding of political parties is regulated under art. 16bis of the law. Only natural persons can make donations to political parties, and annual maximum ceilings are established for donations from an individual donor. Moreover, political parties must register the identity of natural persons making donations, in any form, exceeding 125 Euro. Restrictions are established also on party expenditures, as regulated by Section II of the party finance law. Political parties are required to maintain annual financial accounts, to be reviewed by external auditors, by the Court of Audit and by the Federal Control Commission. The latter Commission was established under the 1989 party finance act, and is composed by an equal number of members of the federal parliaments.

¹⁰ The latter were introduced in 1995 and in 1999, respectively. It is based on these provisions that the Higher Court of Belgium in 2004 ruled the Vlaams Block in violation of articles 15, 15bis and 15ter, thereby denying this party the right to public funding and free access to public broadcasting.

BULGARIA

Constitution

After the demise of Communism in 1989 the Constitution of Bulgaria, promulgated in 1991, established principle of popular sovereignty and party pluralism. The Bulgarian Constitution refers to political parties in eight articles. It establishes that political parties shall respect and facilitate the expression and the formation of the citizens' political will; that no party shall form around ethnic racial or religious lines (arts. 1 and 11); it separates the political activities of political parties from those of other associations, including trade unions (art. 12); it establishes party membership incompatibility with other offices (arts. 95 , 116 and 147); it establishes the role of parties for procedures for the designation of the Prime Minister (art. 99); it establishes that the Constitutional Court rules on the constitutionality of political parties and associations (art. 149).

Party Law

The first law on political parties in Bulgaria, the Political Parties Act, was adopted in 1990 and paved the way for the country's transition towards liberal democracy. It established general provisions around the fundamental principles laid down in the Constitution (in particular concerning the freedom of activity of political parties), basic requirements for political parties' establishment and functioning, provisions on party properties, and on the parties' dissolution. Several amendments to this law were established – in 1996, 1998, 2001, and a new law was introduced in 2005, which was amended in 2007 and in 2009.

The amended version of the Bulgaria party law contains six main parts. The first one, 'General provisions' refers to political parties as forming and giving expression to the citizens' political will, as using democratic means and methods for achieving their goals and as organizations based on the rule of law (arts. 1-6). The second one, 'Establishment, registration and activity of political parties' delineates the process of foundation of political parties, from the initiative of (at least) fifty citizens to the first constituent meeting where the leading bodies of the party is elected and the party

Charter – whose content is very specifically regulated, becomes adopted. Moreover, the party registration procedures are listed together with the necessary material that political parties need to provide in the moment of registration (arts. 7-20). The third and the fourth parts of the 2009 regulation, ‘Property, financing and spending of funds’ (arts. 21-32) and ‘Publicity and financial control (arts. 33-37), regulate financial aspects of political parties. The fourth part, ‘Dissolution of political parties’, delineates the procedures for the dissolution and de-registration of political parties (arts. 38-42). The final part ‘Administrative and penal provisions’ (arts. 43-45), covers the consequences of violations of party finance provisions.

Party Finance Regulation

Bulgaria has not adopted a specific party finance law. However, aspects concerning the finances of political parties are regulated since the beginning of the country’s democratic transition. State subsidies to political parties were introduced by the Political Parties Act of 1990. The current regulation of party finance, included in the latest amendment of the Political Parties Act of 2009, contains a number of new norms and procedures for the control, publicity and transparency over the finances of political parties, unanimously recognized as being too poorly regulated before.

State subsidy is granted to those parties formally registered, and which have participated in the previous parliamentary elections receiving no less than one per cent of all valid votes (independently from their actual representation in the National Assembly). The allocation of funds is determined in proportion to the number of valid votes received by each party or coalition (arts. 25 and 26). Public funding is granted to cover the parties’ expenses in a number of activities, namely for the participation in elections, for the support of the party structures, for organizational expenses and for the coverage of other activities (art. 29).

The 2009 amendment establishes a ban on anonymous and foreign donations (whether governments, enterprises or non-profit organization), on donations from (semi-) public entities, from religious institutions or from non-profit legal persons. Moreover, it prohibits donations from one person exceeding a given threshold (art. 24).

Political parties are required to create and keep a register containing, among other things, the type, the amount and the value of the donations from natural persons; a declaration of the donor where the donation exceeds a given threshold; property

transactions above a given threshold; and the annual financial statements and statements of the election campaign. The register needs to be public and available through the website of the political party (art. 29). Moreover, political parties are required to create certified financial reports to be presented to the National Audit Office. In case they fail to do so, they are deprived of the right to State subsidies until the next elections are held (art. 33-37).

Other provisions concerning the finances of political parties are included in the electoral laws – for deputies and local government (1990) and for the president (1991).

CROATIA

Constitution

Political parties are mentioned for the first time in the Constitution of Croatia of 1990, after the proclamation of the Croatian Republic in May of the same year. The provisions included in the 1990 Constitution were amended in 2000 and 2001. The current Constitution contains six articles referring to political parties. Article 3 refers to the presence of a democratic multi-party system as being among “the core values of the constitutional order of the Republic of Croatia”. Article 6 states the free formation of political parties, while including provisions on their internal organization – which “shall be in accordance with the fundamental constitutional democratic principles”, on the public disclosure of incomes and property, and on their programs and activities – which should not “demolish the free democratic order or endanger the existence of the Republic of Croatia”. The supervision over the constitutionality of political parties and the decision on whether to ban their activity is given to the Constitutional Court of the Republic of Croatia (arts. 3 and 128). Article 96 establishes the incompatibility between the position of President of the Republic and party membership, and articles 103 and 111 mention political parties with reference to their procedural responsibilities in parliament and in government.

Party Law

The first law regulating political parties in Croatia, the Political Parties Act, was adopted in 1993. The law was amended in 1996, in 1998 and most recently in 2001.¹¹ The Croatian party law is divided into seven main chapters.¹² Chapter I drafts the general provisions concerning political parties, such as their acting in accordance to their programs and statutes (art. 2), their public acting (art. 3), the prohibition of establishing organizational units in government authorities, in private companies and in armed and police forces (art. 4), and the direct management of political parties by

¹¹ Zakon o političkim strankama, *Narodne novine*, no. 76/1993, 111/1996, 164/1998, 36/2001.

¹² Chapter III, which regulated the financial activities of political parties, was abrogated in 2006 after the establishment of the Act on the financing of political parties, independent lists and candidates (see section below).

their members and elected representatives (art. 5). Chapter II defines the rules of the political parties' establishment and registration. It fixes the minimum number of signatures needed for a political party to be formed (art. 6), the political parties' duty to register in the Register and the documentation to be provided for registration (arts. 7-9). The Croatian law also specifies the details on the provisions that party statutes should include (art. 10), the requirements for the political parties' name and symbols (arts. 11 and 12), and procedures for the parties' application into the Register (arts 13-16). The Chapter concludes by defining provisions on the evaluation of conformity of political parties with the Constitution (art. 17). Chapter IV defines the rules for the cease of political parties, either by self-dissolution or by decision of the Constitutional Court (arts. 23 and 24). Chapter V defines the competent organ for the supervision and enforcement of the Political Parties Act, and Chapter VI defines the penalty provisions applied for violation of financial and organizational rules (arts. 26-28). Chapter VII contains transitional and final provisions of the act.

Party Finance Regulation

A specific act on the financial operation of political parties was introduced in 2006 (the Act on the financing of political parties, independent lists and candidates).¹³ This act was repealed by the establishment in February 2011 of the Political Activity and Electoral Campaign Financing Act, which regulates the public funding of political parties (both for their regular activities and for election campaigns) as well as their private funding. In order to be entitled to receive public funding, political parties must have at least one member represented in the Croatian parliament (art. 4). The allocation of funds, distributed on a quarterly basis, is determined in proportion to the number of the political parties' elected representatives in parliament, with a bonus percentage for each women representative (art. 6). Besides receiving direct public funding, political parties in Croatia do also benefit from indirect public funding in the form of tax benefits (art. 9). The 2011 law establishes maximum ceilings for election expenses (art. 17), and minimum thresholds for the reimbursement of the election campaign costs. A threshold of 10 per cent is envisaged in order for parties to obtain the reimbursement of the expenditure for the elections of the European Parliament,

¹³ Zakon o financiranju političkih stranaka, nezavisnih lista i kandidata, *Narodne novine*, no. 1/07.

while a 5 per cent threshold is envisaged for the reimbursement of the expenses incurred for campaigning for the elections of the Croatian Parliament (art. 18).¹⁴ The amount and the sources of the funds received by political parties for their election campaigns must be made publicly available in the parties' websites or in the daily press (art. 13.).

Under this Act, political parties may receive incomes from membership fees and from donations either by natural or by legal persons, which they must keep records of. For natural and legal persons' donations the law establishes a maximum ceiling per year. Exceeding amounts should be reported (art. 11). Also the sources of private donations are subject to restrictions. Under art. 22, financing of political parties by foreign legal persons, by state bodies and public enterprises, trade unions, religious associations, and anonymous sources, are prohibited.

The 2011 act prescribes detailed rules on the oversight of the financial operations of political parties (Chapter VII). Political parties must keep accounting records and prepare detailed reports, including the donors' names and the amounts received, of the sources of donations of election campaign costs and of the expenses incurred in election campaigns. Those reports must be publicly disclosed. The authorities monitoring the political parties' compliance with the financial rules are the National Elections Commission, controlling over the activities related to the financing of election campaigns, and the State Audit Office, auditing the regular financial operations and the annual financial statements of political parties. Chapter VIII and IX define the sanctions and penalties to be imposed on political parties after infringement of the stipulated rules

¹⁴ Different thresholds are established for the reimbursement of election campaign costs incurred by individual candidates and by candidates for deputies of national minorities (*Ibidem*, art. 18).

CYPRUS

Constitution

Political parties are mentioned for the first time in the new Constitution of Cyprus, enacted in 1960 after independence from the United Kingdom. Article 73 refers to political parties as parliamentary groups and regulates their representation and procedural responsibilities.

Party Law and Party Finance Regulation

The most important piece of legislation on political parties in Cyprus, the Law Providing for Registration, Funding of Political Parties and other Similar Matters, was adopted in February 2011.¹⁵ This law regulates aspects related to the formation and registration of political parties as well as aspects related to the parties' finances. Section 2 provides a definition of political parties. They are defined as “an association or group of people working together to form the political will of the people and participates in presidential, parliamentary, European, and municipal elections or in some of these with the aim of implementing its political program, and which operates within the legal framework defined by the Constitution and the laws of the Republic and includes both parliament and non-parliamentary parties”. Under Section 3 political parties are obliged to register in the Party Registry. In order to be registered, a political party needs to submit its statutes and an application bearing the signature of the party's chairman or leader. Section 3 also states the freedom to form political parties and to pursue their activities in the respect for the Constitution and the laws and how their internal structure and operation “must serve the free function of democracy”.

Section 4 establishes the right to all the registered political parties to be funded by the state. Before the 2011 law, only the political parties represented in parliament received public funding.¹⁶ Political parties in Cyprus receive funding for both their

¹⁵ Law 20(I)/2011, Official Gazette Par. I(1)No. 4271, 25.3.2011.

¹⁶ According to the Greco Evaluation Report on Cyprus, parliamentary parties in Cyprus have received public funding since 1991. The legal basis for such funding was only to be found in the decision of the Council of Ministers. See, Evaluation Report on Cyprus on Transparency and Party Funding, Theme II (April 2011), pp.6-7.

operational and election campaign expenses. The parliamentary parties receive part of the public funding in equal shares, and the remaining part of the funding is disbursed in proportion to the votes that the political parties obtained in the last parliamentary elections. Funding for election expenses is provided to those parties that present a minimum number of candidates and, in the case of parliamentary elections, who run in two-thirds of the electoral districts of the country. The total amount of public funding to political parties is determined annually by the Council of Ministers. Political parties in Cyprus also benefit from indirect forms of public funding. According to the Cyprus Broadcasting Corporation Law political parties are provided with free broadcasting time.

The 2011 Law introduced for the first time restrictions on the private funding of political parties. Under Section 5, donations from semi-public organizations or institutions and from companies exercising control over casinos or betting agencies are prohibited. Restrictions apply also to the quantity that is allowed to be donated, as annual maximum ceilings are established for donations to a political party from individuals as well as from private companies.

No restrictions apply to the political parties' regular expenditures. The political candidates' campaign expenditures, both for the parliamentary and the European elections, instead are bound to spending ceilings.¹⁷

According to Section 6 of the same law, political parties must submit a financial statement of their income and expenditure to the Auditor General of the Republic within forty-five days from the date of the last elections. The Auditor General of the Republic, an independent supervisory body established with the adoption of the 2011 Law, is the main authority with the task to control the political parties' finances. After receiving the parties' financial statements, the Auditor General must draw up a report on the results of the audit and publish it (Section 6.2).

¹⁷ Expenditure ceilings for parliamentary elections are regulated by Law 31(I)/2011; for European elections by Law 10(I)/2004.

CZECH REPUBLIC

Constitution

Political parties are mentioned for the first time in the Czech Constitution of 1992. This Constitution took effect on the 1st of January 1993. Two articles refer to political parties. Article 5 mentions political parties as fundamental actors of the political system, who may form and associate freely by respecting the fundamental democratic principles. Article 87 gives to the Constitutional Court the obligation to control the political parties' activity and to take decisions on their possible dissolution.

Party Law

The first law on political parties of the Czech Republic dates from 1993.¹⁸ This law introduced minor amendments to a previous law established in 1991 by the state of Czechoslovakia, and was amended several times afterwards. The law on political parties is the main regulatory framework for Czech political parties, regulating a variety of aspects, ranging from registration procedures, public and private funding regulation, internal financial management, and systems of supervision, control and sanctions.

The initial provisions of the law establish the freedom to form and to associate in political parties. Political parties are defined as legal entities, independent from the state (arts. 3 and 5). However, a number of conditions are set for political parties to be established and to operate: they shall respect the Constitution, democracy and the rule of law, they shall not retain power, and they shall not restrain the citizens equality, civil rights and freedoms (art. 4). Articles 6-11 define the requirements to be met for political parties to be incorporated in the political parties' register. Political parties are formed after a registration proposal – including information on the party organization, on its programme and on its principles of economic management - is sent to the Ministry of Interior. When no inaccuracies are signalled, the Ministry includes political parties in the register. Articles 12-16 set rules for the dissolution, the

¹⁸ Act of Law 424/1991 Coll. On Association in Political Parties and Political Movements.

abolishment and the suspension of political parties or their activities. This may take place either by a political party's own decision or by judicial resolution, established by the Court of Justice. Articles 17-20 regulate the economic management of political parties (see below).

Party Finance Regulation

The Czech Republic has not adopted a specific party finance law. Aspects concerning the finances of political parties are regulated in the law on political parties (arts. 17-20) and are complemented by a number of other Acts and Decrees.¹⁹

Czech political parties have received public subsidies since 1990. Two main types of direct public funding exist, one for the political parties' operational activities and one for election campaigns. Direct funding of operational activities is provided to all political parties independently from their parliamentary representation. Parties whose candidates are not elected but who win at least 3 per cent of the votes in the elections for the Chamber of Deputies are entitled to receive a contribution in proportion to the votes obtained ('permanent contribution').²⁰ Parties with at least one candidate elected to the Chamber of Deputies, the Senate or a regional or municipal council are entitled to receive an annual fixed amount for each elected representative ('mandate contribution').

As far as the reimbursement of election campaign is concerned, state contributions are disbursed to political parties receiving at least 1.5 per cent of the votes for the Chamber of Deputies, and 1 per cent of the votes for the European Parliament. Czech political parties also receive indirect public funding, in the form of tax deductions to party donations and disposal of free air time on state television and radio during election campaigns.²¹

Concerning the political parties' private funding, the law on political parties establishes a number of restrictions on the quality of admissible donors. In particular, state entities, state-funded organizations, enterprises where the state has a share

¹⁹ Most importantly, the Decree on the form for the submission of annual financial reports by political parties and political movements to the Chamber of Deputies (Decree 273/2005 Coll., as amended by Decree 40/2010 Coll.), the Law 247/1995 Coll. On Elections to the Parliament of the Czech Republic, and the Law 62/2003 Coll. On Elections to the European Parliament.

²⁰ The electoral threshold for the elections to the Chamber of Deputies is 5 per cent.

²¹ Income Tax Act (Law No. 586/1992) and Law on Elections to the Parliament of the Czech Republic (Law No. 247/1995).

greater than 10 per cent, charities, foreign and anonymous donations, are prohibited. No restrictions instead apply to the quality or the amount of the political parties' expenditures.

Political parties are obliged to present an annual financial report, including statements of account, total amounts of earnings, donations and gifts. Also the donors' individual details need to be disclosed, as well as the details of party members whose annual membership fees exceed a specific threshold (art. 18). External supervision over the political parties' financial reports is performed by the Supervisory Committee.²² If no financial report is presented, if the information provided is incomplete, or if legal actions are taken for the party to be dissolved or to suspend its activities, the payment of state contributions is suspended (art. 24). A recent amendment to the law on political parties (in 2010) has reduced the amount of public funding by 5 per cent.

²² Further rules on the form for the submission of annual financial reports by political parties are included in Decree 273/2005 Coll. Of the Minister of Finance (as amended by Decree 40/2010 Coll.).

DENMARK

Constitution

There is no mention of political parties in the Danish Constitution of 1953, nor in its earlier versions.

Party Law

Political parties in Denmark are regarded as voluntary and private associations, and no law on political parties has been adopted. Rules on the electoral participation of political parties are included in the Parliamentary Election Act.²³

Party Finance Regulation

The public and the private funding of political parties are regulated under two different laws. Direct public funding for parties and candidates was introduced in 1986. The public funding of political parties is currently regulated under the Consolidated Act no. 1291 of 8 December 2006 on Grants to Political Parties (Consolidation) Act, also known as the Public Funding Act, most recently amended in 2006.²⁴ Political parties and candidates are entitled to receive public grants if they participate to the national, regional or local level elections and obtain a minimum quota of votes (Sects. 2-4a). Public funding is granted without particular restrictions on the activities that political parties must perform. The only restriction imposed is that their activities remain within the Danish territory (Sect. 1). The law distinguished between three types of grants available: government, regional and local grants. In order for parties and/or candidates to receive those grants, they must to submit their application to the relevant authority and, for parties, they must have submitted to the Minister for the Interior and Health a statement of financial account.

²³ Parliamentary Election Act, as amended in 2009. Available in English at: http://www.ft.dk/~media/Pdf_materiale/Pdf_publicationer/English/valgloven_eng_web_saml_et%20pdf.ashx (accessed in February 2012).

²⁴ Lov om økonomisk støtte til politiske partier.

Apart from these forms of direct party funding, since 1965 state funds are provided to the parties' parliamentary groups and since 1981 state support was enlarged to include secretarial assistance to individual MPs. During the election campaigns, moreover, political parties in Denmark have free access to public broadcasting media.

Private funding is instead regulated since 1990 by the Private Contribution to Political Parties and Publication of the Accounts of Political Parties Act, also known as the Accounts of Political Parties Act,²⁵ which was most recently amended in 2001. This law establishes that parties participating to elections are required to publish an annual statement of accounts where they provide information over their incomes and (less in detail) over their expenditures.

However, no restrictions are established on the amount of private funding that parties may receive or on the sources of those funds: parties in Denmark are free to receive donations by private, public, anonymous and foreign sources. The only restrictions imposed on parties for what their mechanisms of private funding is concerned is the duty for parties to disclose the name of the donors whose contributions exceed a particular sum (2,700 Euro), to disclose the total sum of all anonymous contributions received during each accounting year, and to give information on whether they received any anonymous contribution exceeding the sum of 2,700 Euro.

Under the Accounts of Political Parties Act, political parties are required to keep accounts on income and expenditure and to submit them to Parliament. When political parties intend to benefit from public funding, they need to submit their accounts to the Ministry of Interior and Social Welfare.

²⁵ Lov om private bidrag til politiske partier og offentliggørelse af politiske partiers regnskaber.

ESTONIA

Constitution

The Constitution of Estonia, promulgated in 1992 one year after gaining independence from the Soviet Union, mentions political parties in four articles. Article 48 states the freedom of formation of political parties by Estonian citizens and prohibits the establishment of political parties “whose aims or activities are directed towards the violent change of the Estonian constitutional system”. Articles 30, 84 and 125 establish party membership incompatibility with civil servants, with the office of President of the Republic and with persons in active service in the military, respectively.

Party Law

The first law on political parties in Estonia, the Political Parties Act,²⁶ was adopted in 1994. Since its promulgation the law has been amended several times, and its latest amendment dates 2010. The Estonian party law is composed of three main Chapters. Chapter 1 contains the general provisions regulating political parties. Article 1 defines a political party as a “voluntary political association of Estonian citizens which is registered pursuant to the procedure provided for in this Act and the objective of which is to express the political interests of its members and supporters and to exercise state and local government authority” (art. 1.1). Political parties in Estonia are formed according to the principle of territoriality: no organizational sub-units political may be formed within institutions, enterprises or organizations (art. 3). Article 4 prohibits the formation and the activity of political parties who are organized militarily or whose objectives (or activities) are directed at changing the constitutional order or territorial integrity of Estonia. Article 5 defines the party membership requirements and incompatibilities. Chapter 2 regulates the procedures for the foundation and the organization of political parties. In order to apply for registration, a political party must present to the National Electoral Committee a political programme signed by the party leadership, a list of at least 1,000 members and a

²⁶ Erakonnaseadus, R.T.I. 1994, 40, 654. Document available at: <https://www.riigiteataja.ee/akt/12810147> (accessed in January 2012).

sample of its logo (art. 8). When the number of members falls below 1,000 the registration department of a court, may request the commencement of compulsory dissolution (art. 12). Chapters 2.1 and 2.2, introduced by later amendments to the Law on political parties, regulate party finance. Chapter 3 deals with the implementation of the provisions of the Law.

Party Finance Regulation

No specific party finance law has been adopted in Estonia. Aspects concerning the finances of political parties are regulated in the Political Parties Act (Chapters 2.1 and 2.2), in the electoral laws,²⁷ in the Accounting Act and in the Anti-Corruption Act.

Direct public funding of political parties was introduced in Estonia in 1994 with the promulgation of the Law on political parties. Up to 2003, only the political parties represented in parliament could benefit from State contributions. Currently, both the political parties represented in parliament and those obtaining at least one per cent of the votes are entitled to public subsidies (art. 12.5). The amount disbursed to the political parties represented in parliament, allocated in proportion to the number of seats, is determined annually by the state budget. The political parties that are not represented in parliament obtaining at least one per cent of the votes instead receive an annual fixed amount established by law, in proportion to the number of votes obtained (art. 12.5.2). No direct funding of election campaigns instead exists in Estonia. Political parties do however benefit from other – indirect – forms of public funding, such as free broadcasting time on public media during election campaigns, tax deductions for advertisement costs in relation to election campaigns,²⁸ and tax deductions for donations to political parties.

The law on political parties also regulates the private funding of political parties. Concealed donations, donations from anonymous sources and donations from legal persons are prohibited (arts. 12.1 and 12.4). No restrictions are established on the amounts that political parties are entitled to receive, nor are restrictions imposed with regard to political parties' expenditures.

²⁷ The Riigikogu Election Act, the European Parliament Election Act, the Local Government Council Election Act.

²⁸ Estonian National Broadcasting Act. Document available in English at: <http://www.legaltext.ee/en/andmebaas/tekst.asp?loc=text&dok=XX10025&keel=en&pg=1&ptyyp=RT&tyyp=X&query=Estonian+National+Broadcasting+Act> (accessed in January 2012).

Under the Accounting Act, political parties are required to prepare an annual report recording all business transactions incurred. Political parties that are beneficiary of public funding must appoint an independent auditor for the preparation of such reports. Political parties must also maintain a register of donations, including information on the donor and on the amount received. According to the Law on political parties, the political parties' reports, as well as the register of donations must be published on the political parties' web pages. Income and expenditure incurred in election campaigns must instead be reported to the 'Parliamentary Select Committee', an inspection authority composed of MPs that was established in 1999 under the Anti-Corruption Act.

FINLAND

Constitution

The Finnish Constitution of 1991 mentions political parties in one article only, concerning the nomination of the Presidential candidates (art. 23). In the new Constitution of 1999 two articles refer to political parties, both in their electoral capacity: for the nomination of candidates in the parliamentary elections (art. 25), and for the nomination of candidates for the election of the President of the Republic (art. 54).

Party Law

The first law regulating political parties was adopted in 1969 (Act on political parties, 10/1969).²⁹ The early date of the establishment of the first regulatory provisions on political parties together with the high degree of regulation over their organization makes Finland a particularly interesting case. The latest amendment of the Finnish party law dates 2010. In order to be formally recognized, political parties in Finland need to send their application to a Party Register maintained by the Ministry of Justice (Sect. 1) and to fulfil a number of conditions: pursuing to influence State matters; have their support from at least 5,000 citizens with voting rights; guarantee democratic principles to be respected in their decision-making processes and internal activities, and have drafted a political programme (Sect. 2). Among the material required for party registration the Finnish law includes a copy of the rules and regulation in force and the party programme (Sect. 3). Whenever the rules or the programmes are amended by the parties they need to be entered in the Party Register before being internally enforced, which is on turn dependant on whether they comply with the requirements established by law (Sect. 5). If political parties fail to gain a parliamentary seat in two consecutive parliamentary elections they are deleted from the Party Register (Sect. 6).

²⁹ Puoluelaki, 10/1969. Document available at: <http://www.edilex.fi/saadokset/smur/19690010> (accessed in January 2012).

Party Finance Regulation

Provisions on party finance in Finland are contained in a number of laws. The Act on political parties of 1969 (later amended in 2010) introduced State funding to political parties, included provisions on its allocation procedures and established the duty for parties to keep and to disclose their financial records. Public subsidy is granted to parties to cover their expenses in public activities (Sect. 8), in proportion to the number of parliamentary seats they gain in the latest parliamentary elections (Sect. 9). Parties without parliamentary representation, therefore, do not get public funds. State funds are instead withheld if a party fails to fulfil any of the obligations laid down by the law (Sect. 10).

In the same year when the Act of political parties was introduced, Finland also adopted a specific party finance law (Decree on Subsidies to support the activities of Political Parties, 97/1969, amended by Law 27/1973 and by Law 97/1990).³⁰ The Finnish law establishes no restriction on the sources of private funding, and no restrictions on the relative amounts of the contributions. Therefore, there are no bans on anonymous or foreign donations, nor restrictions on the amount of membership fees from party members. Similarly, no limit is imposed on the parties' expenditures. Stricter are the rules concerning the parties' duties to keep and to disclose their financial records. The Political Parties Act imposes to parties keep books of their finances and to send their financial records to the Ministry of Justice – incomes and expenses related to election activities must be presented separately (Sect. 8). The Act on the Disclosure of Election Financing,³¹ adopted in 2000 to make the processes of election financing more transparent (further amended in 2001 and in 2008), imposes to candidates to disclose the total amount of each donation and to disclose the donor's identity in case the donation exceeds a given threshold (Sect. 3).

Political parties also receive free air-time from the Finnish Broadcasting Company, and parliamentary groups are been supported since 1967.

³⁰ Forordning om understod for partiverksamhet, 97/1969.

³¹ Ehdokkaan vaalirahoituksen ilmoittamisesta annetun lain, 414/2000. Amended by Act 977/2001 and by Act 604/2008.

FRANCE

Constitution

The Constitution of the Fifth Republic, adopted in 1958, mentioned political parties for the first time in the post-war era. Article 4 defines political parties as freely formed organizations instrumental in the exercise of the suffrage whose activities must respect the principles of national sovereignty and democracy. This article was amended in 1999 adding more details on the functions of political parties.

Party Law

France has not established a law on political parties. Up to 1988, when the party finance law was established (see section below), the main law regulating political parties was the 1901 Law on Associations.

Party Finance Regulation

In 1988 France adopted the Law on the financial transparency of political life.³² Provisions concerning political parties are included in Title III of the 1988 law ('Dispositions relatives aux parties et groupements politiques et à leur financement'). Eligible for public funding are those political parties whose candidates obtained each at least 1 per cent of the vote in at least 50 constituencies.³³ The total amount available for the public funding of political parties is distributed in two separate installments. The first installment is distributed in proportion to the number of votes received during the first round of parliamentary elections; the second installment is distributed to those political parties that achieved parliamentary representation in proportion to the number of MPs declaring their affiliation to one party. In 2000 a provision was included according to which public funding is conditional on compliance with gender equality (art 9.1). The 1988 act also regulates the admissible sources of private funding of political parties. Under article 11-4, donations to political parties from

³² Loi n°88-227 du 11 mars 1988 relative à la transparence financière de la vie politique.

³³ A different allocation procedure is envisaged for the French overseas départements (art. 9, law No. 88-227).

legal persons and from foreign states are prohibited. Moreover, an annual maximum ceiling is established for donations to a political party from individuals, and donations exceeding 150 Euros cannot be paid cash. A peculiar feature of the regulation of the financing of political parties in France is that donations cannot be paid to a political party directly but must be paid through an intermediary financial representative nominated by the political party for fundraising.

The system for funding of election campaigns is regulated under the Electoral Code.³⁴ Eligible for election reimbursement are those candidates who obtained at least 5 per cent of the votes. Also for the funding of election campaigns donations from legal persons and foreign states are prohibited, and a maximum ceiling for campaign donations is established. The law also fixes a ceiling on the total amount of expenses allowed by candidates in election campaigns.

Under the 1988 Act an independent authority, the ‘Commission on Campaign accounts and Political Party Financing’,³⁵ is responsible for the supervision of the financial obligations of political parties and the candidates. Political parties which receive public and private funding must keep annual accounting records which have to be certified by two auditors and submitted to the Commission (Sect. 11.7). When the Commission observes misdemeanors, the political party loses the right to public funding for the subsequent year. Further financial and criminal sanctions are envisaged in case of violation of the rules established on donations to political parties. Political parties in France also benefit from indirect public funding in the form of tax exemptions and free access to the public media during election campaigns.

³⁴ Chapitre V bis : Financement et plafonnement des dépenses électorales, Electoral Code, L. 52/4-L52/18. Available at : <http://perlpot.net/cod/electoral.pdf> (accessed in March 2012).

³⁵ ‘Commission nationale des comptes de campagne et des financements politiques’ (CNCCFP).

GERMANY

Constitution

With the adoption of the German Basic Law in 1949, Germany was among the first European democracies recognizing political parties in its Constitution. Article 21 of the German Constitution, amended in 1983, defines political parties as instruments of the formation of the political will of the people. It establishes important rules on the political parties' activity and identity, by defining unconstitutional those parties "which, by reason of their aims or the behavior of their adherents, seek to impair or destroy the free democratic basic order or to endanger the existence of the Federal Republic of Germany". This same article, moreover, states that the political parties' internal organization "must conform to democratic principles", and that parties must "publicly account for their assets and for the sources and use of their funds as well as assets".

Party Law

Germany was the first European country adopting a law on political parties, in 1967. Its most recent amendment dates from 2004.³⁶ The German party law is divided into eight main sections. Section I introduces the general provisions concerning political parties, such as their constitutional status and functions (art. 1), their definition (art. 2), the right of parties to institute legal proceedings (art. 3), rules on the parties' names (art. 4), and the establishment of the principle of the equal treatment of political parties (art. 5). Section II regulates the parties' internal organization. Under art. 6, political parties must have written statutes and programmes including details on the requirements for membership as well as members' rights, on the general organization of the party, on the composition and powers of the internal party bodies, on the forms and the timelines for the convocation of the general assembly, and on the functions of the parties' executive organs. Detailed provisions on the political parties'

³⁶ 'The Law on Political Parties' ('Parteiengesetz, ParteienG'), as published on 24 July 1967 (Federal Law Gazette I, Page 773); amended version published on 31 January 1994 (Federal Law Gazette I, Page 149), last amended pursuant to Article 2 of the Law dated 22 December 2004 (Federal Law Gazette I, Page 3673).

bodies, on the composition thereof and on the frequency of their meetings, are included in articles 8-13. Political parties in Germany must establish internal Arbitration Courts, “to settle and decide on disputes between the party or a regional branch and individual members as well as on disputes over the interpretation and implementation of the statutes” (art. 14). The German party law also regulates the internal voting procedures of political parties (art. 15), and prescribes, in Section III, secret ballots for the nomination of candidates for elections.

Section IV, V and VI of the party law establish the rules of state funding of political parties, the accounting requirements, and the penal provisions for financial misdemeanors (see next section).

Section VII regulates the implementation of the ban the constitutionality of parties pursuant to article 21 of the Basic Law. Under art. 32, the supreme Land authorities shall have the unrestricted right to give instructions in order to adopt any measures needed to enforce the judgment ordered by the Federal Constitutional Court.

Section VIII contains the final provisions of the Law.

Party Finance Regulation

Germany has not adopted a specific party finance law. The regulation of the political parties’ financial matters, including provisions on state funding of political parties, on accounting, and on the private donations to political parties, are mainly to be found in the law on political parties.

Under Section 18 of the law on political parties, state funding to political parties is provided to those parties obtaining at least 0.5 per cent of the valid votes at the most recent European or Bundestag elections, or obtaining at least 1 per cent of votes at one of the most recent Landtag elections. Under the same article, two limits for state funding are established: ‘an absolute upper limit’, applying to the overall amount of direct public funding to all political parties eligible, and a ‘relative upper limit’, applying to the relative amount of state funds to each individual political party. On the latter, the law states that the amount of state funds to a political party must not exceed the total annual revenue raised by the party itself. German political parties also benefit from indirect forms of public funding, through the provision of free broadcasting time

during electoral campaigns and through tax exemptions on donations to political parties.³⁷

The law on political parties also regulates private contributions to political parties. According to art. 25, anonymous, as well as foreign donations to political parties above a specified threshold, are not admitted. Other prohibited sources of donations are those from public or semi-public organizations and from political foundations or other non-profit associations or entities. Donations can be given in cash up to the amount of 1,000 euros. The only restriction on the political parties' expenditure is established in Section 1 of the political parties act, which states that "the parties shall use their funds solely for performing the functions incumbent on them under the Basic Law and this law". No other qualitative or quantitative restriction on expenditures is established.

Under Article 21 of the German Constitution, political parties must "publicly account for their assets and for the sources and use of their funds as well as assets". The law on political parties specifies in greater detail the parties' accounting and disclosure obligations. Every year, political parties must present an audited statement of accounts to the President of the German Bundestag (art. 23). The statement of accounts must include information on party income and expenditure as well as a statement on the parties' properties and liabilities, to be accompanied by an explanatory part (art. 24). Contributions to political parties exceeding a specified threshold must be disclosed separately, together with the details of the donors.

The authority monitoring the political parties' financial matters is the President of the German Bundestag. The President of the German Bundestag verifies the parties' compliance with the requirement to submit a statement of accounts, fixes the rate of public funds to be allocated to each individual party, and publishes the parties' statements of accounts as a Bundestag printed paper. Every two years, it must also report to the German Bundestag on the developments on the financing of political parties.

³⁷ Tax exemptions on contributions to political parties only apply up to a specified threshold (as regulated by the German Income Tax Act, 'Einkommensteuergesetz').

GREECE

Constitution

Political parties are mentioned for the first time in the Greek Constitution of 1975, promulgated after the demise of the military regime. The latest constitutional amendment with reference to political parties was introduced in 2001. Currently, nine articles in the Greek Constitution refer to political parties. The freedom of formation of political parties and their functioning according to democratic principles is established in article 29. This same article was amended in 2001, when a provision was introduced that extended public funding to the political parties' operational expenses. Article 29 does also prohibit political involvement in the exercise of their functions of judicial functionaries, armed and security forces, public servants as well as all public law legal persons or enterprises whose management is directly or indirectly appointed by the State. Articles 37 and 38 refer to political parties in the procedures of government formation and dismissal, whereas articles 54, 68, 73, 82 and 113 refer to political parties in the parliamentary arena. Article 15 mentions the right for political parties to access public media for election campaigning.

Party Law

No law on political parties has been established in Greece. Some aspects of political parties, such as their commitment to exercise their political functions through the democratic means, are included in the Greek Electoral Law.

Party Finance Regulation

The first law regulating party finance in Greece was adopted in 1984 (Law for the financial support for political parties and other provisions, Law 1443/84). New laws on the regulation of the financing of political parties were adopted in 1994, 1996 and 2002.³⁸ The law introduced in 2002, on Public funding of political parties – Income and expenditure, promotion, publications and audit of the finances of political parties

³⁸ Law 2187/94; Law 2429/96; and Law 3023/2002.

and candidates for election, amended in 2004 by Law 3274/2004, is currently the main act regulating party finance in Greece. The 2002 party finance law regulates the funding of political parties for both operational activities and electoral expenses.

Public funding to the political parties' operational activities is granted to all political parties represented in parliament as well as to those political parties who competed at the latest parliamentary elections in at least 70 per cent of electoral districts obtaining at least 1.5 per cent of the votes. The yearly budget available for the funding of the parties' operational expenses is allocated as follows: eighty per cent is disbursed to the political parties represented in parliament, in proportion to the percentage of votes obtained; ten per cent is disbursed to all political parties in parliament in equal proportion; the remaining ten per cent is distributed to those political parties that did not achieve parliamentary representation but which met the above mentioned criteria (arts 1-3). The 2002 law also establishes a yearly contribution from the state budget for the establishment and operation of research centres. This contribution is only disbursed to those political parties that are represented in parliament, in proportion of the number of votes received (art. 4).

Public funding to the political parties' electoral expenses, for parliamentary and European Elections,³⁹ is granted according to the same criteria described above, with minor differences in the allocation mechanisms. The political parties not represented in parliament in fact are granted forty per cent of the total budget, while sixty per cent is allocated to the parliamentary parties.

The 2002 finance law introduces a number of restrictions on the private funding of political parties. It prohibits donations from corporate entities, from governmental bodies, from media owners, from foreign natural persons or entities, as well as from anonymous sources (art. 7). Moreover, it establishes a yearly maximum ceiling that political parties as well as individual candidates may receive from one individual donor (art. 8). Donations above 600 Euro must be made by bank transfer or a receipt must be issued registering the full name of the donor (art. 16). Maximum ceilings are

³⁹ Local elections are addressed by Law 3202/2003 on Electoral expenditure during the prefectural and municipal elections, financial management and administration of local government organizations, foreign nationals and other provisions, which does not foresee public funding, but contains rules on private funding and expenditure, as well as supervision and sanctions.

also established on the expenses that political parties and candidates incur for national and parliamentary elections campaigns (arts. 13 and 14).

Political parties receiving public funding are required to keep and publish accounts for their incomes and expenditures and to submit this documentation to the Audit Commission and to the Ministry of Interior on a yearly basis (art. 18). The Audit Commission, formed by MPs and judges, is the main authority in charge of the supervision of the finances of political parties and of their compliance with the financial obligations established by law (art. 21).

HUNGARY

Constitution

As stated in the Preamble of the Constitutional text, the purpose of the Hungarian Constitution established in 1989 was to “facilitate a peaceful political transition to a constitutional state, establish a multi-party system, parliamentary democracy and a social market economy”. The Hungarian Constitution of 1989 was the first thoroughgoing constitutional transformation in the Soviet bloc. Since 1989, constitutional amendments regulating different facets of political parties followed in 1990, 1994, 2001 and 2004. Article 3 of the current Constitution defines the free establishment of political party, their participation “in the development and expression of the popular will”, and limits the possibility of single political parties controlling the government. The Hungarian Constitution also contains provisions concerning party membership incompatibilities: judges (art. 50), public prosecutors (art. 53), Members of the Constitutional Court (art. 32A), and professional members of the armed forces (art. 40B) may not be members of political parties and may not engage in political activities. Moreover, political parties are mentioned for what concerns the procedures of dissolving the parliament (art. 28), the nomination of the Constitutional Court (art 32A), and their role as members of the National Defense Council (art 19B). Finally, art. 63 of the Constitution specifies the regulation to be followed when adopting a law on the operation and financial management of political parties (requiring the votes of 2/3 of the members of the Parliament).

Party Law

The Law on Operation and Financial functioning of political parties was adopted in 1989, the same year in which the Constitution was adopted.⁴⁰ In its preamble it delineates the “social function of political parties, to provide organisational frameworks for developing and manifesting the will of the people, and for citizens to take part in political life”. Under this law, the establishment and the operation of political parties at places of work and the participation in the party organizations of

⁴⁰ Act 33/1989.

armed forces and police are prohibited (Chapter 2). This law moreover defines the cases of the political parties' cease of existence, through merging, splitting, dissolving or being dissolved by Court decision (Chapter 3). The latest amendment to this law took place in 2003, regulating the establishment and the financial subsidies of party foundations.

Party Finance Regulation

The financial aspects of political parties are regulated under the same Act as above, the Law on Operation and Financial functioning of political parties and by the Act on Electoral Procedure.⁴¹ Both were enacted in 1989, and have been amended since their establishment.

The Act on Electoral procedure regulates campaign expenditures and the subsidies that political parties receive when presenting candidates for the national parliamentary elections. The law fixes a maximum quota for campaign expenditure and establishes the duty of political parties to declare their campaign expenditures in the official National Gazette.

The assets and the financial management of parties are regulated under Chapter 4, of the law 33/1989. Political parties may receive income from donations, membership contributions and from the State budget, as well as earnings from their assets and companies. Incomes from State budget organizations, foreign states and donations from anonymous sources to political parties instead are banned (Sect. 4). Donations above a given threshold must be declared, specifying the donor's name. Political parties must also declare income originating from a company established by the party, and all donations from legal entities and companies. State financing of political parties in Hungary is granted to all political parties that get more than 1 per cent of the votes at the last parliamentary elections. State budget allocation is determined as follows: 25 per cent is distributed to all parliamentary parties in equal proportions; 75 per cent is distributed to the parties according to the proportion of votes in the latest elections (Sect. 5). Under this law, political parties are obliged to publish annually in Hungarian Bulletin a financial statement on their economic activities. Foreign contributions and contributions over an indicated threshold must be disclosed separately, indicating the

⁴¹ Act C/1997, on Electoral Procedure.

name of the donor and the specific amount of the donation (Sect. 9). The law also establishes an auditing organ, the Hungarian State Audit Office (SAO), to audit the financial statements of political parties, parliamentary election campaigns and party foundations that obtain state subsidies (Sect. 10).

In the latest amendment to this law, made in 2003, regulates the establishment of party foundations (“for the purpose of carrying out scientific, nonfiction, research and education activities”, Sect. 9/A), and their entitlement to receive subsidies.

ICELAND

Constitution

Political parties are mentioned for the first time in the Constitution of the Republic of Iceland promulgated on acquiring independence in 1944 (art. 31). In 1999, the one article referring to political parties was amended, clarifying the allocation of seats in the parliamentary assembly. Under art. 31, only political parties having received at least five per cent of all valid votes cast nation-wide are eligible to parliamentary representation.

Party Law

Iceland has not established a specific law on political parties. The definition of political parties is included in the Icelandic party finance law. Under this law, political parties are those organizations taking part in parliamentary or municipal elections (art. 2).

Party Finance Regulation

Iceland adopted its first party finance law in 2006; the latest amendment dates from 2009.⁴² The purpose of this law is stated in art. 1: “to provide for the funding of political parties and political activities, reducing the risk of conflicts of interest and ensure transparency in the finances. The objective is to increase trust in political activities and to promote democracy”.

State funding is provided to all political parties having at least one member elected in the Parliamentary Assembly or having received at least 2.5 per cent of the votes in the previous elections. The allocation of funding is provided in proportion to the votes received in the last general election. Political parties in Iceland also benefit from indirect forms of public funding, through the provision of free broadcasting time on the public television channels during election campaigns. According to the

⁴² Law No. 162/2006 on the Financial Affairs of Political Organisations and Candidates and Their Duty to Provide Information. Latest amended by Law 99/2009.

Broadcasting Act, all political parties are allocated an equal amount of broadcasting time.⁴³

The Party Finance Law introduced a number of restrictions concerning the political parties' private contributions. Under art. 6, donations from anonymous donors, from public entities, from undertakings whose majority is owned by the State or by municipalities, and from foreign entities, are prohibited. The party finance law moreover introduced annual maximum ceilings for membership fees as well as for donations to political parties from individuals and from legal entities (art. 7).

No formal restrictions instead have been introduced on the expenditures of political parties.⁴⁴

Political parties in Iceland must prepare financial reports and submit these annually to the National Audit Office (art. 8). The National Audit Office is responsible for the publication of a summary of the political parties' accounts on its website (art. 9).

More detailed rules on the political parties' accounting and disclosure of financial reports are included in the Rules on the Financial Accounts of Political Parties issued by the National Audit Office in 2007. Under this Regulation, political parties must present a consolidated income statement, including detailed information on income and expenditure, and a consolidated balance sheet, including information on the party's assets and liabilities. Political parties must also attach information on the total amount of donations received by individuals to the financial reports, and must disclose the names, the amounts and the type of donations received by legal persons.

The National Audit Office, an independent body of which the President is appointed by the Presidential Committee of Parliament, is the main authority supervising the political parties' compliance with financial regulations.

⁴³ Broadcasting Act, Law No. 53/2000.

⁴⁴ Restrictions instead apply for individual candidates running for internal selection processes.

IRELAND

Constitution and Party Law

The Constitution of Ireland does not refer to political parties. Also, neither a specific party law nor a specific party finance law has been established in Ireland. The legal regulation of political parties in Ireland is mostly included in the Electoral Act 1992 and in the Electoral Act 1997.

The Electoral Act 1992 regulates the political parties' registration requirements. In order to apply for inclusion in the Register of Political Parties, parties must present an application including the party's name and the address of its headquarters, the name of the officer authorized to authenticate the party's candidates at elections, and the type of election for which the party is registered to contest (Electoral Act 1992, Part III, Section 25).

Party Finance Regulation

The Electoral Act 1997 contains rules on the financing of political parties (Part III), on donations to political parties and their disclosure (Part IV), on the parties' expenditure (Part V), and on the authority monitoring the parties financial management (Part I, Section 4 and Part VIII, Section 13).

State support to political parties is provided to all registered political parties that have obtained at least 2 per cent of the first preference votes at the most recent Dáil general elections. Under Section 18, public funding is granted to cover the parties' expenses for specific activities, i.e. for the general administration of the party; for research, education and training; for policy formulation; and for the coordination of the activities of the branches and members of the party. Political parties must furnish to the Public Offices Commission a written declaration indicating the matters to which expenditures applied (Section 20). Irish political parties also benefit from indirect state support in the form of free broadcasting time during election campaigns. The allocation of broadcasting time is dependent on the first preference results from the previous general elections.

A number of restrictions apply to private contributions to political parties. Anonymous donations above a given amount, as well foreign donations, are

prohibited. Moreover, annual maximum ceilings apply to the amount donated an individual may donate on a yearly basis, and donations above a specified threshold must be disclosed. Restrictions also apply to election campaign expenditures for the national and European elections.

Every year, political parties must deliver a Donation Statement, including information on the amount and details on the donor for donations exceeding the specified threshold, and an Election Expenses Statement, including details for payments incurred above a certain threshold. They submit these statements to the Standards in Public Office Commission, which is the main authority supervising the political parties' financial management and their compliance with the regulations in force. It is an independent body, chaired by a former Judge of the High Court, and was established in 2001 by the Standards in Public Office Act 2001. Its main functions with relation to political parties are to control the disclosure of their donations and election expenditure, and their spending of state subsidies. The Standards Commission publishes the details of the donations disclosed by political parties on its website.

ITALY

Constitution

The Italian Constitution of 1948 refers to political parties in three articles. It establishes the right of all citizens “to associate freely in political parties in order to contribute by democratic means to the determination of national policy” (art. 49), the incompatibility of party membership with activity in the judiciary, in the armed forces and in diplomatic and in consular representation organs abroad (art. 98), and prohibits the reconstruction of the fascist party (XII transitory and final provisions). The wording of art. 49, which constituted the outcome of a long internal discussion between the different political streams composing the Constitutional Assembly, has often been criticized by Italian constitutionalists for its ambiguity and for lacking prescriptive significance. However, unanimous agreement exists that the way in which art. 49 is formulated avoids placing any legal regulation on political parties, which therefore remain considered in Italy as private voluntary associations with no juridical status nor personality.

Party Law

Despite a growing debate on the necessity to introduce a legal regulation of political parties, Italy has not adopted a party law.

Party Finance Regulation

In 1974, Italy established a law on party finance,⁴⁵ whose dispositions have frequently been amended over the years, not least by a popular referendum in 1993. The 1974 law introduced two types of funding: the funding of national election campaigns and the funding of the ordinary activities of the political parties represented in the parliament. As the 1993 referendum repealed the second type of funding, Italian political parties currently benefit only of the reimbursement of electoral campaigns. However, not only the electoral reimbursement was extended to local level elections

⁴⁵ L. 195/1974, Contributo dello Stato al finanziamento dei partiti politici.

and to the elections of the European Parliament (422/1980), but also the sum being reimbursed increased impressively from the 1990s, leading to an actual restoration of the pre-1993 figures. Moreover, since 1999 an annual lump sum is distributed for the relevant elections, independently from the parties' actual expenses (157/1999), and since 2006 this sum is allocated to parties for the whole formal period of the legislature (5 years) independently from its actual duration (5122/2006).

Aside to those direct contributions, Italian political parties also receive indirect contributions, in the forms of cost-reduced postal delivery and free use of public halls in election times, and public housing rental subsidies.

The Italian party finance legislation does not establish maximum ceilings on the amount of private donations. However, parties must disclose donations above given figures. Donations from public and semi-public entities are instead forbidden. In case the donor is a company, this needs to be registered in the company's financial register and previously deliberated by the company's competent organ. Parties are required to publish an annual statement of account of incomes and expenditures. This regulation applies to parties as well as to individual candidates, internal party groups and internal office-holders.

A number of law proposals for greater transparency measures to be introduced in the system of public funding of political parties are currently under examination by the Commission of constitutional Affairs of the Chamber of deputies.⁴⁶

⁴⁶ Commissione Affari Costituzionali della Camera dei Deputati, cfr. Dossier AC0629.

LATVIA

Constitution

Political parties are mentioned for the first time in the Constitution of Latvia in a constitutional amendment introduced in 1991 after Latvia gained its independence from the Soviet Union. Three articles referred to political parties (arts. 9, 12 and 30). After a new constitutional amendment in 1998, one article of the Latvian Constitution refers to political parties, stating how “everyone has the right to form and join associations, political parties and other public organizations” (art. 102).

Party Law

Latvia adopted a party law in 2006. The Latvian law on political parties is formed by six Chapters and opens with the description of the purpose of the enactment of the law: “to ensure the legal basis for the activities of political parties and the alliances thereof, to promote the internal democracy of parties and the alliances thereof and the strengthening of a democratic and civic society” (Sect. 1, Chapter 1). Chapter 1 also regulates the general provisions on political parties, including their definition and legal status, as well as provisions on their legal address, name and symbol. Under this same Chapter, political parties forming armed or military units are prohibited (Sect. 9, Chapter 1). Chapter 2 regulates the procedures for the founding of political parties. Decisions regarding party founding must be initiated by at least 200 Latvian citizens approving the programme and the Statute of the party, and electing an executive board and an internal audit institution for economic and financial activities (Sect. 13, Chapter 2). Chapter 3 regulates the registration procedures of political parties, and in particular it prescribes the information to be entered in the Party Register. Under Sect. 17, the Party Register is freely accessible. Chapter Four is entirely dedicated to party membership. It includes provisions on membership admission requirements, on the rights and the obligations of party members and establishes procedures for termination of party membership. Latvian political parties are obliged to maintain a register of party members (Sect. 27, Chapter 4). Chapter V regulates the organisational structure of a party: its bodies, the meetings of party members as well as the divisions of a political party. Chapter VI, finally, specifies the authorities with the task of

supervision and control of party activities of political parties (the Corruption Prevention and Combating Bureau, the State Revenue Service, the Party Register authority, and the Courts) and the terms for suspension and termination of political parties.

Party Finance Regulation

The first law on party finance - the Law on Financing of Political Organizations (Parties) - was introduced in 1995. Since its promulgation the Law has gone through numerous amendments, its latest dating from June 2011. Further regulation on party funding is comprised in the electoral laws (Law on Pre-election Campaigning for the Saeima and European Parliament Elections and the Law on Pre-election Campaigning for Municipal Elections) and in a number of Regulations adopted by the Cabinet of Ministers.⁴⁷

The 2010 amendment of the party finance law introduced public funding to political parties, starting from January 2012. Funding is granted to those political parties having obtained more than 2 per cent of the vote in the most recent parliamentary elections. Public funding is earmarked to specific activities, namely for rent, communications services, wages, audit services, research and educational initiatives, as well as for publishing books and booklets and for election campaigns.⁴⁸ However, according to the laws on pre-election campaigning, political parties running for the national, European and municipal elections are provided with free broadcasting time on the public media. A further form of indirect public funding that political parties benefit from are tax relieves for those natural persons making donations to political parties (Sect. 5). The Law on the Financing of Political Organizations is the main regulatory framework for the private funding of political parties. A number of restrictions apply both on the sources and on the amounts allowed to be donated to political parties. Donations from foreign persons, from legal persons, from State and

⁴⁷ Regulation No. 591 of 13 July 2004 (Rules on annual reports of political organizations) and Regulation 196 of 22 March 2005 (Rules on annual declaration of financial activities, declaration on expenditure of pre-election campaigns, notification about planned election expenditure, election expenditure declaration and reports about gifts (donations) of political organizations). See Greco Evaluation Report, Third Round, 'Evaluation Report on Latvia on Transparency of Party Funding', p. 6.

⁴⁸ See <http://www.knab.gov.lv/en/knab/news/article.php?id=355779> (accessed in March 2012).

municipal bodies, and from anonymous donors are prohibited (Sects. 2-7), and a natural person is allowed to make a donation not exceeding 100 minimum monthly salaries to one political party per year (Sect. 4.2). Restriction caps also are established on the amount of election expenses that political parties are allowed to disburse for elections of the Saeima, for the local government council elections, and for the European elections (Sect. 8.4).

Political parties in Latvia are obliged to disclose and make publicly available all donations received, including information on the amounts and on the personal identification of the donors, within a period of 15 days after the receipt of the donation. Moreover, political parties which have submitted their lists of candidates for the election to the Saeima, to local government councils or to the European Parliament must submit to the Corruption Prevention and Combating Bureau (KNAB) a declaration of income and expenses (Sect. 8.2), and an annual report on party accounts (Sect. 8.5). The Corruption Prevention and Combating Bureau, an independent public administration institution under the supervision of the Cabinet of Ministers established in 2002,⁴⁹ is the main authority monitoring the political parties' compliance with party financing regulations. When this authority identifies financial misdemeanors it can ask political parties to return to the State budget illegally acquired funding. Should a political party fail to fulfill this obligation, the Head of the Corruption Prevention and Combating Bureau shall be obliged to initiate suspending of the activity of the respective political party through court (Sect. 10).

⁴⁹ Law on Corruption Prevention and Combating Bureau, adopted in April 2002.

LITHUANIA

Constitution

The first Constitution of Lithuania following the declaration of independence from the Soviet Union was promulgated in 1992. The Constitution refers to political parties in six articles. It establishes their free and voluntary basis of their organization (art. 35); restrain their interference in the mass media and in the judiciary (arts. 44 and 114), and states party membership incompatibilities with the functions of President of the Republic, judges and military officers (arts. 83, 113 and 141).

Party Law

The first law on political parties in Lithuania, the Law on political parties and political organizations, was adopted in 1990. The latest amendment to this law was made in 1995. This law establishes the principle of freedom of association and sets out rules for the functioning, the organization and the activity of political parties in Lithuania (arts. 1, 2 and 9). It states the parties' right to participate in elections, form coalitions, propagate ideas and hold mass events (art. 15-17). Moreover, it regulates the procedures for parties to form and to register, and to suspend or terminate their activities (arts. 3-7). Under art. 5, a political party may be established when it has no less than 1,000 founding members. The Law on Political Parties also introduced the principle of State funding, and, simultaneously, introduced provisions for the control over their financial activities (arts. 11-13).

Party Finance Regulation

Financial aspects of political parties were regulated by the Law on Political Parties until 1997. Aspects concerning the financing of the electoral campaign, instead, were regulated by election laws. In 1997 a law imposing greater controls on the electoral expenditures of political parties was introduced (Law on financial control of political campaigns).⁵⁰ According to this law, political parties had to present keep a record of

⁵⁰ Politinių kampanijų finansavimo kontrolės, 1997, Nr. VIII-506.

expenses and disclose it to the Central Election Commission. Moreover, they were required to disclose the total income of the donations received and of the expenses made during electoral campaigns. From 1997 onwards the number of laws regulating party finance grew considerably, and financial matters of political parties became much more extensively controlled. State funding of political parties was introduced in a law in 1999 (Law on financing of political parties and political organizations),⁵¹ for the purpose, as the law states, of “preventing political corruption and ensuring legitimacy and transparency in the use of party funds” (art. 1). Political parties receive public funds in the forms of grants and of reimbursement of electoral campaign, provided that they have received more than 3 per cent of the votes in the latest parliamentary elections. This law also imposed stricter regulations on the sources of financing of political parties, on their accounting duties and on the control of external authorities over the parties’ financial records.

In 2004, a new law, which regulated both the private and the public sources of party funding consolidated the previous acts (Law on Financing and Financial Control of Political Parties and Political Campaigns).⁵² Under this law political parties are required to keep account and to send an annual financial statement to the Central Electoral Committee and to the State Tax Inspectorate, which includes both incomes and expenditures. The 2004 law stated a ban on anonymous donation and a limit on foreign donations. Limits on campaign expenditures of political parties are established by the Central Electoral Committee. Indirect forms of State support to political parties are provided through the provision of broadcasting time.

⁵¹ Lietuvos respublikos politinių partijų ir politinių organizacijų finansavimo, 1999, Nr. VIII-1020.

⁵² Politinių partijų ir politinių kampanijų finansavimo bei finansavimo kontrolės, 2004, Nr. IX-2428.

LUXEMBOURG

Constitution

Political parties are mentioned in the Constitution of Luxembourg since 2007. The 2007 constitutional amendment introduced one article referring to political parties: “Political parties contribute to the formation of the popular will and the expression of universal suffrage. They express democratic pluralism” (art. 23.b).

Party Law

Luxembourg has not adopted a specific law on political parties. The definition of political parties is included in both the electoral and the party finance laws (see section below), which define political parties as “an association of physical persons, either with or without juridical personality, that compete, in the respect of the fundamental democratic principles, to the expression of universal suffrage and to the popular will, as established in their statutes or programs”.⁵³

Party Finance Regulation

Luxembourg established a first law regulating party finance in 1999 with the Law on the partial reimbursement of election campaign. This law, whose provisions were later incorporated in the Electoral law of 2003,⁵⁴ established the right for political parties to receive a partial reimbursement of the expenses incurred for the elections to the Chamber of Deputies and to the European Parliament. Reimbursement for election campaigns is provided to those political parties that presented complete list of candidates in all electoral districts and that obtained more than 5 per cent of the valid votes. For parliamentary elections the relative amount is distributed to political parties according to the number of elected deputies.⁵⁵

⁵³ Electoral law of 18th of February 2003 (art. 91) and Law regulating the financing of political parties of 21st of December 2007 (art. 1).

⁵⁴ Electoral law of 18th of February 2003, Title III, Chapter IX – On the financing of electoral campaigns, arts. 91-93.

⁵⁵ Different rules apply for the campaign reimbursement for the European Parliament elections (Electoral Law, art. 93).

A party finance law introducing the public funding of the ordinary activities of political parties was introduced in 2008. Public funding is granted to those political parties presenting a complete list of candidates and obtaining at least 2 per cent of the votes. The allocation procedure entails the distribution of a fix amount to all those political parties fulfilling the above mentioned requirements, and an additional amount for each percentage of votes received at the national or at the European elections. The total amount of public funding of political parties should not exceed 75 per cent of their total income.

The 2008 law also introduces bans on specific sources of donations. Nor anonymous donors nor legal persons are allowed to contribute to the political parties' incomes. Moreover, donations exceeding 250 Euros must be notified to the Chamber of Deputies (Chapter III). Political parties in Luxembourg are required to prepare a yearly statement of account and submit it to the Courts of Auditors. Statements of account should include all incomes and expenditures, as well as a list of donors (Chapter IV). An amendment of the 2008 party finance law is currently (April 2011) under the examination of the government.

MALTA

Constitution

Political parties are mentioned for the first time in the Constitution of Malta of 1964, promulgated following independence from the United Kingdom. The articles referring to political parties in the current Constitution of Malta are four. Arts. 52 and 56 refer to parties in their electoral capacity, art. 90 refers to parties with respect to their parliamentary functions, and art. 119 refers to the political parties' access to the public media, whose impartiality shall be preserved by the Broadcasting Authority of Malta.

Party Law

Malta has not established a specific law on political parties. A definition of political parties is included in the General Elections Act. Under art. 2 of this act, a political party "shall mean any person or group of persons contesting the election as one group bearing the same name".⁵⁶

Party Finance Regulation

Compared to other European countries, party finance in Malta is very scarcely regulated. Political parties in Malta do not receive public funding, neither for their ordinary activities, nor for their election expenses. Political parties do however benefit from indirect public funding in the form of tax exemptions (as regulated by the Income Tax Act and Value Added Tax Act) and of media access to national television (as regulated by the Broadcasting Act).

No restrictions are established on the sources of the political parties' private donations or on the amounts of donations. The prohibition of foreign donations is, according to a recent report on Malta by the Group of States against Corruption of the Council of Europe, the only restriction applying to the political parties' private incomes.⁵⁷ Also

⁵⁶ The General Election Act. Available at <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8824&l=1> (accessed in February 2012).

⁵⁷ See Evaluation Report on Malta on Transparency of Party Funding, Theme II, 2009, p. 7.

not subject to restrictions are party expenditures. According to the General Elections Act however, maximum ceilings are established on the election expenses of individual candidates.

Provisions on the political parties' book keeping, disclosure and transparency are also particularly loose, as no provisions oblige political parties to keep accounts or to report their incomes and expenditures. Only election candidate are required to inform the Electoral Commission of Malta of the income and expenditure incurred during their election campaign (as regulated by the General Elections Act). The Electoral Commission, whose main function is the one of controlling the general administration of election campaigns in Malta, has no further control responsibilities to control over the finances of political parties.

A law proposal regulating the political parties' private sources of income and aiming to promote greater transparency in the parties' financial management was brought into parliament in January 2011.

THE NETHERLANDS

Constitution

In comparative perspective the regulation of political parties in the Netherlands is relatively scarce. The Dutch Constitution does not mention political parties.

Party Law

No law on political parties has been established in the Netherlands. Political parties are mainly regulated under Book 2 of the Dutch Civil Code (on 'legal persons', containing general provisions for associations),⁵⁸ and under the party finance law.

Party Finance Regulation

Until 1999, the Dutch authorities provided only indirect financial facilities to political parties: free broadcasting time on radio (since the 1920s) and on television (1957) for parties running in all electoral districts that obtained at least one seat in the Second Chamber; tax deductions to party donations both for individuals as well as for companies (1954); financial support to parliamentary groups and individual MP's (1966 and 1974); financial support to the parties' scientific institutes and organizations (1971).⁵⁹

Provisions for direct public subsidies to political parties were established in 1999 with the adoption of the Law on the financing of political parties.⁶⁰ In order to benefit from direct public funding, parties must be legal associations, they must be registered at the Electoral Council, they must have a minimum of 1.000 members with deliberative and voting rights, and they must have at least one candidate elected in the Second or in the First Chamber (arts. 1 and 2). Public funding is earmarked to cover the parties' expenses for specific activities, namely for the political formation and education, for the maintenance of contacts with sister organizations, for research activities by the

⁵⁸ Burgerlijk Wetboek Boek 2, art. 26.

⁵⁹ Nehmelman, R. (1999), 'Ondoorzichtige partijfinanciering. De Wet Subsidiëring politieke partijen en de financiële verantwoordingsplicht van politieke partijen', Jaarboek 1999, DNPP Groningen.

⁶⁰ Wet Subsidiëring Politieke Partijen.

parties' scientific institutes and for activities promoting the political participation of youth, for the recruitment, selection and supervision of political office holders, and for activities connected with election campaigns (art. 5). Funds are allocated as follows: each political party receives a lump sum plus a fixed sum for every parliamentary seat, and a fixed amount for each party member, divided by the total number of party members of all parties (art. 6). Parties receive additional subsidies for associated research institutes and affiliated youth organizations. The 1999 Law does not establish limits to the private donations, nor does it forbid anonymous and foreign donations. The only requirement imposed on parties concerning donations is to publish an annual account including the total sum of the donations received and to disclose non-individual donations above a given figure (in the latter case, to be disclosed are the exact figure of the donation, the donor's name and the date in which the donation was received by the party (art. 18). No limitations are set for the party campaign expenditures. Political parties are required to publish an audited financial account, with a description of the incomes and the expenditures of the party.

Although this law in principle applies to all registered political parties its obligations apply only to those parties who receive public funding.⁶¹ A new law on the public financing of political parties is currently (as of February 2012) in the making.

⁶¹ This aspect was underlined by the GRECO Report, Evaluatierapport over Nederland inzake "Transparantie in de financiering van politieke partijen", 2007 (Thema II), [Greco Eval III Rep (2007)].

NORWAY

Constitution

Political parties were first introduced in the Constitution of Norway of 1984, which replaced the Constitution of 1814. The current Constitution, as amended in 1988, mentions political parties in two articles, both with reference to the electoral process (arts. 53 and 63).

Party Law

A specific law on political parties, incorporating parts of the electoral law and of the 1998 law on the disclosure of political parties' income, was established in Norway in the 2005 Political Parties Act.⁶² The 2005 Act contains provisions concerning the founding of political parties and their registration in the Party Register (Chapters 1 and 2), provisions concerning the public and private financing to political parties (Chapters 3 and 4), and finally, it establishes an independent administrative body, the Political Parties Act Committee (Chapter 5). The 2005 Act was complemented in 2006 by the Political Parties Act Regulations,⁶³ which further regulated issues concerning the parties' registration, the reporting of party income, the withholding of party support, and on the functions performed by the Political Parties Act Committee.

Party Finance Regulation

In 1998 Norway adopted a law on the disclosure of political parties' income.⁶⁴ Under this law parties had the duty to report their income, and in particular the income they receive from public sources and from membership fees and donations. Moreover parties were required to disclose the names of the donors above a given threshold and to report on the total amount of anonymous donations they received. The 1998 law was repealed by the 2005 Political Parties Act with significant modifications

⁶² Act on certain aspects relating to the political parties (The Political Parties Act), Act 2005-06-17 No.102.

⁶³ Regulations on certain aspects relating to the political parties (The Political Parties Act Regulations), REG 2006-03-16 no. 321.

⁶⁴ Act on the disclosure of the political parties' incomes, Law 1998-05-22 No. 30.

concerning the regulation of party finance. Firstly, the current law applies to all registered parties, independently from their actual participation in the elections. Secondly, it introduces a ban on anonymous and on foreign donations, and on donations from (semi-) public entities (art. 17).

Public funding of political parties in Norway was introduced in the 1970s.⁶⁵ According to the 2005 Political Parties Act, two types of grants are available for political parties, 'vote support' and 'basic support' grants. Vote support grants are allocated in proportion to the amount of votes received at the last general elections and account for 90 per cent of the total public funding available to political parties. No threshold is established for vote subsidies. Basic support grants are distributed to all political parties that received at least 2.5 per cent of votes at the last national elections or that had at least one candidate elected to the Parliament. Basic support grants account for ten per cent of the total public funding available to political parties (art. 11). Article 17 of the Political Parties Act regulates admissible sources of private funding of political parties. Anonymous donations, donations from foreign private or legal persons, as well as donations from legal entities under the control of the state or other public agency are prohibited. No restrictions are established on the amount of private donations that political parties may receive, nor do restrictions apply to the political parties' expenditures.

The 2005 law states the obligation for political parties to submit an annual report of their income to the central register (Statistics Norway), containing a complete overview of the income received by the party during the year (art. 19). Moreover, when a donation exceeds a given threshold, a separate account must be reported including the identity of the donor and the value of the donation (art. 20). Further regulation details on the reporting requirements of political parties are included in the 2006 Political Parties Act Regulations.

Finally, under the Political Parties Act an independent administrative body was formed, The Political Parties Act Committee, with the tasks of interpreting the relevant regulations, making decisions on withholding grants and deciding on appeals concerning decisions relating to registration or to government grants (art. 24).

⁶⁵ Public funding of political parties at the national level was introduced in 1973; public funding at the regional and county level was introduced in 1975.

POLAND

Constitution

In 1992, Poland adopted an ad interim ‘small Constitution’, thereby amending the previous Constitution of 1952. The ‘small Constitution’ maintained the references to political parties already present in the Constitution of 1952. In 1997 a new Constitution was adopted that amended the existing provisions on political parties. The current Constitution refers to political parties in ten articles. Art. 11 establishes the freedom of formation and functioning of political parties and their democratic purpose. Art. 13 prohibits political parties based upon nazist, fascist and communist totalitarian methods or identity, as well as parties “whose programs or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy”. Articles 178, 195, 205, 209, 214 and 227 establish party membership incompatibility with the functions of judiciary, judges of the Constitutional Tribunal, the President of the Supreme Chamber of Control, the Commissioner for Citizens’ Rights, members of the National Council of Radio Broadcasting and Television and the President of the National Bank of Poland. Art. 100 refers to political parties in the context of electoral procedures, and art. 188 ascribes to the Constitutional Tribunal the authority to oversee the conformity of the political parties’ purposes or activities with the Constitution.

Party Law

Poland adopted its first law on political parties in 1990.⁶⁶ This law provided a definition of political parties and introduced a number of regulations on party finance. A new law including a more detailed regulation of political parties was adopted in 1997. Its latest amendment dates from 2010.⁶⁷ Under art. 1, a political party is defined as “a voluntary organization acting under a specific name with the view to participating in public life by exerting influence, through democratic methods, on the shaping of the state’s policy, or exercising public power”. Chapter 1 contains the general provisions on political parties, such as their duty to enlist in the Party

⁶⁶ Act of 28 July 1990 on Political Parties (54/312 of 1990).

⁶⁷ Act 604 of 27 June 1997 on Political Parties, latest amended by Act 254/1702 of 2010.

Register, the requirements for party membership, the principle of equal treatment of political parties by public authorities, and the prohibition for parties to form organizational units at work places. Chapter 2 regulates the structure and rules of operation of political parties, including their duty to develop structures and rules in accordance to democratic principles and transparency (art. 8), the drafting of party statutes (art. 9), and the right of members to leave the party (art. 10). Chapter 3 contains provisions on party registration. In order to register, political parties must submit an application to the District Court in Warsaw including information on the party name and symbol, its statute, and a list of 1,000 citizens of the Republic of Poland. After entry in the Party Register political parties acquire legal personality (art. 16). Chapter 4 regulates the finances of political parties, including provisions on private contributions, their funding by the state and on the external oversight over their financial activities by the State Electoral Commission (see next section). Chapter 5 defines the proceedings to ascertain the political parties' compliance with the Constitution. Oversight of the parties' programmes and activities is exercised by the Constitutional Tribunal. Chapter 6 defines the rules on the political parties' cease of existence, either by self-dissolution or by authoritative decision of the District Court in Warsaw. In Chapter 6a regulates the system of sanctions in case of violation of the financial rules. Chapters 7 and 8 include changes in regulations in force and the transitional and financial provisions.

Party Finance Regulation

Poland has not established a specific party finance law. The main legal frameworks for the regulation of party finance currently are the Law on Political Parties and the 2001 Parliamentary Election Act.⁶⁸ Political parties in Poland have received public funding since 1993. Parties are entitled to receive subsidies for their operational activities (under the Political Parties Act) and election activities (under the Parliamentary Election Act). Public funding for operational activities is granted to all political parties obtaining at least 3 per cent of the votes in parliamentary elections (art. 28).⁶⁹ The allocation of funds is determined in proportion to the votes obtained,

⁶⁸ The Decree of April 12, 2001 on Elections to the Sejm of the Republic of Poland and to the Senate of the Republic of Poland (Parliamentary Election Act).

⁶⁹ For parties being members of coalitions the threshold is 6 per cent of the votes.

according to a special formula specified in art. 29. Public funding for election activities (named ‘subject subsidies’) is granted to all political parties participating in elections and which have obtained at least one seat.⁷⁰

Political parties in Poland also benefit from indirect forms of public funding, in the form of free media access during election campaigns as well as other operational facilities.

Private contributions to political parties are subject to restrictions. Under art. 25 of the Law on Political Parties, donations from foreign sources and from all legal persons, including companies, foundations, trade unions or associations, are prohibited.⁷¹ Also prohibited are anonymous donations. The same article establishes yearly maximum ceilings for individual donations to political parties, which cannot exceed the equivalent of 15 times the minimum monthly salary. Moreover, when an individual person donates an amount corresponding to more than one monthly salary, payment must be by cheque, bank transfer or debit card. Restrictions also apply for private contributions to the political parties’ election campaigns.

The Law on Political Parties establishes that the political parties’ expenditures are earmarked and may only be used for purposes in line with its constitution or for charitable purposes (art. 24). Moreover, under art. 30, political parties receiving state subsidies must remit between 5 and 15 per cent of the subsidy to an Expert Fund set up by the party in order to finance legal, political and socio-economic expert opinions and to finance publishing and educational activities. The Parliamentary Election Act establishes maximum ceilings for the political parties’ expenditures in election campaigns.

Political parties in Poland must submit a yearly financial statement to the State Electoral Commission including details on the received subsidy and expenses paid out of the subsidy to be filed together with the appended opinion and report of a registered auditor (Law on Political Parties, art. 34). Moreover, under art. 38, political parties must submit an annual report on the sources of their funds and on the expenses incurred by the parties’ Election Fund, according to the details established by the 2003 Ordinance of the Minister of Finance.⁷² Both the parties’ financial statements and reports are published by the State Electoral Commission in the Official Journal of

⁷⁰ State reimbursement of election expenses was first introduced by the Electoral Act of 1993.

⁷¹ Contributions from legal persons are prohibited since the 2001 Parliamentary Election Act.

⁷² Ordinance of the Minister of Finance of 18 February 2003 (33/269 of 2003).

the Republic of Poland. The State Electoral Commission, an independent monitoring body composed of judges, is the main authority overseeing the observance of the political financing regulations in Poland.

PORTUGAL

Constitution

The first time that political parties are mentioned in the Constitution of Portugal is in 1976 after the adoption of the new democratic Constitution. After 1976, the Portuguese constitution was amended several times. It currently contains 21 articles referring to political parties. The functions of political parties in “bringing about the organization and expression of the will of the people”, while respecting the principles of national independence, the unity of the State and political democracy, are laid down in art. 10. Article 51 establishes the freedom to join and form political parties and the prohibition for political parties to use names that contain expressions directly connected with any religion or church or indicating regional connections. According to this same article, political parties must be governed by the principles of transparency, democratic organization and members’ participation. The freedom of association in political parties and the privacy concerning a person's partisan affiliation is established in art. 35. Under art. 269 civil servants have the right to exercise their political rights through political parties, whereas under art. 275 the Armed Forces must be strictly non-partisan. According to art. 55, also the trade unions must be independent from political parties. The political parties’ right of opposition is established in art. 288, and art. 40 provides the right of political parties to broadcasting time. Several articles include provisions on the activity of political parties in parliament, such as their participation in the Assembly of the Republic, the formation of parliamentary groups, and their procedural responsibilities.⁷³ Articles 239 and 151 refer to political parties in their electoral domain. Finally, art. 164 attributes the Assembly of the Republic the exclusive legislative power with respect to political parties, and art. 223 assigns to the Constitutional Court the task to verify the legality of political parties and to direct their dissolution.

⁷³ Articles 114, 133, 160, 176, 178, 179, 180, 187, 234.

Party Law

The first Act regulating political parties in Portugal was established in 1974.⁷⁴ Currently, political parties in Portugal are regulated by the Law governing Political Parties established in 2003 and last amended in 2008.⁷⁵ The law is divided in six main chapters. Chapter I contains provisions on the fundamental principles concerning political parties, including their constitutional functions, their purpose, their legal status, their rights and freedoms, and their duty to publicize their acts according to the principle of transparency. Under this chapter the Law prohibits the formation of political parties that are racist or display a fascist ideology (art. 8) as well as those parties possessing a regional nature or scope (art. 9). Chapter II regulates the procedures for the formation and the termination of political parties. According to art. 14, the recognition of a political party is dependent on their entry in the Party Register, which is kept at the Constitutional Court. Applications to register a political party must be made by at least 7,500 registered electors (art. 15).

Termination of political parties may take place by self-dissolution or by judicial abolition. The latter is ordered by the Constitutional Court (art. 18). Chapter III of the Party Law focuses on party membership. The freedom of becoming a member of a political party is established in art. 20, while art. 21 prohibits party membership and/or participation partisan activities to military personnel, agents of the security forces, judges and public prosecutors and diplomats. Chapter IV regulates the internal organization of political parties. The law prescribes the internal bodies that political parties are required to maintain, as well as their composition and the way in which they are elected (arts. 24-27 and arts. 33-34). Moreover, it requires political parties to ensure gender parity in their statutes (art. 28), and grants the right of impugnation to party members on decisions taken by any party body (art. 30). Chapter V regulates the external organizational activities of political parties, such as the right of political parties to cooperate with public and private bodies or to associate with foreign political parties (arts. 35 and 36). Chapter VI contains the final provisions of the Law.

⁷⁴ Decree – Law No. 595/74 (on Political parties) of November 7th.

⁷⁵ Law governing Political Parties, Organizational Law no. 2/2003 of 22nd of August 2003, amended by Organic Law n° 2/2008 of May 14th.

Party Finance Regulation

The first party finance law in Portugal was enacted in 1993.⁷⁶ The current regulation of party finance in Portugal is based on a new party finance law established in 2003, whose last amendment dates from 2010.⁷⁷ The legal basis for the provision of public funding to political parties in Portugal was first established in 1977.

According to the current Law on the Financing of Political Parties and Election Campaigns, they receive funding for both operational activities as well for election campaigns. Public funding of operational activities is granted annually to the parliamentary political parties as well as to those parties obtaining more than 50.000 votes (art. 5). Allocation of public funding for operational activities is distributed in proportion to the number of votes obtained, and the amount of the state contribution (per vote) corresponds to the equivalent of 1/135 of the national monthly minimum salary (art. 5).⁷⁸ Public funding for election campaigns is granted to all those political parties that run for the European Parliament, for at least 51 per cent of the seats of the National Assembly, or that gain representation in the regional assemblies (art. 17). The allocation of public funding for election campaign expenses is distributed as follows: 20 per cent is distributed equally between the parties who are granted election campaign funding, whereas the remaining 80 per cent is distributed in proportion to the electoral results obtained (art. 18). The total amount of state contribution for electoral campaigns, in the case of parliamentary elections, corresponds to the equivalent of 20.000 national minimum salaries.⁷⁹ Political parties in Portugal also receive indirect forms of public funding. According to art. 10, political parties are not subject to Corporate Income Tax, and benefit from a number of other tax exemptions. Political parties also benefit from free broadcasting time.

Restrictions are established on the political parties' private funding. Under art. 8, political parties are prohibited from receiving anonymous donations, as well as contributions from legal persons. Moreover, donations by natural persons are subject to an annual limit of 25 times the national monthly minimum salary per donor and

⁷⁶ Financing of Political Parties and Electoral Campaigns, Law no. 72/93 of 30 November.

⁷⁷ Financing of Political Parties and Election Campaigns, Law no. 19/2003 of 20 June, latest amended by Law no. 55/2010 of 24 December.

⁷⁸ The amounts distributed differ for the public funding to electoral coalitions (art. 5).

⁷⁹ Different amounts are established for presidential elections, elections to the European Parliament, and to regional and municipal elections (see art. 17).

must be made by cheque or bank transfer (art. 7). The maximum ceiling of individual donations in support of election campaigns instead is fixed at 60 times the national monthly minimum salary per donor. Also for the case of the latter, donations must be made by check or bank transfers in order to allow the identification of the amount and its source (art. 16).

No restrictions apply for the political parties' ordinary expenditures, while restrictions are established on the parties' election campaign expenses. For national parliamentary elections, the maximum of allowable expenses is fixed at 60 national monthly minimum salaries for each candidate presented to the National Assembly (art. 20).

Political parties are required to keep financial accounts and to submit their accounts annually to the Constitutional Court. Financial accounts must include income, expenditure, capital operations as well as an inventory of the immovable assets of the party (art. 12). Political parties are also required to submit to the Constitutional Court, within 90 days of the proclamation of election results, accounts on election campaigns (art. 26).

The Constitutional Court is the authority responsible for the oversight of public grants received and of the regularity and the legality of the accounts of political parties (art. 23). In performing this activity, the Court is assisted by the Supervising Body of Political Party Accounting and Funding, an independent body established in 2005,⁸⁰ providing technical assistance in the examination and auditing of the accounts of political parties and election campaigns (art. 24). The Constitutional Court publishes all political financing accounts on its web site (art. 23).

⁸⁰ Law on the Organization and Functioning of the Entity for Accounts and Political Financing (no. 2/2005).

ROMANIA

Constitution

The first mention of political parties occurs in the Romanian Constitution adopted in 1991 after the collapse of communism. The constitution was amended in 2003. There are seven articles referring to political parties. According to art. 8, political parties “contribute to the definition and expression of the citizens' political will, respecting national sovereignty, territorial integrity, the rule of law, and the principles of democracy”. The freedom to associate in political parties is established by arts. 37 and 40. The latter article also prohibits the formation of political parties whose programme or activities endanger political pluralism, the principles of the rule of law and the sovereignty, integrity or independence of Romania, and establishes the incompatibility of party membership with the functions of judges of the Constitutional Court, magistrates, members of the Armed Forces, of the police and civil servants. Under art. 84, also the President of Romania may not be a member of any political party. Art. 146 provides the Constitutional Court with the power to decide on disputes regarding the constitutionality of political parties. Art. 103 mentions political parties in their parliamentary capacity and art. 73 refers to the need for secondary legislation on the regulation of the organization, functioning, and financing of political parties to be established.

Party Law

The first law on political parties in Romania dates from 1996.⁸¹ Prior to that, a short Decree-Law had been adopted in 1989 on the registration and functioning of political parties and on public organizations in Romania.⁸² A new law on political parties, which repealed the 1996 one, was established in 2003.⁸³

The 2003 Romanian party law is divided into 9 chapters. Chapter I contains the general provisions on political parties. Their definition is included in art. 1: “Political

⁸¹ Law on Political Parties (Nr. 27/1996, of March 26th 1996).

⁸² Decree-Law Nr. 8/1989.

⁸³ Law on Political Parties (Nr. 14/2003).

parties are political associations of Romanian citizens with voting rights, participating freely in the formation and exercise of their political will and fulfilling a public mission guaranteed under the Constitution. They are public legal entities.” Article 2 defines their functions, namely to promote national values and interests and political pluralism, to contribute to the formation of public opinion, and to participate with candidates in elections. Political parties breaching the Constitution, or militating against national sovereignty, state independence, territorial integrity, the legal order and the principles of constitutional democracy, are prohibited. Prohibited is also the organization of military or paramilitary activities and the formation of party structures within the work place or in public institutions (art. 3-4). Chapter II contains regulations concerning party membership. The law established the freedom of citizens to become members of political parties, while also establishing the incompatibility of membership with another political party, and party membership rights (arts. 6-8). Chapter III establishes rules on the organization of political parties. According to arts. 9 and 10 political parties must have a programme and a statute. The latter must include information concerning the internal organizational functioning of political parties, the rights of party members, the procedures for electing the executive bodies as well as their internal competences. The law also establishes rules concerning the internal organizational activity of political parties, such as the frequency of the meetings of their governing bodies and the procedures by which they are elected (arts. 13-14). Political parties must furthermore appoint an internal arbitration board in order to solve internal party disputes (art. 15). Chapter IV regulates the registration of political parties. In order to be registered, political parties in Romania must submit to the Bucharest Tribunal an application including their name, symbol, programme and statute, as well as a list of at least 25,000 supporting signatures distributed across the Romanian counties (arts. 18 and 19). Chapter V regulates party alliances and their registration requirements. Chapter VI regulates mergers and split-offs of political parties, while Chapter VII regulates the parties’ cease of existence. Political parties may cease their activity either by self-dissolution, merger or reorganization, or by a resolution delivered by the Constitutional Court. The latter takes place in case of political parties breaching the principles of the rule of law, or the sovereignty, integrity or independence of Romania as established in the Constitution. Political parties may also be dissolved as a result of inactivity. According to arts. 47 and 48, the Bucharest Tribunal ascertains the inactivity of a political party when a general

meeting has not been held for 5 years, when a party has not presented candidates in two consecutive parliamentary election campaigns in a certain number of electoral districts, and when it fails to obtain a minimum of 50,000 votes at the national level in two consecutive general elections. Chapter VIII defines the Register of Political Parties as the legal instrument for keeping records of Romanian political parties, under the supervision of the Bucharest Tribunal. The records in the Register of political parties are publicly available. Chapter IX contains the final and transitory provisions.

Party Finance Regulation

The first party finance law in Romania was established in 2003.⁸⁴ In 2006, this law was repealed and substituted by Law on the Financing of Political Parties and Election Campaigns,⁸⁵ which currently provides the main regulatory framework on party financing. Romanian political parties have received public funding since 1990.⁸⁶ Under the party finance law of 2006, both parliamentary and non-parliamentary parties receive subsidies from the state. State support is provided to political parties obtaining at least 4 per cent of the vote. The total amount allotted to political parties on a yearly basis can not exceed 0.04 per cent of the annual state budget. 75 per cent of the total of state subsidies is distributed in proportion to the votes obtained at the most recent parliamentary elections, while the remaining 25 per cent is distributed proportionally to the votes obtained at the most recent local elections (arts. 15 and 16). Under art. 14, for political parties that promote women on their electoral lists on eligible positions, the amount allotted from the state budget is increased in proportion with the number of the mandates obtained by female candidates. Art. 20 earmarks state funding to certain types of spending only. Political parties in Romania also receive indirect forms of public funding, such as premises for the head and local offices of the political parties (art. 20) and free broadcasting time in public media (art. 21).

⁸⁴ Financing of Electoral Campaigns and Political Party Activity (Law Nr. 43/2003).

⁸⁵ Law on the Financing of Political Parties and Election Campaigns (Law Nr. 334/2006 of 17 July 2006).

⁸⁶ Decree for the election of the Romanian Parliament and President (Law-Decree Nr. 92, of 14 March 1990).

The private funding of political parties is regulated in Chapter II of the law. Restrictions are established both on the sources of the private contributions as well as on the amounts of the contributions themselves. Under arts. 10 and 11, donations from public institutions, national companies or companies whose majority capital is owned by the state are prohibited, as well as donations from trade unions, religious organizations, and from foreign natural or legal persons. The total amount of donations that political parties may receive cannot exceed 0.025 per cent of the yearly income stipulated in the state budget (increased to 0.050 per cent in election years). Maximum annual ceilings are also established for donations received from natural and legal persons (art. 5). Ceilings also apply to campaigns expenditures (arts. 30-33). Political parties are obliged to publish annually the total amount of the income from membership fees (including a list of the party members who have contributed within one year time fees exceeding a specified threshold), an overview of the donations they have received (including information on the donors' identity for donations exceeding a specified ceiling), and an overview of their income from other sources.

The public authority authorized to oversee the political parties' finances and their compliance with the requirements established by law is the Permanent Electoral Authority (PEA). The Court of Audit monitors the subsidies from the state budget. In order to support the Permanent Electoral Authority, the Control Department for the Financing of Political Parties and Electoral Campaigns was established in 2007.

SERBIA

Constitution

Political parties are mentioned for the first time in the Constitution of Serbia adopted in 1990 (Preface and arts. 42 and 125). Those articles were repealed in the new Serbian Constitution of 2006, which refers to political parties in five articles. Article 5 attributes to political parties the role of democratically shaping the political will of the citizens, as well as their free establishment. It also prohibits the political parties' activities aimed "at forced overthrow of constitutional system, violation of guaranteed human or minority rights, inciting racial, national or religious hatred." Art. 55 establishes the incompatibility of party membership with the function of judges, public prosecutors, members of police force and military persons. Article 102 refers to political parties in their parliamentary and electoral capacity, while art. 167 defines the role of the Constitutional Court of Serbia in observing the political parties' compliance with the rule of law and in making decisions about the banning of political parties. Article 195 establishes the duty of all by-laws, including those of political parties, to comply with the Constitution.

Party Law

Serbia adopted a Law on Political Parties in 2009.⁸⁷ In 1990, it established an Act on Political Organizations, which also applied to political parties as well as other organizations, such as trade unions and social movements.⁸⁸ The 2009 Law on Political Parties is divided into eight main chapters. The subject of the law is described in article 1: to govern "the establishment and the legal position of political parties, their entry and deletion from the Registry, the cease of existence of political parties and other issues of importance for the activities of political parties". Chapter I defines the general provisions on political parties, including their definition, their

⁸⁷ Law on Political Parties, "Official Gazette" No. 36/2009.

⁸⁸ Law on Political Organizations, "Official Gazette", No. 37/1990. According to Goati, the reference to political organizations rather than to political parties in the title of this law was an indication of Serbia's reluctance to accept the multi-party system (V. Goati, 2007. 'Party Finance in Serbia', in D. Smilov and J. Toplak (eds.), *Political Finance and Corruption in Eastern Europe*. Aldershot: Ashgate Publishing Limited, pp. 159-169.

legal status and the duty for political parties to be registered in the Party Register, as well as their duty to perform their activities in accordance with the rule of law of the Republic of Serbia (arts. 2-7). Chapter II regulates the procedures for the establishment of political parties. Article 8 defines the minimum number of citizens necessary in order to found a political party.⁸⁹ Arts. 10-17 establish the rules on the drafting of the parties' program and Statute and on their internal organization, and arts. 17-20 regulate the political parties' names and symbols. Article 21 includes provisions on party membership, establishes membership incompatibility rules and the political parties' duty to keep membership records. Chapter III includes provisions concerning the Party Register and on the documentation to be presented in order to apply for registration. Under art. 32, the data entered in the Registry is publicly accessible. Chapters IV and V establish the rules on party coalitions and mergers, and on their cease of existence and deletion from the Party Register. Political parties are deleted from the Register in case of self-dissolution, merger, or prohibition of their activity by the Constitutional Court of Serbia (art. 25). Chapter VI establishes the authorities competent supervise the application of the law, while Chapter VII defines the sanctions that are applied in case of violations of the law.

Party Finance Regulation

The first party finance law in Serbia was adopted in 1991.⁹⁰ A new law that more systematically regulated party financing was approved in 1992 (Law on the Financing of Political Organizations), and later amended in 1993, 1994 and 1997. The party finance law currently in force in Serbia, the Law on the Financing of Political Parties, was adopted in 2003, and was most recently amended in 2008.⁹¹

Political parties in Serbia receive funding for both regular activities as well as for election campaigns (art. 2). For regular activities, state funding is provided to those political parties whose candidates have been elected deputies and/or councilors. 30 per cent of these funds are allocated to political parties in equal amounts, whilst the

⁸⁹ "10,000 citizens of age and citizens having capacities for work of the Republic of Serbia" (art. 8). According to art. 9, however, only 1,000 citizens instead are required to form a political party of a national minority.

⁹⁰ Law on the Participation of the Republic in the Financing of Political Organizations.

⁹¹ Law on the Financing of Political Parties, "Official Gazette" n° 72/2003, 75/2003 and 97/2008.

remaining 70 per cent of the funds are allocated in proportion to the number of deputies and/or councilors represented. The total amount of funds for the financing of the political parties' regular activities is set at the level of 0.15 per cent of the Republic of Serbia budget (art. 4). For election campaign activities, state funding is provided to those political parties presenting candidates within ten days of election list registration (20 per cent), and to those political parties that have won seats (80 per cent) within ten days of proclaiming the election results, in proportion to number of seats won. The total amount of funds for the financing of the political parties' election campaign activities is set at 0.1 per cent of the Republic of Serbia budget (art. 9). According to the Broadcasting Act, political parties in Serbia do also receive indirect public funding, in the forms of free broadcasting time on the public media during election campaigns.⁹²

A number of restrictions apply on private funding of political parties in Serbia. According to art. 6 of the party finance law, political parties are not allowed to receive financial assistance from foreign sources, anonymous donors, public and semi-public institutions and companies, trade unions, humanitarian organizations, religious communities, and gambling organizers. Moreover, maximum ceilings are established on the total annual contributions to political parties by natural and legal persons,⁹³ and on the total amount of funds from private sources. The latter may not exceed 100 per cent of the funds received by a political party from the Republic of Serbia Budget (art. 5).

According to art. 16, political parties are required to submit an annual statement of incomes and expenditures to the Anti-Corruption Agency, as well as a certificate of a certified auditor, a report of all contributions exceeding a specified threshold, and a report on the parties' property. Election campaign records, to be submitted to the same authority, must be reported separately.⁹⁴ The financial records of political parties are publicly accessible (art. 17). The Anti-Corruption Agency, an independent authority

⁹² Broadcasting Act (2002), arts. 78.6 and 106. Document available in English at: http://www.mc.rs/upload/pravo_doc/BRA%20ENG.pdf (accesses in January 2012).

⁹³ The total amount of yearly contributions by a natural person may not exceed 10 average monthly salaries in the Republic of Serbia. In case of contributions by a legal person, the ceiling is set at 100 average monthly salaries (art. 5).

⁹⁴ Detailed regulation on accounting reports of political parties is included in the 'Rulebook on the Contents of Records and Compilation of Reports on Contributions to Political Parties and their Property', issued by the Ministry of Finance in 2006 (see Greco Evaluation Report on the Republic of Serbia, Transparency of Party Finding, 2010).

established in 2008 and operative since 2010, performs the operation of controlling over the political parties' financial activities.⁹⁵

⁹⁵ Anti-Corruption Agency Act (2008). Document available in English at: <http://www.mpravde.gov.rs/images/Anti%20Corruption%20Agency%20Law.pdf> (accessed in January 2012).

SLOVAKIA

Constitution

References to political parties are included in the Constitution of Slovakia adopted in September 1992 after the dissolution of Czechoslovakia. Since the 2001 Constitutional amendment, a total of five articles refer to political parties. Art. 29 recognizes the right of citizens to establish and to associate in political parties, and requires the separation of political parties from the state. Under this same article, political parties may be restricted “if it is necessary in a democratic society for reasons of state security, to protect public order, to prevent criminal acts, or to protect the rights and freedoms of others” (art. 29.3). Articles 145a, 137 and 151a refer to party membership incompatibilities with the function of judges, judges of the Constitutional Court, and Public Defender of Rights. Art. 129 gives the Constitutional Court the right to decide on party bans or suspensions.

Party Law

The Slovak Republic adopted its first party law in 1993 by amending the Act on Associating in Political Parties and Political Movements adopted by Czechoslovakia in 1991.⁹⁶ A new party law, the Act on Political Parties and Political Movements, was adopted in 2005.⁹⁷ The law is divided into five main parts. Part I sets the general provisions concerning political parties, such as the respect by political parties for the Constitution and the rule of law, and the right of citizens to participate in parties’ activities. Part II sets the rules for the establishment of political parties and their registration requirements. In order to found a political party and register in the Party Register, a preparatory committee composed of at least three members must submit to the Ministry of Interior of the Slovak Republic an application including information on the party’s name and address and on the name and residence of the founders of the party, the party’s statute and program, and a list signed by at least 10,000 citizens who

⁹⁶ Act No. 47 of the National Council of the Slovak Republic of January 21, 1993, amending and supplementing Act No. 424/1991 Coll. on Associating in Political Parties and Political Movements in the wording of Act No. 468/1991 (Law 47/1993).

⁹⁷ Act No. 85 as of February 4, 2005 on Political Parties and Political Movements.

agree with the creation of the party. The party's statute must include details on the rights and obligations of party members, on the internal bodies of the party, the way of their election and the definition of their competences, on the principles of economic management of the party, as well as provisions related to the party's organizational units (arts. 5 and 6). Part III regulates the dissolution of political parties and their removal from the Party Register. Political parties may cease to exist either by self-dissolution or by dissolution by the Supreme Court, when a political party violates through its program or activity the Constitution of the Slovak Republic, its constitutional laws, acts or international treaties. Part IV regulates the political parties' economic management and financing (see next section), while Part V contains the transitional and final provisions of the law.

Party Finance Regulation

Slovakia adopted its first party finance law in 1992.⁹⁸ The 1992 Act and its subsequent amendments were abrogated with the establishment of the Act on Political Parties and Political Movements of 2005, which currently constitutes the main legal basis for the regulation of party finance in the Slovak Republic, together with the Electoral Act of 2004.⁹⁹

Under art. 25 of the Political Parties Act, political parties receive three types of contribution from the state: a contribution for votes, a contribution for their activity and a contribution for seats. The contribution for votes is regulated in the Electoral Act. Under Section 52 of this Act, a political party obtaining more than 3 per cent of the total number of valid votes cast in the most recent parliamentary elections is entitled to receive support from the state budget. The same threshold applies for state contribution for the parties' activity (art. 27, Act on Political Parties and Political Movements 2005). The contribution for seats instead is only granted to those political parties represented in the Slovak National Council. Parties holding up to twenty parliamentary seats are entitled to an amount corresponding to 30 times the average monthly wage per seat; those holding twenty parliamentary seats or more are entitled

⁹⁸ Law of the National Council of the Slovak Federal Republic on public financing of political parties from a budget of the Slovak Federal Republic (Law 190/1992).

⁹⁹ Act No. 333 in the Collection of Laws Of 13 May 2004 On Elections to the National Council of the Slovak Republic (Law 333/2004).

to an amount corresponding to 20 times the average monthly wage per seat (art. 28, Act on Political Parties and Political Movements 2005). Political parties in Slovakia also benefit from indirect forms of public funding. Under the Electoral Act, parties are entitled to free and equal broadcasting time for television and radio during the election campaigns.

The private funding of political parties is subject to restrictions. Under Section 24 of the Act on Political Parties, political parties may not accept donations from public or semi-public institutions and legal entities, from non-governmental associations or foundations, and from foreign and anonymous donors. Donations exceeding a specified threshold may only be accepted by means of a written agreement ('donation agreement'), including the donor's and the recipient's details, the value of the contribution and the certified signatures of the donor and the party's statutory body (art. 23, Act on Political Parties and Political Movements 2005).

No restrictions are established on party expenditure. Under art. 29 of the Act on Political Parties, however, qualitative restrictions apply for the use of the contributions from the state budget. A party may not use state money to provide loans or credits to natural and legal persons, for silent partnership agreements, for activities of a company of which the party is the founder or sole partner, for donations, or for the payment of financial sanctions.

Political parties are required to submit an annual audited financial report of their income to the National Council. The annual report must include separate records of income from loans and credit, gifts and contributions, and collected membership fees. For contributions and membership fees exceeding a specified threshold, records must also include information on the date of acceptance of the contribution, on the donor and on the amount received. Annual reports should also include a specification on the number of party members of the calendar year covered by the report (art. 30, Act on Political Parties). Political parties must also submit a separate report on election campaign expenditures to the Ministry of Finance (art 21, Act on Political Parties).

The National Council of the Slovak Republic is the authority supervising the political parties' annual financial reporting. The Ministry of Finance is responsible for controlling the conditions for state support to political parties and well as the political parties' election campaign reports. The parties' annual reports and the election campaign reports are published by the Office of the National Council of the Slovak Republic and by the Ministry of Finance, on their respective websites.

SLOVENIA

Constitution

The 1991 Slovenian Constitution mentions political parties in five articles. Four of them define the incompatibility of party membership with a number of offices. It is not allowed being party members for police and defense forces officers (art. 42), for judicial officers (art. 133), for State Prosecutors (art. 136), for judges of the Constitutional Court (art. 166). Article 160 defines the Constitutional Court as the organ responsible for the judicial oversight over the political parties' acts and activities.

Party Law

The first law regulating political parties in Slovenia, the Political Parties Act (ZPolS) was adopted in 1994. Following a number of amendments, a consolidated text of the Political Parties Act was promulgated in 2005, which was ultimately amended in 2007. Despite the numerous amendments, the current structure of the law remains the same as in 1994, with a division into seven main chapters. The first Chapter contains general provisions on political parties, including their formal definition, the legal requirement of their public activities and the limits for funding or incorporating political parties for military and/or national companies or institutions (arts. 1-3). The second Chapter regulates the party registration requirements, regulating therefore the criteria and the documents to be provided for funding a political party, the admission criteria for party membership, details concerning the parties' name, the documents to be submitted in the Party Register, and regulates the conditions of party merger, secession and cease of activity (arts. 4-18). The third Chapter regulates the political parties' internal structure, listing the details that political parties need to enter in their Statutes and their basic internal composition (arts. 19 and 20). The fourth Chapter contains provisions on party financing (arts. 21-26, see paragraph hereafter). The fifth Chapter contains one article only, defining the two organs responsible for the external oversight over the correct implementation and/or violation of the Political Parties Act, and namely the Internal Affairs Inspectorate of the Republic of Slovenia and the Ministry of Finance (art. 27). Chapter six establishes the penalty provisions in case of

infringement of any of the provisions indicated by the current law. Finally, Chapter seven contains the transitory and final provisions.

Party Finance Regulation

Slovenia has not adopted a specific party finance law. Party finance is regulated in Chapter four of the Political Parties Act (ZPolS), in the Elections and Referenda Campaigns Act (ZVRK) and in the Ministerial Regulation of 2001.¹⁰⁰

With the introduction of the latest amendment to the Political Parties Act in 2007, greater limitations have been established to the admissible sources and amounts of party income. Under articles 21 and 25 of this Act, donations from foreign citizens or companies are banned as well as income deriving from State authorities, public and semi-public companies and religious communities. Moreover, donations to political parties are allowed up to a fixed ceiling (established as ten average monthly salaries per worker in the Republic of Slovenia) and the annual total income of the political party deriving from property and company profits must not exceed 20 per cent from the total annual incomings of the party. Finally, private donations exceeding a given ceiling need to be disclosed. Public funding is granted to all political parties that obtained at least one percent of the votes at the last parliamentary elections: 10 percent of the total subsidies is distributed equally among the political parties; the remaining 90 per cent is distributed according to the percentage of votes obtained (art 23). Under art. 24 political parties have to present an annual report including their incomes and expenditures to the National Assembly after revision and evaluation of the party records by the Court of Audit of the Republic of Slovenia.

Rules concerning the funding of the political parties' election campaigns are included in the 'Elections and Referenda Campaigns Act' (ZVRK). Under this Act, those organizing an election campaign (whether a political party or a candidate) are entitled to a reimbursement of their electoral expenses. Organizers of referenda campaigns, instead, are not entitled to reimbursement of their campaign expenditures.¹⁰¹ Political

¹⁰⁰ Regulation on the contents and form of the annual reports and the abbreviated annual reports of political parties (Ministry of Finance Regulation No. 2/01).

¹⁰¹ GRECO, Third Evaluation Round. Evaluation Report on Slovenia on Transparency of Party Funding, Strasbourg, 7 December 2007.

parties are obliged to present a financial report, whose supervision is responsibility of the Inspectorate for Internal Affairs of the Ministry of the Interior.

Indirect public funding to political parties is provided through free broadcasting time on public television channels during election campaigns.

SPAIN

Constitution

The 1978 Spanish Constitution mentions political parties in three articles. Political parties are defined as “expression of political pluralism” and as “essential instrument for political participation”. In the same article, the Spanish Constitution states that “their internal structure and their functioning must be democratic” (art. 6). Arts. 127 and 159 establish the incompatibility of party membership with the functions of judges, magistrates, public prosecutors, and with members of the Constitutional Court, respectively.

Party Law

Spain established the first Law on Political Parties in 1978.¹⁰² The latest amendment to this law was enacted in 2002,¹⁰³ with the stated purpose of “the strengthening and improvement of the legal status of political parties, with a more defined, guarantee-based and complete system” (Statement of motives, I). Most importantly, the law was adopted in order to combat political parties with links to terrorist organizations. The 2002 Law includes thirteen articles grouped in four chapters, and it is rounded off with three additional provisions. Chapter I states the freedom to form and to join a political party, describes who is entitled to form and join a political party (not entitled, for instance, are persons who have criminally been condemned for illegal association), and establishes provisions concerning the name of political parties and their registration procedures in the Register of Political Parties. Provisions under Chapter II regulate the internal organisation, the operation and the activities of political parties. Political parties must reflect the democratic principles in their specific activity, and are not allowed to violate fundamental rights and freedoms, to persecute individuals for their ideology, religion, beliefs, nationality, race, sex or sexual orientation, to supplement or politically support the action of terrorist organisations, or to back violent political action (art. 9). This Chapter also contains provisions regulating the rights and the duties of party members. Chapter III regulates the judicial dissolution or

¹⁰² Ley 54/1978, de 4 de diciembre, de Partidos Políticos.

¹⁰³ Ley 6/2002, de 27 de junio, de Partidos Políticos.

suspension of political parties, and defines the establishment of judicial authority competent for the control over the legality of political parties (the ‘Special Chamber of the Supreme Court’). Chapter IV deals with the funding of political parties, referring to the specific party finance legislation enacted (the Law on the Financing of Political Parties), and authorizes the ‘Special Chamber of the Supreme Court’ the right to hear and resolve cases of fraud.

Party Finance Regulation

The rules governing political parties’ finance are contained in two main Acts, the Electoral Law and the Law on Finance of Political Parties. The Electoral Law, introduced in 1985, regulates subsidies to political parties related to their election campaigns.¹⁰⁴ Under this Law, subsidies are provided on the basis of the number of seats and votes obtained in the last political elections. Political parties’ campaign spending is subject to both qualitative and quantitative limits: campaign expenditures must be finalized to specific campaign-related activities and campaign spending is subject to a maximum ceiling. This Law also requires political parties to draft a separate detailed accounting of revenue and expenditure of their election campaigns. The first Law on the Financing of Political Parties regulating the overall economic activity of political parties in Spain was introduced in 1987,¹⁰⁵ and was established to address transparency and public control on their financial management. The 1987 Law was amended in 2007.¹⁰⁶ This Law contains provisions on both the public and the private sources of funding of political parties, on the parties’ accounting obligations and on the internal and external control over their financial management. The first part of the Law (Título I) contains the norms of application of the Law and the resources for the funding of political parties. The second part of the Law (Título II) regulates in greater detail the public and the private sources of funding of political parties. Public funding is granted for election expenses, for operational activities and for security expenses. The amounts of subsidies are not stipulated by law but to be established by the Government in the annual budget. They are allocated in accordance

¹⁰⁴ Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General.

¹⁰⁵ Ley Orgánica 3/1987, de 2 de Julio, sobre financiación de los partidos políticos.

¹⁰⁶ Ley Orgánica 8/2007, de 4 de julio, sobre financiación de los partidos políticos.

to the number of seats (one third of the total budget) and votes (the remaining two thirds) obtained in the latest parliamentary elections (art. 3).

Political parties in Spain also benefit from indirect public funding through free airtime in public broadcasting during election campaigns, though discount postage rates and through the use of public meeting rooms during election campaigns.

Provisions on private funding (arts. 4-8) include a number of restrictions concerning the sources of donations: donations to political parties from public or semi-public entities, from foreign governments or companies are banned, as well as anonymous donations and donations above a specified threshold. Titulo III regulates the taxation regime of political parties, granting various tax exemptions to political parties, amongst others on the donations they receive. Titulo IV regulates the accounting obligations of political parties. Parties are obliged to keep records of their income and expenditures and to submit accounting sheets to the Court of Audit (art. 14). The two final parts of the Law on the Financing of Political Parties deal with the control over their financial activities and the establishment of sanctions by the Court of Audit.

SWEDEN

Constitution

Political parties are mentioned for the first time in 1974 in one of the four fundamental laws composing the Swedish Constitution ('Instrument of Government'). Five Constitutional articles currently refer to political parties. Articles 1, 7, 8 and 9 mention political parties with respect to electoral rules, while art. 2 (Chapter 6) mentions to political parties in their parliamentary capacity.

Party Law

Sweden has not adopted a specific law on political parties. The political parties' registration procedures and regulation of their names and symbols are contained in Chapter II of the Elections Act. In order to register, political parties must present a written notice to the Central Election Authority including documentation on the party's name and proof of the support of 1,500 Swedish voters.¹⁰⁷

Party Finance Regulation

Sweden adopted its first party finance law, the Act on State Financial Support to Political Parties in 1972. This law was last amended in 2008.¹⁰⁸

State financial support is paid both to parties with and parties without parliamentary representation, provided that they have taken part in elections to the Riksdag and that they have obtained at least 2.5 per cent of the total votes in one of the two most recent parliamentary elections (Section 3). The total amount of public funding to which political parties are entitled is determined annually. The party finance law envisages two main forms of financial support to political parties: 'party support' and 'secretariat support'. For parties with parliamentary representation, party support subsidies are paid per seat; those without representation in parliament receive state

¹⁰⁷ Elections Act, 2005:837. Document available in English at: <http://www.sweden.gov.se/content/1/c6/06/44/45/722c9ee2.pdf> (accessed in January 2012).

¹⁰⁸ Act on State financial support to political parties, Law 1972:625.

support in relation to the amount of votes, provided that they have received more than 2.5 per cent of the votes (Sections 2 and 3). Secretariat support subsidies are paid only to parties represented in the Riksdag. Under the Election Act, political parties in Sweden also receive indirect public funding, in the form of free premises and special access to buildings, provided that they received more than 1 per cent of the votes.

No restrictions are established concerning the private funding of political parties, neither with respect to the sources of funding nor with respect to the amounts donated. No restrictions apply for the political parties' expenditure either.

In order to receive state subsidies, political parties in Sweden are required to fill in an application requesting financial support and to draft an annual financial report. The annual financial report must be approved by a public accountant (Section 14).

Documentation must be submitted to the Commission on Financial Support to the Political Parties, an independent three-headed Commission composed of judges, with the task of examining the parties' applications and reports.

SWITZERLAND

Constitution

Political parties are mentioned for the first time in the Swiss Constitution promulgated in 1999, which replaced the old Constitution of 1874. The 1999 Constitution refers to political parties in two articles. Under article 137, political parties “contribute to the forming of the opinion and the will of the people”. Article 147 refers to political parties in their parliamentary capacity, and in particular in the preparation of legislation.

Party Law

No law on political parties has been adopted in Switzerland. Political parties are considered as private voluntary associations, whose rules and legal status are established by the Swiss Civil Code. Under the Federal Act on Political Rights, political parties forming an association under the terms of the Swiss Civil Code and having at least one member represented in the National Council, or three members represented in three cantonal parliaments, can be registered in the Federal Register of Political Parties (art. 76A). In order to apply for registration, political parties must compile a form indicating the name of the party, the address or electronic link where to access the parties’ statutes, and the date of the statutes’ approval.

Party Finance Regulation

Switzerland is among the few European democracies where political parties do not receive public subsidies at the federal level, where there is no specific regulation on media coverage during election campaigns, and where no regulation has been established in relation to the parties’ financial management. Political parties in Switzerland, therefore, are not subject to any restrictions with regard to the sources and the amounts of admissible donations or to their expenditures, nor are they subject to accounting and disclosure requirements.

While regulation at the federal level is absent, a small number of cantons have introduced legislation on the reimbursement of campaign expenses (Geneva and

Fribourg) and on the disclosure of political donations (Geneva and Ticino). The canton of Ticino requires political parties to disclose donations exceeding a specified threshold to the cantonal chancellery, specifying the donor's personal details and the amount of the donation.¹⁰⁹ The canton of Geneva requires political parties to submit annual financial accounts, specifying the donors' details, to the cantonal financial inspectors.¹¹⁰

A number of initiatives for the establishment of forms of regulation of the parties' finances were recently presented to the Swiss National Council in order to introduce transparency, but so far they have all been rejected.¹¹¹

¹⁰⁹ Art. 114, Legge sull'esercizio dei diritti politici (del 7 ottobre 1998), Finanziamento dei gruppi politici e delle campagne elettorali cantonali.

¹¹⁰ Art. 29A, Loi sur l'exercice des droits politiques (du 15 octobre 1982), as amended.

¹¹¹ Information available (in German and French) on the official website of the Swiss National Council:

http://www.parlament.ch/ab/frameset/f/n/4813/321237/f_n_4813_321237_321507.htm (accessed in January 2012).

UKRAINE

Constitution

Political parties are mentioned for the first time in the 1996 Constitution of Ukraine that followed the Independence Act of 1991. The freedom of associating in political parties is established in art. 36. According to this article, “Political parties in Ukraine promote the formation and expression of the political will of citizens, and participate in elections.” Article 37 prohibits the formation and the activity of political parties whose programmes or actions are aimed at undermining the national independence of Ukraine, at changing constitutional order through violent means, at the incitement of inter-ethnic, racial, or religious enmity and at the infringement of human rights and freedoms. Moreover, the Constitution prohibits the formation of organizational structures of political parties within bodies of executive and judicial power, in military formations, as well as in state enterprises, educational establishments and other state institutions and organizations. Under art. 92, the establishment and activity of political parties are determined exclusively by the laws of Ukraine. Article 127 establishes the incompatibility of party membership with the functions of judges, while article 81 refers to political parties in their parliamentary capacity.

Party Law

The Law on Political Parties in Ukraine was adopted in 2001 and its latest amendment dates from 2010. The Ukrainian party law comprises six main Chapters. The first Chapter establishes the general provisions on political parties, including the freedom of association in political parties, their definition and legal basis, as well as the prohibition of interference from state organs in their activities. Article 5 prohibits the formation and operation of parties whose programme or activities are aimed at undermining Ukrainian independence, forcefully changing the constitutional order, undermining national security, propagandizing war and violence, inciting inter-ethnic, racial or religious animosity. Paramilitary formations are also prohibited. Chapter II includes provisions on party membership – judges, public officials, military personnel and employees of the Security Service of Ukraine are not allowed to be members of a political party (art. 6) – and on the political parties’ programme, statute, name and

symbols (art. 7-9). Article 10 regulates the procedures for the formation of a political party. In order to form a political party, a constituent convention, with the support of 10,000 signatures, must adopt a statute and a programme and must elect an executive as well as supervisory and auditing bodies. Chapter III establishes the rules for the registration of political parties and the documentation to be provided to the Ministry of Justice, as well as the political parties' rights. Chapter IV regulates the political parties' financial properties (see next section), and Chapter V defines the authorities monitoring the activities of political parties. According to art. 18, state control over political parties is exercised by the Ministry of Justice of Ukraine and by the Central Election Committee. A political party may be banned when it transgresses any of the requirements for the formation and operation of political parties set forth in the Constitution and by law (art. 21).

Party Finance Regulation

Ukraine has not established a specific party finance law. Party finance is regulated in a number of other acts, most importantly in the Law on Political Parties in Ukraine and in the Law on Associations of Citizens.¹¹²

Ukraine is among the few European states with no direct public funding of political parties. Direct public funding of the political parties' ordinary activities and campaign expenditures was introduced in a 2003 amendment to the Law on Political Parties, but was repealed before actually coming into force.¹¹³ Currently, political parties receive only indirect forms of public funding. According to the Law on Parliamentary Elections, the state budget covers expenses for the publication of the political parties' election programmes in the official newspapers, for broadcasting time during election campaigns as well as for the publication of information posters (Articles 67, 69, 70).

¹¹² The Law of Ukraine on Associations of Citizens (Nr. 2460-XII of June 16th, 1992). Other acts regulating party finance are the Law of Ukraine On Elections of People's Deputies of Ukraine (Nr. 2766-III of October 18th, 2001), the Law of Ukraine On State Control Auditing Service in Ukraine (Nr. 2939-XII of January 26th, 1993), The Law of Ukraine "On Accounting Chamber (Nr. 315/96-BP of July 11th, 1996), and Law of Ukraine On Elections of People's Deputies of Ukraine (of 2001). See Shevliakov, I. (2005), National Report on Ukraine, in A. Moraru and E. Iorga (eds.) *Legislation and control mechanisms of political parties funding*. Bucharest: Pasos, pp. 205-240.

¹¹³ Regulation of political parties in Ukraine. The current state and direction of reforms. Denys, Published by Agency for Legislative Initiatives, and OSCE/ODIHR, September 2010, pp. 91-93.

Moreover, according to the Law on Corporate Income Tax, political parties benefit from tax exceptions on certain types of income.

Private funding of political parties is regulated by Chapter IV of the Law on Political Parties in Ukraine. According to art. 15, the financing of political parties by state-organs, semi-public companies, foreign natural and legal persons, religious associations and anonymous donors is prohibited. No restrictions are established on the amounts of donations to political parties, with the exception of donations from an individual to a party's election fund, which should not exceed 400 times the minimum monthly salary. Also no restrictions are established on the expenditures that political parties may incur for election campaigning. However, election fund expenses are earmarked to the specific campaign activities.

According to the Law on Political Parties in Ukraine and the State Tax Administration Order, political parties are required to present an annual financial report covering its income, expenditure and assets. The 2010 OSCE/ODIHR report on the Regulation of political parties in Ukraine remarks that the law establishes no requirements on the form and content of the income and expenses statement or the property statement, therefore not complying with the Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns.¹¹⁴ More specific provisions apply instead for the financial reporting of electoral campaigns. Income and expenditures of electoral funds need to be reported to the Central Election Commission according to a specific format.¹¹⁵ According to art. 18 of the Law on Political Parties, state control over political parties is exercised by the Ministry of Justice of Ukraine and by the Central Election Committee. The former authority monitors the observance of the Constitution and the rule of law, as well as the political parties' compliance with their regular financial reporting. The Central Election Commission, an independent state

¹¹⁴ Recommendation Rec(2003)4 of the Committee of Ministers to member states on the Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns.

¹¹⁵ Resolution of the Central Election Commission, On Regulation of Accounting of Revenues and The Use of Financial Resources of Electoral Funds of Political Parties, Electoral Blocs of Political Parties, Candidates for People's Deputies of Ukraine, and on Reporting on These Issues, of January 10th, 2002; and Resolution of the Central Election Commission, On Regulation of Control of Revenues and The Use of Financial Resources of Electoral Funds of Political Parties, Electoral Blocs of Political Parties, Candidates for People's Deputies of Ukraine, of January 24th, 2002.

agency, monitors the election procedures and the observance of the legal requirements regarding the reporting of electoral funds.

THE UNITED KINGDOM

Party Law

The first law on political parties in the UK, the Registration of Political Parties Act, dates from 1998. This Act was designed to provide a system for registration of party names and emblems. Although under this Act party registration is not compulsory, the Act provided a number of incentives for parties to register, among which the rights to political broadcasts (art. 14).

Party Finance Regulation

The 1998 Registration of Political Parties Act did not address wider issues on party financing, at the time under deliberation by the ‘Committee on Standards in Public Life’ established by the Government in 1994 and whose functions were broadened in 1997 “to review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements”.¹¹⁶ The recommendations of this Committee (published in 1998) constituted the legal basis for the enactment of the 2000 Political Parties, Elections and Referendum Act. This Act established a number of significant changes on the way in which political parties are regulated in the UK. Firstly, the Act establishes an independent Electoral Commission with the function of keeping and controlling the registration of political parties and of scrutinizing the parties’ incomes and expenditures (Parts I and II). Political parties are required to provide an audited annual account of incomes and expenditures to the Electoral Commission (Part III). In addition, this Act introduced important restrictions and controls over the financial activities of political parties: it forbids foreign donations and anonymous donations above a threshold of £200, and imposes the requirement to report the details of such donations above a certain value (Part IV); Moreover, it establishes limits in the parties’ campaign expenditures (Part V) and requires the shareholders’ approval to companies making donations to political parties (Part IX).

¹¹⁶ Report of the quinquennial review of the Committee on Standards in Public Life, <http://www.public-standards.gov.uk/Library/OurWork/QuinnennialReview.pdf> (accessed in February 2012).

The Political Parties and Elections Act of 2009 further strengthens the regulatory powers of the Electoral Commission (providing new powers of investigation as well as the imposition of civil sanctions) and it places further requirements on parties to clarify the source of donations (whose permissibility threshold is however heightened, together with the threshold for reporting). Moreover, it imposes new spending limits on expenses incurred by candidates at the general elections.

Political parties in the UK receive both direct and indirect contributions. Direct contributions are ‘Short’ and ‘Cranborne’ money (granted to opposition parties of the House of Commons and the House of Lords, introduced in 1975 and 1996 respectively), and ‘Policy Development Grants’ (provided to those parties holding at least two seats in the House of Commons). Indirect contributions to political parties are provided in the form of free broadcasting time, free postal delivery, free use of public halls. Currently debated is the need to introduce a more solid system of public financing of political parties in the UK in order to ensure their structural financial stability.¹¹⁷

¹¹⁷ Concerns on the necessity to provide financial stability to political parties are expressed by a growing number of reports. Most recently, the ‘Thirteenth Report, Political Party Finance - Ending the big donor culture’ issued in November 2011 by the Committee on Standards in Public Life (CSPL), http://www.public-standards.gov.uk/Library/13th_Report_Political_party_finance_FINAL_PDF_VERSION_18_11_11.pdf, and the one issued in January 2012 by the Political and Constitutional Reform Committee <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpolcon/1763/176302.htm> (both webpages accessed in February 2012).

Concluding remarks

Political parties in Europe have become increasingly subject to external regulation. This process can be observed by the growing number of national Constitutions including references to political parties, as well as by the growing number of party and party finance laws that have been adopted over the last fifty years.¹¹⁸

Scholars argued how a fundamental role in this process has been played by the introduction of public funding to political parties, as the provision of state subventions demanded a more codified system of party registration and control.¹¹⁹ There are, however, a number of further elements which seem to have contributed to increasing party regulation in Europe.

First, party regulation has been stimulated by the waves of democratic reconfiguration that have taken place in Europe after the II World War. It was observed how the constitutionalization of political parties and the adoption of party laws have most often taken place in specific moments of the countries' institutional development, when higher was the necessity to control and legitimate the activity of the political parties which started to proliferate in newly established democratic environments.¹²⁰ Typically, this applies in Southern Europe to the cases of Spain and Portugal, where the constitutional references to political parties and the adoption of a party law were adopted soon after the re-establishment of democracy, and in Western Europe to the case of Germany, where reference to secondary legislation on political parties to be adopted was included in the country's Basic Law approved in 1949. More remarkably, this pattern applies to all the Eastern European countries, which all refer to political parties in their national constitutions and all adopted a party law in the years immediately following the transition to democracy. In this light, the growing

¹¹⁸ van Biezen, I. (2008). 'State Intervention in Party Politics: The Public Funding and Regulation of Political Parties', *European Review* 16/3, pp. 337-53. For an overview of the timeline of party regulation in national Constitutions, in party laws and in party finance laws, see Table 1 in the Appendix.

¹¹⁹ Mair, P. (2005), 'Democracy Beyond Parties'. Center for the Study of Democracy, UC Irvine; Scarrow, S (2011), 'Carrots and Sticks, Chickens and Eggs: Understanding Variations In Party Finance Regulatory Regimes'. Paper prepared for the IPSA/ECPR conference, Sao Paolo, Brazil, February 16-19, 2011.

¹²⁰ van Biezen, I. (2012), 'Constitutionalizing Party Democracy: The Constitutive Codification of Political Parties in Post-war Europe'. *British Journal of Political Science*, 42, pp. 187-202; Casal Bértoa, F., D.R. Piccio and E. Rashkova (2012), 'Party Laws in Comparative Perspective: Evidence and Implications'. Working paper series on the legal regulation of political parties, no. 16.

regulation of political parties seems to be strictly intertwined with the progressive waves of democratization of the European continent.

A second factor that seems to have contributed to the growing regulation of political parties stems from the increasing number of regulations, guidelines, and recommendations for political parties issued over the last decade by several European governmental and non-governmental organizations. Although not mandatory, those EU reports have stimulated greater intervention in the political parties' affairs by establishing a set of 'good practices' and 'common principles' on party regulation in particular around issues such as party bans, transparency of financial management and internal organizational processes.¹²¹ A third factor that has been influencing party regulation is the widespread idea that subjecting political parties to regulation and monitoring their financial activities and internal conduct might assuage the legitimacy crisis that is currently afflicting European representative democracies.

Greater party regulation across Europe does however not necessarily imply uniformity of regulation. Indeed, considerable variation still exists not only in terms of the very presence of specific laws on political parties in the different countries, but also in the very content of the regulatory framework of political parties across the individual legal documents.¹²² From the analysis conducted in this collection of reports on the content of party regulation in thirty-three countries it is possible to observe how the rules differ from one country to another to a considerable extent. Differences may concern, for instance, party registration requirements, the rules affecting the parties' internal procedures or organizational structures, the restriction or proscription of particular party programmes or activities, as well as the systems of public and private funding of political parties. Whether greater uniformity in the way in which different European countries regulate political parties may take place in the future is still an open question. However, as harmonization of the member states' legislative frameworks has been characterizing an increasingly wider spectrum of policy fields, it

¹²¹ See for instance, the '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'; or the more recent 'Guidelines on political party regulation', by OSCE/ODIHR and Venice Commission, 25 October 2010 (Study no. 595/2010).

¹²² van Biezen, I & F. Molenaar (2012). 'The Europeanization of Party Politics? Competing Regulatory Paradigms at the Supranational Level', *West European Politics* 35/3, pp. 632-656.

seems likely that similar trends of legislative isomorphism will also be affecting party regulation processes.

APPENDIX

Table 1: Party Regulation in Europe, by year of adoption*

Countries	Constitution	Party Law	Party Finance Law
Austria*	1945	1975	1975
Belgium	--	--	1989
Bulgaria	1991	1990	--
Croatia	1990	1993	2006
Cyprus**	1960	2011	2011
Czech Republic	1992	1993	--
Denmark	--	--	1987
Estonia	1992	1994	--
Finland	1999	1969	1969
France	1958	--	1988
Germany	1949	1967	--
Greece	1975	--	1984
Hungary**	1989	1989	1989
Iceland	1944	--	2006
Ireland	--	--	--
Italy	1947	--	1974
Latvia	1991	2006	1995
Lithuania	1992	1990	1999
Luxembourg	2007	--	1999
Malta	1964	--	--
Netherlands	--	--	1999
Norway	1984	2005	1973
Poland	1992	1990	--
Portugal	1976	1974	1993
Romania	1991	1996	2003
Serbia	1990	2009	1991
Slovakia	1992	1993	1992
Slovenia	1991	1994	--
Spain	1978	1978	1987
Sweden	1974	n	1972
Switzerland	1999	--	--
Ukraine	1996	2001	--
UK	n/a	1998	2000

* *Note:* The classification above merely reflects the title adopted by the individual acts (either Party Laws or Party Finance Laws). The absence of either one (indicated by the dotted line in the table) does not imply that regulation may not be established in different acts. For example, while no specific Party Finance Law has been established in Bulgaria, party finance regulation exists, and is included in other sources of party law (in the case of Bulgaria, in the Law on Political Parties). For details on party regulation in the broader body of party law, see the individual country reports.

** Same legal document.