



INSTITUT PRO EVROPSKOU POLITIKU

**EUROPEUM**

INSTITUTE FOR EUROPEAN POLICY

## **Political Parties Finances in Czech Republic**

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## Legislative framework and other remarks

### ***Legislation - legislative acts that regulate the political parties finances in Czech Republic***

The general rules concerning political parties and political movements in Czech Republic are the articles No. 5 of the Constitution and the articles No. 20, 21 and 22 of the Charter of Fundamental Rights and Freedoms (see annexes).

The first law to regulate political parties and political movements and their finance was adopted in 1991 (law number 424/1991 Sb., October 2. 1991, § 17-20b). It is not a specific law: this law regulates all the aspects of a political party life from its the creation to the end and among all the rules this law enacts the principles of the political party's finances. This law, as we will see, was amended several times.

Other laws define the State's financial contribution in order to cover part of the electoral campaign expenses (today: law number 247/1995 Sb. specifies electoral rules, also amended several times, § 85). This type of income was first introduced by law No. 47/1990 Sb. which regulates the first free elections of June 1990, i.e. at a time when no legislative act regulate political parties' finances (law No. 15/1990 Sb. enables free creation of political parties, but do not specify any rule concerning financing). Another specific law also regulates political parties' finances in the case of elections in the European Parliament (62/2003 Sb.).

General principles are following ones:

The state financially supports political parties and political movements on the basis of their electoral results (law on political parties). There are two possibilities that may be combined: first each political party that received a certain percent of votes in parliamentary election should receive an amount corresponding to the electoral support. The only condition is that the party obtains more than a minimum percent (the concrete limit has

fluctuated over time as we will see). This type of contribution is called permanent contribution (*stálý příspěvek*). It is paid each semester during the four years of each legislature. The maximum amount is prescribed by law.

Secondly every national (i.e. parliamentary) or regional mandate is also remunerated for the party. It is called mandatory contribution (*příspěvek na mandát*).

The state should also pay a contribution in order to cover electoral campaign expenses (electoral laws) also on the basis of the electoral results of each party. There is no maximum amount: the amount is not related to the real expenses (it is an amount per vote).

The parties may also receive private financing (donations, membership fees, inheritance) or have commercial activities and other profit-making activities (indirectly the party has to create a society except in the case of the sale of books and other goods directly related to their political activities).

The practice shows that the greatest problem arise from donations where the origin is not clear. Over a certain value (currently 50 000 Crowns<sup>1</sup>), donors have to be known (their name published). This system proves to be insufficient.

Inspection of the regularity in the financing of a political party is handled by the Chamber of Deputies on the basis of the financial reports delivered by the parties. Sanction of irregularities is the non payment by the Ministry of Finance of the monthly account and the eventual payment by the party of double of the irregular sum. In case of uncertainties, the Ministry of Finance suspend payment. If the situation is corrected or

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<sup>1</sup> 1 Euro = approx. 30 CZK

shows to be right, the Ministry of Finance pays all the amount retroactively.

To a general extent, the Czech system is very liberal indeed. The only real problem which occurred was the temptation of limiting the public financing in 2000. The limiting amendments adopted by the Chamber of Deputies were cancelled by the Constitutional Court in order to protect smaller parties and their access to public financing.

Another general problem is the level of corruption, especially corruption of the political elites at the time they decided to privatize the Czech economy (i.e. mainly the first half of the 1990's and the beginning of 2000's). Corruption problems of the leading party ODS were revealed in the media after the split of the party (as inner opponents discovered suspicious donations and the party elite did not react to their demand of correction, they went out the party and published the facts), but did not really encourage a modification of the system of political party financing. The only real step forward in that area was censored by the Constitutional Court in 2000 (the Supreme Audit Office, which receives the power of controlling the political parties finances was not allowed to do so due to the terms of the Constitution which was not modified in order to allow this new role).

Nevertheless, the actual system is functioning without real problems mainly because of public access to the annual finance reports.

#### a) Incomes related to political parties finances: law on political parties

The rules regulating political parties finances contained in the frame law on the political parties and political movements (424/1991 Sb.) were amended several times:

January 27, 1993 (68/1993 Sb.) This law brings only formal corrections after the split of Czechoslovakia (change of the political institutions' names).

June 15, 1993 (189/1993 Sb.) prolongation of the rule that political parties represented in Parliament will receive in 1993, 1994 and 1995 a financial contribution proportional (a quarter) to their expenditure in the elections of June 1992 (i.e. elections in the former Czech National Council).

April 29, 1994 (117/1994 Sb.): in order to control the political parties' finances, this law specifies the obligation to produce by the 1<sup>st</sup> of April each year, at the Chamber of Deputies and the Supreme Audit Office (Nejvyšší kontrolní úřad. NKU) their annual financial report. The NKU should control the documents and finances of each party. The information is further given to the Chamber of Deputies, President of the Republic and the Government. The Constitutional Court cancelled the paragraphs concerning control by the NKU of this law.

Correction of the amount of public financing (amount per % in the last elections, amount per mandate in the Chamber of Deputies and the Senate, also corrected by the Constitutional Court).

In case of uncertainties about a political party's finances, the Ministry of Finance does not pay the due amount until the problem is corrected (eventually after the decision of the Highest Court).

Correction of the rules of donation (transparency: over 100 000 Crowns, donors have to be made public).

Constitutional Court decision was published as 296/1995 Sb..

December 17, 1996 (322/1996 Sb.) This law brings only formal corrections. Correction of the rules of inheritance (transparency over 100 000 Crowns).

The annual financial report is public (it can be seen or requested at the Office of the Chamber of Deputies).

July 7, 2000 (340/2000 Sb.): correction of the rules of donation reinforcing transparency over a level of 50 000 Crowns, donations are made public. The foreign citizens should not donate any contribution to the party (with the exception of those who permanently live in Czech Republic).

Note that the laws that regulate taxes and donations (586/1992 Sb. and 357/1992 Sb.) were also amended by this law.

The Constitutional Court has partially cancelled this law and has given an interpretation of equality of opportunity in public financing (reinforcing the jurisprudence of the Court of 1995).

While it is not the most important in the decisions of the Constitutional Court, note that this institution highlights foreign examples and the report of the Venice Commission.

April 4, 2001 (170/2001 Sb.) This amendment precise how evaluate the amount of the states' contribution (the "permanent contribution") per year: over a threshold of 3% of voices in the elections of Deputies, the party should receive 6 millions of Crowns, and from 3 up to 5% the party receive 200 000 Crowns for each 0,1% obtained.

This law also specifies the new amount of the contribution for a mandate of deputy or senator (900 000 Crowns per mandate) and regional deputy (250 000 Crowns).

September 24, 2004 (556/2004 Sb.) this last amendment specifies that in case the membership fee is over 50 000 Crowns, it have to be précised who is the contributor (name, birthday and address).

b) Incomes related to elections: electoral law and its amendments

The electoral law adopted in 1995 mention that political parties should receive a contribution in order to cover electoral campaign expenses. This principle concerns only national elections since 1990, regional elections since 2000 and European elections since 2003 (i.e. local elections are not concerned by this rule).

The frame law is the law No. 247/1995 Sb. (September 27. 1995)<sup>2</sup>. The last official version of this law amended had been published under No. 121/2002 Sb.

The common principle is that parties that received more than a certain percent of the vote (the percentage has changed over time, fluctuating between 1 and 3%), should receive a certain contribution for each vote received in the elections (from 30 to 100 Crowns per vote). That means this contribution is not related to the real electoral campaign expenses.

This law was amended several times by the legislator. Three times the Constitutional Court controlled the law and its amendments as mentioned above. In all the cases the Constitutional Court was asked to control –and ensure- the equality of opportunities for the different political parties and movements on the basis of both frame laws of 1991 (political parties and movements) and 1995 (elections). The Constitutional Court's decisions were published as 243/1999 Sb. (threshold of 3% censored), 64/2001 Sb. (rule concerning the deposit in order to candidate and some other rules) and 98/2001 Sb.

The actual rule was adopted on January 17, 2002 (37/2002 Sb.). This law determined that every party which received more than 1.5% of votes will receive 100 Crowns for each vote.

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<sup>2</sup> The first adopted electoral law has the No. 54/1990 Sb.



On February 18, 2003 the electoral law was adopted for the elections of the Czech deputies in the European Parliament (62/2003 Sb.): every party which receive more than 1% of votes would receive 30 Crowns for each vote.

Note that these rules were strictly controlled and defined by the Constitutional Court (Ústavní soud) in 1995 and 2000 on the basis of the principles introduced by the Constitution and the Charter of Fundamental Rights and Freedoms<sup>3</sup>.

The Constitutional Court controlled the laws so strictly in order to ensure equality of opportunities for the different political parties and movements, especially in 2000, when the two largest parties (ODS and CSSD) intended to cut public financing for the smaller and medium-size political parties. The Constitutional Court shows that the political elite can transform a proportional electoral system with the introduction of some restricting rules (for instance a higher number of electoral districts) but can not limit the public financing by applying a high threshold above which the party will receive contribution per vote.

Other laws (i.e. for accounting), which indirectly affect the financial activity of a political party in The Czech Republic.

Some laws indirectly affect the financial activities of the political parties<sup>4</sup>: if the specific laws do not specify the political parties applies the common rules of accounting and bookkeeping (563/1991 Sb.), tenders and bankruptcy (328/1991 Sb.), succession tax (357/1992 Sb.).

### ***What is covered by the legislation?***

Any of the laws is applying only on the political parties finances. The frame law No. 424/1991 Sb. does not apply exclusively to electoral

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<sup>3</sup> The last decision of the Court in matter of political parties finances was adopted on January 19. 2005. This decision concerned the law No. 424/1991 Sb. as it was amended by the law No. 170/2001 Sb..

<sup>4</sup> Another law have to be evoked: the law No. 238/1992 Sb. modified several times on conflicts of interest which stipulate, that politicians who have an important function have to publish all their incomes.

campaigns: its aim are the political parties and their financial ability, so in principle every relevant political party (i.e. mainly parliamentary parties) have to receive public financing firstly on the basis of their electoral weight and secondly on the basis of the number of deputies, senators and regional deputies. The laws 247/1995 Sb. and 62/2003 Sb. on elections specify the reimbursement of electoral expenses.

As we mentioned above, other legislative acts apply exclusively to electoral campaign and especially specify how the State should participate in campaign expenses through funding. The principle is that above a threshold (a certain percentage of votes which depend on the type of election), the political parties will receive an amount per vote. That means, that there is no automatic relation between the expenses and the public contribution and that some parties can benefit on this basis.

Parties should also have private financing of their activities, as we will see further. The principle is that parties have to publish their income (especially donations) in order to prevent any possibility of corruption. This principle was specified in 1991 but had to be corrected after some scandals showing the rules were too weak.

Other legal entities, besides parties and political movements, are not mentioned in the law. Foundations, organizations, lobby companies, trade unions are not concerned by the acts that regulate political parties' finances. Nevertheless, for instance foundations are concerned indirectly in the sense that they can not finance a party.

***Sources of income. Provisions related to incomes of a party, following the next categories:***

## Public subsidy

A large majority of incomes for political parties (especially for the small parties or not parliamentary parties) originate with the State. As mentioned above, parties receive public finance on the basis of their electoral results, i.e. per votes and per mandate and a contribution in order to cover electoral expenses. All of these possibilities are not bound by the actual expenses of the political party.

A step forward was made in the sense that political parties can receive public funds on the basis of their good results in regional elections. In this type of elections (middle level), parliamentary parties compete with the smallest parties and movements that are not able to succeed in national elections.

### *Annual public subsidy for political parties (legislative and European elections)*

On the basis of the law No. 424/1991 Sb. modified, the parliamentary political parties, each party will receive annually for each mandate of deputy or senator 900 000 CZK.

Annual public subsidy for regional parliamentary parties, political parties receive for each mandate of regional deputy and deputy of Prague 250 000 CZK.

In both cases, the condition is that the deputy was elected on the candidate list of the party.

Over a threshold of 3% of the vote in the elections of the deputies (and only this type of election), the political party receive 6 million Crowns and for each 0,1% 200 000 Crowns up to 5%. Even if the party receives more than 5% in the legislative election, it will receive a maximum of 10 million Crowns.

In the case of the European elections, parties that receive more than 1% will receive 30 CZK per vote.

#### Membership fees

Member fees are one of the classic mode of income for each political party. The problem is that nowadays only a small number of parties have a relevant number of members. This fact is one of the reason why a system of public subsidy has been adopted. On the other hand, today the members of mass parties are among the social classes with the lowest incomes. In the Czech Republic it is the case that in the communist party (KSCM), the Christian-democrat party (KDU-CSL) or the Social-democratic party (CSSD) the majority of their members are retired people. So this type of income is not very important.

#### Donations and inheritance

Donations appears to be one of the biggest problems of political parties and political movements' finances: the scandal that hit ODS in the middle of the 1990's show, that the legislation was insufficient in order to prevent "interested" financing (at the moment, ODS was the leading party, controlling the government which controlled a large part of the privatization process). More precisely, it appears that some of the official donors were long dead or had never sent any donation and that the true donors were interested in the privatization of the economy. From that time, the system has changed, but in fact, it seems that the real control is from fiscal authorities and media. The only case of illegal donation was nevertheless discovered after the split of the party, when part of the old members criticized the party's finances.

Even if the situation is not so simple, one can suppose that the governmental parties will obtain more donations than the other. In the Czech case, during the period of 1995-2001, only ODS received

substantial donations (more during the period between 1995 and 1997, when it was in power, especially in 1996, i.e. the year of elections).

Over 50,000 Crowns, every donation has to be proved with a contract. Donors have to be known (their name published): the party has to complete a specific printed form (bought from the Ministry of Finance) and to sign a contract with the donor (the signature has to be certified). Practice shows that it is not only a problem of threshold, and that an intense examination of all the information has to be done by the fiscal or judicial authorities.

We can note, that in certain cases (the Communist one at least), the deputies and senators transfer a large part of their own incomes to the party.

Donations are forbidden in the case that they come from the State (with the exception of above mentioned public subsidies) local governments, states' enterprises or enterprises with participation of the State, enterprises belonging to local governments, foreign organisations (with the exception of donations of foreign political parties or foundations), foreign citizens (of those who permanently live in Czech Republic<sup>5</sup>). Czechs living in a foreign country should donate to a party.

Inheritances are also possible, but if the value of inheritance is superior to 100 000 CZK the party has to verify the origin (who has bequeathed it).

Tax cuts

No tax cut is mentioned.

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<sup>5</sup> The case of illegal financing of ODS during 1995 was precisely a case of donation made by a Czech citizen interested in the privatization of a steel company, but camouflaged by ODS as a donation by a foreign citizens (a Hungarian, that was at that time already dead and a citizen of Mauritius, who never paid anything to ODS).

## Other contributions

Some other contributions are authorized by Czech law since 1990 (with the intervention of the Constitutional Court), because it encourages profit-making activities, such as real hiring for instance. Parties can also sell buildings. Political parties, as legal entities, also have the right to hold accounts in banks, and so they receive interest. Parties have the ability of receive bank credit and loans.

We finally have to mention other possibilities, which are not directly the finances of a political party.

Every parliamentary party can indirectly receive some contribution. We understand these possibilities as a sort of income in the sense that these parties will have no expenditure with the functioning of the political groups of the Chamber of Deputies (the political group of the opposition will receive a slightly more than the one in power). For instance, each political group of the Chamber of Deputies<sup>6</sup> will receive approximately 6,000 Crowns per deputy monthly. But parties will have also indirectly the possibility of access to other parliamentary facilities (for instance room in the Chamber of Deputies for conferences).

### ***Provisions related to spending, precisely related to:***

The period in between elections

All the parliamentary parties are financed during the period between elections on the basis of their electoral result in the last elections in order to provide for the expenses of the party and enable the party to function. These annual provisions are contractual, i.e. they are not bound by the effective spending of the party and are limited only by law (10 million Crowns).

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<sup>6</sup> Law no. 90/1995 Sb..

In order to supply political parties' electoral campaign spending they receive a contribution as mentioned above, on the condition of a minimal electoral result in terms of mandate (for each mandate, the party receive a contribution). As in the case of annual provisions, this contribution is not bound by the effective cost.

These contributions are paid to the party every year (the party has to officially ask the Ministry in order to receive it twice a year, in June and December).

During the electoral campaign

During the electoral campaign, the party must pay their own expenses. The State pays a financial contribution on the basis of the results only in the case of elections of the Chamber of Deputies and the European Parliament, i.e. after the elections.

Note that following the original terms of law No. 247/1995 Sb., the parties had to pay a deposit (200,000 Crowns until 2000, 40,000 since 2000) in each electoral district (8 districts until 2000, 35 in 2000, 14 since 2000, that means that all fourteen administrative regions are electoral districts), but the Constitutional Court cancelled the obligation of deposit (64/2001 Sb.).

Even if it is not a law that directly affects the finances of political parties, we have to mention the law on broadcasting, that allows to political parties access in the media free of charge during the electoral campaign (**231/2001 Sb.**), so the parties do not to pay for it.

### ***Reporting and transparency measures***

Until 1995, transparency measures were very weak. After 1995, the situation has improved slightly, but must still be evaluated as weak, especially in terms of checks. Maybe paradoxically, the law that introduces transparency and control measures in the system of political parties

finances was examined by the Constitutional Court and the disposition about inspection of the political parties' finances by the Supreme Audit Office were cancelled.

The transparency is quite good, but the problem is if the reports are realistic.

The control authority

The system introduced in the Czech Republic is based on auto-inspection by the party's organs. It means that a sort of first level of control is rather private in the sense that each party has to choose an audit company that should check its finances and certify it (by the law, the report that has to be given to the Chamber of Deputies have to be certified "without reservation" by the representatives of the audit company).

A second level of practical examination is the fiscal one (it should be an automatic control or an examination requested by the Chamber of Deputies).

Nevertheless, the official inspection authority is the Chamber of Deputies. As we have seen above, the initiative to set up a non political control was censored by the Constitutional Court.

Every year the Chamber of Deputies must receive from each party a complete financial report for the last year (the report with annexes have to be received on the 1<sup>st</sup> of April). All the information mentioned by the law 424/1991 Sb. modified has to be joined to the report (i.e. mainly the financial report itself, an audit report and the information about the donors).

The Budget committee is in charge of the inspection (subcommittee for the control). In fact the Committee inspects only formal aspects, i.e. the reception of all the documents in time. The Committee then proposes to



the Chamber of Deputies a resolution that notes parties who have fulfilled the legal obligation and those who have not.

The Chamber of Deputies then adopts a resolution in which it verifies if the parties<sup>7</sup> that receive public financing and the parties that do not receive such contribution have fulfilled the legal obligations. In the case that they do not fulfilled it or have not sent the required information on time, the Chamber of Deputies asks the Government to ask the Highest Court (Nejvyšší Soud) to terminate their activities.

It seems that the situation is not so automatic, and first that parties who have problems with fulfilling the legal obligations are those which did not receive any significant income. Secondly, it seems that the Government has never asked the Highest Court to terminate the activities of any party.

The fiscal authorities

Fiscal authorities are not specifically competent to control political parties' finances. Political parties nevertheless have to fulfil their fiscal obligations, and in this sense, they inspect political parties' finances. The law authorizes the Chamber of Deputies to pass information about illegal financial operations leading to tax evasion. But this check itself cannot be seen as a regular inspection of political parties' finances.

The party is responsible for its finances and therefore should be condemned to pay penalty. Nevertheless, as shown in the case of ODS, the representatives of the party (and the donor) should be condemned on the base of their fraudulent financing activities.

The Official Gazette

The Official Gazette (Sbírka zákonů) does not publish any information about concrete political party finances, only official reports on the political

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<sup>7</sup> All the parties have to register at the Ministry of the Interior when they are created.

parties' finances (i.e. if they fulfil the legal obligation of sending a report) of the Chamber of Deputies are published.

The public

Everyone can ask the party to give information about its finances. Nevertheless the parties have no obligations to give it, because all the requested information are to be given by the Office of the Chambers of Deputies.

The media

The media have no specific right in order to control the political parties' finances. But in fact, the media are the most active in examining public and private financing of the political parties and politicians.

All the cases of problematical financing were discovered by the media. The last case in the winter 2005 led the Prime minister S. Gross to resign.

### ***Financial management***

*General descriptions concerning provisions related to:*

Accounting system

The parties have to have their accountancy controlled by professionals: the law oblige parties to give their financial annual report signed and certified "without reservation" by the representatives of an audit company. This is maybe the deepest control of political parties finances even if in practice the audit company have to work with documents given by the party and they have no mean to control.

Reporting to fiscal authorities

The political parties' finances have to be controlled by fiscal authorities, that means they are controlled as any other organization, following the same rules.

Description of the relationship between central headquarter and territorial party branches as well as the one with the specialized/issue oriented structures (i.e. women branch, youth branch).

Each party has developed a specific relationship between its central headquarter and its territorial party branches. In general, since at least 2000, political parties have especially developed the regional level. The financial management is centralized, even if levels of autonomy should be diversified. This is a consequence of the political parties finances system, which is built on the principle of accountability for the head of the parties.

The finance of the party is mainly centralized. That means, that by the law, only parties should receive contributions: the law did not distinguish headquarter and territorial party branches, especially in terms of finance.

## **Control institutions**

### ***General issues***

The body in charge of inspection is the Chamber of Deputies. The control is rather formal in the sense that the controller (in reality the Chamber of Deputies) primarily examines the transmission by the party of the documents specified in the law. This type of formal auto-check is problematic indeed but there seems to be no chance of evolution in terms of strengthening it. The only way of real control is firstly the scrutiny of the public or the media which could find some problems or errors. The second way is the jurisdictional way, after the parliamentary control and the intervention of the Government who have to formally ask the Highest Court to intervene. We have not find any case of judicial treatment of problematic finances.

### ***The staff directly involved in controlling the parties' finances***

- This staff is a parliamentary one and so is appointed by the Chamber of Deputies. It is primarily an administration of the subcommittee for the control and then the Budget committee. They have no particular staff.
- The professional background of this staff is not specified. The Committee nevertheless specializes in economics.
- The mandate of the Deputies in charge is four years.
- The number of people involved in control activities related to parties' finances at the national level are not specified.
- We have found no people (nor any institution) involved in control activities related to party finances at the local level.

### ***Responsibilities (powers)***

Description of the *powers* of the control institutions as stipulated in the specific legislation (the jurisdiction of their control, the authority to approach any third party's client such as a supplier of goods or services purchased by parties)

- Their control activity indirectly covers all aspects regarding control of campaign finance. The State's inspection is not specific to electoral campaign and cover all the aspects of political parties' finances. Nevertheless, in order to allow a better examination of campaign finance, these expenses and eventual specific incomes have to be mentioned in a specific report. Note that the electoral law did not establish a maximum limit of the electoral expenses.
- As a secondary institutions involved in examining the political parties' finances we should only speak of the fiscal authorities.
- The Chamber of Deputies has not the power to issue binding rules to be applied together with the other legal provisions. The Chamber has of

course the authority to initiate changes to the current legal framework. The evident problem lies in the fact that the parties control the Chamber of Deputies.

### **Control**

- Control of political parties' finances is a yearly routine in the sense that every year political parties have to send to the Chamber of Deputies documents and relevant information in order to allow eventual control.
- The responsibilities set in the law that a party shall submit regular financial reports to the control authority are weak. Reports have to be submitted at least by the 1<sup>st</sup> of April each year. The Chamber of Deputies controls the formal reception of all required documents on time and adopts a decision noting this fact. The law did not identify who has to send the report, it must be sent by the "party". The report shall not be copied and published in the Official Gazette, but any interested person should ask the Office of the Chamber of Deputies to have a copy or access to it at the Chamber.
- There is no official written internal rule for operating controls at the level of parties except that the parties have to have their finances administrated by an audit company which is therefore partly responsible for it.
- These reports are submitted by parties usually checked by the control institution without any specific rule (i.e. they just have to submit the report on time with all the information specified by law). They should access no specific secondary information to cross check the data submitted by the parties.
- There is no specified rule to file a complaint. This means that only the State (its competent organs) should file a complaint or somebody who has been directly injured by illegal operations of a party.

- The precedent of starting investigations were precisely started on the basis of credible information revealed by a third party (i.e. opponents through media).
- As we wrote, the Chamber of Deputies, which is the mandated control body, issue a strictly formal national report, which only notes that the parties have fulfilled their legal obligations. This report is available to the public.
- The overall control activity of the Chamber of Deputies is very weak because it is limited to yearly report for the entire party, without control of its local activities as well. In fact, we cannot really speak of control institution because it is a formal control, which supposes the legality of the financial operations of the political parties and is de facto based on a presumption of innocence. The only real official check is, as shown in practice, the fiscal one.

### ***Sanctions***

The forms of sanctions the control institution may apply to a party

In terms of sanction, the Chamber of Deputies has very small possibilities. There are mainly two possibilities of sanction.

First in case the party did not respect the obligation of sending the report on time. The Chamber of Deputies asks the Ministry of Finance to not pay the contribution until the party do not send the report. As we mention above the parties who have not fulfil this obligation were small or irrelevant ones and the sanction have no consequence. In certain extreme cases, the Chamber of Deputies should ask the Government to begin procedure in order to suspend the activities of incriminated party. Only the Highest Court is competent in to decide to suspend or to dissolve a party.

Secondly, the fiscal authorities, in case the rules on donation have not been respected in a time of one year, should ask the party to reimburse the amount to the donator (with all the interest on the base of the rate defined by the Czech National Bank) or, if it is not possible, to pay this amount to the State. In the case the party did not reimburse this amount, fiscal authorities should decide of a penalty representing the double of the value of the original donation.

#### Litigation process for punishments

There are two possibilities: first a judicial process in order to suspend the political party's activities because the party has not sent the financial report. In practice, the Chamber of Deputies is not very severe. The competent judge is the Highest court.

The second possibility is a judicial process in the case the party has been illegally financed (in the case of an illegal donation) and the Fiscal authorities have decided of a penalty (the process is possible if for instance the party has not paid the penalty or the penalty was irregular). In this case the litigation process is the common one.

No sanction has been applied in the last two years (rough estimation)

No sanction has been applied in the last two years. All the relevant parties have fulfilled the legal obligation without problem and it seems that no other (small) parties have been sanctioned for their eventual illegal financing activities.

Only one case should be mentioned here: the illegal donations to ODS in 1995. Two persons were judged guilty of tax evasion (the person responsible for ODS' finances who falsified the name of donors and the one who supported the party. This affair was certainly in relation with the privatization of a steel company).

Were those sanctions considered fair by the independent analysts' community?

The political scientists and lawyers mainly focus on the question of equality of opportunity in public financing, the question of the deposit and so on. The problematic question of control and sanctions is not invoked so often. The only general critic we noticed came from associations who analyze corruption, but without pointing to the problem of sanctions on illegal finances of political parties.

***Independence, transparency, neutrality***

- We have not noticed any administrative pressure that has been made public in the last years. Political pressure was encountered in 2000, after that the winner of the elections, the social democratic party signed an agreement (called the Opposition Agreement) with its rival (and the second party in the elections), the ODS. They tried to reform the law in order to use it against smaller parties. This aim was blocked by the Constitutional Court. Because there is no real possibility for them to dissolve the independence and neutrality of the control institutions (from the Chamber of Deputies to the fiscal authorities), no problem has been noticed. The question of transparency is also well insured, because the more problematic income (donations) is unequally dispatched in the sense that, as we wrote, just one party has had important donations (the ODS) and there is no intention and no chance to change the rule of transparency. By the way, this party has left an important audit cabinet (Deloitte et Touche) to control its finances. It shows many irregularities but over all the private controller pointed out that the question of eventual foreign bank accounts of this party should not be resolved because the controller founded just some evidence of it but no real proof.
- No inclination from the institution of a biased attitude has been encountered in the last years.



- The audit documents of all parties are accessible to the public: every person who wants it can ask the Office of the Chamber of Deputies.
- In our opinion, the overall level of the transparency of the institution is primarily good, the problem is much more the question of control in depth by an independent and qualified authority. The solution which had been found (control by Supreme Audit Office) was censored by the Constitutional Court.

### ***Promoting changes, dialogue and good practices***

- We have not found any mention of the eventuality of the control institution being involved in any training activity for the parties' financial officers/persons in charge. It is an internal problem.
- As we know, the control institutions have not drafted and distributed practical guides or forms to the parties, in order to help parties comply with the control institution procedures.
- We have not discovered in practice any meetings a fortiori regular organized between parties and the control institution in order to prevent misunderstandings or lack of compliance. Some courses should be organized by NGOs or political parties itself, but we do not find any public case of State systemic meetings.

### **Role of NGOs, Media, Academics**

#### ***Role of Academics and NGOs***

As we wrote above, academics<sup>8</sup> have focus on problems of income, analyzing the actual system with its inadequacy in order to preserve equality of opportunity in public financing or access to the political scene for newcomers (analyzing for instance the problem of electoral deposit).

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<sup>8</sup> Especially jurists and politics from Prague, Olomouc or Brno. See bibliography.

NGOs are only weakly involved in the question of surveying political parties' finances, but we can point out for instance Transparency International. In a general way, the eventual questioning of the political parties finances should come through the general analysis of corruption, which is more a problem of individuals. Some NGOs play an important role in surveying (especially those, which are specialized in studying corruption as for instance Transparency International or Bez Korupce<sup>9</sup>).

### ***Short comment about the media general attitude***

Journalists are normally involved in investigative work. In a large way, they are a much more effective check than the political one. In no way can we say that media in the Czech Republic are *captive-media* (in the sense that it is one of the main beneficiaries of the money in electoral campaigns). If we can say that media are politically or ideologically involved, their investigative work is objective indeed and no party should be protected.

Nevertheless the problem may be somewhere else. As we saw in the last crisis (winter-spring 2005) the media could play a role that is problematic in the sense that they should criticise politicians in a very demagogic way, arguing against corruption even if corruption is not really proved. In that sense, the media play an important role, but they are not a sufficient and adequate mechanism in order to control and above all sanction corruption of a political party

### **Conclusion**

Even if the Czech system of political parties' and political movements' finances is functioning in summary well and without problem, in fact the system is has to be criticised at least for this reasons:

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<sup>9</sup> See : [www.transparency.cz](http://www.transparency.cz), [www.bezkorupce.cz](http://www.bezkorupce.cz).

- advantaging bigger parties which are already in Parliament, and the smaller have therefore less possibilities of regular public finances (the private financing is also weak, because they do not have access to power). A little step forward was made thanks the public finance of the regional mandates. The possibility of renewal of the political scene is so very small. In fact, the political parties' finances system has been utilised by the bigger political parties in order to evince the smaller from the competition: these rules are should be changed without problem on contrary of the principles specified by the constitution<sup>10</sup>;
- the electoral expenses should be limited by the law. For the moment it is not the case, and some of the parties should have more electoral incomes than they have expenses;
- as shown by the Constitutional Court, the question of threshold specified in order to receive public finance is crucial (and in fact the Constitutional Court seems to have with its interpretation problems, because from one case to another the Court have changed its point of view);
- the overview of the control system is very weak and do not preserve the system from corruption. The fact is, that for the moment only one big case of problematic financing was found, but the check system is so weak that this statistic does;
- the sanctions of illegal political parties' financing are not sufficient.

This situation is mainly due to the fact that the control depends mostly on politicians themselves and no independent alternative (with the exception of the Fiscal administration which aim is not to survey the political parties finances) was found.

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<sup>10</sup> It is the problem of the proportional system mentioned since 1990 in the Constitution for the election of the Chamber of Deputies. The rules concerning the political parties' finances were used in order to correct (to "majoritarize") the proportional electoral system.

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Laws and Decisions of the Constitutional Court can be found on <http://www.mvcr.cz/sbirka/index.html>

## ANNEXES

**Chart 1: Part of State's contribution in political parties' finances**

	1995-2000	2001
US-DeU	56,7%	85,3%
ODS	53,9%	64,1%
CSSD	52,3%	77,9%
KSCM	39,1%	58,7%
KDU-CSL	38,2%	80,9%

Source: Outlý J. (2003)

**Chart 2: Electoral expenses and State's contribution in order to cover electoral expenses. Legislative 2002 (A total of 29 political parties participate in these elections.)**

	Electoral results	Expenses*	State's contribution (approx.)*
CSSD	30,2%	75	144
ODS	24,47%	60	117
KSCM	18,51%	15	88
Coalition KDU-CSL and US-DeU	14,27%	72	68

**\* In million of CZK.**

**Source: Outlý J. (2003), Czech Office of Statistics ([www.volby.cz](http://www.volby.cz))**



***Constitutional Act No. 1/1993 Sb. of the Czech National Council of 16th December 1992***

as amended by Acts No. 347/1997 Sb., 300/2000 Sb., 448/2001 Sb., 395/2001 Sb. and 515/2002 Sb.

*(extract)*

**Article 5**

The political system is based on free and voluntary formation of and free competition between political parties respecting the basic democratic precepts and rejecting violence as a means of asserting their interests.

***Charter of Fundamental Rights and Freedoms***

*(extract)*

**Article 20**

(1) The right to associate freely is guaranteed. Everybody has the right to associate with others in clubs, societies and other associations.

(2) Citizens also have the right to form political parties and political movements and to associate therein.

(3) The exercise of these rights may be limited only in cases specified by law, if measures are involved, which are essential in a democratic society for the security of the State, protection of public security and public order, prevention of crime, or for protection of the rights and freedoms of others.

(4) Political parties and political movements, as well as other associations, are separated from the State.

## **Article 21**

(1) Citizens have the right to participate in the administration of public affairs either directly or through free election of their representatives.

(2) Elections shall be held within terms not exceeding statutory electoral terms.

(3) The right to vote is universal and equal, and shall be exercised by secret ballot. The conditions under which the right to vote are exercised are set by law.

(4) Citizens shall have access to any elective and other public office under equal conditions.

## **Article 22**

The legal provisions governing all political rights and freedoms, their interpretation, and their application shall make possible and shall protect free competition between political forces in a democratic society.