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# The Cost of Politics in Montenegro

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# THE COST OF POLITICS IN MONTENEGRO

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Political finance lies at the cross section between many crucial aspects of political life. Free and fair elections, democratic politics, good governance, as well as corruption are all related to political finance, and the financing of political parties and election campaigns can positively or negatively affect all of them. In recent years, Montenegro made certain progress in all of these areas, but the financing of political parties remains the main challenge to electoral processes and political life at both the national and the local level.

One of the crucial aspects of Montenegro's political financing is the way in which political parties emerged from the old regime unequally endowed with public money. The ruling party possessed for two decades some of ex-Communist economic resources, which consequently cemented its continuing influence and permanent privileged position. Unequal opportunities for competition and an unequal propensity to contest are relevant features of the financing of political parties in Montenegro.

Every country has its unique set of challenges related to party financing and corruption, arising from its own political history, the evolution of political parties, and challenges related to both human and financial capital. Approaches to party finance in Montenegro must be based on a thorough understanding of the particular role money plays in politics.

## CURRENT LAW BROUGHT LIMITED IMPROVEMENT

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Since the year 2006, the Center for Democratic Transition (CDT) has been monitoring the financing of political parties and analyzing the application of laws and regulations governing this field, notably the Law on the Financing of Political Parties. Also, detailed research on this topic was conducted in 2011 with a particular emphasis on financing to political parties from private and public funds.

The information sources CDT used for the research that provided us with evidence were laws and decisions published in the Official Gazette of Montenegro and the official data that the Ministry of Finance of Montenegro and local self-government authorities provided us with pursuant to the Law on Free Access to Information, as well as reports of political parties published on the website of the State Electoral Commission (SEC).

This research provided evidence that the current Law on the Financing of Political Parties, which came into force in August 2008, cannot be considered to have brought significant improvement. Some issues remain inadequately regulated, which causes serious failures in the enforcement of the Law. Based on the research results, the problematic issues can be summarized into three areas:

*"The problematic issues can be summarized into three areas: lack of an efficient enforcement system, inadequate and partial penal provisions and non-transparency of party financing."*

- 1) Lack of an efficient enforcement system
- 2) Inadequate and partial penal provisions
- 3) Non-transparency of party financing.

These issues arise from an incomplete and imprecise Law which does not prescribe an efficient control system, and does not specify accountability for infringement thereof. In the following, each of the three areas will be addressed in turn to point out the principal problems associated with it.

**Lack of an efficient enforcement system** is the weakest spot of any political system. The enforcement of the Law is neither unified nor ensured in the entire state. For example, during the researched period (for the financial year 2010), a significant part of funds allocated by municipal budgets was not paid to political parties as shown in tables 1.1 and 1.2. One of the reasons for this situation lies in fact that the allocation of money from local budgets for political parties' funding has not been conducted in a considered manner and individuals who are involved in budget spending are not acting in an accountable and corresponding way.

Foreseen by budget for 2010. (€)	Payed out-Law on Free Access to Information (€)	Difference
1,354,844.82	722,041.51	632,803.31

Table 1.1.

This causes a huge problem for the parties because without funds they cannot plan their work and perform tasks at the local level. This situation can eventually lead to the suffocation of political party life at the local level.

Municipality	Foreseen by budget for 2010. (€)	Foreseen by amending budget for 2010. (€)	Payed out-Law on Free Access to Information (€)	Comments
Andrijevića	7.283,14	/	6.747,64	Payed out 535,50 less
Bar	91.500,00	91.500,00	77.000,00	Payed out 14.500,00 less
Berane	40.000,00	40.000,00	32.819,17	Payed out 7.180,83 less
Bijelo Polje	70.000,00	75.423,00	/	Insufficient data
Budva	120.000,00	20.000,00	3.500,00	Payed out 16.500,00 less
Cetinje	40.000,00	/	/	No payments made
Danilovgrad	47.900,00	45.400,00	45.655,97	
Herceg Novi	183.000,00	144.000,00	/	No data provided
Kolašin	45.000,00	27.672,00	/	No data provided
Kotor	100.000,00	70.000,00	49.455,81	Payed out 20.544,19 less
Mojkovac	17.000,00	17.000,00	17.061,86	
Nikšić	78.440,00	79.000,00	45.630,55	Payed out 33.369,45 less
Plav	12.000,00	/	2.760,00	Payed out 9.240,00 less
Plužine	35.000,00	52.000,00	22.038,00	Payed out 1% , but the ammount is less than planed
Pljevlja	101.827,00	171.897,91	37.659,70	Payed out 134.238,21 less
Podgorica	390.000,00	360.000,00	326.071,51	Payed out 63.928,49 less
Rožaje	31.492,39	29.368,77	18.668,15	Payed out 10.700,62 less
Šavnik	5.800,00	5.800,00	/	No payments made
Tivat	42.000,00	/	30.075,82	Payed out 11.924,18 less
Ulcinj	50.000,00	10.000,00	/	No data provided
Žabljak	14.500,00	/	6.897,33	Payed out 7.602,67 less

Table 1.2.

**Penal provisions are inadequately prescribed and partially enforced**, which makes unclear their relevance within the system established by the Law. CDT's research has shown that not a single person has been sanctioned so far for the infringement of the Law. Furthermore, GRECO's Evaluation Report on Transparency of Party Funding in Montenegro recommended to: "(i) better adjust the existing sanctions relating to infringements of political financing rules in order to ensure that they are effective, proportionate and dissuasive, including by broadening the scale and range of penalties available; (ii) to cover all possible infringements of the law, as appropriate"<sup>1</sup>. Therefore, the scale and range of penalties have to be diversified in order to differentiate between different infringements of the Law, since it is totally unjustified to treat all infringements in the same way. This especially applies when it comes to the financing to parties from private funds, because one could break the rules in order to get more and more money without any fear, as the penalty would be the same as for the one who broke the rules for a far less amount of money.

CDT's research project empirically demonstrates that the **financing of political parties is non-transparent**. The research reveals the difficulty to obtain reliable data on political party financing. For example, when it comes to the 2010 local elections, the State Electoral Commission's (SEC) website failed to post 30 statements from the parties on how they had raised and spent money. Moreover, 49 reports on the completed audits were not published. It is also impossible to find 35 auditing reports of the 2010 Annual Statements of Accounts. Furthermore, out of 37 parties registered in Montenegro, only eight disclosed their respective Annual Financial Statements. These issues result from the Law being incomplete. It does not provide an effective control method, and it does not specify accountability for infringement in the way it should. Furthermore, no specific form for the submission of the annual statement of accounts or for tax return has been prescribed for political parties. The form provided for NGOs is used instead, while a form prescribed for legal entities may be used for the submission of annual reports. However, this method of reporting prescribed for nongovernmental organizations is not the adequate one for political parties to report on their annual statements of accounts for at least four reasons. Firstly, the said form is neither in line with the Law on the Financing of Political Parties nor does it meet the transparency requirements. Secondly, it does not appropriately reflect the total cash flows of political parties. Thirdly, such a form does not offer any possibility to find out whether a party respected the Law in the part governing the financial operations of such a party and, fourthly, the said form has not been aligned to the new one prescribed for the annual statements on property. Thus, it is impossible to get a clear picture of incomes and expenditures that a party reaches within a year concerned.<sup>2</sup>

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<sup>1</sup> GRECO's evaluation Report on Montenegro Transparency of Party Funding: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)7\\_Montenegro\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)7_Montenegro_Two_EN.pdf)

<sup>2</sup> Financing to Political Parties from Private and Budget Funds in 2010: <http://www.cdtmn.org/images/stories/izdavastvo/financing-to-political-parties-2010.pdf>

On the other hand, when it comes to the Annual Statement on Property of Parliamentary Parties, during this research CDT discovered a novelty which is reflected in the fact that the Ministry of Finance approved the Instruction on the Contents of and/or on the Form for Annual Statement on Property of Parliamentary Parties, ensuring thereby for the first time an analysis of the status of parties' property. The new form is considered a significant step forward towards transparency of the functioning of political parties, since it was designed in a manner that ensures both an overview of parties' assets and incomes expressed by categories and the method of acquisition, with the cumulative amount of incomes stated at the end of the document and signed by a responsible person. However, one shortage of this new form consists in the possibility of presenting a detailed overview of acquiring the incomes via an annex. For example, if a certain political party has reached an income based on donations made by legal or natural persons, the form requires as sufficient to state the cumulative amount of such donations, with the names of donors to be given under the annex. On the one side, such a solution makes sense since the "proliferation" of annual statement text is thus avoided. However, the Instruction has not prescribed an annex submission as mandatory; thereby, an insight into the balance of incomes available to parties that contain the list of donations made by legal or natural persons is prevented in practice because a party need not present such an annex. CDT considers that the introduction of the mandatory submission of annex along with the Annual Statement would be of importance to improving the system of financing of political parties in order to provide a more comprehensive idea of how the assets are acquired by political parties.

An analysis of the Forms for Annual Statement on Property of Parliamentary Parties showed that the budget funds used by parliamentary parties based on the regular financing of their activities amounted to more than three million Euros, whereas the remaining necessary funds were provided via other fundraising means. As for donations from legal persons, parliamentary parties raised only 18,896.00 Euros, whereas the amount of donations made by natural persons was considerably higher and amounted for 667,790.00 Euros. Two parties, namely Social Democratic Party (SDP) and the Movement for Changes (PzP) did not report their donations from private sources. Whether it is possible that not a single citizen helped the activities of these parties last year is an issue open to doubt. Regardless of the fact that neither the Law nor other regulations have prescribed an obligation to disclose the names of persons contributing personally to political parties, CDT considers this would be correct since such a rule would be in line with transparency principles.

Donations made by natural persons	
DPS	654.190 €
NOVA	9.000 €
SNP	4.120 €
FORCA	280 €
BS	200 €

Table 1.3.

When it comes to the contributions of legal persons, the names of the contributors were not disclosed. Yet, it seems impossible that companies did not support the activities of political parties. A practice that companies are not interested in assisting activities of parties in the countries in which they operate is almost unknown. On the contrary, it happens that one company funds several opposition parties. Reasons for the situation are hard to track down, since it is unknown whether the parties wish to hide the amounts they have been donated from companies or whether they wish to conceal the companies that assist their activities.

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## KEY CHALLENGE: LAW ENFORCEMENT

In accordance with the Government's Action Plan for fulfilling the European Commission recommendations, a new Law on the Financing of Political Parties was drafted in the working group and has already been adopted in the parliament. The implementation of the new Law will start in 2012. The sensitivity of this issue calls for the widest possible consensus between decision makers, political parties and general public.

Bad implementation is one of the key problems in this issue. The current Law on the Financing of Political Parties contains a significant number of bad legal solutions, but it also has some good quality ones. However, because of bad implementation not even those good legal solutions are visible and able to improve the control over party financing in Montenegro. The evidence for this claim can be easily seen in the number of problems described above; including the number of unpublished reports, the problematic Annual Financial Statements and the fact that nobody was sanctioned for infringements of the Law.

The new Law definitely brings some improvement when it comes to the legal solutions. Improvements can be seen in the part of the law that bans the misuse of the state property for the benefits of political parties, especially during the election period (e.g. misuse of official vehicles, phones, offices...). Also, the control mechanisms for the implementation of the new law are given to one state institution - to the State Electoral Commission (SEC) that now has the full legal authority to control the financing of political parties. However, it is important now to learn from past mistakes, and to understand the importance of the engagement of all parts of the society in this process. The engagement of the media and NGOs as watchdogs is crucial once the new Law is implemented.

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The general public in Montenegro does not fully understand how important the Law is and how they can influence the financing of political parties. The rare public discussions on political party financing evolve around scandals and fraud, which result in declining public confidence in the political parties and the system as a whole. The level of political culture is low, so citizens do not fully understand that money (and in most cases their money) decides the winner of the elections. Citizens need to become aware that funds can allow election contestants to reach the electorate with their messages, but can also skew electoral competition. Transparency of political financing will enable citizens to make an informed choice, and punish bad management of public funds or political corruption on the Election Day. In sum, approaches to party finance in Montenegro must therefore be based on a thorough understanding of the particular role money plays in politics. NGOs and media play a crucial role in conveying this message to citizens.

## TOWARDS TRANSPARENT FINANCING AND GOOD IMPLEMENTATION

Political parties are one of the key elements of any democracy. Therefore it is very important to address them in a way which provides an open space to act, with a significant financial contribution, but at the same time ensures a high level of accountability since the money given to the parties has to be justified before the citizens.

CDT strongly believes that the new Law on the Financing of Political Parties left some issues inadequately regulated; it should have provided a rational sanction system in which the amount of any fine would be equivalent to the seriousness of the infringement, as well as to the legal capacity of the one who broke the Law itself. For example the sanctions should have been:

- a. At the party level, loss of all or part of public financing for the following year, in line with the recommendations of the Council of Europe.
- b. At an individual level, loss of parliamentary seat and disqualification from standing for future elections.

Instead we still have a penalty system that includes only financial penalties that are very low (from 5.000 € to 20.000 €) when compared to how serious the infringement can be. There is also a question of the membership fees for the parties, which upper limit hasn't been prescribed and because of that there is room for possible machinations.

However, at this point, it is crucial to focus on securing the successful implementation of the new Law, which is why we recommend the following measures to be seriously undertaken by the authorities:

- 1) The **new Law should emphasize the importance of transparent political party funding**, leaving nothing to be interpreted but instead constituting a comprehensive approach to this issue. This includes:
  - a. Appropriate forms for reports for the submission of the annual statement of accounts or for tax return have to be prescribed and political parties have to act in accordance with law when it comes to deadlines for the submission of these reports
  - b. State and local authorities have to exercise their competences related to party financing, in order to provide the public with up-to-date information on the way state and local budget resources are allocated to political parties
  - c. In order to increase the transparency of financing from private donations, it should be described as obligation to disclose the names of persons contributing their respective funds to political parties.
- 2) In general, **proceedings for Law infringement must be conducted more seriously** than they currently are, leading to concrete penalties which would serve as a prevention tool for future misconducts.
- 3) The **allocation of money from state and local budgets for political parties' funding has to be conducted on a calculated, planned and highly organized basis**, asking from those who are directly involved in budget spending to act in a responsible and coordinated way. This also requires the budget procedures to be more transparent and to be made open to the public, which could act as a guardian of the money which it originally contributed to the system. This would improve the enforcement of the Law in general.
- 4) Finally, the **State Electoral Commission (SEC) has to be provided with a full capacity in order to provide professional monitoring of the implementation the new law**. For now, the SEC does not have a full capacity to monitor the implementation of the Law in a professional and objective way. Full capacity can only be gained through the introduction of the new law on SEC that will provide full financial independence and professional staff.

*"The allocation of money from state and local budgets for political parties' funding has to be conducted on a calculated, planned and highly organized basis... The State Electoral Commission (SEC) has to be provided with a full capacity in order to provide professional monitoring of the implementation the new law."*

In conclusion, several years of bad implementation have offered enough proofs that the area of financing of political parties must be regulated differently. By including all the elements from above, we secure the basis for an efficient implementation of the Law and for the enforcement of the sanctions imposed. CDT strongly believes it is necessary to strengthen the control in the area of party financing which is undoubtedly one of the main indicators of a healthy democracy.

## FURTHER READING

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- *Financing to Political Parties from Private and Budget Funds in 2010*  
<http://www.cdtmn.org/images/stories/izdavastvo/financing-to-political-parties-2010.pdf>
- *Analyses of Financing to Political Parties in 2010 (available only in Montenegrin language)*  
<http://www.cdtmn.org/images/stories/dokumenti/fpp-analiza-2010.pdf>
- *Financing to Political Parties - Analyses of Montenegrin Regulations with Examples of Goof Practice (available only in Montenegrin language)*  
<http://www.cdtmn.org/images/stories/dokumenti/fpp-analiza.pdf>
- *Financing to Political Parties from Budget and Private Funds in 2009*  
<http://www.cdtmn.org/images/stories/izdavastvo/financing-to-political-parties-2009.pdf>
- *GRECOs evaluation Report on Montenegro Transparency of Party Funding*  
[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)7\\_Montenegro\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)7_Montenegro_Two_EN.pdf)
- *European commission ANALYTICAL REPORT accompanying the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Commission Opinion on Montenegro's application for membership of the European Union*  
[http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/mn\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mn_rapport_2010_en.pdf)