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Corruption and Financing  
of Political Parties - Case  
of Serbia



Vanja Bajovic; Savo Manojlovic



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>> **FICHA TÉCNICA****CORRUPTION AND FINANCING OF POLITICAL PARTIES - CASE OF SERBIA**

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**>> ÍNDICE**

<b>1. Introduction</b>	6
<b>2. Statement of the problems</b>	8
<b>3. Legislative framework</b>	12
<b>4. Institutional mechanisms</b>	17
4.1. Independent Control Agency	17
4.2. Financial transparency	20
4.3. Independent Judiciary	22
<b>5. Social conditions</b>	24
<b>6. Conclusion</b>	27
<b>References</b>	29
Internet sources	30
Newspaper articles	31

## &gt;&gt; RESUMO

Este trabalho focou-se na corrupção política na Sérvia, na área do financiamento dos partidos políticos. No primeiro capítulo, são descritas várias formas de corrupção política em relação ao financiamento partidário e as suas peculiaridades em países em pós-transição económica. São também analisados os mecanismos legislativos, institucionais e sociais anticorrupção. O segundo capítulo é dedicado ao quadro legislativo, com particular incidência na lei sérvia do financiamento de actividades políticas e nas suas disposições anti corrupção. Os mecanismos institucionais, que incluem a agência de monitorização, a transparência financeira e a independência judicial, são analisados no terceiro capítulo. Por último, o acompanhamento pela imprensa livre, o público geral informado e outras condições sociais são discutidos no final. Este artigo é ilustrado por inúmeros exemplos práticos da Sérvia, faz um exame crítico da implementação dos mecanismos citados e providencia algumas sugestões legislativas para a sua melhoria.

**Palavras-chave:** corrupção política, partidos políticos, financiamento partidário, Sérvia

## &gt;&gt; ABSTRACT

*This paper focused on political corruption in Serbia in area of political party funding. In the first chapter are described various forms of political corruption regarding party funding and their peculiarities in post-transitional countries. Legislative, institutional and social anti corruption mechanisms are analyzed after that. The second chapter is dedicated to legislative framework, with particular focus on Serbian Law on financing of political activities and its anti corruptive provisions. Institutional mechanisms that include monitoring agency, financial transparency and judiciary independence are analyzed in the third chapter. Finally, monitoring by free press, informed public and other social conditions are discussed in the end. The paper is illustrated by numerous cases from Serbian practice. It critically examines implementation of quoted mechanisms and gives some legislative suggestions for their improvement.*

**Key words:** political corruption, political parties, funding of political parties, Serbia

*IN MEMORIAM OF VERICA BARAC<sup>1</sup>*

*"There are two things that are important in politics.  
The first is money and I can't remember what the second one is".  
(Mark Hanna)*

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<sup>1</sup> Verica Barac (1955-2012) was a president of Anti Corruption Council in Serbia. Her moral authority, courage and dedication to the fight against corruption in Serbia greatly outgrown small authorities of the body she presented. She bravely called attention on many corruptive affairs, but her work had been subverted and marginalized, while her reports were concealed and boycotted in media. Today, everybody pronounced her name with huge respect and she became a symbol of anti-corruption struggle in Serbia. The authors dedicate this paper to Verica Barac, aiming to preserve memory and show huge regard to this brave woman.

## >> 1. INTRODUCTION

European Parliament recently asked Serbia to examine twenty-four controversial privatizations that took place in the last few years. It is difficult to examine them critically and scientifically, since documentation about all these privatizations is officially secret. However, it raised the question of money in the politics and political corruption. Monetary support and funds are basic precondition for proper functioning of every political party. It is a frequently quoted remark by Jesse Unruh, that "Money is the mother's milk of politics". Political parties pretends to "win elections" and they need significant financial sources for political "fight" and marketing. Money "invested" in electoral campaign are one of the crucial factors for electoral success. However, it raises a question whether political actors will represent the interests of their voters and citizens, or private interests of their "wealthy donors". Connections between financial and political powers have always been strong, but the problem arise when such connections starts to endanger the principles of free competition in the politics and on the market. Political stage actually becomes the market of the mutual favors and secret agreements. There is no country in the world that is immune to such disease. Numerous scandals involving high-level government officials are reported over world (Helmut Kohl scandal in Germany, Sarkozy scandal in France, the Lockheed scandal in Italy, and so on). The atmosphere in post-transitional countries is even more suitable for its flourishing, having in mind developing processes of free-market, independent judiciary, weak and underdeveloped political and economic institutions, unable to control their "rulers". There is belief that political system in Serbia actually stimulates political corruption. According to statistics, for over 80% of the Serbian citizens the domain of political parties and public services represents the most corrupt aspect of life (UNDP Serbia, 2011). Therefore, political parties that should be the key factor in combating political corruption, actually become its biggest generator.

For the purpose of this paper political corruption will be defined as "any transaction between private and public sector actors through which collective goods are illegitimately converted into private-regarding payoffs" (Heidenheimer et. al. 1993). Fundamental criteria in defining corruption is violation of impartiality principle, that implies objective and fair decision-making, independent of financial, family or other relations between decision-maker and third party. Regarding that, we concur with Kurer (2005) in stating that "corruption involves a holder of public office violating the impartiality principle in order to achieve private gain".

Area of political parties financing is particularly vulnerable to political corruption. According to a typology developed by Pareto V. (1935), there are three motives for providing political funds: 1) idealistic or ideological, 2) social, aiming at social honors or access, and 3) financial, striving for material benefits. Unfortunately, Serbian practice demonstrates that the last one prevails.

The purpose of this research is to examine the connection between political parties funding and corruption, with particular focus on Serbian case. There is belief that political system in Serbia actually stimulates political corruption. Political parties pretends to "win elections" and they need significant financial sources for political "fight" and marketing. Election campaigns are costly and there is no political party in Serbia who is able to provide necessary finances only from legal sources that are, according to law, very limited. Thus, in order to bridge the gap, party has to "sell something" in order to earn money for functioning. The matter of transaction become the promise that the party will, if win elections, give certain benefits to its wealthy donors. Financial magnates are more than interesting in such "transactions" bearing in mind their privilege positions in future economic competitions (public procurements, privatizations, taxes, etc.) On that way, free market and political decisions actually becomes the matter of transaction. The other noticeable forms of political corruption regarding party funding, like party taxation, misuse of public resources for private purposes etc., are discussed in the first part of the paper. It is followed by analyze of most importunate anti corruptive mechanisms and their implementation in Serbian practice.

## >> 2. STATEMENT OF THE PROBLEMS

According to some sources, corruption in the financing of political parties and election campaigns may take three main forms: *quid pro quo* contributions to political party and candidates by individuals, groups or companies in return for benefits; the misuse of public resources by incumbent parties or politicians for electoral purposes; and the buying of votes. (Open Society 2004) The first and second form are directly related to political party founding, while in the case of voters bribery, the money is not given to the party, but the political party is one who gives money for a vote. Thus, bribery of voters can not be related directly or indirectly to political party funding. From this reason this form of political corruption, although present in Serbia<sup>1</sup>, it is left without the scope of this paper.

First issue is related to the most commonly recognized form of corruption in political finance, and involves provision of financial resources by private donors to the party, in return for favorable treatment. According to Philp M. (2002), this type of corruption involves four key components: 1. A public official (A), who, acting for personal gain, 2. violates the norms of public office, and 3. harms the interests of the public (B) 4. to benefit a third party (C) who rewards A for access to goods or services that C would not otherwise obtain. Party that win election is able to return the favors to its donors, allocating licenses, state contracts, tenders and other economically advantageous arrangement. As it is widely acknowledged, "there is no free lunch in economy, there is no free donations in political party funding". This type of political corruption is common feature of all systems that allows private donations, but in post-transitional countries of South East Europe has particular dimension, having in mind historical legacies of state-managed economy, lack of a strong private sector, scarcity of resources, and bureaucratic mismanagement. Disproportionately large role of individual donors in these countries provides them in return a large political influence on decision makers. It is widely speculated that politicians reward their donors with the benefits of state contracts or privatization decisions. Illustrative example is criticism of Serbian public provoked by the Law on urban planning and construction from 2009 that was adopted urgently, without public discussion. In the practice,

<sup>1</sup> Data show that an average of 7 per cent of citizens at the last local elections and another 7 per cent at the last parliamentary or presidential elections were asked to vote for a certain candidate or political party in exchange for a concrete offer of money, goods or a favor. (UNDOC 2011)



this law enabled controversial businessmen for whom it was believed that were closed to governing structures, to purchase bankrupted public companies and public lands on extremely low prices.

Particular problem of post-transitional countries with historical legacy of one-party system is so called "Favouritism" or cronyism that implies granting offices or benefits to friends, relatives, or political party members, regardless of merit. Fraud-ridden employment competitions or political appointments to directorships and oversight boards in public companies are illustration of this phenomena. Principle of impartiality is broken, since the jobs are not obtained due to expertise and qualities, but due to party membership. Phenomena often known as "corrupt mentality", visible through people's values, attitudes and behavior is common feature of all post-transitional East European countries. In one-party system that dominated for more than half of a century (1945-1991) membership to communist party was inevitable condition for professional promotion. Introduction of the political pluralism at the beginning of '90s, did not signify resignation with this heritage. According to Walecki (2003), "People did not change their attitudes during 1989–1991; they only modified old patron–client relations." Potential job in public institutions and state-owned enterprises is very powerful and potentially corrupt mechanism to assure loyalty to political party, having in mind that in 2007 was estimated that the government controls nearly 40,000 appointments at all levels of executive authority in Serbia (Pesic V. 2007). According to UNDOC research (2011), recruitment procedures in Serbian public sector still suffer from lack of transparency, at least in the opinion of applicants who were not recruited. Two thirds of those who did not get a job thought that somebody else was employed due to nepotism or party membership, while an additional 14 per cent believed that somebody else was hired due to bribery. Only 8 per cent believed that somebody else better fitted the job requirements!

Accompanying phenomena is so called "party taxation" that implies that party members appointed on managerial position in state-owned enterprises, public companies or other profitable positions, one part of their high salaries donate to political party. Party taxation is usually stated as the problem of CEE (Walecki, 2003), as one of the tools for compensation of generally low income from party membership. According to one research (Mair P. and van Biezen I., 2001) conducted in four CEE countries, only 2,8 per cent of citizens are party members, what is double less than 5,5 per cent in 16 analyzed countries of Western Europe. In Serbia, 6 % of the citizens are party members (Stojiljković A., 2008), what is more than in Western Europe, but at the same time, party taxation is additional source of funding. Available data shows that in some cases donations are even higher. Among of the fifteen individual

private donors of one of the ruling political parties in Serbia (SPS)<sup>2</sup>, whose names are published on the web-page of this party, through Internet research is easy to found that nine of them are on leading managerial positions in state-owned enterprise or institutions. Total amount of their donation makes 66 % of total private donations to this party!

Donation by the public officials are explained by the fact that they were appointed due to the political party, what "morally obliged" them to donate political party in return! Only one fact is "overlooked"- In democratic society party membership cannot be crucial condition for employment or appointment on experts positions!

The last issue concerns to linkage between political, administrative and financial power. Leading officials of political parties provide very profitable jobs for their private companies, or companies owned by their relatives, friends or other related persons. These companies usually get very profitable jobs in dealings with the State and privileged position on the Market. Part of the profit is usually "reinvested" in the party, or it is provided by the other, not necessarily financial services. Serbian political stage is full of illustrative examples.

Security Company "Protekta group" owned by the husband of one of the highest officials of Democratic Party, secures numerous public institutions like Treasury, Zvezdara Municipality, Agency for license of liquidators, National Employment Service, Tax Administration, etc. (B92, 2012, July 23). This Company donated to Democratic party 2.000.000 RSD (around 20.000 of Euros) in 2011, and one year latter it donated the same amount for parliamentary elections.

The public relations agencies, marketing and production companies, owned by the ruling politicians or persons related to them, have a special place in media financing. Anti Corruption Council (2011) particularly analyzed the cases of *McCann Erickson* Agency, which is owned by Democracy Party member Srdjan Saper and the Multikom and Direct media, owned by Dragan Djilas, mayor of Belgrade and the Democratic party deputy president. These agencies have a significant role in the advertisement market and numerous contracts with the state institutions and other state bodies (Ministries, state-owned enterprises, public companies and institutions, etc...).

"A media" whose president is member of the ruling G17 party, also has

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<sup>2</sup> In the paper are used Serbian abbreviations for the names of political parties. Socialist Party of Serbia (SPS), Serbian Progressive Party (SNS), Democratic Party (DS), Liberal-Democratic Party (LDP), Democratic Party of Serbia (DSS) New Serbia (NS), Serbian Revival Movement (SPO) and Radical Party of Serbia (SRS).

a contracts with numerous public institutions (The Republic Institute for Sport, The Republic Institute for Health Insurance, National Agency for Regional Development, etc). It is also quoted that company "Profajler tim", where SNS highest official Aleksandar Vučić was employed have contracts with municipalities where SNS has the power (Anti Corruption Council, 2011 ).

Leader of the Liberal Democratic Party is the owner of the company (Radna grupa), that had a profit of 3,2 millions RSD (about 40.000 of Euro) in 2009, although this company was registered on 14. December 2009! (Press Onilne 2010, May 8).

Therefore, political parties that should be the key factor in combating political corruption, actually become its biggest generator. On the other side, all formally proclaimed anti corruptive efforts are useless without political will to fight corruption on the biggest level. Having in mind that sometimes law can be escaped through loopholes, true reform can only be achieved when parties voluntarily adopt reform measures. (Shari and Bear, 2005). Following chapters deal with fundamental anti-corruption mechanisms, focusing on their implementation in Serbia. The question that arise is weather these mechanisms are result of strong political will to fight corruption, or result of international pressures and aspirations towards EU membership.

## >> 3. LEGISLATIVE FRAMEWORK

In Serbian legislative history regarding political party funding, after introduction of party system in 1990, are distinguishable three periods:

- 1990-2003: Funding of political party was legally unregulated. This period in general was characterized by: abuse of public resources and state-owned enterprises by governing party; foreign donations as main source of non-ruling party funding; uncontrolled donation by controversial donors;
- 2003-2011- The first Serbian Law on the Financing of Political Parties (*Zakon o finansiranju političkih stranaka*) was adopted in 2003 and entered into force in January 2004. Despite original enthusiasm, this period was marked with completely inadequate monitoring mechanisms and number of unclear, illogical, and unenforceable provisions, what ruined entire legislative concept (see: Transparency Serbia, 2004). Illustrative examples are obligation to publish financial declarations but no deadlines to do so, obligation to disclose donors to “regular” party operations, but not to campaign funds, too law limitations on campaign spending, insufficient even to cover media campaign or provisions that could not be applied equally to all participants in electoral campaign.<sup>3</sup>
- In 2011, new Law on Financing of Political Activities entered into force. Key anti-corruptive mechanisms prescribed by this law are: more effective monitoring mechanisms, limitations of private donations and membership fees, prohibition of political party participation in lucrative activities, prohibition of prima facie corruptive donation and criminal and administrative punishments.

*Public vs. private funding:* New Serbian Law encourages a mixture of public and private funding. Public donations are not high, but enough to provide proper daily functioning of political subjects. The biggest advantage of public funding is financial independence from donors. Financially independent political party is more inclined to operate in the interest of the public instead in the interest of wealthy donors. On the other side, risks of public funding should be considered as well. According to Nassmacher (2003) independence of parties may be undermined by financial reliance on the public purse, what is

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<sup>3</sup> The law, for example required the parties to conduct all financial transactions relating to campaigns through a specially designated bank account. On the other side, entities like “citizen groups,” which also had a right to participate in elections, are not recognized legal persons and therefore were not able to open bank accounts.

a major problem in countries during transformation, where dominant parties are in power. Besides, decisions about the amount and allocation of public funding may be unfair to opposition parties. Finally, opinion polls have shown that financial subsidies for parties are extremely unpopular with ordinary citizens. Nassmachers' list could be extended by the risk of "preservation" of political life. Having in mind that public funds are typically shared according to electoral results, it is more difficult for new political parties that did not participate in election to emerge and equally participate in political life. Private funding, is beneficial for flourishing of new political entities, but opens the doors of their misuse, encouraging 'godfathers' to establish their one political parties or dominant influence on the existed one through big donations (phenomena known in South America as *partido de aluguel*). In spite if that, exclusive relaying on public funding is dangerous concept in developing democracies, with unconsolidated political stage. Political arena in Serbia shows constant fluctuations and frequent emergence of new political parties (Table 1). Despite the quite restrictive regulation for creation of political parties (10.000 signatures), in Serbia is currently registered 85 political parties! New parties often emergence from existed (NS emerged from SPO, DSS, DC and LDP from DS, SNS from SRS, etc) what points out unconsolidated political stage. Annulment of private donations would be extreme and bad solution, because it would mean violent fixation of political stage.

*Table 1 : Fluctuations on Serbian political Stage\**

	1990	1992	1993	1997	2000	2003	2007	2008	2012
SPS	46,1	28,8	36,7	34,2	13,5	7,6	5,6	7,6	14,6
SPO	15,8	16,9	16,6	19,1	3,7	7,7	1,2	-	-
DS*	7,4	4,2	11,6	-	64,4	12,6	22,7	38,4	22,1
DSS*	-		5,1	-	64,4	17,7	18,8	11,6	7
SRS	1,5	22,6	13,8	28,2	8,5	27,6	32,4	29,5	4,6

\* DS, DSS and other democratic parties made coalition (DOS) for 2000 election. Cited result is result of electoral coalition. The same parties boycotted elections in 1997. In 1992 DSS was small coalition party in DEPOS led by SPO. In 2008 and 2012, SPO was smaller partner in coalitions with DS, but according to researches, from 2007 SPO was supported by 1%-2% percentage of voters.

*Limitation of individual private donations:* Limitations of individual private donations are common in comparative legal practice (Reginald and Tjernström, 2003) introduced with the purpose to "parcel out" financial influence on political party. According to Panebianco (1998) "A plurality of financial

sources safeguards the party from external control". Instead of one or few "wealthy donors", parties are forced to collect donations from many different individuals and companies. Donors are numerous and "exchangeable", what minimize their influence on political decisions. Serbian Law of 2003 also limited individual donations, but limitation was connected with political party (Manojlović, S. (1), 2011.). Donors were allowed to donate many political parties in political coalition, up to certain amount. Therefore political coalition practically received donations much above legislative limit. New Law of 2011 instead of that, limited amount of donation, what practically means that one donors is allowed to donate more than one party, but total sum of all donations can not pass legislative limit. One more contradictory provision of law/2003 regulated that the total amount from private sources (donations, membership fees, incomes) cannot exceed total amount of public donations (Art. 5 par. 7). It undermined plurality of private sources and potential donors, preventing at the same time creation of new political subjects. Having in mind that private sources are limited by amount of public donation, emerging political entity that did not participate in last election is automatically disqualified. The most importunately, this provision in reality only motivated political entities to hide their real finances and donors.

*Limitation of membership fees:* Although the income from membership subscriptions in Serbia is usually small, purpose of this limitation is striving to prevent different abuses. Limitations of individual private donations could be avoided, through unlimited membership fee. Old Law only provided that membership fee that exceeds the limit proscribed by the Statute of political party, will be treated as donation (Art. 5 par.1). Law, on the other side did not oblige political parties to precise membership fee, neither political parties precise it by the Statute. Thus, this provision was not applicable and this "legislative hole" was used to avoid limitations of individual donations. In the practice contributions by individual donors were doubled - donation plus membership fee that often exceed the amount of donations! By the new Law is determined maximal amount of contribution that cumulates membership fees and donations. It also contributes to the repression of "party taxation" of the party officials, appointed on leading managerial position in public companies and institutions.

*Prohibition of lucrative activities:* Political parties are not commercial subjects; they perform public function with objective to form political will of citizens. Otherwise, ruling party would be privileged in commercial transactions and public goods could be abuse easily. Problematic aspect in Serbia

is privileged position in the market of the companies owned by the persons strongly related to political parties and its officials. Lucrative promotional activities, like selling T-shirts, lighters, badges and similar items with party symbols, are importunate source of political founding in many countries. Popularity of American president Barac Obama for example, during his presidential campaign, could be compared with popularity of biggest American movie stars. Selling of items with his picture was significant financial source for his campaign (Luo M. 2008, February 20). Disappointed Serbian citizens on the other side, mostly have negative perception about politicians and political parties. Selling the items with party's symbols never provide some bigger financial sources, but opened the door for certain abuses. Public institutions for example, purchased books published by ruling party,<sup>4</sup> what leads to creation of secret financial funds. Calculating between minor financial sources that parties regularly earn by selling their symbols and possibility of different abuses, New Serbian Law prohibited political parties to deals with lucrative promotional activities.

*Prohibition of prima facie corruptive donations:* New Law explicitly the following source of income:

1. Donors whose contributions implies covert danger for sovereignty of the State (foreign States, foreign citizens or companies, anonymous donors);
2. Donations that means exhaustion of State sources (public institutions and public companies, companies and entrepreneurs engaged in services of general interest, institutions and companies with state capital share, other organizations discharging administrative authority);
3. Donations by the entities whose privileged positions on the market could be cover for money laundering (trade unions, associations and other non-profit organizations, churches and religious communities)
4. *Prima facie* corruptive donations that is result of donors dependence of governmental decisions (Gaming industry; importers, exporters and manufacturers of excise goods, legal entities and entrepreneurs with due, and unsettled, public revenue obligations).

*Sanctions:* Effective enforcement of legal provision requires imposition of sanctions as deterrence mechanism for possible violators. In order to be effective, political finance rules have to be backed up by adequate sanctions.

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<sup>4</sup> When Serbian Radical Party (SRS) was in the Government, Ministry of Finance purchased the books published by the company "Velika Srbija" owned by SRS, and profit was used for financing of the party (Transparency Serbia 2006, June 14).

Law on financing of political activities regulate different types of offences and provide a range of possible penalties. Following behaviors are treated as criminal offences:

- Giving or providing funds for financing of the political entity, contrary to provision of this Law, with intent to conceal the source of financing or amount of collected funds
- Committing violence or threatening violence, places in disadvantageous position or denies a right to a person or entity, because of donation given to a political entity.

Violence of other provisions is treated as misdemeanor, like failure to publish the list of donors and amount of donations, opening multiple accounts contrary to the Law, failure to open a separate account for financing of electoral campaigns, failure to submit the report on electoral campaign costs, and so on. Procedure could be initiated against political entity and its members, as well as against the donor who breaks the law.

The new law broadened list of possible sanctions that included imprisonment and fine, by the loss of public funding. Experience showed that this sanction has proved an important tool in preventing and sanctioning political finance violations, especially in countries where parties mostly depend on public funds. (Ohman M., 2009)

However, effectiveness of prescribed sanctions finally depends on their practical application. The sanction will be "effective, proportionate and dissuasive" only when they are applied in the practice, forcing the actors to change their behavior to avoid such punishment. Punitive behaviors and measures in Serbia are properly prescribed, but inadequately applied. In 2010 and 2011 Anti Corruption Agency submitted eight misdemeanor reports for irregularities in political party financing. No one sanction was enforced, since seven procedures are still on-going and one is statute of limitation. Various empirical researches suggests that situation is not better regarding criminal procedures in general for corruptive criminal offences (van Duyne et. al. 2010). Thus, it is not surprising that, according to GRECO Report (2010), the biggest weakness of political funding in Serbia was that "not a single sanction has ever been applied in practice for violations of the rules of political financing".



## >> 4. INSTITUTIONAL MECHANISMS

There is believed that “Unenforced limits are worse than no limits because some day they will produce a scandal which will damage people's trust in democracy as a form of government and in democratically elected leaders who do not live up to their own laws.” (Nassmacher 2003) Legislative efforts are futile without adequate institutional mechanisms for their enforcement. Regarding political party funding, crucial anti-corruptive institutional measures are independent monitoring agency, transparency of political funding, and independent judiciary.

### 4.1. Independent Control Agency

Regarding political funding, the theory distinguishes four models or options (Nassmacher, 2003). The first is autonomy option (Sweden) that treats parties as voluntary associations entitled to the unregulated privacy of their internal organization and financial transactions. Thus, it is against interference of state agencies in party funding. High level of political culture, developed social conscience and organized society are backing stone for its functioning. The second is the Transparency Option (Germany). Focus is on the right of the people to know all aspects of party behavior, including fund-raising and spending. Purpose of the rules is to provide as much transparency in party funding. The third is the Advocacy Option (USA) that emphasizes the need of creation a public agency, responsible to monitor and control the flow of political funds, on behalf of general public. The fourth Diversified Regulation Option (Canada) focused on even stronger control and authorities of monitoring agency, with independent officials entitled to investigate noncompliance with the rules. Like majority of emerging democracies, Serbia can not be strictly classified according to these options, but legislative efforts were directed toward stronger control of party funding by independent agency. Like majority of emerging democracies, Serbia can not be strictly classified according to these options, but legislative efforts were directed toward stronger control of party funding by independent agency. Article 6 of the United Nations Convention against Corruption also requires the countries to establish “preventive anticorruption body or bodies.

Monitoring function in Serbia was initially given to the Republican Electoral Commission and parliamentary Finance Committee, mostly composed by political representatives. Commission and Committee did not have capacity to conduct any analysis of financial declarations submitted by political parties,

and were not obliged to initiate proceedings against parties that violated the rules.<sup>5</sup> In addition, mutual interest forced them to respect the “law of silence” and although political parties mutually accused each other’s in newspapers and TV-shows, no one administrative or legal procedure have been initiated.

**Anti-Corruption Agency** was established in 2009, intended to be an impartial monitoring body, independent of government as well as parliament. Agency has nine members, who are nominated by different institutions<sup>6</sup> and finally elected by National Assembly, for a four years term. President of the Agency is appointed by the members on public competition, for a five years term. Procedure for appointment of members, including their term of office, is certain safeguards for independence. Regarding that, Serbian legislation could be improved by more strict appointment procedure and longer term of office. Involvement of more political actors in election of public officials is one of the basic presumptions of their future impartiality and independence. Therefore, instead of Agency members’ election by majority of representatives, present in the Parliament during the voting, better solution would be their election by the general majority of all national representatives. Four-year terms of office of Agency members overlaps with four-year term of office of Government and political representatives in National Assembly, what practically means that every new ruling majority elect new members. Impartiality principle requires extension of their mandate.

Anti-corruptive Agency is authorized to monitor party funding. Concerning that, it is importunate to distinguish financing of parties activities in election and during non-election period. Non-election spending are more noticeable (rent, bills, etc), but spending during electoral campaign (television, newspaper and billboard advertisement, promotional material, public meeting etc.) are much higher and more ambiguous. During election, Agency need much more staff who will monitor campaign in the field, and also need more money to engage them. The budget of an enforcement agency should preserve its impartiality and independence. Agency recommends its annual budget, but during electoral campaign, more resources are required. Economic situation in Serbia is characterized by very low GDT and constant struggling with budgetary deficit, so it is not surprising that politicians are not willing to allocate extra budgetary-money to the Agency that should supervise their spending. Independence would be jeopardized in the situation when independent con-

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<sup>5</sup> The European Commission noted the lack of enforcement of sanctions in its 2006 Progress Report (European Commission, 2006).

<sup>6</sup> Members are nominated by: 1) Administrative board of National Assembly; 2) President of Republic; 3) Government; 4) High Constitutional Court; 5) State Audit Institution 6) Ombudsman and Commissioner for Information of Public Importance by mutual agreement, 7) Social-Economic Council 8) Serbian Bar Association 9) Association of Journalists.

trol body has to “bag and bargain” with the Parliament for extra-money during election. In order to preserve financial independence of the Agency new law regulates that during elections extra-resources would be allocated to the Agency in proportion with resources that political parties received for electoral campaign.

**State Audit Institution** was established in 2005, as the highest authority for auditing of public funds in Republic of Serbia. SAI audits the lawful execution of the annual budget, audits local government institutions, and individuals. Irrational transactions by the companies that are connected with party officials or donors are clear indicator of corruption. Property and assets of party officials are controlled in order to check whether it was increased during performance of public function. Reasons for concern appears, for example if the profit of the company owned by public officials or related person is significantly increased during his/her mandate, or if extra-profit is result of transactions with the state or public companies.

**Anti Corruption Council** was established in 2001 as an expert advisory Governmental body, with the task to advice the government on preventive and repressive measures in the fight against corruption and to oversee the implementation of these measures. Council analyzes the problem of corruption and the activities in the fight against corruption, proposes measures to the Government to be taken in order to enhance the fight against corruption, and monitors their implementation. Difference between the Anti Corruption Council and Anti Corruption Agency lies in the fact that the Council is only advisory body, while the Agency has much stronger control, enforcement and punitive mechanisms. Besides that, Agency is responsible for curbing conflicts of interest and controlling the funding of political parties.

In addition to the bodies noted above, Public Procurement Office, Republic Commission for Protection of Rights in the Public Procurement Procedures, Administration for the Prevention of Money Laundering, Tax Administration and other Serbian institutions also deal with prevention of corruption. Following their number, uninformed foreign observer could get impression that Serbia makes great efforts in fighting against corruption. However, multiplication of the bodies with similar functions could be counterproductive and potentially dangerous. Overlapping of authorities often lead to the situation that nobody wants to deal with a problem, transferring responsibility to another institution. Entire anti-corruptive concept could be jeopardized if only one of the responsible institutions do not perform its function adequately. Director of the State Audit Institution for example, strongly opposed to the authorities he got by the new Law, believing that State Audit Institution, as independent Institution is not obliged to obey the orders of Anti-Corruption

Agency. Probably the more efficient solution would be existence of one independent anti-corruption body with strong power.

## 4.2. Financial transparency

Financial transparency has a crucial role in effective monitoring of political funding. Cash-paying culture, traditionally dominating in Serbia, in addition to weak control of taxes and property, impede realization of this requirement. However, new law tried to make political funding more transparent, obliging political party to open special bank-account for electoral campaign, submit annual financial report and particular electoral reports to the Agency, etc. Reality shows that financial transparency is not so “popular” among politicians. During public discussion about new law, working group members suggested that all payments and donations to political party should be made via bank account in order to improve identification of contributors (Manojlovic S. (2), 2011), but politician in the Parliament strongly opposed to this provision. Finally was agreed possibility of cash payments up to certain amount, with the issuing of voucher. However, cash payments remain a threat to financial transparency, having in mind possibility of covering real donors and donations by issuing of fictive vouchers.

*Table 2: Spending for electoral campaigns  
(Source: Transparency Serbia, unpublished survey)*

	2007	2012
DS	133.391.053 (1.688.494 EUR)	563.289.835 (4.773.642 EUR)
G17+	65.632.867 (830.795 EUR)	437.077.608 (3.704.047 EUR)
LDP	74.489.380 (942.903 EUR)	214.693.053 (1.819.432 EUR)
SRS/SNS	119.474.109 (1.518.035 EUR)	343.859.454 (2.914.063 EUR)
DSS	112.924.820 (1.439.428 EUR)	68.356.879 (579.295 EUR)
SPS	43.779.197 (554.167 EUR)	152.770.491 (1.284.665 EUR)

\* Part of the leading SRS officials of SRS created in 2008 new political party (SNS) and took over majority of SRS voters.

Financial transparency is the purpose of financial control of political parties, their donations and spending. Cost analyze of electoral campaign 2007 made by Transparency Serbia (unpublished analyze) found that parties allegedly covered majority of costs by public sources, what is contrary to all economic calculations of electoral costs. Comparison of reported electoral

spending in 2007 and 2010 (Table 2) shows significant increase<sup>7</sup> after enforcement of the new Law, that gave stronger monitoring power to the Anti Corruption Agency)

In addition to more expensive electoral campaign and the fact that in 2007 were organized only local, while in 2012 local and presidential election, enormous reported raise of electoral spending certainly lies in more effective monitoring. However, there are still certain omissions and tendency of the parties to cover real costs. SNS for example, reported only one public happening (media conference) despite the well known organization of numerous public meetings and convention during electoral campaign. DS reported more public meetings, but there are still some media covered happenings, still advertised on the internet, that are not covered by submitted report.

Regarding non-electoral spending, it seems as a common practice of political parties in Serbia to reduce them in submitted reports. (Table 3). Significant disproportion in the reported spending of political parties with similar infrastructure is evident (DS and SNS). Reported advertising costs of G17 and LDP are lower than advertising costs of DSS, although in the end of the March 2011 G17 and LDP had much stronger media campaigns than DSS. According to calculation made by CESID (Vuković 2008), made according to advertising market prices, basic annual costs of political campaign are about 7.900.000 EUR, so emerges that no one political party does not report real costs. Cost analyze of electoral campaign 2007 made by Transparency Serbia (unpublished analyze) found that the parties covered majority of costs by public sources, what is contrary to all economic calculations of electoral costs.

*Table 3: Annual spending of biggest political parties in Serbia in 2011*

	Overhead costs	Advertising material	Public happenings	Salaries of employees	Different trainings	Other cost
DS	109.950.142 (1.057.212 €)	736.351 (7.080 €)	0	361.444 (3.472 €)	8.717.216 (83.819 €)	64.046.079 (615.827 €)
SNS	10.244.371 (98.503 €)	114.899 (1.104 €)	1.677.030 (16.125 €)	7.019.776 (67.497 €)	385.390 (3.705 €)	2.207.929 (21.230 €)
LDP	20.048.415 (192.773 €)	2.086.415 (20.061 €€)	5.761.291 (55.391 €)	1.150.827 (11.065 €)	534.989. (5.144 €)	444.472 (4.273 €)
SPS	38.509.721 (370.285 €)	1.372.541 (13.197 €)	8.227.287 (79.100 €)	42.285.525 (406.562 €)	1.182.436 (11.369 €)	47.184.332 (453.695 €)
DSS	26.148.599 (251.428 €)	2.847.220 (27.377 €)	1.377.035 (13.240 €)	23.750.988 (228.337 €)	743.145 (7.145 €)	8.928.181 (85.847 €)
G17+	29.414.035 (282.827 €)	2.995.244 (28.800 €)	6.146.676 (59.902 €)	22.657.393 (217.859 €)	313.821 (3017 €)	0

<sup>7</sup> DSS is only exception. The reason could be the fact that in 2007 DSS was the strongest party of governing coalition, who's President was the Prime Minister of Serbia. In 2012 DSS influence was significantly declined and according to Anti Corruption Agency monitoring it had one of the modes electoral campaign.

Financial reports submitted by parties contain limited information about donors and private donations. Some parties have claimed that they do not have any individual donors and that state funding covers all their financing needs. It raises suspicions that a great deal is not being disclosed. In spite of generally known fact that big financial magnates are usually the main donors of political parties, no one such donations was reported!

Majority of the biggest political parties reported donations from the companies that are not registered in Serbian Registry Agency. Logical explanation is that such companies were temporarily established in order to give donations to certain political party and cover real donors. What is also noticeable are unreasonably high donations of certain companies, in comparison with their annual profit. (Milenkovic M. et. al. 2009, May 06). Profit of "Vinaduct Company", for example was 3.200.000 RSD (27.000 Euro) in 2011, and the same company donated 2.800.000 RSD (24.000 Euros) to political party (NS), what is 87,5% of total annual profit! Company "Outsourcing management solution", whose bank account was blocked from January 2011, donated 7.000.000 RSD (59.000 Euros) to LDP for electoral campaign. The question raises whether this marketing company, with blocked bank account, that does not have even basic web-page, was a real donor, or the name of this company is just quoted in report in order to hide real donors!

### **4.3. Independent Judiciary**

Court proceedings and enforcement of sanctions are key indicators that non obedience to the law will not be tolerated. As it was noted above, the biggest weakness of political funding in Serbia was that "not a single sanction has ever been applied in practice for violations of the rules of political financing". No one procedures against the persons who break the law during electoral campaign did not finalized, what shows either that courts procedures are not effective, or that there is not political will for prosecution. According to European Commission report from 2006, the most critical problem is the insufficient protection of judges and prosecutors from political influence. Judges are subject to a 3-year probationary period before permanent appointment, during which they would be particularly vulnerable to such influence. One year latter, Venice Commission (2007) called attention to the problem of excessive role of the parliament in the selection/approval process of judges.

Full judiciary reform was conducted in 2009, but it did not fulfilled expectations. Even contrary, judiciary system after reform is perceived more dependent and corruptive. According to research of the World Economic Forum

for 2008/2009 regarding the judiciary independence, out of altogether 142 countries Serbia was ranked on 106th place. According to their latest Report for 2011-2012, three years after conducted judiciary reform, perception of independence of the judiciary worsened, and Serbia was ranked on 128th place! Citizens' perception of the corruption level in Serbia also worsened after conducted reform.<sup>8</sup> According to UNDP research, in October 2009 79% of the respondents were of the opinion that the judiciary is too corrupt to deal with corruption, in March 2010 81 %, while in November 2011, 83 % of respondents shared that opinion! During all this time, judiciary "keep strongly" the third place of most corruptive institutions, just behind political parties and health services.

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<sup>8</sup> In Serbia are noticed a difference between two forms of corruption within law enforcement institutions: The first is so called "petty" corruption or the acceptance (or extortion) of bribes for personal material gain in order to carry out law enforcement duties selectively. The second is political influence, that results in the same selective application of the law to individuals that are under the protection, or alternatively in the disfavor, of a powerful political figure who could jeopardize or improve the law enforcement official's status or livelihood. (CMI, 2007)

## >> 5. SOCIAL CONDITIONS

Free flows of information that implies media freedom, critical public, certain level of political culture, trust in public institutions, and adequate economic ambience, are desirable social framework for effective fight against corruption.

The basic philosophy behind the reporting of party income and expenditure is to make party accounts a subject of public debate (Nassmacher, 2003). It is essential for the voters to be informed about contributions of political parties, in order the judge dominant policy. In other words, if the ruling party is donated by Arms producing company, do not be surprised if the war start tomorrow! Voters have to be informed in order to bring rational decisions. Free flow of information through free media is crucial in that. Serbia does not have well-founded tradition of rule of law and free press. Like in others post-communist countries, culture of non-tolerance of different opinion that dominated for more then 50 years, obstructed development of critical thinking. According to recent research, Serbian media are still exposed to political pressures, that is primary result of following factors:

- lack of transparency in media ownership
- economic influence of state institutions on the work of the media through various types of budget payments;
- The problem of RTS, which, instead of being a public service, has the role of the service of political parties and ruling elites.

Numerous offshore companies are present in the media ownership, enabling concealment of real owners. The Anti-Corruption Council found out that among the 30 most significant media in Serbia (12 daily newspapers, 7 weekly magazines, 6 TV and 5 radio stations) even 18 media had lack of transparency in the ownership - their real owners are not formally known. *TV Prva*, *TV B92*, *Radio B92*, *Radio Index* and *Radio Roadstar* which have a national coverage, and also the print media *Vecernje novosti* and *Press* have the owners registered in Cyprus, while *TV Avala* and the weekly *Standard* have unknown owners from Austria. The significant group of media with non-transparent ownership has the formal owners and the informal owners are domestic businessmen or politicians (Happy TV, Happy Kids, Radio S, Pecat and Akter). (Anti-Corruption Council, 2011) European Parliament (2011) also expressed concern, pointing out Government's efforts to control media, lack of transparency and concentration of media ownership. Result of this is selective and non-objective flows



of information. Legislative changes are necessary in order to regulate media ownership. Limitation of media ownership concentration in one hand and elimination of “hidden” ownership possibility are first priorities.

Critical voters are final “judges” of political parties, having in mind that electoral success of the parties finally depends on their votes. Main aspiration of legislative concepts is to make political processes more transparent and open to citizens, in order to enable them to follow key political and economical decisions (public procurement, privatizations, donations to the parties, etc) and create their own opinion about “purity” and honesty of political decision-makers. The voting public has right to know who supports candidates and parties. It is widely acknowledged that “Sunlight is the best disinfectant” (U.S. Supreme Court Justice Louis Brandeis). In ideal political situation, voters would make decisions according to their rational economic interests (Rational voters’ theory), and they could punish dubious political transactions on the next election. Therefore, corruptive transaction would not be stimulating for political parties, having in mind negative effects they could have on voters. However, real situation is far from ideal. B. Caplan (2007) showed that “rational voter” is just a myth, and average voter is partly informed, mostly uneducated, prone to populism and mostly vote emotionally. Despite all advantages of critical public opinion, the voice of majority is not necessarily the most “reasonable” voice, since majority is prone to judge to quickly and impulsively even without reliable evidences. Borderline between corruptive and legal political behavior is thin and ambiguous and public sometimes react too severely even without basic understanding of political circumstances. Public criticism is justified for example, if donating company or individual has privilege of being granted a license or contract, if donor shows weak economical results but still keep leading position in the company, if donors have leading position in state-owned enterprises etc. On the other side, unjustified criticism could have negative results. Donation to political party does not means automatically that donors expect something in return. Lobbying is legal political activity, although public often see something “suspicious” in that. Illustrative example was the case when President of the Serbia Tomislav Nikolic during electoral campaign disclosed that some controversial Serbian businessmen paid him participation in TV show. It provoked strong negative reaction of Serbian public, in spite of “public secret” that many controversial businessmen are the biggest donors of political parties. (Politika, 2012, July 28). Only lesson that political parties learned from this case was that they should not reveal identity of their donors! Therefore is necessary to keep a delicate balance between corruptive and legal political behavior, public interest and media publicity, impartiality and partisanship, facts and rumors! Certain level

of political culture that cannot be reached “over night” or imposed by international pressure, is indispensable for making such delicate balance.

Additional problem in Serbia is general lack of public trust in institutions and their decisions. Among the citizens, prevail opinion that public institutions are corruptive or politically colored. Politicians additionally stir up such suspicions, frequently attacking institutional decisions as partial and politicized. Former NYC Mayor Rudolf Giuliani, for example, visiting the Belgrade during last electoral campaign of one political party (SNS) openly stated in very popular Serbian TV show that his visit was paid. Performing its monitoring function, Anti Corruption Agency asked SNS to report the details of this payment, since it was treated as donation. SNS refused that, claiming that Giuliani “was in private visit to his friends in Belgrade”, and accused Anti Corruption Agency that purposely “politicized all case”, working in the interest of their political opponents!

Regarding economic ambience, main generators of corruption are long and complicated administrative procedure for getting different licenses (working license, building license, etc...) and broad discretion of administrative bodies. In addition, post-transitional countries are faced with privatization of former public companies and underdeveloped market. Especially vulnerable is the sector of public procurement that implies purchasing of goods and services using public money. Around 15 percent—approximately 6 billion USD—of Serbian gross domestic product is spent on public procurement every year. Decline of tenders' participants is an indicator of decline of trust in impartial and objective tender's procedure. State Audit Institution and European Parliament (2011) found many irregularities in public procurements. Some betterment could be expected if new Serbian government fulfill electoral promise and regulate public procurement according to the standards of EU.

## >> 6. CONCLUSION

Clear set of rules and strict control over political funds is essential, especially in the countries that go through political and economic transformation. Adequate legislative framework of political party financing is needed to restrain corruption and provide fair political competition. In the words of Keith Ewing (1992), political competition under unregulated political financing would be like 'inviting two people to participate in the race, with one participant turning up with a bicycle, and the other with a sports car.'

Instead to be the result of social needs, it seems that Serbian laws are more result of international pressures, motivated by aspiration towards European Union membership. Therefore, despite many warnings about extremely high level of political corruption, effective and applicable Law on financing of political parties was adopted after more than two decades of party system.

Law on financing of political activities (2011) made certain progress in this area providing: more effective control mechanisms; more appropriate combination of public and private funding; prohibits political party participation in lucrative, commercial activities; prohibits certain prima facie suspicious donations; empowered Anti Corruption Agency with more authorities and provided its financial independence. First practical results are visible through comparison of submitted financial reports. Increased electoral spending is not only the result of more expensive electoral campaigns, but also of more effective Agency monitoring.

However, there are still certain shortcomings. Financial reports are still incomplete or imprecise. Disproportion in reported expenditures between political parties with similar infrastructure, raise a doubt about falsely reports. In spite of generally known fact that big financial magnates are usually the main donors of political subjects, no one political party reported such donations! Never-ending judicial processes raise a big concern, particularly having in mind that no one big affair about privatization or public procurement abuse did not concluded by judicial verdict.

Regarding legislative efforts, we strongly support introduction of following mechanisms:

- Total elimination of cash payments and donation of political subjects through bank-account, in order to improve identification of contributors
- Establishment of one monitoring agency with strong authorities, instead of multiplication of the bodies

- Media law reform purposed to eliminate concentration of the ownership and secret media ownerships
- Elimination of unnecessary administrative obstacles and discretionary decision-making
- Regulation of public procurement according to European standards

In addition to legislative reforms, judicial depolitization and departization of public companies, institutions and state-own enterprises should be promoted, as well as impartial appointments of public officials, transparent recruitment process and selection of employees according to competence and experience. Fight against corruption requires merging efforts of legislative, institutional and social mechanisms. Otherwise, even the best law remains only decoration without real effects. Corruption flourish as long as is economically more profitable to pay a bribe, than to make a business legally. It is certainly not realistic to expect that finalization of economic transition in Serbia would automatically leads to elimination of corruption, but end of privatizations and consolidation of the Market would probably lead to its decline. The reality is, however that even in the most developed countries, no monitoring effort or legal mechanism can totally eliminate grey areas and shady dealings, but it can be reduced on more reasonable level. It seems that politicians usually forgets what is, apart from money, the second "most important" thing in the politics. Fight against corruption reminds them that this is the interest of the citizens!

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