

TRANSPA-
RENCY IN
FUNDING
OF POLITI-
CAL PARTIES

CROATIA 2013

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CRINIS is an assessment tool that evaluates legislative systems and studies the practices of key actors involved in political finance. It aims to identify gaps and shortcomings in political financing systems, with the objective of promoting transparency in political party funding. It is premised on the conviction that transparency is a prerequisite for monitoring money in politics.

With necessary adaptations to regional circumstances, the methodology, developed by Transparency International (TI) and the Carter Center, has been successfully carried out in a number of countries in Latin America, Asia and Africa. This report focuses on findings in Croatia, as part of the regional project carried out in Albania, Croatia, Kosovo, Macedonia and Serbia.

Various public opinion and expert surveys conducted by Transparency International, including the Global Corruption Barometer, highlight that political parties are perceived to be one of the institutions most affected by corruption. The transition to multiparty democracy in the region has created new opportunities for political corruption, including the buying of influence in government policy-making through political donations. With activities of political parties increasing in sophistication – and costs – the importance of, and need for, political donations is ever-increasing. As a result, political parties are increasingly vulnerable to offers of funding in exchange for providing favours later, thus entering into a form of patron-client relationship.

Reducing corruption in political financing does not necessarily mean reducing the amount of money available to parties, but rather ensuring that political funding does not come from illegitimate or potentially questionable sources. Increased transparency and public knowledge about the flow of money in politics can help to eliminate corrupt practices. Transparency becomes the cornerstone of regulating political party financing. It provides the means for verifying and detecting malpractice and supplies the information required by citizens to make informed voting decisions.

This assessment has focused on the financing of the 2011 parliamentary election campaign and so does not analyse the annual, non-electoral funding of political parties. Annual funding of political parties was analysed in the first phase of the project - in 2011, and results published in the national report in November 2011.

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Foreword

Political parties play a central role in political competition: they are an indispensable instrument of democratic power. Party financing is of a great importance because money can threaten democracy if its role and use is not properly regulated.

Funding of political parties and electoral campaigns in Croatia very often captures the attention of the media - it is a topic of the roundtable discussions before and after the parliamentary, presidential or local elections. However, after the elections this topic disappears from the focus of public interest - unless triggered by individual affairs or abuses. At times when this topic is highly popular, the public is mostly interested in how much money did certain party or candidate spend in the campaign, or - to less extent, who were the donors. The adequacy of legal and institutional framework regulating electoral financing, on the other hand, is less discussed - although such discussion could encourage increased transparency in campaign financing.

Transparency International Croatia recognized the importance of this issue in 2003, when it published a brochure entitled 'Money in politics: proposals for the regulation of the funding of political parties and election campaigns', which was one of the first attempts at dealing with the problem of party funding in Croatia. The 'Curbing Political Corruption' project, implemented from 2005 to 2007, was more extensive in terms of both duration and goals, and resulted in the draft Political Activity and Election Campaign Financing Act. CRINIS is the third project relating to political financing in which Transparency International Croatia is involved. It is our belief that the implementation of this project will shed even more light on this as yet hazy sphere of political life in Croatia. During 2011 and the first phase of the project we have assessed the annual, non-election funding of political parties. Now we present the results of transparency of financing 2011 parliamentary election campaign.

We hope that the results obtained through these two phases of the CRINIS project will be useful to practitioners and researchers engaged in this topic, and help to "build a relationship of trust and transparency between the representatives and the represented." As highlighted in various studies: "regulation of political party financing cannot be successful if the major political parties do not adopt the high standards of political behaviour as their own attitude."

Nikola Kristić, President
Transparency International Croatia



1. Executive Summary

Transparency International developed the assessment tool CRINIS (Latin for ray of light) to measure the level of transparency in political party funding. CRINIS is an assessment tool that evaluates legislative systems and studies the practices of key actors involved in political finance. It aims to identify gaps and shortcomings in political financing systems, with the objective of promoting transparency in political party funding. It is premised on the conviction that transparency is a prerequisite for monitoring money in politics. The following report provides the findings of the CRINIS assessment in Croatia. It presents an evaluation of the important aspects of relevant regulations on election campaign funding and pinpoints the issues that will be critical to ensure their effective enforcement. The worst rated dimensions of election campaign funding in Croatia were the sanctions and reliability of reports. If there are no adequate sanctions, it is illusory to expect that participants in the political arena, independent candidates or political parties will present accurate information to the public about their finances. The current legislation adequately defines the sanctions, so work only needs to be done on their further application. Financial reports on election campaign funding submitted by the parties and candidates are defined in great detail and at length, however, the reliability of these reports was evaluated by the participants as being quite questionable. It is one of the most problematic areas of the Croatian system of election campaign funding.

In order to improve the Croatian system of election campaign financing and the implementation of laws, the following five measures have been proposed:

- 1) The amount an individual party can spend on an election campaign should be linked directly to the number of voters; for example, a party can spend 1 to 1,5 EUR per voter. In this way, election campaign expenditures will be linked to the number of voters which should lead to realistic limitation of election campaign expenditures;
- 2) The introduction of so-called matching funds for donations – the share of public funds should be connected with the amount raised through private sources, with a preference for numerous smaller contributions rather than fewer large donations. In this way, the amount of public funds depends on the amount of funds raised from private sources, forcing the parties to record all donations in their financial statements;
- 3) Before the financial reports are submitted to the competent institutions, they should be checked by an independent auditing company, which would ensure a better reports;
- 4) Stricter implementation of sanctions is necessary. Public authorities should insist on strict enforcement of sanctions for any violation of laws;
- 5) Media companies are required by law to submit reports related to the election campaign; therefore, companies that provide media advertising services for election campaign publicity must submit their advertising price list to the State Electoral Commission. The format of this report should be defined by the law, along with the establishment of a system for monitoring the accuracy of these reports.

2. Introduction and Background to the Study

An important part of the development of democracy is the organization of political pluralism¹, forming a multi-party system where several political parties act and compete. This has become a key feature of contemporary democratic countries. Jelčić briefly explains the connection between political parties and financial resources: “political parties, being voluntary organizations of free citizens in a democratic state, nominate candidates to be their representatives in Parliament, and strive to achieve the best possible results in election campaigns. And in order to participate in the electoral ‘battle’, in order to accomplish the tasks for which they were established, political parties must have the funds to pay for all expenses related to their activities”².

Some authors call the funding of political parties and election campaigns the “costs of democracy”³. The costs of democracy usually involve the functioning of the judiciary, local authorities and other public bodies, but regardless of the fact that there is no single definition of democracy and no united position on its requirements, the indisputable fact is that political parties have a central role in political competitions and they are “an inevitable and indispensable instrument of democratic government”⁴. As developed democracies have actually become party democracies, any issues related to party funding have become a critical issue for any democratic society⁵. This is particularly pronounced in new democracies, given the lack of sufficient experience to rely on when creating a party financing system. Money has a “symbolic and practical value in the political competition”⁶ and precisely because money is important in politics, it can threaten democracy unless its role is adequately regulated. Collecting and spending political money has several possible consequences:

- 1) Money in politics has a profound effect on electoral equality – if its distribution is unequal, it is highly likely that electoral equality will be compromised.
- 2) The inevitability and indispensability of money in politics gives donors the ability to gain political influence, which may compromise the equality of citizens. If economic power becomes a major factor in the electoral contest, only those who have economic power will also be able to gain political power.

1 Nassmacher, Karl-Heinz, 2003: Introduction, in: Austin, Reginald/Thernström, Maja (edit.): *Funding of Political Parties and Election Campaigns*, IDEA, Stockholm, 1.

2 Jelčić, Božidar, 1993: *Financiranje političkih stranaka (The Financing of Political Parties)*, *Financijska praksa*, (17) 2: 118.

3 Burnell, Peter J./Ware Alan (ur.), 1998.: *Funding Democratization*, St. Martin's Press, New York, 8; Nassmacher, Karl-Heinz, 2003: Introduction, in: Austin, Reginald/Thernström, Maja (edit.): *Funding of Political Parties and Election Campaigns*, IDEA, Stockholm, 4.

4 Nassmacher, Karl-Heinz, 2000: *Comparing Party and Campaign Finance in Western Democracies*, in: Gunlicks, Arthur B. (edit.): *Campaign and Party Finance in North America and Western Europe*, toExcel Press, San Jose, 233.

5 Burnell, Ibidem, 7-8.

6 Ibidem, 7.

- 3) Political contributions open a multitude of possibilities for finding fraudulent or illegal “common interests” between donors and politicians, which can ultimately lead to the privatization of decisions made by policy makers⁷.

Nowadays the public perceives political parties rather negatively, and numerous public opinion polls conducted in very different countries showed a generally low level of trust in political parties⁸. Due to funds obtained from major donors, there is a risk that the parties will forget that the “financing of party activities or the ‘goal’ is one of the ways to foster and maintain relationships between leaders and supporters”⁹ and will no longer feel the need to work at a grass-roots level, or to collect membership fees and “small” donations intensively from party members and supporters. The connection of parties with big donors certainly contributes to the decline of public confidence in party democracy, already shaken by numerous corruption scandals and clientelism, which has turned citizens away from an “interest in a stronger identification with political parties”¹⁰. Besides parties’ relationships with voters, major donors may also affect relationships within the party when the donors who continually donate large sums of money begin to interfere in internal party issues, particularly in the appointment of candidates for elections¹¹.

Through CRINIS project we were able for the first time to fully analyse the legal framework for financing of politics in Croatia, find out more precisely where are the problems in political financing and to produce recommendations to improve the system. Several dimensions proved to be a bit problematic.

7 Casas-Zamora, Kevin, 2005: *Paying for democracy: political finance and state funding for parties*, ECPR Press, Essex, 2.

8 E.g. <http://www.poslovnih.hr/vijesti/graaani-jos-uvijek-imaju-nisko-povjerenje-u-politicke-stranke-215272> ; <http://partyfundingreform.files.wordpress.com/2010/08/confidence-in-political-parties.pdf> ; <http://www.vanderbilt.edu/lapop/insights/Io80zen.pdf> ; <http://gcb.transparency.org/gcb201011/results/>

9 Nassmacher, *ibid.*, 7.

10 Milardović, Anđelko, 2007: *Kriza i transformacija političkih stranaka (The Crisis and Transformation of Political Parties)*, in: Milardović, Anđelko/ Lalić, Dražen/ Malenica, Zoran (edit.): *Kriza i transformacija političkih stranaka*, Centar za politološka istraživanja, Zagreb, 18.

11 Greven, Michael Th., 1977: *Parteien und politische Herrschaft. zur Interdependenz von innerparteilicher Ordnung und Demokratie in der BRD*, Verlag Anton Hain, Meisenheim am Glan, 278.

3. The General Context of Political Financing

The emergence of political parties and the multi-party system in Croatia had its roots in the inability of the communist system at the end of 1980s to “guarantee stable and promising development for its citizens”,¹² which is why it was necessary to establish a new order, founded on liberal and democratic values. The processes of transition from a communist system in Croatia were more complex and more difficult than in other countries of Central and Eastern Europe, particularly because of the processes associated with the dissolution of Yugoslavia and the outbreak of war, which “substantially hindered the selection of a strategy by the collective actors to act”.¹³ These adverse social and political conditions also had an impact on the development of a multi-party system; it was extremely difficult to put into practice the newly established political pluralism¹⁴ given the need for national unity, the legacy of the war, and the survival of the state itself. This problem is evident in the first Croatian Constitution, adopted in 1990, which ascribes sovereignty to both the people and the state. From the Constitution, we can reasonably conclude that “it was much more important for the authors of the 1990 Constitution to establish the unity of the state, than political pluralism as an expression of the liberty of citizens’ association”.¹⁵ The Constitution only incidentally refers to political parties, by providing, in Article 6, several general definitions, such as: “the establishment of political parties shall be free,” and “the internal organization of political parties must conform to the fundamental constitutional democratic principles,” which is extremely brief when compared to the provisions that exist in, for example, the German Constitution.

For many years, political party finances in the Republic of Croatia were regulated in a completely inappropriate way. The first piece of legislation that regulated political parties was the Political Organisations Act (Official Gazette (“Narodne novine”) issues 19/90, 28/90, 59/90 and 2/91), passed in 1990. The Political Organisations Act mentioned political party finances in only three articles, and in a declarative and ephemeral way. The Political Parties Act (Official Gazette issues 76/93, 111/96, 164/98, 36/01) regulated some general issues such as the establishment of the party, its constitution, the dissolution of political parties, while political party financing was regulated by only six of the 32 articles of the Act. The provisions of these six articles were written in very general terms, while the only specific provision relating to party funding was in Article 19, which determined the accounting for financial transfers allocated to the party’s account from the state budget. The Act

itself underwent “cosmetic” changes in 1996, 1998 and 2001, which had almost no effect on the practice of party financing in Croatia¹⁶.

The Act on Financing of Electoral Campaigns for the Election of the President of Croatia (Official Gazette issue 105/04) was passed in 2004, and represented a milestone in party financing in Croatia. The Act contained some positive innovations, such as, for example, the obligation of public disclosure of donors and the amounts of donations, which was unknown until then due to the inadequacy of regulation. However, it should be taken into account that the accuracy of the financial reports submitted was rather questionable as their veracity was not checked by anybody with auditing powers¹⁷, so we may agree that the law “was adopted as part of the current political manoeuvring”¹⁸ and that it was incomplete and vague. Its implementation was highly questionable, which was quickly demonstrated during the 2005 elections. Pursuant to the Act on Financing of Electoral Campaigns for the Election of the President, the candidates were supposed to provide information on the sources of election campaign funds to the State Electoral Commission (SEC). In the aftermath of the 2005 presidential elections and allegations about the credibility of the reports that the election headquarters of some candidates submitted to the SEC (which had insufficient capacity to check these allegations), “it was shown that the SEC could not perform the role of the body that determines the credibility of financial statements”¹⁹. For example, the presidential candidate Jadranka Kosor indicated in the official data that she had spent 850.000 EUR, which she had obtained from her mother HDZ²⁰ party, although the estimations suggested a much higher actual amount²¹.

The financing of election campaigns, in one part, was also regulated by the Act on the Election of Representatives to the Croatian Parliament (Official Gazette issues 116/99, 109/00, 59/03, /03) and the Act on the Election of Members of Representative Bodies of Local and Regional Government (OG 33/01). The only specific provision in the Act on the Election of Representatives to the Croatian Parliament concerning campaign financing was contained in Article 31: “Any political party that has candidates for the election of Members of Parliament is

12 Prpić, Ivan, 2004: Riječ unaprijed (Foreword), u: Prpić, Ivan (edit.): Država i političke stranke (The State and the Political Parties). Narodne novine/Hrvatski pravni centar, Zagreb, IX.

13 Kasapović, Mirjana, 1996: Demokratska tranzicija i političke stranke. Razvoj političkih stranaka i stranačkih sustava u Istočnoj Europi (Democratic Transition and Political Parties. The Development of Political Parties and Party Systems in Eastern Europe), Fakultet političkih znanosti, Zagreb, 153.

14 Prpić, ibid, XII.

15 Ibidem, XII-XIII.

16 Kregar, Josip, 2004.: Financiranje političkih stranaka i izbornih utakmica, Zbornik Pravnog fakulteta u Zagrebu, (54) 5: 824-863.

17 Petak, Zdravko, 2007: Aporije u zakonskom okviru financiranja političkih stranaka u Hrvatskoj (Aporia in the Legislation Framework of Political Party Financing in Croatia), in: Milardović, Anđelko/ Lalić, Dražen/ Malenica, Zoran (edit.): Kriza i transformacija političkih stranaka (Crises and Transformation of Political Parties), Centar za politološka istraživanja, Zagreb, 149.

18 Kregar, Josip, 2004: Financiranje političkih stranaka i izbornih utakmica (Financing of Political Parties and Election Campaigns), Zbornik Pravnog fakulteta u Zagrebu, (54) 5: 862.

19 Petak, ibidem, 138.

20 HDZ – Hrvatska demokratska zajednica (Croatian Democratic Union)

21 <http://www.slobodnadalmacija.hr/Hrvatska/tabid/66/articleType/ArticleView/articleId/148996/Default.aspx>

obliged to announce by the beginning of the election campaign the approximate data on the amount and sources of their own funds intended for expenditure in the election campaign²². This provision, like most of the other provisions on party finances, remained a dead letter that no one complied with²². Furthermore, the shortcomings in the Act's contents were numerous: the Act on the Election of Representatives to the Croatian Parliament did not contain any provisions restricting income, or the amount of the costs of election campaigns, and there was also no obligation to publish a complete and detailed post-election financial report. The Act did not provide any authority that would oversee the financing of election campaigns. The Act on the Election of Members of Representative Bodies of Local and Regional Governments was even vaguer than the Act on the Election of Representatives to the Croatian Parliament. Besides having repeated all the above shortcomings of the Act on the Election of Representatives to the Croatian Parliament, it did not contain any provisions on the obligation to publish the amount of resources intended for expenditure in the campaign.

After considerable pressure from the international community and the non-governmental sector, the Parliament adopted the Act on the Financing of Political Parties, Independent Lists and Candidates, in late 2006 (OG 1/07). This Act regulated the following for the first time: membership fees and donations, anonymous donations, donations from abroad and prohibited sources of funding. It also regulated a ban on pressure and promise as well as the prohibition of donations through a third party. However, this Act did not contain a number of provisions, which are common for this type of law in countries with stable democracies, but also in countries in transition (e.g. regulation of expenditures, control and monitoring, audit etc). A major weakness of the Act was that it failed to regulate the financing of election campaigns. The government in place at the time, as a proponent of this Act, left the complex issue of financing election campaigns as "the legacy" of a former government.

The most comprehensive law in the domain of political funding in Croatia so far is the Act on Financing Political Activities and Election Campaigns (OG 24/11, 61/11) adopted in February 2011, which was accompanied by the Regulation on Keeping Records and Issuing Receipts of Voluntary Contributions (Donations) and Membership Fees, Reports on Donations Received to Finance Election Campaigns and Reports on the Costs (Expenses) of Election Campaigns, and Financial Statements for the Financing of the Election Campaign (OG 50/11)²³. This has created a solid legal framework in Croatia, but the transparency of party funding will depend largely on the implementation of these laws.

Political parties became eligible for financial support for the first time in 1993 with the adoption of the Act on Political Parties. The level of support, even after the adoption of other acts, has remained roughly at a similar level to that established by that initial law. Funds for the regular annual funding of political parties are provided from the state budget of the Republic of Croatia, amounting to 0,05% of the actual operating expenses detailed in previously published annual reports on budget execution. Political parties can also be funded from the budgets

of local governments²⁴. Non-parliamentary parties, i.e. the parties that do not participate in local representative bodies, are excluded from these grants - the right to support is given only to parties with elected representatives²⁵, and the amount of support is determined proportionally to the number of elected representatives²⁶.

The largest political parties in Croatia received from public funds in 2011:

- > HDZ - 3,37 million EUR from the state budget and 1,53 million from local government budgets,
- > HNS²⁷ - 0,36 million EUR from the state budget and 0,41 million from local government budgets,
- > HSS²⁸ - 0,3 million EUR from the state budget and 0,45 million from local government budgets,
- > HSLs²⁹ - 0,09 million EUR from the state budget and 0,12 million from local government budgets,
- > SDP³⁰ - 4,36 million EUR from the state budget and 1,24 million from local government budgets³¹.

In addition to financial support, political parties are also entitled to free-of-charge presentation of their programs on television and radio. Thus, for example, the electronic media broadcast information about the election rallies of political parties under the same conditions, in special shows after the daily news programs. All political parties have the right to present their electoral programs in a special 10 minute show on Croatian Radio and Television, and 5 minutes on commercial television and radio stations³².

24 Art. 3. of the Act on the Financing of Political Activities and Election Campaigns.

25 Art. 4. of the Act on the Financing of Political Activities and Election Campaigns.

26 Art. 5. of the Act on the Financing of Political Activities and Election Campaigns.

27 HNS – Hrvatska narodna stranka (Croatian People's Party)

28 HSS – Hrvatska seljačka stranka (Croatian Peasant Party)

29 HSLs – Hrvatska socijalno-liberalna stranka (Croatian Social Liberal Party)

30 SDP – Socijaldemokratska partija (Social Democratic Party)

31 Report published on the financial audit of political parties and independent representatives for 2011 - http://www.revizija.hr/izvjesca/2012-stranke-2011/izvjesce_politicke_stranke_nezavisni_zastupnici_i_nezavisni_clanovi_jlsl.pdf

32 Rules of Conduct of Electronic Media with National Concessions in the Republic of Croatia during Election Campaigns (OG 165/03, 105/07).

22 Kregar, Josip / Marko, Jozef, 2004: *Financiranje političkih stranaka* (Financing of Political Parties), in: Prpić, Ivan (edit.): *Država i političke stranke*, Narodne novine/ Hrvatski pravni centar, Zagreb, 89

23 Hereinafter referred to as the Regulation on Record Keeping and Receipt Issuing.

4. Methodology

The CRINIS methodology entails assessment of two different types of political financing: non-electoral finances of political parties and election campaign funding for legislative and where applicable, presidential elections. This report looks at the assessment of election campaign funding in Croatia in 2011, whereby resources were mobilized by political parties to run the election campaign.

The methodology involves examining the regulatory framework on the transparency of political financing, so as to com-

pare it with internationally recognized principles. Through different research methods, it also examines what happens in practice. By providing a thorough diagnosis of the legal framework and actual practice, it provides strong empirical evidence to create a clear picture of the areas in need of reform.

The information collected during the research was used to build an index of the transparency of political party funding. The level of transparency is quantified taking into consideration the following ten dimensions (Table 1):

DIMENSIONS	GENERIC QUESTIONS FOR BUILDING INDICATORS
1. Internal bookkeeping of parties	Is bookkeeping mandatory by law? How professional is the staff in practice?
2. Reporting to state oversight agency (State Electoral Commission and State Audit Office)	By law, do political parties and media render accounts on their role in political finance? When and in what format?
3. Comprehensiveness or scope of reporting	Do reports include public and private sources? Do they cover income and expenses? Do they cover monetary contributions, in-kind contributions etc.?
4. Depth of reporting	By law, do reports include information on individual donations? Do they clearly identify the donor of each donation?
5. Reliability of reporting	Do different actors disclose all resources in reports? How accurate are reports, to the knowledge of stakeholders?
6. Disclosure to the public	Is it mandatory for state agencies/parties to disclose information on political finance? In practice, how accessible is such information to experts, journalists and ordinary citizens?
7. Preventive measures	Are donations channelled exclusively through official bank accounts? Are there any loopholes for anonymous donations?
8. Sanctions	What are the existing sanctions - civil, criminal and political – according to the law? In practice, are the existing laws strictly enforced?
9. State oversight (State Electoral Commission and State Audit Office)	Do experts evaluate institutions of state oversight as independent? Are they considered efficient? From the perspective of self-evaluations, do they lack human resources? Do they lack training?
10. Public oversight	Do civil society organisations monitoring political finance exist? In which areas of political finance do they develop activities? Do experts evaluate organizations of public oversight as independent?

INTERNAL BOOKKEEPING (dimension 1) ties in to the way in which political parties internally manage their financial resources. REPORTING TO THE STATE OVERSIGHT AGENCY (dimension 2) evaluates the extent to which parties or candidates report to a government oversight body. Three dimensions – COMPREHENSIVENESS OF REPORTING (dimension 3), DEPTH OF REPORTING (dimension 4) and RELIABILITY OF REPORTING (dimension 5) – centre around the nature of data furnished in the financial reports and help to determine the quality of the information submitted to the oversight bodies. These evaluate crucial areas like all relevant finance activities, including cash, in-kind and other transactions, identity of the donor, credibility of submitted data and the perception of credibility of reports

by key actors. DISCLOSURE OF INFORMATION TO THE PUBLIC (dimension 6) takes a look at the public's access to political finance information. A third group of dimensions encompassing PREVENTION (dimension 7), SANCTIONS (dimension 8) and STATE OVERSIGHT (dimension 9) addresses monitoring compliance with established rules and regulations. This includes preventive measures to facilitate effective oversight, the existence of sanctions that can be imposed and the institutions and actors in charge of performing oversight functions. Finally PUBLIC OVERSIGHT (dimension 10) addresses monitoring and the oversight role of civil society and media, irrespective of the formal state oversight body with regard to political financing issues.

The information collected through the involvement of a broad spectrum of sources and different research methods, brings together over 75 evaluation indicators (law and practice). Questions feeding into each indicator have different range of answers, which translates into different weights for the final score for each indicator. The scale for each indicator ranges

from 0 to 10, where 10 indicates that a country has met all criteria expected in terms of transparency and accountability and 0 indicates that none of these criteria has been met. Scores between 0 and 10 are grouped into three evaluation categories: insufficient (0 to 3.3), average (3.4 to 6.7) and good (6.8 to 10).

TABLE 2. QUANTITATIVE INDEX OF TRANSPARENCY IN POLITICAL PARTY FUNDING DIMENSIONS, INDICATORS AND WEIGHTING OF LAW AND PRACTICE

DIMENSIONS	NUMBER OF INDICATORS	WEIGHT LAW/PRACTICE
1) Internal bookkeeping	Total 5 3 Law 2 Practice	50% Law 50% Practice
2. Reporting to state oversight agency (State Electoral Commission and State Audit Office)	Total 6 3 Law 3 Practice	50% Law 50% Practice
3. Scope of reporting	Total 4 2 Law 2 Practice	50% Law 50% Practice
4. Depth of reporting	Total 5 3 Law 2 Practice	50% Law 50% Practice
5. Reliability of reporting	Total 3	100% practice
6. Disclosure to the public	Total 14 6 Law 8 Practice	50% Law 50% Practice
7. Preventive measures	Total 10 5 Law 5 Practice	50% Law 50% Practice
8. Sanctions	Total 12 6 Law 6 Practice	50% Law 50% Practice
9. State oversight (State Elections Commission, State Audit Office)	Total 5 2 Law 3 Practice	50% Law 50% Practice
10. Public oversight	Total 5	100% practice

DATA SOURCES

This study utilized both primary and secondary sources for collecting data. Relevant laws and regulations were examined for the assessment of the legislative framework. For analysing the practices, the research team examined the reports from the political parties and oversight bodies and interviewed various stakeholders to get insights into the operation of the party financing system and its oversight. Key actors surveyed included, eight political parties, selected based on the number of seats obtained in the last legislative election (see Appendix A), and their accountants/treasurers. The State Electoral Commission, as the major state oversight body, served as a primary source which also provided access to some of the secondary sources such as parties' financial reports. Field tests were conducted to measure how easy it is for citizens to access information on funding of political parties and thereby evaluate the rates of response from different institutions, including parties, state oversight agencies, television stations and donors. Access to information tests were conducted by a research team using a standard procedure to contact various actors. The second tests were conducted by a group of volunteers of average citizens. The aim was to con-

trast the ability to access the same set of information by actors with different levels of knowledge and contacts.

DATA COLLECTION METHODS

Stakeholders, including the oversight agencies: State Electoral Commission and State Audit Office, party accountants and donors contributing money to the election campaigns as well as non-donors were personally interviewed based on the survey questionnaires. Media companies, donors and parties were primarily contacted through letters, requesting income and expenditure reports and details of airtime given or sold to parties, while party income and expenditure reports were taken from their websites. In the citizen experiment, mentioned above, participants were given a list of specific information to be obtained regarding regular political party funding, using different mediums of communication including internet, phone or official letters requesting information. Table 3 summarises the type of information collected, the source of information and the data collection method used

TABLE 3: TYPE AND SOURCES OF INFORMATION		
TYPE OF INFORMATION	SOURCE OF INFORMATION	DATA COLLECTION METHOD
Legal Framework	Relevant laws and regulations	Legal review
Internal party practices on financial issues	Party reports, official records and public information	Team analysis, complemented by interviews of party accountants and experts
Disclosure of information	Political parties, oversight agencies, donors, media agencies	Research of publicly available information Testing availability of information from various stakeholders through written requests
Income and expenditure of political parties	Parties, oversight agencies, donors, watchdogs	Interviews
General Practice on political finance	Parties, MPs, SEC, SAO, CSOs, experts	Interviews

LIMITATIONS OF THE STUDY

The limitations of this study were mainly limited to the challenges that the research team faced in contacting the donors of political parties, who were often reluctant to provide feedback. Over 80% of the donors contacted refused to be interviewed or provide any feedback.

5. Research Findings

The system of financing elections and election campaigns in Croatia received an average rating of 7.7 in this study. If we take into account that there are three categories of evaluation, insufficient (0 to 3.3), average (3.4 to 6.7) and good (6.8 to 10), we may conclude that the result achieved is good. Although this result is better than the results for the general funding of political parties, which amounted to 7, there is still much room for improvement. The worst rated dimensions were sanctions and reporting reliability, which were graded with 3.0 and 4.9, respectively. If there are no adequate sanctions it is illusory to expect the political parties to present accurate information about their finances to the public. At this point in Croatia, the laws define sanctions adequately, so what work remains is

their further application. Financial statements submitted by the parties are defined in great detail and at length, and they achieved relatively high scores (9.5 for the scope and 10 for detail of reporting). However, the reliability of these reports has proved to be quite questionable, which is why this segment was rated low (4.9). It is also one of the most problematic areas of the Croatian system of party financing, which requires further effort to achieve a satisfactory level.

Comparing legislation and practice showed that, in general, the scores for law (8.3) were higher than the results for practice (7.1), which showed that the implementation of legislation still remains problematic and requires constant work.

TABLE 1: CRINIS INDEX: GRAPH SHOWING OVERALL FINDINGS WITH AGGREGATED AVERAGES

CRINIS INDEX: AGGREGATED AVERAGES

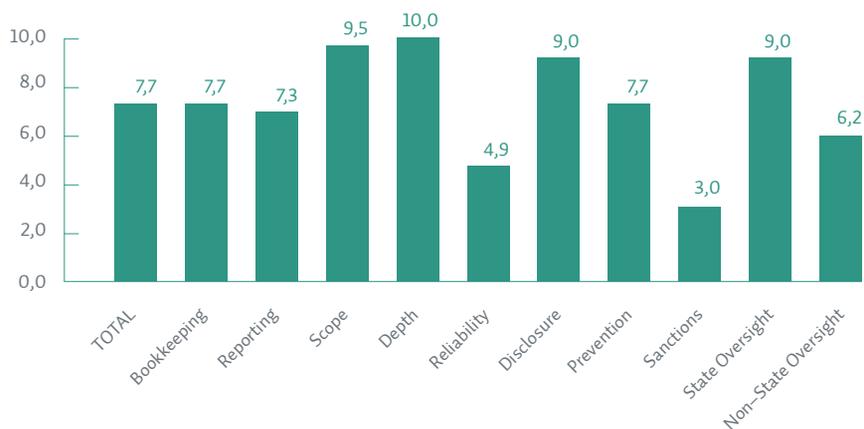


TABLE 2: GRAPH SHOWING OVERALL RESULTS LAW AND PRACTICE

CRINIS INDEX: LAW VS. PRACTICE

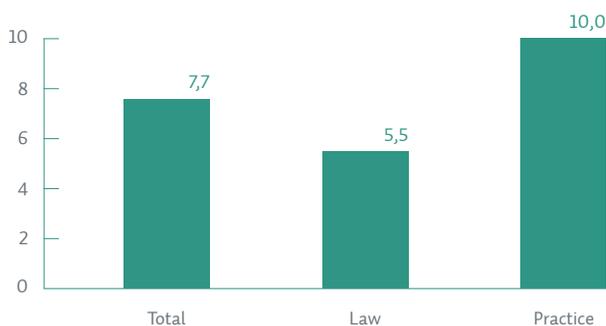


Dimension 1: Internal bookkeeping

The first stage of reporting by political parties is internal bookkeeping. Legal obligations in the area of bookkeeping and the political culture of the parties are factors that can influence this dimension. For parties to comply with legal regulations and uphold their own values and principles, it is essential for them to have a functioning administration, with the necessary capabilities.

In this study, the internal book keeping of parties was measured with five general indicators. These include legal requirements for parties to keep books on income, expenditure and assets and their actual practice in this regard. Other indicators address questions of disclosure of this information to party members, the standard of accounting procedures followed, whether there are authorized individuals to sign financial accounting reports, and whether financial records are kept for a prescribed length of time.

BOOKKEEPING



Political parties are legally obliged to keep accounts - Article 29 of the Act on the Financing of Political Activities stipulates that political parties are required to keep accounting records in the manner determined by the regulations on the accounting of non-profit organizations. The accounting for non-profit organizations is defined in detail in the Ordinance on the Accounting of Non-profit Organizations (OG 10/08, 7/09).

Political parties do not have to manage their accounting themselves - the Ordinance stipulates (Article 12) that bookkeeping may be entrusted to another professional legal or natural person, but that does not affect the level of professionalism of the work. Financial reports shall be signed by the person who keeps the accounting records and a representative of the political party. According to the Ordinance (Article 11), political parties are obliged to keep bookkeeping documentation; balance of payments and analytical records of wages are to be kept permanently; the documents that serve for entering data in the daily and general ledgers are to be kept for at least eleven years³³; and documents that serve for entering data in the subsidiary ledgers are to be kept for at least seven years³⁴. The accounting standards used for publication of financing election campaigns were evaluated by independent experts interviewed during the research as being too weak and too broad. They are very similar to the accounting rules relating to civil society, which is definitely not an appropriate framework for the efficient and transparent disclosure of campaign

³³ The main accounting record of an entity. It is a collection of the group of accounts that supports the value items shown in the major financial statements

³⁴ A special or supporting ledger that provides more detailed information about individual accounts than a general ledger.

budgets. Therefore, this regulatory framework received a relatively low rating (5.5). It is interesting that the majority of party accountants who participated in this study found the laws governing the accounting of campaign financing to be adequate, that is, neither too harsh nor too soft. Similarly, most accountants responded that the current legislation has no significant flaws that would allow for the avoidance of publication of funds or donations, or for failing to declare their source in election campaign accounting.

According to the Act on Financing Political Activities and Election Campaigns candidates in parliamentary elections must keep accounting records of income, expenses, assets and liabilities.

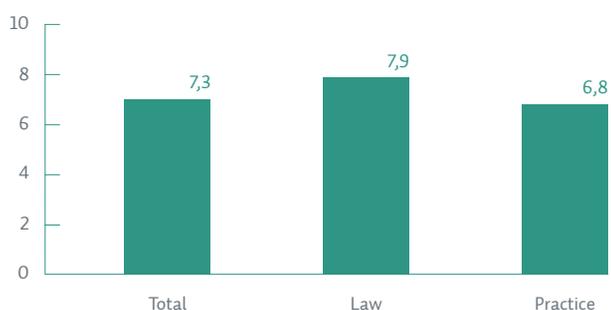
In practice, authorized accountants verify reports on the origin, amount and structure of the funds collected and used for the election campaign³⁵. External auditors do not verify statements since the law does not require an auditor's certification³⁶. The report on the origin, amount and structure of the funds collected and spent on the election campaign is signed by the party's responsible person, who is also a co-signatory with the person (accountant) who wrote the report³⁷.

Political parties do not publish information about funding specifically for their members - they can, like all other citizens, find the information about the financing on the party's website.

Dimension 2: Reporting to the Oversight Agency

For this dimension, the study focused on five indicators that covered both the legal framework and reporting to the designated government oversight agency. These indicators included questions regarding whether parties must render accounts to a state agency, whether media companies are required to report, whether there is a specific standardized format for submitting information and how often reporting is required.

REPORTING



The legal framework scored 7.9 in the CRINIS grade system. Much of the area is adequately regulated, although some is

³⁵ Art. 14. Sec. 5. of the Regulation on Record Keeping and Issuance of Receipts.

³⁶ Mataković, Hrvoje/ Petak, Zdravko, 2010.: Regulacija financiranja stranaka i izbora: usporedna analiza Hrvatske, Njemačke i Nizozemske, Politička misao, (47) 2: 97.

³⁷ Art. 3. Sec. 6. of the Regulation on Record Keeping and Issuance of Receipts.

sues, especially related to media, remain superficial. Article 24 of the Act on Financing of Political Activities prescribes that political parties and candidates in elections should submit a report to the State Electoral Commission on donations received to finance election campaigns and report on the costs (expenditure) of election campaign advertising, with up-to-date data; up to 7 days before the election day they are required to submit an interim report, and the final report within a period of 15 days from the date of publication of the final official election results. This report is further described in the Regulation on Keeping Records and Issuing Receipts.

Financial reports are required to be submitted in a standardized form, and the report on donations is also required to be submitted in a standardized format which is prescribed in an annex to the Regulation.

The law does not oblige donors to submit reports to the State Audit Office on donations given to political parties. Donors still have one obligation: for donations that are given in the form of products or services (including donations in kind, such as tangible or intangible property, property rights and similar), donors are required to issue an invoice, which indicates the market value of the product or service donated, the political party and an indication that it is not payable³⁸. The law does not oblige sellers or suppliers to submit reports.

Media companies are required by law to submit reports related to the election campaign advertising, so companies that provide media publicity services in election campaigns must submit their advertising price list to the State Electoral Commission³⁹. The Act does not define the format of this report, what might cause a problems in comprehension.

In the past few years all parties mostly submitted their reports to the State Electoral Commission and all larger (parliamentary) parties filed reports for the 2011 parliamentary elections⁴⁰. That was not the case in the past - about ten years ago no party submitted reports on campaign financing, although they were liable to do so by law⁴¹. Still, despite the significant improvement some more efforts should be put in reporting.

Dimension 3: Scope of Reporting

Scope of reporting looks into two main indicators: what types of funding sources are included in the reports (e.g., donations and public funding) and what expenses are included in the reports (e.g., expenses from private donations and expenses from public subsidies).

The legal framework is comprehensive and detailed and therefore scored a 10. According to the provisions of the Act on the Financing of Political Activities and Election Campaigns and the Regulation on Keeping Records and Issuing Certificates, political parties and candidates in elections submit three types of reports: 1) Reports on donations received to finance an election campaign, 2) Reports on the costs (expenditure) of the

election campaign, and 3) Financial reports on election campaign financing.

SCOPE



1) REPORTS ON DONATIONS RECEIVED TO FINANCE AN ELECTION CAMPAIGN

According to Article 11. Section 2. on keeping records and issuing certificates, reports on donations received to finance election campaigns and reports on the costs (expenditure) of election campaigns should include specified donor information (personal name or title and address), the date of the donation payment or provision of products or services without reimbursement, the amount of the donation paid, or the market value of the product and/or service indicated on the invoice that is not subject to payment, and the type of each donation.

2) REPORTS ON THE COSTS (EXPENDITURE) OF THE ELECTION CAMPAIGN

Article 12 Section 3 specifies the information that must be contained in the reports of costs (expenditures) of election campaigns. The Report of Costs of Election Campaign Advertising should include the political party's title or the candidate's name, their seat and address, VAT number, the number of the special bank account for financing the election campaign and the period for which the report is being submitted. The report is required to show data on the expenditures based on suppliers' invoices in chronological sequence.

3) FINANCIAL REPORTS ON ELECTION CAMPAIGN FINANCING

The financial report on campaign financing must contain data on actual income received to finance the election campaign, sources of funding and expenditure made to finance the campaign. An integral part of the report is a report on donations received and expenses for election campaign advertising. Data on revenues and expenditures to finance election campaign advertising are to be presented in conformity with the regulations on book-keeping for non-profit organizations.

In practice, in their reports of the 2011 parliamentary elections the parties presented:

- Individual pecuniary donations;
- Corporate pecuniary donations;
- Private donations in kind;
- Goods and services provided by legal entities⁴².

Civil society representatives believe that the low reputation of

³⁸ Art. 10. of the Act on Financing of Political Activities and Election Campaigns.

³⁹ Art. 12. of the Act on Financing of Political Activities and Election Campaigns.

⁴⁰ <http://www.vecernji.hr/izbori/u-kampanji-najvise-potrosio-hdz-9-22-milijuna-kn-kukuriku-8-24-clanak-350692>

⁴¹ Kregar, Josip / Marko, Jozef, 2004: Financiranje političkih stranaka (Financing of Political Parties), in: Prpić, Ivan (edit.): Država i političke stranke, Narodne novine/ Hrvatski pravni centar, Zagreb, 89.

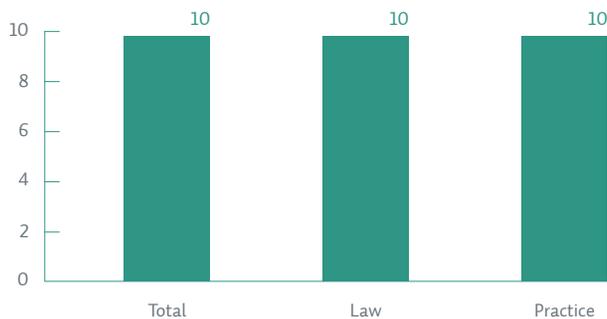
⁴² E.g. http://hdz.hr/static/media/attached_files/attachedfileitem/Konacna_financijska_izvjesca_parlamentarni_izbori_2011./konacno_financijsko_izvjesce_optimized_landscape.pdf; <http://www.sdp.hr/media/503947/image2012-01-04-125856.pdf>

politicians among the public is the fundamental reason why private donors are relatively reluctant to make a full disclosure of their financial contributions to political parties. The low level of political confidence in parties, the government and the sphere of politics in general, is the dominant explanation for the reluctance of donors to be listed as donors of a particular election campaign. The representatives of the parties who participated in this study argued that donors are reluctant to publish donations because they are afraid that the parties that did not receive donations, particularly if they participate in the government, could take revenge in some way. Still, scope of reporting is pretty high and it definitely helps in improving the trust in political parties and whole system.

Dimension 4: Depth of Reporting

The detail or depth of information provided is just as important as the comprehensiveness of the reporting. The usefulness of financial reports depends largely on the information included in them. Therefore, reports should identify each donor, the amount and the date of each donation, and similarly itemize expenditures. This depth of information allows oversight bodies, civil society groups and voters in general to examine the accuracy of information provided, identify parties who depend excessively on a few selected donors and monitor future representatives for any potential action that may benefit their donors at the expense of the public. This dimension was measured by aggregating multiple indicators such as how detailed income and expenditure reports are and whether there is a threshold for reporting of income in financial reports. Just like scope of reporting depth also helps to improve the trust in political parties and system in general.

DEPTH



The dimension “depth of reporting” received the best score in the research, with the legal framework and practice receiving the highest possible grade.

Statements of income may be described as detailed. Standard annual statements are not very detailed, but reports on donations (which are appendices to the standard annual statements) require different information about donors⁴³.

The Regulation on Record Keeping and Issuing of Receipts specifies that reports on donations to finance election campaigns (Article 11. Section 4.) must contain the following information: the donor’s name or title; the donor’s address or registered office; the donation payment date; the amount of donation paid; the aggregate sum of all donations paid by the

43 Regulation on Record Keeping and Issuing of Receipts, article 3.

same natural person/legal entity on the donation payment date.

Political parties should keep similar records on donations received in the form of products or services, and membership fees received.

In Croatia, the minimum donation amount that needs to be reported is not defined – all donations must be reported. The legislator avoided a possible controversy by not accepting the solution that, for example, exists in Germany, where there is no need to report donations under 10.000 euros. Parties can avoid reporting by breaking donation in smaller donations (smaller than 10.000 euros) which are not obliged to be reported.

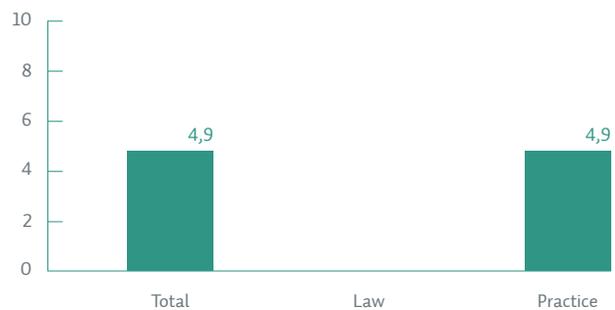
Reports of expenditures are not as detailed. Standard annual statements are pretty scant and the only detailed reports are those on the costs of election campaign advertising⁴⁴. Furthermore, the accuracy of reporting related to both income and expenditure is still questionable, which is one of the main problems of the Croatian system of political financing. Never the less, depth of reporting is pretty good and it helps to regain trust of citizens in political system.

The form for reporting on the costs of election campaign advertising contains a chronological sequence of data on expenditures based on suppliers’ invoices: the name of the payee (supplier); the recipient’s address; the date of payment or use of a product/service; the amount paid; the market value of the donated goods or services specified in the invoice that is not subject to payment in the case of donations in the form of products or services and the total amount of election advertising expenses indicated as the aggregate sum of the amounts paid to suppliers.

Dimension 5: Reliability of Reporting

One key element of reporting – due to its close ties to transparency – is its reliability, or the belief that the data contained in a report is accurate. This dimension, therefore, is perception based and there are no law indicators (see graph below). The reliability of a report is related to how accessible it is to the public and what extent the public controls its veracity. If the reliability of the data is questionable, the public’s interest in monitoring will naturally wane.

RELIABILITY



Measuring the reliability of data is difficult. The CRINIS methodology relies on data from surveys with key actors in this thematic area such as party accountants, officials of oversight agencies and members of civil society. Multiple indicators processed the responses to questions such as: how accurate

44 Art. 12. of the Regulation on Keeping Records and Issuing Receipts.

reports are (example, in terms of the percentage of donations likely to be reported) and whether it is possible to obtain an accurate idea of the financing of parties by looking at the official accounting statements.

In comparison with other results, Croatia scored a relatively modest result for the dimension of reliability.

It is quite difficult to assess the accuracy of the financial reports submitted by political parties in Croatia. The largest number of violations of legal provisions was found by the media⁴⁵ and civil society organizations⁴⁶. A whole series of corruption scandals involving political parties was found in 2010 and 2011 in investigations conducted by the police and the State Attorney's Office,⁴⁷ revealing that submitted reports were partly unreliable.

Although the regulation⁴⁸ specifies that the records of donations received must be certified by the stamp and signature of the responsible person of the political party, it is questionable whether this provision is in fact enough to force the political parties to present accurate information in their records. So far, political parties have generally tried to avoid specifying the actual amount of expenditure and identification of real donors and the amount of donations⁴⁹. Ten years ago, parties began to publish regular annual reports and statements of income and expenditure on political campaigns. However, these reports are still considered largely inaccurate⁵⁰: the media have reported on the existence of secret party funding⁵¹ and party corruption, suggesting that some of the financing statements developed by the parties lacked essential information. So, situation now is improved, but because of the vague past of financing public trust in reports is pretty low, despite the fact that both scope and depth of reporting are rated very high.

In interviews conducted with representatives of the State Audit Office and the State Electoral Commission, they claimed that it is possible to obtain precise information about the funding of parliamentary election campaigns by examining the official accounting records, and that the reports submitted by political parties and candidates are fully reliable. The State Electoral Commission said that during the inspection of the financing of election campaign advertising during the last parliamentary elections in 2011, it had a direct link to the banking system, which made it possible to compare the official accounting records with bank statements on a daily basis. Representatives of civil society had a different opinion. They said that the post-election publication of all financial information related to campaign financing remains one of the key problems in controlling Croatian elections. Campaign finance reports are neither complete nor entirely reliable. There was a good example in the case of Milan Bandić, the presidential candidate in the 2010 election – he reported that he collected 930 000 EUR for election campaign expenditures, but Trans-

parency International Croatia estimated that he spent more than 2,53 million EUR only for advertising in the media⁵². Representatives of civil society also reported that there is still no full disclosure of all income and expenditure information from election campaigns, which means we are still far from achieving full transparency. It is estimated that, on average, official financial reports on campaign financing do not cover more than 50 to 60 per cent of the actual revenue in campaign budgets. This is particularly true for different types of services in kind and various forms of indirect money transfers from the business sector. These sources of funding are still inadequately presented in the official published reports on campaign financing. Independent experts interviewed in the survey often expressed concern about the reliability of reports, and about whether the reports contained all the information: "Having in mind the low level of political culture in the country, we have no reason to believe that the reports are complete and accurate if that cannot be confirmed. A simple reference to ethics unfortunately cannot bring about results". Lawmakers should anticipate that parties will seek ways to circumvent the restrictions and requirements on disclosure, and parties should be clear that as a consequence of violating the law, they will be punished. Numerous media reports have also indicated political fraud and various non-transparent sources of funding of political parties⁵³. Although not directly confirmed in court, such reports give reasons to suspect that the funding of political parties, especially the ruling party, was not fully transparent, leading to a general belief that the expenses, of at least some political parties, were excessive and not displayed accurately in their financial statements. An indicative example was the last 2010 presidential election, where candidates spent more on media advertising alone⁵⁴ than they reported to the State Electoral Commission in their official reports as the total costs of the campaign.

Sanctions for inaccurate reporting and violations of laws have not been imposed on political parties (sanctions in this study received the lowest score of just 3.0), and the prevailing attitude of the public is that the submission of incomplete information in financial statements is the customary conduct of the parties⁵⁵. Several recently initiated investigations have shown that the investigative authorities have finally decided to determine whether such claims are correct⁵⁶. In any case, the very existence of such allegations has created the public conviction that the financial statements of political parties do not contain complete and accurate information.

52 <http://www.index.hr/vijesti/clanak/quotmadjionicarquot-bandic-na-kampanju-potrosio-tri-puta-vise-novca-nego-sto-je-dobio-donacija/468887.aspx>

53 <http://www.poslovni.hr/hrvatska/na-popisima-donatora-stranaka-manje-poznate-tvrtke-osim-vip-a-61846>

54 The data on the amount of funds used for advertising in the media were obtained from analyses conducted by companies for public media research and media analysis.

55 <http://www.setimes.com/cocoon/setimes/xhtml/hr/features/setimes/features/2011/11/28/feature-02>

56 <http://www.jutarnji.hr/prvo-fimi-media--zatim-planinska---pa-afere-s-hep-om--tlm-om-i-diokijem--/1068707/>

45 <http://www.tportal.hr/vijesti/hrvatska/148879/sto-je-vaznije-istina-ocrnim-fondovima-ili-tko-ju-je-objavio.html>

46 <http://www.gong.hr/news.aspx?newsID=3529&pageID=1>

47 <http://www.tportal.hr/vijesti/hrvatska/148879/sto-je-vaznije-istina-ocrnim-fondovima-ili-tko-ju-je-objavio.html>

48 Art. 3. Sec. 6. of the Regulation on Record Keeping and Issuance of Receipts.

49 <http://www.tportal.hr/vijesti/lokalni-izbori-2009/23049/Stranke-skrivaju-donatorec-ali-sankcija-nema.html>

50 <http://www.pomakonline.com/content/view/226/109/>, <http://www.jutarnji.hr/macek-i-barisic-stalno-su-navlaci-loslove-za-fimi-mediju-i-massol/973592/>

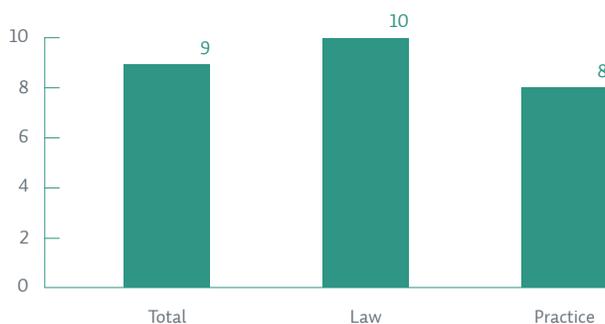
51 <http://www.jutarnji.hr/fimi-media--jarnjak-i-macek-znali-su-sve-ocrnom-novcu--donosili-su-ga-u-hdz-i-dijelili-/973856/>

Dimension 6: Public Disclosure

The disclosure of financial information is a key element in ensuring that media, civil society organizations, citizens and aspirants to public office can engage in monitoring party finances. This dimension is based on indicators, which describe the types of requirements to which the parties are subject: the disclosure of information on public subsidies; the disclosure of information on private financing received; the frequency of disclosure; and the channels through which the public is made aware of such information (visits to the party, the electoral management body, internet access etc.).

Furthermore, additional indicators based on the findings of field tests were used to measure practices of disclosure. This included the citizen experiment, in which a group of citizens, journalists and students requested information addressed to various stakeholders (such as political parties, donors, TV stations). These indicators are based on the following questions: what information was obtained by way of field tests conducted by volunteers? What was the rate of response achieved with requests for information submitted by local research teams? And whether parties voluntarily disclose financial information?

DISCLOSURE



Financial reports are required to be made public - in conformity with the provisions of Article 39 of the Act on the Financing of Political Activities, political parties are required to publish their annual financial statements from the previous year on their website by the latest 1st March of the current year, and keep them public for a minimum of 90 days. Most political parties, particularly parliamentary parties, display these reports permanently on their web sites and this way ensure very high level of transparency

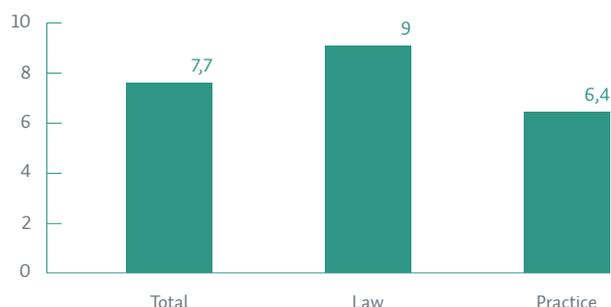
Despite the fact that political parties are not required to disclose information on their financial activities in accordance with the Freedom of Access to Information Act, they are required to do so pursuant to the provisions of the Act on the Financing of Political Activities. These annual financial reports and semi-annual reports on donations are required to be published on their websites. The majority of parties, especially parliamentary ones, did publish a report on the financing of election campaigns⁵⁷.

57 http://www.revizija.hr/izvjesca/2012-stranke-2011/izvjesce_politicke_stranke_nezavisni_zastupnici_i_nezavisni_clanovi_jlsl.pdf

Dimension 7: Preventive measures

This study assesses the dimension of prevention mechanisms in political party funding using indicators that look at the existence of a centralized system of bank transactions (known as a “single account”) and a ban on cash deposits which could prevent identification of the origin of donations. Furthermore, this dimension looks into the existence of preventive measures against abuse of government resources and whether fiscal incentives for disclosure of donations exist. Another indicator focuses on whether there are media regulations preventing potential abuse of political influence.

PREVENTION



Although the legal framework received a high score, prevention remains one of the lower rated dimensions in this study. Prevention is one of the best ways to increase the transparency of political financing, but in order to achieve this certain mechanisms need to be established.

The existing system of reporting and public disclosure is well conceived but the weakest link of the system is the control of the accuracy of financial reports, which requires additional work.

The law does not specify that donations in cash are prohibited, but from the following wording it may be concluded that donations are only accepted through a bank account: “donations in monies shall be paid into the central bank account of a political party”⁵⁸. This formulation also means that donations are paid into the one, central bank account of the party and that is how to avoid attempts to hide money in various party accounts. Anonymous donations are legally prohibited⁵⁹. Donations for financing expenditure on election campaign advertising are to be paid into a special bank account of the political party, which the political party must open for financing the election campaign. The law has specific measures to prevent the misuse of funds that a party receives from public sources so that if a political party uses funds given for the election campaign advertising for illicit purposes the party may:

- receive an administrative sanction of complete loss of remuneration for the election campaign, and also
- receive a fine from 6.600 to 66.000 EUR.

So far these sanctions have not been imposed, regardless of the fact that the measures from Article 43 are also found in a similar form in the Act on the Financing of Political Parties adopted in late 2006 where political parties have a special tax status. According to Article 9 of the Act on the Financing of Political Activities and Election Campaigns, for activities that are strictly related to political party activities, political par-

58 Act on the Financing of Political Activities and Election Campaigns, article 14.

59 Act on the Financing of Political Activities and Election Campaigns, article 22.

ties are not liable to income tax and value added tax and may also be entitled to tax benefits under the provisions of special laws. From the wording it is not clear to which special law it is referring and who will determine what those activities are, on the basis of which criteria. In any case, a more restrictive approach should be applied. Unfortunately, donors (natural persons) are not entitled to tax benefits. Such tax incentives would encourage donors to disclose their donations to political parties and would certainly contribute to the transparency of political funding. Only legal persons are entitled to tax benefits, but have not used this possibility to any great extent⁶⁰. The Law on Electronic Media (OG 153/09, 84/11) guarantees all political parties to participate in paid publicity – the electronic media should provide to all political parties equal access for the broadcasting of their promotional messages. The law does not allow advertising of political parties outside the period of election campaigns. In practice, as was stated by representatives of civil society, the media and advertising companies sell advertising space to parties and candidates at different prices. It is not clear what happens with regards to these transactions. There are some estimates by civil society organizations of the amounts of campaign funds spent on advertising in the media⁶¹, but there is still no clear or complete disclosure which would make it clear who pays for the advertising costs for individual political parties or candidates, and how much is being paid. Companies that provide advertising services or media companies give certain customers various forms of discounts, so it is often difficult to determine the exact amount paid for advertising by a certain political party or candidate⁶². A relatively simple solution that forces parties to record all their funds in their reports is used in Germany. In Germany, it is stipulated that the share of public funds of the total income of a party may not exceed 50%. Since the amount of budgetary allocations depends on the amount of funds that a party collects from private sources, parties are forced to record all donations in their financial statements. There is another positive consequence of the introduction of such a rule: in such systems, parties are forced to turn to citizens and attract more members and supporters willing to donate to their party⁶³. This could be a good way to make party financing in Croatia more transparent.

Dimension 8: Sanctions

As with most other dimensions, multiple indicators that focused on both the legal framework and practices were used to evaluate the dimension of sanctions. Questions included: are existing laws on financing of election campaigns of political parties adhered to in practice? Is current legislation in this area adequate? Are sanctions for violation of established rules appropriate? In order to verify if sanctions are applied, media reports and court cases were reviewed.

60 <http://www.poslovni.hr/mobile/hrvatska/donatore-politickih-stranaka-mediji-napadaju-vec-prije-izbora-45425>

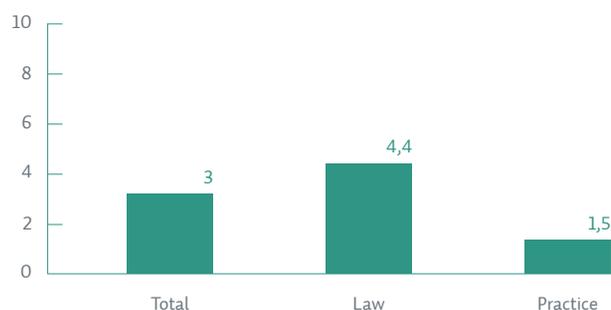
61 <http://www.gong.hr/hr/izborni-sustav/kampanje/gong-i-tih-procjena-troskova-predizbornih-kampanja/>

62 <http://h-alter.org/vijesti/politika/transparentnije-nego-prije/print:true>

63 Toplak, Jurij, 2003: Party Funding and Corruption in Balkan Countries: The Example of Slovenia and Croatia, u: Political Party and Election Campaign Financing in Southeastern Europe, Transparency International – Bulgaria, Sofia, 53.

Sanctioning political parties for financial abuse and violation of the law has so far proved to be one of the weaker areas of legislation, particularly when it comes to the implementation of regulations related to the party finances. This is evident from the results of the CRINIS assessment, where this dimension received the worst grades in the entire test (4.4 for laws and only 1.5 for practice).

SANCTIONS



The Political Parties Act, the first law to regulate Croatian political party financing, prescribed sanctions in the amount equivalent at the time to 100 to 250 Euro for parties that failed to publish the sources of their finances or that failed to submit their annual financial reports. A particular problem was the fact that this provision, which was in force from 1993 to the end of 2006, was never realized in practice⁶⁴.

The current law provides for a really wide range of sanctions. A political party will be fined 6.600 to 66.000 EUR if it does not keep records of membership fees and donations, and does not issue receipts for them; does not publicly announce the price and price discount for media advertising in the election campaign; it has no separate bank account for the financing of election campaign expenditure; it fails within the prescribed period and content to submit a report on donations and election advertising expenses to the competent SEC or to publish it publicly etc. For a misdemeanour committed by a political party, a fine of 1.300 to 2.600 Euro shall be imposed on the person authorized to represent the political party, as well as the person liable for the financial operations of the political party⁶⁵.

There are other forms of sanctions. Likewise, the political party shall be subject to administrative sanctions in the form of the total, partial or suspended loss of remuneration for election campaign expenses⁶⁶. A political party cannot be punished for financial misdemeanours in any other way, for example, by being banned from participating in the elections or likewise. Party leaders or accountants may also be prosecuted⁶⁷, but the likelihood of the imposition of penal sanctions is quite small.

Donors can be fined if they do not issue invoices for donations in the form of products or services or if they make donation payments to a political party contrary to a prohibition, while proceedings against them are being conducted for payment of unpaid debts to the state budget or staff⁶⁸.

64 Petak, Zdravko, 2005.: Financiranje političkih stranaka, in: First, Ana/ Mataković, Hrvoje/ Vasiljević, Snježana (eds.): Analiza sustava nacionalnog integriteta: izvješće, Transparency International Hrvatska, Zagreb, 84.

65 Art. 43. of the Act on the Financing of Political Activities and Election Campaigns.

66 Art. 40 of the Act on the Financing of Political Activities and Election Campaigns.

67 Art. 49 of the Act on the Financing of Political Activities and Election Campaigns.

68 Art. 45. of the Act on the Financing of Political Activities and Election Campaigns.

As stated by representatives of the civil sector, a key issue in the implementation of an effective ban on improper campaign financing lies in the deficiencies in the application of the rule of law and law enforcement.

The biggest corruption scandal in Croatia, related to party financing, broke out in January 2010, when a statement was made to the Office for Suppression of Corruption and Organised Crime (or USKOK) by Damir Mihanović, a former board member of the state insurance company “Croatia osiguranje”. In his statement, he charged former Prime Minister Ivo Sanader of racketeering through ministries and public companies, asking them to enter into fictitious or unrealistically expensive contracts for various marketing services provided by the company “Fimi Media”, which was used to draw on public funds. Damir Mihanović was the only one of some 15 directors and high-ranking officials who declined to participate in this racket and testified to USKOK⁶⁹. The investigation, which has taken nearly two years, has found that more than 9,3 million EUR was drawn in this way from ministries and public enterprises from the end of 2003 to July 2009, of which Ivo Sanader kept at least 2 million EUR for himself, while the rest went into the “black fund” of the Croatian Democratic Union. It is not entirely clear what the Croatian Democratic Union has done with the money - it may be assumed that it was used to fund election campaigns, but some of the money also ended up in the pockets of some high-ranking party officials. The indictment in this case was filed in December 2011 - the court file has more than 70,000 pages, and in the indictment of more than 500 pages, HDZ has become the first Croatian political party to be charged of causing damage to the state. The court proceedings in this case were instituted very quickly, sending a message that corruption will not be tolerated. That message would have been even stronger if the participants were condemned and punished⁷⁰. With the departure of Ivo Sanader, the phase of stabilization of institutions began, and the confidence grew in the idea that nobody is untouchable and perpetrators will be appropriately sanctioned in Croatia. However, since the trial has not yet been concluded with a final judgment by the end of this study in April 2013, it is difficult to draw a conclusion that this is indeed the case, and that everyone, regardless of their position, will be punished.

Until the end of March 2013 SEC reported four violations of financing of political activities to Croatian Parliament and five to State Attorney’s Office, but until this report was finished there was no information on consequences published.

Dimension 9: State Oversight

State oversight is an indispensable element in strengthening the systems that regulate political financing. The independence and clear mandate of the oversight body is necessary for its effective functioning. It is also vital that the institution has sufficient resources and technical capacity to carry out its duties. The two indicators for this dimension include questions on the legal mandate and institutional arrangement to evaluate

whether the body has necessary legal powers to carry out independent oversight of political party funding. Other indicators focus on examining actual practices, such as, how independent is the electoral management body, as evaluated by relevant actors in the field? What are its capacities and shortcomings in terms of its resources?

STATE OVERSIGHT



Responsibility for the oversight of party finances in Croatia rests with two oversight institutions: the State Audit Office and the State Electoral Commission. The State Audit Office audits the annual financial performance and annual financial statements, while the State Electoral Commission supervises electoral campaigns, the financial accounts relating to the financing of election campaigns, donation collection and election campaign expenses, reporting on campaign financing and other activities related to promotion during election campaigns⁷¹.

The State Audit Office is managed by the Auditor General, appointed by the Croatian Parliament for an eight year term. He/she may be re-appointed to the same office⁷². The President of the State Electoral Commission represents the Commission, manages its work, determines measures and procedures in accordance with their statutory authority and takes the necessary action to provide for the smooth and regular conduct of the Commission’s activities⁷³. The Commission President is elected by the Croatian Parliament for an eight year term. The President of the Commission shall be elected on the basis of a public invitation⁷⁴.

The position of the leading people of the State Audit Office and the State Electoral Commission is established by law so that they cannot be revoked before the expiry of their office for political reasons, for example. By the end of this study (in April 2013), there were no examples of the leaders of these bodies being removed for political reasons.

When the State Audit Office finds irregularities in the operation of political parties, it invites them in its reports to correct them. Since irregularities are in no way sanctioned, only a small number of parties have been invited in this way to correct the irregularities within a given period.

In the past, the State Audit Office proved incapable of conducting adequate oversight of party finances, since the State Audit Office “had not conducted the financial control of the parties’ operations since autumn 2002”.⁷⁵ They justified this by the

69 USKOK: Ured za suzbijanje korupcije i organiziranog kriminala, or the Office for Suppression of Corruption and Organised Crime

70 Čaldarović, Ognjen; Štulhofer, Aleksandar; Kufrin, Krešimir; Glavašević, Bojan; Odak, Iva; Gregurović, Margareta; Detelić, Martina, 2009: Combating Corruption in Croatia: From Expert Perceptions to Policy-Oriented Action Strategies and Back, *Revija za sociologiju*, 40[39] (1-2): 14.

71 Art. 27. of the Act on the Financing of Political Activities and Election Campaigns.

72 Art. 12. of the State Audit Office Act.

73 Art. 6. of the State Election Commission Act.

74 Art. 4. of the State Election Commission Act.

75 Kregar, Josip / Marko, Jozef, 2004: *Financiranje političkih stranaka (Financing of Political Parties)*, in: Prpić, Ivan (edit.): *Država i političke stranke*, Narodne novine/ Hrvatski pravni centar, Zagreb, 88.

lack of staff - according to the spokesperson of the State Audit Office in December 2001, there had been no financial control of political parties because their “hands are tied with the audit of the privatization process”.⁷⁶ Today this kind of monitoring is performed regularly, although in the past, as now, the issue was rather related to a lack of political will to carry out the control than to a lack of staff⁷⁷. The State Electoral Commission employs only graduate lawyers, and it lacks people with knowledge and experience in finances, accounting and auditing⁷⁸. In this research study, the representatives of the State Audit Office and the State Electoral Commission claimed that their institutions have had sufficient funds, provided in due time, and that the financial resources or the number of employees have had no negative impact on their work over the past five years. A representative of the State Electoral Commission said that in the past year there has been no increase in financial resources, or the number of employees in the State Electoral Commission, and that there has even been a reduction in the financial resources which the SEC has at its disposal. Despite this, the representative claimed that all the obligations of the State Electoral Commission from the Act on the Financing of Political Activities and Election Campaigns had been performed. He also said that the institutions responsible for monitoring political financing used their financial resources effectively, but that increased funding would need to be planned for the regular monitoring of political party funding.

Representatives of civil society and independent experts had a different opinion. They argued that the fundamental problems of the State Electoral Commission (SEC) in Croatia were not so linked with its independence but rather with the institution’s limited capacity. The SEC is not supported by the appropriate staff who are trained to carry out the process of monitoring campaign financing (financial auditors, political scientists specialized in monitoring election campaigns). Another problem, according to CSOs, is the inadequate SEC budget to finance these activities.

In terms of the roles of individual institutions involved in the monitoring of campaign financing, the State Audit Office stated that it is an institution that has changed for the best sense over the past few years. The Office has begun systematically to undertake audits of the campaign budgets of political parties and individual candidates, which is certainly a big step forward. However, the role of the State Audit Office should be strengthened during elections, so as to allow them to conduct random audits, to act upon external complaints and to increase their powers in the supervision of accounting reports by political parties and candidates.

76 Jelušić, Mario, 2001: *Financiranje izborne kampanje i hrvatsko izbornog zakonodavstvo*, Zbornik Pravnog fakulteta u Zagrebu, (51) 6: 1375.

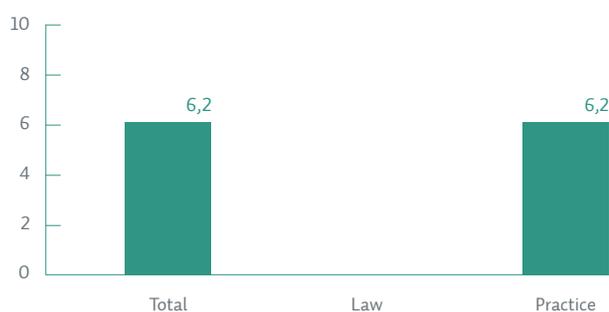
77 Mataković, Hrvoje/ Petak, Zdravko, 2010: *Regulacija financiranja stranaka i izbora: usporedna analiza Hrvatske, Njemačke i Nizozemske*, Politička misao, (47) 2.

78 First, Ana/ Matakovic, Hrvoje/ Vasiljevic, Snježana (eds.), 2005: *Analiza sustava nacionalnog integriteta – Izvješće*, Transparency International Hrvatska, Zagreb, 81.

Dimension 10: Public oversight

In addition to the oversight functions performed by state bodies, other actors such as the media, academics, civil society organizations and citizens and, at times, political parties themselves, may engage in monitoring funding of political parties. Monitoring activities may include irregularities such as reporting to government bodies, analysing finance reports to inform the public and pressuring authorities to ensure that their oversight is functioning and effective. The study has addressed this dimension by focusing on the oversight activities performed mostly by civil society organizations and the media. The specific questions included: Whether there are organizations that oversee election financing, whether they are independent, active and influential in their activities. Another indicator also looks into the question of whether civil society, political parties or citizens report irregularities in election financing to the state oversight body.

NONSTATE ACTORS’ OVERSIGHT



In Croatia, various non-governmental organizations have warned of irregularities related to the financing of political parties⁷⁹. Transparency International Croatia and GONG have played the largest part in this. Non-governmental organisations have participated in various activities including media monitoring, pointing out the abuse of budgetary funds, cooperation with political parties, candidates and the like.

Representatives of the State Electoral Commission and the State Audit Office, as well as the majority of political parties, have assessed that the non-governmental organizations that oversee the political financing are effective, or very effective in practice. In the same way, the majority of political parties have evaluated these NGOs as fully independent, with the same opinion being reported by party accountants. The experts who participated in this study indicated that the investigating activities of NGOs (Transparency International Croatia and GONG) in Croatia have shown a higher level of efficiency in monitoring campaign financing than the State Electoral Commission. This is one of the fundamental problems of campaign financing in Croatia.

The media have also been involved in covering the issues of financing of political parties. Their stories have often been sensationalist and biased, so that the “leftist media” accused right-wing parties of financial fraud and the “right-wing me-

79 <http://www.transparency.hr/index.php?id=328> ;

<http://www.gong.hr/hr/izborni-sustav/kampanje/neobican-slucaj-milana-bandica/>; <http://www.gong.hr/hr/dobra-vladavina/novac-u-politici/trebaju-li-hrvatski-gradani-strahovati-od-nove-fim/>;

dia” have accused the left-wing parties of the same⁸⁰. Political parties acted similarly when rival parties accused each other of involvement in corrupt practices⁸¹.

80 <http://www.jutarnji.hr/branka-pavosevic--moja-istina-o-korupciji-u-hdz-u/1060858/>; <http://www.vecernji.hr/biznis/daimler-podmitio-sdp-ovu-vladu-uskok-pokrece-novu-istragu-clanak-115383>

81 <http://www.ezadar.hr/clanak/milanovic-korupcija-zivi-u-hdz-u>; <http://www.vecernji.hr/vijesti/karamarko-omisu-korupcija-se-vraca-mala-vrata-clanak-512334>.

6. Recommendations

The following four measures are proposed to improve the Croatian system of election campaign financing and the implementation of laws:

The amount an individual party can spend on an election campaign should be linked directly to the number of voters; for example, a party can spend 1 to 1.5 EUR per voter. In this way, election campaign expenditures will be linked to the number of voters which should lead to realistic limitation of election campaign expenditures;

The introduction of so-called matching funds for donations – the share of public funds should be connected with the amount raised through private sources, with a preference for numerous smaller contributions rather than fewer large donations. In this way, the amount of public funds depends on the amount of funds raised from private sources, forcing the parties to record all donations in their financial statements;

Before the financial reports are submitted to the competent institutions, they should be checked by an independent auditing company, which would ensure a better quality of reporting; Stricter implementation of sanctions is necessary. Public authorities should insist on strict enforcement of sanctions for any violation of laws;

Media companies are required by law to submit reports related to the election campaign; therefore, companies that provide media advertising services for election campaign publicity must submit their advertising price list to the State Electoral Commission. The format of this report should be defined by the law, along with the establishment of a system for monitoring the accuracy of these reports.

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Electoral Commission. The format of this report should be defined by the law, along with the establishment of a system for monitoring the accuracy of these reports.

7. Annexes

POLITICAL PARTIES (IN ALPHABETICAL ORDER):

Croatian Democratic Union (HDZ)
Croatian Labourists – Labour Party (HL)
Croatian Party of Pensioners (HSU)
Croatian Party of Rights (HSP)
Croatian Peasant Party (HSS)
Croatian People's Party – Liberal Democrats (HNS)
Croatian Social Liberal Party (HSLs)
Istrian Democratic Assembly (IDS-DDI)

Siemens Hrvatska, Mladen Fogec
Storm Computers, Zlatko Zekan

THE STATE AUDIT OFFICE:

Branko Krištić
Neda Rogošić

THE STATE ELECTION COMMISSION:

Aleksandra Jozić Ileković
Davor Orlović
Zdravka Čufar Šarić
Zorislav Ham

JOURNALISTS:

Damir Dević, HRT
Davor Krile, Slobodna Dalmacija
Goran Gazdek, Freelance Journalist
Ivica Kruhoberec, Regionalni tjednik

EXPERTS:

Nenad Zakošek, Faculty of Political Science, University of Zagreb
Zdravko Petak, Faculty of Political Science, University of Zagreb
Željka Kulenović, University of Applied Sciences Lavoslav
Ružička, Vukovar

CIVIL SOCIETY ORGANISATIONS

GONG, Vanja Škorić
Transparency International Croatia, Zorislav Antun Petrović
Vjetrenjača, Marko Rakar

DONORS:

iLife, Domagoj Ivan Milošević
Kraš, Marica Vidaković
Orbico, Branko Roglić
SV-Group, Slobodan Vajagić

COMPANIES NOT MAKING DONATIONS TO POLITICAL PARTIES:

Ericsson Nikola Tesla, Snježana Bahtijari
Holcim, Žarko Horvat
Lenovo, Ranko Potkonjak

