



Transparentnost Srbija  
Transparency Serbia

# TRANSPARENCY IN FUNDING OF ELECTION CAMPAIGNS IN SERBIA

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# Foreword

In summer of 2010 Transparency Serbia, along with several other members of the Transparency International network in South East Europe, joined the project CRINIS – shining a light on money in politics. CRINIS is one of Transparency International's tools for assessing corruption in political party financing, developed firstly in Latin America but also implemented in other parts of the world.

The project adapted the tool to South East Europe to include research into political party election campaign financing, encompassing both legal aspects and practice of implementation. The research is based on Transparency Serbia's assessments, while also including information collected from other relevant stakeholders (representatives of parties, control agencies, auditors, experts, journalists etc.).

The results presented here form one part of project-related activities. Aside from this research, Transparency Serbia conducted monitoring of May 2012 election campaign financing, an analysis of reports submitted by the participants in that election, analysis of the work of various institutions in charge and analysis of annual financial reports of political subjects for 2012. Transparency - Serbia's recommendations contributed to the recognizing of the need to take legislative and other measures in the field of funding of political parties in the recently adopted Anti-corruption Strategy. We are currently organizing a series of round table discussions with representatives of the political parties, the media, associations, auditors, businessmen, prosecutors, magistrate's judges and representatives of other state agencies in order to consider the current implementation of the law and the necessary changes. At the same time, we monitor what the authorities are doing in order to fully clarify the previous election campaign financing and to what extent the implementation of this law affects the fight against corruption in Serbia in general and the European integration process.

# 1. Executive Summary

Since 2011 Serbia has a solid legal framework for election campaign financing that includes an obligation to report all campaign income and expenditure and to make all transactions through a special bank account. Sanctions exist for the violation of rules and control of campaign finance records are performed by an independent body – the Anticorruption Agency. However, the legal framework still needs serious improvement in order to: (i) prevent circumvention of legal bans through the financing of campaign activities by “third parties” (e.g. NGOs, firms) and through the abuse of state promotional resources; (ii) increase transparency of campaign finance information; and (iii) ensure that all violations are identified in timely manner and sanctioned appropriately.

The experience of the May 2012 elections showed that the introduction of new legislation has brought with it some improvements in practice. The joint effect of a significant increase of budget subsidies and the announced control of campaign finance reports by the Agency for the fight against corruption, as well as monitoring carried out by civil society organizations, has influenced political parties to report a greater amount of their income and expenditure than any time before. However, serious violations of various kinds were identified, ranging from failure to comply with formal reporting obligations, widespread failure to submit campaign finance reports for local elections, failure to report some promotional campaign costs and provision of information regarding donations that raises ground for suspicion. Furthermore, partly due to unclear legal provisions about loans and commitments for almost half of the reported campaign costs, the public still has limited information about the ultimate source of funding. The Anti-corruption Agency performed monitoring of campaign costs, but failed to carry out thorough control in the months following the campaign. Only after dismissal of the former director, did the Agency speed up its control and launch the first misdemeanor files (against parties that failed to submit campaign finance reports) in December 2012<sup>1</sup>. The preliminary findings of other control aspects were presented on May 31st 2013<sup>2</sup>.

In total, legal framework for Serbia is assessed with 8.1 and practice with 5.5. Within the legal framework, the strongest dimensions are “scope of reporting”, due to the exhaustive legal provision to report income sources and expenditures by type and vendor, and “public oversight”, due to the strong powers given to the Anti-corruption Agency in the context of control of campaign finance reports. On the other hand, the weakest part of legal system is “prevention”, due to lack of measures that would facilitate the reporting of irregularities in campaign finance.

On the “practice” side of the assessment, the greatest score is earned by “scope of reporting”, although significant weaknesses exist in that area too, and “depth of reporting”, which is mostly a consequence of the level of detail in the reporting form. On the other hand, the weakest dimensions are “sanctions”, due to the complete absence of sanctions imposed for irregular campaign funding since the establishment of the multi-party system in 1990, “reliability of reports”, due to the absence of comprehensive control reports and the low level

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<sup>1</sup> [www.acas.rs/sr\\_cir/aktuelnosti/800-borba-2012.html](http://www.acas.rs/sr_cir/aktuelnosti/800-borba-2012.html)

<sup>2</sup> [http://www.acas.rs/sr\\_cir/finansiranje-politickih-subjekata.html](http://www.acas.rs/sr_cir/finansiranje-politickih-subjekata.html)

of society's confidence in political parties in general, and the functioning of “prevention mechanisms”.

The problem of campaign financing is widely recognized in Serbian society. The need to improve both the legal framework and practical implementation is one of the key measures envisaged to curb political corruption in a new Anti-corruption Strategy, which has been adopted on July 1st, 2013<sup>3</sup>. In order to resolve the problems identified by this research, Transparency Serbia proposes the following key recommendations:

1. Amend the Law on Financing of Political Activities, removing identified legal loopholes (“third party financing”, loans and liabilities etc.) and ensuring greater transparency of information and timely control
2. Amend the Criminal Code, Budget system law, media laws, Law on Anti-corruption Agency and Law on Supreme Audit Institution to ensure greater transparency of information, better planning control and sanctioning of offences related to campaign financing (e.g. vote buying, abuse of office, hidden advertisement in media) and responsibility for proper allocation of budget subsidies.
3. The Anti-corruption Agency and public prosecutor should report all irregularities in campaign funding, including abuse of office and vote-buying, protect whistleblowers reporting such regularities and carry out investigation of all known violations.
4. The Anti-corruption Agency should publish its full findings of control and initiate sanctioning procedures for all types of offences
5. The Anti-corruption Agency and Supreme Audit Institution should monitor outstanding debts and liabilities of election campaigns in order to identify the ultimate source of campaign income and to identify any eventual abuse of funds destined for non-election political party funding.

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<sup>3</sup> [http://www.parlament.gov.rs/upload/archive/files/cir/doc/ostala\\_akta/2013/RS43-13.doc](http://www.parlament.gov.rs/upload/archive/files/cir/doc/ostala_akta/2013/RS43-13.doc)

## 2. Introduction and Background to the study

Political party financing is one of the key areas where states and people can fight political corruption. Political corruption is an area which relates to the decision-making processes of entrusted representatives of citizens. In contrast to administrative corruption, where civil servants abuse their powers and violate legislation, political corruption involves instances where legislation is in fact designed in a way to grant favors for the group which has influence on decision makers from the political arena – whether office holders themselves or their political parties.

Political corruption can be curbed through various measures, including conflict of interest rules, lobbying legislation and political party financing laws. For example, political party financing laws should provide a guarantee for transparent income collection and spending of funds in political competition, measures for control of the accuracy of parties' reporting by an independent body, specific accounting rules and other measures. It is particularly important to have in place a clear policy related to limiting influence of individual donors on the policies of political parties in order to avoid diverting the party program that is supported by the citizens during the elections and is supposed to serve the public interest.

This study presents a snapshot of the current situation in Serbia related to the legislation and practice of political party financing with a special focus on campaign financing for elections organized in May 2012. The May 2012 elections in Serbia were the first serious test of the 2011 Law on Financing Political Activities that has been in force since July 1st 2011. Although the new law has introduced positive changes in party financing, there are still a number of areas to be improved in both law and practice, and Transparency Serbia will use these research findings to advocate for such changes in the country.

### 3. General Context on Political Financing

Political party financing in Serbia is regulated by the Law on Financing of Political Activities<sup>4</sup>, in force since July 1st 2011, and the Rulebook on Records of Contributions and Assets, Annual Financial Reports and Reports on Electoral Campaign Expenditures of Political Subjects<sup>5</sup>, October 6th 2011, updated on April 5th 2012. In addition to the specific political party legislation, there are important provisions in other laws, including those regulating advertising<sup>6</sup>, work of the media<sup>7</sup>, budget regulations<sup>8</sup> and accounting<sup>9</sup>. Other important rules are defined in the Criminal Code<sup>10</sup> and the Law on the State Audit Institution<sup>11</sup>, empowering this independent body with oversight of political party financing.

The law makes a distinction between the regular financing of political subjects and campaign financing<sup>12</sup>. The election campaign period in Serbia is strictly limited to the period between the announcement of elections and the Election Day<sup>13</sup>, which usually lasts about two months. As a consequence, parties must keep separate accounts for campaigns and submit a special report<sup>14</sup>. During the campaign period, there are also other subjects involved aside from political parties, i.e. coalition of parties and citizens' groups, who also have to abide by prescribed rules<sup>15</sup>. The law also envisages the financing of activities of such subjects after election, if they have elected deputies<sup>16</sup>.

Direct public subsidies are regulated in Articles 20 and 21 of the Law on Financing Political Activities in the following way: funds from public sources covering election campaign costs are allocated in the year of regular elections at 0.1%<sup>17</sup> of the Republic of Serbia budgetary expenditure, of the autonomous province budgetary expenditure or the local government budgetary expenditure for the budget year<sup>18</sup>. In the event of early elections the relevant authorities are required to provide funds from the budget reserve.

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<sup>4</sup> *Official Gazette of the Republic of Serbia No. 43/2011*

<sup>5</sup> *Official Gazette of the Republic of Serbia No. 72/2011, 25/2012 and 31/2013*

<sup>6</sup> *Law on Advertising, Official Gazette of the Republic of Serbia No. 79/2005*

<sup>7</sup> *Law on Broadcasting, Official Gazette of the Republic of Serbia No. 42/2002, 97/2004, 76/2005, 79/2005, 62/2006, 85/2006, 86/2006 and 41/2009; Law on Public Information, Official Gazette of the Republic of Serbia No.43/2003, 61/2005, 71/2009, 89/2010 and 41/2011.*

<sup>8</sup> *Budget System Law, Official Gazette of the Republic of Serbia No.54/2009, 73/2010, 101/2010, 101/2011 and 93/2012*

<sup>9</sup> *Law on Accounting and Auditing, Official Gazette of the Republic of Serbia No. 46/2006, 111/2009 and 99/2011*

<sup>10</sup> *Criminal Code, Official Gazette of the Republic of Serbia No.85/2005, 88/2005, 107/2005, 72/2009, 111/2009 and 121/2012*

<sup>11</sup> *Law on Supreme Audit Institution, Official Gazette of the Republic of Serbia No. 101/2005, 54/2007 and 36/2010*

<sup>12</sup> *Law on Financing of Political Activities, LFPFA, Article 3*

<sup>13</sup> *LFPFA, Article 2.*

<sup>14</sup> *LFPFA, articles 24 and 29.*

<sup>15</sup> *LFPFA, Article 2 and other.*

<sup>16</sup> *LFPFA, article 16 and other.*

<sup>17</sup> *Budget system law provisions also apply. Before September 2012, the budget funding "quota" was measured against overall budget expenditures. Since the last amendments of that act, the basis for calculation of budget subsidies are the "expenditures financed from tax income" which is significantly lower (e.g. does not include part of the budget expenditures covered from loans).*

<sup>18</sup> *In May 2012, expenditures from various budgets were bigger than 17 million EUR, out of which more than 7.6 million EUR from central budget for parliamentary campaign funding and same amount for presidential campaign funding.*

In the event of early elections the relevant authorities are required to provide funds from the budget reserve. There are two steps in the distribution process - 20% is allocated in equal amounts to those running for election<sup>19</sup>, who at the time of submission declared that they would use funds from public sources to cover election campaign costs. These funds are transferred within five days from the date of proclaiming the election lists<sup>20</sup>. The remaining 80% is allocated to the political parties, coalitions or citizens' groups according to the number of seats won, within five days after election results are announced.

In the event of elections held according to a majority system (presidential), 50% of the funds are allocated in equal amounts to those who declared at the time of filing their candidacy that they would use funds from public sources to cover election campaign costs. The remaining 50% is allocated to the proponent of the winning candidate<sup>21</sup> within five days after election results are announced, regardless of whether or not the funds from public sources were used to cover election campaign costs.

In the event of runoff elections, the remaining portion of funds is allocated in equal amounts to candidates participating in the run-off, five days after election results of the first election round are announced. Funds from public sources are allocated by the Ministry of Finance or the relevant authority of an autonomous province or local government. These funds should be fully accounted for and they must be spent only in the way specified by law (e.g. paid through bank accounts and not in cash) and for the purposes recognized by the law (i.e. it is not allowed to buy shares in companies, to buy real estate, to buy humanitarian aid etc.).

Should any public funds be left over after the elections, the remaining money should be transferred back to the state budget. Those who won less 1% of overall votes (0.2% for national minority electoral lists) have to return any funds received.

State institutions of the Republic of Serbia, Autonomous Provinces and Local Governments, as well as other organizations founded by them, may provide services and goods from public sources to the political entities on the basis of internal regulations. It is obligatory to grant such services and goods to all eligible political entities under equal terms<sup>22</sup>. These rules apply also for election campaigns. The provision of goods and services is sometimes further regulated through local government acts (e.g. to provide free of charge municipal premises to political parties during the campaign period)<sup>23</sup>.

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<sup>19</sup> AKA "submitters of proclaimed election lists" as named in Serbian electoral legislation.

<sup>20</sup> "Proclamation of the list" is an act of Election Committee that confirms that electoral list is valid (e.g. that supported by certain number of signatures).

<sup>21</sup> I.e. party, coalition or citizen group that submitted candidacy for President of Republic.

<sup>22</sup> LFPA, Article 6.

<sup>23</sup> Transparency Serbia in February 2012 searched for such regulation on local government level and established that most of the cities and municipalities did not adopt or update their internal acts in order to comply with standards set in LFPA.

The major non-financial contribution from public resources is free air time on public service TV and radio, regulated by the Law on Broadcasting. It is further regulated through the General Binding Instructions of the Republican Broadcasting Agency (RBA).

Political parties may also finance their election campaign from funds collected for the purpose of its regular financing from private sources. However, these funds should be previously transferred from a permanent account to the special campaign funding account<sup>24</sup>. There are various types of income from private sources. “Income from property” is the income obtained by a political party from the sale of real estate and movables, lease of real estate and interest on deposits with banks and other financial organization<sup>25</sup>. Another type of income is formed by membership fees<sup>26</sup>. Financial and non-financial contributions of supporters are also allowed<sup>27</sup>, if the sum of financing from one person during one year is less than 20 or 200 average monthly salaries<sup>28,29</sup>. “Bank loans” are fourth type of “income”<sup>30</sup>. There is no general or relative limit on expenditures, nor limit of total campaign income

The Law on Financing of Political Activities imposes significant restrictions on the sources of income<sup>31</sup>. These include, among other things; a ban on donations from foreign legal and natural persons, a ban on anonymous donations<sup>32</sup>, a ban on income from any public body and a ban on income from firms with tax debts. There are also limits set for the maximum amount of individual donations, although the threshold is rather low compared with overall campaign expenditures<sup>33</sup>). Serbia does not recognize some forms of political party financing which are permitted elsewhere in the world, like tax benefits for donors or for parties. The Law strictly limits party entrepreneurship as well, thus stimulating an active relationship with the membership and supporters.

The Law on Financing of Political Activities also contains rules regulating accounting, reporting and transparency. The most important is the duty to produce and submit reports<sup>34</sup> to the Anti-Corruption Agency (ACA) and the duty to publish information about donations<sup>35</sup> which are above the legally set threshold (one average monthly salary). Furthermore, these reports should be checked by the ACA, which is an independent state body.

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<sup>24</sup> *LFPA, Article 24, Para 4*

<sup>25</sup> *LFPA, Article 11*

<sup>26</sup> *LFPA, Article 8*

<sup>27</sup> *LFPA, Article 9*

<sup>28</sup> *LFPA, Article 10*

<sup>29</sup> *Limit is app. 7.000 EUR for natural persons and 70.000 EUR for legal entities. Same person may contribute that amount for “regular party financing” and up to that limit another 7 or 70 thousand for election campaign.*

<sup>30</sup> *LFPA, Article 7*

<sup>31</sup> *LFPA, Article 12*

<sup>32</sup> *LFPA, articles 10 and 22*

<sup>33</sup> *At the time of May 2012 elections, the limit of natural person contributions for campaign was app. 7.000 EUR and limit of firms' donations app. 70.000 EUR. On the other hand, the reported value of most prominent parties' election campaigns ranged from 3 to 5 million EUR, thus making even biggest single financial contribution insignificant in overall campaign budget.*

<sup>34</sup> *Articles 28 and 29*

<sup>35</sup> *LFPA, article 10, Para 3*

The most important change introduced by the new legislation is related to the powers of the ACA. The powers are much wider now and provide the opportunity for thorough oversight of parties' financial reports, related documents, and information possessed by other bodies, including vendors, donors, banks and other institutions<sup>36</sup>.

Funds for performing oversight of election campaign costs for the election of the president of the Republic, and the election of members of parliament, deputies and councilors are provided to the ACA from the state budget<sup>37</sup>, in accordance with a pre-set percentage of budget expenditure (i.e. for parliamentary campaign control, the amount is 1% of the funds distributed to the participating political parties, coalitions and citizens' groups).

Furthermore, the ACA publishes electoral campaign finance reports on its web-site and is responsible for the initiation of misdemeanor procedures against violators of the law. It also imposes some measures after a party is sentenced for violations, such as the denial of public funds<sup>38</sup>.

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<sup>36</sup> *LFPA, Article 32*

<sup>37</sup> *LFPA, article 33*

<sup>38</sup> *LFPA, articles 42 and 43*

## 4. Methodology

The CRINIS methodology entails assessment of two different types of political financing: non-electoral finances of political parties and election campaign funding for legislative and where applicable, presidential elections. This report looks at the assessment of election campaign funding in Serbia in May 2012, whereby resources were mobilized by political parties to run the election campaign.

The methodology involves examining the regulatory framework on transparency of political financing, so as to compare it to internationally recognized principles. Through different research methods, it also examines what happens in practice. By providing thorough diagnosis of the legal framework and actual practice, it provides strong empirical evidence to create a clear picture of areas in need of reform.

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

**Table 1: Ten Dimensions of Transparency in Political Finance**

<b>Dimensions</b>	<b>Generic questions for building indicators</b>
1. Internal bookkeeping of parties	Is bookkeeping mandatory by law? How professional is staff in practice?
2. Reporting to state oversight agency (Anti-Corruption Agency)	By law, do political parties and media render accounts on their role in political finance? When and in what format?
3. Comprehensiveness or scope of reporting	Do reports include public and private sources? Do they cover income and expenses? Do they cover monetary contributions, in-kind contributions etc.?
4. Depth of reporting	By law, do reports include information on individual donations? Do they clearly identify the donor of each donation?
5. Reliability of reporting	Do different actors disclose all resources in reports? How accurate are reports, to the knowledge of stakeholders?
6. Disclosure to the public	Is it mandatory for state agencies/parties to disclose information on political finance? In practice, how accessible is such information to experts, journalists and ordinary citizens?
7. Preventive measures	Are donations channeled exclusively through official bank accounts? Are there any loopholes for anonymous donations?

8. Sanctions	What are the existing sanctions - civil, criminal and political –according to the law? In practice, are the existing laws strictly enforced?
9. State oversight (Anti-Corruption Agency)	Do experts evaluate institutions of state oversight as independent? Are they considered efficient? From the perspective of self-evaluations, do they lack human resources? Do they lack training?
10. Public oversight	Do civil society organizations monitoring political finance exist? In which areas of political finance do they develop activities? Do experts evaluate organizations of public oversight as independent?

**Internal bookkeeping** (dimension 1) ties in to the way in which political parties internally manage their financial resources. **Reporting to the state oversight agency** (dimension 2) evaluates the extent to which parties or candidates report to a government oversight body. Three dimensions – **comprehensiveness of reporting** (dimension 3), **depth of reporting** (dimension 4) and **reliability of reporting** (dimension 5) – center around the nature of data furnished in the financial reports and help to determine the quality of the information submitted to the oversight bodies. These evaluate crucial areas like all relevant finance activity, including cash, in-kind and other transactions, identity of the donor, credibility of submitted data and the perception of credibility of reports by key actors. **Disclosure of information to the public** (dimension 6) takes a look at the public's access to political finance information. A third group of dimensions encompassing **prevention** (dimension 7), **sanctions** (dimension 8) and **state oversight** (dimension 9) addresses monitoring compliance with established rules and regulations. This includes preventive measures to facilitate effective oversight, the existence of sanctions that can be imposed and the institutions and actors in charge of performing oversight functions. Finally **public oversight** (dimension 10) addresses monitoring and oversight role of the civil society and media irrespective of the formal state oversight body with regard to political financing issues.

The information collected through the involvement of a broad spectrum of sources and different research methods, brings together over 75 evaluation indicators (law and practice). Questions feeding into each indicator have different range of answers, which translates into different weights for the final score for each indicator. The scale for each indicator ranges from 0 to 10, where 10 indicates that a country has met all criteria expected in terms of transparency and accountability and 0 indicates that none of these criteria has been met. Scores between 0 and 10 are grouped into three evaluation categories: *insufficient* (0 to 3.3), *average* (3.4 to 6.7) and *good* (6.8 to 10).

**Table 2: Quantitative index of transparency in political party funding**

**Dimensions, indicators and weighting of law and practice**

<b>Dimensions</b>	<b>Number of indicators</b>	<b>Weight Law/Practice</b>
1) Internal bookkeeping	Total 5 3 Law 2 Practice	50% Law 50% Practice
2. Reporting to state oversight agency (Anti-Corruption Agency)	Total 6 3 Law 3 Practice	50% Law 50% Practice
3. Scope of reporting	Total 4 2 Law 2 Practice	50% Law 50% Practice
4. Depth of reporting	Total 5 3 Law 2 Practice	50% Law 50% Practice
5. Reliability of reporting	Total 3	100% practice
6. Disclosure to the public	Total 14 6 Law 8 Practice	50% Law 50% Practice
7. Preventive measures	Total 10 5 Law 5 Practice	50% Law 50% Practice
8. Sanctions	Total 12 6 Law 6 Practice	50% Law 50% Practice
9. State oversight (Anti-Corruption Agency)	Total 5 2 Law 3 Practice	50% Law 50% Practice
10. Public oversight	Total 5	100% practice

### *Data Sources*

This study utilized both primary and secondary sources for collecting data. Relevant laws and regulations were examined for the assessment of the legislative framework. For analyzing the practices, the research team examined the reports from the political parties and oversight bodies and interviewed various stakeholders to get insights into the operation of the party financing system and its oversight. Key actors surveyed included 13 political parties, selected based on the number of obtained votes in the last legislative election (see Appendix A), and their accountants/treasurers. Twelve parliament members from eight parliamentary groups represented in the Parliament were also surveyed. The Anti-Corruption Agency, as the major state oversight body, served as a primary source which also provided access to some of the secondary sources such as parties' financial reports.

### *Data Collection Methods*

Stakeholders, including the Anti-Corruption Agency, party accountants and donors contributing money to the election campaigns were personally interviewed based on survey questionnaires. Media companies, donors and parties were primarily contacted through letters, requesting income and expenditure reports and details of airtime given or sold to parties.

**Table 3 summarizes the type of information collected, the source of information and the data collection method used**

**Table 3: Type and Sources of Information**

Type of Information	Source of Information	Data Collection Method
<b>Legal Framework</b>	Relevant laws and regulations	Legal review
<b>Internal party practices on financial issues</b>	Party reports, official records and public information	Team analysis, complemented by interviews of party accountants and experts
<b>Disclosure of information</b>	Political parties, oversight agencies, donors, media agencies	Research of publicly available information
<b>Income and expenditure of political parties</b>	Parties, oversight agencies, donors, watchdogs	Interviews
<b>General Practice on political finance</b>	Parties, MPs, Anti-Corruption Agency, CSOs, experts	Interviews

### *Limitations of the Study*

There is some limitation of this study, including challenges that the research team faced during the project. The biggest challenge was the fact that the relevant oversight bodies do not actually have sufficient experience in control of election campaign financing due to their recent establishment. This influenced the results related to the practical of implementation of the law.

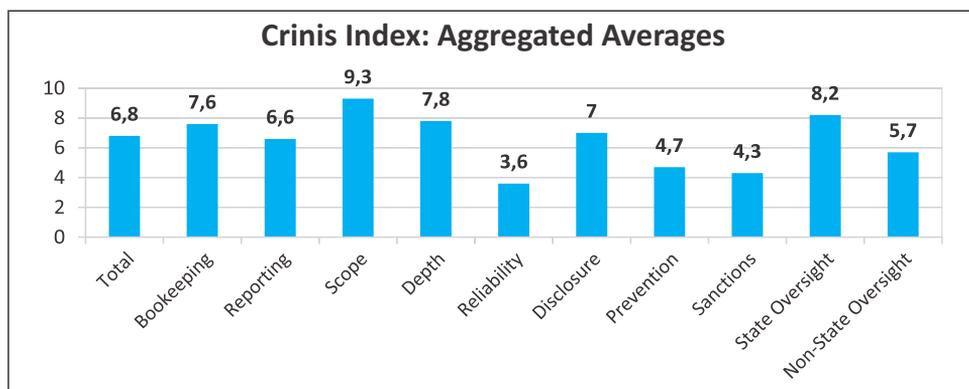
## 5. Research Findings

This research proved once again that the implementation of anti-corruption laws in Serbia is a far greater problem than the quality of legal provisions. This is in particular true when it comes to the dimension of “sanctions”, where the system has not functioned for decades, despite the introduction of legal provisions for sanctioning mechanisms since 1990.

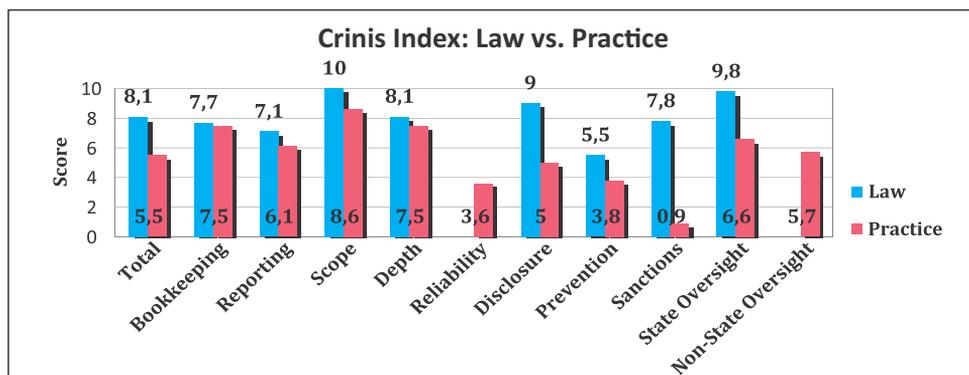
Regarding legislative provisions, the research identified major weaknesses related to the reliability of accounting and reporting on election campaign finances. Regarding practice, key problems are identified in the lack of enforcement and weakness of system for reporting of irregularities.

There are provisions aimed to ensure state oversight takes place, but in practice oversight bodies suffer from a lack of capacity. Media and civil society oversight also exists, but could be more effective.

**Table 1: Crinis Index: Graph showing overall findings with aggregated averages**



**Table 2: Graph showing overall results Law and Practice**

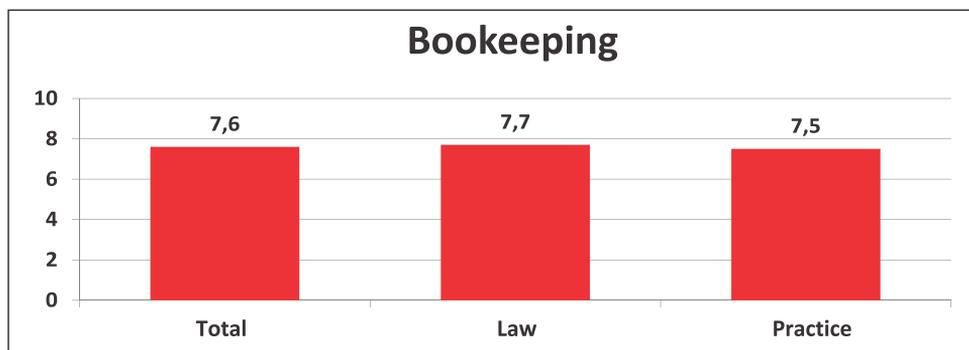


## Dimension 1: Internal bookkeeping

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

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

Graph 1:



### Law:

The Law on Accounting makes it mandatory for all legal entities to keep accounting books, which includes registry of their assets and liabilities. However, some actors running for elections are not “legal entities” (i.e. coalitions of political parties and “citizens groups”).

The Law on Financing Political Activities regulates accounting of all political subjects and also has specific rules for those political subjects participating in electoral campaign.

As for overall party financing, political entities with representatives in central, provincial or local assembly and all registered political parties are required to keep bookkeeping records of all revenues and expenditures<sup>39</sup>. Bookkeeping records must include the origin, amount and structure of revenues and expenditures, “in accordance with regulations governing accounting and audit”. This provision might raise some controversies, as coalitions and “citizens' groups” are missing some basic elements that each legal entity should enter in accounting books, such as tax identification number and legal entity

<sup>39</sup> LFPA, Article 27

registration number. Bookkeeping records of revenues and expenditures of political entities “are subject to annual control by the relevant authorities”. However, the Law does not make clear what authorities should perform that control (e.g. tax administration). Political entities are required to keep separate records of donations, gifts and services extended without compensation, and/or under conditions deviating from market conditions and records of property.

The content and manner of keeping records is specified in the *Rulebook on evidence of donations and property, annual financial report and report on expenditures of election campaign of a political subject*<sup>40</sup>. The rulebook makes it mandatory for all political subjects to have evidence of financial and non-pecuniary contributions they received<sup>41</sup>, and sets<sup>42</sup> basic rules on the way of keeping the accounts (e.g. chronological accounting, on the basis of valid documentation, description of valid documentation). Accounts should be kept in both electronic and written form, which is also defined in each fiscal year.

However, the Rulebook does not specifically regulate accounting for the purpose of campaign financing (only reporting), but it is clear that all rules set in articles 2-5 apply to the entities running on elections, as they are covered by the legal term of “political subject”.

A political party's statute, or contract establishing a political entity, must provide for the appointment of the person responsible for financial affairs, reporting and bookkeeping, and who is authorized to contact the ACA (“authorized person”)<sup>43</sup>. A political entity notifies the ACA of the appointment of authorized person within three days of his/her appointment. The authorized person signs all reports and is responsible for keeping records regarding the financing of the political entity.

Law on Accounting and Auditing<sup>44</sup>, provides for the following: each legal entity shall in its general act define the schooling level, work experience and other conditions that the person in charge of bookkeeping and producing financial statements must meet<sup>45</sup>. The legal entity in their general acts shall entrust an employee, for bookkeeping and financial reporting<sup>46</sup>. The legal entity may sign a contract on bookkeeping and financial reporting with a certified accounting company or entrepreneur<sup>47</sup>.

Therefore political parties, which are registered and treated as “legal entities” are free to choose whether to regulate qualifications of the person responsible for accounting through an internal act and to appoint/employ that person, or to hire external professionals. Other political subjects are not “legal entities”, meaning that there is a conflict of norms as one law makes it mandatory to keep records “in accordance with accounting legislation”, while that

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<sup>40</sup> *Official Gazette of Republic of Serbia, no. 72/11, issued by Director of ACA on the basis of LFPA, Article 27.*

<sup>41</sup> *Rulebook, Article 2*

<sup>42</sup> *Rulebook, Article 5*

<sup>43</sup> *LFPA, Article 31*

<sup>44</sup> *Official Gazette of the Republic of Serbia No. 46/2006, 111/2009 and 99/2011*

<sup>45</sup> *Art. 16, Para 1*

<sup>46</sup> *Art. 16, Para 2*

<sup>47</sup> *Art 17, Para 1*

legislation does not regulate their accounting at all. All financial statements need to be kept for a minimum of six years from the date of submission to the ACA<sup>48</sup>.

The main problem of current bookkeeping regulation related to election campaign funding is the fact that regulation is indirect, i.e. there are no election-specific forms for accounting. Another problem is the conflict of norms when it comes to coalitions and citizens groups, as a consequence of legislator's failure to regulate their legal status more clearly. Finally, the legislation could benefit by introducing a duty for election campaign accounting to be performed by a professional accountant and controlled by a high-ranking party official or election campaign candidate.

### **Practice:**

The practice of bookkeeping depends mostly on two factors: accounting rules that parties should comply with, and the legality of parties' income and expenditures. For their legal income and expenditures, parties mostly comply with prescribed accounting rules, while illegal income is not accounted at all. Legislative provisions make bookkeeping somewhat complicated – parties have to account for all their income and expenditure during the fiscal year; however, at the same time, they have to prepare separate financial reports for each campaign that they participate in. In order to comply with these provisions, parties have to do separate accounting for each campaign as well. The basis for separate campaign accounting is legal requirement to collect all campaign funds and to make all campaign payments from a unique bank account.

All legally obtained funds are accounted for, although sometimes not fully in line with legal standards. Typical violations include transactions made from the permanent party account instead of the dedicated campaign account, and failure to account separately for various election processes (e.g. for elections in each municipality)<sup>49</sup>. These expenditures are registered somewhere in party accounting books and presented in annual finance reports but election campaign reports are not accurate.

Reports on campaign finances are signed by the person responsible, who does not have to be a professional accountant or a high-ranking party official/election candidate. However, in practice, books are typically run by professional accountants and reports signed mid or high-ranking party officials (e.g. member of executive board)<sup>50</sup>.

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<sup>48</sup> *LFPA, Article 31*

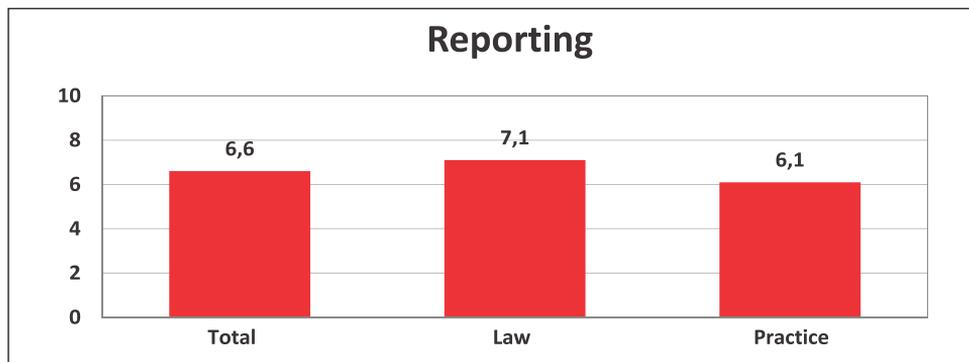
<sup>49</sup> *Such violations are identified in several local and Vojvodina province campaign finance reports for 2012 elections.*

<sup>50</sup> *Results of CRINIS research and campaign finance reports,*  
[http://www.acas.rs/sr\\_cir/finansiranje-politickih-subjekata/608.html](http://www.acas.rs/sr_cir/finansiranje-politickih-subjekata/608.html)

## Dimension 2: Reporting to the Oversight Agency

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

Graph 2:



### Law:

A political entity participating in election campaign is required to submit to a report on election campaign costs to the ACA within 30 days from the date of publication of final election results<sup>51</sup>.

The content of the report on election campaign costs is specified by the director of the ACA. The report should be submitted first in electronic form and in paper form 8 days later, signed and stamped<sup>52</sup>. The electronic version of report is designed to become a part of a database<sup>53</sup>.

Donors/suppliers/service providers do not have to report anything “in advance”, but should provide the ACA with all information needed for the purpose of control of campaign finance reports, based on the ACA's request<sup>54</sup>.

Legal entities (but not individuals) that engage in business transactions with “subjects of audit” (that includes political parties), are potentially subjected to the audit of Supreme Audit Institution<sup>55</sup>. However, audit of political parties and entities engaging in business transactions with them is not mandatory part of SAI annual audit program<sup>56</sup>.

<sup>51</sup> *LFPA, Article 29*

<sup>52</sup> *Rulebook, Articles 7 and 8*

<sup>53</sup> *Due to poor technology, the database is not externally searchable.*

<sup>54</sup> *LFPA, Article 32, Para 4*

[http://www.acas.rs/sr\\_cir/finansiranje-politickih-subjekata.html](http://www.acas.rs/sr_cir/finansiranje-politickih-subjekata.html),

<sup>55</sup> *Law on State Audit Institution, Ar. 11*

[http://www.acas.rs/sr\\_cir/finansiranje-politickih-subjekata.html](http://www.acas.rs/sr_cir/finansiranje-politickih-subjekata.html)

<sup>56</sup> *Law on State Audit Institution, Ar. 10 and 11*

Major weaknesses of legislative provisions in this area include the lack of obligation to report during the election campaign (for the parties), lack of provisions for at least some service providers to report proactively (e.g. media companies) and some badly conceived parts of the actual reporting format (e.g. no automatized generation of totals, lack of information about vendors in the published part of report, failure to distinguish between campaign and other costs in the annual financial report of political parties).

### **Practice:**

All parties that participated in parliamentary and president elections in 2012 submitted their campaign finance reports to the ACA. However, for the province of Vojvodina and local elections, the level of compliance was significantly weaker, and all major parties failed to produce and submit reports in a timely manner in several bigger cities<sup>57</sup>.

Furthermore, some items in these reports were not filled in as requested by the law. There are several types of major violation: 1) reporting costs of one campaign in another campaign report; 2) failure to report income and costs that existed in practice; 3) failure to break down costs as requested by the law and presentation within the wrong categories<sup>58</sup>.

The research shows that parts of campaign finance information are not presented due to legal loopholes. During the May 2012 elections, the major legal loophole related to the insufficiently clear provisions about loans and commitments that were not yet paid by the reporting date. As all major parties used a significant amount of bank loans for campaign funding and two coalitions committed much more funds for the campaign than they collected, citizens were left without information about the ultimate source of income for almost half of campaign costs on parliamentary elections<sup>59</sup>.

Another problem is late availability of campaign finance information. There is no legal duty whatsoever to present financial information during the campaign, but only one month after. During the May 2012 elections, parties made no effort to present their financial information to the voters before submission of their report to the Anti-corruption Agency.

Vendors and donors do not have to report about campaign finances to anyone, and they did not do so voluntarily. Media companies published their advertisement costs lists in advance and mostly submitted information (but only when asked), both to the Republic Broadcasting Agency and Anti-corruption Agency.

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<sup>57</sup> [http://www.acas.rs/images/stories/\\_94.pdf](http://www.acas.rs/images/stories/_94.pdf)

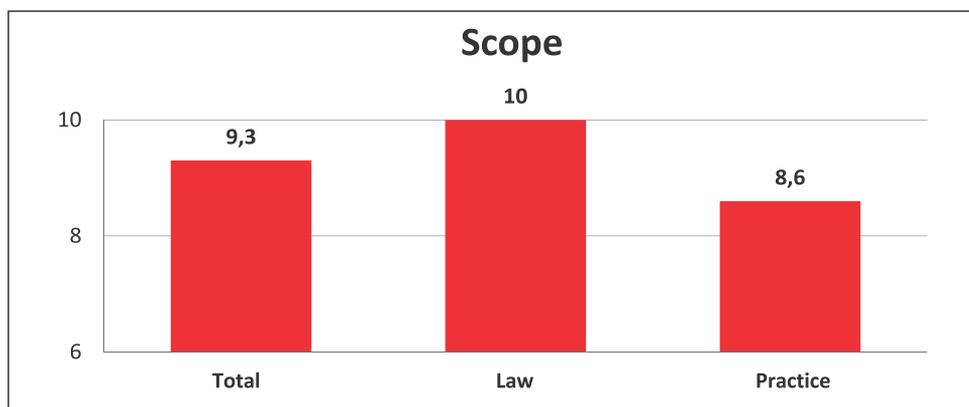
<sup>58</sup> <http://www.transparentnost.org.rs/images/stories/materijali/Finansiranje%20kampanje%202012.pdf>

<sup>59</sup> *Ibid.*

## Dimension 3: Scope of Reporting

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

Graph 3:



### Law:

The Law on Financing of Political Activities<sup>60</sup> provides that report contain information about “origin, value and source” of income and expenditure from both private and public resources. It means that no income or expenditure should be excluded from the report. The reporting form is regulated in details by Rulebook<sup>61</sup>, issued by ACA's Director.

The Rulebook asks for several itemized categories of income:

1. Public funds – money
2. Public funds – services provided free of charge or with discount
3. Individuals' contributions in money and in kind
4. Corporate contributions in money and in kind
5. Party's own funds (e.g. previously collected from membership fees, renting of premises etc.)
6. Bank loans for campaign
7. Election bonds for campaign (e.g. cash deposits, financial guarantees, mortgage)

Similarly, the Rulebook asks for the following itemized categories of income to be presented in the campaign finance report:

<sup>60</sup> Article 29, Para 2

<sup>61</sup> Article 7

1. Costs of election material (e.g. leaflets, brochures, newspapers, posters, billboards and other, including design, printing, buying, posting, renting and distribution costs).
2. Costs of public events (e.g. rallies, conventions, press-conferences and other public manifestations), including various related costs (e.g. renting of premises, transportation)
3. Advertising costs (TV, radio, Internet, press and other), including various types of costs (e.g. design, production, renting of space and time for advertisement)
4. Other campaign costs (e.g. verification of voters' signatures, transportation costs, supplies, renting of space and equipment, telephone costs, hiring of people, marketing agencies, research costs and other)

Political parties and other political entities participating in elections have to report separately on all types of income recognized in the Law on Financing of Political Activities, and on all expenditures, including those financed from public and private sources. However, some types of income and expenditure are not sufficiently specified in reporting form. There is no request to identify the origin of funds transferred from a political party's permanent account to the special election campaign account (e.g. membership fees, donations, loans, real estate renting). Furthermore, there is no duty to distinguish between voluntary donations and special fees paid by office holders. Finally, there is no duty to report on the structure of liabilities and outstanding debts.

### **Practice:**

Serbian parties that participated in the May 2012 electoral campaign reported on budget subsidies, monetary donations of individuals and corporations, discounts on goods and services and loans and funds transferred from permanent party accounts<sup>62</sup>. There is a sharp disproportion between various founding sources. The reports from May 2012 parliamentary elections shows that 41% of campaign costs were paid from budget subsidies; following 26% were not paid at all and 22% were paid from bank loans and for these 48% ultimate source of funding is unknown; only 11% was paid from existing private sources, out of which more than a half from natural persons donations, with quite insignificant corporate donations and transfers from permanent account. For the May 2012 presidential elections, the share of budget funding is even higher, while only 4% was collected from permanent party accounts and donations<sup>63</sup>.

Although parties reported more than 20 types of expenditures for May 2012 parliamentary and presidential elections, vast majority of costs is directly related to TV advertisement – 77% for parliamentary and 54% for presidential elections. Out of all other

<sup>62</sup> [http://www.acas.rs/sr\\_cir/registri.htm](http://www.acas.rs/sr_cir/registri.htm)

<sup>63</sup> [http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf), p. 62.

expenditures, only billboards and press ads made slightly above 5% in total costs. For presidential elections “other costs of marketing agency” are also significant (22%), which is a consequence of fact that SNS did not itemize its report and present what was actually paid by a marketing agency<sup>64</sup>.

It seems that parties reported most of their expenditures in the May 2012 campaign<sup>65</sup>. They were incentivized to do this by two factors – significant funding from the budget that decreased needs for other financial resources and the announcement of campaign finance costs monitoring<sup>66</sup>. All expenditures financed by public resources were reported, except those from one “grey area”, i.e. the use of promotional state resources by incumbents<sup>67</sup>. Parties also reported all expenditures financed from registered income<sup>68</sup>. This means that expenditures not paid from reported income also stayed hidden.

The May 2012 campaign finance reports also contain a significant amount of reported expenditures (commitments), without clear identification of funding sources<sup>69</sup>. Although bad from the point of transparency, this phenomenon speaks in favor of expenditure report comprehensiveness. While it is bad for public not to know how some costs of campaign will be paid, it is good that such expenditures are reported at all. The comparison of reported expenditures with those observed through monitoring shows that parties reported on the vast majority of their largest campaign costs (e.g. media advertisements, rallies)<sup>70</sup>.

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<sup>64</sup> *Ibid.* table on pages 49 and 50

<sup>65</sup> *Ibid.*

<sup>66</sup> *The monitoring was organized by ACA and independently by Transparency Serbia:*  
[http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf)

<sup>67</sup> *Ibid.*

<sup>68</sup> *As it is visible from their published campaign finance reports on*  
[http://www.acas.rs/sr\\_cir/registri.html](http://www.acas.rs/sr_cir/registri.html)

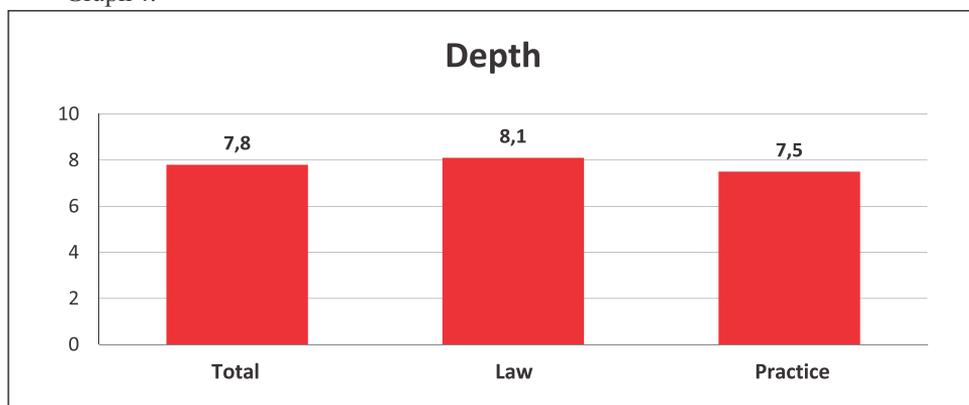
<sup>69</sup> [http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf), p. 64.

<sup>70</sup> *Interview with controllers from Anti-corruption Agency, April 2013*

## Dimenzija 4: Detaljnost izveštavanja

The detail or depth of information provided is just as important as the comprehensiveness of the reporting. The usefulness of financial reports depends largely on the information included in them and whether they include details which would enable control. Therefore, reports should identify not just the total amount of received donations but also the name of each donor, the amount and the date of each donation, and similarly itemize expenditures. This depth of information allows oversight bodies, civil society groups and voters in general to examine the accuracy of information provided, identify parties who depend excessively on a few selected donors and monitor future representatives for any potential action that may benefit their donors at the expense of the public. This dimension was measured by aggregating multiple indicators such as how detailed income and expenditure reports are and whether there is a threshold for reporting of income in financial reports.

Graph 4:



### Law:

Political subjects are required to provide the name of donors, amount of donations, address of donors and the personal identification number of donors. Dates of donations should also be registered in accounting books, but are not entered into campaign finance reports<sup>71</sup>.

Political subjects are also required to enter information about vendors, including their titles/names, value of transactions, purpose of transactions, and other identification data about the vendor (i.e. address). Dates of such transactions are registered in accounting books, but are not part of campaign finance reports<sup>72</sup>.

All donations should be identified individually. Donations over one average salary (approximately 40.000 RSD or 360 EUR) should also be published on the webpage of the party within 8 days from the date<sup>73</sup> of the donation.

<sup>71</sup> Rulebook, Articles 5 - 7

<sup>72</sup> Ibid.

<sup>73</sup> LFPA, Article 10, Para 4

Lack of information about dates when income and expenditure transactions took place in campaign finance reports creates a legal loophole that makes civil society and media monitoring harder, but does not affect control performed by the ACA, that is authorized to obtain that information from the parties or from the bank<sup>74</sup>.

**Practice:**

The May 2012 campaign finance reports contain the legally requested information about donors – name, amount and personal identification number. However, there are strong indications that parties did not check in all instances the eligibility of corporate donors (i.e. whether they had paid all their taxes)<sup>75</sup>. Information about the date of each donation is not presented in the report (there is no legal duty), although it is available on parties' webpages for donations higher than average salary (in the cases where parties published such information). According to Transparency Serbia monitoring, three out of six of the biggest parties did not publish information about donations during the campaign, although published their names in campaign finance reports<sup>76</sup>.

Parties are mostly in compliance with their duty to provide information about their expenses and vendors. However, dates of expenses are missing in reports (there is no legal duty), and in most cases, important information about the service provided is missing as well (e.g. how many times an advertisement was broadcasted on TV, how many weeks a billboard was posted for, how many buses were rented etc.<sup>77</sup>), which poses a much greater problem for media and CSO monitoring. When such details are missing, monitors could only suspect that something is wrong, e.g. on the basis of sum paid to the vendors, but cannot confirm these suspicions (e.g. on the basis of the party's claim that billboard was posted for 4 weeks, while monitors observed 7 weeks of advertisement).

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<sup>74</sup> *LFPA, Article 32*

<sup>75</sup> *Interview with controllers from Anti-corruption Agency, April 2013.*

<sup>76</sup> <http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20%28Final%29.pdf>, page 26. Names of 120 donors were not published on parties' web-pages, out of that 92 are donors of SPS-PUPS-JS, 21 of coalition URS

<sup>77</sup> and 7 of DSS.

[http://www.acas.rs/sr\\_cir/registri.html](http://www.acas.rs/sr_cir/registri.html)

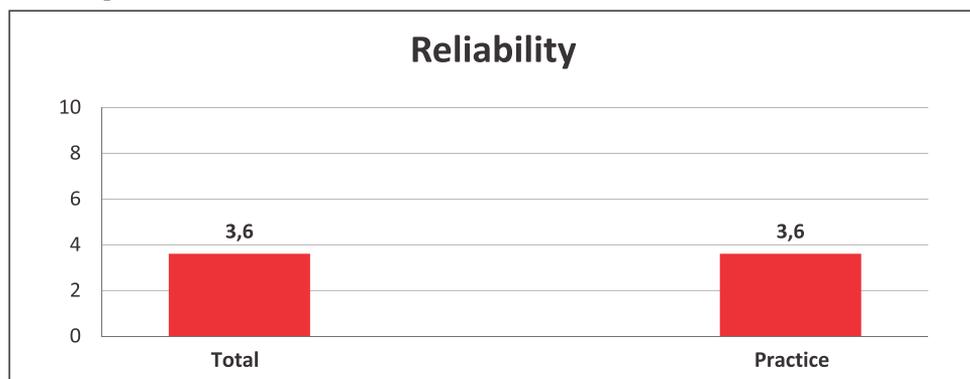
## Dimension 5: Reliability of Reporting

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

Measuring the reliability of data is difficult. The CRINIS methodology relies on data from surveys with key actors in this thematic area such as party accountants, officials of oversight agencies and members of civil society.

Multiple indicators processed the responses to questions such as: how accurate reports are (example, in terms of the percentage of donations likely to be reported) and whether it is possible to obtain an accurate idea of the financing of parties by looking at the official accounting statements.

Graph 5:



**Text:**

Reliability of reporting is doubtful. The major reason for this assessment is the fact that the control of reports from May 2012 elections is not finalized yet<sup>78</sup>, while general confidence about the accuracy of parties' financial reports and political parties in general is at a low level<sup>79</sup>. Another reason is the fact that the ultimate source of funding for almost half of reported expenditures is unknown (bank loans and commitments<sup>80</sup>). Finally, there is a widespread perception that parties are financed by powerful businessmen<sup>81</sup>, but none of the campaign finance reports contain this type of donors.

<sup>78</sup> ACAS presented on May 31st 2013 only preliminary findings of control, [http://www.acas.rs/sr\\_cir/finansiranje-politickih-subjekata.html](http://www.acas.rs/sr_cir/finansiranje-politickih-subjekata.html)

<sup>79</sup> <http://www.undp.org.rs/index.cfm?event=public.getFile&fileid=8097C3D9-9D31-298F-A958FABA165B3FD4>, slide 15.

<sup>80</sup> [http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf)

<sup>81</sup> <http://www.blic.rs/Vesti/Tema-Dana/254196/Sve-stranke-negiraju-veze-s-tajkunima>

There are also other reasons to suspect the accuracy of reported income sources when it comes to donations. First, it is obvious that some non-financial contributions are not mentioned in reports, such as the work of volunteers and non-financial contribution of celebrities<sup>82</sup>. Furthermore, in the May 2012 campaign finance reports, parties did not indicate any instance of a bank loan given under favorable conditions, while interest rates for various political parties significantly differ<sup>83</sup>. The origin of some private and corporate donations is also doubtful, in particular when given by the firms that had smaller annual profits than the donated amount<sup>84</sup>.

Secondly, some reports contain a huge number of individuals supporting the party with the exact same small amount of money, or relatively large amounts given by firms with known financial problems, or individual members of the party leadership<sup>85</sup>. On the expenditure side, reasons to question accuracy include the fact that in some instances parties failed to provide information about costs, which were observed during the monitoring of the election campaign. Monitoring of Transparency Serbia identified non-reported costs of several public events (renting of premises, transportation) and suspicion that some media advertisement costs and billboard campaign are underreported<sup>86</sup>. Nevertheless, it seems that reports for the May 2012 elections are much more reliable than in previous election processes (that were never controlled), partly due to fact that budget support significantly increased in 2012 and parties had fewer reasons to hide source of income (parties presented what they purchased from budget donations). For example, the total reported expenditures for the parliamentary election campaign in May 2012 was 1.9 billion RSD and for the election campaign in January 2007, 730 million RSD, while the scope of campaign did not differ much<sup>87</sup>.

As one could expect, reports do not contain information about expenditures made through abuse of public resources or spent on forbidden activities. There is insufficient evidence of the direct use of public funds for the buying of voters' support, and such a phenomenon is, except in rare instances<sup>88</sup>, only a matter of media speculation. Similarly, concrete investigations into the abuse of public funds for the promotion of incumbent parties or collection of funds for a campaign have still not been carried out. However, it is quite clear those incumbent political parties in the May 2012 election campaign abused state "promotional resources", from the significant increase of activities of public officials that should increase their popularity in the run-up to an election (e.g. opening roads, hospitals and schools, signing investment contracts etc.)<sup>89</sup>

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<sup>82</sup> [http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf)

<sup>84</sup> *Interview with controllers from Anti-corruption Agency, April 2013.*

<sup>85</sup> *Ibid.*

<sup>86</sup> [http://www.acas.rs/sr\\_cir/registri.html](http://www.acas.rs/sr_cir/registri.html)

[http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf), p. 4

<sup>87</sup> *Reported costs almost doubled, even when changes of currency rate are considered, i.e. from app. 9 million EUR in 2007 to app. 17 million EUR in 2012.*

<http://www.rts.rs/page/stories/sr/story/135/Hronika/1192628/Hap%C5%A1enje+zbog+izbornih+mahinacija.html>

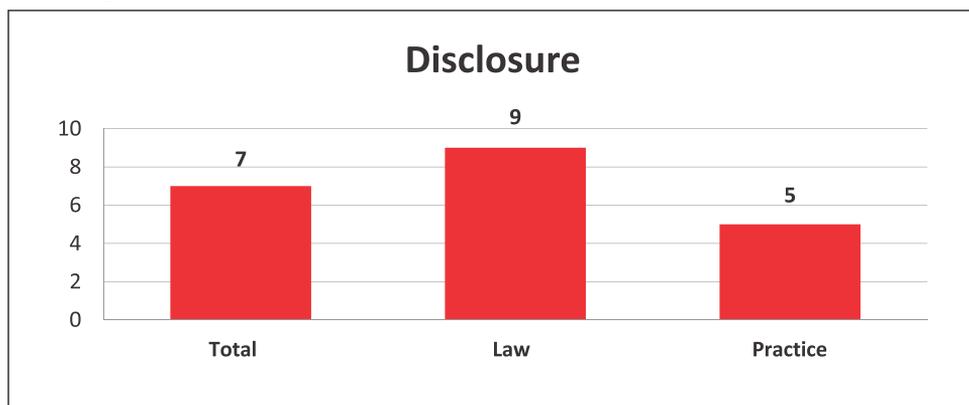
<sup>89</sup> [http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf)

Our research shows that there are several factors influencing parties not to disclose all information in their reports – loopholes in legislation, the fact that there were no penalties imposed for similar violations in the past, the illegal origins of some donations, the illegal intentions of some funds (e.g. for vote buying), fear of donors from reprisals and political scandals. All these reasons are highly significant and are serious obstacle to the establishment of a transparent system of financing election campaigns. The failure to conduct thorough control in the past and to impose sanctions against offenders has a long-term negative impact on reporting and disclosure. Political financing is perceived to be a 'grey area' and donors are not prepared to be identified as supporting a party, as it will be suspected that they do so in order to receive political favors.

## Dimension 6: Public Disclosure

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

Graph 6:



### Law:

The Law on Financing of Political Activities<sup>90</sup> provides for mandatory publishing of election campaign reports, which are submitted within one month after an election process is finalized, on the web-site of ACA. Unlike with annual financial reports<sup>91</sup>, there is no deadline for publishing these reports, nor is there a duty to disclose the reports on the web-page of a political party. Furthermore, the Rulebook of the ACA provides that reports are submitted within 30 days in electronic form, and 8 days later in written and stamped form. It means that reports could become publically available only about 40 days after Election Day.

Another provision of the LFPA that deals with disclosure is the duty to publish the names of people and firms that donated more than one average monthly salary, within the eight days on a party's web-site<sup>92</sup>. The ACA Rulebook excludes disclosure of some information from campaign finance reports<sup>93</sup>. These are: personal identification number and address of donors, and names and identification numbers of vendors (service providers). The overall amount of budget funds to be distributed for campaign financing should be available in the relevant budget act (law or lower government level decision)<sup>94</sup>.

<sup>90</sup> Article 29, Para 4

<sup>91</sup> Article 28, Para 2

<sup>92</sup> Article 10, Para 4

<sup>93</sup> Article 7

<sup>94</sup> It is not explicitly stated in the law, but could be concluded on the basis of Budget System Law and secondary budget legislation.

There is no legal duty in place that would ensure pro-active publishing of other relevant campaign finance information, such as: distribution of budget funds to concrete political parties, distribution of free air time and other non-financial contributions to the parties, information about services provided to the parties by firms etc. However, whenever such information is possessed by public institutions it is mandatory to make it available to the requestor<sup>95</sup>.

Major problems in legal framework regarding disclosure are therefore a lack of a legal obligation to publish information about campaign financing during the election process and a lack of a deadline for the ACA to publish reports and provisions, unreasonably preventing some information from campaign finance reports (e.g. names of vendors) being published on the web.

### **Practice:**

Information about public subsidies to the political parties are available in principal, but not on a pro-active basis. It is possible to find out the total amount dedicated to participants in elections at the central government level (published budget law), but such information in local governments' budgets is often confusing or not stated explicitly<sup>96</sup>. Information about the actual distribution of funds is available on request and visible in published campaign finance reports<sup>97</sup>. Information about the distribution of free air time is available on the web-pages of some public media institutions. Information about other, non-financial support to the participants of elections is available only on request (i.e. free renting of premises owned by a municipality<sup>98</sup>).

Participants in elections disclose financial information, but only after the elections and only to the ACA. It is the ACA that makes this information available to the public. In 2012, reports were published only a month and a half after elections, but not in a user-friendly manner (scanned copies<sup>99</sup>). Only in August 2012 did the ACA publish the information in an electronic registry as well, but even so the database is not searchable. Furthermore, some information, envisaged to be public is hidden in the reports, due to a technical mistake of the reporting form. Namely, the parties should enter the names of media companies which they used for campaign advertising, but relevant field in electronic form was locked for editing<sup>100</sup>.

No party published election campaign finance information during the campaign, nor after the campaign, except when mandatory (e.g. information about bigger campaign donors)<sup>101</sup>.

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<sup>95</sup> *Law on Free Access to Information of Public Importance, Official Gazette of Republic of Serbia, no. 120/2004, 54/2007, 104/2009 and 36/2010*

<sup>96</sup> *E.g. presented as a lump sum of campaign and annual party financing, or within the broader category of election costs.*

<sup>97</sup> [http://www.acas.rs/sr\\_cir/registri.html](http://www.acas.rs/sr_cir/registri.html)

<sup>98</sup> *Transparency Serbia collected a lot of information of that kind from cities and public enterprises using free access to information requests.*

<sup>99</sup> [http://www.acas.rs/sr\\_cir/finansiranje-politickih-subjekata/608.html](http://www.acas.rs/sr_cir/finansiranje-politickih-subjekata/608.html)

<sup>100</sup> [http://www.acas.rs/sr\\_cir/finansiranje-politickih-subjekata/608.html](http://www.acas.rs/sr_cir/finansiranje-politickih-subjekata/608.html),  
<http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20%28Final%29.pdf>, p. 30 and 31

<sup>101</sup> *Monitoring of parties' web-pages by Transparency Serbia.*

As the public in Serbia shows a great interest for sources of campaign finances it is a bit strange that no party in recent political history of Serbia tried to attract voters' support by publishing such information during the campaign. Moreover, according to the party officials' statements, they could only roughly estimate or "could not estimate at all" the value of their campaign even two weeks after it began<sup>102</sup>.

The research shows that there is common belief that citizens should have the right to know about party finances<sup>103</sup>. However, there are also many stakeholders who believe that donors have a legitimate interest to withhold some information from publication, and that the amount of donated funds would be bigger if there were to be no mandatory disclosure of donors' names<sup>104</sup>.

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<sup>102</sup> <http://www.vesti-online.com/Vesti/Srbija/214994/Kampanja-partiju-kosta-do-4-miliona-evra>

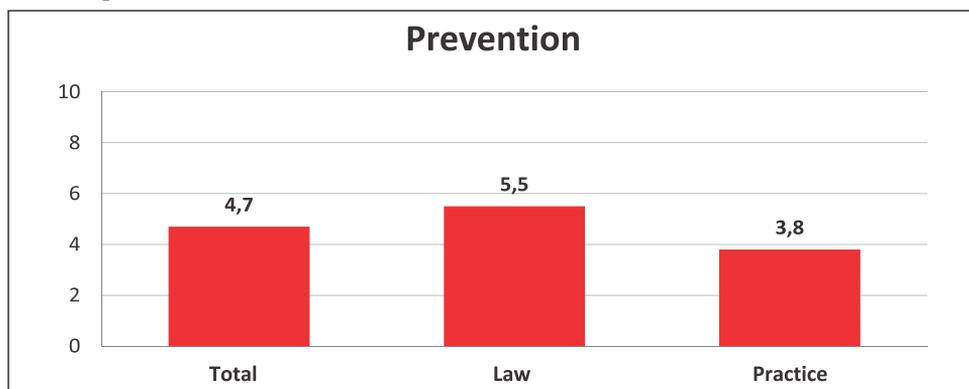
<sup>103</sup> *Answers to questionnaire no. 7 within the CRINIS project, designed for MPs, question no. 255.*

<sup>104</sup> *Answers to questionnaire no. 7 within the CRINIS project, designed for MPs, question no. 256 and 258*

## Dimension 7: Preventive measures

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

Graph 7:



### Law:

Legislation in Serbia recognizes several preventive mechanisms, such as a special account for campaign financing, ban of cash financing, rules aimed to prevent abuse of public resources for the campaign or biasness of public service media.

Political parties, coalitions and citizens' groups have to open a separate account for campaign funding<sup>105</sup>.

All funds intended for the financing of an election campaign have to be paid into that account and all payments of election campaign costs should be made from that account.

Funds raised from private sources for political parties' regular work may be transferred into the separate campaign finance account. Coalitions and citizens' groups should regulate opening of account through the agreement<sup>106</sup>.

Abuse of power is generally regulated through provisions of Criminal Code<sup>107</sup> and various financial regulations (such as Budget System Law<sup>108</sup> and Law on Public Procurements<sup>109</sup>).

<sup>105</sup> LFPA, Article 24

<sup>106</sup> I.e. to regulate what party or individual is responsible to open account.

<sup>107</sup> Criminal Code, Official Gazette of Republic of Serbia, no. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009 i 121/2012, Article 359

<sup>108</sup> Budget System Law, Official Gazette of Republic of Serbia, no. 54/2009, 73/2010, 101/2010, 101/2011 I 93/2012), Article 71

<sup>109</sup> Law on Public Procurements, Official Gazette of Republic of Serbia, no. 124/2012, chapter II

The legal framework regarding the misuse of public office is complemented by the adoption of the Law on the Anti-Corruption Agency<sup>110</sup> (effective from 1 January 2010), where “*An official may not use public resources and public meetings that he attends in the capacity of official for the promotion of any political parties.*”<sup>111</sup>

As an exception to this rule<sup>112</sup>, an official may use public resources for personal security “if use of such resources is governed by relevant regulations or the decision of the services tasked with security of officials.” An official is required at all times to unequivocally present to his interlocutors and the general public whether he is presenting the viewpoints of the body in which he holds office, or the viewpoints of a political organization.

There are rules specified by the RBA<sup>113</sup> aimed at guaranteeing access to the media to all participants in elections, including the promotion of candidates and parties outside of special election information programs or paid advertisements, and to a certain extent, the prevention of biased presentation of information. TV companies may reject to broadcast individual advertisements (because of inappropriate content) and they can reject advertisements if their quota for advertisement is reached.

According to the General Binding Instruction of the RBA<sup>114</sup>, TV and radio companies may choose whether or not to broadcast election campaign advertisements within their overall advertising quota (up to 12 minutes per hour for private broadcasters and up to 6 minutes per hour for public services). Beside short commercials they may broadcast a limited amount of longer campaign advertisements (up to 5 and up to 30 minutes). However, once they decide to offer parties the possibility to broadcast campaign ads, a broadcaster “shall enable all interested political entities to broadcast under equal program, technical and financial conditions.” The term “equal financial conditions” is not elaborated and could be interpreted in various ways. Most probably, the intention is not to guarantee that all parties will pay the same amount for the unit price of the advertisement, but rather to guarantee that discount policy will be consistently applied (e.g. the same percentage of discount for all parties that advertised over a certain amount). According to the Law on Financing of Political Activities<sup>115</sup>, discounts for advertisement that are not based on market reasons are considered to be donations.

However, there is no legal duty for the RBA to check respect of equal access and equal conditions pro-actively, but they have to act upon eventual complaints<sup>116</sup>. Preventive legal measures are strong in the area of bank transactions, but insufficient to prevent abuse of office and, in particular, the use of promotional resources related to the work of state officials.

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<sup>110</sup> *Law on the Anti-Corruption Agency, Article 29, Para 2-4*

<sup>111</sup> *Law on the Anti-Corruption Agency, Article 29, Para 2*

<sup>112</sup> *Law on Anti-Corruption Agency, Article 29, Para 3*

<sup>113</sup> <http://www.rra.org.rs/english/rba-council-general-binding-instructions>

<sup>114</sup> *General Binding Instruction for radio and television stations (broadcasters) for Election Campaign for Local, Provincial and Republic Parliamentary Elections, Elections for the President of the Republic and Elections for the National Councils of National Minorities, Official Gazette of Republic of Serbia, no. 18/2012*

[http://www.rra.org.rs/uploads/useruploads/PDF/6079-Opste\\_obavezujuce\\_uputstvo\\_izbori\\_e.pdf](http://www.rra.org.rs/uploads/useruploads/PDF/6079-Opste_obavezujuce_uputstvo_izbori_e.pdf)

<sup>115</sup> *Article 9, Para 1*

<sup>116</sup> *Law on Broadcasting, Article 14*

The system also lacks incentives for the “supply side” of party financing to report donations. There are no incentives for reporting irregularities in campaign financing in general (such as a whistle blower protection law). There are also other legal loopholes preventing disclosure of some campaign finance information, such as a lack of rules for direct campaigning by NGOs or firms.

### **Practice:**

Although all funds should be processed through the banking system, according to the research there is strong indication that the rule is not fully respected. Even if the control report from the May 2012 elections has not yet been completed by the ACA, there is evidence that in some instances expenses were paid in cash (usually small amounts)<sup>117</sup>.

Although there are several penal provisions, both in the Criminal Code and the Law on political party financing, there has been no case where abuse of public funds for the purpose of furthering an electoral campaign was penalized and there is only one case where criminal investigation is on-going, against mayor who allegedly distributed 150.000 RSD (1.360 EUR)<sup>118</sup> of social aid to his party supporters. On the other hand, Transparency Serbia monitoring established mass abuse of public promotional resources for the purpose of campaigning, paid advertisement of local governments during the campaign and a significant increase of some budget expenditures in the campaign period<sup>119</sup>. Furthermore, misdemeanour sanctions have not yet been imposed. However, the number of initiated misdemeanour procedures significantly increased – but only recently – when the ACA initiated a procedure against parties that failed to submit financial report for local elections (170 till the end of April 2013<sup>120</sup>).

Abuse of influence of political parties in the media is reason for serious concern. Although there are situations where the media are suspected of not providing paid-for advertisement under the same conditions to all parties, a much greater problem is the hidden advertisement in non –commercial air time<sup>121</sup>. This can sometimes be linked with issues of media ownership, but in most of the cases, the problem is related to the distribution of public funding to the media, which is not done in a transparent manner and under the influence of marketing agencies, which have links to political parties<sup>122</sup>.

There is neither an internal party regulation nor sector-wide ethical code that would prevent the abuse of public resources by political parties.

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<sup>117</sup> *Transparency Serbia obtained such information from firms that rented premises to some citizen groups on local level.*

<sup>118</sup> <http://www.juznevesti.com/Hronika/Uhapsen-bivsi-predsednik-opstine-Bojnik.sr.html>

<sup>119</sup> [http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf)

<sup>120</sup> <http://www.acas.rs/images/stories/prekrsajneazurirano7.5.pdf>

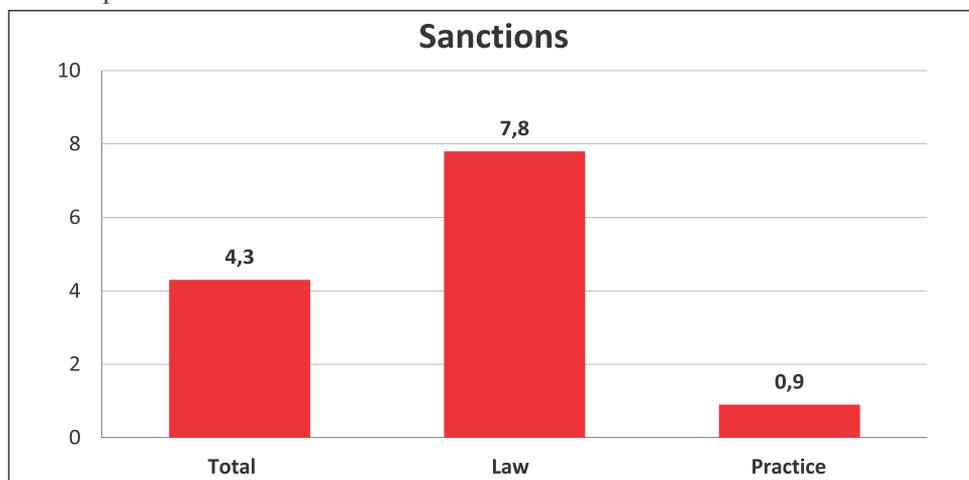
<sup>121</sup> [http://issuu.com/acamilijasevic/docs/cista\\_politika/1](http://issuu.com/acamilijasevic/docs/cista_politika/1)

<sup>122</sup> <http://www.antikorupcija-savet.gov.rs/en-GB/reports/cid1028-1681/presentation-of-the-report-on-pressure-and-control-over-the-media-in-serbia>

## Dimension 8: Sanctions

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

Graph 8:



### Law:

The Law establishes significant financial penalties to political parties running for election who do not comply with the rules of accounting on political finance, and includes a long list of misdemeanors that could be committed by a political entity.

A political party shall be fined from 200,000 to 2,000,000 RSD (approximately 1.800 to 18.000 EUR) if: it collects funds in cash over a particular threshold; acquires income in an illegal way or from forbidden sources; or fails to remit unlawfully acquired funds; fails to publish on its web-site donations higher than the average monthly salary; opens multiple accounts for campaign financing; fails to open a separate account for financing electoral campaigns; fails to keep records and accounting books; fails to submit financial reports to the Agency; fails to publish the annual financial report; fails to return funds to the budget after elections; fails to appoint the authorized person or to notify the ACA change of such person; fails to provide access to bookkeeping records to the ACA; or to submit documents, information and data to the ACA on request.

The person responsible for a political party or other political entity shall also be fined from 50,000 to 150,000 RSD (app. 470 to 1400 euro) for these offences.

The person responsible may be a party leader or accountant, but could also be someone else, e.g. the president of a local branch. The law establishes financial penalties, but also

imprisonment for the criminal offence Article 38. Imprisonment between three months and three years might be imposed for persons involved in illegal financing of political entities if it is possible to prove that there was intention “to conceal the source of financing or amount of collected funds”. If the hidden amount is higher than 1.5 million RSD (app. 14.000 EUR), the sanction is even higher (from six months to five years).

Another type of criminal liability is against those who threaten, act violently against party donors or deny them some legal right because of such donation. The sanction is imprisonment of three months to three years.

The law provides for the suspension of direct public subsidies as a result of non-compliance with the political accounting rules<sup>123</sup>. In the case of conviction for a criminal offence, or if a political party or responsible person of a political entity is fined for a misdemeanor, the political entity loses funds from public sources in the upcoming year. The actual amount of budget funds that would be denied is determined by the ACA. Criteria for the amount to be denied are not quite clear. It could be interpreted in two ways: that the ACA is free to determine how serious the offence was and to decide what percentage of public funds will be denied in upcoming year; or, that the ACA is bound by court decision in terms of the severity of offence and have to proportionate its decision in a similar manner<sup>124</sup>. However, the amount may not be smaller than the value of illegally obtained funds that a party is sentenced for, no smaller than 10% of budget donations nor higher than the overall funding party is entitled for from relevant budget<sup>125</sup>.

The decision about the loss of rights to public funds allocated for the financing of regular work of a political entity for the following calendar year may be challenged through administrative dispute. During the trial for criminal offence or misdemeanor, the transfer of all public funds from the relevant budget<sup>126</sup> is temporarily withheld<sup>127</sup>. These provisions are inconsistent. Namely, parties will be temporarily denied transfers from the *current* budget. Once the trial is finalized, even if party and/or its representative are found guilty and sentenced, temporary withheld transfers from the current budget will be executed in full. The party would be denied funds for the *next budget year*. Accused parties cannot significantly influence the period of trial and the provisional withholding of public funds during the trial may be a much more severe “punishment” than the final one.

The Law also defines penalties for donors for non-compliance with the campaign finance rules<sup>128</sup>, i.e. for unlawful donations and failure to cooperate with the ACA (200,000 to 2,000,000 RSD, i.e. 1.800 to 18.000 EUR). The person responsible for a legal entity and a natural person can also be fined between 50,000 and 150,000 RSD, while an entrepreneur can be fined with 100,000 to 500,000 RSD for that violation.

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<sup>123</sup> LFPA, Article 42

<sup>124</sup> For example, if a party is fined 400.000 RSD, which is 20% of the maximum fine for a misdemeanour, the ACA would have to deny the same percentage of public funds the party is entitled to.

<sup>125</sup> For example, if the party fails to submit its report on campaign financing for municipality X, after sentencing, that party will be denied budget funds from municipality X, but will be still entitled to receive budget funds from municipality Y.

<sup>126</sup> Same as above.

<sup>127</sup> LFPA, Article 43

<sup>128</sup> LFPA, Article 40

There are also other (i.e. not defined in Law on Financing of Political Activities) criminal offences and misdemeanors that may be related to illegal party financing, such as Abuse of Power<sup>129</sup> and Bribe Giving and Bribe Taking Related to the Voting<sup>130131</sup>. The rules from LFPA about withholding of public funds do not apply in such cases.

The Criminal Procedure Code<sup>132</sup> allows that anyone can initiate a criminal sanction procedure. The indictment would be brought by the public prosecutor or damaged persons, and sanctions imposed by the court. The ACA may report criminal offences and initiate procedures in that way. According to the Law on Misdemeanors<sup>133</sup> anyone is allowed to initiate a procedure but only the oversight body (ACA in this case), public prosecutor and damaged person (i.e. another political party) are authorized to submit a request to the Misdemeanor Court.

The sanctioning system covers most violations of the Law, with several minor exceptions. However, there are no sanctions with political consequences, which would be more appropriate for serious violations of campaign finance rules, such as the temporary suspension of a party from the register and the dismissal of elected officeholders (e.g. those elected from the list that failed to submit campaign finance report).

### **Practice:**

In practice, sanctions have never been imposed against parties that violated the rules of financing, although the solid legal framework exists. The research shows a belief of the interviewees<sup>134</sup> that fines would be imposed for the non-submission, partial submission or fraudulent submission of reports, which is probably a consequence of recent actions of the ACA<sup>135</sup> (launching of misdemeanour procedures against parties that failed to submit financial reports for May 2012 campaign).

There is no practice of sanctioning media companies or donors that have violated party finance rules either. The RBA failed to sanction the favouring of election candidates by electronic media, but has reacted with warnings<sup>136</sup>.

However, there might be some reason for moderate optimism. The ACA is still conducting control, and it intends to initiate<sup>137</sup> sanctioning procedures, not just for cases where parties failed to submit reports, but also in other instances where the violation of rules is clearly identified (e.g. failure to report some income or expense, paying of expenses from the permanent instead of special party account etc.<sup>138</sup>)

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<sup>129</sup> Article 359 of Criminal Code

<sup>130</sup> Article 156 of Criminal Code

<sup>131</sup> Official Gazette of Republic of Serbia, no. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009 and 121/2012

<sup>132</sup> Official Gazette of Republic of Serbia, no. 72/2011, 101/2011, 121/2012 and 32/2013

<sup>133</sup> Official Gazette of Republic of Serbia, no. 101/2005, 116/2008 and 111/2009

<sup>134</sup> Experts, journalists, citizens, representatives of political parties, auditors.

<sup>135</sup> [http://www.acas.rs/sr\\_cir/aktuelnosti/926-kontrola-finansiranja-31-maj.html](http://www.acas.rs/sr_cir/aktuelnosti/926-kontrola-finansiranja-31-maj.html)

<sup>136</sup> [http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf), p. 22.

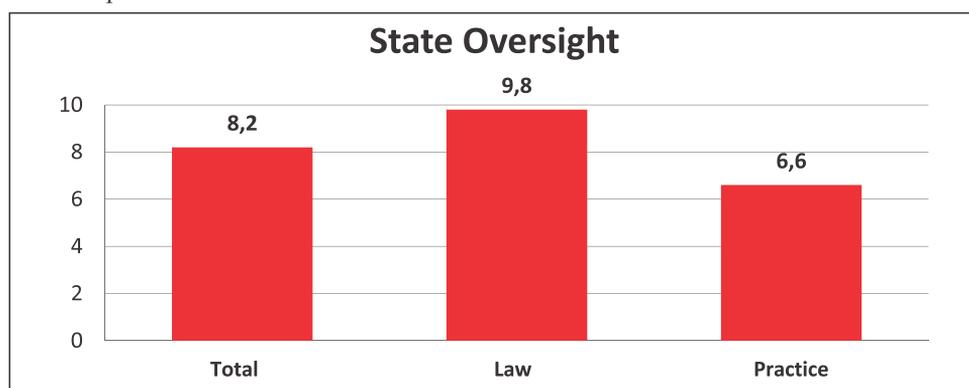
<sup>137</sup> [http://www.acas.rs/sr\\_cir/aktuelnosti/926-kontrola-finansiranja-31-maj.html](http://www.acas.rs/sr_cir/aktuelnosti/926-kontrola-finansiranja-31-maj.html)

<sup>138</sup> Interview with controllers in the ACA, April 2013.

## Dimension 9: State Oversight

State oversight is an indispensable element in strengthening the systems that regulates political financing. The independence and clear mandate of the oversight body is necessary for its effective functioning. It is also vital that the institution has sufficient resources and the technical capacity to carry out its duties. The two indicators for this dimension include questions on the legal mandate and institutional arrangement to evaluate whether the body has the necessary legal powers to carry out independent oversight of political party funding. Other indicators focus on examining actual practices, such as, how independent is the electoral management body, as evaluated by relevant actors in the field, what are its capacities and shortcomings in terms of its resources.

Graph 9:



### Law:

The powers of the Anti-corruption Agency are set out in the Law on ACA and Law on Financing of Political Activities. There are strong requirements defining the professional qualification of the candidates heading the ACA<sup>139</sup>. The Director may only be a lawyer with a minimum of nine years' experience, not convicted of a criminal offence making him/her unworthy of that office. The Director may not be a member of a political party and must comply with all bans, duties and limitations that apply to other officials (e.g. ban to perform other jobs or public functions).

The Director is appointed through public competition announced by the Board of the ACA. The Board of the ACA appoints and dismisses the Director of the ACA. Members of the Board themselves are elected by the National Assembly, and special provisions prohibit their political activities or membership of political parties. There is potential political influence in the nomination of at least three out of nine Board members<sup>140</sup>.

<sup>139</sup> Article 16 of Law on ACA

<sup>140</sup> There are nine Board members, some of them nominated by purely political institutions; such as President of Republic, Government and Administrative Committee of Parliament. Other institutions that could nominate Board members are the Supreme Court, Ombudsman and Commissioner for Information (joint proposal of two independent bodies), Supreme Audit Institution, journalists' associations, Bar Chamber, and Social – Economic Council.

The potential political impact of parliamentarians is limited as they can only accept or reject the proposal of nominees (it is possible to nominate one candidate for the post).

The Agency has the right<sup>141</sup> of direct and free access to bookkeeping records, documentation and the financial reports of a political entity, and the right to hire relevant experts and institutions for the control. The ACA is also entitled to perform such control of the endowments and foundations established by a political party. Political entities have to, at the ACA's request, and within a time frame set by the ACA (which may not exceed 15 days) submit all documents and information necessary for the ACA to carry out its tasks as set forth under the Law. During the election campaign, deadlines are even shorter (up to three days).

State bodies at all level of government, banks, as well as natural persons and legal entities financing political entities performing services for and/or on their behalf, are required to forward all information required by the ACA at its request.

### **Practice:**

The independence of control agencies is assessed poorly in this research. This is probably the consequence of the ACA's failure to perform control and initiate sanctioning procedures in months following May 2012 elections, but also the failure of other state institutions, such as the public prosecution and RBA to initiate investigations against violations as they are empowered<sup>142</sup> (criminal procedures and violation of RBA mandatory instructions).

Resources of the ACA to perform control of party funding are insufficient and are not used in the best possible way. It is partly the mistake of the ACA that it did not request all the budget funds to which it is entitled. The ACA only asked for 43 million RSD (390.000 EUR) for control, even if it was authorised to receive an amount ten times larger. These funds were used for the collection of information during the campaign, but not for further control and crosschecking of data<sup>143</sup>.

The research shows a moderate level of confidence that the ACA would actually analyse the received reports, perform control on the basis of received complaints, proactively investigate irregularities and detect omissions in a report. On the other hand, there is much greater confidence that the ACA would react when a report is not submitted at all. This is based on up-to-date practice of the ACA's control work and published information about control, where the public is informed about misdemeanour procedures initiated against parties that failed to submit reports, but not about misdemeanour procedures initiated against parties that violated the rules in other way.

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<sup>141</sup> *LFPA, Article 32*

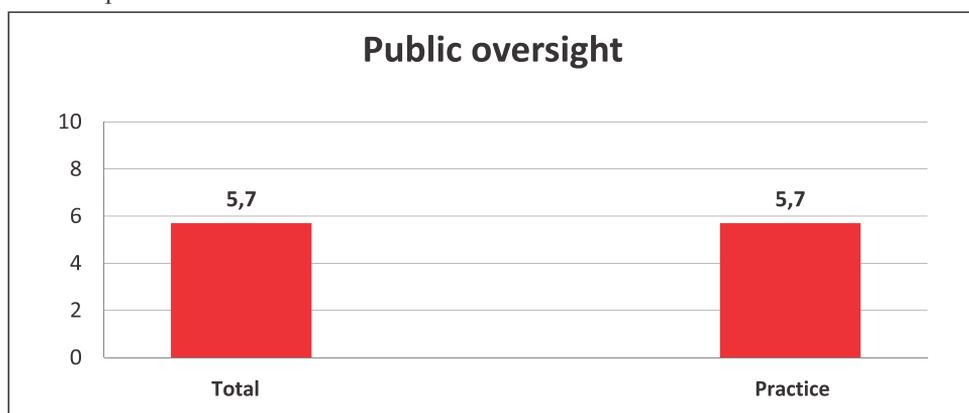
<sup>142</sup> *Law on Broadcasting, Article 17*

<sup>143</sup> [http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20\(Final\).pdf](http://www.transparentnost.org.rs/images/stories/Election%20Campaign%20Financing%20in%20Serbia%20Report%202012%20(Final).pdf), p. 24

## Dimension 10: Public oversight

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

Graph 10:



Serbia has watchdog organizations interested in party financing and carrying out activities related to the issues. Transparency Serbia monitored election campaigns financing in 2004, 2007, 2008 and 2012 and the implementation of campaign finance legislation since 2003. CESID<sup>144</sup> closely cooperated with ACA in drafting and promoting the law, training ACA's monitors and party representatives, and monitored campaign funding in 2004 and organised several conferences. More recently, several CSOs have become involved in monitoring some aspects of campaigns, in particular the media (BIRODI)<sup>145</sup>. However, this work is not sufficiently effective. Although CSOs sometimes perform good work, and present information about suspected violations to the public much before state oversight agencies, the ultimate goals are yet to be achieved since political party financing is still far from being fully transparent and carried out in a legal manner.

The contribution of the media to monitoring party financing could also be much greater, according to the opinion of respondents. Media articles often deal with the issue of political financing, but not always in an independent manner.

<sup>144</sup><http://www.cesid.org/lt/articles/izdanja/posebna-izdanja/finansiranje-politickih-partija.html>

<sup>145</sup> <http://www.mc.rs/birodi---monitoring-izvestavanja-medija-tokom-izborne-kampanje.4.html?eventId=8513>

The research shows that an important future task for Serbia is the development of reporting mechanisms, given that cases of citizens, NGOs, parties and others reporting irregularities in party finances are still rare. NGOs and the media have reported suspicious evidence of irregularities, but there is still no incentive for potential whistle-blowers to share such information with relevant state bodies. The adoption of law that would encourage more active involvement of citizens, and in particular, those with insider information about irregularities in campaign financing, is expected in 2013; the first draft was produced in April 2013<sup>146</sup>.

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<sup>146</sup> <http://www.poverenik.rs/sr/javna-rasprava.html>

## 6. Recommendations

The monitoring findings indicate that significant action has to be taken by various public institutions to control irregularities of election campaign financing. Further legislative reforms are also necessary to prevent mistakes and abuses in the future.

### Recommendations for public institutions of the Republic of Serbia

#### Anti-Corruption Agency (ACA)

1. To prepare a searchable database of election campaign finance reports, immediately after the deadline for the submission of reports
2. To rectify the mistake in the electronic reporting form and to publish information that is currently hidden due to that mistake (the names of media outlets where parties advertised)
3. To publish additionally collected information in addition to the official financial report of the party/coalition/citizens' group (e.g. disaggregated data where the party presents only aggregate figures for some types of expenditure)
4. To invite all persons with information about violation of the law, to share this with the ACA in a confidential manner
5. To publish full findings of the ACA's monitoring of election campaign expenditures
6. To ask for cooperation of other bodies in the context of control of campaign finance reporting, including: the tax administration (e.g. to check the income of persons indicated as bigger donors of the campaign), the RBA (equality of conditions for media advertisement), the police (e.g. related to information about vote-buying), Ministry of Finance (in regards to the amounts distributed for campaign financing from the local government's budget) public enterprises and municipalities (e.g. related to the provision of premises for free) etc.
7. To monitor whether loans used to finance campaigns are repaid in accordance with loan contracts, and the source of income from which such repayments were financed; to publish that information and to initiate sanctioning procedures in case the loan is repaid from budget funds aimed for regular party funding
8. To follow whether campaign debts are paid after the campaign, and the source of income from which such repayments were financed; to publish that information and to initiate sanctioning procedures in case the loan is repaid from funds aimed for regular party funding, or if the debt is canceled
9. To initiate misdemeanor procedures against parties that violate the campaign finance rules

## **Republic Broadcasting Agency**

10. To collect information from broadcasters about paid advertisement, discounts and other financial terms of contracts in order to check whether all participants in the elections were provided the same financial conditions as stated in the RBA's regulations, and to share the received information with the ACA and the public
11. To issue, in cooperation with ACA, instructions to broadcasters on how to deal with debts related to the campaign advertising

## **Police/Prosecutor's Office**

12. To invite citizens to report vote-buying, and to investigate all cases where vote-buying was reported or indicated and to inform the ACA about findings
13. To investigate all cases where abuse of public office or public funds was suspected

## **State Audit Institution**

14. To include in its audit program for the 2014 budget audit, expenditures related to the public promotion of government ministries, municipalities and public enterprises, and any other increased expenditure that occurred during the March / May 2012 campaign

## **Recommendations for legislative changes**

### **Law on Financing Political Activities**

15. To establish clear rules on whether the law sets an exhaustive list of bans while any other behavior is allowed, or whether the law sets permitted behavior in electoral campaign finance while any other behavior is forbidden
16. To regulate electoral campaigning in favor or against political parties by firms, CSO and other persons
17. To decrease the level of budget funding for campaigning, in particular in situations where several electoral processes are ongoing simultaneously
18. To provide clear rules for situations where several electoral processes are ongoing simultaneously in the area of bookkeeping and reporting
19. To regulate more clearly the distinction between election campaign financing and financing of the regular work of political parties
20. To regulate mandatory elements of loan contracts for the purpose of campaign financing (loans should be repaid by the time an election participant submits its campaign finance report)

21. To excuse some types of volunteer work of party members/supporters from the duty to report “free services” (e.g. posting of posters, distribution of promo – material)
22. To define clearly whether the provision of election bonds should be treated as a service to the party.
23. To limit expenditures and the collection of funds to the period of election campaign only, with the possibility to pay invoices which are submitted until election day no later than the reporting date
24. To enable transparency of campaign finance information during the campaign (e.g. the identification number of the special account, the overall sum collected and spent till certain date should be published)
25. To define more clearly the tasks of the ACA in the process of control of campaign finance reports and deadlines to perform such control
26. To clearly regulate when the ACA has the duty to file misdemeanor procedures and when “warning measures” could be issued instead
27. To redefine criminal offences and to transfer them to the Criminal Code
28. To make more precise the legal status of coalition and citizen groups and to establish their misdemeanor liability (now only registered political parties are liable)
29. To provide sanctions against violations of all paragraphs of Article 12 of the law (forbidden sources of income) and violations of Article 24, paragraphs 1 and 2 (using the campaign finance account for other purposes and failure to open a separate bank account for campaign financing)
30. To clarify provisions related to the denial of public funds to parties sentenced for violation of rules

### **Rulebook of the ACA**

31. To erase the rule providing that information about vendors are exempted from publication
32. To regulate as mandatory the duty to provide information about the date of each donation
33. To separate non-campaign income and costs from campaign income and costs in annual financial statements of political subjects

### **Law on media ownership transparency (not existing now) or other Law on media**

34. To enshrine in law the duty of the media to publish information about their income related to electoral campaign funding and their income from public institutions (advertisement, subsidies). Such duty does not exist in the current draft media law.

### **Other media regulation**

35. To establish as a duty of the RBA to check whether the media has enabled political campaigning under equal conditions to all parties

### **Budget System Law and other budgetary rules**

36. To provide rules that would limit expenditure level, commitments and loans in the period of election campaign and explicitly forbid any form of PR costs of budget beneficiaries in that period
37. To provide for mechanisms that ensure that funds for electoral campaign financing and funds for the control performed by the ACA in the annual budget law are planned in compliance with the Law on Financing Political Activities
38. To provide for the pro-active publication of campaign finance information possessed by the Ministry of Finance (distribution of budget funds for campaigns, information about election bonds)

### **Anti-Corruption Agency Law**

39. To forbid public officials standing as candidates or as officials of a political party running in the elections to have promotional activities in any form during the campaign

### **Electoral legislation**

40. To provide rules that parties/coalitions/citizen groups' lists or candidacy may be announced only if they submit proof that a campaign finance account has been opened, a responsible person has been nominated and coalition/citizens' group's contract verified

### **Criminal Code**

41. To redefine the criminal offence of “active and passive bribery related to voting” in order to make it possible to sanction all participants in organized vote-buying, and to align terminology with electoral legislation

### **State Audit Institution Law**

42. To further clarify the subject of oversight in relation to political parties and to include some aspects of political party financing as a mandatory part of the SAI annual audit

## 7. Annexes

### *List of political parties included in the survey:*

1. *Demokratska stranka (aka coalition Izbor za bolji zivot)*
2. *Srpska napredna stranka (aka coalition Pokrenimo Srbiju)*
3. *Socijalistička partija Srbije (aka coalition SPS-PUPS-JS)*
4. *G17PLUS (aka coalition Ujedinjeni regioni Srbije)*
5. *Liberalno demokratska partija (aka coalition Preokret)*
6. *Demokratska stranka Srbije*
7. *Srpska radikalna stranka*
8. *Savez vojvodjanskih Madjara*
9. *Stranka demokratske akcije*
10. *Nijedan od ponudjenih odgovora*
11. *Partija za demokratsko delovanje (aka Koalicija Albanaca presevske doline)*
12. *Dveri (citizens' group that participated in elections)*
13. *Bosnjačka demokratska zajednica (aka koalicija Sve zajedno)*

### *Experts:*

1. *Zlatko Minic, AC Agency*
2. *Svetlana Zorbic, OSCE Mission to Serbia*
3. *Miodrag Milosavljevic, Fund for an Open Society, Serbia*
4. *Djordje Vukovic, CESID*
5. *Zlata Djordjevic, Beta News Agency*

### *List of companies contacted (members of Global Compact Serbia):*

<http://www.unglobalcompact.rs/ucesnici/>

### *List of companies contacted (identified from political parties annual reports):*

- |                                |   |
|--------------------------------|---|
| 1. <i>UTC company, Indjija</i> | 14. <i>SPM Group</i>                        |
| 2. <i>Grafika Galeb, Nis</i>   | 15. <i>Union M2</i>                         |
| 3. <i>Protecta group</i>       | 16. <i>Sitoprint</i>                        |
| 4. <i>RRC doo</i>              | 17. <i>Mediagraf</i>                        |
| 5. <i>Oranice doo</i>          | 18. <i>Atomic Visual Suportt</i>            |
| 6. <i>Alfa sorb</i>            | 19. <i>Corpo doo</i>                        |
| 7. <i>Uljarica 33</i>          | 20. <i>PQN doo</i>                          |
| 8. <i>AS petrol</i>            | 21. <i>Outsourcing managment solutionas</i> |
| 9. <i>Benellimotros</i>        |   |
| 10. <i>Bibocar</i>             |   |
| 11. <i>Nova sicilijana</i>     |   |
| 12. <i>Pekara Sasa</i>         |   |
| 13. <i>Trendex</i>             |   |

# LAW ON FINANCING POLITICAL ACTIVITIES

*Translated by OSCE Mission to Serbia, 23 June 2011*

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## I INTRODUCTORY PROVISIONS

### **Subject of the Law**

#### **Article 1**

This Law shall regulate sources and manner of financing, records and control of financing of activities of political parties, coalitions and citizens' group (hereinafter "political entities").

### **Meaning of Terms**

#### **Article 2**

Individual terms used in this Law shall mean:

- "political activity" is regular work and election campaign of a political entity as submitter of registered electoral list and nominator of candidates for president of the Republic, members of parliament, deputies and councillors;
- "political party" is an organization of citizens recorded in the Register of Political Parties with the competent authority, in accordance with law;
- "coalition" is a form of association of political entities for joint participation in elections, which regulate their mutual relations by contract, attested in accordance with law governing attestation of signatures;
- "citizens' group" is a form of association of political entities for joint participation in elections, which regulate their mutual relations by contract, attested in accordance with law governing attestation of signatures;
- "election campaign" is the body of activities of a political entity from the day of calling of elections until the day of proclaiming final election results;
- "regular work" is the political activity of a political entity other than election campaign;
- "election bond" is the guarantee of a political entity participating in elections to return the amount of funds received from public sources for financing of political campaigns if it fails to win 1% of valid votes, and/or in case of political entity representing and advocating national minority interests if it fails to win 0.2% of valid votes;
- "value of contribution" is the aggregate value of all contributions (membership dues, donations) that one natural person or legal entity gives to a political entity at annual level;
- "average monthly salary" is the average monthly salary in the Republic of Serbia, without tax and dues, pursuant to data of the authority with competence for statistical affairs for the preceding year.

## II SOURCES AND MANNER OF FINANCING

### **Sources of financing of political entities**

#### **Article 3**

Political entities are financed from public and private sources.

Political entities use funds from sources specified in paragraph 1 of this article for financing of regular work and election campaign costs.

Political entities may borrow from banks and other financial organization in the Republic of Serbia, in accordance with law.

#### **Public Sources**

#### **Article 4**

Public sources for financing of political activity comprise pecuniary funds and services granted by the Republic of Serbia, autonomous province and local government, their organs as well as organizations founded by them.

#### **Pecuniary funds from public sources**

#### **Article 5**

Pecuniary funds from public sources are funds from the budget of the Republic of Serbia, autonomous province budget and local government budget, designated for financing of political activity.

#### **Services and goods from public sources**

#### **Article 6**

Services and goods from public sources are services and goods defined under separate regulations given to political entities by organs of the Republic of Serbia, autonomous province and local government, as well as by other organizations founded by them.

It is obligatory to grant services and goods referred in paragraph 1 of this article to all political entities under equal terms.

Organs of the Republic of Serbia, autonomous province and local government, as well as other organizations founded by them shall more specifically regulate granting of services and goods referred in paragraph 1 of this article.

#### **Private sources**

#### **Article 7**

Private sources of financing political activities comprise membership dues, donations, inheritance, legacy income from property and borrowing from banks and other financial organizations in the Republic of Serbia.

## **Membership dues**

### **Article 8**

Membership dues are the pecuniary amount paid regularly by a member of a political party in the manner and under conditions set forth by the statute or other general act of the political party.

A member of a political party is required to effect payment of membership dues only from his/her current account.

As an exception to paragraph 2 of this article membership dues not exceeding 1,000 RSD on annual level may be paid in cash or by postal / bank order. When membership dues are paid in cash the authorised officer of a political party is required to issue a receipt to the member for received dues. The receipt is signed by the member paying the membership dues and the authorised person of the political party.

The authorized officer of a political party is required to pay membership dues received in cash into the account of the political party within seven days from the day of issuing of receipt.

## **Donation**

### **Article 9**

A donation is a pecuniary amount, other than membership dues, that a natural person or legal entity voluntarily give to a political entity, a gift, as well as services provided without compensation or under conditions deviating from market conditions.

A donation is also credit, loan and other services provided by a bank or other financial organizations in the Republic of Serbia given under conditions deviating from market conditions, as well as write-off of debt.

A donor engaged in commercial activity is required when giving a donation and not later than the following day to forward to the political entity a personal statement or attestation from the relevant authority that it has settled all obligations relative to public revenues, as well as a statement that it is not engaged in or has been engaged over the past two years in contracted activities of general interest. A legal entity, as donor, is required to also submit data on its ownership structure. A donor is required to forward a statement that it has not exceeded the donation ceiling specified in article 10 paragraphs 1 and 2 hereof not later than three days from the date of giving of donation.

A political entity is required to accept payment of pecuniary amount specified in paragraph 1 of this article only from the donor's current account.

A political entity is required to record the donation referred in paragraph 1 of this article.

Exerting any form of pressure, threat, discrimination or any other form of direct or indirect placement in disadvantageous position of a natural person or legal entity giving a donation to a political entity is prohibited.

Government authorities are required to prevent and punish any violence, violation of rights or threat to a natural person or legal entity for giving of a donation to a political entity.

## **Maximum value of donation**

### **Article 10**

Maximum value of donation on at annual level that a natural person may give to political entities for regular work shall not exceed 20 average monthly salaries.

Maximum value of donation at annual level that a legal entity may give to political entities for regular work shall not exceed 200 average monthly salaries.

Donations exceeding at annual level one average monthly salary are published.

A political entity is required to publish each donation referred in paragraph 3 of this article on its web site within eight days from the date the value of donation has exceeded the amount of one monthly average salary.

## **Acquisition and income from property of political party**

### **Article 11**

Assets of a political party comprise real property and movables.

Assets referred in paragraph 1 of this article serve for political activity and other allowed activities of a political party, in accordance with law.

A political party acquires property through purchase, inheritance and legacy.

A political party may acquire real property only with funds collected from private sources.

Income from property is the income realized by a political party from sale of real property and movables, lease of real property in its ownership and interest on deposits with banks and other financial organizations in the Republic of Serbia.

## **Prohibition on financing**

### **Article 12**

It is prohibited to finance a political entity by foreign states; foreign natural persons and legal entities, except international political associations; anonymous donors, public institutions, public enterprises, companies and entrepreneurs engaged in services of general interest, institutions and companies with state capital share, other organizations discharging administrative authority; trade unions, associations and other non-profit organizations, churches and religious communities; gaming industry; importers, exporters and manufacturers of excise goods, legal entities and entrepreneurs with due, and unsettled, public revenue obligations, unless set forth otherwise by this Law.

Donations from international political associations may not be in money. Financing of political entity by a natural person or legal entity engaged in activities of general interest pursuant to contract with organs of the Republic of Serbia, autonomous province and local government and public services founded by them is prohibited throughout the validity of such contract and for a period of two years subsequent to termination of contractual relations.

Acquisition of shares or stock in a legal entity by a political entity is prohibited. Financing of a political entity by an endowment or foundation is prohibited.

## **Prohibited collection of funds**

### **Article 13**

Exerting any form of pressure on legal entities and natural persons in collecting donations for a political entity is prohibited.

Giving promises or inferring any privilege or personal benefit to donor of a political entity is prohibited.

Giving a donation to a political entity through a third party is prohibited. Concealing identity of donor or amount of donation is prohibited.

## **Ban on acquisition of income from commercial activity**

### **Article 14**

A political entity may not realize income from promotional, and/or commercial activity.

## **Remittance of unlawfully acquired funds**

### **Article 15**

A political entity is required to pay pecuniary funds acquired contrary to article 12 hereof in favour of the Republic of Serbia budget within 15 days from the date of receiving such funds. If the payee of funds has ceased to exist, a political entity is required to transfer the paid amount to the Republic of Serbia budget within 15 days from the day of receiving of funds.

A political party is required to pay membership dues received contrary to article 8 paragraph 3 hereof in favour of the Republic of Serbia budget within 15 days of receiving membership dues.

A political entity is required to return to the donor a donation without forwarded documents of the donor stipulated in article 9 paragraph 3, as well as a donation exceeding the amount set forth in article 10 hereof within 15 days from the date of receiving the donation.

If funds referred to in paragraph 3 of this article cannot be returned to the account of the payee, the funds are paid into the budget of the Republic of Serbia.

## **III FINANCING OF REGULAR WORK OF POLITICAL ENTITIES**

### **Funds from public sources**

#### **Article 16**

Funds from public sources appropriated for financing of regular work of political entities whose candidates have been elected members of parliament, deputies and/or /councillors are set at the level of 0.15% of the Republic of Serbia budgetary expenditure, territorial autonomy budgetary expenditure and/or local government budgetary expenditure.

## **Allocation of funds from public sources**

### **Article 17**

Funds specified in article 16 hereof are allocated to political entities winning seats in representative bodies in proportion to the number of votes calculated according to the method defined in paragraph 2 of this article.

The number of votes of a political entity taken as basis for allocation of funds is calculated by multiplying the number of votes of all voters up to 5% of valid votes with a quotient of 1.5, and the number of votes over 5% of valid votes of all voters with a coefficient of 1.

Funds specified in article 16 hereof granted to a political entity participating in elections as a coalition are divided pursuant to coalition agreement.

The ministry with competence for financial affairs and/or the relevant autonomous province authority, and/or the local government authority, transfers the proportionate portion of funds referred to in paragraph 1 of this article to political entities every month, before the 10th of the month for the preceding month.

## **Account for financing regular work**

### **Article 18**

A political party may have several accounts but only with the same tax identification number, as well as a foreign currency account, through which it transacts all funds earmarked for financing regular work.

Coalition and/or citizens' group define accounts used for transaction of all funds earmarked for financing regular work by the agreement establishing such political entities.

## **Use of funds for financing regular work**

### **Article 19**

Funds for financing regular work of political entities are used for functioning and propagation of the idea of a political entity and presume work with the electorate and membership, promotional costs, advertising material and publications, public opinion polls, training, international cooperation, salaries and emoluments for staff, costs of utilities services and expenses related to other similar activities.

A political entity is required to use funds received from public sources in the amount not less than 5% of aggregate funds received for regular work at annual level for professional upgrading and training, acquiring practical skills, international cooperation and work with the membership.

## **IV FINANCING ELECTION CAMPAIGN COSTS**

### **Funds from public sources**

#### **Article 20**

Funds from public sources for covering election campaign costs are allocated in the year of regular elections in the amount of 0.1% of the Republic of Serbia budgetary expenditure, of the autonomous province budgetary expenditure and/or of the local government budgetary expenditure for the budget year.

In case of early elections the relevant authorities are required to provide funds specified in paragraph 1 of this article.

### **Allocation of funds from public sources**

#### **Article 21**

Funds specified in article 20 hereof in the amount of 20% are allocated in equal amounts to submitters of proclaimed election lists who at time of submission declared to use the funds from public sources to cover election campaign costs. These funds shall be paid within five days from the date of proclaiming of election lists.

The remaining portion of funds specified in article 20 hereof (80%) is allocated to submitters of election lists pro rata to the number of won seats, within five days from the date of proclaiming of election results, regardless of whether the funds from public sources were used to cover election campaign costs.

In case of elections held according to majority system, the funds specified in article 20 hereof in the amount of 50% are allocated in equal amounts to proponents of candidates who declared at time of filing of candidacy to use funds from public sources to cover election campaign costs. These funds shall be paid to proponents of candidates within five days from the date of determination of final list of candidates.

In case of holding elections referred in paragraph 3 of this article the remaining portion of funds specified in article 20 hereof (50%) is allocated to the proponent of the winning candidate within five days from the date of proclaiming election results, regardless of whether the funds from public sources were used to cover election campaign costs.

In case of runoffs for elections specified in paragraph 3 of this article, the remaining portion of funds specified in article 20 hereof (50%) are allocated in equal amounts to proponents of candidates participating in election runoff, within five days from the date of proclaiming election results of the first election round, regardless of whether the funds from public sources were used to cover election campaign costs.

If the submitters of election lists and/or nominators of candidates declaring to use funds from public sources for covering election campaign costs fail to give election bond within the deadline set forth under article 25 paragraph 3 hereof, the portion of funds allocated to such submitters of election lists and/or nominators of candidates is carried over to the remaining funds specified in paragraphs 2, 4 and 5 of this article.

Funds for election campaign from public sources are allocated by the ministry with competence for financial affairs and/or the relevant authority of autonomous province or local government.

## **Financing election campaign from private sources**

### **Article 22**

A political entity may raise funds from private sources for election campaign

Natural persons and legal entities may give donations in a single calendar year in which election are held, in addition to donations for regular work, also for election campaign costs up to maximum stipulated amount at annual level specified in article 10, paragraphs 1 and 2 hereof, regardless of the number of election campaigns in a calendar year.

### **Election campaign costs**

#### **Article 23**

Election campaign costs are costs related to political activities during the election campaign.

Funds raised from public and private sources for financing election campaign costs may be used only for activities specified in paragraph 1 of this article.

Rules and regulations governing action of media during election campaigns shall apply to each time slot purchase in the media

### **Separate account for election campaign financing**

#### **Article 24**

For the purpose of raising funds for election campaign financing a political entity shall open a separate account that may not be used for other purposes.

A political entity not having the account specified in paragraph 1 of this article is required to open such account after calling of elections and before registering own election list.

All funds intended for financing of election campaign are paid into the account specified in paragraph 1 of this article and all payments of election campaign costs are made from that account.

A political entity may use funds raised from private sources for regular work for election campaign financing with the proviso that such funds are paid into the account specified in paragraph 1 of this article.

Opening of the account referred in paragraphs 1 and 2 of this article for a coalition and/or group of citizens is regulated by the agreement on establishing such political entities.

### **Election bond**

#### **Article 25**

A political entity declaring intention to use funds from public sources to cover election campaign costs is required to give election bond in the amount of funds specified in article 21 paragraphs 1 and 3 hereof, allocated to such political entity.

Election bond referred to in paragraph 1 of this article comprises of depositing cash, bank guarantee, government bonds or placing a mortgage covering the amount of bond on real

property of the persons giving the bond.

The election bond specified in paragraph 2 of this article is given to the ministry with competence for finance affairs and /or relevant authority of autonomous province or local government, within three days from the date of proclaiming all election lists and/or determination of final list of candidates.

### **Return of funds**

#### **Article 26**

The election bond is returned to the political entity if winning at elections a minimum of 1% of valid ballots and/or minimum 0/2% of valid ballots if the political entity is representing interests of a national minority, within 30 days from the date of declaring final election results.

A political entity failing to win the number of votes specified in paragraph 1 of this article is required to return the funds for which he gave an election bond within

30 days from the date of proclaiming final election results.

If a political entity fails to return the funds from which it gave an election bond within the deadline set forth under paragraph 2 of this article, the Republic of Serbia, autonomous province or local government shall collect such funds from the election bond.

## **V KEEPING RECORDS AND REPORTING**

### **Duty to keep books and records**

#### **Article 27**

A political entity with representatives in representative bodies and registered political parties are required to keep bookkeeping records of all revenues and expenditures.

Bookkeeping is done by origin, amount and structure of revenues and expenditures, in accordance with regulations governing accounting and audit Bookkeeping records of revenues and expenditures of political entities referred to in paragraph 1 of this article are subject to annual control of relevant authorities.

A political entity with representatives in representative bodies and registered political parties are required to keep separate records of donations, gifts and services extended without compensation, and/or under conditions deviating from market conditions and records of property.

The content and manner of keeping records specified in paragraphs 4 of this article is specified by the Director of the Anti-corruption Agency (hereinafter “the Agency”).

### **Annual financial report**

#### **Article 28**

A political entity with representatives in representative bodies and registered political parties are required to submit to the Agency an annual financial statement, as well as a report on donations and assets, together with the opinion of an auditor certified in accordance with

accounting and audit regulations not later than 15 April of the current year for the preceding year.

Political entities referred in paragraph 1 of this article are required to publish within eight days of submission of the annual financial statement to the Agency, the statement on their web site and forward it for publishing in the “Official Gazette of the Republic of Serbia”.

The Director of the Agency shall specify the content of the annual financial statement.

### **Report on election campaign costs**

#### **Article 29**

A political entity participating in election campaign is required to submit to the Agency a report on election campaign costs within 30 days from the date of publication of final election results.

The report on election campaign costs contains information on origin, amount and structure of raised and spent funds from public and private sources.

The report on election campaign costs is compiled for the period from the date of calling of elections until the date of publishing final election results.

The report on election campaign costs is published on the web site of the Agency.

The content of the report on election campaign costs is specified by the director of the Agency.

### **Return of funds from public sources**

#### **Article 30**

A political entity is required to return all funds from public sources not used in the election campaign into the budget of the Republic of Serbia, autonomous province and/or local government by the date of submission of report.

A political entity is required to transfer all funds from private sources not used in the election campaign to the account used for regular operation, by the date of submission of report.

### **Authorised person**

#### **Article 31**

A political party's statute and/or appropriate decision of a political entity must define the manner of conducting internal control of financial affairs and the right of the membership and/or voters supporting an election list to be informed of revenues and expenditures of a political entity.

A political party's statute, or contract establishing a political entity, must provide for appointment of the person responsible for financial affairs, reporting and keeping of books, who is authorized to contact the Agency (hereinafter “authorised person”).

A political entity notifies the Agency of the appointment of authorised person specified in paragraph 2 of this article within three days of his/her appointment.

A political entity is required to notify the Agency of any change in regard of authorised person.

The authorised person signs all reports and is responsible for keeping of records regarding financing of the political entity.

At the request from the Agency the authorised person is required to forward bookkeeping data specified in article 27 of this Law for inspection also during the fiscal year.

A political entity specified in articles 28 and 29 of this Law safeguards its financial statements for a minimum of six years from the date of submission to the Agency.

## **Powers of the Agency**

### **Article 32**

Within the purview defined under this Law, the Agency has the right of direct and free access to bookkeeping records and documentation and financial reports of a political entity and to engage relevant experts and institutions. The Agency is also entitled to direct and free access to bookkeeping records and documents of an endowment or foundation founded by a political party.

A political entity shall at the Agency's request and within the time frame set by the Agency which may not exceed 15 days, submit to the Agency all documents and information necessary to the Agency to carry out tasks from its purview set forth under this Law.

In the course of election campaign, a political entity is required upon the request of and within the time frame set by the Agency, which may not exceed three days, to submit information necessary to the Agency to carry out tasks from its purview set forth under this Law.

Organs of the Republic of Serbia, autonomous province and local government, banks, as well as natural persons and legal entities financing political entities performing for and/or on their behalf particular services, are required to forward to the Agency at its request all data required by the Agency to discharge duties from its purview set forth under this Law.

The obligation to provide information from para 4 of this Article supersedes any other restriction or limitation that may appear in any other regulation.

## **Provision of funds required for performing control**

### **Article 33**

Funds for performing control of election campaign costs for the election of president of the Republic, election of members of parliament, deputies and councillors are provided to the Agency from the Republic of Serbia budget.

For the purposes referred to in para 1 of this article, the funds are allocated in the budget of the Republic of Serbia in the amount not less than 1% for elections for the president of the Republic and members of parliament, 0.5% for elections for deputies and councillors for city councils and/or 0.25% for elections for deputies for municipal councils, out of the aggregate amount of funds allocated in the Republic of Serbia budget for election campaign for the election of members of parliament.

In case there are more than one election in the same calendar year, the percentage specified in paragraph 2 shall apply to every election.

### **Control by the State Audit Institution**

#### **Article 34**

The Agency may, after conducting control of financial reports of a political entity, forward a request to the State Audit Institution to audit these reports, in accordance with the law governing competencies of the State Audit Institution.

## **VI ACTIONS AND DECISION TAKING IN CASE OF VIOLATION OF LAW**

### **Procedure**

#### **Article 35**

Proceedings to establish violation of this Law and to pronounce measures in accordance with this Law are launched and conducted by the Agency ex officio.

Proceedings referred to in para 1 of this article may also be launched on basis of complaint by a natural person or legal entity.

The Agency shall notify the political entity of the initiation of the proceedings referred to in para 1 of this article.

The Agency may summon the authorized person as well as the person on whose complaint the proceedings were launched to obtain information as well as request forwarding necessary data in order to decide whether there is a violation of this Law.

### **Application of other regulations**

#### **Article 36**

Provisions of the law governing general administrative procedure shall appropriately apply to proceedings referred in article 35 hereof if not regulated by this Law.

### **Measure**

#### **Article 37**

The Agency issues a warning measure to a political entity in case it identifies during control deficiencies that may be corrected.

If the political entity fails to act upon the measure before the deadline specified in the Agency's decision expires, the Agency shall initiate misdemeanour proceedings.

## **VII PENAL PROVISIONS**

### **Criminal offence**

### **Article 38**

Whoever gives, and/or provides for and on behalf of the political entity, funds for financing of the political entity contrary to the provisions of this Law with intent to conceal the source of financing or amount of collected funds of the political entity, shall be punished with imprisonment from three months to three years.

If the offence referred to in para 1 involved giving or receiving more than one million and five hundred thousand dinars, the offender shall be punished with imprisonment from six months to five years.

Whoever commits violence or threatens violence, places in disadvantageous position or denies a right or interest based on law to a natural person or legal entity based on giving donation to a political entity, shall be punished by imprisonment of three months to three years.

### **Misdemeanours of a political entity**

#### **Article 39**

A political party shall be fined from 200,000 to 2,000,000 RSD for a misdemeanour if it:

- 1) receives funds contrary to article 8 paragraph 3 hereof;
- 2) fails to publish donations in accordance with article 10 paragraphs 2 and 4 hereof;
- 3) acts contrary to article 11 hereof;
- 4) acts contrary to prohibition specified in article 12 paragraph 3 hereof;
- 5) acts contrary to prohibition specified in article 13 hereof;
- 6) acquires income contrary to article 14 hereof;
- 7) fails to remit funds in accordance with article 15 hereof;
- 8) opens multiple accounts contrary to article 18 hereof;
- 9) uses funds contrary to articles 19 and 23 and article 24 paragraphs 3 and 4 hereof;
- 10) fails to open a separate account for financing of electoral campaigns pursuant to article 24 hereof;
- 11) fails to keep records pursuant to article 27 hereof;
- 12) fails to submit the annual statement pursuant to article 28 paragraph 1 hereof;
- 13) fails to publish the financial statement on its web site or fails to submit it to the “Official Gazette of the Republic of Serbia” for publication, within the time frame set forth in article 28 paragraph 2 hereof;
- 14) fails to submit the report on electoral campaign costs pursuant to article 29 hereof;
- 15) acts contrary to article 30 hereof;
- 16) fails to appoint the authorized person, fails to report change in authorized person or notify the Agency thereof, in accordance with article 31 paragraphs 3 and 4 hereof;
- 17) fails to provide access to the Agency pursuant to article 32 paragraph 1 hereof;
- 18) fails to submit to the Agency documents, information and data pursuant to article 32 paragraphs 2 and 3 hereof;

19) fails to act in accordance to the pronounced warning measure (article 37 paragraph 2).

The responsible person of a political party or other political entity shall also be fined from 50,000 to 150,000 RSD for offences specified in paragraph 1 of this article.

Funds obtained through commission of misdemeanours specified in paragraph 1 items 1), 3) through 7), 9) and 15) of this article shall be confiscated.

### **Misdemeanours by donors of funds**

#### **Article 40**

A legal entity shall be fined with 200,000 to 2,000,000 RSD if it:

- 1) gives a donation to a political entity contrary to articles 9 and 10 and article 22 paragraph 2 hereof;
- 2) fails to ensure access to the Agency in accordance with article 32 paragraph 1 hereof;
- 3) fails to submit data to the Agency pursuant to article 32 paragraph 4 hereof.

The responsible person of a legal entity shall also be fined with 50,000 to 150,000 RSD for misdemeanour specified in paragraph 1 of this article.

An entrepreneur shall be fined with 100,000 to 500,000 RSD for misdemeanour specified in paragraph 1 of this article.

A natural person shall be fined with 50,000 to 150,000 RSD for misdemeanour specified in paragraph 1 of this article.

Funds obtained through commission of misdemeanour specified in paragraph 1 item 1) of this article shall be confiscated.

### **Statute of limitations on launching misdemeanour proceedings**

#### **Article 41**

Proceedings for misdemeanours specified in articles 39 and 40 hereof cannot be instituted after expiry of five years from the date of commission of misdemeanour.

### **Loss of funds from public sources**

#### **Article 42**

In case of conviction for a criminal offence specified in article 38 hereof or if a political party or responsible person of a political entity is fined for misdemeanour specified in article 39 hereof, the political entity shall lose the right to funds from public sources dedicated for financing of the political entity in the amount set forth pursuant to paragraphs 2 and 4 of this article.

The amount of funds referred in paragraph 1 of this article may not be less than the amount of funds acquired through commission of a criminal offence or misdemeanour, up to a maximum of 100% of the amount of funds from public sources allocated for financing of regular work of the political entity for the coming calendar year.

If the amount of funds acquired through commission of a criminal offence and/or misdemeanour is less than 10% of the funds from public sources allocated for financing of regular work of the political entity for the coming calendar year, the amount of funds specified

in paragraph 1 of this article may not be less than 10% of the funds from public sources allocated for financing of regular work of the political entity for the coming calendar year.

The amount of funds referred in paragraph 1 of this article is determined pro rata to pronounce punishment for criminal offence or misdemeanour, pursuant to rules set forth in paragraphs 2 and 3 of this article.

The decision on loss of rights to public funds allocated for financing of regular work of a political entity for the following calendar year wherein the amount thereof is also defined, is issued by the Agency and may be appealed through administrative dispute.

### **Suspension of transfer of funds from public sources**

#### **Article 43**

At the request of the Agency and following launching of criminal proceedings for the offence referred in article 38 hereof or misdemeanour proceedings for a misdemeanour referred in article 39 hereof the ministry with competence for financial affairs and/or the competent authority of autonomous province and/or local government, issues a decision for temporary suspension of transfer of funds from public sources to the political entity until issuing of final decision in criminal, and/or misdemeanour proceedings.

The decision of the competent administrative authority of autonomous province, and/or local government referred in paragraph 1 of this article may be appealed with the relevant authority of the autonomous province and/or local government.

Administrative dispute may be instituted against the decision of the ministry referred in paragraph 1 of this article and the decision of the competent authority of autonomous province and/or local government.

The administrative court is required to decide within 30 days from the date of filing of complaint in administrative dispute referred in paragraph 3 of this article.

## **VIII TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 44**

Control of the work of political parties commenced prior to coming into force of this Law shall be concluded pursuant to provisions of the Law on Financing of Political Parties (“Official Gazette of the RS”, no. 72/03, 75/03 – corrigendum, 97/08 and 60/09 – Constitutional Court decision).

#### **Article 45**

Bylaws provided under this Law shall be enacted within six months from the date of coming into force of this Law.

Until enactment of the bylaws referred in paragraph 1 of this article the bylaws enacted pursuant to the Law on Financing of political Parties (“Official Gazette of the RS”, no. 72/03, 75/03 – corrigendum, 97/08 and 60/09 – Constitutional Court decision) shall apply unless contrary to this Law.

#### **Article 46**

With the coming into force of this Law, the Law on Financing of Political Parties (“Official

Gazette of the RS”, no. 72/03, 75/03 - corrigendum, 97/08 and 60/09 - Constitutional Court decision) shall cease to apply with the exception of article 4 that shall cease to apply as of 1 July 2012.

**Article 47**

This Law shall come into force on the eighth day of publication in the “Official Gazette of the Republic of Serbia, except articles 16 and 17 that shall come into force on 1 July 2012.