POLITICAL PARTY ACCOUNTABILITY: INTRA-PARTY DEMOCRACY, FUNDING AND MINIMUM STANDARDS FOR CANDIDATES

QUERY
Can you provide information on international best practices on (i) political party funding, (ii) internal democracy process and (iii) minimum standards for candidates?

PURPOSE
In the framework of the NIS, we established a working group on political parties with some external experts (from politics, academia, and civil society). Our aim is to organise three meetings in order to publish a policy paper ahead of the electoral campaigns in 2013.

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SUMMARY
Political parties play a key role in democratic processes. The growing concern related to the role of money in politics, in addition to society's lack of trust in political parties, has driven several reforms in many countries across the globe. Countries and political parties have sought to improve party governance and funding rules, as well as enhance transparency and accountability. Among other organisational activities, intra-party democracy typically relates to how party candidates and leaders are selected, as well as how the party defines its programme and policy positions – with issues of inclusiveness, centralisation and institutionalisation at the core of the concerns. In many countries, such matters must conform to specific party laws. In others, parties decide upon their internal democracy without any influence from the state. Best practices have pointed to a certain degree of external regulation to ensure that political parties "practice what they preach."

With regard to political party financing, although there is no single “best practice” model, there is a broad consensus that countries should seek to regulate public and private funding, establish ceiling on expenditures, limit contributions, as well as ensure high levels of transparency. It is also key to have an independent oversight institution to implement and enforce the legislation.

In terms of minimum requirements for candidates, in addition to age, citizenship and a certain level of educational qualifications, which are often conditions for eligibility, countries should seek to exclude individuals convicted for corruption or other electoral crimes or contraventions from running for public office.
1 INTRA-PARTY DEMOCRACY

Overview

Internal democracy process, or intra-party democracy, is a broad term describing a wide range of methods for including party members in deliberation and decision-making within political parties. Given the diversity of political parties and political outlooks, there is no single set of “best practices” for intra-party governance (Scarrow 2005).

Principles of inclusiveness and centralisation are usually central when discussing intra-party democracy issues. Inclusiveness relates to who is responsible for making key decisions within the party, while centralisation describes the extent to which decisions are made by a single group or a decision-making body. Institutionalisation of political parties, meaning the process by which individual political parties experience an increase in organisational stability and value, is also often discussed, in particular related to parties with a high degree of intra-party democracy, as they need more rules defining different processes (Scarrow 2005).

Within this framework, intra-party democracy basically influences how party candidates are selected, how party leaders are selected and how the party defines its programme and policy positions.

In many countries, matters such as candidate selection, party finance and leadership selection must conform to specific party laws among other organisational practices. However, these laws also vary greatly in their degree of specificity and, in many cases, political parties have enough room to interpret or regulate further their internal activities according to the institutional environment in which they compete, as well as the cultural setting (Scarrow 2005). In other countries, political parties are left to decide alone how to best organise their internal practices.

Due to the importance of political parties in the democratic process, it is recommended that countries establish general rules spelling out the main principles and conduct to be expected from political parties in a given political system.

Good practice

The Council of Europe Code of Good Practice for Political Parties (Venice Commission 2009) highlights several “good practices” with regard to international party organisations to be implemented by member countries, including:

(i) membership criteria should be transparently communicated through party statutes and should not be discriminatory or obligatory;

(ii) party membership may be refused to individuals who reject the values of the party;

(iii) the party structure and procedures should be clearly specified in a party statute;

(iv) structures and procedures should reflect the opinion of party-members, be available in a transparent manner and encourage transparent and accountable party behaviour;

(v) procedures for the appointment of leaders and candidates for election should also be transparent and represent the opinion of party-members;

(vi) channels of communication between grassroots and party leaders should be established;

(vii) party statute should establish disciplinary procedures and define national, regional or local organisation of the party. Procedures for statutory change should also be clearly defined;

(viii) party programme should be created in a democratic manner and made public;

(ix) party funding should be organised in an accountable and transparent manner. Auditory and supervisory mechanisms should be included.

Country Examples

Germany
Germany is referred to as a good example of intra-party democracy (ACE 2008). The German Political Party Act (1996) requires all political parties to have written statutes and a written programme. Such statute and programme must be decided in the party’s convention. Regional and local branches shall regulate their affairs by their own statute (unless provided otherwise).

Among other things, party statutes of German political parties must contain provisions on: rules for joining and leaving the party; the rights and duties of members; permissible sanctions against members and regional and local branches and their exclusion from the party; the composition and powers of the Executive Committee and of other bodies.

Members’ rights are also defined in the Political Party Act, including: rules for admission (the party can freely decide on the admission of members); voting rules (party members and delegates have equal voting rights); decisions on expulsion, among others.

In terms of decision-making and policy-formation, party’s bodies should adopt their resolutions by a simple majority vote, unless a higher majority is required by the statute. In addition, the elections of the members of the executive, delegates and bodies of regional branches should be secret. For all other elections, voting may be open.

As for the nomination of candidates, the act only establishes that it must be through secret ballot and that it should be further regulated by the electoral laws and statute of political parties.

Other countries

Other countries, such as Australia, the United Kingdom and the United States have not yet externally regulated political parties due to their liberal traditions (ACE 2008).

The literature also points to the need of finding a balance between external regulation and internal regulation. Too much external regulation – in particular, the shifting of the responsibility of overseeing internal party processes to electoral agencies (for example, in primaries) – might create an extra burden to the agency, especially if there is a lack of capacity and personnel.

2 POLITICAL PARTY FINANCING

Overview

While international evidence shows that there is no universal prescription ensuring the effectiveness of political party finance regimes, regulations on party funding play an important role in strengthening democracy, curbing opportunities for corruption and undue influence, and enhancing transparency and accountability. Key factors for the success of any regulation on party financing includes public access to information, effective disclosure mechanisms, independent oversight institutions, the right to know being exercised by civil society institutions, media and citizens, as well as the effective implementation of the relevant laws.

It is also important that specific features of national politics and of the democratic environment are taken into consideration when designing the laws. Against this background, as there is no one-size-fits-all model for regulation of political party funding, this answer provides examples of specific features of legislation in different countries assessed as being particularly strong by Transparency International and other organisations.

Good practice

Several organisations (Transparency International 2009; IDEA 2003; NDI 2005; Council of Europe 2003) have highlighted that any “best practice” of campaign and political party financing should endeavour to:

1. improve transparency and accountability;
2. encourage grass-roots funding while limiting or banning legal entities’ donations;
3. provide public funding as a partial substitute, but impose strict sanctions in case of non-compliance;
4. limit parties’ and candidates’ expenditures;
5. ban or regulate advertisement;
6. regulate loans and entities related to political parties;
7. establish an independent and autonomous oversight institution, among others.

In addition, an independent and autonomous
institution is key for the success of any political financing regulation. Countries, willing to adopt new legislation or to reform their legal system, should assess under which conditions the respective institutions operate so as not to overload such bodies. External monitoring by civil society organisations, media, opposition parties and voters in general can also play an important role in identifying potential corruption risks.

In addition to the above, Transparency International’s Policy Position on Standards on Political Funding and Favours gives specific recommendations to each stakeholder group (civil society, media, private sector, political parties and government) on actions to be taken in order to improve political financing standards.

**Disclosure and reporting requirements**

Disclosure and reporting requirements with regard to donations to candidates and political parties aim at increasing transparency and accountability. It is also a prerequisite for the enforcement of spending ceilings, contribution limits and the allocation of public subsidies. An effective disclosure mechanism also depends on the existence of an independent oversight agency and on the right of the people to know being exercised. It is also fundamental that such information is presented in a timely manner and is accessible to the public (Transparency International 2008).

These reports usually require the listing of the amount of the donation as well as the name and address of the contributor, but the threshold for disclosure differs considerably among countries. In addition, the way the information is to be disclosed varies, with several countries requiring public disclosure, some applying a mixed system of public disclosure and confidential reporting to an oversight body, and others requiring the reporting to election officials (U4 Helpdesk Expert Answer 2003).

For instance, while in Bulgaria, Estonia, France, Latvia, Lithuania, Poland, Portugal, Slovakia and Spain all contributions to political parties must be disclosed, in other countries such as Belgium, Denmark, Germany, Ireland, Italy, Romania, Slovenia and the UK, disclosure is only necessary above a certain threshold (Transparency International 2012).

The requirement for political parties to keep proper books and accounts and publish audit accounts of all income and expenditure, besides the requirements to disclose donations and activities during election campaigns, is also key for ensuring transparency and accountability in political party funding. Good practice experiences have shown that information should be presented to an independent oversight institution regularly in a standardised, readable and searchable format in order to enhance transparency and accountability. It is also important that such information is presented in a timely manner (Transparency International 2008). In addition, annual statement of accounts must distinguish income from membership fees, affiliation fees, donations (money and in-kind), and -, fundraising income, among others.

Germany and the UK are considered by the Group of States against Corruption (GRECO) as having rather complete reporting obligations with regard to political parties’ bookkeeping and annual accounts. According to experts, the requirements are reasonably comprehensive and would certainly indicate any activities which would include a suspicion of corruption (Council of Europe 2007; 2009).

Nevertheless, in the case of the UK, annual returns on income and expenditure are not yet standardised, making it quite difficult to compare reports across years and across political parties. In addition, in both Germany and the UK, annual statements are not published in a timely manner. There is a need to tighten the regulation with regard to the timeframe for publication of the reports, otherwise there is a risk that such reports will be available only 1.5 or 2 years after they were submitted. A possible option would be – besides publishing comprehensive audited accounts once a year – to make less complex reports available to the public every six months (Martini 2012).

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1 According to the Political Parties and Referendum Act, the Electoral Commission is responsible for defining the scope and format of the annual statement of account. However, up to now, the Commission has only published non-binding guidelines. In turn, political parties still present their annual statements in a variety of formats.
Latvia also emerged in the recently published European National Integrity System (NIS) study (Transparency International 2012) as a good practice. In particular, the Political Financing Law envisages timely disclosure procedures for both declarations of election-related revenues and expenditures and political parties’ annual accounts. For instance, the Corruption Prevention and Combating Bureau is obliged to publish the declarations no later than ten days after their receipt. Moreover, all the information is available online on a searchable and up-to-date database. The database on donations provides information on recipient, sources and value of the donations. Databases on membership dues paid to parties and annual reports are also available online (Transparency International 2012).

**Spending ceilings**

Spending ceilings aim at regulating both the amount and the type of expenditure. Limits on the type of expenditure may range from the prohibition of using party funds for personal use to restrictions of the use of paid-for media advertising (Fontana 2007).

In particular, as advertisement is becoming one of the largest expenditures of political parties and candidates, limiting or prohibiting certain forms of advertisement, holding large public events and the use of billboards are considered by some experts as effective measures to reduce campaign costs and thus the reliance of parties on private donations.

In Canada, spending limits for political parties and candidates are considered to be the “cornerstone of Canadian democracy”. They have been established to address the issue of undue influence and to guarantee accessibility and fairness in the political process. In 2003, limits were raised and a broader definition of election expenses was included. For instance, regulated expenses cover public opinion surveys, leaders’ tours and staff salaries, among others (Davidson 2007).

The limits are based on a formula using the number of voters in each electoral district. For a party, the electoral districts are those in which the party has endorsed confirmed candidates. The amount is adjusted for inflation and also includes third parties (International IDEA 2012).

**Public funding**

Public funding aims at preventing the dependence of political parties (and candidates) on private donors, thus avoiding undue influence in politics. Public funding of political parties also aims at guaranteeing equality of chances between parties and enhancing institutionalisation in the long term (Transparency International 2008). However, state support should not exceed the level necessary to achieve the above objectives and should be combined with disclosure requirements.

A successful public funding scheme will be subject to whether political parties and candidates report on how funds are used and on what their other sources of income are. Moreover, an independent oversight institution and strong sanctions (that is, excluding public funding for parties who fail to comply with transparency and accountability obligations) are necessary to guarantee that public money is well spent.

Countries usually opt for direct or indirect public funding. Through direct funding, parties have full control over how to spend the money received. Indirect funding usually guarantees access to services at no or reduced costs, such as tax incentives, official use of state resources (for example, transport and postage system, among others), and access to media.

In Portugal, for example, political parties have access to free television and radio spots. Paid advertisement of any kind – including the use of billboards and large public events – are also prohibited by the law. According to experts consulted, the introduction of such restrictions has played an important role in reducing the costs of election campaigns in the country.

Another important issue related to public funding is the way in which such public funds are distributed among political parties (eligibility criteria). Most countries distribute fund based on the following two factors: (i) the percentage of votes received in previous elections or for the elections in which funding is distributed (such as in the form of reimbursement) (for example, in Germany, Sweden and Turkey); (ii) seats won in elected body (for
example, in Finland, the Netherlands and the UK). However, strict thresholds may reinforce the status quo and prevent the rise of new parties (that is, by providing funding proportionate to a party’s representation in parliament) (International IDEA 2012).

The UK adopted an unusual model in trying to address this issue; opposition parties are eligible for the so-called “short money”, which makes up the bulk of public funding. Germany has also lowered the threshold to 0.5% of votes in favour of political pluralism (International Foundations for Electoral Systems 2009). Other countries such as Estonia, Hungary and Slovenia require 1% of votes. In Canada, 2% of the votes are required, and in Finland and the Netherlands, one seat (International Foundation for Electoral Systems 2009).

Restrictions on donations

Restrictions on donations aim at reducing the excessive or inappropriate influence of private money in politics. These restrictions may involve limits on private contributions (regulating the maximum permissible amount of the contribution) or restrictions on the source of funding, including the prohibition or limitation of anonymous contributions, foreign contributions, contributions from legal entities and donations from state enterprises or firms which provide goods or services to the public administration (Council of Europe 2003).

Countries such as Argentina, Armenia, Belgium, Canada, Estonia, France, Georgia, Hungary, Israel, Mali, Mexico, Poland, Portugal and Romania (International IDEA) have a complete ban on corporate donations to the political party in place. However, there is no empirical evidence on the impact of such a ban on party financing. An analysis of the systems implemented in Belgium, France, Poland and Portugal show that while a ban on legal entities donations may introduce disincentives in terms of corrupt practices, it will not necessarily eliminate all instances of political corruption, particularly if not accompanied with a strong oversight (Martini, 2011).

In Canada, besides a ban on legal entities donations to political parties, candidates and third parties since 2007, individuals have been limited to donating no more than a total of C$1,100 (US$741) per year to political parties (Canada Elections Act 2000).

Regulations on foundations and entities related to political parties

Political parties may attempt to circumvent political financing rules by using other institutions, such as foundations and other related entities, as conduits for funds or services (OSCE 2010). Entities related to political parties, such as research institutes, interest groups, trade unions or political foundations are usually autonomous institutions (at least formally) and thus are often subject to a separate financing regime. The term “third parties” also refers to entities which are connected to political parties, but it also includes individuals or organisations which campaign at an election.

Ideally, entities related to political parties should be required to keep proper books and accounts in order to facilitate public monitoring of their financial activities and should be subject to the same regulations and restrictions that apply to political parties (for example, restrictions on donations) (Council of Europe 2003).

However, according to GRECO, the great majority of countries still lack legislation on such entities, which allows parties and candidates to avoid state and civil society oversight by transferring questionable donations from accounts that must be publicised to one that is not. However, a few countries have adopted legislation aimed at regulating entities related to political parties or third parties (Martini 2012b). In Germany, for example, political foundations are not allowed to donate to political parties. In Canada and the UK, third parties are obliged to follow the exact same rules as political parties. Disclosure mechanisms for political parties and entities related to them are also in place in Estonia.

Regulation on loans

The increasing costs of election campaigns and party operations, combined with the above mentioned stricter rules on political funding, have made parties and individual candidates look for alternative sources of funding. Recent political corruption scandals, such
as the Cash for Peerages Affair in the UK\(^2\), have illustrated how loans can be used as means of funding for political parties (Martini 2012c).

While loans can be a legitimate funding source, they can also be used to cover illegal private donations (for example, if it is not repaid, or if it is agreed to under advantageous conditions). In this context, as with any other monetary contribution, countries should set out rules regulating the following: (i) who are the permissible lenders (ideally, only consolidated financial institutions should be allowed to give out loans); (ii) the maximum value of loans; (iii) the conditions for registration of the loans; (iv) the last possible dates for contracting loans during the election period; (v) the terms of repayment; (vi) disclosure requirements (including the name of the lender and amount, among others) (Council of Europe 2003).

In Lithuania, for example, political parties are only allowed to enter into loans with banks registered in the country. In addition, parties’ annual declarations must include information on all the loans received and a receipt of repayment of such loans (Council of Europe 2008).

In Ireland, if a loan is provided to a political party by a financial institution in circumstances where either the interest charged is lower or the loan is not repaid in accordance with the terms and conditions under which it was issued, it is regarded as a donation and may therefore be subject to the disclosure and maximum limits that apply to donations (Guidelines for political parties on donations and prohibited donations).

### 3 MINIMUM STANDARDS FOR CANDIDATES

Many countries have set minimum requirements determining who is entitled to run for office. These requirements usually vary according to the type of office (for example, president and vice-president; governor, deputy; councillors) and may involve age, citizenship, country of birth, residence, and minimum level of literacy, among others. Some countries have also set disqualifying conditions.

For example, while minimum standards for candidates in European countries often involve only positive criteria (i.e. age and citizenship), relying on voters to judge whether to elect a candidate who has a criminal record, a few countries, such as France, Germany, Ireland and Spain have established rules preventing individuals from standing for elections based on criminal law conviction. In developing countries, besides age and citizenship, a minimum level of literacy also appears to be a common requirement for certain public posts.

Within this framework, there is no recognised best practice as countries determine such requirements based on their traditions, specific circumstances and electoral systems. Nevertheless, some examples are worth highlighting, particularly those of countries which have set specific and clear rules with regards to individuals convicted of corruption or other electoral crimes.

In France, for instance, besides the criteria of age and citizenship, the law sets disqualification rules. Therefore, the following persons are considered debarred from entering the electoral roll (Electoral Code):

- any person who is deprived of the right to vote and to stand for election in criminal cases for the period set in the judgment, (including up to 10 years in the case of a serious crime);
- any person convicted of offences against the public administration (such as accepting bribes, illegal promotion of interests, embezzlement and misappropriation among others) for a period of 5 years from the date of the final conviction;
- any person who has failed to return a declaration of assets, or failed to deposit his or her campaign accounts as required by the Electoral Code for a period of one year from the Constitutional Council’s decision determining the ineligibility;
- any person who exceeds the limit for election

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\(^2\)The Cash for Peerages affair was a political scandal which broke out in United Kingdom in 2006 which unrevealed the connection between political donations (through loans) and the award of life peerages. See: www.guardian.co.uk/politics/2007/oct/11/partyfunding.uk.
expenses may be declared ineligible for the period of one year (Electoral Code).

In Canada, according to the Canada Elections Act, minimum standards include:

- minimum of 18 years old;
- Canadian citizenship;
- not being convicted of having committed an offence that is an illegal practice (including, exceeding election spending limits and publication of false statement, among others) or the individual is not entitled to be elected or sit in the House of Commons for five years after the date of the conviction (Canada Elections Act);

- not being convicted of a corrupt act (including, offering a bribe and accepting gifts or advantages, among others) or the individual is not entitled to be elected for seven years after the date of conviction (Canada Elections Act).

In Brazil, any individual with Brazilian citizenship may run for office, with the exception of those who are illiterate or those who have had their political rights suspended by the Court. In the case of president and vice-president of the Republic, there is an additional requirement: only Brazilian-born citizens can run. There are also minimum age requirements for individuals running for different elective posts: 35 years for president and vice-president; 30 years for state governor; 21 years for deputy; 18 years for councillor.

In 2010, the approval of the “Clean Record Bill” (Lei da Ficha Limpa) tightened up the eligibility criteria for politicians in the country; the law disqualifies those who are convicted of racism, homicide, rape, drug trafficking, misuse of public funds, and laundering and concealment of assets by a second level Court in collegiate decisions (even if an appeal is still pending) from serving in political office for a period of eight years. In addition, the law disqualifies those whose resignation was motivated as not to have their political rights suspended, from serving. Politicians engaged in vote buying and abuse of power and influence for electoral manipulation are also considered ineligible for a period of eight years.

The law is an initiative of Brazilian civil society who manually gathered 1.6 million signatures from voters across the country. Considered as a cornerstone of democracy and the fight against corruption, the law is expected to be a revolutionary change in how politics are conducted in the country when it takes effect in the 2012 municipal elections and in the 2014 general elections.

4 REFERENCES


Council of Europe. 2003. Recommendation of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns. https://wcd.coe.int/ViewDoc.jsp?id=2183


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