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Standards on Party Financing

- Coping with the shadow-financing of political parties in Kosovo



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Standards on Party Financing - Coping with the shadow-financing of political parties in Kosovo.

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STANDARDS ON PARTY FINANCING - COPING WITH THE SHADOW-FINANCING OF POLITICAL PARTIES IN KOSOVO

Introduction

In recent decades, party organization and party behaviour have become one of the most important topics among European countries. Legislation and standards regarding the funding of political parties are of crucial importance for the well-functioning of democratization. In many transitional democratic countries the financing of political parties has fallen victim to allegations of corruption and fraud. In Kosovo, political party financing has become a major concern and where proper reforms and mechanisms are needed to ensure the legitimacy and stability of the political system.

For the political parties to engage and perform their core political activities, adequate funding is essential.¹ In addition, funding is necessary for political parties to perform their democratic roles efficiently as well as for their existence and well-functioning.² However, since political subjects hold the power of making important decision, which affects the social and economic life, their funding should reflect the most transparent and free of suspicion process.³ This said, historically, the attention of political parties towards funds has influenced the duty to represent the constituents' interests properly.

Regulation and standards of political party financing are essential so as to ensure the transparency of the overall financing process, to provide equal chances of competition among political parties as well as to guarantee independence of parties from donor influence.⁴ The current legal framework and regulation of political party financing is based on the Law of Financing Political Parties No. 03/L-174 which is amended and supplemented by Law No. 04/L-058 and Law No. 04/L-212, the Law on General Elections No. 03/L-073 which is supplemented and amended by law No. 03/L-256, and the Central Election Commission Regulations. The regulatory framework of political party financing has undergone many changes due to various loopholes which have been exposed and which have undoubtedly improved the whole process. However, the main challenge to the funding of political parties rests upon improper implementation of regulations as well as the lack of the monitoring and regulatory bodies.

In general, the report argues that the financing of political parties lacks proper control mechanisms which would enhance transparency and diminish political party malpractices in Kosovo. Special attention will be given to irregularities and violations relating to political party financing as well as challenges vis-à-vis the application of the law on the financing of political parties. In addition, the report will underline the importance of internal party control, the external oversight stakeholders and independent monitoring, and among others, enforcement mechanism which would enhance transparency and accountability regarding party funding. More precisely, Section II of this study will briefly present the importance of standards on political party finances and their contribution to transparency and accountability. In addition, Section III will analyse a number of standards, their foundation in current legislation as well as their comparison with

¹ Ingrid van Biezen, 'Financing Political Parties and Election Campaigns' in Integrated Project: Making Democratic Institutions Work', Council of Europe (2003)

² GLPS, 'Financing of Political Parties: Can Controllability and Transparency help?', Policy Report 05/2013, (2013)

³ Committee on Standards in Public Life, 'Political Party Finance: Ending the big donor culture', Thirteenth Report of the Committee on Standards in Public Life, (2011)

⁴ OSCE, 'Guidelines on Political Party Regulation', adopted by the Venice Commission at its 84th Plenary Session' Venice, (2010)

international standards. This section will illuminate links between the political parties and corruption and will provide insights regarding the legislative loopholes, shortcomings and practical problems. Section IV will analyse in detail the annual financial reports of the largest political parties and their sources of income for the period 2009-2012. In addition, this section will pinpoint the main violations conducted by these political parties during the same period. Lastly the final section will deliver a set of recommendations that would enhance the monitoring of political party finance systems and increase transparency as well as accountability of political parties.

Importance of Standards on Political Party Financing

Corruption related to political party finance undermines the good governance and accountability of the political system.⁵ In addition, finance related corruption not only endangers the stability and legitimacy of the political process, but also challenges the concept of ‘fair democratic representation’.⁶ Hence, systemizing and establishing standards regulating the funding of political parties enhances political competition and empowers the constituents as to which party to support and strengthens the role of the parties as democratic actors as well as prevents fraudulent practices.⁷ Overall, the importance of standards on political party finance lies in the aim of preventing the distortive effect that money might have on politics; thus, halting corruption.

Besides corruption, the need for proper mechanisms regarding the financing of political parties has also become crucial for the well-functioning of democracy. According to the Corruption Perception Index of 2013, Kosovo ranks 111th, with a score of 33 (0 being very corrupt, and 100 being very clean).⁸ Whereas, Kosovo’s political rights as shown in the Freedom House report scored 5, on a scale of 1 to 7 (7 being the lowest level of freedom).⁹ Having said this, the anti-corruption legislative framework, after being considered as one of the most severe problems by the European Commission, has been amended by addressing the earlier shortcomings regarding party financing (‘regulating donations from legal entities providing goods and services to government bodies’).¹⁰ Even though the legislative framework is in place, the problem on party financing lies in the weak implementation of laws and regulations. In this context, according to the National Strategy for European Integration (Kosovo 2020), ‘Kosovo will effectively prevent and fight corruption through better matching of policy and legislation instruments’.¹¹

In Kosovo, political parties do not always conform to the requirements and principles of the law. For instance, the ‘overt and covert’ contributions of corporations to political parties can be regarded as a long term investment between these entities, channelled by the financing via

⁵ Marcin Walecki, ‘Political money and corruption’, in Global Corruption Report, Transparency International, London, Pluto Press, (2004)

⁶ Larry Diamond and Richard Gunther, ‘Political Parties and Democracy’, Baltimore, The Johns Hopkins University Press, (2001)

⁷ For more see: GLPS, ‘Financing of Political Parties: Can Controllability and Transparency help?’, Policy Report 05/2013, (2003)

⁸ Corruption Perception Index 2013, Transparency International, available at: <http://cpi.transparency.org/cpi2013/results/#myAnchor1>

⁹ Freedom House, Freedom in the World 2013: Kosovo, available at: <http://www.freedomhouse.org/report/freedom-world/2013/kosovo>

¹⁰ European Commission, Kosovo Progress Report 2010, 2011 and 2013

¹¹ Republic of Kosovo – The President, ‘National Strategy for European Integration: Kosovo 2020 – A participatory approach’, (2013)

policy making.¹² Another problematic area is local public procurement which is mostly utilized by political subjects to ‘pave the way’ for corruptive activities.¹³ Such malpractices are in part facilitated by the lack of proper standards as well as the lack of control and monitoring agencies. Initiatives to eliminate the involvement of corporations in political life as well as preventing the misuse of public procurement means were not satisfactory.¹⁴ Bearing in mind this controversial relation between political parties (party members) and money, the financing of political parties should be governed by well-established standards which should be accompanied by proper control and enforcement mechanisms.¹⁵ The establishment of standards and mechanisms, which in particular promote transparency and accountability, would legitimize the operations of political parties and, in turn, would reinforce democratic processes and enhance transparency.¹⁶

Hence, the establishment of well-defined standards regarding the financing of political parties should be considered with care in order to minimise the potential disruptive influence of money over political parties’ interests. Therefore, provisions and standards regulating the political system, democracy, and rule of law should not only be respected but also promoted by the political subjects themselves.¹⁷ The next section will analyse in detail standards governing the financing of political parties, their importance towards the increased accountability of political party funding as well as Kosovo’s position regarding the available/necessary mechanisms to properly implement these standards. This section is divided into five different types of standards, which together enhance transparency and promote accountability of the process of political party financing.

Standards governing the financing of political parties

a) Party Funds: Limits and Bans

Financing is crucial for everyday activities of political parties - ranging from advertising, to running party activities, from candidate selection, to promoting agendas as well as polling and mobilizing voters.¹⁸ Having said this, ensuring and promoting an accountable and transparent financing system should be one of the crucial objectives of transitional democratic countries.¹⁹ Political parties in Kosovo, except from private and public funding, rely also on other finance sources such as the free facility usage for different purposes, in-kind contributions or donations in goods and, among others, election campaign volunteers.²⁰

In Kosovo, as regulated by the Law on Financing Political Parties, the financial and material sources of political parties include: membership fees, contributions, public funds, in-kind contributions and other income gained from the sale of newspapers, reports, books and other promotion related material.²¹

¹² Luis de Sousa, ‘Challenging to Political financing Regulations: Sound external monitoring/enforcement and sensible internal party accountability’, Centro de Investigacao e Estudos de Sociologia, (2005)

¹³ GLPS, ‘Dissimilar Patterns of (mis)using the Public Money: Trends and Practices of Public Procurement Management in Kosovar municipalities’, Policy Report 03/2012, (2012)

¹⁴ Bertelsmann Stiftung’s Transformation Index (BTI), ‘Kosovo Country Report’, (2012)

¹⁵ USAID, ‘Political Party Finance in Argentina, Chile, Costa Rica and Mexico: Lessons for Latin America’, (2004)

¹⁶ *Ibid.*

¹⁷ European Commission for Democracy through Law (Venice Commission), ‘Code of Good Practice in the Field of Political Parties’, Study no. 414 / 2006, CDL-AD(2009)021, (2009)

¹⁸ European Commission for Democracy through Law, ‘International Standards of Financing of Political Parties and Election Campaigns’, (2009)

¹⁹ Ingrid van Biezen, ‘Party Financing in New Democracies: Spain and Portugal’, Party Politics, (2000)

²⁰ GLPS, ‘Financing of Political Parties: Can Controllability and Transparency help?’, Policy Report 05/2013, (2013)

²¹ Law No. 03/L-174 on Financing Political Parties: Article 4 – Financial and Material Sources

Public funding in Kosovo and its allocation to political parties is regulated in accordance with the number of seats in the Assembly.²² The process of allocating public funds to political parties, according to the financial officers of political parties, is very transparent and there is no room left for mismanagement.²³ It is worth mentioning that two other countries in the region, Serbia and Croatia, in order to enhance transparency and increase accountability, engage institutions such as the State Audit and Supreme Audit Office as oversight agencies regarding the public funding of political parties. Due to their success regarding the finance system of parties, such standards have been followed also by other countries, such as Macedonia and Bulgaria.²⁴ In this context, Kosovo should engage the Auditor General or other competent entities in the process of auditing the parties' public spending as well as ensuring a qualitative and thorough private auditing. The process of the latter, except for standard procedures, should include an in-depth analysis of political party expenses and income sources, investigate the income sources spent as well as trying to shed-light on the shadow/illegal spending by political parties. On the other hand, even though they are necessary for the existence and functioning of political parties, certain income sources were subject to bans and limitations by rules and standards governing the financing of political parties in Kosovo. More precisely, the legislative framework has attempted to ban certain income sources to political parties, to limit donations by legal entities and natural persons, as well as control income related to political parties' specific activities.²⁵ Due to the shortcomings in the legislation, as noted by the European Commission as well as the civil society, the Law on Financing Political Parties was supplemented and amended in 2013, and which now regulates party income sources as well as banned donations more extensively and rigorously.²⁶ According to the new amended law - except of the government and non-government foreign institutions, foreign/unknown natural and legal persons, unknown donators, institutions that gain capital from gambling and betting, and public institutions authorities - donations to political parties were banned also from private enterprises²⁷, non-governmental organization, religious/trade-union/charitable organizations, legal and natural persons who are debtors to the institutions of the Republic of Kosovo, as well as foundations, youth organizations, institutions and other bodies created by political parties.²⁸ However, even though the new amended law regulates private funding to political parties more extensively, there should be an extension of mandate to a body within the CEC (or some other relevant body) which would disclose the list of the private entities (business and enterprises) in a contractual relationship for the provision of goods and services with institutions of the Republic of Kosovo. Such a mandate would inform the prospective constituents regarding tenders and their relation to party funding, would build trust to the overall system as well as enhancing transparency. In this context, in order to avoid private funding irregularities, Germany and the United Kingdom have regulated the qualification of donors by publishing a list of impermissible donors and a positive list of permissible donors,

²² Law No. 03/L-174 on Financing Political Parties: Article 7

²³ Personal Communication with the financial officers of Political Parties and CEC. For more see: GLPS, 'Financing of Political Parties: Can Controllability and Transparency help?', Policy Report 05/2013, (2013)

²⁴ For more see: GLPS, 'Financing of Political Parties: Can Controllability and Transparency help?', Policy Report 05/2013, (2013)

²⁵ Law No. 03/L-174 on Financing Political Parties: Articles 5,6,11

²⁶ Law No. 04/L-L212 on Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, amended and Supplemented by Law No. 04/L-058

²⁷ 'Private enterprises while they are in a contractual relationship for the provision of goods and provision of services with the institutions of the Republic of Kosovo and three (3) years after the end of the contractual relationship'

²⁸ Debtors against whom enforcement proceedings is initiated and all those bodies which are created by political parties or those having ties with political parties or perform functional activities of political entities

respectively. The former list outlines in detail all those entities, business, corporations which are excluded from making financial contributions to political parties or whose donations are strictly limited, whereas the latter outlines only the permissible donors by prohibiting any donation from a person or entity not included in the list.²⁹

Having said this, it is well known that private contribution from influential individuals and businesses may be given with 'strings attached'. Often, political subjects and donors establish a quid-pro-quo relationship where parties, by acquiring campaign funds, act in favour of donor's interests; a very popular scenario in Kosovo's political spectrum.³⁰ According to a report, during the electoral campaign of 2009 and 2010, the natural and legal persons (mainly construction companies and businesses) which were the main financiers of the PDK party, ensured a 'bright future' for their businesses. The report states that the aforementioned contributors benefited from public tenders to material amounts of over €100 million, from which €80 million were allocated from the Ministry of Education, Science and Technology and the Ministry of Transport and Communications.³¹ Such cases represent a conflict of interests and should be investigated by competent bodies, such as the Anti-Corruption Agency, as they hinder the democratic process and create room for further corruption and malpractices. Moreover, avoiding conflict of interest in the funding of political parties and electoral campaigns remains one of the general standards of Council of Europe on donations to political parties.³²

Another general standard on donations by the Council of Europe is to 'ensure transparency of donations and avoid secret donations'.³³ Given the bans and limits regarding donations to political parties in Kosovo, the law requires that political parties keep detailed records regarding each contribution.³⁴ Political subjects in Kosovo have improved their record keeping regarding their contributions, as reported in their financial reports of 2012, even though this standard had been substantially violated by political parties during 2009, 2010 and 2011.³⁵ In general, parties have failed to report detailed information regarding their contributors, have failed to respect the Law on the Prevention of Money Laundering and Financing of Terrorism by receiving more than €1,000 per day from one contributor as well as to present invoices needed to verify the reported expenses and, among others, have failed to declare a considerable share of their in-kind contributions. It is worth mentioning, as stated in the auditing reports of the annual financial accounts, that political parties underestimated their reported expenses during the 2010-2011 period, which implies that they underestimated (under-reported) their income sources as well.

Whereas, regarding the avoidance of secret donations, there is a significant need for improvement. This is the most crucial and problematic area in the financing of political parties process in Kosovo. Due to their nature and difficulty of being exposed, secret donations to political parties are well-known to the public in general and are orchestrated for specific favours to donors, such as to preserve a job position and/or to assure a new job position, to award future

²⁹ Ingrid van Biezen, 'Financing Political Parties and Election Campaigns' in Integrated Project: Making Democratic Institutions Work', Council of Europe (2003)

³⁰ International Institute for Democracy and Electoral Assistance, 'Funding of Political Parties and Election Campaigns', Handbook Series, (2003)

³¹ Visar Durijqi dhe Qendrim Bunjaku, '100 Milione: Mbi 100 Milione Euro jane perfitimet e kompanive qe kane financuar dy fushatat elektorale te PKD-se', Preportr, No. 05, April/12, (2012)

³² Council of Europe, 'Recommendation Rec (2003)4 of the Committee of Ministers to Member States of common rules against corruption in the funding of political parties and electoral campaign', April 2003, available at: <https://wcd.coe.int/ViewDoc.jsp?id=2183>

³³ Ibid, Article 3

³⁴ Law No. 03/L-174 on Financing Political Parties

³⁵ For years 2009, 2010 and 2011, see: GLPS, 'Financing of Political Parties: Can Controllability and Transparency help?', Policy Report 05/2013, (2013)

public tenders as well as other favours. On the other hand, secret donations are also used by political parties to finance certain activities especially during the electoral campaigns. It is a well-known fact that political parties do not report all their expenses during their electoral activities in order to underestimate their income sources. Such cases have been evident especially within the book-keeping process where the reported expenses (media and similar expenses) are either underestimated or are not fully reported. The lack of proper mechanisms which would investigate and expose such cases creates room for corruptive deeds because, on the one hand, it is hard to depict and make a linkage between favours to individuals and/or companies vis-à-vis donations by individuals and/or companies to parties and, on the other hand, it allows parties to underestimate their expenses and income sources. In addition, political parties use secret donations (covert donations) in order to secure prospective constituencies and engage in vote-buying activities, by awarding specific individuals with different means, such as cash and other basic essential items (food and fuel).³⁶ Regarding the latter, once, during 2011 and 2012 political parties declared/reported expenses of purchases and distribution of such essential items; however, they failed to report as to where these items were destined and who the beneficiaries were.³⁷ Hence, proper mechanisms need to be established in order to ensure the avoidance and exposure of secret donations, which in turn would ensure transparency and accountability by both political parties and donors.

Another important standard governing political parties' donations is the campaign expenditures and their record-keeping. The Council of Europe has proposed that limits on expenditures on electoral campaigns prevent excessive funding needs of parties and eliminate their incentive to intensify their search for funds.³⁸ In addition to the expenditure limits, all the expenditure records during election campaigns should be kept for each political party, for the list of candidates and for each candidate.³⁹ Such a practise would increase transparency of the election process in Kosovo as well as allow the public to examine thoroughly the expenditures during the electoral campaigns. Moreover, in order to avoid irregularities by parties, election expenditures should be recorded by including the nature and value of each expenditure. As elaborated, parties do not always disclose the true material value of their expenses, especially the campaign expenses, in order to report a lower number of income sources. Hence, competent bodies should verify the accuracy of the reported election expenditures and their material value as well as expose discrepancies in order to inform the public at large. In Kosovo, this remains a shadow area due to the non-existence of a proper, in-depth, and thorough auditing of expenditures reported by parties, which generally do not represent their true value.⁴⁰

b) Transparency and accountability

Lack of transparency presents one of the biggest concerns regarding the activities and financial operations of political parties. Transparency standards are thought to be effective provisions against favouritism and influence that arise from close links between political subjects and other entities, especially businesses, corporations and influential individuals. Hence, transparency

³⁶ Personal Communication, Alban Krasniqi, The Self-determination Movement (VV), 20/Dec/2013

³⁷ ETIKA, 'Raportet Vjetore te Publikimeve Financiare te Subjekteve Politike per vitin 2011 and 2012 dhe Raporti i Auditorit te pavarur', (2013)

³⁸ Council of Europe, 'Recommendation Rec (2003)4 of the Committee of Ministers to Member States of common rules against corruption in the funding of political parties and electoral campaign', Articles 9 and 10, April 2003, available at: <https://wcd.coe.int/ViewDoc.jsp?id=2183>

³⁹ Ibid.

⁴⁰ Personal Communication, Alban Krasniqi, The Self-determination Movement (VV), 20/Dec/2013

should be the starting point of any regulatory framework, especially since it increases accountability and empowers constituents to make 'informed choices'. As illustrated in many reports, political parties in Kosovo lack transparency especially when considering the financing of political parties. In this context, lack of transparency is widely evident on the illegal (shadow) funding of political parties and on the process of issuing public tenders as noted by the European Commission.⁴¹ These two areas are closely linked given that the latter provides funds (legal or illegal) to the political parties in exchange for future favours, among which are also the public tenders. Such practices are possible since there are no available mechanisms to expose cases as such. Moreover, the lack of suitable mechanisms leads to difficulties in depicting illegal funding by different corporation and individuals to political parties.

Transparency, especially of party financing, has been encouraged and promoted directly by regulating the disclosure of party financial accounts and reports, and indirectly by making parties disclose their assets, investment as well as party patrimony.⁴² However, such structures alone are not sufficient to enhance transparency and fight illegal practises. Given the large scale of corruption, transparency in Kosovo is still quite modest. According to a general standard by the Council of Europe, political parties are required to properly record their funds in books and accounts. Moreover, the standard specifies that parties should present the consolidated financial accounts of all the entities related to them, directly or indirectly, and of those entities that are under the control of political parties.⁴³ Such structures have not yet been established in Kosovo which creates room for malpractices as well as leads to a lack of transparency in the management of funds. First, the current legislation in Kosovo on the financing of political parties regulates only the publishing of financial accounts of political parties and their respective branches.⁴⁴ Up to now, there are no regulations which require parties to submit the consolidated financial reports of their accounts as well as of the entities related directly or indirectly to political parties. Second, there is no internal reporting and control within the political parties which would automatically inhibit money abuse as well as limit irregularities by parties.

Another area where progress is crucial is the conflict of interest cases, which are quite common in Kosovo. As witnessed during the last decade, political parties have used their public offices as means to promote their agendas and collect prospective constituencies. Parties engage in a mutual relationship with businesses and influential individuals, where the latter finance the activities and secure potential votes for political parties and, in turn, get awarded through public tenders, job positions or other big favours. The abuse of public money/position and the donor community by the government and parties in power has been listed as one of the biggest concerns by the European Commission.⁴⁵ Moreover, evidence suggests that civil servants, especially those in procurement, have been physically intimidated and pressured to manipulate decisions regarding the public tenders.⁴⁶ This said, in Kosovo this is the area where transparency is non-existent and where there is lots of room for improvement in order to preserve democratic values. This can be done by creating a well-set mechanism of reporting cases of

⁴¹ Kosovo Stability Initiative, 'Untying the knot: The political economy of corruption and Accountability in Kosovo', (2010) ; and European Commission, 'Kosovo 2011 Progress Report' Commission Staff Working Document, (2010)

⁴² Luis de Sousa , 'Challenging to Political Financing Regulations : Sound External Monitoring/Enforcement and sensible internal party accountability', Centro de Investigacao e Estudos de Sociologia (2005)

⁴³ Council of Europe, 'Recommendation Rec (2003)4 of the Committee of Ministers to Member States of common rules against corruption in the funding of political parties and electoral campaign', Articles 11 and 6, April 2003, available at: <https://wcd.coe.int/ViewDoc.jsp?id=2183>

⁴⁴ Law No. 03/L-174 on Financing Political Parties, Law No. 04/L-058 and No. 04/L-212 Amending and Supplementing the Law No. 03/L-174 on the Financing of Political Parties, Article 15

⁴⁵ European Commission, 'Kosovo 2010a: Progress Report' , (2010)

⁴⁶ Kosovo Stability Initiative, 'Untying the knot: The political economy of corruption and Accountability in Kosovo', (2010)

conflict of interest which would lead to their investigation by competent bodies as well as by the civil society and media. Even though it is hard to expose such cases due to their shadow nature and well-covered activities between parties and other entities, with the establishment of proper mechanisms the accountability and transparency of political parties would be enhanced. Special attention should be given to internal and external auditing, both being very important towards transparency enhancement. The former should be initiated by party members by disseminating information regarding the activities and on-going projects, whereas the process of the latter should be more in-depth and thorough especially when considering the linkage between public tenders/favours and income sources of political parties.

Developed countries have established other standards which increase transparency and, to some extent, accountability of political parties. For instance, the OSCE has recommended that countries should immediately publish information on large donations in order to inform the public at large and enhance transparency.⁴⁷ In addition, a good practice can be found in France, where, in order to ensure transparency and accountability, two commissions at two different levels have been created: the National Campaign Accounts and the Political Funding Commission.⁴⁸ These two commissions publish, and, more importantly, monitor the accounts of political parties in order to fight and expose corruptive deeds. The establishment of such neutral and objective bodies enhances transparency and accountability, which positively affects citizens' perception towards the state apparatus.

c) Monitoring

For the entities where power and money are strongly correlated, well developed monitoring and control mechanisms are necessary, especially in the field of political party financing. The main problem in Kosovo which leads to the lack of transparency of party funding is the weak and/or lack of monitoring towards law enforcement. Initially, in those organizations where power and money are strongly connected, internal control mechanisms are essential for party funding.⁴⁹ Parties should create their own internal regulations in order to avoid financial malpractices. Initially, according to the Council of Europe, political parties should integrate into their statutes, proper mechanisms for the internal auditing of their financial accounts.⁵⁰ This said, even though their statutes specify that there should be internal auditing of financial accounts, political parties in Kosovo do not fully implement their statutes. Hence, such efforts and initiatives, which increase transparency and accountability within party structures, should be taken from political party members by exercising detailed, frequent and persistent internal control over the 'money' in order to prevent fraudulent practices.⁵¹ In addition, so as to avoid mistakes on reporting and maintaining financial records on a daily basis, political parties should appoint competent and professional finance officers.⁵² In this context, the auditing reports of party financial accounts have underlined the professional incompetence, in general, of the financial officers of political subjects in Kosovo.⁵³ Moreover, it is worth mentioning the good practices regarding internal

⁴⁷ Sustainable Governance Indicators 2011, 'Party financing transparent and monitored. Violations deterred, but loopholes exist', available at: http://www.sgi-network.org/index.php?page=indicator_quali&indicator=SI_4

⁴⁸ European Commission for Democracy Through Law, 'Code of Good Practice in the Field of Political Parties', Study no. 414 / 2006, (2009)

⁴⁹ Marcin Walecki, 'Challenging the Norms and Standards of Election Administration: Political Finance', IFES, (2007)

⁵⁰ European Commission for Democracy through Law (Venice Commission), 'Code of Good Practice in the Field of Political Parties', Study no. 414 / 2006, CDL-AD(2009)021, (2009)

⁵¹ Daniel Smilov, 'Party Funding, Campaign Finance and Corruption in Eastern Europe', (2007)

⁵² Ibid.

⁵³ Audit & Conto, 'Deklaratat Financiare dhe Raporti i Auditorit te Pavarur', (2009) and (2010)

control within the political parties found in Italy and Spain. In the former, the Party of Italian Communists obliges the elected representatives, party organs and single executives to report in detail to the party members regarding their activities.⁵⁴ Whereas, in Spain, a political party (Spanish People's Party) prohibits all the income sources, contributions, in-kind contributions to public representatives without the knowledge and approval of the party.⁵⁵ Such practices as well as the appointment of competent and professional finance officers strengthen the transparency and accountability through internal party control.

Apart from the internal control, the main problem relies on the fact that there is no monitoring per se of financial accounts of political parties. Hence, initiatives which would increase the accountability and transparency of party funding in Kosovo should lie also on the oversight agencies and public.⁵⁶ The latter should be neutral and objective for the monitoring of the political parties to be at the appropriate level. According to the OSCE, 'there should be a clear delineation of which bodies are responsible for the regulation of political parties, as well as clear guidelines regarding their appointment, functions as well as limits of their authority'.⁵⁷ Extending such a mandate to the oversight agencies and public would positively affect the monitoring process vis-à-vis party funding, which currently is almost non-existent. In addition, in order to further enhance transparency, legislation should empower specific bodies with the ability to pursue and investigate potential violations. In this context, a general standard by the Council of Europe states that countries should provide for independent monitoring regarding the political party financial accounts, expenses during election campaigns as well as their publication and presentation.⁵⁸ Moreover, countries should 'establish independent auditing bodies endowed with sufficient powers to supervise the accounts of political parties and the expenses linked to electoral campaigns'.⁵⁹ All these steps are necessary for the monitoring per se to take place regarding the financial sources of political parties.

A practise/standard worth mentioning which would increase transparency and accountability through monitoring is to create independent commissions such as the case of France, as mentioned in the previous section. The latter created two commissions, the National Campaign Accounts and the Political Funding Commission, whose responsibility lies on publishing, and, more importantly, monitoring the accounts of political parties.⁶⁰ Besides, another commission on Financial Transparency in Political Life checks 'that elected representatives have not gained wealth' illegally during their mandates.⁶¹ More precisely, this monitoring standard involves financial supervision (before, during and after the term in office) of the elected representatives.⁶² The Anti-Corruption Agency in Kosovo has such a mandate regarding the wealth of the senior public officials; even though not exercised to the greatest extent. According to the Law No. 04/L-050 on the declaration of property, senior public officials are obliged to

⁵⁴ European Commission for Democracy Through Law, 'Code of Good Practice in the Field of Political Parties', Study no. 414 / 2006, (2009)

⁵⁵ Ibid.

⁵⁶ Daniel Smilov, 'Party Funding, Campaign Finance and Corruption in Eastern Europe', (2007)

⁵⁷ OSCE, 'Guidelines on Political Party Regulation', adopted by the Venice Commission at its 84th Plenary Session' Venice, (2010)

⁵⁸ Council of Europe, 'Recommendation Rec (2003)4 of the Committee of Ministers to Member States of common rules against corruption in the funding of political parties and electoral campaign', Article 14, April 2003, available at: <https://wcd.coe.int/ViewDoc.jsp?id=2183>

⁵⁹ Parliamentary Assembly, 'Recommendation 1516 (2001): Financing of political parties', Section D, Council of Europe, available at: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta01/EREC1516.htm>

⁶⁰ European Commission for Democracy Through Law, 'Code of Good Practice in the Field of Political Parties', Study no. 414 / 2006, (2009)

⁶¹ Ibid.

⁶² Ibid.

declare information regarding their property as well as their revenues (real estate, movable property to the value of over five thousand (5 000) Euros, shares in commercial enterprises, securities, savings in banks, financial obligations towards physical and juridical persons as well as annual revenues)⁶³ on an annual basis, after completing/being dismissed and/or taking over a public function as well as upon request of the Agency.⁶⁴ More to this point, during 2011, according to a report, at least 25 senior public officials have not declared all of their activities and business to the Anti-Corruption Agency.⁶⁵ Moreover, the report states that these cases have not been investigated further by the ACA and were not listed in the annual report. Whereas, according to the latest ACA report, 173 senior public officials, who changed or were appointed to new positions and those who finished their mandate, had to declare within a legal deadline their assets upon accepting the new duty and/or upon finishing their mandate.⁶⁶ Surprisingly, only one public official has not fulfilled its duty of declaring the assets within the set legal deadline. Even though this situation shows a considerable improvement, the exposure of 2011 cases which were not listed in the ACA annual report shows a low degree of transparency as well as affects negatively citizens' trust towards institutions whose mandate is to fight corruption and enhance transparency and accountability. In this context, of note is the good practise of Belgium which requires from the holders of public or party mandate to periodically report to certain party organs regarding their activities, leading to an enhancement of the monitoring process.⁶⁷

The monitoring mandate should also be extended to external stakeholders, such as the media and civil society.⁶⁸ The latter should be incorporated into the process of monitoring the party activities, especially their financing. In ideal systems, the external stakeholders – civil society, media, and individuals – should be able to file complaints in a regulatory body if they suspect and/or believe that an irregularity/corruptive deed has occurred. However, such practices are strongly correlated with media freedom, extend to media' politicization as well as with the lack of protection and security given to whistleblowers. This said, in transition countries, the external oversight stakeholders, due to the 'fear of reprisals', usually do not come forward with facts and complaints towards the political party activities.⁶⁹ Hence, Kosovo should establish a system where such cases proceed in anonymity and reinforce the Law on Protection of Informants, which would encourage the external stakeholders to share and file complaints related to political subjects and their corruptive deeds. In addition, so as to strengthen the monitoring process, the competent bodies in Kosovo should invest more on raising public awareness campaigns and media training in order to inform and educate all the oversight stakeholders on political party financing.

⁶³ Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of all Public Officials: Article 5-Declaration of Property

⁶⁴ Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of all Public Officials: Article 6-Declaration pursuant to present Law

⁶⁵ Besnik Boletini, 'Sa për Sy e Faqe', Preportr, No. 05, April/12, (2012); More precisely, the senior public officials included a deputy prime minister, two ministers, four deputy ministers, five mayors, a secretary general, four procurement directors and eight members/directors public companies boards.

⁶⁶ Anti-Corruption Agency, 'Deklarimi i pasurisë me marrjen e detyrës', (2013), available at: http://akk-ks.org/repository/docs/Raporti_marja_e_deyres_18.12.2013.pdf

⁶⁷ European Commission for Democracy Through Law, 'Code of Good Practice in the Field of Political Parties', Study no. 414 / 2006, (2009)

⁶⁸ Transparency International, 'Standards on Political Funding and Favours', No. 01/2005, (2005); See also Marcin Walecki, 'Challenging the Norms and Standards of Election Administration: Political Finance', IFES, (2007)

⁶⁹ Marcin Walecki, 'Challenging the Norms and Standards of Election Administration: Political Finance', IFES, (2007)

d) Enforcement

All the above mentioned standards on external and internal control, regulation and finance subsidies, transparency and accountability as well as (independent) monitoring do not serve their purpose without adequate enforcement mechanisms, which in Kosovo seems to be non-existent. Enforcement is crucial for political party funding since without it all the established regulations and rules, no matter how good they are, have no/little value.⁷⁰ Its simplest definition regarding party funding is “control exerted by an enforcement agency which gives force and authority to a political finance system”.⁷¹ In addition, such an enforcement mechanism should also contain other justice components such as the investigation, prosecution, arbitration/settlement and sanctions; otherwise the enforcement system would be a ‘formula for failure’.⁷²

Such a comprehensive enforcement system is needed not only to enhance transparency and accountability but also due to the fact that in Kosovo laws are not enforced properly, the mandate of the oversight entities is inadequate and there is no political will to incentivise the enforcement agencies to do their job without any (political) interference. On the other hand, in order to be effective, the enforcement process should also enjoy legitimacy in the eyes of the electorate, civil society and media, parties as well as candidates.

For the enforcement process to be effective and efficient, it is important to divide the whole process into different stages, where each one is the responsibility of a different entity. The clear design of each enforcement process phase leads to a better and successful enforcement on party funding. Accordingly, a proper enforcement process should be composed of eight stages: legislation and implementation planning, preparation and training, administration, assuring compliance, administrative fines, criminal investigation and prosecution, trial and conviction, appeal process and review process (see table below).⁷³ This framework concentrates on all the possible stages of the political finance process; hence its full implementation is crucial for the well-functioning of party funding as well as for transparency and accountability enhancement. As depicted in the table below, for the enforcement mechanisms to be effective there should be co-operation among many stakeholders such as the internal monitoring mechanism of parties, auditors, institutions, oversight organizations (watch-dogs), media, and among others, civil society.

Table 1: Stages of enforcement regarding party funding

Stages	Way Forward/Tasks to be taken
Legislation and Implementation Planning	<ul style="list-style-type: none"> -Vigilantly consider whether the proposed legislation is clearly written and whether it is over-ambitious (if the wording of the legislation is flawed, non-enforcement might occur) -Research should be conducted regarding the political finance problems which need to be targeted -Research other jurisdictions and what they have done regarding the funding of political parties

⁷⁰ Marcin Walecki, ‘Challenging the Norms and Standards of Election Administration: Political Finance’, IFES, (2007)

⁷¹ Center for Transitional and Post-Conflict Governance, ‘Enforcing Political Finance Laws’, Training Handbook, Chapter II, (2005)

⁷² Khayyam Z. Paltiel, ‘Party, Candidate and Election Finance’, Royal Commission on Corporate Concentration, Canada, (1976)

⁷³ Center for Transitional and Post-Conflict Governance, ‘Enforcing Political Finance Laws’, Training Handbook, Chapter II, (2005)

Preparation and Training	<ul style="list-style-type: none"> -When a new law is enacted, authorities should prepare the forms to be submitted by subjects and candidates, training and guidance material. -Training should be provided for regulatory body members as well as for party officials -There should be briefings provided to journalists and civil society representatives
Administration	<ul style="list-style-type: none"> -Routine tasks should be performed in order to ensure that the everyday forms have been accepted by parties and candidates, and that those with obligations under the laws are aware of them
Assuring Compliance	<ul style="list-style-type: none"> -Assurance tasks to check that the law is being obeyed and that criminal investigation and legal proceedings are being initiated -Remind parties and candidates who have not carried out their legal obligations, make random checks of on information received, initiate audits, impose administrative fines -Clarify the mandates of regulatory bodies regarding the examination of documents and premises
Administrative Fines, Criminal Investigation and Prosecution	<ul style="list-style-type: none"> -Evidence should be presented to the police or the authority responsible for initiating prosecution in those cases when the regulatory body believes that there has been a serious breach of the law and that there may be grounds for prosecution.
Trial and Conviction	<ul style="list-style-type: none"> -The enforcement agencies, when appropriate, should make referrals to the court instead of neglecting cases of violations -The responsibility of trial and convictions may be the responsibility of ordinary courts and/or special election courts (if they exist)
Appeal Process	<ul style="list-style-type: none"> -Administrative review of complaints or checks on decisions made by an enforcement agency -it is important to have a user-friendly system of reviewing the decisions in a systematic, neutral and timely manner
Review Process	<ul style="list-style-type: none"> -Constantly review the enforcement process to monitor its effectiveness, build further support, identify new problems -Any need to update the laws and enforcement procedures should be pursued -There should be continuous response regarding the enforcement system in order to update and enhance it -There must be a commitment and desire to enforce the legislation from all the main players in the electoral game

Source: Center for Transitional and Post-Conflict Governance

The enforcement of party funding regulations remains a problematic area especially when it comes to the types of agencies responsible.⁷⁴ According to recent research, 36% of 111 participatory countries do not have any agency responsible for reinforcing and administering the regulations on party funding; a category into which Kosovo pertains. Given the importance of the party funding as well as the reinforcement of regulations and laws in this sphere, Kosovo needs to appoint one or more agencies and clarify their mandates so as to enforce, operate and function efficiently. Countries which have regulated the reinforcement of standards on party

⁷⁴ Marcin Walecki, 'Challenging the Norms and Standards of Election Administration: Political Finance', IFES, (2007)

funding rely mostly on co-operation among National Electoral bodies, government departments, tax offices, constitutional courts, and among others, parliaments.⁷⁵ The task of the above-mentioned bodies is very problematic and challenging due to the complexity of standards and regulations on party funding, due to the difficulty of exposing the well-shielded corruptive cases as well as due to the reluctance of parties and politicians on informing and providing knowledge needed in order for these agencies to perform their functions in the most efficient manner.⁷⁶ Hence, Kosovo's institutions need to work on these eight stages and establish an effective enforcement process which would result in a positive outcome, would lessen the irregularities of party funding, would enhance transparency and as well as would increase citizens' trust towards parties in general.

e) Specialised and Certified Personnel

Given the importance of political party funding, its reporting and record-keeping, Kosovo should establish training capacities given its pressing necessity for specialized and certified personnel in the field of party funding. Training should be tailored not only to the financial officers of political parties but also to all stakeholders who are responsible for monitoring, enforcing, controlling and reporting the party finances. Such training would strengthen the responsibility of the record-keeping, would enhance transparency and would alleviate the enforcement process. In this context, the Council of Europe requires that 'states should promote the specialization of the judiciary, police or other personnel in the fight against illegal funding of political parties and electoral campaigns'.⁷⁷ According to the Electoral Rules, financial officers of political parties in Kosovo, upon their appointment, should receive a training in accounting and auditing.⁷⁸ Evidence suggests that professional training to financial officers of political parties are beneficial, as noted by auditors and the CEC in 2012, where political parties during the extraordinary elections of 2012 substantially improved their reporting and record-keeping procedures due to a couple of training programmes organized by the CEC.⁷⁹ However, the problem lies in the high turnover rate of party financial officers (the newly appointed ones do not always get trained) as well as on their incompetence regarding political party financing.⁸⁰ Hence, some countries have required that the financial officers of political parties be qualified and certified as public accountants in order to better report and perform record-keeping of the financial statements of political parties.⁸¹ In addition, these countries have proposed that financial officers should be provided a public stipend in order to incentivise them to perform better regarding the reporting and record-keeping of party finances.

⁷⁵ Center for Transitional and Post-Conflict Governance, 'Enforcing Political Finance Laws', Training Handbook, Chapter II, (2005)

⁷⁶ Ibid.; See also Fransje Molenaar, 'The Development of European Standards on Political Parties and their Regulations', (2010)

⁷⁷ Council of Europe, 'Recommendation Rec (2003)4 of the Committee of Ministers to Member States of common rules against corruption in the funding of political parties and electoral campaign', Article 15, April 2003, available at: <https://wcd.coe.int/ViewDoc.jsp?id=2183>

⁷⁸ Election Rule No. 12/2009: Section 3; 3.5., (2009)

⁷⁹ See more on GLPS, 'Financing of Political Parties: Can Controllability and Transparency help?', Policy Report 05/2013, (2013)

⁸⁰ Audit & Conto, "Deklaratat Financiare dhe Raporti I Auditorit te Pavarur, 2009 dhe 2010 and Interview with the CEC officials, (2012); For more see: GLPS, 'Financing of Political Parties: Can Controllability and Transparency help?', Policy Report 05/2013, (2013)

⁸¹ USAID, 'Political Party Funding in Georgia: Encouraging competition and improving accountability', Discussion Paper, (2011)

Apart from training programmes tailored to only financial officers of political parties, Kosovo's institutions should offer training to the other stakeholders as well, as recommended by the Council of Europe. Since the police and judiciary are considered to be the main actors against illegal funding of political parties, they should be trained specifically on party funding in order to be able to detect and expose the well-covered corruptive practices that political parties and officials engage in.

An overview of Political Party Financial Reports

The annual financial reports of political parties have been audited in two different waves; the first wave in 2011 included the auditing of the 2009 and 2010 annual financial reports, whereas the second wave in 2013 included the auditing of the 2011 and 2012 annual financial reports of political parties. In both waves, it has been noted that political parties in general have not respected the accounting standards of Kosovo, have failed to record their financial activities in accordance with these standards as well as have violated the Law on Financing of Political Parties.⁸²

The main findings during the first auditing wave of the annual financial reports of political parties in Kosovo show that political parties, in general, have failed to exercise internal financial control and have denied the right of other members on being informed regarding the party income and expenditures, which is in direct violation of the Law on Financing of Political Parties.⁸³ In these auditing reports, as stated previously, it was noted that financial officers of political parties were not certified as accountants or were not competent to keep, record and report the party financial accounts.⁸⁴ In this context, the Central Election Commission should have trained the party financial officers especially if they lacked expertise and experience on the field, as stated by the Electoral Regulation.⁸⁵ Nonetheless, according to auditors, the financial officers did not receive any training from the CEC, even though 95% of them were not capable of recording the financial forms properly and in accordance with the accounting standards in Kosovo. Moreover, at the time the CEC did not have any professional financial officer whose duty it was to control the party financial reports and conduct the aforementioned training for the party financial officers. Such malfunction led to many irregularities either in the process of reporting and recording the financial accounts by parties or in the process of controlling the submitted financial reports by the CEC. Regarding the latter process, due to a lack of professional staff, except of failing to control the financial reports, CEC officials failed to check whether the reports were in accordance with the accounting standards of Kosovo as well as accepted incomplete financial reports.⁸⁶ All these irregularities by both political parties and CEC officials represent violations of the Law on Financing of Political Parties.⁸⁷

Except for the incompetence of party and CEC financial officers, the first wave of auditing of the annual financial reports shed light on many other violations by parties. The latter had underestimated their expenses in their financial reports which implies that they had consequently underestimated their income sources as well. The categories which were mostly

⁸² Audit & Konto, 'Deklaratat Financiare dhe Raporti i Auditorit te Pavarur 2009 & 2010', (2011); and ETIKA, 'Raportet Vjetore te Publikimeve Financiare te Subjekteve Politike per Vitin 2012 & 2012 dhe Raporti I Auditorit te Pavarur', (2013); and, Komisioni Qendror Zgjedhor, 'Rregulla Nr. 01/2008 per Regjistrimin dhe Veprimin e Partive Politike', Neni 21: Evienat

⁸³ Law No. 03/L-174 on Financing of Political Parties, Article 17: Internal Control

⁸⁴ Audit&Konto, 'Deklaratat Financiare dhe Raporti i Auditorit te Pavarur 2009 & 2010', (2011)

⁸⁵ Electoral Regulation No. 12/2009

⁸⁶ Audit & Konto, 'Deklaratat Financiare dhe Raporti i Auditorit te Pavarur 2009 & 2010', (2011)

⁸⁷ Law No. 03/L-174 on Financing of Political Parties, Articles 15 and 19

underestimated, according to auditors, were wages, rent and municipal activities.⁸⁸ In addition, some political parties had failed to report the expenses of their branches and sub-branches, which violates the Law on Financing of Political Parties as well as underestimate the total consolidated expenses (reported). In line with these irregularities, a large share of political subjects did not report their in-kind contributions, failed to keep detailed records of their received donations such as the date, amount and donor's information, received donations exceeding the amount of €1,000/day from one contributor which violates the Law on Prevention on Money Laundering and Financing of Terrorism, as well as did not present receipts, invoices and bank reports necessary to validate the reported financial information.⁸⁹

On the other hand, it should be noted that the second auditing wave of the financial reports (2011 and 2012) took place in July of 2013; hence, the financial reports were not subject to the new amended Law on Financing of Political Parties which regulates the spectrum of party financing more extensively.⁹⁰ During this wave, the audited annual financial reports of 2011 and 2012, except of all the above mentioned problems and irregularities, also pinpoint some additional malpractices and irregularities conducted by political parties in Kosovo.

According to these auditing reports, political parties do not apply the accrual principle when recording their revenues and expenses which makes it difficult to track the casual relationship between them. Another important finding states that political parties do not apply accurately public procurement standards and procedures, which undermines the transparency and accountability of public expenditures. As mentioned in the previous sections, public procurement in Kosovo is known to be a problematic area and it is used by parties as means to promote their agendas.⁹¹ Moreover, political parties, by awarding consecutively the same entities (business/corporations/enterprises) on a yearly basis, do not follow the standard of competitive bidding during the tendering process.

In addition, political subjects in Kosovo during 2011 and 2012 failed to fulfil their tax obligations regarding personal income and rent, failed to declare possession of assets (vehicles) even though they reported fuel expenses, and among others, used personal tax invoices (receipts) as proof for party expenses. Besides, parties declared purchase and distributing expenses of essential items, but failed to record as to where these items were distributed and who were the beneficiaries.⁹² Such irregularities found in political party financial reports during the first and second auditing wave show how political parties lack transparency and accountability regarding their financial reporting and book-keeping. Moreover, such irregularities are direct violations of regulations and laws on financing of political parties which represent techniques and means used by parties to cover their illegal and corruptive activities.

Due to a large number of registered political parties in Kosovo, the section below will present findings only for the five largest political parties (PDK, LDK, AAK, AKR and VV) during the period 2009-2012. As shown in Table 2, from 2009 to 2012 income sources of these political parties increased, except those of the AKR. The total amount of income sources for these political parties peaked in 2010 and then again in 2012 which is justifiable by the fact that

⁸⁸ Audit & Konto, 'Deklaratat Financiare dhe Raporti i Auditorit te Pavarur 2009 & 2010', (2011)

⁸⁹ For more on violation conducted by political parties during 2009 and 2011 see: Audit & Konto, 'Deklaratat Financiare dhe Raporti i Auditorit te Pavarur 2009 & 2010'

⁹⁰ Law No 04/L-212 on amending and supplementing the Law no. 03/L-174 on financing of Political Parties, amended and supplemented by Law No. 04/L-058 has entered into force in 18th August 2013

⁹¹ See also: Group for Legal and Political Studies, 'Dissimilar Patterns of (mis)using the Public Money: Trends and practices of public procurement management in Kosovar municipalities', (2012)

⁹² ETIKA, 'Raportet Vjetore te Publikimeve Financiare te Subjekteve Politike per vitin 2011 and 2012 dhe Raporti i Auditorit te pavarur', (2013)

during these two years Kosovo held, respectively, the parliamentary elections and the extraordinary elections. According to the audited financial reports of these parties, for the period 2009-2012, income sources of political parties corresponded to the expenses incurred by these parties on a yearly basis. However, as mentioned previously, parties in general have underestimated their expenses and respectively their income sources as well.

Table 2: Finance sources of selected political parties in Kosovo, 2009-2012, in Euro.

	Income Sources	Political Parties				
		PDK	LDK	AAK	AKR	VV
2012	Membership Fees	3,674	/	/	/	1,551
	Contributions	36,847	1,090	2,000	38,230	100,855
	In-kind Contributions	8,700	5,674	/	2,815	495
	Public Funds	1,060,500	897,747	395,899	180,210	465,499
	Others	86,455	/	/	17,885	52,946
	TOTAL	1,196,176	904,511	397,899	239,140	621,349
	2011	Membership Fees	24,105	/	/	/
Contributions		47,510	21,306	/	288,070	171,471
In-kind Contributions		7,200	20,071	/	2,013	65,445
Public Funds & Others		479,239	521,079	153,191	155,354	280,303
TOTAL		558,054	562,458	153,191	445,437	518,086
2010	Membership Fees	125,782	/	/	/	/
	Contributions	351,734	13,000	/	425,451	/
	In-kind Contributions	22,852	10,000	10,000	23,530	/
	Public Funds & Others	557,063	383,728	150,572	220,729 ⁹³	/
	TOTAL	1,057,431	406,728	160,572	669,710	/
2009	Membership Fees	57,101	/	/	/	/
	Contributions	30,757	/	3,800	58,125	/
	In-kind Contributions	6,277	/	2,700	/	/
	Public Funds & Others	557,063	755,462 ⁹⁴	150,797	194,811	/
	TOTAL	651,199	755,462	157,297	252,937	/

The main financial contributions for the aforementioned political parties during the period 2009-2012 are public funds (public funds and other funds) and contributions, accounting for 77.4% and 18.1%, respectively (see Table 3). Whereas in-kind contributions and membership-fees accounted for only a small proportion of total income sources, respectively 4.5%. Apart from

⁹³ It should be noted that in 2010, AKR had revenues from loans amounting to € 13,500, whereas the other amount pertains to public and other funds

⁹⁴ It should be noted that in 2009, LDK had revenue from sales amounting to € 380,000 whereas the other amount (€ 375,462) pertains to public and other income

public funds, which are allocated to political parties according to their number of seats in the Assembly, political parties tend to concentrate on attracting contributions since they amount to larger sums compared to in-kind contributions and membership-fees. This said, it is much easier for political parties to attract donations/contributions from corporations and/or influential individuals; the latter, in exchange for donations, anticipate favours that can be facilitated by the ruling parties.⁹⁵ Such scenarios, which also represent a conflict of interest, are well known in Kosovo especially on the public procurement spectrum.

During the period 2009-2012, the PDK reported the highest membership fees. It should be noted that the audited annual financial reports state that the PDK failed to present any evidence which would verify if the membership-fees are accurate and in accordance with the CEC rules.⁹⁶ In this context, it is worth mentioning that the other political parties (except VV), as shown in the table below, did not receive and did not report any membership-fees during this period. According to scholars, membership-fees are significant as they represent the traditional connection between political parties and their constituencies; which apparently does not exist in Kosovo.⁹⁷ Except of the membership-fees, the PDK during the period 2009-2012 reported the highest share of public funds amounting to 40% of the total public funds for the aforementioned parties, followed by the LDK, AAK, VV and AKR. Whereas parties which received the highest amount of contributions and in-kind contributions during the period 2009-2012 were the AKR and VV, respectively.

Table 3: Total finance sources of selected political parties in Kosovo, for the period 2009-2012 in Euro

Political Parties → Income Sources ↓	PDK	LDK	AAK	AKR	VV	Total (%)
Membership Fees	210,662	/	/	/	2,418	213,080 (2.42 %)
Contributions	466,848	35,396	5,800	809,876	272,326	1,590,246 (18.05%)
In-kind Contributions	45,029	35,745	12,700	28,358	65,940	187,772 (2.13%)
Public Funds & Others	2,740,320	2,558,016	850,459	768,989	798,748	6,818,785 (77.4%)

Regarding the annual financial sources of political parties during 2012, the PDK received the highest amount of public funds followed by the LDK, AAK, VV and AKR, as portrayed in Table 4. The PDK party also received the highest in-kind contributions as well as membership-fees. Whereas, surprisingly, the highest donations were reported by the Self-determinant Movement (VV), followed by the AKR, PDK, AAK and LDK.

⁹⁵ GLPS, 'Financing of Political Parties: Can Controllability and Transparency help?', Policy Report 05/2013, (2013)

⁹⁶ Audit & Conto, "Financial Statements and Auditor's Report for 2009 and 2010", (2011), 75, 101; RULE No 01/2008 on Registration and Operation of Political Parties -

⁹⁷ International Institute for Democracy and Electoral Assistance, 'Funding of Political Parties and Election Campaigns', (2003) -

Table 4: Finance sources of selected political parties in Kosovo during 2012 in Euro

Political Parties → Income Sources ↓	PDK	LDK	AAK	AKR	VV
Membership Fees	3,674	/	/	/	1,551
Contributions	36,847	1,090	2,000	38,230	100,855
In-kind Contributions	8,700	5,674	/	2,815	495
Public Funds	1,606,500	897,747	395,899	180,210	465,499
Other Funds	86,455	/	/	17,885	52,946
TOTAL	1,196,176	904,511	397,899	239,140	621,346

As noted in the previous sections, the financing of political parties in Kosovo remains an area where the law and regulations should be implemented to the fullest extent, and where monitoring and enforcement mechanisms should be put in place. According to the audited annual financial reports for the period 2009-2012, political parties in general have not acted in accordance with the law and accounting standards of Kosovo. Violation and lack of implementation of rules and regulations by political parties have been found especially in the process of receiving/recording donations as well as verifying expenses conducted by parties. Initially, some political parties did not report a contribution-list at all, as required by the law, whereas other political parties have failed to record detailed information about the donations received.⁹⁸ Such cases represent difficulties in the process of verifying the financial sources of parties and their origin. According to the Law on Financing of Political Parties, subjects are obliged to report a detailed list of their contributions (the amount, name of donors and their personal ID, as well as date) in order for the public to be informed and for the oversight agencies to oversee and evaluate the money flow and its influence on party behaviour.⁹⁹ The absence of such sensitive information leads to a lack of transparency and accountability, as well as represents irregularities conducted by political parties. Moreover, the lack of such information brings into question the legitimacy of the party financial sources for the period 2009-2012. Except of improper implementation of regulations regarding the process of receiving/recording donations, political parties have also failed to control the amount of the received income which cannot exceed €1,000 per day from one contributor.¹⁰⁰ The annual financial reports show that the share of violations made by all political parties decreased slightly during the period 2009-2012; however, there is still room for improvement considering that such problems were still present in the latest financial reports (2011 and 2012).¹⁰¹ The table below illustrates some of the violations conducted in particular by the biggest political parties (PDK, LDK, AAK, AKR and VV) for the period 2009-2012.

⁹⁸ Audit & Konto, 'Deklaratat Financiare dhe Raporti i Auditorit te Pavarur 2009 & 2010', (2011); and ETIKA, 'Raportet Vjetore te Publikimeve Financiare te Subjekteve Politike per Vitin 2012 & 2012 dhe Raporti i Auditorit te Pavarur', (2013)

⁹⁹ See Law No. 03/L-174 on Financing of Political Parties, Article 15.3.4 on Financial Reporting

¹⁰⁰ This represents a violation of the Law No. 03/L-196 on the Prevention of Money Laundering and Financing of Terrorism, precisely Article 15.I on Additional Obligations of Political Parties and Registered Candidates

¹⁰¹ For more see: GLPS, 'Financing of Political Parties: Can Controllability and Transparency help?', Policy Report 05/2013, (2013)

Table 5: Violations by selected political parties during the period 2009-2012

Conducted Violations	2012	2011	2010	2009
Missing Lists of Contributions	/	/	/	PDK
Missing contributor's personal information	PDK	PDK	PDK	/
Party received €1,000 per day from one contributor	VV	VV	AKR, PDK	AKR
Missing (expense) invoices	PDK, AKR	PDK, AKR, VV	/	PDK
Non-declaration of in-kind contributions-rent	PDK, AAK	PDK, AAK	AAK	AAK
Parliamentary Gr. expenses/income not presented in the financial report	PDK, AAK, VV	PDK, AAK, VV	PDK, LDK, AAK, AKR	PDK, LDK, AAK, AKR

As portrayed in the above table, the PDK in 2009 failed to report the list of contributions, whereas in the consecutive years the list had missing personal information of contributors. The repetition of the same violation during three consecutive years suggests that the PDK did not consider the recommendations of auditors and repeatedly continued to violate the Law on Financing of Political Parties. In addition, parties which violated the Law on the Prevention of Money Laundering and Financing of Terrorism during the period 2009-2012, which states that political parties cannot accept more than €1,000 per day from one contributor, are the PDK, AKR and VV. In addition, political parties, such as the PDK, AKR, VV, failed to present invoices needed to verify the expenses and payments by political parties which made it difficult/impossible for the auditors to verify whether the reported expenses were accurate.¹⁰² Other violations stated in the audited annual financial reports of political parties were the non-declaration of rent expenses as in-kind contributions as well as the expenses/income of the Party Parliamentary Groups which were not presented in the financial reports of political parties.

In summation, it is of crucial importance for the political parties to perform their financial activities with more caution as well as respect the laws and regulations regarding party financing in order to advance financial record-keeping, mitigate financial malpractices and irregularities as well as utilise their funds (public and private) more efficiently. Initially, political parties should appoint competent and professional financial officers, should respect the accounting standards of Kosovo and, among others, should possess all the expense and revenue invoices needed to verify the reported material amounts. Special attention should be given to keeping detailed information of the donations received, exercising more thoroughly party internal control as well as making the public procurement process more transparent by following the standard of competitive bidding. On the other hand, the Central Election Commission should increase its capacities in order to enhance the process of receiving and controlling the financial reports of political parties. More precisely, the CEC should control and oversee the party financial reports in order not to accept the incomplete ones, as well as should not accept any report after the set

¹⁰² Audit & Konto, 'Deklaratat Financiare dhe Raporti i Auditorit te Pavarur 2009 & 2010', (2011); and ETIKA, 'Raportet Vjetore te Publikimeve Financiare te Subjekteve Politike per Vitin 2012 & 2012 dhe Raporti I Auditorit te Pavarur', (2013)

deadline, as happened in 2011 and 2012.¹⁰³ In addition, the CEC should offer professional training to financial officers on a regular basis, as foreseen by electoral regulation No. 12/2009, especially since such training resulted in positive outcomes.¹⁰⁴ Besides, regarding the auditing process, the CEC will not be allowed to choose the same auditor consecutively, as stated in the new amended law on financing of political parties¹⁰⁵, which will enhance transparency and will make it difficult for parties to manipulate the process. As of now the CEC awarded contracts to the same company to audit the party annual financial reports of 2009 and 2010; such a scenario was also followed for the annual financial reports of 2011 and 2012.¹⁰⁶

As elaborated throughout the report, the spectrum of political party financing in Kosovo lacks proper mechanisms involving controlling, monitoring and enforcement which need immediate attention in order to enhance transparency and accountability in this sphere.

Recommendations

As elaborated, financing of political parties in Kosovo lacks proper controlling, monitoring and enforcement mechanisms which would enhance transparency and accountability and would reduce political party malpractices and corruptive deeds. This report paid special attention to irregularities and violations relating to financing of political parties as well as challenges and the lack of proper standards in this specific spectrum. Hence, for the political party funding system to become unambiguous, this section will deliver a set of recommendations and well-defined standards that need to be fulfilled and implemented by relevant institutions in order for the transparency and accountability of party funding process to be enhanced:

- 1) Bearing in mind that the democratization fund is considered to be part of the 'public money', except for being audited by independent companies, the public money allocated to political parties should be audited also by the Auditor General or other entities competent in examining and auditing the public money. Such practices have been followed by many countries with the purpose of enhancing transparency and accountability regarding the usage of public money distributed to political parties. The auditing process in general, except for the standard procedure, should include an in-depth analysis of political party expenses and income sources as well as an investigation of income sources spent in order to shed-light on the shadow/illegal spending by political parties.
- 2) Even though the Law on Financing of Political Parties prohibits and specifies the acceptable and unacceptable donors, Kosovo should better manage this process in order to control the influence of money over politics and avoid private funding irregularities. In this context, Kosovo should follow the cases of Germany and the United Kingdom which have regulated donor qualification by publishing a list of impermissible donors and a positive list of permissible donors, respectively. Such lists should include, in detail, all the entities, businesses and corporations excluded from making financial contributions (their

¹⁰³ ETIKA, 'Raportet Vjetore te Publikimeve Financiare te Subjekteve Politike per vitin 2011 and 2012 dhe Raporti i Auditorit te pavarur', (2013)

¹⁰⁴ According to the audited financial reports of extraordinary election of 2012, the submitted financial reports of political parties showed an improvement regarding the book-keeping

¹⁰⁵ Law No 04/L-212 on amending and supplementing the Law no. 03/L-174 on financing of Political Parties, amended and supplemented by Law No. 04/L-058, Article 19.4: Financial Control

¹⁰⁶ The auditing company 'Audit & Conto' audited the 2009 and 2010 annual financial reports of political parties, whereas the auditing company 'ETIKA' audited the 2011 and 2012 annual financial reports of political parties

donations are strictly prohibited), and/or include the permissible donors by prohibiting any donation from a person or entity not included in the list.

- 3) Even though the Law on Financing Political Parties, amended last year, regulates more extensively private funding to political parties, there should be a body within the CEC which would disclose the *list of the private entities* (businesses or enterprises) in a contractual relationship with the institutions of the Republic of Kosovo for the provision of goods and services. Such a mandate would inform the prospective constituencies regarding tenders and their relation to party funding, would build trust in the overall system as well as enhance transparency.
- 4) Kosovo is known for the existence of quid-pro-quo cases between political parties and influential individuals/businesses where the former, by acquiring campaign funds, act in favour of the latter's interests. Hence, such cases which represent a conflict of interest should be investigated by competent bodies, such as the Anti-Corruption Agency, because they hinder the democratic process and create room for further corruption and malpractices. In order to facilitate this process, a well-set mechanism of reporting conflict of interest cases should be created which, except for the Anti-Corruption Agency, would allow the media and civil society to investigate and expose such cases. In addition, in accordance with the Council of Europe standards, Kosovo should create a mechanism which would expose cases involving secret donations which in turn would ensure transparency and accountability by both political parties and donors.
- 5) Given the large scale of corruption, relevant institutions in Kosovo should require political parties to properly record their funds in books and accounts and to present the consolidated financial accounts of all entities which are directly or indirectly related to political parties and/or are under the control of political parties, in accordance with the Council of Europe standard. By establishing such structures, Kosovo would enhance transparency by both political parties and donors as well as mitigate the mismanagement of funds.
- 6) As stated by the Council of Europe standards, political parties in Kosovo should integrate into their statutes proper mechanisms for the internal auditing of their financial accounts. Such initiatives should be taken by political party members by exercising detailed and frequent internal controls over money, especially regarding the 'covert' expenses, in order to prevent fraudulent financial practices. Moreover, based on the best practices of Italy, Spain and Belgium, political parties should require their representatives to report in detail and periodically their activities to party members as well as require candidates not to accept any contribution without the party's approval.
- 7) In order to encourage the external oversight stakeholders, such as media, civil society and individuals, to share and file complaints regarding the political party irregularities and corruptive deeds, Kosovo should provide a system where the announcement of such cases proceeds with anonymity. In addition, the Law on Protection of Informants should be reinforced which would incentivise the external oversight stakeholders to report corruptive cases without the 'fear of reprisals'.
- 8) Regarding the enforcement process, Kosovo should create a process composed of different stages in order to be effective and efficient. Even though each stage should have a clear mandate and should be the responsibility of a specific body/agency/entity, all the stakeholders involved in this process should co-operate with each other for the enforcement mechanism to be effective. As elaborated, in order to be effective the enforcement process should be structured in these eight different stages: legislation and implementation planning, preparation and training, administration, assuring compliance,

administrative fines, criminal investigation and prosecution, trial and conviction, appeal process and review process. Hence, given the importance of party funding as well as the reinforcement of laws and regulations, the reinforcement process would result in positive outcomes, would lessen the irregularities of party funding as well as enhance transparency.

- 9) For the monitoring and transparency to be enhanced, independent and neutral bodies should be created which would publish and monitor the accounts of political parties as well as check that the elected representatives have not gained wealth illegally during their mandate. The latter should involve financial supervision of the elected representatives before, during and after the term in office. The establishment of such bodies enhances transparency and accountability, which are understood as prerequisites for monitoring party funds, as well as positively affecting citizens' perceptions towards the state apparatus.
- 10) Kosovo should promote the specialization of the judiciary, police and/or other relevant personnel in the fight against illegal funding of political parties and electoral campaigns. In addition, relevant institutions should require that the financial officers of political parties be qualified and certified as public accountants, competent and professional in order to better report and perform record-keeping of the financial statements. Based on best practices, the latter should be provided a public stipend in order to be incentivised and perform better regarding the reporting and record-keeping of party finances.

Recommendations - What should be done!

Type of Standards	Tasks
Party Funds: Limits and Bans	<ul style="list-style-type: none"> - The democratization fund should be audited by Auditor General - A mandate should be assigned to a body which would disclose the list of private entities (businesses and enterprises) in a contractual relationship for the provision of goods and services with the institutions of the Republic of Kosovo - Kosovo should consider applying the Council of Europe standard on avoiding conflict of interest in the funding of political parties - Kosovo should implement/create proper mechanisms in order to follow the Council of Europe standard on avoiding secret donations
Transparency and Accountability	<ul style="list-style-type: none"> - In order to avoid illegal (shadow) political party funding, transparency of issuing public tenders (the overall process) should be enhanced - Political parties should present the consolidated financial accounts of all the entities related, directly or indirectly, to them and of those entities that are under the control of political parties - Kosovo should establish neutral and objective bodies that would publish, monitor and expose financial malpractices of parties
Monitoring	<ul style="list-style-type: none"> - Political parties should integrate into their statutes proper mechanisms for the internal auditing of their financial accounts - In order for the oversight agencies and regulatory bodies to pursue and investigate potential violations, they should be neutral, objective and have a clear mandate and guidelines regarding their appointment, functions as well as limits of their authority

	<ul style="list-style-type: none"> - Relevant bodies should conduct regular financial supervision (before, during and after the term in office) of the elected representatives and check whether they have gained wealth illegally during their mandates - Political parties should require their elected representatives, party organs and executives to report in detail their activities and to prohibit all the income sources to candidates without the approval of parties - A system should be created where violent/corruptive cases proceed in anonymity and the Law on Protection of Informants should be reinforced
Enforcement	<ul style="list-style-type: none"> - Kosovo should create a proper enforcement process composed of different stages; each stage should have a clear mandate and should be the responsibility of a specific body/agency/entity - All the stakeholders involved in this process should co-operate with each other in order for the enforcement mechanism to be effective
Specialised Personnel	<ul style="list-style-type: none"> - Kosovo should consider applying the Council of Europe standard on promoting the specialization of the judiciary, police and/or other personnel in the fight against illegal funding of political parties and electoral campaigns - Relevant institutions should require that the financial officers of political parties be qualified as public accountants, competent and professional in order to better report and perform record-keeping of the financial statements of political parties

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