

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

ELECTORAL CAMPAIGN REPORTING RULES AND THE ROLE OF SUPERVISORY BODIES

QUERY

Which countries have regulations that demand parties and organisers of election campaigns publish all donations and expenses online on a daily basis? Which countries have state bodies responsible for monitoring election campaigns (either inspection or other bodies)? Could you please provide me with a summary of the regulations in these countries on both of these issues and also how they work in practice?

PURPOSE

The Transparency International national chapter wants to provide input to a draft law on political party financing.

CONTENT

1. Electoral campaign reporting requirements
2. Election monitoring and the role of state bodies
3. References



Author(s)

Maíra Martini, Transparency International,
tihelpdesk@transparency.org

Reviewer(s)

Marie Chêne, Transparency International; Robin Hodess
PhD, Transparency International

Date

Responded: 7 August 2013

SUMMARY

Reporting and disclosure requirements are instrumental to ensure fairness and avoid undue influence in the political process. Political parties and candidates should therefore regularly report on donations received and expenditures during electoral campaigns. The frequency of reporting, however, varies from country to country. The Helpdesk has not found any country where a daily reporting requirement is in place. The United Kingdom requires political parties and candidates to make weekly returns of donations during elections. In Latvia, donations have to be reported online within 15 days of receipt.

In order to guarantee the effective implementation of the law, independent and well-resourced supervisory bodies with investigative powers should be established. These bodies should be able to proactively conduct investigations throughout and after the elections to ensure political parties and candidates follow campaign finance rules. This is the case, for example, in Ireland and in the United Kingdom. In the majority of countries, however, bodies responsible for overseeing elections rarely exercise their powers, either due to a lack of political will or a lack of resources, staff and/or technical expertise.

1. ELECTORAL CAMPAIGN REPORTING REQUIREMENTS

Overview

Countries across the world have taken several steps to regulate the role of money in politics. Transparency of campaign contributions and expenditures is certainly one of the most important requirements to ensure a fair process and reduce corruption opportunities (Transparency International, 2009b).

Therefore, disclosure requirements should establish the obligation of both political parties and candidates to report on all their assets and income, including on donations and expenditures during election campaigns, in a comprehensive, detailed and reliable manner. This information should be provided in a regular and timely manner, verified by an independent institution and/or independent auditor, and made available to the public.

Not only does this requirement enhance transparency and accountability, but it is also a prerequisite for the enforcement of other rules such as spending ceilings, contribution limits, and the allocation of public subsidies (Transparency International, 2009a).

Reporting requirements

While international standards and principles state that reporting requirements should be more frequent during election campaigns (Council of Europe 2001), there is no recognised best practice on what is considered an ideal frequency.

Countries have opted for very different reporting requirement rules. The majority oblige political parties and candidates to report once before the elections and once after the elections in addition to their annual reporting obligations (International IDEA, 2012). This is the case, for instance, in the United States, where the national party committee of a congressional candidate must file a financial report 12 days before and another report 30 days after the elections. The [Federal Elections Commission](#) then is responsible for disclosing the information to the public within 48 hours (International IDEA, 2012).

However, the Helpdesk has not found any country which has established rules requiring political parties and candidates to disclose information regarding campaign donations and expenditures on a daily basis. Such an obligation would certainly enhance transparency and accountability, but it would also require investments in technology to avoid creating an extra burden on both political parties and oversight bodies.

According to experts consulted within the framework of this answer, NGOs working on political financing have been advocating for real-time online disclosure, and proposals of this sort can already be found in some countries, such as Brazil (see below). Moreover, in some countries, political parties have also voluntarily disclosed information regarding their financial activities on their own websites. This is the case, for instance, in Hungary, where the political party [LNP](#) discloses information on donations and expenditures on a weekly basis.

While daily online disclosure is not yet the rule in any country, some countries have made reporting obligations more frequent. This is the case in Latvia and the United Kingdom – as discussed below.

Country examples

Brazil

The current Brazilian law obliges political parties and candidates to report to the Electoral Court on their income, donations and expenditures twice during and once after the elections. A summary of the information provided is disclosed online.

However, there are on-going discussions in the country regarding a political reform. One of the reform suggestions put forward by the lawyers' association and an NGO, and endorsed by Transparency International's contact group in the country, proposes the real-time online disclosure of donations and expenditures.

Political parties and candidates would have to open a bank account and all campaign-related donations and expenditures would have to be made through this account.

The website and tools for the online disclosure would have to be provided to the Electoral Court, the body responsible for the management of elections as well as the supervision of campaign financing.

The draft proposal can be accessed (in Portuguese) [here](#).

Latvia

In Latvia, the law on political parties, as amended in 2008, requires political parties to disclose information on individual donations and gifts within 15 days of receipt, including information on the type of donation/gift, amount, date of receipt, as well as the name of the donor. This information is entered by the Corruption Prevention and Combating Bureau in a publicly-searchable database on a dedicated website (Law on Financing of Political Organisations Section 4 (3)).

In addition, political parties which have submitted their lists of election candidates to the congress (*saeima*), local government councils or the European Parliament, shall submit to the bureau a declaration of income and expenses of elections signed by the board or its authorised person, in accordance with the procedures specified by the cabinet, within a period of 30 days after the elections (Law on Financing of Political Organisations Section 8 (1)).

For more information, please see: [Law on Financing of Political Organisations \(Parties\)](#).

United Kingdom

In the United Kingdom, political parties have three different reporting obligations to the Electoral Commission: (i) annual reports on income, assets, liabilities and expenditures; (ii) quarterly donations and loans returns – which are weekly during elections; and (iii) returns concerning [campaign expenditures](#) after the elections.

Therefore, according to the Political Parties and Elections Act 2009 (PPEA), political parties and candidates running for general elections in the United Kingdom must report on donations received on a weekly basis (Electoral Commission, website). The information is published on the Electoral Commission website, also on a weekly basis.

For more information, please see: [Electoral Administration Act 2006](#); [Political Parties and Elections Act 2000 and 2009](#).

2. ELECTION MONITORING AND THE ROLE OF STATE BODIES

Overview

Election monitoring is the observation of an election by one or more independent bodies. It usually aims to provide free, fair and transparent elections, prevent electoral fraud, and, more generally, lend credibility to the electoral outcome.

International standards and principles, such as those put forward by the Council of Europe (2003) and International IDEA as well as Transparency International (2009a; 2009b; 2012), underscore the importance of establishing an independent state body to supervise the electoral process and ensure that it is conducted fairly, impartially and in accordance with the law.

The enforcement of political financing regulations is key to ensure a fair and impartial electoral process. Political parties thus should be required to submit their accounts and elections campaign expenditure returns to an independent oversight body.

However, having a mandate to receive financial reports and annual accounts does not necessarily mean that an institution is also required to review these reports, nor to investigate possible wrongdoing (International IDEA, 2012). Against this backdrop, countries should provide for a single independent monitoring body, and include among its tasks the supervision of the accounts of political parties and the expenses involved in elections campaigns, as well as their presentation and publication (Article 14, Council of Europe Recommendation 2003). These reports have to be scrutinised beyond formalities, and sanctions for wrongdoing should be applied in a timely manner (Transparency International, 2009a).

Types of monitoring bodies

Public agencies in charge of supervising the implementation of political finance regulations vary from country to country. In some countries, this role

is performed by the same institution that receives the financial reports; in others, other bodies, such as audit bodies, anti-corruption agencies and/or courts, are responsible for investigating and sanctioning potential breaches. Some countries, however, have not given investigative powers to any state body and electoral returns are only checked for formalities.

According to the data collected by International IDEA, of the 210 countries analysed only 16 have a special state body responsible for reviewing and investigating electoral reports. In the majority of countries (61), this role is performed by the election management body. Other institutions that are given this mandate often include ministries, auditing agencies, and anti-corruption agencies and courts. In 41 countries, the law does not specify that a state body should examine financial reports and/or investigate violations (International IDEA, 2012).

Nevertheless, the scope of these agencies' mandate, their independence, and their technical and financial capacity, also play an important role in how they supervise the electoral process. Research has shown that political influence, lack of technical preparation for the job and/or shortage of personnel, lack of resources, and limited investigative and sanctioning powers are often the main challenges these agencies face in trying to ensure a thorough supervision of campaign donations and expenditures (Speck, 2008; Global Integrity Report, no year).

Therefore, it is crucial that the agency responsible for monitoring elections is politically and financially independent, non-partisan, impartial and enjoys sufficient financial, human and technical resources (ACE Electoral Network, no year; Doublet, 2012). The legal framework should also clearly state the role of the agency as well as the investigative powers that can be used to verify compliance with the law.

Country examples

Legislation in countries such as Brazil, Bosnia-Herzegovina, Chile, Colombia, Greece, India, Ireland, Kyrgyzstan, Latvia, Lithuania and the United Kingdom, for example, gives certain supervisory powers to the responsible agencies (please see International IDEA political finance database 2012 for more information). However, with the exception of Ireland, such powers are not always comprehensive

and, in practice, are not often exercised (Global Integrity Report, no year; Doublet, 2011).

This answer looks at supervisory rules and their practical application in Ireland, assessed by the Groups of States against Corruption (GRECO) as a good practice, and in the United Kingdom, where the law and further guidance specify in detail the role of the Electoral Commission in election monitoring.

Ireland

The Standards in Public Office Commission (Standards Commission) is an independent body, composed of six members. It has supervisory roles under three separate pieces of legislation. Its functions include supervising the disclosure of interests and compliance with tax clearance requirements, the disclosure of donations and election expenditure and the expenditure of state funding received by political parties, with the exception of local elections (Standards Commission website).

The Electoral Act of 2007 authorises the commission to carry out investigations ex officio or following an individual complaint. When suspected violations of political financing regulations exist, the Standards Commission is allowed to make enquiries or require any person to submit any information, document or item in their possession (GRECO, 2009).

According to GRECO, the commission enjoys significant investigation resources and has proactively engaged in investigations related to campaign donations and expenditures (Doublet, 2011; GRECO, 2009).

As of 2009, the Standards Commission had received 11 complaints and had dealt with more than 200 enquiries concerning different issues, such as third parties' obligations, donation statements and possible breaches of legal provisions (GRECO, 2009).

United Kingdom

In the United Kingdom, the Electoral Commission is responsible for supervising and monitoring the election process. The Electoral Commission is established by Parliament as an independent body.

To ensure its autonomy and impartiality, members of the commission cannot be members of any political party or have worked for a political party in the previous 10 years. There are also strict rules regarding the selection of its staff (GRECO, 2007).

As part of its monitoring role, the commission promotes compliance with the law by raising campaigners' awareness of the rules and obtaining information on campaign activity that may be referred to when reviewing campaign spending returns. For instance, in the 2012 elections, the commission monitored press, broadcast and online activity, including advertising (Electoral Commission, 2012).

For this, the Political Parties, Elections and Referendums Act 2000 (Section 146) guarantees a set of supervisory powers to the Electoral Commission, including powers to, by notice, require within a reasonable time, the relevant person in the case of any supervised organisation or individual to produce any books, documents or other records or information or explanation relating to the income and expenditure of the organisation or individual.

In addition, the commission may make copies or records of any information contained in any books, documents or other records produced. The powers also include requiring any person on the premises in question to give the inspector reasonable assistance to enable the inspection.

Investigations can be initiated based on complaints received by the commission or the identification of issues through scrutiny of returns, among others (International IDEA, 2012). The results of these investigations are published on the commission's website.

According to GRECO's evaluation conducted in 2007, the commission still needs to adopt a more pro-active approach in the supervision of elections and campaign finances.

How and what to monitor?

As mentioned, compliance with political financing rules will depend on a strong oversight system. In order to ensure a fair and competitive process, state bodies supervising compliance with electoral laws

have to guarantee that political parties and candidates are only being financed by admissible sources, and that the limits on donations and expenditures imposed by the law, for example, are respected. This means that oversight should be extended beyond the information provided by political parties and candidates themselves (Doublet, 2011).

The ACE Electoral Network highlights three main mechanisms for political finance oversight: (i) financial disclosure and reporting; (ii) audits of regulated candidates and parties; and (iii) investigations into potential political finance irregularities and violations (ACE Electoral Network, no year).

- (i) **Financial disclosure and reporting:** comprehensive and timely disclosure of all contributions received and all documentation of expenditures (invoices, receipts, etc.) allows for the review of political parties' and candidates' financial activities and compliance with law.
- (ii) **Audits:** financial audit by independent and/or external actors not only plays an important role in identifying wrongdoing but also helps to create a deterrent effect. If political parties and candidates believe that their accounts will be closely scrutinised, there is a greater chance they will comply with the law.
- (iii) **Investigations:** providing state agencies responsible for monitoring elections with investigative powers and the necessary resources to use them is key to identifying violations. For instance, agencies with investigative capacity may do field work to monitor compliance with the law – measuring, for example, the activities reported on financial disclosure returns against the actual amount spent on the elections (such as verifying the actual amount spent on air time and billboards), or verifying whether an election campaign was financed by non-declared funding.

Within this framework, states should guarantee that supervisory bodies can

collect general information about a candidate's financial activities, such as banking records; gather information from contributors and other witnesses; and collect evidence of political finance violations (ACE Electoral Network, no year).

Supervisory bodies should be able to start investigations ex officio, as well as react to complaints and denouncements made by political parties, media, citizens and civil society organisations.

In countries where there is a special body responsible for reviewing political parties' and candidates' financial reports, such investigative powers are often prescribed by law. However, in practice, these powers are rarely exercised – either due a lack of political will or a lack of technical, financial and human resources (Global Integrity Report, no year).

The evaluation of political party funding rules conducted by GRECO shows that the great majority of countries fail to provide for real oversight. Supervisory agencies often just focus on reviewing formalities; pro-active oversight and more in-depth investigations are rarely conducted (Doublet, 2011).

3. REFERENCES

ACE Electoral Knowledge Network, no year. *Electoral Integrity*.

<http://aceproject.org/ace-en/topics/ei>

Doublet, Y., 2011. *Fighting Corruption: political funding*. Thematic Review of GRECO's Third Evaluation Round.

http://www.coe.int/t/dghl/monitoring/greco/general/DOUBLE_T_EN.pdf

Council of Europe, 2003. *Recommendation (2003)4 on common rules against corruption in the funding of political parties and electoral campaigns*.

<https://wcd.coe.int/ViewDoc.jsp?id=2183&BackColorInterne=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

Council of Europe, 2001. *Guidelines and Report on the financing of political parties*.

<http://www.osce.org/odihr/37843>

The Election Commission, 2012. *Briefing note campaign monitoring*. United Kingdom Election Commission.

Global Integrity Report, no year. *Key Findings from the Global Integrity Report*.

<http://www.globalintegrity.org/report/findings>

GRECO, 2009. *Evaluation Report on Ireland Transparency of Party Funding (Theme II)*. Council of Europe.

GRECO, 2007. *Evaluation on the United Kingdom Transparency of Party funding*. Council of Europe.

International IDEA, 2012. Political Finance Database.

<http://www.idea.int/political-finance/>

Speck, B., 2008. *Political Finance: State Control and Civil Society Monitoring*. U4 Anti-Corruption Resource Centre.

Transparency International EU, 2012. *Political party integrity: more accountable, more democratic*. Regional Policy Paper #2.

http://www.transparency.org/whatwedo/pub/2012_regional_policy_paper_2_political_party_integrity_more_accountable_mor

Transparency International, 2009a. *Political Finance Regulations: Bridging the Enforcement Gap*. Policy Position #2/2009.

Transparency International, 2009b. *Standards on Political Funding and Favours*. Policy Position #1/2009.

http://www.transparency.org/whatwedo/pub/policy_position_no._01_2009_standards_on_political_funding_and_favours

“Anti-Corruption Helpdesk Answers provide practitioners around the world with rapid on-demand briefings on corruption. Drawing on publicly available information, the briefings present an overview of a particular issue and do not necessarily reflect Transparency International's official position.”