

SHINING A LIGHT ON POLITICAL PARTY FINANCING: ALBANIA, CROATIA, KOSOVO, FYR MACEDONIA AND SERBIA 2011 Transparency International is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, we raise awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it.

www.transparency.org

Author: Tinatin Ninua

Cover photo: © Flickr/evoo73

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of November 2011. Nevertheless, Transparency International cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

ISBN: 978-3-943497-11-3

Printed on 100% recycled paper.

©2011 Transparency International. All rights reserved.



This document has been produced with the financial assistance of the Norwegian Ministry of Foreign Affairs. The contents of this document are the sole responsibility of Transparency International and can under no circumstances be regarded as reflecting the position of the Norwegian Ministry of Foreign Affairs.

CONTENTS

1	Introduction	2
2	Methodology	4
3	Overview of findings and comparative analysis	5
	3.1 Weakest dimensions: prevention and sanctions	5
	3.2 Reporting: Scope, depth and reliability	10
	3.3 Public disclosure of information 14	
	3.4 Oversight of annual party funding	17
4	Recommendations 21	
Ar	nnex 1 Table 1: Overview of scores by country and dimension	22
Ar	nnex 2 Table 2: Ten dimensions of transparency in political finance and sources of information used	23

1. Introduction

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.

With necessary adaptations to regional circumstances, the methodology, developed by Transparency International (TI) and the Carter Center,¹ has been successfully carried out in a number of countries in Latin America, Asia and Africa. This report focuses on five Western Balkan countries: Albania, Croatia, Kosovo,² FYR Macedonia and Serbia.

Various public opinion and expert surveys conducted by Transparency International, including the Global Corruption Barometer,³ highlight that political parties in the Western Balkans are perceived to be one of the institutions most likely to be 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 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 it 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 for citizens to make informed voting decisions.

In the Western Balkans, the assessment has focused on the annual, non-electoral funding of political parties in each country and so does not analyse the financing of election campaigns. Still, examining annual financing of political parties can provide useful information on fundraising patterns since parties tend to start campaigning long before the official election campaign starts. The election campaign funding component of political financing will be assessed in the next phase of the project, to be carried out in 2012.

All the countries under review have undergone important legislative and institutional changes in political financing in recent years. Further substantial legislative changes were introduced in 2011 in Albania, Croatia and Serbia. These new frameworks incorporate some of the Council of Europe's Group of States Against Corruption (GRECO) recommendations on the improvement of supervision and disclosure, but have not been in place long enough to enable an assessment of their implementation.⁴

³ For more details, see: http://www.transparency.org/policy_research/surveys_indices/gcb/2010.

¹ See: http://www.transparency.org/regional_pages/americas/crinis.

² Kosovo is not a member of the United Nations. Although by 21 September 2011, 85 countries worldwide had given it diplomatic recognition, in all other countries it is still seen as territory of the Republic of Serbia, governed under UN Security Council Resolution no. 1244. No term used in this publication (e.g. country) is aimed to interfere with this dispute or to support one or another point of view. For the purposes of this research, Kosovo has been treated as a separate unit of analysis, having its own fully independent system of political party financing. The information given for Serbia in this research reflects the situation in Kosovo only in terms of financing of those political parties registered under Serbian legislation, operating and participating in elections organised by Serbian authorities in some areas of Kosovo.

⁴ See: http://www.coe.int/t/dghl/monitoring/greco/evaluations/index_en.asp. GRECO evaluation procedures involve the collection of information through questionnaire(s), on-site country visits enabling evaluation teams to solicit further information during high-level discussions with key domestic players, and drafting of evaluation reports. These reports, which are examined and adopted by GRECO, contain recommendations to the evaluated countries in order to improve their level of compliance with the provisions under consideration.

The following report provides the findings of the CRINIS assessment in the Western Balkans with comparative results from Albania, Croatia, Kosovo, FYR Macedonia and Serbia. It presents an evaluation of the important aspects of relevant regulations on annual party financing and pinpoints the issues that will be critical to ensure their effective enforcement.

Measures taken to implement recommendations are subsequently assessed by GRECO under a separate compliance procedure.

2. Methodology

Using the CRINIS methodology, data for the project were collected by research teams in each of the five countries. Data collection included extensive desk research on existing laws and regulations, as well as an assessment of practice using methods, such as one-to-one interviews with stakeholders,⁵ and guided assessments using a group of citizens and journalists to carry out field tests on the accessibility of information about political parties' annual funding.

Ten dimensions of transparency were measured for annual, non-electoral funding of political parties in each country. The quantitative index is calculated by averaging all 10 dimensions, each of which is given the same weight in the calculation. The scale for each dimension ranges from 0 to 10, where 10 indicates that a country fulfils all the criteria expected in terms of transparency and accountability, and 0 indicates that it fulfils none of the criteria. 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).

The 10 CRINIS dimensions include:

- (1) **Internal bookkeeping** refers to the way in which political parties manage their financial resources internally.
- (2) **Reporting to the electoral management body** evaluates the extent to which parties or candidates report to a government oversight body.
- (3) The next three dimensions: comprehensiveness of reporting;
- (4) depth of reporting; and
- (5) reliability of reporting centre around the nature of data furnished in the financial reports, and help to determine the quality of data submitted to the electoral bodies. These evaluate crucial areas such as relevant financial activity, including cash, in-kind and other transactions; donor identity; the credibility of submitted data; and the perception of the credibility of reports by key actors.
- (6) **Disclosure of information to citizens** examines public access to political finance information.
- (7) D imensions encompassing prevention;
- (8) sanctions; and
- (9) state oversight address the monitoring of 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.
- (10)The last dimension addresses the oversight activities performed by civil society.

Limitations of the study

Particular problems in the research process emerged in Albania and Kosovo, where it was extremely difficult to assess the implementation of laws. There were no political party reports available for assessment in Albania, where until May 2011 there had been no requirement for political parties to account for their annual finances. In Kosovo, none of the party reports had been published by the time the research was conducted. Therefore, the findings from these two countries are largely based on the observations of the research teams and perceptions of stakeholders who shared their information and views. Due to these limitations, the findings from Albania and Kosovo mostly focus on the evaluation of the legislation.

⁵ Stakeholders included political party accountants, auditors and members of oversight agencies, members of parliament, academics and journalists as well as representatives of civil society organisations.

3. Overview of findings and comparative analysis

This section presents the system of annual funding of political parties in the selected countries and draws some general conclusions and lessons. The main focus of the analysis is on identifying strengths and weaknesses in legislation and practice.

3.1. Weakest dimensions: prevention and sanctions

Across all the five countri es reviewed, preventive measures, and sanctions were identified as the most problematic dimensions, receiving the lowest overall scores.

Preventive measures

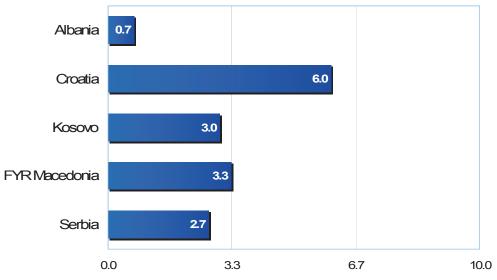
Preventive m easures play an im portant role in creating an institutional fram ework that f osters integrity in the financial operations of parties and discourages practices that are inconsistent with regulations on the transparency of party funding. They also help to fa cilitate state and public oversight.

This study a ssessed pre ventive mechani sms in political p arty funding by using the f ollowing indicators:

- The existence of a centralised system of bank transactions, known as a single account;
- A ban on cash deposits, which could prevent the identification of the origin of the donations;
- The existence of preventative measures against the abuse of government resources; and
- The existence of any fiscal incentives for the disclosure of donations.

FIGURE 1: Assessment of legislation on preventive measures

Source: Data based on individual country scores in Annex 1



* Insufficient - 3,3 ; Average - 3,4 to 6,7 , Good - 6,8 to 10

With the exception of Croatia, which was assessed as 'average' achieving a score of 6, all countries score below or equal to 3.3, and are thus considered to have 'insufficient' legal provisions on preventive measures.

Albanian law specifies that private funds above a certain threshold cannot be donated except as a bank transfer to an account opened by the political party, and donations from undeclared private sources are strictly prohibited. Furthermore, the bank account number of each political entity must be published on the official website of the Central Election Commission (CEC). However, the disclosure requirement only covers donations over 100,000 ALL (equivalent to 720 euros); this is higher than the threshold in the other countries in the study, particularly in the context of Albania's wage structure. Such high thresholds can hinder transparency, as a large number of small donations would go unaccounted for and would not need to be disclosed. At the same time, no additional measures are prescribed to prevent the abuse of government resources, and no fiscal incentives are in place to encourage disclosure of donations.

Serbian legislation distinguishes between cash and anonymous donations, but only explicitly bans the latter. As such, the law allows for the collection of small membership fees through cash donations. The perception of the respondents to the survey was that only part of the funds raised is collected through bank accounts; and that other channels may be used, such as direct transactions between donors and suppliers of services, payment of cash to party representatives and the use of state resources for political campaigning. There are provisions aimed at preventing the abuse of public office for the purposes of promoting a political party. These provisions place certain restrictions on the behaviour of public officials and also extend to budgetary processes. However, the existing legislation would benefit from a clearer definition of what constitutes the use of public resources for political power, as opposed to the usual work of public bodies. Serbian legislation does not envisage any fiscal incentives to encourage disclosure of donations.

Similarly, In FYR Macedonia cash donations are not explicitly prohibited, but there is a legal obligation for all such transactions to be recorded and entered into the financial system. Parties must have one bank account for all transactions, including those undertaken by party branches. It is illegal to use government resources or employees for the benefit of political parties.⁶ The survey found that the public perceive that state resources may often be abused, although at the time of this research no case had been identified where penalties for such behaviour had been imposed. The legislation does not foresee any fiscal incentives for donors or parties to disclose their contributions or donations.

In Kosovo political parties are not required to have a single bank account to receive and spend funds and legislation does not prohibit cash deposits. According to the party accountants and experts surveyed, in practice only a small portion of parties' financial operations are actually executed as official bank transactions. The law prohibits civil servants using state offices and other state assets for the benefit of parties.⁷ There are also self-regulation mechanisms in place, namely, the Code of Conduct for political parties, which includes provisions on the abuse of government resources.⁸ However, the legal provisions regulating the use of public resources are not considered to be far reaching enough to ensure their implementation in practice.

Although Croatian law does not ban donations in cash, a provision states that monetary donations shall be paid into the central account of the political party,⁹ suggesting that donations cannot be received in cash. The law specifically bans the use of public resources for the purposes of election campaigns, but does not contain provisions regarding their use in non-election periods. Political parties in Croatia enjoy special tax exemptions for carrying out activities strictly associated with their political activity¹⁰ which can be considered as an incentive to disclosing donations. Political parties are not subject to the payment of profit tax and value-added tax, and may also be entitled to tax benefits.

⁶ FYR Macedonia: Law on the Financing of Political Parties 2004, Article 20.2 (2006; 2008; 2008; 2009). The Law was additionally amended on October 21 2011, (Official Gazette 148/11) after concluding the survey and findings.

⁷ Kosovo: Law No. 03/L-073 on General Elections in the Republic of Kosovo, Article 35 (June 2008).

⁸ Kosovo: Law No. 03/L-073 on General Elections in the Republic of Kosovo, Chapter V, The Code of Conduct for Political Entities, their Supporters and Candidates (June 2008).

¹Croatia: Political Activity and Election Campaign Financing Act 2011, Article 11.

¹⁰ Croatia: Political Activity and Election Campaign Financing Act 2011, Article 9.

Findings on preventive measures demonstrate that the legal systems in the countries studied do not often clearly and comprehensively define the abuse of state resources and public power. There seems to be a grey area where it is difficult to draw a clear line between the incumbency advantage and abuse of public resources for political promotion. While legal provisions dealing with the use of state resources are in place in all countries, in most cases they lack clarity and depth. No specific cases of penalising an abuse of public resources were identified in any of the countries evaluated.

None of the countries evaluated, except Croatia,¹¹ envision any fiscal incentives, such as tax benefits for donors making contributions to political parties. Indeed, with the exception of Albania, donors in the other countries are not legally mandated to report their donations to the state oversight agency: the sole responsibility of reporting funding sources lies with the political parties. However, survey responses in Croatia and Serbia have revealed that improved tax benefits could potentially encourage donors to publicly declare their financial contributions to parties, a measure that could help foster transparency.

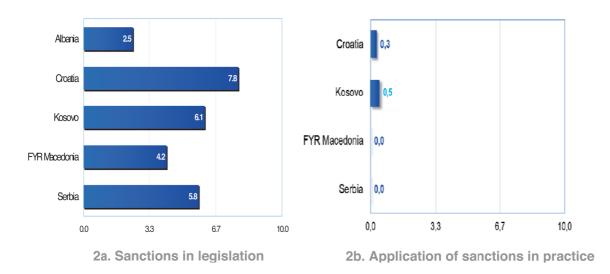
Sanctions

Sanctions are an important control mechanism when looking at the compliance of political parties with the law and related incentives. Sanction regimes, when proportionate and robust, can serve as a strong deterrent to the infringement of laws. They are tools in the hands of the respective state body to exercise its oversight function effectively.

Multiple indicators focusing on the legal framework and practices were used to evaluate sanctions. Questions examined adherence to the existing laws on annual funding of political parties, adequacy of the current legislation and the appropriateness of sanctions for the violation of established rules.

FIGURE 2: Assessment of legislation on sanctions and their application in practice

Source: Data based on individual country scores in Annex 1



Note: Up to 2011, the law in Albania did not require parties to submit financial reports. Therefore, no sanctions could be observed during the research period for Albania.

* Insufficient – 3,3 ; Average – 3,4 to 6,7 , Good – 6,8 to 10

¹¹ In Croatia legal entities may claim tax deductions on donations to various organisations, including political parties, up to 2 per cent of their gross income, and this threshold may even be raised under certain circumstances.

The assessment of the legislative framework received the lowest scores in Albania. This is mainly due to the fact that envisaged penalties do not extend beyond monetary fines. New amendments to Albanian law¹² define sanctions for non-compliance with the rules on accounting practices and reporting. Parties can be fined for infringing the rules of obligatory reporting to the Central Electoral Commission, public disclosure or failure to execute financial operations through bank transactions. However the sanctions are financial and do not extend to political or criminal liabilities.

Similarly, in FYR Macedonia the law allows for the imposition of a fine on parties¹³ for nonsubmission of reports or the failure to maintain financial records. In addition to the above sanctions, parties lose their pubic funding entitlements if they obtain and use funds from illegal or anonymous sources.¹⁴

In Serbia, the sanctioning system includes fines,¹⁵ denial or suspension of public funds for those sentenced or accused of violation of the rules and criminal liability¹⁶. In addition to criminal liability for the abuse of power, forgery of documents and vote buying, the new law in June 2011 added a criminal offence related to intentional secret funding from illegal sources, intentional secret acceptance of these funds and reprisals undertaken against persons that finance parties.¹⁷ In practice, the effect of the new legislation on sanctions is yet to be seen.

In Kosovo sanctions extend beyond financial penalties. The law defines ways of holding political parties and leaders responsible for non-compliance with the rules of annual accounting, which can also include the harsh measure of suspending parties from running for election. Legally, parties can be sanctioned through the suspension of direct public subsidies for non-compliance with rules of accounting.¹⁸ However, the amounts of fines are considered rather symbolic.¹⁹ In practice, despite an attempt to strip non-complying political parties of their annual funding, the application of these sanctions has been viewed as unlikely. So far no political party has been penalised, despite reports from the externally contracted auditors for the 2009 elections that revealed many irregularities.²⁰

In Croatia, the legislation on sanctions is comparably stronger and more comprehensive due to the introduction of new sanctions in the Political Activity and Election Campaign Financing Act 2011. Similar to other countries, parties in Croatia can be fined if they fail to submit their annual financial reports including the required attachments to the State Audit Office within the specified period.²¹ In addition, parties can be fined if they fail to use the funds for the purposes laid out in the programme and charter of the party, fail to maintain records of membership fees and voluntary contributions received, exert any kind of pressure on donors or promise political favours to them. For any offence committed by a political party, monetary fines can be imposed on the person authorised to act on behalf of or represent the political party, as well as the person responsible for its financial operations.²²

The payment of funds to parties for their regular annual financing from the state budget will be suspended, if they fail to submit annual financial statements, including the required attachments, to the State Audit Office within the specified period, or fail to disclose information on donations received during the course of the year.²³ Political parties cannot be banned from participating in the elections for offences related to financial matters, but the leaders of parties and/or their accountants can be prosecuted. However, based on previous experiences the likelihood of this sanction being imposed is rather low.

¹² Albania: Law on Political Parties 2001, with amendments passed in February 2011, Article 23/2, Article 23/4

 ¹³ FYR Macedonia: Law on the Financing of Political Parties (LFPP) 2004, Article 20 (2006; 2008; 2008; 2009).
 ¹⁴ If the party fails to meet the various reporting and publishing requirements set out by the Law on the

Financing of Political Parties, it is liable to a fine of 5,000 euros to 10,000 euros in MKD counter value. ¹⁵ Serbia: Law on Financing Political Activities 2011, Articles 39-41.

¹⁶ Serbia: Law on Financing Political Activities 2011, Articles, 42 and 43.

¹⁷ Serbia: Law on Financing Political Activities 2011, Article 38.

¹⁸ Kosovo: Law No. 03/L-174 on Financing Political Parties, Article 21.2 (November 2010).

¹⁹ Kosovo: CEC Rule No. 14/2009: Sanctions and Fines, Article 4: Failure to keep records (November 2010).

²⁰ Audit Report 2009, see: http://www.kqz-ks.org/SKQZ-WEB/al/materiale/raportiiauditimit2009.pdf.

²¹ Parties can be fined from HRK 50,000 to 500,000 in cases of committing the offences mentioned.

²² Croatia: Political Activity and Election Campaign Financing Act 2011, Article 43.

²³ Croatia: Political Activity and Election Campaign Financing Act 2011, Article 41.

Donors, companies and individuals, can be fined if they fail to issue an invoice for any donation made in the form of products or services, or if the invoice value of any donated product or service does not correspond to its market value. They are also not allowed to make donations if they have any outstanding debts to either the budget or their employees.²⁴

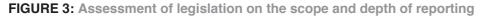
²⁴ Croatia: Political Activity and Election Campaign Financing Act 2011, Article 45.

3.2. Reporting: Scope, depth and reliability

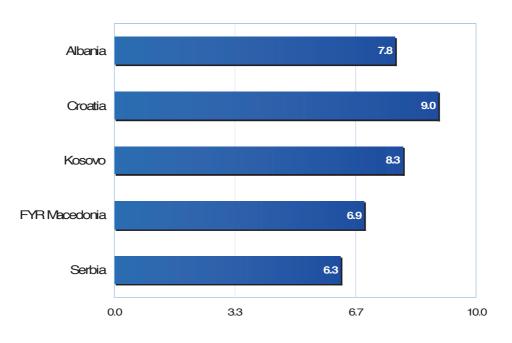
Reporting on income for annual activities of political parties

The usefulness of financial reports depends largely on the information provided in them. The disaggregation and detail of reported data is important for monitoring the influence of money on political parties. It allows oversight agencies and the public to verify whether parties are mobilising funds from legal sources and to what extent they comply with regulations on the acceptance of donations. To be able to effectively monitor the influence of money in politics, the reports must include all resources or at least those that are most relevant for financing parties. To detect any potential influence of donors on political parties, it is necessary that reports identify each donor and the date and amount of each donation. Similar itemisation of expenditure is important for the purposes of examining the spending of political parties.

The indicators used for measuring the scope and depth of reporting assessed the comprehensiveness of information contained in the financial reports of parties. Questions addressed whether reports include donations from public and private sources and cover in-kind or other types of donation. Scores on depth signal whether information on each donation and expenditure is properly identified and itemised.



Source: Data based on individual country scores in Annex 1

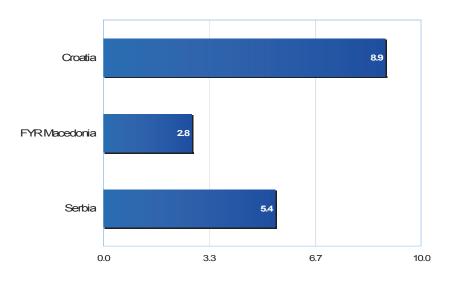


* Insufficient – 3,3 ; Average – 3,4 to 6,7 , Good – 6,8 to 10

All countries examined have legislation, even if recently adopted, that leads to relatively high scores in the legal assessment of this dimension: while Serbia is 'average' scoring only 6.3, FYR Macedonia, Kosovo, Albania and Croatia all score above 6.8 and their related legislation is therefore classified as 'good', especially where reporting on income is concerned.

FIGURE 4: Assessment of the scope and depth of reporting in practice

Source: Data based on individual country scores in Annex 1



Note: There are no scores for Albania and Kosovo since no annual financial reports of parties were available.

* Insufficient - 3,3 ; Average - 3,4 to 6,7 , Satisfactory - 6,8 to 10

In Croatia, standard annual reports must be accompanied by separate reports on donations and the latter must include the name and address of donors – both individuals and legal entities – their tax identification number, date of payment, the amount of the donation, the market value of the product or service provided free of charge and the type of each donation. Furthermore, the report must also include data on donations paid into the accounts of subjects connected to the political parties or entities under its control. Similar records must be kept for donations received in the form of products or services and also for payments of party membership fees. Practical implementation of the new legal provisions described above cannot yet be evaluated, as it was only adopted in March 2011, while the Ordinance was adopted in May and amended in August 2011.²⁵

According to the law, the annual reports of political parties in Albania must contain detailed information on funding sources based on the standardised template approved by the Central Election Commission²⁶. Since this amendment to the law was only passed in February 2011, the extent to which reports will actually provide that level of detail on received income is not yet established.

In Kosovo, the legislation on the depth of reporting is also relatively strong. The annual party report on income shall include the following details for each donation exceeding 100 euros during the period included in the report: the date and amount of each donation, and the name and official registration of each donor. Since the annual reports have not yet been made public, the research team could not verify to how detailed the reports on income are in practice.

²⁵ Ordinance 'on the manner of keeping records and issuing receipts for donations and membership fees, reports on donations received for the financing of election campaigns and reports on costs (expenditure) of election campaigns, and financial reports pertaining to the financing of election campaigns' (OG 50/11) (OG 93/11).

²⁶ Albania: Law on Political Parties 2001, with amendments passed in February 2011, Article 23/2

Although the legislative framework provides a solid basis for transparency and the details to be included in the reports in FYR Macedonia, in practice the financial reports of parties do not identify each donor, or the amount and date of each donation.²⁷ The format in which the reports are presented does not allow oversight bodies and civil society groups to examine the accuracy of submitted information.

In Serbia, parties have to report on all donations received, but in the final annual account from 2010 there was no separation between donations received from the budget and those received through individuals and legal entities. In practice, political parties mostly follow the rules on providing information about their major donors. However, according to the respondents interviewed for the study, there is a general belief that a sizeable part of donations that might be coming from illegal sources are not included in official reports of parties. Annual reports from 2010 only include the names of party officials as contributors, while there is a wide belief that parties may also have received money from corporate donors. In previous years, investigative reporters have exposed cases where parties have provided names of firms which were not even listed in the public registry.²⁸

Reporting on expenditure from annual activities of political parties

Legal provisions on reporting of expenditure are strong in Albania and Kosovo. In Albania, copies of original invoices should also be provided. Since neither of the countries has made their annual reports available yet, the extent to which these rather strong provisions are adhered to in practice could not be verified. In Kosovo, annual reports should include the date of each payment, the amount of each expense, the name and an official registration number for each supplier.²⁹

In Croatia, FYR Macedonia and Serbia legal provisions on expenditure undertaken during annual activities of parties are not very detailed. In Croatia, standard annual reports are relatively short. Reports in FYR Macedonia are not itemised according to expenditure categories. Similarly, the annual reports in Serbia lack information on the identity of suppliers of services provided to political parties.³⁰

Reliability of reporting

One key element of reporting – due to its close ties to transparency – is its reliability, or the perception that the data contained in a report is accurate. The reliability of a report is very much dependent on other dimensions discussed throughout the report, such as public disclosure and the scope and depth of reporting. The quality of reports cannot be assessed without first making information public, and providing enough detail to allow oversight bodies and the public to ascertain its accuracy. If the reliability of the data is questionable, the public's interest in monitoring will naturally wane.

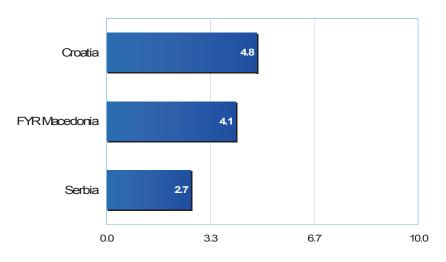
The data on the reliability of reports was collected from surveys with key actors such as party accountants, officials of oversight agencies and members of civil society. Assessment is based on the responses to questions assessing the accuracy of reports (in terms of the percentage of donations likely 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.

²⁷ More detailed information is submitted to the SAO as an annex to the financial report. Although this information provides the SAO with sufficient information for auditing, this is not available to the public.
²⁸ See: http://www.b92.net/info/emisije/insajder.php?yyyy=2011&mm=05&nav_id=514269.

²⁹ Kosovo, Law No. 03/L - 174 on Financing Political Parties, Article 15.3.

³⁰ The 'Rulebook on evidences of donations and property, annual financial report and report on expenditures of election campaign of political subject', entered into force in October 2011. Even though it provides for a more detailed structure of expenditures to be reported (Article 6.13), an identification of suppliers is still not possible.

FIGURE 5: Assessment of reliability of reports on annual political party financing Source: Data based on individual country scores in Annex 1



Note: There are no scores for Albania and Kosovo since no annual financial reports of parties were available. * Insufficient – 3,3 ; Average – 3,4 to 6,7 , Good – 6,8 to 10

In Serbia, interviews with stakeholders confirmed that there is a widespread perception that information in reports may not be accurate. In the absence of a comprehensive analysis of income and expenditure these reports are not considered a complete source of information on party finances.

In FYR Macedonia it is not possible to get a clear idea of the financing of parties by looking at the official accounts. When it comes to the reliability of the disclosed information related to the donations, respondents were of the opinion that donors may be reluctant to disclose their identity, either because they might intend to use their donations to promote future political favours or because they might fear being implicated in political scandals.

In Croatia, numerous media reports of scandals³¹ alluding to dubious sources of financing for political parties gave rise to suspicions that financing of political parties and the ruling party in particular, were less than transparent. Although not proven in courts, such reports have led to the general belief that finances of at least some political parties may be excessive and not properly reflected in official financial reports. Furthermore, given that sanctions for underreporting and violating the law were rarely imposed on parties, the public perception was that providing incomplete information in financial reports was low risk for parties.

Several recently initiated investigations show that the investigation bodies have now decided to establish whether such allegations were true. However, the very existence of these allegations has created the perception that financial reports of political parties may not contain full and accurate information about party funding. Independent experts interviewed largely expressed their concern about the reliability of reports.

³¹ See for example: http://www.tportal.hr/vijesti/hrvatska/148594/Barisiceva-suradnica-iz-Carine-brojala-novacza-crni-fond.html or http://www.tportal.hr/vijesti/hrvatska/148879/sto-je-vaznije-istina-o-crnim-fondovima-ili-tkoju-je-objavio.html.

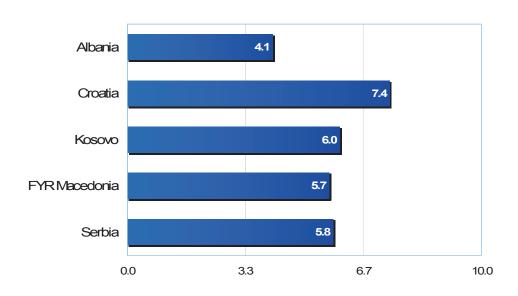
3.3. Public disclosure of information

The disclosure of financial information is key to ensuring that civil society, the media and citizens have access to information on the funding of political parties to enable them to engage in monitoring efforts. Public disclosure of information is evaluated using four indicators which describe the type of requirements to which the parties are subject:

- The disclosure of information on government subsidies;
- The disclosure of information on private financing;
- The frequency of disclosure; and
- The channels through which the public is made aware of this information.

The application of disclosure provisions in practice was measured through the rate of response obtained through requests made by the local researchers in each country, and the amount of information obtained through field tests conducted by groups of selected citizens.

FIGURE 6: Assessment of legislation on public disclosure on annual party financing



Source: Data based on individual country scores in Annex 1

* Insufficient - 3,3 ; Average - 3,4 to 6,7 , Good - 6,8 to 10

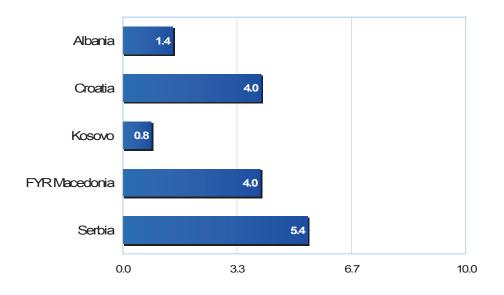
While the legislation in Croatia, FYR Macedonia and Serbia establishes clear deadlines for the publication of parties' annual financial reports, compliance varies widely.

In Albania, financial reports must be disclosed to the public no later than 30 days from their submission to the Central Election Commission. In addition, the Constitution also obliges political parties to publish information on their sources of funding and expenditures whenever needed³², but it does not elaborate on the timeline and the format of publication. The comparably low score for Albania is also due to the fact that the threshold of disclosure for received donations is the highest amongst selected countries and has been identified as a factor that could potentially hinder transparency of funding sources. Since the amendments to the Law on Political Parties were only passed in February 2011, the extent to which the disclosure requirements will be applied in practice and how much of the information on party funding will be made accessible to the public remains to be seen. At this point, the only information publicly disclosed are the allocations of public funding to political parties as part of the national budget.

³² Constitution of the Republic of Albania, 1998, Article 9, paragraph 3

FIGURE 7: Assessment of public disclosure of information on annual party financing in practice

Source: Data based on individual country scores in Annex 1



Note: Although party financial reports were not available in Albania and Kosovo, information on amounts of public funding provided to the parties can be found as part of the allocations in the national budget, which can be accessed by the public.

* Insufficient - 3,3 ; Average - 3,4 to 6,7 , Good - 6,8 to 10

In FYR Macedonia, the law establishes that revenues and expenditures of political parties³³ have to be made public. The 2009 amendments to this law had added further publication requirements: political parties have to publish their complete annual financial reports on their website, in the Official Gazette and in at least one daily newspaper.³⁴ However due to the high costs for the small political parties with the 2011 amendments to the Law the reporting obligations are limited to the political party web site.³⁵ The registry of donations and the list of donors also have to be made public. In addition, political parties are subject to the law on free access to public information, which makes them the subject of the same disclosure obligations as state institutions. However, provisions on allocation of public funding to political parties are vague. Of the twelve parties selected for the study, the research team only had access to nine party reports; three parties did not make their financial reports available. Officially submitted financial reports were also posted on the political parties' websites.

While the legislation in Kosovo mandates publication of parties' financial reports, it fails to clearly define timeframes and the mechanisms of publication, which is an obstacle for the implementation of disclosure provisions. The onus of publishing annual party reports in Kosovo lies with the Central Election Commission, which is the main oversight body responsible for supervising both annual and election related funding of political parties. Despite several requests of the research team in spring 2011, annual financial reports for 2010 were not made available either by the parties or the Election Commission. This has made it impossible to assess the extent to which the quite detailed legal

³³ FYR Macedonia: Law on the Financing of Political Parties 2004, Article 23 (2006; 2008; 2008; 2009).

³⁴ FYR Macedonia: Law on the Financing of Political Parties 2004, Articles 26 and 27a (2006; 2008; 2008; 2009; amendment 96/09).

³⁵ Article 4 of the Law for amending the Law for Financing of the Political Parties, Official Gazette 148/11

provisions on the scope and depth of reporting³⁶ enshrined in the Law on Financing of Political Parties 2010 are observed in practice. The score therefore reflects the fact that although parties reports were not made publicly available, information on public disbursements of funds from the national budget, was provided to the research team upon request. Although part of the annual budget, this information is not proactively published by the government.

In Serbia, the newly adopted Law of financing Political Activities 2011 mandates political parties to publish their reports on their website within eight days after their submission to the oversight agency and forward it for publication in the official Gazette.³⁷ Another requirement for Serbian parties is to publish information online on income received during the year, specifying the donor, as soon as the overall amount of individual contributions (e.g. donations, membership fee, gifts, free work, and discounts) is higher than one average monthly salary in the country.³⁸ In practice, only a minority of political parties have posted their annual reports on their websites and by 1 October 2011, only five parties had published information on contributions higher than one average monthly salary, received throughout the year. Before the new law was adopted, the responsibility of publishing party reports lay with the Anti-Corruption Agency in Serbia, which is the body responsible for processing parties' financial reports. In the past, political parties have not demonstrated much willingness to provide documents related to party finances beyond the officially submitted reports to the oversight agency. It remains to be seen how parties will adhere to the strong disclosure requirements spelled out in the new law.

The Croatian Political activity and Electoral Campaign Financing Act 2011 obliges political parties to report on donations received over the course of the year by publishing this information on their website at least once every six months, no later than 15 days after the expiration of the six month period. The report should be made available on the website for a minimum of 30 days.³⁹ The research findings have revealed that provisions on publication of annual reports are in fact, observed in practice. All seven political parties reviewed make their reports available online for the whole calendar year. Although the political parties publish their reports on their websites, they are prepared according to the provisions of tax legislation, i.e. for the tax authorities, and as such are not easy for ordinary citizens to understand. The research team and the interviewees suggested that in order to improve the accessability of data the reports should be made more user-friendly.

Research has revealed problems associated with the disclosure of disbursement of public funds (allocations from the national budget) to political parties in Kosovo and FYR Macedonia. Assessment concluded that the respective governments do not appear to disclose the amounts allocated to individual political parties in a consistent and transparent manner.

There are thresholds for disclosure of donations in Albania, Kosovo and Serbia. The threshold for disclosure in Kosovo is 100 euros, and Serbia the equivalent of 350 euros (average salary), while the amount in Albania is 100,000 ALL (equivalent to 720 euros). Given the average salary in Albania (a figure that is often used for calculating the threshold levels), and the thresholds in other countries assessed, the limit in Albania seems too high and could potentially hinder transparency in funding sources. Relevant laws in Croatia and FYR Macedonia do not specify thresholds for either reporting or publicly disclosing income. This means that any donation regardless of its amount has to be disclosed, providing for full transparency of funding sources.

³⁶ Kosovo: Law No.03/L – 174 on Financing Political Parties of November 2010, Article 15.3.

³⁷ Serbia: Law on Financing Political Activities 2011, Article 28.2.

³⁸ Serbia: Law on Financing Political Activities 2011, Article 10.4

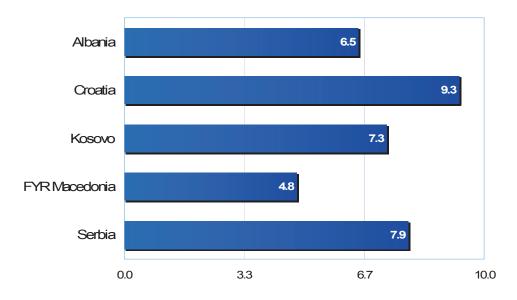
³⁹Croatia: Political Activity and Election Campaign Financing Act 2011, Article 26.

3.4. Oversight of annual party funding

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 it has sufficient resources and technical capacity to carry out its duties. The indicators used in this study included questions on legal mandate and institutional arrangements to evaluate whether the designated oversight body had the necessary legal powers to carry out independent oversight of political party funding. Other questions focused on examining actual practices, such as the perceived level of independence of the body, as evaluated by relevant actors in the field and the capacities and shortcomings in terms of its resources.

FIGURE 8: Assessment of legislation on state oversight of annual party financing



Source: Data based on individual country scores in Annex 1

Findings across countries show that oversight bodies in all countries are mandated with sufficient legal powers. At the same time, it has been repeatedly pointed out that these powers and capacities have not always produced results when it comes to effective oversight. The graph on legislation of state oversight provides some insight into the legal mandate and powers entrusted to the oversight agencies. However, due to the differences in institutional set up and functioning of state oversight in each country, scores assessing the practical side of oversight cannot be compared across countries. In addition, in some countries such as Albania and Serbia, the institutional set up of state oversight has been significantly altered very recently, which does not allow for a qualified assessment of the effectiveness of the supervision.

Overall, oversight often fails to extend beyond examining the information supplied by the political parties. Many oversight bodies are confined to checking compliance; in particular whether political parties' annual reports are submitted on time and are complete. They do not proactively check the legality of sources declared by the parties or whether income has been received from un-declared sources.

^{*} Insufficient - 3,3 ; Average - 3,4 to 6,7 , Good - 6,8 to 10

In FYR Macedonia, during the course of this research the supervisory functions were rested upon three different state institutions, namely the State Audit Office, the Public Revenue Office within the Ministry of Finance and the Ministry of Justice. The duplication of roles and lack of clarity regarding the supervisory mandate exercised by three different bodies has made it difficult for any of these bodies to assume real responsibility over the monitoring of the process. The fragmentation of powers between these state institutions has proven to be detrimental to the effectiveness of the overall oversight exercised. However, the amendments to the Law on the Financing of Political Parties introduced in October 2011 have authorised the State Audit Office to be the responsible institution for oversight over the financial activities of the political parties.⁴⁰

The competences of the Central Election Commission in Albania include drafting and adopting the rules on reporting funding, on the monitoring, oversight and financial auditing of the political parties, and providing standardised formats for annual financial reporting, as well the format of the special register for private funds of political parties. The Central Election Commission selects certified accounting experts and assigns them by lot to audit the funds and expenses of political parties, and also supervises their funding through checks on financial documentation and the accounts of political parties. The Commission can impose sanctions for infringements of the law and determines the amount of public funds each political party receives as annual financial aid. The Commission is also in charge of organising awareness-raising programmes and training sessions on political party funding.

In Kosovo, the Central Election Commission⁴¹ is mandated to supervise funding of political parties. The seats in the Commission are proportionally divided according to the parliamentary groups and the president appoints the chairperson from among the judges, but no open competition is held for this position. Although the Commission seems to have sufficient legal mandate and resources, including substantial international assistance, it has not yet exercised effective oversight of political party funding. The Commission's auditors do not review and analyse the financial reports submitted by parties, as this function has been outsourced to private auditing firms selected through a public tender. There are currently proposals to assign oversight of annual party finance to the General Auditor's Office, which is in charge of auditing state institutions.

In Serbia the main institution mandated with the oversight of political parties' annual funding is the Anti-Corruption Agency (ACA) although the Law on Financing Political Activities also makes reference to the State Audit Institution (SAI) which can be requested by the ACA to audit the financial reports of parties. The level of independence of ACA is high in legal terms, as it is set up as an independent institution. ACA has a board consisting of nine members, elected by the Parliament, while Director of the Agency is elected by the board after having selected the person through the publicly announced recruitment process. There are strict provisions prohibiting any political activity or party affiliation. ACA has sufficient legal powers to initiate investigations independently, including access to bank accounts and donor records etc. However, the law is unclear about the scope and timeframe of oversight that should be performed over the year or on the basis of parties' annual finance reports.

When it comes to the assessment of the practice side of state oversight, it is difficult to evaluate this component. Until 2011, the Anti-Corruption Agency did not deal with the supervision of annual party funding and was only concerned with the context of the legislative reform and control of isolated election campaigns. As ACA is guaranteed special funds for the purpose of election campaign finance monitoring it is more likely that this part of oversight will be performed more effectively. The audit of political parties and campaigns is not a mandatory part of SAI's annual plan and as of now, it has not even covered all mandatory subjects of audit yet (in the previous year).

⁴⁰ Article 7 of the Law for amendments to the Law on the Financing of the political parties, Official Gazette 148/11

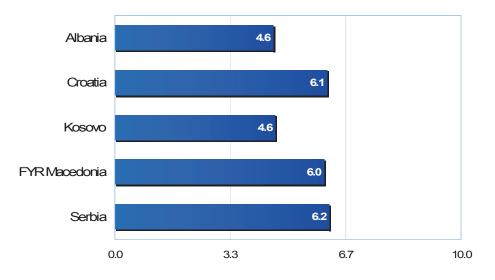
⁴¹ Until 2008 the Commission was administered by the Organisation for Security and Co-operation in Europe (OSCE), and started functioning under the local authorities of Kosovo starting on 15 June 2008, when the Constitution entered into force.

In Croatia, the State Audit Office, which is the only oversight agency entrusted to supervise annual funding of political parties, has sufficient legal powers to adequately audit the financial operations of political parties. In case of a request, a political party is obliged to furnish the certified state auditor with the required documentation and financial statements, as well as other records needed for the audit. In the past, when irregularities were established in the operation of political parties, the State Audit Office has appealed to the parties to rectify these shortcomings. However, the State Audit Office has not conducted any further investigations or imposed any sanctions for those irregularities. While the existing system of reporting and public disclosure is well conceived, the weak link in the system remains the verification of the accuracy of financial reports by the State Audit Office.

Public oversight

While there is no legal obligation for civil society to monitor and exert oversight on political parties and their financial means, the media, non-governmental organisations and citizens in general need to recognise the importance of their involvement to ensure accountability of political parties. This assessment therefore looks exclusively at practice in each country. Scores reflect whether civil society organisations monitoring political finances exist, in which political areas they carry out their activities, and if these organisations are indeed independent from parties in their oversight work.

FIGURE 9: Assessment of public oversight of annual party financing in practice



Source: Data based on individual country scores in Annex 1

The oversight exercised by state bodies can be complemented by the efforts of other actors such as political opponents, the media and civil society organisations. The monitoring efforts of civil society have been quite substantial in Croatia, Serbia and FYR Macedonia. Monitoring activities in these countries include, analysing the reports of political parties, tracking visible expenditures of parties, informing the public, and holding the respective government bodies accountable to ensure that they supervise party funding more effectively.

^{*} Insufficient – 3,3 ; Average – 3,4 to 6,7 , Good – 6,8 to 10

In Albania and Kosovo transparency of party funding is a relatively new phenomenon. Until very recently, no NGO in Kosovo has been systematically involved in monitoring political finance. Civil society organisations are not intensively engaged on this matter and national newspapers have only been reactive in covering political finance issues. In contrast, in Croatia violations of legal provisions for the most part have been discovered by the media⁴² or NGOs.⁴³ As a follow-up to this, a series of corruption scandals involving political parties was uncovered in 2010 and 2011 through investigations carried out by the police and the State Attorney's Office.⁴⁴

Although it has been pointed out that at times the political contenders in all countries monitor each other in terms of the accuracy of financial reports, these intermittent efforts have not led to any serious investigations.

⁴² See: http://www.tportal.hr/vijesti/hrvatska/148879/sto-je-vaznije-istina-o-crnim-fondovima-ili-tko-ju-je-objavio.html.

⁴³ See: http://www.gong.hr/news.aspx?newsID=3529&pageID=1.

⁴⁴ See: http://www.tportal.hr/vijesti/hrvatska/148879/sto-je-vaznije-istina-o-crnim-fondovima-ili-tko-ju-je-objavio.html.

4. Recommendations

1. The legal provisions and resulting regulations need to ensure that income sources are properly itemised.

Income sources should be listed as separate fields to make it easier for oversight agencies and citizens to see how much money is received from each source, whether they are membership fees, individual donations or corporate donations. Such itemisation of reports will make it easier to monitor compliance with legal provisions on donations and help highlight any undesirable influences on funding of political parties.

2. Governments need to make information on allocations of public subsidies publicly available.

Proactive disclosure of amounts allocated by government to individual political parties is not a standard practice in all countries studied. The relevant oversight bodies should disclose these amounts immediately upon disbursement of funds to the political parties, at the beginning of each fiscal year. Information should be available about the total amount allocated from the national budget, as well as the allocations to individual parties. Similarly, governments should publish information about all non-financial support to the parties (e.g. discounts, privileged renting of premises and free advertising).

3. The regulations and practice on reporting and disclosure of annual funding of political parties need further specifications on timeframes and mechanisms of publication of the reports.

The relevant specifications can be spelled out either in the law or through secondary legislation. Such specifications are necessary for making sure that the legal provisions on scope and depth of reporting, which have been recently introduced can actually be implemented in practice. At the same time, this will provide the framework for civil society to monitor compliance. As the example of Kosovo has demonstrated, the lack of clear timelines for publication of reports can significantly hinder transparency. Specifications on reporting and disclosure are urgently needed in Albania and Kosovo.

4. Oversight agencies in all countries need to foster greater transparency.

In addition to making parties' financial reports available online, oversight agencies could publish the information preferably in a standardised, machine readable and searchable format, which would make it possible to compare data over time and across different parties.

5. Legal provisions on preventive measures need to be strengthened.

Abuse of state resources must be addressed rigorously through relevant regulations and legislation. All countries reviewed for this study would benefit from strengthening legal provisions on the abuse of state resources by providing a clearer definition of what constitutes such practices and spelling out clear penalties for breaching the established rules.

6. The relevant bodies need to make sure that penalties are imposed in the case of violations.

New legislative changes have introduced strengthened and more far-reaching provisions and sanctions, particularly in Albania, Croatia and Serbia. Now state oversight agencies need to exercise their power more rigorously and cooperate with the relevant state bodies, such as tax authorities and the judiciary, to impose sanctions for breaching the rules.

7. Political parties are strongly encouraged to publish their financial information and assign special persons responsible for disclosure.

In Croatia, FYR Macedonia and Serbia most of the political parties included in the assessment publish financial reports online, which should be seen as good practice. However, a person or entity within each party should be clearly responsible for answering information requests. In addition, for the purposes of internal transparency, political parties in all countries need to keep their membership more engaged and informed about funding sources and party spending on a more frequent and consistent basis.

ANNEX 1

Table 1: Overview of scores by country and dimension

Dimensions		Albania	Croatia	Kosovo	FYR Macedonia	Serbia
Bookkeeping	LAW	9.1	10	10.0	5.5	7.7
	PRACTICE		9.8	5.4	7.7	6.1
Reporting	LAW	4.9	9	3.9	2.6	ъ
	PRACTICE		5.1	3.3	4.4	4.6
Scope of reporting	LAW	8	8.5	9.1	8.8	10
	PRACTICE		8.4		ъ	7.1
Depth of reporting	LAW	7.5	9.4	7.5	Ω	2.5
	PRACTICE		9.4		0.6	3.8
Reliability of reporting	PRACTICE		4.8		4.1	2.7
Public disclosure	LAW	4.1	7.4	6.0	5.7	5.8
	PRACTICE	1.4	4	0.8	4	5.4
Preventive measures	LAW	0.7	9	3.0	3.3	2.7
	PRACTICE	2.7	4.4	3.3	3.7	3.6
Sanctions	LAW	2.5	7.8	6.1	4.2	5.8
	PRACTICE		0.3	0.5	0	0
State oversight	LAW	6.5	9.3	7.3	4.8	7.9
	PRACTICE	4.8	7.6	5.2	7.1	4.6
Public oversight	PRACTICE	4.6	6.1	4.6	9	6.2

Note: Blank fields indicate dimensions that could not be assessed due to the lack of availability of parties' financial reports, which is one of the main sources of information. Dimensions on *Reliability of reporting* and *Public oversight* were only evaluated by using indicators measuring practice.

ANNEX 2

Table 2: Ten dimensions of transparency in political finance and sources of information used

Dimensions	Questions for composing indicators	Sources of information
1. Internal bookkeeping of parties	Is bookkeeping mandatory by law? How professional is personnel in practice?	 Laws and regulations Assessment by the research team Interviews with party accountants, members of parliament
2. Reporting to state oversight agency (Central Election Commission/ CEC)	By law, do parties, service providers, donors and the media render accounts on their role in political finance? When and in what format?	 Laws and regulations Assessment by the research team Interviews with party accountants, members of parliament
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, rebates etc?	 Laws and regulations Assessment by the research team Interviews with party accountants, members of parliament
4. Depth of reporting	By law, do reports include information on individual donations? Do they clearly identify the donor of each donation?	 Laws and regulations Assessment by the research team Interviews with party accountants, members of parliament
5. Reliability of reporting	Do different actors disclose all resources in reports? How accurate are reports, to the knowledge of experts?	 Field test with the participation of citizens Interviews with members of parliament, state oversight bodies, corporate donors, experts and NGOs
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?	 Laws and regulations Assessment by the research team Field tests with the participation of citizens Interviews with party accountants, members of parliament
7. Preventive measures	Are donations channelled exclusively through official bank accounts? Are there any loopholes for anonymous donations?	 Laws and regulations Assessment by the research team Interviews with party accountants, members of parliament, experts and NGOs
8. Sanctions	What are the existing sanctions – civil, criminal and political – according to the law? In practice, are the existing laws strictly enforced?	Laws and regulationsAssessment by the research teamInterviews with corporate donors
9. State oversight (Central Election Commission/ CEC)	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?	 Laws and regulations Assessment by the research team Interviews with party accountants, members of parliament, state oversight bodies, corporate donors, experts and NGOs
10. Public oversight	Do civil society organisations monitoring political finance exist? In which areas of political finance do they develop activities? Do experts evaluate organisations of public oversight as independent?	 Assessment by the research team Interviews with party accountants, members of parliament, state oversight bodies, experts and NGOs

Transparency International International Secretariat Alt-Moabit 96 10559 Berlin Germany

Phone: +49 - 30 - 34 38 200 Fax: +49 - 30 - 34 70 39 12

ti@transparency.org www.transparency.org

blog.transparency.org facebook.com/transparencyinternational twitter.com/anticorruption