

Political Party Funding Regulation in Europe, East and West: A Comparative Analysis

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This discussion paper follows the Parliamentary hearing given by OSCE/ODIHR in April 2017,¹ and the OSCE/ODIHR Legal Opinion on Laws Regulating the Funding of Political Parties in Spain submitted to the Parliament of Spain in October 2017.

The paper aims at offering the members of the Committee for Auditing Democratic Quality, the Fight against Corruption and Institutional and Legal Reforms of the Congress of Deputies of Spain with a comparative overview of good practices from relevant OSCE participating States in the area of political party finance, to ultimately inform the reform efforts ongoing in Spain in this regard.

OSCE/ODIHR remains ready to further support the work of the Committee for Auditing Democratic Quality, the Fight against Corruption and Institutional and Legal Reforms in its important work on the political party finance legislative framework, as to strengthen principles of political transparency and accountability in Spain.

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¹ Available at: <https://goo.gl/WEGMJQ>

Introduction

The regulation of political party funding in Spain has changed quite substantially over the years (Casal Bértoa and Biezen, 2014; Casal Bértoa et al., 2014). In fact, nobody can doubt that such regulatory framework has experienced substantial improvements, especially since the 2007 Law and its subsequent reforms (Rodríguez-Teruel and Casal Bértoa, 2016). This is not to deny, however, that there are important problems in the current regulation that, as pointed out by GRECO among others, still require some improvement: namely, (1) an excessive financial dependence of political parties from the state, (2) transparency deficit, and (3) lack of an appropriate dissuasive sanctionatory framework, and (4) insufficient implementation. In this context, it should be borne in mind that most Spanish citizens (91%) have serious doubts about the current regulatory framework, which is considered to be insufficiently transparent and over-sighted (Eurobarometer, 2014: 46).

In a moment when Spanish political parties are not only considered to be “the most corrupt institutions” (GCB, 2013), but also “not trusted” (Eurobarometer 2015: 71), in a time when the levels of party membership (barely 5% of the electorate) and identification (barely 10%) have reached historical minimums (Biezen et al., 2012; Krouwel, 2012: 99), it seems appropriate to address those party funding issues that might help political parties to recover part of the citizens’ confidence lost.

In particular, there are three main areas in the Spanish party funding regulation that could be improved: namely, (a) parties-citizens relationship; (b) transparency and control; and (c) sanctions. In the current report, we will limit ourselves to suggest some “good practices” observed in other European countries in issues related to the abovementioned regulatory areas.

A. Measures leading to increase political participation and, therefore, improve the relationship between parties and citizens

Measure 1: Reduce disparity between public and private funding: “matching funds”

The distributing of public subsidies among European political parties usually takes place following three different procedures: either they are distributed equally among all those parties reaching a certain (usually electoral) threshold (e.g. Andorra, Latvia, Russia, Ukraine), or they are equitatively distributed in proportion to the number/percentage of votes/seats obtained by eligible parties at the most recent legislative elections (e.g. Finland, France, Greece, Norway, Spain), or both (e.g. Austria, Belgium, Luxembourg, Portugal, Sweden) (Biezen and Casal Bértoa, 2014; Casal Bértoa and Biezen, 2018; Piccio, 2014).²

There are two exceptions to the abovementioned general rule though: namely, Germany and The Netherlands.³ In these two countries the system of allocation of public subsidies guaranteed to political parties (so-called “matching funds”) is set to promote citizens’ financial involvement in the electoral process, encouraging at the same time parties’ efforts to collect their own private resources. This helps not only to secure German and Dutch parties’ independence (at least financially) from the state,⁴ but also to incite German and Dutch citizens’ political participation, reinforcing the (representative) link between the two (i.e. both parties and voters).

The “matching funds” systems of these two countries differ slightly, however. Thus, while in the Netherlands public funding is directly dependent on parties’ level of membership, in the German case public subsidies’ distribution is conditional to the capacity of political parties to collect private contributions.

² Belarusian, Italian, Maltese and Swiss political parties are not publicly funded.

³ In Canada, parties’ ability to raise (and spend) money is rewarded by guaranteeing a reimbursement of 50 per cent of electoral expenses to all those parties that manage to obtain either 2 per cent of the national vote or 5 per cent of the district vote. Quebec even guarantees public subsidies that match the first \$200,000 raised by parties.

⁴ In both countries, private contributions constitute the most important source of income (Rodríguez-Teruel and Casal Bértoa, 2017).

In the Netherlands, like in most European countries, part of the public subsidies is distributed to political parties as a lump sum, part in proportion to the number of parliamentary seats⁵ they obtained during the last electoral cycle, and part in proportion to the number of party members (arts. 7 and 8 of the 2013 Dutch Party Funding Law). However, this later sum awarded in relation to the number of members a political party has only covers 11.5% of the total public subsidies. It is important to note that only political parties with at least 1,000 members paying an annual contribution fee of at least 12 euros qualify for this last type of subsidies.⁶ This certainly includes most of the major Dutch political parties, with the exception of the Party of Freedom (PVV), which formally only has one member, its leader Geert Wilders.

In the case of Germany, on the other hand, political parties receive an amount of public subsidies calculated on the basis of their electoral success, the sum gained through membership fees as well as deputy fees, and the amount of money obtained from donations (art. 18.1 of the 1967 German Political Parties Act). In no case, however, the amount of public funds can exceed the sum of private funds raised by a party itself (art. 18.5).⁷ In other words, parties must generate at least half of their income from sources other than the state.

More in detail, in Germany public funding is distributed by way of a flat rate per vote received during the most recent (European Parliament, national or regional) elections. The first 4 million votes entitle a party to receive €1 for each vote, after that, €0.83 per vote is given (Art. 18.3.1-2. of the German Political Parties Act). However, to that amount the state will add €0.45 for each euro received from other sources, being it lawfully obtained donations, membership fees, or even contributions from elected office-holders, up to €3.300 per donor (Art. 18.3.3 German Political Parties Act).

This matching-funds scheme has substantially helped to stabilize the proportion of membership fees on the total revenues of the German political

⁵ It is important to note here that The Netherlands has no legal electoral threshold – the effective threshold is around 0.67%.

⁶ According to art. 7.1 of the law: “the membership is to be demonstrated by an explicit declaration of intent of the persons involved”.

⁷ It should be also noted though that, no matter how successful parties are collecting private contributions, the sum of subsidies distributed among political parties cannot exceed the absolute annual upper limit (see art. 18.3 and 18.5).

parties, despite the fall of grass-roots support over the last decades. As seen in Table 1, the disproportion between the two biggest political parties and the minor political parties in the relevance of membership fees over the total political party income has been reduced considerably since 1980.

Table 1. Percentage of membership fees over total revenues

	1970	1981	2006
CDU	22%	43%	27-29%
SPD	40%	57%	
Minor parties	14%	21-25%	19-24%

Source: Nassmacher, 2009, p. 368.

The effects of these two “matching-funds” regimes result in two political party systems, in Germany and The Netherlands respectively, with the lowest financial dependence from the state (around 40%),⁸ among the lowest “membership drain” (around 2%), and one of the highest levels of trust in political parties (around 27%) in the whole European continent.⁹

Measure 2: Conditionality in the use of public subsidies: “ear marking”¹⁰

A small number of European countries earmark the public funds political parties receive from the state. Most European legislations simply require political parties to use public subsidies to finance their “campaign spending” (e.g. Hungary, Monaco), “ongoing party activities” (e.g. Serbia, Slovenia), or “fulfilling party goals/program” (e.g. Croatia, Poland). Moreover, most of the time legislations do not specifically require that a particular percentage of state funds to be used exclusively for the promotion of certain groups in society. Once again, the Netherlands is the only exception,¹¹ where public subsidies are earmarked for

political training and educational activities, dissemination of information,
maintaining contacts with and engaging in training and education of sister

⁸ Notwithstanding the United Kingdom, which in any case only guarantees public funding to opposition parties.

⁹ See Piccio (2014), Biezen et al. (2012) and Eurobarometer (2015).

¹⁰ E.g. increase of internal transparency, promotion of membership participation and internal democracy, capacity building of their personnel, promotion of youth and women, etc.

¹¹ In the United Kingdom subsidies *to opposition parties* are also earmarked for specific purposes, including policy development (Nassmacher, 2014: 271).

parties outside the country, political-scientific activities, promoting the political participation of young people, member canvassing, involving non-member in activities of the party, canvassing, selections and guidance of holders of political office on top of activities related with electoral campaigns (art. 7.2).

This is not to deny that, in some other European countries (see table 2), the use of a portion of state funds received by political parties is conditioned for the promotion of women (e.g. Finland),¹² research (e.g. Greece and Poland)¹³ and, like in Ireland, also youth. In fact, Ireland is – after the Netherlands – the country with the strongest legislation in this respect. Thus, according to art. 18 of the 1997 Electoral Law, publicly funded parties shall use their state aid for any or all of the following purposes:

“[...] research, education and training, [...] promotion of participation by women and young persons in political activity”.

Table 2. European legislations with particular “ear marking” systems

Country	Women promotion	Youth promotion	Membership education	Research initiative	Persons with Disabilities
<i>Albania</i>	X				
<i>Bosnia H.</i>	X				
<i>Croatia</i>	X				
<i>Finland</i>	X				
<i>France</i>	X				
<i>Georgia</i>	X				
<i>Greece</i>				X	
<i>Ireland</i>	X	X		X	
<i>Latvia</i>				X	
<i>Netherlands</i>		X	X	X	
<i>Poland</i>				X	
<i>Portugal</i>	X				
<i>Romania</i>	X				
<i>Serbia</i>			X		
<i>Ukraine</i>	X				
<i>United Kingdom (Scotland only)</i>					X

Sources: Ballington and Kahane (2014), and Piccio (2014)

Furthermore, according to the 2012 amendments to section 17 of the 1997 Electoral Law, political parties in Ireland will lose half of their state funding “unless at least 30 per cent of the candidates whose candidatures were

¹² Since 1975, 12% of each party’s annual public subsidy shall have such use.

¹³ Research projects (also in Latvia).

authenticated by the qualified party at the preceding general election were women and at least 30 per cent were men". The gender quota is to increase to a minimum of 40% women and minimum 40% men within seven years from the first election held according to this new provision.¹⁴ Similarly, Portuguese parties can lose up to 80% of their public subsidies if they do not have at least one third of women among their candidates.¹⁵

French legislation, the first one to link public funding and gender balanced representation in 1999, only imposes financial sanctions to those political parties failing to nominate an equal percentage of male and female candidates in their party lists – and if the difference exceeds 2% of the total number of candidates on the list. Albania follows the French example and imposes financial penalties when political parties do not include at least 30% of female candidates on their lists. A stricter regime of sanctions is in place in Serbia for those political parties failing to meet the 30% gender quota on their lists: namely, the rejection of the entire political party's electoral list (art. 40a of Electoral Law).

A different approach to gender promotion is that adopted by Georgia, Croatia and Romania, as these countries prefer to provide an incentive to political parties rather than impose sanctions for non-compliance, in the form of allocating additional public funding to those political parties that nominate a certain proportion of women on their political party's electoral lists. Thus, in Georgia political parties that have at least 20% of female candidates in their lists receive an extra 10% of public funding. In Croatia, each political party receives 10% extra of allocated public funds for each elected female Member of Parliament (art. 6 of the 2011 Party Funding Law). In Bosnia Herzegovina 10% of public funds is distributed proportionally to parties according to the number of female MPs. In Ukraine, political parties need to have at least 30% of their elected members from a different gender in order to receive additional public funding. Similarly, art. 14.2 of the Romanian 2006 Party Funding Law

¹⁴ The International IDEA, Inter-Parliamentary Union and Stockholm University, Global Database of Quotas for Women, available at: <http://www.quotaproject.org/country/ireland>.

¹⁵ In Italy, until the total elimination of public subsidies in January 2017, parties which did not dedicate at least 5% of the subsidies perceived from the state to promote the active participation of women had their subsidies reduced in 1/20.

proportionally increases the amount of public subsidies for those parties promoting women on their electoral lists in eligible positions.

Interestingly, in the majority of countries for which OECD (2016a) has data for the period between 2002 and 2015, the percentage of women in parliament has increased substantially, perhaps with the exception of Nordic countries like Finland, Denmark, and Sweden (these countries already had the highest women's representation among OECD European countries and have recently experienced minor stagnation or minimal increases over the last decade). Among the rest of the OECD European countries where earmarking public subsidies to political parties to the promotion of women in politics was introduced, Italy was very effective (with the percentage of women elected in parliament went from 9.8% to 31%), similarly to France (from 12% to 26.2%), and Portugal (from 19.1% to 31.3%). Of note, the 2016 Irish general election, held for the first time with the legislated gender quotas connected to public funding, delivered a record 22.2% of women elected in parliament, up from 15.1% of women elected in the previous general election. Looking back at 2002, when women held only 12.0% of seats in the Irish parliament, one could conclude that earmarking public subsidies to the promotion of women in politics has had a very positive effect in Ireland.¹⁶

Thus, it follows from the above that any measure to improve the participation of women in politics certainly has a positive effect. As with any legislation, legislative measures to promote women's political participation are only as effective as their actual formulation and implementation. It is crucial that measures are effective, serve their purpose, and non-compliance is monitored and sanctioned effectively.

It is unclear which type of incentives (i.e. financial penalties, funding deduction, or funding incentives) works best. Sanctions need to be effective, proportionate and dissuasive to avoid a situation where parties prefer to be sanctioned or to lose public funding than to promote women as candidates (see OSCE/ODIHR, 2010: n. 215-217). Moreover, the amount of sanctions and/or

¹⁶ Inter-Parliamentary Union, Women in National Parliaments, data as of 1 September 2017, 28 February 2011, and 4 February 2002, available at: <http://archive.ipu.org/wmn-e/classif-arc.htm>.

incentives needs to be substantial (e.g. Portugal, Ireland) to have an impact on political parties' decisions and behavior.

B. Transparency and control

Measure 3: Reinforce the regulation of political party foundations¹⁷

One of the recent efforts in strengthening transparency in political party finance focuses on what has been called the 'party penumbra', namely those organizations surrounding political parties and usually contributing to their political aims: youth mobilization, adult education, female promotion or diffusion of party information (Nassmacher, 2009).¹⁸ They are still mostly considered to rest outside the regulatory scope of party finance, although this has started to change in the case of political party-affiliated foundations.

Still largely overlooked, the regulation of political party foundations mainly concerns a few group of countries, including Germany, Austria, The Netherlands, Hungary, Finland, Greece and Spain,¹⁹ where political parties have powerful 'party institutes' or 'political foundations' especially dedicated to provide political parties with political education, research, student grants and international activities (Pinto-Duschinsky, 1991: 196). Their role has sometimes been controversial because of problems with political party-affiliated foundations that have been used to channel third-party spending for electoral campaign, which has led often to legal change towards tighter regulation²⁰. For many other countries, political party foundations and their finance operations rest outside the regulatory framework of the political party system, or they simply do not exist as proper party-linked organizations. Furthermore, in some countries the linkage between political foundations and political parties is

¹⁷ Assimilation in terms of regulation to that of political parties.

¹⁸ We have excluded from this analysis those political foundations mainly focused on assisting democracy building abroad, like the Dutch *Netherlands Institute for Multiparty Democracy* (NIMD).

¹⁹ In other cases, like Romania, similar kind of actors are mostly involved in the party activities during electoral campaigns (Doublet 2011).

²⁰ In Finland, after some controversial cases of affiliated foundations making significant contributions to close parties, the 2010 reform (following GRECO recommendations) strengthened the limits and disclosure for individual donation to party associations.

formally weak or absent (e.g., United Kingdom, Belgium, Italy, Slovakia, Latvia or Lithuania, among others).

Following article 8A.4 of the Lisbon Treaty, the European Parliament has also established economic support for the political foundations at the European level, explicitly aimed to fund meetings and conferences, publications, studies and advertisements, and administrative, personnel and travel costs (but not electoral campaigns or national parties' activities). These grants are conditioned to some requirements (such as having a legal personality, different from the political party, respecting some political principles, or not promoting profit goals, among others). To obtain this economical support, the foundations must apply presenting a work program and an annual budget.²¹

Germany offers the very model of functioning and funding party foundations (politische Stiftungen), as their political relevance and the foreign activity has given them strong influence in Germany and in many new European democracies. Although their activities are not strictly subject to the regulation of political parties, the Political Parties Act makes some references limiting donations to political parties. The funds for these organizations are mainly based on public subsidies from the Federal and State governments, and on project-related allocations (Mohr, 2010). Only an evanescent small proportion comes from private donations. The constitutionality of public allocations to these organizations comes from the Federal Constitutional Court's decision in 1986 regarding the funding of political parties. However, only a small part of these allocations can be used for party competition (Nassmacher, 2009: 338). Likewise, this public funding model is also present in other countries with influential political party foundations, although the extent of legislative conditions and requirements may change. For instance, some funds for Austrian political party foundations are provided to offer training courses for party activists. Dutch funds are also strongly restricted to youth activism, training or research.

In exchange to public support, the foundations' budgets and activities are usually under control of the public institutions. In the German case, for instance,

²¹ The EP publishes information about the grants delivered to each foundation (see available data in: http://www.europarl.europa.eu/pdf/grants/Grant_amounts_foundations_01_2017.pdf [accessed October 12th, 2017]).

the foundations are scrutinized by the Federal and the State Courts of Audit, as well as other internal and external authorities. Accordingly, public funding means that foundations' finance must be fully transparent to the public, even if regulation does not necessarily oblige them to disclose their statements (Mohr, 2010: 69).

Measure 4: Party (internal) control of their own funding

Several scholars have stated that transparency and control over political party funding become stronger when political parties also have internal control mechanisms in place. Hence, with the aim of regaining public trust and voter support, political parties should aim to improve their internal integrity standards as well as reinforce their regulatory frameworks by adopting internal mechanisms of control and supervision.

On the one hand, the adoption of internal mechanisms of control and supervision has become a common feature in political party finance regulations. In some countries, finance laws have recently started to foster internal party accountability as well as deeper collaboration between political parties and the financial regulators. The most widespread mechanism is requiring political parties to organize and lead their own accounting. Among other requirements, this usually means parties need to keep proper accounting books with revenues and expenses, records, assets and liabilities, and the evolution of the financial balance. However, these accounts should also be extended to electoral and (which is less frequently) referenda (as it is stated in countries like Latvia, Slovenia, and United Kingdom). Regarding financial disclosure, beside annual and electoral accounts, some countries require the disclosing of any data concerning political parties' and candidates' financial activities. This could eventually allow the external supervisory body to have on-site inspections upon its own initiative or upon other bodies' requests (e.g. Portugal, Slovenia, or the United Kingdom, among others).

The International Foundation for Electoral Systems (IFES) has suggested some criteria for an effective reporting system, such as creating a reporting structure that is detailed, but not burdensome; ensuring all relevant financial

information is included in the report; establishing reporting requirements in consultation with those set to report; designing financial reporting forms so people can understand them; providing manuals and forms before the start of the reporting period; making submitted financial reports publicly available; and keeping information in submitted reports for the future (Ohman, 2013: 58).

In some cases, internal control may be implemented by an external audit company which is responsible for party accountability (e.g. Czech Republic). When the control rests in the hands of the party members, it is important that the party officials are financial management specialists, who know the internal financial and administrative organization, and, consequently, help political parties to solve fiscal and management problems, like it has been incentivized in Romania (Perottino et al., 2005). To further prevention, the external supervisory bodies can offer training support and specialized courses to political party officials and financial officers (as implemented in Latvia). In this regard, British political parties have benefited from research on party finance developed by the academia in collaboration with the Electoral Commission.

Even when the book accounts are regulated by the finance law, it could be particularly useful to distinguish different levels of centralization of internal control. This becomes particularly relevant for countries with strongly decentralized multi-level party systems, like Spain. While some countries do not distinguish between headquarter and party branches (e.g. Czech Republic), other cases have established the requirement for territorial branches to manage their own accounting, and submit it periodically to the central party office, reporting about income, fees, patrimony status, etc. (e.g. Romania).

Following the USA and Canada, some few European countries have set laws and intraparty regulations aimed to cover some aspects of the primary elections' finance. In the United Kingdom, the general party finance law requires the reporting of personal donations received by the primary candidates. Furthermore, British political parties have adopted internal regulation to reduce costs by imposing spending caps, while France only regulates spending for those primary-winning pre-candidates (Scarrow, 2013, p. 160). Alternatively, the state has regulated intensively the funding and functioning of party primaries in Israel, with a positive impact on the party internal process in terms of public

disclosure, limiting costs and ensuring political equality among candidates (Cross et al., 2016).

Measure 5: Reinforce the competences of the Courts of Auditors (in terms of transparency and control)

An oversight body is fundamental to any system of supervision of political party finances. However, only in half of countries this task is assigned to an external institution, such as an electoral management body (29%) or a special institution (18%) (OECD, 2016b). Hence, aiming to increase the level of independence of monitoring institutions, some countries (e.g. France or the United Kingdom) have set single control agencies (e.g. National Commission for Campaign Accounts and Political Funding or Electoral Commission), preventing problems related to institutional cooperation, improving the standardization of training and the expertise on auditing political finances, furthering transparency and public trust.

Among the rest, the control of parties' finances is mainly exercised by parliamentary commissions, the executive branches or the courts, which can implement this control directly or through special agencies that are accountable to them (Piccio, 2014: 234). For instance, Estonia created the Party Funding Supervision Committee, formed by representatives of each parliamentary group and expert members, appointed by several public control bodies.

Some key variables contribute to strengthen the quality of the control and the timeliness of the conclusions of any system of supervision of political party finances: (a) independent appointment of members; (b) the specialization of agency staff, which can be improved with personnel training in order to create and maintain expertise and proficiency at all levels; (c) independent budgets with sufficient resources; (d) the extent of inter-institutional coordination in order to make monitoring more cost-efficient, timely and effective (Piccio, 2014: 239; OECD 2016, 97b). Other indicators measuring the reinforcement of these oversight authorities refers to human resources, budget, and control powers; avoiding delays; better coordination with other State agencies; and the creation of an electronic system of control.

In this regard, lack of merit-based or independent leadership are restrictions to the effectiveness of oversight authorities in many countries: in a sample of 54 democracies, 13 per cent appoint leaders of oversight authorities based on merit, and only 15 per cent could fully guarantee independent appointees (Global Integrity, 2005: 13). Cases like the United Kingdom, Slovenia or Latvia mirrors a trend towards monitoring agencies' appointments based strictly on merit (see OSCE/ODIHR, 2010: n. 218 on impartiality and neutrality of regulatory bodies).

Capacity constraints and operational opacity frequently hamstring oversight authorities. Almost 70 percent of countries have oversight authorities that lack sufficient budget and staff; oversight bodies conduct numerous investigations in fewer than 50 percent of countries; and only in 13 percent do oversight authorities transparently publish investigation results (Global Integrity, 2005).

The extent of variation among different oversight agencies can be observed through the Table 3, containing some distinctive features that distinguish the more intensive control agencies from those others having just the basic functions.

Table 3. Political Financing Supervisory Bodies

COUNTRY	OVERSIGHT AGENCY	CREATION/WEB	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
France	Commission nationale des comptes de campagne et des financements politiques (CNCCFP)	1990 http://www.cnccfp.fr/							X	
United Kingdom	Electoral Commission (EC)	2000 https://www.electoralcommission.org.uk	X	X	X	X		X	X	X
Germany	President of the German Bundestag (PM3)	1967							X	
Portugal	Entity for Accounts and Political Financing of the Constitutional Courts (ECP)	2005 http://www.tribunalconstitucional.pt/tc/contas.html	X						X	
Slovenia	Court of Auditors of the Republic of Slovenia (CA)	2010 http://www.rs-rs.si/		X	X		X		X	
Latvia	Corruption Prevention and Combating Bureau (KNAB)	2002 https://www.knab.gov.lv/en/	X	X	X	X	X	X	X	X

Source: Sousa (forthcoming)

Note: Columns 1-8 correspond to the next agencies' properties:

- (1) On site inspections.
- (2) Auditing of referenda campaign accounts.
- (3) Private entities in possession of potentially relevant information about illicit financing have the duty to report to the supervisory body.

- (4) Hold meetings/hearings (with experts, journalists, NGOs, public officials, magistrates, etc.).
- (5) The agency can initiate judicial procedures (by instructing the process).
- (6) Further to the sanctioning regime applicable to parties, candidates and third parties, the agency has disciplinary powers over parties, candidacies and third parties directly linked with party or campaign activities.
- (7) The agency can make its regulations binding to parties and candidacies.
- (8) Prevention through training courses, research or educational programs (including collaboration with academia).

Recently, the new independent and specialised bodies, such as the Latvian KNAB and the United Kingdom Electoral Commission, stand out as examples of success: they are more likely to develop a three-pronged supervisory framework and exert more effective control. Overall, the supervision powers of the Latvian KNAB and the United Kingdom Electoral Commission are more diversified and wider than their European counterparts. Both have special inquiry powers, can request relevant information (documents or explanations) from a variety of target actors, and have the power to make their decisions binding through a variety of sanctions. They can also carry out onsite inspections, and rely on internal and external expert assistance to facilitate the inspection. Investigations can be prompted on their own initiative (as consequence of a risk assessment), by complaints raised with the Electoral Commission or by request of another body.

Finally, most countries (e.g. Spain, Luxembourg, Andorra, Ireland, the Netherlands, Norway, and Portugal) lack a standardized and uniform reporting format that would oblige parties to (a) use the same labels for similar sources of income, (b) itemize all income and expenses, instead of aggregating it; and (c) include all entities related to their spheres of activities.

Measure 6: Immediate publication (in internet) by all parties of all types of financial transactions in a reliable and intelligible form.

Transparency of political party accounts contributes to the fight against corruption, and allows voters knowing better who their representatives are and which policies they defend. There is a general trend to make available to the public the party finance reports.

However, it also requires that information should be delivered adequately to voters (see OSCE/ODIHR, 2010: n. 201-206 on reporting requirements). This

means four conditions: timely and reliable information, online accessibility for an extended period of time, and in a readable format (OECD, 2016: 72b). In this regard, countries like the United Kingdom, Latvia, Lithuania and Estonia are offering timely online availability of comprehensive information regarding several aspects of political finance: incomes, expenses, donors, etc. The Estonian agency (EPFSC) makes a searchable database available, with all the correspondence related to its monitoring work.

Other examples of good practice on how to make party funding information available to the public in a friendly and timely manner can be found in the United Kingdom, Finland, Norway, France or Ireland.²² Their political parties' financial statements as well as summaries of control agencies' main findings are easily accessible to citizens, journalists and/or researchers in a standardized and comprehensible manner. Indeed, Finland publishes immediate information about donations and incomes, and also suggests voluntary advance disclosure prior to Election Day.

A particular issue related to transparency and publication is the regulation of individual donations.²³ In this vein, there is a trend towards increasing publicity of such incomes. The Western European average for donation disclosure is around €3,500 (Piccio, 2014: 233).²⁴ However, these reporting requirements should not be so strict that they impose an undue administrative burden that may erode the effective freedom of political organizations.

C. Sanctions

Measure 7: More effective and dissuasive framework of sanctions²⁵

With the only exception of Switzerland, all European countries foresee one type of sanctions or another in the case of party funding irregularities.

²² British Electoral Commission, Norwegian central register of Statistics Norway French CNCCFP and the Irish Standards in Public Office Commission publish party annual accounts, political finance statistics and analytical reports on their respective websites.

²³ For donations over 5,000 euros.

²⁴ In France and Switzerland, as well as in most European micro-states, there is not need for disclosure at all.

²⁵ Proportional to the illegal amount perceived...reaching even total loss of public funds.

Indeed, and as it follows from table 4 which includes a summary of the framework of sanctions existent in all other EU countries, the most common type of penalties are administrative fines (see OSCE/ODIHR, 2010; n. 215-217).

Table 4. Types of sanctions per country

Country	Fines	Prison	Suspension/ loss of public funding	Forfeiture	De-registration/ suspension	Other
<i>Austria</i>	X			X		
<i>Belgium</i>	X	X	X	X		X
<i>Bulgaria</i>	X		X	X	X	X
<i>Croatia</i>	X		X	X		
<i>Cyprus</i>	X	X	X			
<i>Czech R.</i>	X	X	X	X	X	
<i>Denmark</i>	X	X	X			
<i>Estonia</i>	X					
<i>Finland</i>	X	X	X			
<i>France</i>	X	X	X			X
<i>Germany</i>	X	X	X	X		
<i>Greece</i>	X	X	X	X		X
<i>Hungary</i>	X		X	X		X
<i>Ireland</i>	X	X	X			X
<i>Italy</i>	X					X
<i>Latvia</i>	X	X	X	X	X	
<i>Lithuania</i>	X	X	X		X	X
<i>Luxembourg</i>			X	X		
<i>Malta</i>	X			X		X
<i>Netherlands</i>	X	X	X			
<i>Poland</i>	X	X	X	X	X	
<i>Portugal</i>	X	X	X	X		
<i>Romania</i>	X	X		X		X
<i>Slovakia</i>	X	X				
<i>Slovenia</i>	X		X			
<i>Sweden</i>	X					
<i>United Kingdom</i>	X	X		X		
TOTAL	26	17	19	15	5	10

Sources: EuroPAM (2017) and IDEA (2014)

Fines can go from a maximum of €1,300 in Ireland to a maximum €500,000 in Italy, but on average they tend to be around €20,000 (IDEA, 2016). Only Luxembourg does not foresee general administrative penalties for such irregularities.²⁶ This is not to say that Luxembourg has completely abandoned the imposition of financial sanctions to political parties. In particular, according

²⁶ Although it foresees financial penalties (up to 30,000 euros), even prison (up to 5 years), for those making “false statements” at the time of reporting (art. 496 of the Luxemburgish Criminal Code).

to article 7 of the 2007 PFL, failure to (1) report donations and donors over €250 euros, (2) present adequate financial reports, or (3) collaborate with the Court of Auditors will result in the suspension of public funding perceived by Luxemburgish political parties.

Suspension/loss of public funding is, in fact, the second most popular type of sanction. Thus, 19 out of the 27 countries included in table 4, foresee such possibility, mostly for those political parties which fail or delay the fulfillment of their reporting obligations (e.g. Bulgaria, Denmark, Finland, France, Germany, Portugal, Slovenia). Some countries, like Poland, go as far as to withdraw public subsidies from those parties whose financial report is rejected by the corresponding oversight authority. Others, like Belgium, Greece, Ireland or Latvia, foresee the loss of public funding for political parties that accept illegal donations.²⁷ Finally, Cypriot legislation prefers to leave such punishment for cases of recidivism.²⁸ The suspension or loss of public funding can go from 1 month in Belgium or 6 months in Lithuania, until the next elections like in Bulgaria.²⁹ However, the most common is 1 year, like in France, Germany, Greece, Latvia or Slovenia.

The third most common type of sanctions is imprisonment imposed either on citizens, responsible political party officers/leaders or political parties themselves, like in the case of Denmark. Most of the sanctions including deprivation of liberty are imposed for false statements (e.g. Czech Republic, Denmark, Germany, United Kingdom), illegal use of public funds (e.g. Portugal), acceptance of illegal donations (e.g. France, Greece, Latvia, Ireland), or not renders public account (e.g. Germany, Poland). In the Netherlands, imprisonment can only be imposed in cases of vote buying (art. Z4 1989 Electoral Law). Imprisonment sanctions go from 4 months in Denmark to 4 years in Latvia.³⁰ The most common prison sentence is around 2/3 years.

²⁷ The Belgium case even doubles the amount of the public subsidies loss to that of the illegal donation perceived.

²⁸ In Hungary reimbursement or loss of public funding takes places only when a candidate obtains less than 2% of the valid votes cast in single mandate districts or abandons the electoral race.

²⁹ It is important to note though that Dutch legislation punishes political parties with the loss of public subsidies, up to 4 years, only when they are judicially condemned for discriminatory or terrorist crimes (art. 39 of 2014 PFL).

³⁰ Particular Criminal Codes might impose longer prison sentences given specific circumstances.

Another rather popular sanction, but less common than the previous ones, is that of forfeiture/confiscation which - as it follows from table 4 - affects roughly 55% of the party funding legislations surveyed. This will be analyzed more in depth later in the analysis.

Other sanctions like loss/suspension of electoral office (e.g. Greece, Italy, Malta) or political rights/eligibility all together (e.g. France) as well as de-registration/dissolution (e.g. Czech Republic, Poland, Portugal) are less common. In fact, the latter has been often criticized by GRECO in many instances for its disproportionality and for being in conflict with the right of citizens' to associate.

Having examined the framework of sanctions of 27 different EU countries, it seems clear that harsh sanctions (e.g. €100,000 in Belgium or 4 years in prison in Latvia) are mostly ineffective, as they usually are not implemented. Thus, for example, criminal penalties have almost never been applied in Belgium, France, Poland, Portugal or the United Kingdom (Piccio, 2014: 235, Casal Bértoa, 2017, forthcoming). In fact, out of 18 European countries surveyed by Global Integrity in 2014, only in one - i.e. Poland - offenders fully complied with sanctions imposed by the enforcement agencies.

Moreover, whatever the type of sanctions adopted, they should be sufficiently enforceable, proportionate, effective and dissuasive ³¹ (see OSCE/ODIHR, 2010: n. 215, n. 244). In this context, and following international standards (OSCE/ODIHR, 2010), the loss of all or part of public subsidies for irregularities in financial reporting, non-compliance with financial-reporting regulations or improper use of public funds should be recommended (see OSCE/ODIHR, 2010; n. 215). This is not only the second most common sanction in the EU, as we have seen, but also the one that could certainly be considered the most effective and dissuasive, given the large financial dependence of European political parties on State funding.

Measure 8: Reinforce the competences of the Courts of Auditors (in terms of sanction imposition and implementation).

³¹ This is not the case in Belgium, for example, where expenditure over the limit at the time of an electoral campaign is punished with a maximum of 4 months of public funding suspension (Piccio, 2014). Another example is Portugal where one-year imprisonment is the sanction for the party treasurer/leader in case of illegal donations (Casal Bértoa, forthcoming).

In a recent study undertaken by Global Integrity (2014) on the enforcement capabilities of different political finance supervisory bodies in 54 countries around the world, it was shown that in 89% of cases the capacity of oversight bodies – be it an electoral commission, an anti-corruption agency, a parliamentary unit or an independent administrative body – to effectively impose sanctions and prevent continuous finance irregularities was extremely limited. In Europe, barely half of the countries have oversight authorities tasked with effectively impose sanctions (see OSCE/ODIHR 2010: n. 219-233 for more about scope and mandate of regulatory bodies).

In this context, i.e. of disciplinary powers, the most powerful oversight authorities in the EU are, without doubt, the British Electoral Commission (EC) and, especially, the Latvian KNAB. Both oversight institutions have the power to:

- a) make its regulations binding to political parties,
- b) issue regulations to clarify and/or harmonize political finance procedures,
- c) impose sanctions as well as discipline not only political parties, but also third parties in those matters linked to funding activities,
- d) instruct party officials, financial offices and even private agents with commercial party links to give/clarify evidences, and
- e) refer cases dealing with financial irregularities to the competent judicial authority (Sousa, forthcoming).

While the KNAB has the capacity to initiate judicial procedures, by intervening in the instruction of the process, the British EC is not empowered to do so. Other oversight institutions, like the Court of Auditors of Slovenia, certainly have such procedural capacity, although the fact that it lacks the power to enforce their regulations on parties and impose sanctions to third parties legally obliged to inform on any party funding related activities clearly reduces their judicial initiative. The latter is also a problem faced by most oversight authorities, like the ones in Portugal, Germany or France (Sousa, forthcoming).

All in all, recent studies show that the transfer of party finance oversight to KNAB and EC in combination with more sanctions has led to more

transparency and lawfulness in these two countries (Eurobarometer, 2014: 46).

Thus, in the last decade and a half, KNAB

has issued more than 300 decisions about penalizing political parties and imposing administrative fines. In addition, the Bureau has discovered more than 120 cases of illegal funding in excess of 3 million euro. Importantly, both the number of cases and the total amount of illegal funding have sharply diminished over the thirteen-year period. The courts have ruled to close down ten political organizations due to non-compliance with financial reporting requirements (Ikstens, 2018: 211).

A similarly successful story can be told in regard of the United Kingdom as Mr. Posner, the leader of the “Party and Election Finance Group” at the EC, stated in relation to the new sanctionatory powers: “imposing fines [...] acts as a good deterrence for people in politics who care about their reputation”. But not only, as it follows from the EC’s website which publishes summary information in relation to “closed cases”, until 2014 only one offender had not paid the imposed fine (Global Integrity, 2014).

Measure 9: Immediate reimbursement of any funds illegally obtained.

As we have seen above, forfeiture is – together with fines, prison and loss of public funds – one of the most important sanctions in European party funding legislations. However, countries differ on the instances such penalties are to be used. Thus, countries like Austria, Hungary, Latvia, Malta, Poland, Portugal, Romania and the United Kingdom reserve the confiscation of monetary amounts to illegal contributions.

Other countries like Germany confiscate the bestowal or electoral vote share of state funds of those parties failing to fulfill their report obligations. In Greece forfeiture is limited to cases of excessive electoral expenditure. Portugal also foresees the forfeiture to the state of all received values in the same case. Some of these countries even doubled (e.g. Austria, Greece) or exponentially increase (e.g. Portugal) the amount to be confiscated.

Conclusions

This report provides several examples of good practices developed from a comparative perspective across Europe. These measures belong to the three main dimensions that could structure a party finance reform in Spain: more participation, more transparency and more effective sanctions. Certainly, the selection of practices from different countries (table 5) suggests that there is no ideal model implemented that combines each of them. However, all of them mirror the trend underlying the recent reforms adopted in the continent and particularly by those Eastern European democracies in order to face with similar challenges to their existing models of party finance.

Table 5. Main dimensions, measures and examples provided by this report

Dimension	Measure	Recommended examples
Participation	Match-funding	Germany, The Netherlands
	Earmarking	Ireland, The Netherlands
Transparency	Party foundations	Germany
	Internal (funding) control	United Kingdom, Czech Republic
	CoA' reinforcement	United Kingdom and Slovenia
	(Internet) publication	Estonia and United Kingdom
Sanctions	Reasonable/dissuasive sanctions	Germany, Portugal
	CoA' Punitive power	Latvia and United Kingdom
	Reimbursement of funds	Portugal

Sources: Casal Bértoa and Biezen (2018), EuroPAM (2017) and IDEA (2014)

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