**Regional research of Transparency International on election campaigns’ financing**

**WHAT IS CRINIS RESERCH**

CRINIS research was created by Transparency International. Research comprehends estimation of 75 indicators that comprehend regulations and their implementation in practice. The goal is to determine how much the system of campaign financing is immune to corruption. Research comprehends estimation of quality of regulations, financial reports of election participants and control organs and is based on expert analysis, interviews with representatives of all relevant institutions and groups (experts, party representatives, state officials, journalists etc.)

The research for this report was conducted by Transparency International chapters in Croatia,

Kosovo, Macedonia (FYR) and Serbia to assess election campaign funding in 2011-12, and by

the chapter in Albania to assess non-electoral finances in 2012. Information is collected along eight

dimensions: reporting to the oversight agency, depth of reporting, reliability of reporting, public disclosure, prevention, sanctions, state oversight, public oversight.

Presented results are only part of project activities. Besides that, Transparency – Serbia performed monitoring of election campaign financing from May 2012, performed analysis of the reports from republic, provincial and local elections submitted by participants of that elections and analysis of authorized state organs proceeding. Transparency – Serbia, with its prepositions, contributed to noticing of the need to undertake legal and other measures in the area of political parties’ financing in recently adopted Anticorruption Strategy. We provided specific measures for amending Action plan for implementing Strategy as well as individual related regulations (e.g. Misdemeanour Law, Criminal Code). We organized series of round tables where party, media, associations, auditors, businessmen, prosecutors, misdemeanour judges and representatives of other state organs considered recent law implementation and necessary changes and formulated series of recommendations for further proceeding of state organs.

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**WHAT ARE THE GREATEST REGIONAL PROBLEMS**

Regional report indicates to certain significant loopholes in regulations, but also to the fact that in all countries/territories, even when there are good regulations, their implementation is unsatisfactory.

Following weaknesses and problems are noticed in the whole region:

**SANCTIONS**

Sanctioning of political parties for non fulfilling of obligations in compliance with regulations is poor in all of analyzed countries. Even where there is relatively quality penalty system, its not being implemented at all.

**PREVENTION**

Preventive mechanisms for prevention of abuses in party financing system are insufficient. Cash donations are legal in Kosovo and Macedonia (in Serbia and Croatia are forbidden).

**RELIABILITY OF REPORTING**

In Serbia, Kosovo and Macedonia there is no civil trust into reliability of reports submitted by political subjects.

**PROPER PRACTICE IN REGION**

* In Macedonia and Croatia reports are submitted during campaign, and not only after finalization, along with allowing the citizens to be informed on who finances party they voted for. In Macedonia participants at the elections submit three reports – first report on the 11th campaign day, other in the middle of the campaign and third, 30 days after campaign finalizing.
* Media in Macedonia are legally obligated to publish unique pricelist for advertising.
* Media in Macedonia must submit 15 days after finalizing of campaign at the latest, detail report on advertising space that all election participants receive and price of that space.
* Croatia has tax stimulations for legal entities that publish their donations in election campaign.

Complete regional report is available at:

<http://www.transparency.org/whatwedo/pub/buying_influence_money_and_elections_in_the_balkans>

**THE BIGGEST PROBLEMS IN SERBIA**

Reliability of reporting on campaign financing in Serbia was estimated as the weakest out of eight analyzed areas, with evaluation 3,6 in a scale of 0 to 10. Among reasons for week level of trust is the fact that final source of financing for almost half the money spent in a campaign remains unknown (22 percent are credits and 26 percent are debts), numerous individual donations with identical amounts, as well as donations of legal entities that operated with loses and non reporting of expenses noticed with monitoring

Legal provision in Serbia in the sanctioning area received high evaluation 7,8, but the practice in sanctioning was evaluated with 0,9. It is no surprise taken into consideration that none of the parties was ever penalized for violating provisions of the law that regulates election campaign financing.

Law in Serbia prescribes that control institution (Anticorruption Agency) must publish reports submitted by political parties, but doesn’t prescribe deadline for their publishing, nor the way to make them public.

Anticorruption Agency, State Audit Institution, Republic Broadcasting Agency and public prosecution have wide authorities to investigate illegal campaign financing, but not clearly set obligations in regards to scope of that investigating and deadline to publish it.

Since 2011 Serbia has reliable legal framework that organizes financing of election campaigns. Law prescribes obligation of reporting on all incomes and election campaign expenditures as well as obligation to handle all incomes intended for campaign financing in special account and that all expenses must be paid from that account. Legal framework envisages sanctions for disrespecting rules, while control of reports on election campaign expenses was entrusted to independent organ – Anticorruption Agency. Besides that, still necessary improvements of legal deadline are much needed to: (i) prevent avoiding of legal prohibitions through campaign financing by „third persons” (e.g. non governmental organizations, firm) and through abuse of public assets (ii) provide greater transparency of data on campaign financing; and (iii) provide timely determining of all irregularities and proper sanctioning.

Experience from elections organized in May 2012 shows that new legal framework brought certain improvements in practice. Significant increase of budget appropriations, announced control of reports on election campaign expenses by Anticorruption Agency and monitoring performed by civil society organizations, jointly influenced to reporting of more campaign incomes and expenditures by political parties than ever before. Parallel with stated improvement, different forms of serious law violations are noticed, from disrespecting of formal requests in filling out of reports, usual habit of non delivering of reports on local elections’ campaign expenses, not listing of certain promotional expenses from non supporting of information on suspicious donations. Moreover, partially due to unclear legal provisions on credits and undertaken obligations, for almost half of total reported expenses, public still has only partial knowledge on final sources of financing. Anticorruption Agency implemented monitoring of election campaign expenses, but in months after the campaign thorough control failed. By the end of previous year Agency accelerated procedure of control and submitted first misdemeanour report (against political parties that haven’t submitted reports on campaign incomes and expenditures) in December 2012**¹**. Preliminary findings of other control aspects were presented on 31. May 2013**²**.

Control of other cases where suspected to illegalities is even greater problem. For example, even besides numerous suspicions and international accusations, only one investigation is lead for abuse of public resources in election campaign (against former president of Bojnik municipality) and only one procedure for suspicions in „buying of votes“ (in Novi Sad).

Generally speaking, in the context of CRINIS research, legal framework of Serbia was evaluated with 8.1, and practice of proceeding with 5.5. As part of legal framework strongest areas were „scope of reporting” due to exhaustive legal provisions on reporting sources of incomes and expenditures, sorted according to type and provider, as well as area „public supervision” because wide authorities were provided to the Anticorruption Agency Law in the procedure of campaign incomes and expenditures control.

On the other hand, weakest part of legal framework was area of „prevention”, due to lack of measures that would allow reporting of irregularities in campaign financing.

In part of the research that refers to practice of proceeding, the best evaluated areas are „scope of reporting”, although there are significant weaknesses, as well as „detail reporting”, which is mostly consequence of level of details from the reporting form.

On the other hand, weakest areas are „sanctions”, due to complete absence of sanctions for illegal campaign financing since the introduction of multiparty system 1990, and „reliability of reporting” due to absence of comprehensive control and general citizens mistrust into political parties and functioning of “preventive mechanisms”.

Campaign financing is widely recognized as problem of Serbian society. Necessity to promote legal framework and its implementation, one of the key envisaged measures for decreasing political corruption envisaged by the New Anticorruption Strategy, adopted on 1st July 2013**³**. In the goal of removing problems identified with this research, Transparency Serbia emphasizes following key recommendations:

1. Changes of the Law on Financing of Political Activities should remove noticed legal loopholes (“financing by third parties”, period for paying back the loan and paying of debts etc.) , providing greater transparency of data and timely control;

2.Changes of Criminal Code, Budget System Law, media legislation, Anticorruption Agency Law and Law on State Audit Institution will provide greater transparency of data, better planning of control and sanctioning of misdemeanours related to campaign financing (e.g. buying of votes, abuse of public functions, concealed media promotions and accountability for proper distribution of budget allocations);

3. Anticorruption Agency and public prosecution should publish all cases of illegal campaign financing, including abuses of official posts and buying of votes, provide protection to persons that report such irregularities and investigate so far familiar cases of regulations’ violation;

4. Anticorruption Agency should publish complete results of control and initiating of misdemeanour procedures for all types of noticed misdemeanours;

5. Anticorruption Agency and State Audit Institution should monitor unpaid credits and obligations undertaken during campaign period, in the goal of determining final source of campaign financing and every possible abuse of resources intended for financing of regular work of political parties.

Complete report for Serbia is available at:

<http://www.transparentnost.org.rs/images/stories/materijali/Crinis%20zapadni/CRINIS%20publikacija%20SRB.pdf>

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