

## Transparency International Anti-Corruption Helpdesk Answer

# Political finance oversight:

## Key institutions and mechanisms in sub-Saharan Africa

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Oversight is a key component of effective political finance regulation regimes. Without oversight, a country can have robust political finance laws in place but which are toothless in practice as there will be no effective monitoring and enforcement. Evidence shows that the most typical political finance oversight institutions in sub-Saharan Africa are electoral management bodies (EMBs), followed by supreme audit institutions (courts of accounts/audit and national audit offices), ministries, special political finance bodies and lastly parliaments.

Mandates of the oversight agencies differ between countries, with some countries preferring a single agency to perform multiple oversight functions, such as receiving financial reports, verifying disclosures, conducting audits, launching investigations and imposing sanctions, while other countries split these tasks between multiple agencies depending on capacity and expertise. Though models and mandates of oversight institutions differ from one country to another, there is consensus that their effectiveness depends on factors such as clear mandate, adequate resourcing and enforcement capacity, as well as independence from outside influence – especially from political parties.

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## Query

Please provide an overview of political finance oversight, with examples from sub-Saharan Africa.

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### Introduction

Political finance refers to all money spent to influence political processes and outcomes, such as elections, laws, referenda, day-to-day activities of political parties and candidates, and financing of special bodies such as party foundations, among others (International IDEA) 2014: 2; IFES 2005; Öhman 2012).<sup>1</sup>

If not effectively regulated, political finance can undermine the integrity of political processes and institutions, and may endanger the quality of democracy (Hamada and Agrawal 2020: 6). For instance, incumbent political parties may abuse public resources to increase their chances of re-election, such as through vote buying, clientelism or capture of electoral institutions, resulting in an uneven playing field between contesting parties and candidates (International IDEA 2014: 40; Norris and Abel van Es 2016; Jenkins 2017).

Large donations from private actors may tilt the playing field to the advantage of a contesting party or individual candidate, who in turn may be expected to reciprocate with favours once elected into office. Likewise, unregulated foreign donations may be problematic as recipients become beholden to the foreign powers and their interests

<sup>1</sup> However, the paper mainly focuses on campaign spending.

### Main points

- Electoral management bodies (EMBs) are the most common political finance oversight agency, followed by supreme audit institutions, ministries, special political finance bodies and lastly parliaments. However, each oversight agency has its own strengths and weaknesses, which should be taken into account.
- Some countries have chosen a hybrid model, mandating more than one agency to oversee different aspects of political finance. This appears beneficial as it ensures that agencies carry out specific oversight tasks in areas where they possess the requisite capacity and expertise.
- Whereas most EMBs in Africa are responsible for collecting financial statements from political parties and candidates, they are not the preferred institution for scrutinising financial statements – with supreme audit institutions preferred instead due to their rich expertise on auditing financial reports.

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(International IDEA 2014: 40). Criminals can also make political donations from proceeds of their illegal activities as a means to penetrate politics or even capture political parties or state institutions (International IDEA 2014: 347).

Hence, regulation of political finance is critical for the advancement of democracy and promotion of integrity in politics (see Lee-Jones 2019; International IDEA 2014). According to International IDEA's [political finance database](#), which gathers the latest political finance data from 180 countries, almost all countries have at least some regulations on political finance, such as:

- restrictions on the timing, size and source of contributions
- spending limits
- reporting and disclosure obligations
- prevention of abuse of state resources

To make these regulations meaningful, effective oversight is necessary as there are usually gaps between adopted political finance regulations and their implementation. Evidence from the [Money, Politics and Transparency \(MPT\) project](#), which analysed political finance laws and implementation in 50 countries, indicates that countries with robust political finance regulations on paper often failed to effectively implement these in practice. Many countries who were part of the assessment scored fairly well on *de jure* indicators but performed far worse in terms of implementation of the regulations as political parties, candidates and third parties usually circumvent regulations for their own interests (Global Integrity 2015: 20-26).

A recent study by the Electoral Integrity Project, which covered the quality of elections between 2019 and 2021 around the world through an expert survey, also pointed to campaign finance as “the weakest area of the electoral cycle” (Garnett et al. 2022: 4). According to the study, campaign finance issues remain opaque, with countries scoring badly on the area of publishing transparent financial accounts (Garnett et al. 2022: 13)

Hence, while it is important to establish effective political finance regulations, it is also crucial for governments to establish oversight structures that will actually monitor and enforce the rules (International IDEA 2014: 20; IFES 2005; Adeleke 2016). Otherwise, the regulations will remain toothless as political parties, candidates and third parties fail to comply with political finance regulations, to the detriment of electoral processes and democracy.

## Institutional models of political finance oversight

The compliance of political actors with finance regulations can be overseen by a variety of bodies, and practices differ between countries. These oversight agencies include electoral management bodies (EMBs), auditing agencies, courts, the state comptroller, anti-corruption agencies, parliamentary committees, the state's tax office and courts (see OSCE/ODIHR 2015: 46; Norris and Abel van Es 2016).

These agencies' mandates differ across countries and may include receiving, auditing and publishing regular financial reports, conducting inspections and investigations, and the enforcement and imposition of sanctions (OSCE/ODIHR 2015: 47).

The International IDEA's [political finance database](#) provides the latest information on: i) which oversight agencies in African countries receive financial reports from political parties; and ii) which oversight agencies in African countries are responsible for examining financial reports and/or investigating violations (see Figure 1).<sup>2</sup>

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<sup>2</sup> The International Foundation for Electoral Systems also has a database on political finance oversight but focused on Europe & Eurasia: <https://www.ifes.org/fort>

Institution	African countries that require the following agencies to receive financial reports from political parties and/or candidates <sup>3</sup> (Out of 51 countries)	African countries that require the following agencies to examine financial reports and/or investigate violations <sup>4</sup> (Out of 51 countries)
Electoral management body (EMB)	19 (37.3%)	17 (33.3%)
Ministry	9 (17.6%)	7 (13.7%)
Court <sup>5</sup>	10 (19.6%)	12 (23.5%)
Parliamentary unit	2 (3.9%)	0 (0.0%)
Special agency for political finance	7 (13.7%)	5 (9.8%)
Auditing agency	7 (13.7%)	9 (17.6%)
Anti-corruption agency	0 (0.00%)	0 (0.00%)
Other	3 (5.9%)	13 (25.5%)
No data	4 (7.8%)	7 (13.7%)

Figure 1: Political finance oversight institutions in Africa. Source: International IDEA's political finance database, <https://www.idea.int/data-tools/data/political-finance-database>. The tally in each column exceeds 51 as there are countries using more than one agency

<sup>3</sup> Question 55: Which institution(s) receives financial reports from political parties and/or candidates?

<sup>4</sup> Question 56: Which institution(s) is responsible for examining financial reports and/or investigating violations?

<sup>5</sup> Most of the institutions recorded here are courts of accounts or audit, which are a type of an audit agency.

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## Electoral management body

An electoral management body (EMB)<sup>6</sup> is an institution mandated to manage some or all of the essential elements for conducting elections. These elements include voter registration, receiving and confirming election candidate nominations, conducting elections, as well as counting, verifying and tabulating votes (Catt et al. 2014: 5).

In addition to these electoral tasks, some EMBs have a mandate to oversee political finance activities. As International IDEA's [political finance database](#) shows, EMBs are the most common political finance oversight agencies in Africa, with 19 countries (37.3 per cent) tasking them to receive financial reports from political parties and/or candidates. These countries include Nigeria, Ghana, South Africa and Uganda.<sup>7</sup> In addition, EMBs in 17 countries (33.3 per cent), including in the above-mentioned countries,<sup>8</sup> are tasked with scrutinising the financial reports and/or investigating violations.

An example is the Independent National Electoral Commission (INEC) in Nigeria, which is mandated to receive financial statements from political parties. In addition, INEC has authority to carry out investigations and examine the financial records and audited accounts of the reporting entities (see section 225 and 226 of the Nigerian constitution and section 89, 92 and 93 of the Electoral Act).

EMBAs are sometimes regarded as the most viable institutional body to oversee political finance due to their existing mandates of overseeing most electoral matters (Öhman 2013a: 41). Mandating them with political finance oversight functions may lead to a consolidation of responsibilities and resources, with a single institution administering elections as well as ensuring compliance of political parties, candidates and third parties with political finance regulations (OSCE/ODIHR 2015:26).

However, there are a number of challenges associated with political finance oversight by an EMB. Whereas EMBs have a mandate to run

elections, political finance issues go beyond elections to include parties' day-to-day financial activities, financing of special bodies such as party foundations, among other non-electoral matters. Hence, some EMBs may be reluctant or unwilling to engage in oversight work which they perceive to be outside their main realm of running elections (Öhman 2012: 42).

In addition, during often busy election periods, EMBs will be mainly focused on the central administrative task of organising and running elections (Öhman 2013a: 41), and political finance oversight may thus become less of a priority. The institution may also lack the necessary capacity, skills, human and financial resources to perform effective oversight (OSCE/ODIHR 2015:26). This may lead to ineffective monitoring and enforcement of political finance regulations.

EMBAs may be composed of political party representatives or political appointees as a mechanism to ensure "buy-in" from competing parties through representation (van Ham and Garnett 2019: 318). However, this may make such EMBAs, if they are overseeing political finance issues, more susceptible to influence from the political parties or political interests. For instance, critical issues such as sanctioning of political parties may become difficult where politically affiliated members of EMBAs resist efforts to sanction their parties or political allies (Öhman 2013a: 41).

EMBAs usually report to external bodies such as the parliament or government ministry. Given that these institutions are led by politicians, there may be attempts to alter or control the content of oversight reports for own interests (Catt et al. 2014: 299). The reporting of EMBAs to politicians may also be flawed as it would rely on self-policing by politicians with vested interests in minimising oversight of their activities.

A case in point is Nigeria, where the INEC is required to report to the parliament in cases where political parties fail to keep and report their financial accounts. However, INEC has failed to

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<sup>6</sup> An EMB is also known as electoral commission, department of elections, electoral council, election unit or electoral board.

<sup>7</sup> See <https://www.idea.int/data-tools/question-countries-view/569/Africa/cnt>.

<sup>8</sup> See <https://www.idea.int/data-tools/question-countries-view/570/Africa/cnt>.

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perform oversight since its establishment in 1999, nor has the parliament been proactive in demanding action from INEC (International IDEA 2019: 15). It is reported that, on many occasions, parties have failed to comply with the reporting requirements with little action from INEC or parliament (Lipcean 2022: 42).

Overall, EMBs are the most common political finance oversight institutions in African countries. However, they face a number of challenges, highlighted above, and the cons seem to outweigh the pros particularly on key issues such as expertise and capacity, to which some other bodies may be better suited, as will be discussed below.

Supreme audit institutions (courts of accounts/audit and auditor generals) model

Supreme audit institutions (SAIs) are public institutions that are responsible for auditing revenue and expenditure of public institutions. There are three main types of SAIs<sup>9</sup>

- The Westminster model, which is most common in Commonwealth countries, and its key feature includes a national audit office led by an independent auditor general or similar.
- The judicial or Napoleonic model, which is most common in Francophone countries and involves a court with authority to scrutinise financial documents submitted by public institutions. If it is a self-standing court, it is referred to as a court of account or court of audit. In some countries, it may be part of the supreme court and known as the accounting chamber of the supreme court, or simply chamber of accounts,<sup>10</sup> such as in Mali.<sup>11</sup>
- The Board or Collegiate model, which is commonly used in Asian countries (including Indonesia, Japan and the Republic of Korea) and European countries such as Germany. It is similar to the Westminster model, except the internal

structure involving the college or governing board (see also Chêne 2018: 4-6).

For the purposes of this paper, reference to courts would mean judicial SAIs that play a role in political finance oversight.

The International IDEA's database indicates that supreme audit institutions, as courts or national audit offices, are the most chosen institutions across Africa for the auditing or investigation of political finance activities. For instance, the database shows that 10 African countries (19.6 per cent) require courts to receive financial reports from political parties, whereas 7 countries (13.7 per cent) require audit agencies to do so. In addition, 12 countries (23.5 per cent) require courts to examine financial reports and/or investigate violations by political parties and/or candidates, whereas 9 countries (17.6 per cent) require an audit agency to do so.

In Burkina Faso, the court of accounts receives the financial reports of each political party or organisation in the first quarter following the budget year, for verification of the conformity with applicable laws (Article 13, Loi N° 008-2009/AN portant financement des partis et formations politiques et des campagnes électorales 2009). In Malawi, the auditor general has a mandate to scrutinise the financial records of political parties to determine whether they comply with applicable laws (Political Parties Act, 2018).

The obvious advantage of political finance oversight by SAIs is that these institutions have the necessary skills and expertise required to conduct their tasks to handle and scrutinise the financial statements of political parties and candidates – given their main mandate and experience in auditing public institutions. There is no requirement to establish another institution – which is cost-effective particularly for low-income countries with limited resources. However, this would mean that there should be allocation of extra resources, given the extended mandate to include political finance oversight.

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<sup>9</sup> See <https://sirc.idi.no/about/what-are-sais>.

<sup>10</sup> [https://www.parlAmericas.org/uploads/documents/DfID\\_Ch characteristics\\_of\\_Different\\_SAIs.pdf](https://www.parlAmericas.org/uploads/documents/DfID_Ch characteristics_of_Different_SAIs.pdf).

<sup>11</sup> Article 27, Loi n° 05-047 du 18 août 2005 portant Charte des partis politiques, 2005.

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In addition, their reports usually include comprehensive analysis and well-founded recommendations (INTOSAI 2019: 11), which may guide political parties into compliance. There can also be the increased possibility of sanctions for political finance violations, given that judicial SAIs can make rulings and in theory enjoy the same independence from political influence as ordinary courts (Öhman 2013: 41).

However, in practice SAIs still face independence challenges such as difficulties in the public reporting of their audits, inability to follow up on recommendations, and suffer threats from the executive and politicians, such as the introduction of laws to restrict SAI independence or dismissal of SAI members (INTOSAI 2017: 51). In addition, some of the SAI courts may not well adjust to the inevitably political nature of political finance (Öhman 2013: 41).

### Ministerial model

In some countries, the mandate of political finance oversight lies within a ministry such as the ministry of finance, justice, interior or home affairs (Öhman 2013a: 41). As the International IDEA's [political finance database](#) shows, ministries in nine African countries (17.6 per cent) receive financial reports from political parties and/or candidates. These are Benin, Burundi, Djibouti, Democratic Republic of Congo (DRC), Malawi, Mali, Niger, Republic of the Congo (Brazzaville) and Senegal.<sup>12</sup> The database also show that seven countries (13.7 per cent) in Africa mandate the executive (ministries) to examine the financial reports and/or investigate violations by political parties or candidates. These are DRC, Egypt, Guinea, Malawi, Mauritania, Senegal and Zambia.

An example is in DRC, where each political party is required to submit a financial report to the ministry of interior. The report must show that the party has only received financial contributions from legal sources such as public funding, donations from supporters, securities and real estate properties, and revenue generated from events or publications. If the ministry is not satisfied that the party complies with the law, it may call the party to order. Failure of the political party to comply will

result in its suspension until compliant with the law (Law No 04/002 of 15 March 2004 concerning the Organisation and Operation of Political Parties).

An advantage of the ministerial model of oversight is that no new institutions need to be created, which makes it cost-effective particularly for low-income countries with limited resources. In addition, government ministries in most cases have significant capacity that may be required to receive and effectively scrutinise the financial activities of political parties (Öhman 2012: 42; Öhman 2013a: 41). As the DRC example shows, there could be immediate sanctioning of political parties, for instance, by suspending them from accessing public funds until they are in compliant with political finance regulations.

However, as ministries are led by political appointees, they may lack the required independence needed to ensure credible oversight and instil public confidence in political finance oversight (Öhman 2012: 42; Öhman 2012: 41). Opposition parties and candidates may be victimised by the political appointees in ministries, who at the same time overlook violations by the incumbent political party or candidates with whom they share the same allegiance.

### Special agency for political finance

Some countries have set up special agencies to oversee the activities of political parties, including their financial activities. According to International IDEA's political finance database, specialty agencies in seven African countries (13.7 per cent) are responsible for receiving financial reports from political parties and/or candidates.<sup>13</sup> These include Cameroon, Kenya, Madagascar, Rwanda, Sierra Leone, Sudan and Tanzania. In addition, five African countries (9.8 per cent) have speciality agencies that are responsible for examining political finance reports and/or investigating violations. These are Cameroon, Kenya, Madagascar, Sierra Leone and Tanzania.

In Sierra Leone, for example, a political party is required to submit financial statements to the Political Parties Registration Commission with details as stipulated in applicable laws. The

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<sup>12</sup> See <https://www.idea.int/data-tools/question-countries-view/569/Africa/cnt>.

<sup>13</sup> See <https://www.idea.int/data-tools/question-countries-view/569/Africa/cnt>.

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commission is also mandated to monitor the affairs or conduct of political parties to ensure their compliance with the constitution, applicable laws and with the terms and conditions of their registration (Sections 20 and 21 of the Political Parties Act 2002).

Since the mandate of these special institutions is specifically focused on political parties' registration and activities, adding political finance oversight functions to their remit may be seen as ideal to consolidate responsibilities and resources. In particular, they are best suited to collect financial statements and follow up on submissions. They may also build up the necessary expertise and skills to effectively oversee political finance issues in the country (Öhman 2013a: 41).

However, specifically creating these institutions for political finance purposes may need serious consideration on required resources. In addition, as countries may have other agencies already dealing with electoral or political issues (Öhman 2013a: 41), there is a need to ensure there is no duplication of responsibilities.

### Parliamentary model

Besides their law-making and representation functions, parliaments have an important oversight function, which may include political finance oversight. However, this is the least common model across Africa, with International IDEA's political finance database indicating that only Togo requires the parliament to receive financial reports from political parties and/or candidates.<sup>14</sup>

Besides Togo, the national assembly in Nigeria also receives an annual report on the accounts and balance sheet of every political party, not from the political parties but from the electoral commission (INEC). However, as discussed earlier, the national assembly has not been receiving these annual reports for some time.

The involvement of parliament in political finance can be beneficial as it can use its political power to effectively regulate and sanction incumbent

political parties and high-level politicians, compared to other oversight bodies.

However, there are a number of reasons why parliaments may not be popular in the political finance oversight systems across Africa. Parliamentary oversight is usually a political activity as different parties compete to influence government activities. This means that, in reality, parliamentarians would likely act in the partisan interests of their political parties when undertaking political finance oversight issues.

As such, requiring politicians to oversee and regulate the financial activities of their political parties is likely futile. Effective oversight requires the body to be free from undue political influence by any actor (Santucci & Öhman 2009: 33), and political finance oversight by parliament does not offer such independence or impartiality. The parliament may also lack the capacity, expertise and resources to be able to effectively receive and/or investigate financial statements compared to other independent institutions such as the supreme audit institution.

### Hybrid model

Some countries have adopted a hybrid model, mandating more than one agency to oversee political finance issues. For instance, in South Africa, the EMB receives financial reports from political parties and/or candidates, and the auditor general is involved in the examination of the financial reports (section 22 of the Political Party Funding Act 2018). In Kenya, the scrutiny of financial reports is conducted by the EMB and auditor general, as well as by the special agency for political finance.<sup>15</sup> For example, funds related to electoral campaigns are investigated by the EMB, whereas those related to general political party activities are audited by the registrar of political parties and the auditor general.

This model appears advantageous compared to other models as it ensures that institutions carry out specific aspects of oversight where they possess requisite capacity and expertise.

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<sup>14</sup> <https://www.idea.int/node/285278>.

<sup>15</sup> See <https://www.idea.int/data-tools/question-countries-view/570/156/ctr>.

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For instance, EMBs or special political party agencies may be best suited to receive financial statements from political parties as they have frequent contact with political parties and may be well placed to remind or follow up on the submission of financial reports. On the other hand, supreme audit institutions are well-suited to auditing financial records or investigating whether financial activities of political parties adhere to the applicable political finance regulations. Various bodies could be suited to carry out enforcement and imposition of sanctions. For example, cases involving criminal sanctions could be dealt with by law enforcement agencies, whereas EMBs or the registrar of political parties can deal with cases involving administrative penalties such as withholding of political funding.

Another potential advantage could be that capture or political interference with different agencies may be more difficult in a hybrid model compared to a single institution as the executive or political actors would need to exert undue influence over multiple oversight agencies.

However, a hybrid model can become challenging where different agencies are handling various aspects of the same subject. There may be overlap or loopholes in mandates, leading to confusion or inactivity between institutions (Öhman 2013a: 42).

Where a hybrid model is adopted, the [Guidelines on Political Finance Oversight](#) by OSCE/ODIHR (2020:75) recommend that the relevant legislation clearly stipulates the mandates of each oversight agency to ensure complementarity between institutions. For instance, the receipt of all financial documents may be mandated to one agency, whereas audit or investigations are mandated to another agency. Powers to enforce and sanction wrongdoings should also be clearly stipulated, including which oversight agencies have the respective powers. It is also important to ensure that there are measures in place for cooperation between the oversight bodies to fill in any gaps

such as in prosecution or sanction, and strengthen accountability.

### Essential features of a successful model

There is no one-size-fits-all model of oversight. As discussed above, each model has its own advantages and disadvantages, and it is essential to assess the goals and problems in individual countries (Öhman 2013b:2).

Irrespective of the oversight model, there are essential features that underpin effective political finance oversight agencies in any given context. These include a clear mandate, adequate resources and powers, as well as independence (Zainulbhai 2009: 87; Global Integrity 2018: 26; International IDEA 2016, 2019: 11; African Union 2018).

First, the oversight agency or agencies must have a clear mandate which is legally prescribed (Lipcean et al. 2022: 40), depending on actions required – for instance, receiving reports, auditing, further investigations where there is potential violation, or imposing sanctions. For enforcement to be effective, “it is important for the law to be clear, unambiguous and comprehensive” (ACE Project, no date).<sup>16</sup>

This should be supported by adequate powers and resources (financial, administrative and human) to carry out its duties (Santucci & Öhman 2009: 33) as a body without these would likely fail to perform effective oversight.<sup>17</sup> Adequate powers include authority to request documents from reporting parties or individuals, summon people and powers to impose sanctions. This should be complemented by adequate financial resources, as well as adequate and highly skilled human and administrative personnel responsible for carrying out the required duties. Examples of good practice are South Africa and Kenya, whose respective EMBs reportedly have the human and financial capacities to conduct their tasks. They are able to certify on-time submissions of political parties’

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<sup>16</sup> See <https://aceproject.org/ace-en/topics/ei/eif/eif08/eif08c/eif08c03/eif08c03a>.

<sup>17</sup> As pointed out by Global Integrity (2018: 26), “Oversight bodies are often ham-strung through lacking merit-based

*appointments, independent leadership, technical capacity, and lack of authority”.*

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financial reports, and can sanction those who misallocate funds (International IDEA 2019: 22).

The independence of the oversight agency or agencies is also an important feature of any successful model. Even if the agency has a clear mandate and extensive powers or resources, its political subordination can result in it becoming a political tool used against opposing parties and candidates (Lipcean et al. 2022: 40), while turning a blind eye to violations by incumbent parties or individuals. It is essential that political influence is minimised in the appointment and dismissal procedures for members of the bodies. For instance, the parliament could be involved in approval and dismissal of members by the executive to ensure checks and balances. In addition, appointees should have guaranteed security of tenure and ensure that the oversight agencies have an independent budget with sufficient resources (Öhman 2013b:9; OECD 2015: 97; OSCE/ODIHR 2015: 46).

## Key mechanisms for political finance oversight

According to the [ACE project](#),<sup>18</sup> the key mechanisms for political finance oversight include:

- financial disclosure and reporting
- audits of regulated actors (e.g. political parties and candidates)
- investigations into alleged violations of political finance regulations
- enforcement powers, such as imposition of sanctions (see also Norris and Abel van Es 2016)

These mechanisms do not exist in isolation but are rather a part of a system. To be effective, they need to be embedded into the practices of the various agencies cooperating with each other, as shown in Figure 1 (Zainulbhai 2009).

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<sup>18</sup> ACE is the world's largest online community and repository of electoral knowledge, launched in partnership with leading organisations such as International IDEA, UNDP, the International Foundation for Electoral Systems,

Electoral Institute for Sustainable Democracy in Africa and the United Nations Department of Economic and Social Affairs.

**Chart 1 - Detection and Enforcement Process**

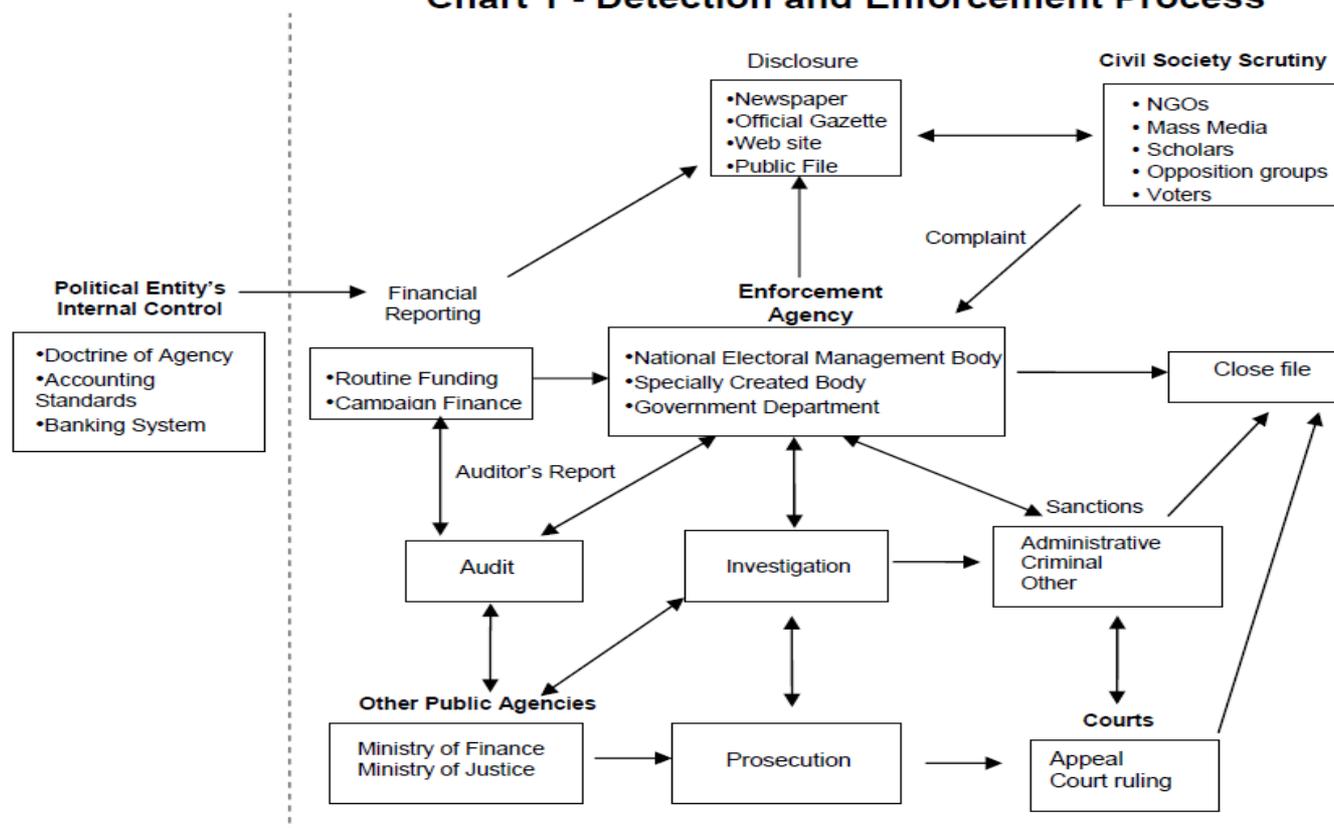


Figure 2: Graphical illustration of the political finance oversight system. Source: IFES 2005: 9.

As shown above, there are internal controls within political entities, such as bookkeeping regulations, which can be regarded as a precursor to effective oversight.

Bookkeeping regulations are aimed at ensuring internal financial compliance of political actors with applicable laws. The logic behind the requirement for bookkeeping regulations derives from the assumption that if political parties do not have accurate records of their finances, it will be difficult for them to disclose correct financial statements to the relevant oversight agencies in a regular and timely manner, even if they are willing to do so (Öhman and Zainulbhai 2009).

The regulations involve an obligation to have an accountant or a treasurer dealing with finances of political parties. An accounting officer would

increase political finance transparency by keeping complete and accurate financial records of the reporting entity as well as submitting the financial reports to the relevant oversight bodies. The officer is also responsible for approving all contributions and expenditures by the reporting entities in compliance with the laws, and to follow credited accounting procedures in performing record-keeping and reporting duties. It is their responsibility to ensure the accuracy of the financial data reported (International Foundation for Electoral Systems 2005: 48-49).

In South Africa, for example, political parties are obliged to keep detailed records of their finances including appointing an accounting officer and auditor to control the books and financial statements of the party.<sup>19</sup> The accounting officer is required to submit the financial statements to the Electoral Commission of South Africa, and these

<sup>19</sup> See section 12 of the Political Party Funding Act 8 of 2018.

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may at any time be audited by the auditor general.<sup>20</sup>

Hence, proper bookkeeping ensures timely submission of accurate and contemporaneous financial records that should enable oversight agencies to effectively receive and verify the reporting entity's financial activities and compliance with applicable laws.

## Financial reporting and disclosure

Financial reporting and disclosure is a basic but key mechanism which helps ensure the accountability and transparency of political actors (OSCE/ODIHR 2015: 20). This mechanism reflects the obligation of signatories of the United Nation's Convention against Corruption (2003), where article 7(3) states the need for measures to increase transparency in funding of political parties and candidates.

The requirements for financial reporting and disclosure are typically set out in electoral laws and generally include the following:

- who makes the reporting and disclosure (candidates, political parties or sometimes third parties)
- to whom
- what is being reported and disclosed (income, expenditures, financial statements) – the expenditure
- exemptions to financial reporting and disclosure (e.g. value thresholds)
- period of reporting and disclosure (electoral campaign and/or annual obligation)
- timing of reporting and disclosure
- reporting forms (Santucci and Öhman 2009; Norris and Abel van Es 2016)

Which oversight agency is responsible for receiving the financial reports largely depends on

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<sup>20</sup> See section 12 of the Political Party Funding Act 2018.

<sup>21</sup> See: <https://www.orpp.or.ke/index.php/about-us/mission-vision-mandate>.

<sup>22</sup> See: [https://www.orpp.go.tz/uploads/publications/sw1565156103-Sheria%20ya%20Vyama%20vya%20Siasa%20Sura%20ya%20258%20\[R.E%202019\].pdf](https://www.orpp.go.tz/uploads/publications/sw1565156103-Sheria%20ya%20Vyama%20vya%20Siasa%20Sura%20ya%20258%20[R.E%202019].pdf).

countries' political contexts, such as their electoral systems (Santucci and Öhman 2009). As discussed earlier, EMBs in most African countries receive the annual financial reports. In some countries such as Kenya<sup>21</sup> and Tanzania,<sup>22</sup> financial reports are received by other institutions such as the registrar of political parties and the auditing agency (Casal Bértoa and Sanches 2019).

Evidence from the [political finance database](#), also indicates that:

- 41 countries (80.4 per cent) in Africa require political parties to report regularly on their finances<sup>23</sup>
- 31 countries (60.8 per cent)<sup>24</sup> and 26 countries (51.0 per cent)<sup>25</sup> require reports from political parties and candidates respectively on their election campaign finances.
- 23 countries (45.1 per cent) require information in reports from political parties and/or candidates to be made public.<sup>26</sup>

Despite these requirements, a common problem is that political parties and candidates fail to submit financial reports, and are rarely held to account by oversight agencies for these failings, as illustrated in Figure 3 below.

<sup>23</sup> See <https://www.idea.int/data-tools/question-countries-view/564/Africa/cnt>.

<sup>24</sup> See <https://www.idea.int/data-tools/question-countries-view/565/Africa/cnt>.

<sup>25</sup> See <https://www.idea.int/data-tools/question-countries-view/566/Africa/cnt>.

<sup>26</sup> See <https://www.idea.int/data-tools/question-countries-view/567/Africa/cnt>.

Country	Comment on compliance with reporting requirements
Botswana	'...in practice, no [financial] reporting occurs, as the IEC also declines to enforce these provisions'
Ghana	'...in practice, it is not uncommon for [political parties] to fail to meet [the reporting] requirements. Of the information that is submitted, it often fails to include a full list of contributors. Financial reports are not made accessible to the public in a timely fashion.'
Kenya	'Submitted reports typically lack detailed information on contributors. Financial data is available to the public, though at a cost.'
Malawi	'No other legislation exists [other than a ban on the abuse of state resources in elections], and enforcement, as a result, is absent'
Nigeria	'In practice, parties regularly fail to file the required reports: only 2 of 23 parties filed annual reports in 2011. Only summary data in pdf formats is available to the public.'
Rwanda	'...no reporting during campaigns is necessary, and candidates do not have to report at all. This means that, in practice, very little meaningful political finance data is reported, and even less is easily available to the public, which can only access submitted reports by request'

Figure 3: Compliance with disclosure obligations in selected African countries based on data from 2016. Source: IDEA 2016:5.

According to International IDEA (2016: 6), the main reason for non-compliance is that political parties and candidates flout rules knowing they will not face any consequences, either through public condemnation or formal sanctions, as a result of weak oversight. Key decisions such as reporting requirements, prohibited sources of income and spending limits are often taken or announced late or at inappropriate times such as after election results or deadline dates, making compliance difficult (International IDEA 2016: 10).

The non-compliance of political parties and candidates affects public confidence in electoral and democratic processes. To prevent and minimise such violations, oversight institutions can play a significant role in providing advice and

<sup>27</sup> In contexts characterised by a weak rule of law and selective implementation of legislation, donors funding opposition parties may become victims of the predatory

guidance (OSCE/ ODIHR 2015: 48). For instance, they may devise, or may be required by law, to devise outreach programmes such as producing clear manuals and training some time before the deadline to remind or bring awareness of the regulations to all reporting persons (OSCE/ ODIHR 2015: 48).

#### Public disclosure of information

An important task of oversight agencies is to inform the public about the financial activities of political parties and candidates (International IDEA 2014: 32). Information about the party or candidates' activities, including who funds them,<sup>27</sup> may be crucial for citizens to make a decision on their political affiliation or who to vote for office.

behaviour of ruling political parties. One potential solution here is to require the publication of donors' identities only above a certain threshold (International IDEA 2014: 59)

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There are several aspects to consider in the public disclosure of information:

- the medium for disclosure (digital versus offline – see Jones 2017)
- the level of disaggregation (itemised and full identification information)
- open data or data available upon request
- regularity of updates

Practices differ in this regard among countries in Africa. Electoral campaign financial reports are published in newspapers in Angola and by the national electoral commissions in Mozambique and Sierra Leone. These reports are available upon request in Kenya and Uganda (Casal Bértoa and Sanches 2019: 25). In South Africa, the IEC issues quarterly reports on political finance that are made available online.<sup>28</sup>

In terms of content, there is an obligation to publish information on both spending and income as well as the identity of donors in Tanzania, Kenya and Sierra Leone, for example (Casal Bértoa and Sanches 2019). In other countries, this obligation goes only for parties and not candidates (such as in Ghana).

Challenges appear, however, in how and whether these obligations are respected in practice (Schwikowski 2019). For example, six months after the 2015 elections in Nigeria, there were no financial reports available on the INEC website (International IDEA 2016: 10).

Nevertheless, the public disclosure of information is critical as it provides opportunities for civil society organisations, journalists and the public to track the financial activities of political parties and candidates, as well as to monitor their compliance with political finance rules. In other words, non-state actors may act as watchdogs to complement functions of oversight agencies in monitoring political finance activities. This may lead to the uncovering of violations that could then be submitted to relevant

oversight institutions for possible enforcement (international IDEA 2014: 32).

## Auditing

Once oversight agencies have received financial statements, they are subjected to financial auditing. The purpose of the audit is:

- to analyse the financial documentation (contributions and expenditures, banking statements) of political parties/candidates
- to verify the disclosures
- to assess the compliance of audited actors with political finance legislation
- to ensure that public funds were used for designated purposes<sup>29</sup>

As indicated earlier in this paper, the most common oversight agencies responsible for such audits across Africa are EMBs and SAIs.

For instance, the auditor general in Zambia does regular audits of political parties' accounts every year and tables the reports in the national assembly.<sup>30</sup> In Cote d'Ivoire, this is the task of the court of auditors.<sup>31</sup> Some countries have also separated electoral campaign audits from regular party finance. For example, in Kenya, funds related to electoral campaigns are examined by the EMB, while those related to the regular functions of political parties are examined by the registrar of political parties and the auditor general (Casal Bértoa and Sanches 2019).<sup>32</sup>

The scope of the audit, including whether every party and candidate is audited, may differ from one country to another. For instance, where the oversight agency lacks financial and human resources to comprehensively audit reports of all reporting entities during an election cycle, it may carry out random audits (ACE Project, no date). Another practice may include auditing entities that received public funds, or entities that show potential irregularities in their financial activities or

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<sup>28</sup> See for example: <https://www.elections.org.za/pw/News-And-Media/News-List/News/News-Article/Electoral-Commission-issues-Third-Quarter-Disclosure-Report-in-terms-of-the-Political-Party-Funding-Act-and-Regulations?a=AlSDGvpz75ps1usOfX7oiq3Rh9rH6i1aeCRcNfVG1Bl=>.

<sup>29</sup> See: <https://aceproject.org/ace-en/topics/ei/eif/eif08/eif08c/eif08c03/eif08c03c2>.

<sup>30</sup> See: <https://www.idea.int/data-tools/country-view/311/55>.

<sup>31</sup> See: <https://www.idea.int/data-tools/country-view/77/55>.

<sup>32</sup> See: <https://www.idea.int/data-tools/country-view/156/55>.

have received complaints against them (ACE Project, no date).

Besides the review of submitted statements, audits often include one or more of the following:

- field audits and visits to offices of parties/candidates to determine whether they meet basic requirements in terms of recording their financial activity and maintaining adequate supporting documents
- reviewing supporting documents to ensure they validate the reporting;
- evaluating the overall financial activities of the reporting entity, and comparing with the standard or average practices of other parties/candidates;
- in-depth analysis of documents with indications of potential fraud, such as forged signatures or inappropriately altered information (ACE Project, no date).

Similar to reporting, oversight agencies in some countries do not audit financial reports. For instance, reports have pointed to the fact that the EMB in Ghana did not audit party accounts due to a lack of capacity, whereas the Office of the Ombudsman in Rwanda during the 2010 and 2013 elections, carried out audits of political parties but did not release any information (International IDEA 2016: 9-10).

Audits are essential to political finance enforcement, as it is through the audit process that violations of political finance regulations are frequently detected, which should lead to further actions such as investigations or imposition of sanctions.

## Investigations

Investigation may occur in cases when financial reports received from political actors are incomplete or incorrect, or if there is a suspicion by the oversight institution or external source (such as a complaint or press report) that political finance laws have been violated.<sup>33</sup> An investigation may include gathering information regarding the

financial activities of the entity or person under investigation, such as banking and vendor records; or collecting testimony from employees, contributors and other witnesses through interviews or other communications (ACE Project, no date).

The investigations may be carried out by various oversight agencies, depending on the legal and institutional framework in the country, and may include field investigations, desk and field audits, and other methods of gathering information (IFES 2005: 62-63). Also, as discussed earlier, the [political finance database](#) shows that EMBs and supreme audit institutions are the most common oversight institutions in African countries responsible for examining financial reports or investigating potential violations.

The following figure shows the powers granted to oversight agencies in African countries responsible for examining reports and/or investigating violations:

57. What power is granted to the institution(s) responsible for examining reports and/or investigating violations?	
Value	Count
Refer for investigation	7 (13.7%)
Carry out investigation	12 (23.5%)
Request additional information from potential violator	10 (19.6%)
Request additional information from others	3 (5.9%)
Impose sanctions	18 (35.3%)
Other	7 (13.7%)
No data	16 (31.4%)
Not applicable	5 (9.8%)
Other	7 (13.7%)
<b>Total</b>	<b>51</b>

Figure 4. Source: International IDEA's [political finance database](#).

<sup>33</sup> See: <https://aceproject.org/ace-en/topics/ei/eif/eif08/eif08c/eif08c03/eif08c03c3>.

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As shown above, investigative bodies have varied powers across 51 African countries, with:

- 18 countries empowering the institution to impose sanctions. For instance, DRC empowers the minister of internal affairs to suspend a non-compliant entity until it has met all the regulations.<sup>34</sup>
- 12 countries grant oversight institutions powers to carry out further investigations themselves.
- 10 countries mandate the oversight institution to request additional information from a potential violator. For instance, the EMB in Ghana may submit a written request to the executive officer of a political party to provide records of the party or other information required by the commission to ensure compliance with the applicable laws (Article 22 of the Political Parties Act 2000).
- 7 countries refer the potential violations for further investigation by relevant authorities, by an auditor or other institutions, such as parliament or law enforcement. For instance, in Uganda, if a political party fails to submit its audited financial statements, the electoral commission (EC) has the authority to order the audit of its accounts by an auditor that the EC appoints.<sup>35</sup>
- 3 countries empower the investigating institution to request information from other sources. For example, in South Africa, the IEC may request any other person to disclose any relevant information, to produce any relevant books, records, reports and other sources, as well as to permit entering of any premises during working hours for inspections or to copy and store any relevant information. In cases of non-compliance with any of the above requests, the IEC can apply to the electoral court for an order to compel compliance, failure of which may attract heavier sanctions (Political Party Funding Act, 2018).

One general challenge in sub-Saharan Africa is that the effective scrutiny of donations to political parties

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<sup>34</sup> See *The Law No 04/002 of 15 MARCH 2004, concerning the Organisation and Operation of Political Parties*

<sup>35</sup> See: <https://www.idea.int/data-tools/country-view/293/55>.

is affected by the limited penetration of the banking system. Namely, a lot of transactions are conducted using cash rather than bank transfers, which leaves no paper trail that the enforcement agency can follow up on (International IDEA 2014: 60).

Public investigations may also be instituted by civil society organisations or the media. This might encourage a reluctant or inactive oversight agency to carry out an official investigation. In addition, its investigations may provide evidence that can be used by the relevant oversight body for further action.<sup>36</sup>

### Enforcement powers and sanctions

Enforcement power and the imposition of sanctions for non-compliance are necessary for effective oversight. Without the power to initiate proceedings against offenders or impose sanctions, oversight institutions could become toothless (ACE Project, no date).

It is important to note that enforcement is embedded in a broader system of political finance oversight. An effective enforcement system depends on cooperation between various stakeholders and ideally includes elements found in a competent judicial system: investigation, prosecution, adjudication and sanctions (IFES 2005: 8). Various bodies can fulfil the role of enforcement and sanctioning, including EMBs, ministries parliaments, courts and others (IFES 2005: 12).

Typical sanctions for non-compliance with political finance regulations may include:

- administrative fines
- monetary penalties for more serious violations
- criminal sanctions for violations undermining the integrity of elections or corruption (e.g. misappropriation of public resources for political gain)
- loss of reimbursement for election expenses, withdrawal of public funding
- dissolution of non-compliant entity

<sup>36</sup> See <https://aceproject.org/ace-en/topics/ei/eif/eif08/eif08c/eif08c03/eif08c03c3>

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- loss of legislature seat<sup>37</sup>

The ideal oversight agency or agencies for enforcement and the imposition of sanctions would largely depend on the type of violation. For instance, South Africa's IEC has the authority to withhold the distribution of funds in cases where political parties fail to disclose audited financial reports for the previous year in a timely manner, to seize illegally spent or accepted money, request the imposition of administrative fines in cases of a violation of political finance regulations, which may be imposed by the electoral court (Section 16 of the Political Party Funding Act, 2018).

In Malawi, the secretary general of a political party that is non-compliant with political finance laws or which makes a false donation declaration, may be subjected to criminal proceedings, which on conviction may result in imposition of a fine and imprisonment for two years. In addition, the registrar of political parties may also recommend that the ministry of finance suspends public funding to non-compliant political parties (sections 24 and 27 of the Political Parties Act 2018).

Despite a wide range of enforcement powers and sanctions, oversight institutions across Africa rarely use these powers or impose sanctions despite violations. Older reports indicate weaknesses in enforcement by oversight institutions in Kenya, Ghana, Rwanda, Nigeria, among others, which may lead to a culture of impunity (see International IDEA 2014: 60; International IDEA 2016: 9-10). As discussed earlier, INEC in Nigeria is obliged to report to the national assembly if political parties fail to report their financial statements. In practice, however, evidence suggests that INEC has not competently performed these functions for a long time (International IDEA 2019: 15; Ukase 2015).

According to International IDEA (2016:9), "the causes of this lack of oversight vary from unclear legal mandates to lacking resources or access to the judicial system for the imposition of sanctions". In addition, institutions also lack independence and political will to perform their oversight functions. More broadly, the literature suggests that inadequate enforcement and sanctioning could be a

result of a combination of factors such as legal loopholes, ambiguous or excessive laws, failure to specify penalties, a lack of administrative capacity of regulators, lack of capacity and/or independence of the judiciary and a lack of independence of regulatory bodies (Öhman 2013a: 37).

A question could be asked whether certain sanctions are more effective than others. Where only severe sanctions are available, such as criminal penalties or the deregistration of a party, oversight institutions may be reluctant to impose sanctions as they would likely face great resistance from reporting entities and their supporters. In addition, heavy fines for minor offences would undermine the fairness of the political finance system (ACE Project, no date).

Conversely, if there only lighter sanctions even for serious violations of political finance regulations, this could undermine public confidence in the political finance system. Hence, an ideal sanctioning system would be the one that has a wide range of enforceable, proportional and dissuasive sanctions to punish violations (International IDEA 2014: 32).

## Conclusion

While most countries have robust political finance regulations in place, evidence suggests huge discrepancies between the law and what happens in practice (see International IDEA 2014). As such, oversight is a key component of effective political finance systems, without which there would be no effective monitoring and enforcement of the regulations.

Most countries in sub-Saharan Africa have mandated EMBs to perform most oversight functions such as receiving financial statements as well as auditing or investigating violations. However, regarding the latter, supreme audit institutions are mostly involved considering their skills and expertise in scrutinising financial documents. Various oversight agencies including EMBs, ministries, courts, law enforcement are involved in the enforcement and imposition of

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<sup>37</sup> See: <https://aceproject.org/ace-en/topics/ei/eif/eif08/eif08c/eif08c03/eif08c03d>.

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sanctions, but evidence suggest a lack of enforcement in African countries.

Each oversight model has its own strengths and weaknesses, and some countries have opted for hybrid models where agencies carry out specific aspects of oversight where they possess the requisite capacity and expertise. For instance, the receipt of statements by EMBs or registrars of political parties, with supreme audit institutions auditing the financial statements. However, where a hybrid model is adopted, it is crucial to have a clear mandate for each agency, avoid the overlapping of functions, which may lead to confusion or inaction, and ensure measures for cooperation between agencies.

There is agreement that political finance oversight agencies in any given context can only be effective if they have a clear mandate, adequate powers and resources, and are independent from any outside influence.

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