



How to Improve Political Accountability in Party Financing in Kosovo: Exploring alternative options for improving oversight

Executive Summary

Financing political parties in the Republic of Kosovo is indispensable to political parties' ability to play their role in policy-making and political processes in Kosovo. Consequently, maintaining the organizational structures, developing programmes, managing their branches and organizing election campaigns during an election period, are legitimate reasons for the financial support needed by the political parties.

There are numerous ways of financing political parties in Kosovo, ranging from party membership fees, public funding from representation in the Parliament of the Republic of Kosovo but also through private donations. Funding through private donations from companies/private enterprises, based on our research (whose product is the book *Informal Power Networks, Political Patronage and Clientelism in Serbia and Kosovo*) has resulted to be the most problematic, because this is where the majority of economic and political informality happens, and where informal networks are established and reaffirmed. Political parties mostly use informal networks which they already have to provide the necessary finances from the companies/ private enterprises. These finances are mainly collected in cash, and a relatively small portion is obtained through the banking system. In recent years, according to our respondents, this has been serving as the main source of funding of political parties at the central and local levels of governance.

Money in politics usually operates behind closed doors and involves shady practices. The exact amount of money/ donations and their origin, to political parties, is usually unknown. This creates a system where certain groups of interest seek favours or influence, whether in politics or in public procurement, in exchange for their support.

In Kosovo there is a lack of control and supervision of the financing of political parties that leads to lack of transparency and clientelism. As a result, there must be political will to increase transparency as a means of reducing party patronage and clientelism and increase citizens' confidence in political representation. Political entities should publish financial reports on their official websites. The Assembly of the Republic of Kosovo, namely the Commission for Public Finance Supervision should, as soon as possible, select the auditors based on the law in force. Moreover, they should create the possibility for the parliamentary political parties which receive funds from the state budget, to be audited by the General Auditor, while for donations and membership fees, to be audited by private auditors selected randomly from a pool of providers. The approach of the civil society and the media should be more intense in regard to ways of political party financing and accountability.

Identified issues

One of the mechanisms identified in our research within the project "Informal practices in capturing economic resources by political elites: the exploration of party patronage in Kosovo and Serbia", (whose product is the book "Informal networks of power, political patronage and clientelism in Kosovo and Serbia"), in sharing resources (votes, employment and money) through informal practices, has inferred to be the financing of political parties.

The efforts to secure potential sources for financing political parties and even election campaigns, proved to be a driving factor behind the increase of patronage and clientelism, where certain businesses and individuals provide funds mainly during election campaigns for certain entities and in return receive public tenders or try to influence specific policies. In this regard, a number of main resources which political parties and/or individuals are in demand of were identified. These resources are: public funds (democratization fund), membership fees and private donations/- funding from companies/private enterprises.

Legal framework and practices

Law No. 03/L - 174 on Financing Political Parties defines the political party as a non-profitable legal person (Article 3). As such, it can get financial and material resources from: dues (membership fees); contributions; budget of the Republic of Kosovo; of any property acquired as prescribed by this law; income from the activities of a political subject set up by Article 6 of this law (Article 4). A political party cannot exercise profitable financial activity, except for the sale of goods such as: publications, selling advertising materials, posters with the emblem or acronym of the political party and other sources allowed by law (Article 6) (Assembly of the Republic of Kosovo, 2010).

In accordance with the aforementioned Law, the Law on Financing Political Parties, the Assembly of the Republic of Kosovo allocates special funds for political parties, which is the Fund for the Support of Democratization of Political Parties. This funding includes support for everyday operation, political activities, but also for the election campaign. Article 7.4 of this law stipulates that: public financial resources from the budget of the Republic of Kosovo are used for financing pre-election and election activities, financing the work of parliamentary groups and financing regular activities of political parties (The Assembly of the Republic of Kosovo, 2010). On the other hand, it recognizes also the right to donations from individuals and legal entities. The amount of donations from physical and legal persons is clearly determined. The law stipulates as follows: 1.1. Physical persons in the amount not more than two thousand (2,000) Euros for one (1) calendar year; 1.2. Legal persons in the amount of - not more than ten thousand (10,000) Euros for one (1) calendar year (Assembly of the Republic of Kosovo, 2010). In case any funding that is contrary to the law shall happen, political parties are obliged to return the assets to "donor" in accordance with the law. Based on research, this is not what always happens in practice. One interviewee states that *"There has been cash which has not gone through banks, and there were cases even beyond the amounts allowed by law. The amount which appears in the media and the CEC, is not even close to what is provided informally."* Party member (SeConS, 2015).

The Fund for Supporting the Democratization of Political Parties functions within the Central Election Commission and according to the first law, gets 0.17% of the annual budget. The amount dedicated to this fund, varies depending on the yearly budget. The distribution method of this fund to political parties is the responsibility of the CEC. This is done by CEC by distributing it to

parliamentary groups according to the number of MPs.

Financing political parties in terms of campaigns and other activities in Kosovo, based on our research, as a phenomenon, has two aspects: formal or legal terms and informal terms. As shown above, the financing of political parties is determined by laws and regulations. These rules and regulations are not always consistently applied in practice and nor is financing of campaigns and political parties always made in accordance with the law. On the other hand, some- times certain political entities, especially those that are related to institutions, are financed without transparency or revelation of the source of funding, nor their spending intentions.

Regarding financial support from private businesses, many interviewees during the research: "Exploring informal practices of capturing economic resources by political elites: exploring party patronage in Kosovo and Serbia", have stressed that some parties use informal networks to provide the necessary funding. One interviewee stated: *"Usually it is said that this man has funded the party and subsequently received privileges. But listen, when I buy you a coffee, you buy me one too. These things happen."* Party member (Interviewee 2, 2015).

Lack of financial reporting

When a political party is registered in the Central Election Commission (CEC), it accepts certain rules and obligations, and one of these is financial reporting. Financial reporting is also regulated under the laws and regulations, such as the Law on Financing Political Parties, the Law on General Elections, and Regulation No. 14/2015 on Financing Political Parties and Sanctions.

The Law on Elections and the Law on Financing of

Political Parties, obliges political parties to submit two reports to the CEC: the report of the Election Campaign expenses for each election, a few days after the election. As for the way of spending the Democratization Fund, political parties are obliged to submit an annual report to the CEC, which is a comprehensive report. But political parties are also obliged to report every three months, before any allocation. It is also defined in Regulation Nr. 14/2015 on Financing Political Parties and Sanctions under Article 6.2 and 6.3. Also according to this rule, by Article 9.3., a political entity which receives a contribution, the origin of which, the contributor is not able to testify, is obliged to, within a period of two (2) weeks, inform the competent bodies for the verification of the origin of this contribution (Central Election Commission, 2015). While Article 9.4 of the same Regulation, underlines that if you cannot prove the origin of the contribution, this amount remains with the Budget of the Republic of Kosovo.

Reports are audited by independent auditors, who until 2012 were selected by the CEC with an open tender. Since 2013 the auditors are not any longer selected by the CEC, but by the Assembly of the Republic of Kosovo, which in practice has not yet occurred. Election Reports of 2013 and 2014 have not been audited by the auditor yet, considering that in 2014, the Assembly was not able to select the audit company, initially on the grounds of the political stalemate.

If official websites of political parties are examined, most of them did not publish the Annual Financial Report and the Report of the Financial Declaration of the Election Campaign. In Article 7.2. f) of the Regulation No. 14/2015 on Financing Political Parties and Sanctions, it is clearly stipulated that political parties must publish the Annual Financial Report of the previous year and Financial Campaign Report of the previous elections. Political parties should keep these reports public for a period of one

their official websites and publish them on one of the national daily newspapers. Also under Article 10 of this Regulation, these two reports are submitted to the CEC and then audited by auditors selected by the Assembly of the Republic of Kosovo.

Based on the abovementioned Regulation, Article 10.7, the Central Election Commission shall publish all annual financial reports of political parties together with the final audit report of political parties.

The failure to do so, from political parties, has led to the violation of the above laws and regulations, for which no measures have been undertaken. Moreover, the failure to select the auditor to audit the financial reports of political parties by the Assembly of the Republic of Kosovo has led to the violation of the law on financing political parties, namely Articles 19.1 and 19.2

Towards oversight and accountability Current situation

Based on our research, legal analysis and monitoring of the official websites of political parties we see the lack of implementation of the Law on Financing Political Parties (LFPP) and Regulation no. 14/2015 on Financing Political Parties and Sanctions. Failure to implement the legal framework and infringement of certain articles is done by institutions that oversee financing of political parties, which means by the CEC and the Assembly of the Republic of Kosovo.

With the current method of selection of auditors for auditing the expenditure of political parties, the problem lingers and is not solved. If for 2012 we had at least formal audit and audit reports that were published, for elections in 2013 and 2014 we have no audit neither are they published.

Supervision: As a result of a dysfunctional Financial Control foreseen by law and the regulations, the supervision of political party financing is not being done, including annual finances, as well as the election campaigns.

Transparency: By violating certain articles of laws and regulations, and a dysfunctional supervision of political party financing, it is evident that accountability and transparency are problematic. There is no accountability from the political parties towards CEC and the Assembly of the Republic of Kosovo, but also, there is no accountability and transparency of these three together towards the Kosovar society and Kosovar taxpayers.

Cost: Not implementing the legal provisions related to financial reporting and sanctions, can lead to an economic and social/ political cost. The reason for an economic cost is that the lack of transparency leads to increased clientelism and informality, thus damaging the country's economy. While, a social and political cost, consists of damaging the society's trust in the political system and democracy.

Alternatives of the politics

Considering the legal provisions related to financing of political parties, they must initially be respected and implemented in practice by political parties, the CEC and the Assembly of The Republic of Kosovo. In the meanwhile, sanctions prescribed by laws and regulations to political parties must be analysed, whether they produce the desired effect, in order to consider the possibility of increasing the foreseen penalties.

It should be noted that an important factor of the lack of auditing and of supervision of the financing methods of political parties is the lack of political will. So an important role in this regard rests with the Kosovo politicians, and especially with the members of the Assembly of the Republic of Kosovo.

Also the current manner of auditing political parties' financing should undergo some changes, in order to have an integrated audit. The parliamentary political parties should, for the part of funding from the state budget, be audited by the General Auditor. For the funding from membership fees and donations, they should be audited by private auditors selected randomly from a pool of providers. While non-parliamentary political parties, which are not funded by the state, should be privately audited by auditors selected randomly as well.

Supervision: Functions by implementing the current laws in force, and the responsible party for their implementation is the "triangle": The Assembly of Kosovo - The Central Election Commission - the political parties. Then, after the submission of financial reports and election campaigns' reports for 2013 and 2014 and the auditing of these reports, there will be space for financial monitoring and the identification of possible violations related to financing of political parties.

Transparency: In order to increase transparency in political party financing, each political party should publish the financial reports. Citizens and various stakeholders should have full access to these reports. Moreover, political parties are obliged by LFPP to be transparent and to fight corruption. In Article 17 of the Law on Financing Political Subjects, they "are obligated to define in their statute the possibility of exercising their internal financial control and, in order to combat corrupt practices, as well as upgrade and strengthen the financial management and transparency, political entities must develop mechanisms of internal financial control."

When it comes to transparency, there must be a way for political parties' reports submitted to the CEC to be published, although they may not have been audited yet. The transparency should

not be affected as a result of a failure in auditing. At least their publication would create opportunities to oversee the financing and public spending from the side of the society and public opinion, especially from the side of non-governmental organizations. In the meantime, the institutions of justice would be made available information they could potentially use for investigation or prosecution purposes.

Cost: Empowering transparency and accountability related to financing political parties will lead to a reduced clientelism and informality, including economic cost, as well as maintaining the citizens' trust in the country's political system

Recommendations

The following recommendations are deliberately given solely on the basis of our research "Informal practices of capturing economic resources by political elites: exploration of party patronage in Kosovo and Serbia". These recommendations are given also based on the review of the Law No. 04 / L-212 for amending the Law No. 03 / L-174 on Financing Political Parties, as amended by Law No. 04 / L-058, and based on the Regulation No. 14/2015 on the Financing Political Parties and Sanctions. The recommendations given to the laws and the Regulation on FSP are related to the applicability of certain provisions, which affect combating informality and clientelism, by increasing transparency in political party financing. This does not exclude the fact that there is no need for amendments to certain articles of the aforementioned laws and regulations.

The Law on Financing Political Parties must be implemented, namely the Articles dealing with financial reporting, financial control and sanctions, must be respected.

The Commission on Overseeing Public Finances should select, as soon as possible, the auditors

under the law in force for auditing the Annual Financial Reports for the years 2013, 2014 and 2015 and Reports on Financial Declaration of the Campaign for 2013 and 2014 of political subjects.

The possibility of changing the way auditing used to be done versus the way it is proposed in the new law, should be considered. For the part of funding coming from the state budget, the parliamentary political parties should be audited by the Auditor General, while for the funding from membership fees and donations they should be audited by private auditors selected randomly from a pool of providers. Non-parliamentary political parties, which are not funded by the state, should be audited by private auditors selected randomly as well.

In order to increase transparency and accountability, political parties must publish financial reports on their official websites.

Political will in fighting informality and clientelism related to political party financing must be established.

Internal awareness of political parties must be increased, in relation to internal financial control and transparency, by automatically inserting into their party statutes the first paragraph of Article 17 of the Law on Financing Political Parties.

Coordination must be strengthened between different political parties, the Central Election Commission and the Parliament, in relation to financial reporting.

The issue of failing to publish financial reports and failure to audit them, must turn into a matter of debate in Kosovo media and civil society.

Finally, the audit of reports represents an external control (although for the last two elections they were not conducted) and it should be clear that the audit reports to a certain extent will reflect the real financing and the real costs of political subjects which are in power at different levels. The only way to uncover the scheme of financing political parties is a real and impartial investigation of how public money is allocated, through tenders, major contracts of public investments, subsidies and employment in the public sphere.

It is worth looking further into a new approach and the possibility to reform the ways the election campaigns are funded as a whole, as well as exploring the possibility of creating an intermediary body between private money and political entities, such as Political Action Committees (PAC).

Sources:

Primary data from the research on political clientelism and party patronage, conducted by Centre for Research, Documentation and Publication are realized within the project “Informal Practices of Capturing Economic Resources by Political Elites: Exploring Party Patronage in Kosovo and Serbia”

SeCons, CRDP. (May, 2016). Informal Power Networks, Political Patronage and Clientelism in Serbia and Kosovo. Belgrade, Serbia.

Assembly of the Republic of Kosovo. (31 July 2013). Law No. 04/L-212 on amending the Law No. 03/L-174 on Financing Political Subjects, amended by the Law No. 04/L-058. Prishtina, Kosovo.

Assembly of the Republic of Kosovo. (16 September 2010). Law No. 03/L-174 on Financing Political Subjects. Prishtina, Kosovo.

Central Election Commission. (16 January 2015). Policy No. 14/2015 on Financing Political Subjects and Sanctions. Prishtina, Kosovo.

Title: How to Improve Political Accountability in Party Financing in Kosovo: Exploring alternative options for improving oversight

Author: Yllka Buzhala

Editor: Besa Kabashi - Ramaj

Translated by: Artan Sadiku

Published by: Centre for Research, Documentation and Publication



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

**Swiss Agency for Development
and Cooperation SDC**



**Regional Research
Promotion Programme
Western Balkans**



**UNIVERSITÉ DE FRIBOURG
UNIVERSITÄT FREIBURG**

The RRPP promotes social science research in the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia). Social science research aids in the understanding of the specific reform needs of countries in the region and in identifying the long-term implications of policy choices. Researchers receive support through research grants, methodological and thematic trainings as well as opportunities for regional and international networking and mentoring. The RRPP is coordinated and operated by the Interfaculty Institute for Central and Eastern Europe (IICEE) at the University of Fribourg (Switzerland). The programme is fully funded by the Swiss Agency for Development and Cooperation (SDC), Federal Department of Foreign Affairs.

The views expressed in this Policy Brief are those of the author and do not necessarily represent opinions of the SDC and the University of Fribourg