

**UNIVERSITY OF ECONOMICS, PRAGUE**  
**FACULTY OF INTERNATIONAL RELATIONS**

**MASTER'S THESIS**

**2018**

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UNIVERSITY OF ECONOMICS, PRAGUE

FACULTY OF INTERNATIONAL RELATIONS



International and Diplomatic Studies

**Financing Politics in Democratic Countries: A Comparative Analysis of  
Funding for Political Parties and Election Campaigns in France, Germany,  
and the United Kingdom.**

(Master's Thesis)

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### **Author's Declaration**

Herewith I declare that I have written the Master's Thesis on my own and I have cited all sources.

Prague, 7 May 2018

A handwritten signature in black ink, appearing to read 'Maks', is written over a horizontal dotted line.

*Author's Signature*

## **Acknowledgements**

I would like to thank for their time, help, and support, Ing. Petr Vymětal, Ph.D., Assistant Professor at the Department of Political Science at the University of Economics, Prague; William Sjöstedt, the Research Assistant with the Political Participation and Representation team at the International Institute for Democracy and Electoral Assistance, and my partner Cally Tomlinson.

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## List of Abbreviations

APP	Act on Political Parties
APSA	American Political Science Association's Committee on Political Parties
AU	Accounting Unit
AV	Alternative Vote
CDU	Christian Democratic Union
CLASS	Centre for Labour and Social Studies
CNCCFP	National Commission on Campaign Accounts and Political Party Financing
CND	Center for a New Democracy
CP	Central Party
CRP	Center for Responsive Politics
CSU	Christian Social Union
DIE LINKE	Left Party
EAA	Electoral Administration Act
EC	Electoral Commission
EELV	Europe Ecology – The Greens
EUR	Euro
FEA	Federal Electoral Act
FN	National Front
FPTP	First-past-the-post
GBP	British Pound
GRECO	Group of States Against Corruption
GRÜNE	Alliance 90/The Greens
ID	Identification
IDEA	Institute for Democracy and Electoral Assistance
IPSA	Independent Parliamentary Standards Authority
LR	The Republicans
MP	Member of Parliament
MPT	Money, Politics, and Transparency
MSE	Multi-Seat Electoral Constituency
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organization for Economic Co-operation and Development
PCF	French Communist Party
PDG	Policy Development Grant
PEB	Party Election Broadcast
PPB	Party Political Broadcast
PPEA	Political Parties and Elections Act
PPERA	Political Parties, Elections and Referendums Act
PPG	Parliamentary Party Group
PR	Proportional Representation
PS	Socialist Party
RCB	Referendum Campaign Broadcast
RPA	Representation of the People Act
SMD	Single-Member Districts
SNP	Scottish National Party
SPD	Social Democratic Party

SSSED	Single-Seat Electoral District
TRS	Two-Round System
UK	United Kingdom
UKIP	UK Independence Party
USDAW	Union of Shop, Distributive and Allied Workers

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# Introduction

Political parties are often considered to be the key element in the effective working of a representative government. Indeed, parties bring citizens together, enable them to productively participate in politics, provide continuity, encourage discussions on important issues, and ensure accountability. Hence, the ability of countries to develop strong party organizations has long been used by political scientists as an indicator of democratic development.

Having a transparent and equitable party and campaign finance regulatory framework is equally crucial for the rule of law and democracy since such a framework can help to ensure that politics stays accountable and independent of corrupt interests and dirty money. Alternatively, when the system of political financing is underdeveloped and flawed, it will not be able to prevent illicit financial practices, combat political corruption, and, in general, mediate the role of money in politics.

How to design a perfect set of regulations establishing an effective political finance regime is a major challenge for legislators around the world. Unfortunately, there is no one-size-fits-all approach: simply transferring rules applied in one country onto another cannot guarantee that the framework will work as intended. For the political finance regulatory regime to function well, it needs to be designed to fit the country's specific features, such as its electoral system, party system, national polity. It is not surprising then, that political finance regulatory systems come in a variety of forms. Regulations can focus on income or expenditure controls, be directed at private individuals, political parties, or candidates, concentrate on state funding distribution and transparency.

This paper aims to answer the questions of what constitutes an effective political finance regulatory framework and which regulatory practices strengthen the democratic governance, and which carry potential risks. For this purpose, the examples of three countries with an established and rather longstanding tradition of democracy – France, Germany, and the United Kingdom – are analyzed here. All three countries, at some point in their history, underwent embarrassing political finance scandals: Governments, parliaments, and electoral courts were pressured to develop and tune the political finance regimes to combat political corruption and increase openness and transparency of financial transactions in politics. Therefore, the French, German, and British experience in this area can provide a valuable

lesson for nations in transition to democracy or nations with weaker and less explicitly detailed regulatory frameworks.

The objective of the first chapter is to define a political party. It does so by tracing the origins of first modern political parties in Europe, exploring what functions parties perform in representative democracies, categorizing what models and strategies exist for party organization and party finance, identifying what role parties play in political campaigns, and finally, listing what laws guide the lives of political parties.

The following two chapters examine party and parliamentary campaign funding practices in Europe in general, and in France, Germany, and the United Kingdom specifically. Chapter 2 focuses on the mechanisms countries employ to regulate party and campaign finance, what challenges still exist in Europe, what are the most common corrupt practices in this area, and how states attempt to enforce such legislation and monitor the compliance. Chapter 3 investigates the particulars of the regulatory frameworks in France, Germany, and the United Kingdom. Comparatively, it analyzes the three electoral systems and the systems of public funding, the rules for donations, expenditure, disclosure, and monitoring.

The last chapter attempts to construct a list of guidelines on good practices in the field of political finance and, based on the reports produced by the Group of States Against Corruption, identifies how France, Germany, and the United Kingdom can still improve their political finance regimes.

Finally, it is important to stress that the information on political finance regulations presented and analyzed here is the most recent. Only the latest versions of legislation on the political finance were consulted, and thanks to the cooperation with the International Institute for Democracy and Electoral Assistance (IDEA), it was possible to explore the yet unpublished but recently (the year 2018) updated data their experts collected on France, Germany, and the United Kingdom.

# Chapter 1. Political Parties

## 1.1. Defining Political Party

What is a political party? The answers political scientists give to this seemingly simple question varied over time. In fact, there is a lack of consensus within the political science community on a single definition of a political party. This is because defining a political party is not so much an objective, but rather, a normative task. As long as political scientists diverge in their views on what parties should be, the answers they give to the question of what they are will remain controversial. Notwithstanding, many have attempted to define a party.

Emphasizing party's ideological roots political theorist Edmund Burke (1770) defined a party as a "body of men united, for promoting by their joint endeavors the national interest, upon some particular principle in which they are all agreed" (p. 110). Relying on parties as tools for accessing a political office, Leon D. Epstein (1980) defines a party as "any group, however loosely organized, seeking to elect government officeholders under a given label" (p. 9). William N. Chambers (1967) in his definition stresses parties' mediating functions aimed at organizing and simplifying voter choices. Hence, a political party for Chambers is

a relatively durable social formation which seeks offices or power in government, exhibits a structure or organization which links leaders at the centers of government to a significant popular following in the political arena and its local enclaves, and generates in-group perspectives or at least symbols of identification or loyalty. (as cited in Hoadley, 1986, p. 16)

Robert Huckshorn (1984) provides a pragmatic and often-cited definition of a political party as "an autonomous group of citizens having the purpose of making nominations and contesting elections in hope of gaining control over governmental power through the capture of public offices and the organization of the government" (as cited in Katz, 2017, p. 208). This definition according to Katz (2017) can be broken down into five elements. The first element, also found in Epstein's definition, concerns the *objective of parties*, i.e. gaining access to a political office. The second element, also implicit in Chambers' definition, concerns the *methods*, i.e. parties make nominations, contest elections, and organize the government. The third element, somehow common to Burke's definition, is *competition*, i.e. parties compete for the right to be in office and pursue their programs. The fourth element is



that groups of citizens are *autonomous*. Finally, the fifth element, which to some extent can be found in all of the above-mentioned definitions, is a certain level of *organization* that is crucial to a political party.

In the early 1950s, political scientists devised the *tripod model* for explaining what political parties are. Political parties, the thinking runs, are supported by three legs: *party in the electorate*, *party organization*, and *party in government* (White & Kerbel, 2017).

Party in the electorate is a reference to those who identify themselves with a party. This can mean simply psychologically attaching oneself to a particular party or being an actively participating and fee-paying member. Party organization is a reference to the party bureaucracy and apparatus. It covers party's physical assets, collective activities, and regulations. Party in government is a reference to those who hold a governmental office under a party label. Subsequently, a fourth leg was introduced by Paul S. Herrnson (1988), *party in the campaign*, which refers to the party's role in coordinating and financing election campaign activities.

Additionally, political scientists have proposed two important party paradigms: the *responsible parties model* and the *rational-efficient model*.

The responsible parties model, as articulated in the report produced by the American Political Science Association's Committee on Political Parties (APSA, 1950), advocates that "An effective party system requires, first, that the parties are able to bring forth programs to which they commit themselves and, second, that the parties possess sufficient internal cohesion to carry out these programs" (pp. 17-18). According to White (2006), there are three reasons why it matters to achieve party unity around a coherent set of ideas. First, it provides voters clear electoral choices. Secondly, it enables the winning party to effectively claim a mandate for governing. Finally, it makes the party into a likely instrument for voters to use for the purpose of making a legal revolution. Additionally, the responsible parties model envisions the opposition party as a vibrant gatekeeper for accountability, that keeps the party in power in check, "developing, defining and presenting the policy alternatives which are necessary for a true choice in reaching public decisions" (APSA, 1950, p. 18).

The rational-efficient model advocated by Anthony Downs (1957) puts the parties' electoral activities above nearly all other party functions with the ultimate goal of winning elections

and consequently securing patronage jobs and controlling the government. From this perspective, there is no formal party membership, party's organizational structure consists of a cadre of political entrepreneurs, centralization and efficiency are stressed, there is little organizational continuity after the winning, and elected officials are free to do what they wish, provided their activities increase the chances of winning the subsequent election (White, 2006).

Both models to some extent are based on the idea that political parties are essential to successful governing. Political scientist Elmer E. Schattschneider (1942) is often quoted for writing that "political parties created modern democracy and modern democracy is unthinkable save in terms of the parties" (as cited in Katz, 2006, p. 34). Indeed, most political scientists today would agree with this statement. Parties are considered to be a key element for the effective working of a representative government in a free country. They bring citizens together, enable them to productively participate in politics, provide continuity, encourage discussions on important issues, and ensure accountability.

## **1.2. Origins of Modern Political Parties**

It is hard to produce a, so to speak, birth certificate of a party. What political scientists can observe is that party-based politics was a 19th-century innovation. Even though parties existed before, they were quite loose groupings until the 19<sup>th</sup> century. The term "party" itself, particularly in continental Europe, was interchangeable with the term "faction". Factions were perceived in a negative sense, and the term was used to describe the unwanted divisions around ideas or interests which endangered secular and religious order. Such groups were considered to be self-serving and acting at the expense of public welfare. Hence, anti-party biases prevailed in many countries. This attitude, however, gradually changed in much of Europe during the 19<sup>th</sup> century, putting parties in the center of politics. This revolution is linked to two major political developments of the 19<sup>th</sup> century related to institutional democratization: the transfer of political power to legislatures, and the expansion of the electorate (Scarow, 2006).

These two developments did not affect western Europe simultaneously. In fact, even their sequence varied broadly, and it is hard to emphasize the priority of one event over the other. Hence, there is no single explanation for why parties emerged when they did. What is possible is to divide the western European states into three categories: the countries where

parliamentarization came first and was followed by the expansion of the electorate, as it happened in the United Kingdom, Italy, and Belgium; those countries where the creation of a large electorate preceded parliamentarization, for example in Germany, Denmark, and France; and those where these two developments occurred somewhat simultaneously as in Finland and Switzerland (Table 1.2A) (Scarrow, 2006, p.18).

Therefore, it is either the increase in legislative sovereignty that made parties more important, as prioritized by Sartori (1976), or the expanding franchise that stimulated parties, as emphasized by Epstein (1980), or in rare cases where the two developments occurred more or less simultaneously – both.

The difference in the timing of political parties' development can additionally be explained by the existence of specific institutional constraints in some western European states. Various legal measures maintained throughout the 19<sup>th</sup> century limited the right to free assembly, association, and speech, discouraging and inhibiting party formation as the result (Scarrow, 2006).

Germany is a good case in point. With the adaptation of so-called *Carlsbad decrees* in 1819, the nationalist fraternities were banned, university professors with liberal views fired, and strict political censorship throughout the states established (Lodewyckx, 1941, p. 891; Williamson, 2000, p. 87). The press was further restricted in 1832 with the passage of the so-called *Six Acts* and *Ten Articles*, that also banned political associations, demonstrations, and the acts of wearing of political colors and flying of political flags (Goldstein, 2009, p. 149). Even after direct censorship laws were abolished by 1850, the states continued to use a mix of restrictive legal tools to suppress the unsympathetic press. In 1878, for instance, anti-socialist legislation banned socialist or communist publications (Ruud, 1979, pp. 524-5). Furthermore, until 1899 cross-regional links between parties were forbidden, and until 1908 political associations were obliged to notify authorities about their public meetings (Scarrow, 2006, p. 20).

The German case additionally illustrates why certain types of parties developed later than others. Nevertheless, thanks to the above described organizational incentives as well as disincentives, the 19<sup>th</sup> century became the birth time of party politics in western Europe.

### 1.3. Functions of Political Parties in Modern Democracy

The ability of countries to develop strong party organizations has long been used by political scientists as an indicator of democratic development (White, 2006, p.7). Yet, what is the role of parties in this process in modern democracies?

Before answering this question, it is important to point out that unlike political science that recognizes the importance of political parties for democracies, political philosophy generally paints a rather negative picture of parties, roughly similar to that of the above-discussed understanding on factions in a society, i.e. factions are united groups of citizens adverse to the rights of other citizens (Rosenblum, 2010, p. 3; Madison, as cited in Epstein, 1986, p. 64). Additionally, the roles assigned to parties can vary considerably in different theories of democracy (Katz, 2006). Democracy generally means a rule by the people, and specifically, democracy “consists in an institutional arrangement for making binding political decisions in ways that are responsive to the views of the public” (Johnson, 2006, p. 47). Katz (2006) rightfully notes that “No discussion of contemporary democracy can ignore the fact that modern democracy necessarily is representative democracy” (p. 42). A *representative* democracy is “A form of government where the powers of the sovereignty are delegated to a body of men, elected from time to time, who exercise them for the benefit of the whole nation (Black, 1995, p. 1021).

According to this theory of democracy, political parties are seen as legitimate institutions that play a crucial role in the process of representation, ensuring that preferences of citizens are reflected in government policy. Martin Ebeling (2016) provides a deep account of this process. Ebeling notes “the multidimensional complexity of the task of advancing the justice of modern societies” (p. 634). He sees political parties as important agents that help citizens cope with this task. They do it in two dimensions, Ebeling proposes: normative and epistemic.

First, political parties act as institutions of collective moral deliberation. In this way, their aim is to arrive at a sufficiently coherent conception of justice rather than an assemblage of moral commitments. Ebeling explains that political parties are in unique possession of the mechanism that makes this plausible: within their structures “epistemic labor is done by many; members work together in a collective process to produce party programs that reflect and give shape to the core normative commitments of their supporters” (p. 635). This

mechanism reduces the complexity of the task along the normative dimensions, easing the cognitive burden that otherwise is placed entirely on individual citizens.

Secondly, Ebeling suggests that political parties have a supreme mechanism for generating political expertise, which makes them into vital instruments of collective reasoning. Parties are able to integrate expert knowledge from different disciplines into their policy proposals, thus, harvesting “the diverse cognitive resources of a pluralistic society” (p. 636). Furthermore, parties structure their decision process in layers, which ensures that policy proposals are integrated in tune with a sufficiently coherent concept of justice. As a result, political parties reach a sufficiently specific vision of a just society, reducing the complexity of the task along epistemic dimensions.

Therefore, Ebeling claims that in modern democracies parties act as collective epistemic agents and occupy a unique position in the institutional landscape because of their ability “to translate the abstract value judgments of citizens into a sufficiently coherent and sufficiently specific conception of justice” (p. 363). It is then the task for voters to decide which party’s platform in their own judgment advances the justice of society best and cast their vote. In this way, all citizens equally benefit from parties’ political expertise.

To add to this idea, Manin (1987) suggests that citizens do not necessarily always know what they want when it comes to political policies. Hence, it is the task of parties to not only produce policies but also educate the voters on the solutions and alternatives – “enlighten them about their needs” (p. 356).

Of course, parties are tasked with a multitude of additional functions. Traditional functions of political parties include representation, legislation, and government formation (Ladrech, 2002). Some parties take on more functions for themselves, for example, they provide accountability, recruit political personnel, mobilize the electorate, organize public debates, etc., some focus on less.

Katz (2014) highlights four major categories of party functions: coordination, recruitment, contesting elections, and representation. A major function that parties perform is **coordination**. Parties coordinate within government, society, and between society and government. Within government parties coordinate between different levels of government, such as national or regional; act as a bridge between legislative and executive branches;

coordinate parliamentary agenda and various committee formations. Within society, political parties act as organizations that structure and channel the political activity of citizens. In this sense, citizens can use political parties as the means to behave cooperatively to secure benefits for themselves by solving problems of collective choice. The party can reduce information costs for citizens, provide space for discussion and venues for political education. Finally, parties link concerned party groups of citizens on the ground with the like-minded party officials in the public office (Katz, 2014; Hershey, 2006).

Parties are entrusted with the task of **recruiting** leaders to various levels of elected office and a wide range of patronage positions in appointed office, selecting candidates for elections, and integrating new and politically interested citizens into the political and party system. Some of the ways parties may recruit candidates in are through the establishment of social networks, training interested citizens in civic skills, and passing on their organizational experience (Hershey, 2006; Norris, 2006).

Parties then provide candidates for elections and **run electoral campaigns**. When citizens are asked to choose among various parties and/or individual candidates, party affiliation can help citizens to draw inferences about the candidates' characteristics, ideology, and policy stands. This tactic can be considered rational and cost-reducing, resulting in a higher probability that citizens will turn out for the vote. When nominating candidates, parties may employ a screening process governed by state law and/or party formal rules. For example, individuals with a criminal conviction or bankrupt individuals will not be allowed to run for office if the law demands so; or parties may have voluntary gender quotas for candidates or interview requirements. After the nominations are complete, parties will work to maximize their candidates' chances of winning by providing them with help and resources such as money or campaign expertise, develop policy programs. At the same time, parties stimulate citizens to participate in elections and vote for their candidates; the more citizens parties are able to mobilize, the greater are the chances for their candidates to win the election, and consequently, give party legitimacy in government (Katz, 2014; Hershey, 2006; Norris, 2006).

Parties serve as agents of the people or their **representatives**. Parties speak on behalf of their supporters in government, media, and other arenas. They are able to perform such a task better since party workers have the time, experience, and resources that common citizens may not have (Katz, 2014).

States vary significantly in how they employ mechanisms of representation and participation. The rules governing these mechanisms may affect and determine who is eligible to vote, as well as when and how to vote, i.e. voting procedures. Legal and formal mechanisms that “translate votes into control over political offices and shares of political power” constitute electoral systems (Orvis & Drogus, 2011, p. 312). Electoral systems can be classified in different ways. It is common to distinguish between three main types of electoral system: the majority, proportional representation (PR), and mixed, or semi-proportional systems.

**First-past-the-post** (FPTP) is a typical example of a majority system. Under the rules of the FPTP individual candidates are elected in *single-member districts* or SMDs, meaning that each district has one representative only. In order to win, a candidate must obtain the *plurality* of votes, that is most votes, but not necessarily the majority of votes. This system can be modified to require an *absolute majority* of votes (50 percent plus one) for a victory. FPTP uses a *candidate ballot* structure, according to which electors express support for the parties indirectly since they vote for their preferred candidate, and not the party. Another example of a majority system is an *alternative vote* (AV). Just as in FPTP system voters cast their ballots for candidates running in single-member districts, yet unlike in FPTP system, here voters instead of picking one candidate, rank all candidates in order of their preference. As the result “the first-place votes for the candidate with the least votes in a district are reallocated to those voters' second-choice candidates. This continues until one candidate has gained a majority of the votes for the district.” (Orvis & Drogus, 2011, p. 318). One more example is the *two-round system* (TRS). According to this system, the election takes place in two rounds. It is very common to use the FPTP system for the first round. A candidate may be required to receive an absolute majority or cross a certain threshold in order to win. In the case when no candidate obtains the necessary percentage of votes a second round is held between the two highest vote winners or all the candidates that received a certain percentage of votes in the previous round. Whoever wins the second round then, wins the election (Norris, 2006; Electoral Systems, n.d.).

A **proportional representation** system assigns seats to parties in a proportional way, i.e. each party gets the share of seats that matches the share of votes it received. There are multiple representatives for each district (*multimember district*). Often, parties have to pass an electoral threshold before they can claim seats in the parliament. PR uses a *preference ballot* or a *party ballot* structure depending on the type of the PR system, i.e. *open-list* or *closed-list*

proportional representation accordingly. Under the open-list PR, voters are presented with a list of party candidates, and they may express their preference for a party or one or several particular candidates on the list. The total number of votes all the party candidates receive determines the number of seats the party is assigned. Top party candidates are then awarded the seats. Under the closed-list PR, parties present voters with the lists of already ranked party candidates. Even though voters see who the candidates are, they may express their preference for the party only and not individual candidates. The number of votes the party receives determines the number of seats it takes in the parliament. Similar to the open-list structure, the seats are then awarded to the top candidates (Norris, 2006; Electoral Systems, n.d.).

Some countries use a hybrid of the majority and PR systems, a so-called **mixed or semi-proportional system**. In such a system, voters cast a so-called *dual ballot*, i.e. a separate ballot for a candidate in single-member districts and another for a party list in multimember districts. First, the candidate who receives the plurality of votes wins the district's seat. Additional party candidates are then added to the Parliament based on the proportional share of the party list vote (Orvis & Drogus, 2011; Norris, 2006; Electoral Systems, n.d.).

Each system can have its advantages and disadvantages, consequences, and effects. Additionally, there are other factors such as, for example, *district magnitude* (the number of seats assigned to an electoral district), or *malapportionment* (the situation when single-member districts significantly vary in the number of eligible voters belonging to them) that can influence the final composition of the parliament and the country's party system (Taagepera, 2009). Four types of party systems can be distinguished: *dominant*, *two-party*, *two-and-a-half*, and *multiparty system*. In a dominant party system, the same party tends to win every election, even though multiple parties exist. Similarly, multiple parties run their candidates in a two-party system, but only two parties are able to win enough votes to govern. When two parties win most votes, but neither receives the majority, a third party is needed in order for one of the large parties to align with and form a coalition. Such a system is termed a two-and-a-half party system. Finally, a multiparty system means that several parties receive a high number of votes and form a legislative majority (Orvis & Drogus, 2011).



## 1.4. Models of Party Organization and Finance

Katz (2014) identifies five main types of party models, i.e. *elite, caucus or cadre party, mass party, catch-all party, cartel party*, and *business firm party*. Hopkin (2004), additionally, provides an insightful commentary on the party financing strategies.

According to Katz (2014), the earliest among these models was the so-called *elite, caucus or cadre party*, which existed in the period between 1860 and 1920. These parties developed in European parliaments in the period when suffrage was mostly restricted. They had minimal organizational structure, claimed to represent national interest, and only higher echelons of society were their members, who also financed the party out of their personal wealth and connections (Krouwel, 2006).

The second type, the *mass parties*, appeared prior to the 1950s and had an extra-parliamentary origin. Such parties have an extensive organizational structure with local branches and a central office. They aim to represent the interest of their members, who often belong to the same social class and/or an organization, for example, a trade union. In this model, the party is mainly funded through membership fees and donations by a large number of the party's affiliates (Katz, 2014). Jonathan Hopkin (2004) argues, that through the lens of the political economy approach this model is unsustainable. Hopkin explains that in such a model, party organization and political benefits it achieves are essentially collective goods. This implies that the collective action problem is central to this model, i.e. individuals will *free-ride*, meaning that it is possible for them to refuse to contribute to the party and participate in its activities, yet equally receive the collective goods that the party produces. Hopkin recognizes the fact that genuine mass parties are possible, and their existence is well-documented, yet citing Wilson (1973), Fisher (1999), and Seyd and Whiteley (1992), he argues their members are motivated by solidarity-type incentives, not the material incentives. Such non-material incentives in the long-run cannot maintain political organizations since there will be a point when members will realize just how little difference their contributions make and ultimately abandon their involvement.

In the 1950s some mass parties evolved into so-called *catch-all-parties*. Such parties can maintain an extensive organizational structure and a large number of members, yet, unlike in mass parties, here party's members and the central office are subordinate to the party in public office. The catch-all party is also less ideological than a mass party, it pays greater attention to

contesting elections and attempts to reach across the board for voters and resources. It relies heavily on professionals who are able to effectively perform campaign activities using the power of modern technologies and marketing techniques. Additionally, instead of being financed through membership fees, catch-all-parties are funded by interest groups and individuals (Katz, 2014). Hopkin (2004) identifies two broad financing strategies that can be employed in such a case: the *externally financed elite party* and *self-financing elite party* model.

In the externally financed elite party model it is possible for a party to fund itself through 'selling' policies i.e., party's political office holders exploit their role as decision-makers by influencing policies that have significant economic implications for particular beneficiaries, whether they are individuals or companies, who then, in turn, finance the party's campaigns. Such selling of policies can be performed both legally and illegally. Such relations between elected politicians and political donors are rather common in the United States and have been referred to as a 'checkbook democracy' by Darrell West (2000). In most of Western Europe, limits on private campaign contributions are far more restrictive, which sometimes can lead to less transparency (Koole, 2001, van Biezen and Nassmacher, 2001, as cited in Hopkin, 2004, p. 633). This model, like the mass party model, has its obvious weaknesses as well. According to Hopkin, in the event when illegal selling of policies becomes public, there is a risk of loss of electoral support and consequently financial support.

Under certain conditions, an externally financed elite party can become self-financing. This happens when the party possesses both a strong private interest in particular political outcomes and the resources needed to achieve them. The power in such a party is typically concentrated in the leadership, who frequently pushes for laws to impede investigations into their business practices. According to Hopkin (2004, pp. 634-635), such parties are rare in Western Europe, yet their existence is known.

The fourth type of party organization identified by Katz (2014) is a *cartel party*. In the 1970s some already existing parties implemented several changes in their structure and organization trying to cope with the negative consequences of declining membership levels, increasing public debts, and cognitive mobilization. In the cartel model, parties increase formal powers of its members in public office and rely heavily on professional expertise and consultants. Parties agree to continue exploiting state funds through the system of public financing for political parties both when in government and opposition, mostly allocating resources in a

way that mirrors voters preferences in an election (Hopkin, 2004). This strategy allows them to protect themselves from electoral risks, maintain territorial structures, and makes them in a way dependent on the state and agencies of the state rather than of society. All Western states to some extent have adopted this model (Nassmacher, 2001, as cited in Hopkin, 2004, p. 635).

Another model of party finance that relies on the exploitation of state resources is called *the clientelistic mass party model*. Here, state resources such as state jobs, public housing and contracts can be distributed to citizens to encourage them to become party members, as the result creating a mass party membership and stable constituencies. This approach to party funding and organization was commonly implemented in the previous century in the United States, Latin America, and Mediterranean Europe due to the presence of certain favorable conditions, i.e. the underdeveloped state bureaucracy and high levels of public spending. In current West Europe, this strategy, according to Hopkin (2004), is unlikely to succeed alone, due to the absence of these conditions.

The fifth type is the *business firm party* organization model. This is a relatively new type of party that originated from the private initiative of political entrepreneurs in the 1990s. Such a party has a minimal organizational structure, similar to a structure of a commercial company, and minimal membership. It is essentially owned by a business or a particular individual and exists to mobilize short-term electoral support for its leader before the elections and push for his or her personal business interests and some popular issues while in the government. It is financed by corporate resources in a way corresponding to the self-financing elite party model discussed above (Katz, 2014; Krouwel, 2006).

## **1.5. Parties and Political Campaigns**

The nature of political campaigns has been changing over time. Among other things, the campaign preparation period has been becoming longer, the process is now more centrally coordinated and professionalized, campaigns are becoming more technologically driven, persuasive, and targeted at particular voters. David M. Farrell (2006) characterizes these changes in terms of four ‘Ts’, i.e. technology, technicians, techniques, and terrain or campaign environment. According to Farrell (2006), the developments in the first three ‘Ts’ have affected the organizational dynamics of political parties; in the last ‘T’ – their campaign communications strategies.

In terms of the organizational dynamics, parties now tend to establish dedicated full-time campaign departments, hire campaign consultants and agencies, recruit volunteers, and focus greatly on party leaders in their campaigns. Such developments reflect the changing nature of modern campaigns, i.e. image and style come before substance and policies. Another important impact is the increasing campaign expenditures by parties. Some countries try to decrease or stabilize them by passing restrictive spending legislation, in some states the increase is mainly a reflection of the inflation, yet in most cases it is the direct result of the growing expenses of the modern campaigns, which is to some extent, facilitated by the increase in the role of campaign fundraising and access to state funds.

With the developments in the campaign environment, parties were forced to adapt and strive harder to win votes. Today, parties rely heavily on pooling, focus groups, and surveys in search of what voters want, and market themselves accordingly. Parties are also very cautious about how they are portrayed in the media, i.e. they constantly, and not just during the campaign period, try to maximize positive coverage on them, and employ targeting techniques, whether it is appearing on particular TV shows, airing commercials, involving direct mail and/or the Internet, to appeal to voters.

## **1.6. Party Law**

Political parties are the engines of the political process in modern democracies, they possess political power and receive privileges from the state. Yet, parties are not omnipotent, and their activities are regulated. *Party law* can be defined as the total body of law that regulates and affects the existence of political parties. It may address such issues as party recognition, freedom to create parties, the process to outlaw parties, access to public resources, campaign behavior, name protection, etc. These laws can be derived directly from the constitutional law, or indirectly through electoral, campaign, parliamentary laws, laws that regulate financial activities and voluntary organizations, etc. One may talk about such laws by dividing them into three categories: laws that regulate party-state relations, inter-party relations, and intra-party relations (Müller & Sieberer, 2006).

The first set of laws, **laws that regulate party-state relations**, deals with a variety of issues. For instance, as mentioned above, parties may enjoy access to state resources or specific freedoms. In practice, it implies that a party is somehow (formally or de facto) recognized and authorized by the state. This authorization process is governed by laws, which often impose

detailed criteria, a threshold of authorization so to speak, that parties must fulfill in order to become a party in the legal sense and enjoy the relevant benefits. Such constitutional formal recognition is common for countries with the history of one-party dictatorships; the states with a long democratic tradition, on the other hand, tend to incorporate parties into the legal order rather loosely. It is common for parties to be organized in the form of private associations, that sometimes possess a legal personality since most states do not require any special registration. The countries that do require formal registration may make this process demanding or rather easy. In the former case, the government can be very influential in the process of foundation of new parties. Sometimes the state can even outlaw a private association or a political party it deems unconstitutional and/or anti-democratic. Such power, of course, risks to be abused, and it is generally accepted that this right should be strictly restricted, and incumbents should not have a say in the process, since they may use the power to eliminate competitors and not to protect democracy (Müller & Sieberer, 2006).

A major example of **inter-party laws** is those dealing with party competition. Generally, before parties are eligible to contest an election they require some kind of an authorization, for instance, to pass a particular legal threshold to demonstrate a level of voter support before they can enter a race. The implication here is that a government with too many parties in it will be unstable, lacking in political problem-solving capacity, and thus damaging for democracy. Moreover, in some countries parties play an important role in the electoral process and only they can nominate candidates, while in others individual candidates may have an equally easy access, usually, it involves paying a (non)refundable financial deposit and collecting a certain number of signatures. Yet, often, parties that are already in the parliament may be exempt from such requirements. Countries also have laws that give parties free access to the media, either equally or in proportion to their size in the parliament; and in some cases, free media and some public funding are available even to the parties not represented in the parliament. Another set of laws deals with parties' rights and conduct in parliament. For instance, the state can regulate how parliamentary party groups (PPGs) may be formed, how they are to be financed from public funds, and what resources, e.g. the number of staff, are available to individual MPs (Müller & Sieberer, 2006).

In terms of **intra-party laws**, they can require parties to be internally democratic and set some standards, but generally, parties are left to regulate themselves according to their statutes. Occasionally, there are party laws that ensure party cohesion, i.e. tie elected MPs to

the party label. For instance, party laws may provide for an automatic resignation of party defectors, or restrict their ability to form new parties, access to parliamentary resources and instruments (Müller & Sieberer, 2006).

## Chapter 2. Political Finance

### 2.1. Ways to Regulate Party Finance

The ways in which countries regulate party financing vary significantly. Yet, it is possible to talk about four main regulatory areas, i.e. **donation bans and limits**, **spending bans and limits**, **public funding**, and **financial reporting** (Table 2.1A).

**Donation bans and limits** refer to the situation when the state regulates party finance by imposing restrictions on who has the right to contribute financially to political parties and candidates, how large such contributions may be and in what form they are given, and how often one may donate. Generally, the aim of such bans is to stop completely donations that are considered damaging to democracy. The most common ban concerns the donations from public or semi-public entities to prevent the abuse of state resources. It is also very common for regulators to ban foreign entities from donating in order to avoid foreign influences (Figure 2.1A). Donations from anonymous sources are typically banned to promote and ensure transparency (Figure 2.1B). Yet, some countries still allow such donations to protect donors' privacy. Similarly, indirect donations may be banned for the sake of transparency. To ensure that parties and candidates remain independent from special organized interests and limit the risk of quid pro quo contributions, donations from corporations and/or trade unions may be banned. Additionally, regulators impose limits on how large the donations from eligible donors can be, or how often they can donate. The purpose of donation limits is to reduce the influence of political donors on political parties and/or candidates and ultimately, political process (Ohman, 2014, pp. 21-22).

**Banning and limiting spending** is way less common than donating (Figure 2.1C). Yet, two types of spending are banned almost everywhere in the world, i.e. vote buying and using public resources for partisan purposes. Occasionally, countries ban paid media advertising, but other than that this instrument is rarely used. Countries, however, do limit the amount of money candidates and parties are allowed to spend campaigning. The rationale here is twofold. On the one hand, imposing limits on campaign spending can help to reduce the advantage of those parties and candidates that have significant access to money, for example, those who are able to finance themselves out of personal funds. On the other hand, extremely high campaign spending levels may be considered morally wrong in certain circumstances,

and ultimately reduce public confidence in politicians. Still, the effectiveness of spending limits is arguable. For instance, the definition of spending varies across countries and may be either rather inclusive or quite exclusive, i.e. what constitutes spending, and what not. Is there a time limit on spending and whether it is adequate to achieve its purpose? What if a party is able to raise a significant amount of money in small donations, which indicates a wide support in society, but is not able to spend it? Some countries explicitly encourage small donations by providing tax benefits to donors such as *tax deductions* or *tax credits* (Nassmacher, 2006). In practice, it means that donors may either subtract the donated amount from their taxable income (tax deduction), claim a part of the donated amount against their income tax liability (tax credits) (Nassmacher, 2003b, p. 15). In such a case limits on donations, not spending, may be more appropriate. Moreover, if the sum of money that candidates and parties are able to spend is fixed, this may be problematic provided that it does not account for inflation and/or the size of the electoral district. Also, should spending limits be imposed on so-called *third parties*, i.e. actors that are neither political parties nor candidates? All of these factors are vital in determining the appropriate level of spending limits (Ohman, 2014, pp. 26-28).

To ensure that parties have the appropriate resources to reach the electorate, countries may provide them with access to **public funds** (Figure 2.1D, Table 2.1B). According to Ohman (2014), this, in turn, can promote pluralism and give the electorate a wider choice of parties and policies. There are at least three other reasons why it may be a good idea to provide parties and candidates with public funds. Just as with the limits on donations and/or spending it can promote equality among the rich and the poor candidates. It is noteworthy, that in this case the provision of public funds should be accompanied by the legislation on spending and donating limits, since, otherwise, it will not decrease the absolute difference between the political forces. Secondly, public funds may stimulate ‘good behavior’ in parties and candidates, i.e. to avoid the risk of not having access to public money, parties and candidates will comply with other rules on spending, reporting, promoting gender equality, etc. Thirdly, these funds may help to reduce the influence of interested money from big donors in politics (Ohman, 2014, pp. 22-26).

There are two types of public funding, i.e. it can be either *direct* or *indirect*. Direct funds are simply providing money to parties, candidates or to both. Indirect funds come in the form of free or subsidized goods and services, and they are an easier burden on the taxpayers. For instance, it is very common for the state to provide parties with free time on state-owned



media stations or oblige privately owned media to offer candidates free airtime. In some countries, parties may be entitled to free or discounted mailing, free use of public spaces and buildings for campaigning activities and meetings, free billboard space, etc. (Nassmacher, 2006). While the use of the indirect funds is easier to monitor, such funds are not necessarily helpful for reaching voters (Ohman, 2014).

Ohman (2014) notes, that when it comes to public funding eligibility is an important issue regulators should consider, i.e. who may be qualified to receive such funds. Clearly, giving money to everyone may be wasteful, for example in the instances when parties decide to run for office just to get the funds, or when candidates with no actual popular support receive money for running. Hence, it is very common for countries to apply some sort of a threshold for getting public funding, such as proving that a party has popular support, normally by having a certain share of votes and/or seats won in the previous election. Parties may also need to prove that they participate in elections actively, i.e. present a certain number of candidates. Importantly, setting such a threshold high may make it rather difficult for new political forces to compete in elections.

Additionally, public funds may be allocated in various ways among the eligible actors. Here again, according to Ohman (2014), giving every eligible party the same amount of money may be unwise and careless, since it may disregard the voters' voices and lead to party fragmentation. Instead, parties frequently receive funds proportionately, i.e. an amount for every vote or seat won. Yet, this solution is not perfect either, since it may result in the large governmental party receiving most of the money. Alternatively, in some countries parties and candidates may opt-in for the so-called matching funds. This system is rather uncommon, but typically, the government will match fully or partially every donation received by a candidate. The system can encourage and reward parties and actors who are able to mobilize a strong support among small donors. The downside to this method is that it may instead reward parties with extensive business contacts. Hence, it is common for countries to use these ways in combination.

Three more issues pointed out by Ohman (2014) are worth addressing here. The timing of distribution of public funds is also important to consider. Some countries distribute such funds regularly, which can help to support party's day to day activities. Sometimes, parties get the money after an election, which, if given in proportion to the results, indicates current popularity better than when money is given before an election based on the results of the

previous election, which may no longer be relevant. Secondly, the amount of money, if too little, will have no effect; yet, if too high, it may lead to parties becoming dependent on the state and disconnect them from the public (Figure 2.1E). Finally, as it was already mentioned above, money can come with strings attached, or in other words, public funds provided to parties may be earmarked for particular activities, for instance, for campaigns only, or for spending on research or promotion of gender equality (pp. 22-26).

The last, but not least way to regulate party finance is **financial reporting**, i.e. obliging political actors to disclose information about how they raise and spend their money to enhance transparency, facilitate oversight, prevent potential conflicts of interest, and allow the public to judge the independence of political actors and candidates and how wisely they spend the money. The use of this mechanism is widespread; however, the exact requirements and information disclosed may vary significantly. Depending on the laws on frequency and timing, countries may require the submission of regular reports, campaign reports, or both. Secondly, in some countries, only parties are required to submit such reports, but candidates and/or third parties may also have to follow this practice. Thirdly, there is the issue of what information needs to be reported. Typically, income, spending, assets, and debts are the cornerstones of such reports. There are several controversies associated with the disclosure of the above categories. For instance, often such data for regional and local party organizations does not get reported. Additionally, there is the question of whether the donor's identity must be revealed. On the one hand, it is in the public interest to know who is backing what parties. On the other hand, based on the right to a secret ballot, donors should be able to remain private. Countries try to solve this controversy in different ways. In the effort to balance transparency and privacy, only the donors that make contributions above a certain amount must be disclosed in the reports. It is also a custom to distinguish between individual and corporate donors and apply different reporting requirements for them, such as defining a different threshold for the amounts that have to be disclosed. Moreover, what donor's information needs to be disclosed varies, i.e. whether the amount donated, the address of the donor, his or her ID number, occupation, the date of the donation, etc. should be disclosed. Finally what information is made public also depends. In some countries these reports are kept secret; some publish incomprehensive summaries, yet some provide full, timely and accurate information in an easily searchable way to guarantee maximum transparency (Nassmacher, 2006; Ohman, 2014).

Nassmacher (2003b) additionally categorizes regulatory policies into four main options, i.e. the *autonomy*, *transparency*, *advocacy*, and the *diversified regulation option*. The **autonomy option** emphasizes parties' entitlement to the "unregulated privacy of their internal organization and financial transactions" (p. 10). It assumes that the state should not interfere in democratic politics since it may endanger the liberty and the freedoms of opinion and expression for people and voluntary organizations, and consequently the principle of free, fair, and competitive elections. The **transparency option** assumes that certain private money raising sources may be dangerous, and stresses the fact that people have the right to know how parties raise and spend their money; hence, parties should disclose the details of such activities. The **advocacy option** goes even further than the transparency option and, based on the assumption that transparency alone cannot establish a level playing field for all competing political actors, advocates the implementation of bans and limits, as well as the creation of a public agency to monitor and enforce the political finance rules. Finally, the **diversified regulation option** advocates a "carefully designed policy mix of benign neglect, precise regulation, public incentives and occasional sanctions" (p. 12), consisting of four major elements, i.e. transparency, encouragement, public support, and supervision (p. 13).

## 2.2. Challenges with Political Finance

Imposing regulations on the party finance is crucial for advancing the rule of law and principles of democracy (Piccio, 2014). Unfortunately, such regulations have not always managed to solve some of the underlying problems with political financing (Table 2.2A). Even though the current challenges are not identical in different European countries, there are general issues in common.

The first major problem still hunting Europe is **political corruption**. Political scandals involving illicit financial practices, abuse of government funds, illegal donations, etc. undermine democratic values and present a major challenge especially in some European states. At present, 43 percent of Europeans believe that corruption has increased in the period between 2013 and 2017. Although this number has fallen by seven percent since 2013 and varies significantly among different countries, it suggests that financial regulations have not been able to completely achieve the aim of combatting corruption (European Commission, 2014; European Commission, 2017). Yet, the relationship between political finance regulations and political corruption is difficult to establish, and if not carefully drafted, such

regulations may instead of foiling corruption have the opposite effect and motivate politicians to become even more sophisticated in hiding their corrupt practices (Piccio, 2014).

The second challenge is the **unequal access to resources** by political parties and candidates. Some parties by their nature are capable of raising more money than others. If financial regulations allow unrestricted amounts of money in politics, it may result in skewed competition during the elections, and undermine the principle of one person, one vote. Moreover, incumbents possess resources not available to their opponents. They may exploit their position further and abuse state resources during the re-election bids if financial and campaign regulations are not effective enough to prevent this practice (Nassmacher, 2014).

Such unequal access to resources may be matched by the provision of public funds to candidates and parties. These funds can keep the party system stable and ensure parties' survival in the face of the growing costs of politics. Yet, this leads to the third problem, i.e. the growing **dependency on the generous public funding** system. If not regulated sufficiently such dependency may lead to loosening linkages between political parties and society (Piccio, 2014).

The fourth problem is the **third-party campaigning**, i.e. individuals, organizations and interest groups spending their money in order to influence election campaigns. If third-party spending is not properly regulated it may result in vast sums of interested money present in politics and lower transparency (Nassmacher, 2014).

The fifth problem in the region is the **gender inequality**, i.e. the unproportionate number of women in political life and decision making and the lack of political finance mechanisms capable of changing this situation (Piccio, 2014).

Finally, the existence of political finance regulations does not mean that political actors will obey the rules and not exploit the loopholes still present in such legislation. Few organs are empowered to monitor and enforce political finance regulations' adequate implementation, financial audits often lack investigative power, and the cooperation between the auditing and investigative authorities is rather weak (Piccio, 2014, p. 209).

### **2.3. Rules for Enforcing Political Finance Regulations**

Political finance regulations on how candidates and parties are allowed to raise and spend money cannot guarantee that everyone will respect the rules. A lot depends on the willingness of the actors involved in this process to moderate their activities, and, likewise importantly, on the effective enforcement mechanisms built into the regulatory framework.

Not all regulations are easily enforceable. For instance, it can be rather simple to monitor spending on TV advertising by parties and candidates by establishing strict airtime limits. On the other hand, monitoring donation limits and their proper disclosure or ensuring that corporate funds are not flowing into politics can be notoriously difficult since donations can be made in secret or laundered via private individuals and other otherwise legal channels. Hence, many states require political parties to keep and regularly submit records on the contributions they receive (Figure 2.3A). Sometimes, such records must be made public (Nassmacher, 2006).

In general, states tend to empower different administrative bodies, public authorities, or special agencies to be responsible for the enforcement of political finance regulations. It is essential that such an institution has a clear legal mandate, adequate resources, and enough independence to monitor and investigate violations (OSCE Office for Democratic Institutions and Human Rights [ODIHR] & Venice Commission, 2011, pp. 79-80).

When a party or candidate is found guilty of violating political finance regulations states may impose a range of sanctions on such actors. Depending on the seriousness of violations, sanctions may be of an administrative or criminal nature. For example, if a party is caught misusing public funds, states may completely or partially withhold such funds in the future. Additionally, parties may be subject to administrative fines; be forbidden to run candidates in elections for a period of time; in more extreme cases of violations, parties can lose their registration status, particular candidates may face annulment of their election to office and even imprisonment (ODIHR & Venice Commission, 2011, p. 83). In general, fines are the most common form of punishment (Ballington & Kahane, 2014, p. 315).

Finally, issuing warnings or ‘naming and shaming’ may be an even more effective way of punishing violators, provided that political parties and candidates fear popular rejection (Nassmacher, 2006). In fact, active public, watchful media, and strong civil society can

uncover more violations, provide more accurate monitoring, encourage good behavior, and thus do a better job at ensuring that parties and candidates respect and follow political financing rules than highly detailed regulations or formal reviews by enforcement agencies (Ohman, 2014). As Nassmacher (2003a) points out strict regulations may have the opposite than intended effect and open up loopholes for political actors to exploit. He also notes that certain basic requirements must exist for public control to be possible. The rule of law and the freedom of information and expression should be respected and guaranteed, i.e. if the laws and regulations are disregarded, then they are of little value; if there is no free flow of information, then there will be no articulated public opinion on how parties and candidates should conduct their financial affairs. There must also be a determination to control political money, otherwise, any regulation or enforcement will likely to be hindered and/or delayed.

## **2.4. Campaign Finance and Corruption**

Before exploring the subject of campaign finance and corruption, it is important to define what corruption is. Political philosopher Mark Philp (2007) provides a comprehensive definition of political corruption. According to him, one can recognize such corruption when:

1. a public official (A),
2. in violation of the trust placed in him by the public (B),
3. and in a manner which harms the public interest,
4. knowingly engages in conduct which exploits the office for clear personal and private gain in a way which runs contrary to the accepted rules and standards for the conduct of public office within the political culture,
5. so as to benefit a third party (C) by providing C with access to a good or service C would not otherwise obtain. (Philp, 2007, p. 42)

Philp (2007) notes that even in the instance when a public official fails to commit an actual act it does not make that official less corrupt since he or she was already prepared and had the intention to act for private gain (p. 56).

*Election campaign finance* is an obvious channel through which private interests may influence political decisions. It can be defined as the resources political parties and candidates acquire and spend during election campaigns. These resources are obtained through party income and/or administrative resources and spent through expenditures. It can be rather

difficult to clearly differentiate between campaign finance and other “routine” finance, i.e. everyday costs of running a party, since many of these routine activities may also be classified as campaign activities, for example, polling or market research. Generally, regulators attempt to solve this dilemma by defining official *campaign periods* as a number of days prior to the elections during which different rules may be applied (A Specified Campaign Period, n.d.) Yet, this is still rather ambiguous since it does not stop political parties and candidates to heavily raise and spend resources just before the period begins. Hence, one must be cautious when exploring the topic of campaign finance and corruption. It is important to do so since corruption in election campaign finance causes direct or indirect harm to the public, i.e. it can undemocratically influence election outcomes, and/or make political decisions that favor private or sectoral interests possible. Such corruption occurs through **quid pro quo donations**, **misuse of administrative resources**, and **bribery of voters** (Open Society Institute, 2005, p. 14).

According to Open Society Institute (2005), **quid pro quo donations** is the most commonly occurring form of corruption in campaign finance and it often results in financing scandals (p. 15). It can be recognized in the instances when private interests provide political parties and/or candidates with financial or other kinds of resources to receive favorable treatment by elected representatives in return. The issue here is that there is not always a clear-cut distinction between quid pro quo and regular donations. On the one hand, it is evidently corruption, when donors make their contributions with the aim of establishing direct corrupt links. On the other hand, often politicians and donors can share the same goals and policies that may appear to be put forward due to corrupt interests, actually benefit the public first, and only indirectly benefit the donors. For example, investors may support liberal economic policies proposed by reform-oriented parties and therefore donate to them, however, not just the investors, but other sectors of society can benefit from such policies. Hence, in practice, it can be rather difficult to uncover the corrupt links between donor contributions and political decisions (Open Society Institute, 2005, p. 15).

The **misuse of administrative resources** by parties and/or candidates for campaign purposes is a second and less widely recognized form of corruption in electoral campaigns (Open Society Institute, 2005, p. 15). Generally, one can classify administrative resources into the following categories: *coercive*, *regulatory*, *legislative*, *institutional*, *financial resources* and *state media*. Coercive resources include any bodies with coercive power such as the police

and may be used by incumbents to intimidate or harass political opponents, for example, by preventing them from holding a rally. The abuse of regulatory resources occurs when incumbents unequally and with bias enforce existing regulations, for instance by ordering a tax inspection on the opposition. Legislative resources can give incumbents the power to pass favorable to them laws, while disadvantaging other candidates, for example by making it harder for independent candidates to run for office. Institutional resources include a variety of material and human resources of the state, such as staff, office space and equipment, etc. that can be used for campaign purposes. For example, a governing party may put state officials in charge of organizing campaign events or use office equipment to produce campaign materials. The ruling parties may also abuse financial resources, such as public budgets by, for example, covertly allocating such funds for their own benefit and then using the money in corrupt spending transactions; by drawing party income mainly from state enterprises; or by attempting to boost their popularity by increases in pre-election salaries and pensions for particular groups of citizens. State media can be used to promote a particular candidate or discredit the opposition. In general, the misuse of administrative resources is damaging to both the financing of election campaigns and the political system as a whole. It imposes financial costs on the taxpayers by diverting public resources to serve private interests instead of their intended uses and undermines the integrity of the state functions, civil liberties, and personal security. Eventually, this form of corruption may present a great challenge to a democracy, since such abuses can provide the incumbent parties with a huge advantage over their competitors, and potentially lead to political violence and “state capture”, i.e. a permanent monopoly of power in the hands of one party or political group (Open Society Institute, 2005, pp. 100-103).

Finally, the third form of electoral campaign finance corruption is so-called *vote buying*. Vote buying is the practice of influencing voters to support a particular candidate by providing them with money or other benefits; or attempting to do the same with officials to manipulate election results. Such activities are typically greatly concealed and thus difficult to monitor and can be a significant part of campaign expenditure (Open Society Institute, 2005, p. 16).



## 2.5. Monitoring Campaign Finance

Monitoring election campaign finance is the practice of objective systematic observation and documentation of campaign financing income, expenditure, and the use of administrative resources in order to diagnose how the regulatory and institutional framework operates in reality. Monitoring elections can detect shortcomings in the existing framework, identify instances of corruption, promote transparency and advocate reforms if necessary (Open Society Institute, 2005 p. 16).

**Campaign income** can be obtained from a variety of sources, i.e. donations, loans, administrative resources, *in-kind contributions*, etc. The in-kind contributions are goods, services, or properties offered to a candidate free of charge or at a discounted price or paid for on behalf of a political party or candidate (Types of contributions, n.d.). Depending on disclosure requirements, which are generally aimed at preventing particular parties from using undisclosed donations to gain an unfair advantage, one can engage in three types of income monitoring. When regulations require parties to disclose total income, it can be compared to the estimated campaign expenditure. When parties and/or candidates are required to provide statements on individual donations amounts and donors' identities, it can be then possible to assess how reliable those statements are by attempting to identify unlikely and/or interconnected donors. Finally, if a country requires electoral candidates to disclose individual donations and candidates' voting records are publicly available, it may then be possible to track instances of quid pro quo donations (Open Society Institute, 2005 pp. 84-94).

**Campaign expenditure** as is campaign income takes multiple forms. Yet, it is possible to identify main categories, i.e. spending on advertising and publicity, *hidden advertising*, and non-advertising spendings such as various operational and administrative costs including polling, market research, transport and fuel, staff costs, etc. (Election campaign spending, n.d.). Advertising spending can often be a significant part of the total expenditure and can be rather challenging to monitor. The idea here is to assess the costs of producing and placing of advertising and compare it to the party's or candidate' declared advertising costs. Often, countries have discounted rates and specific regulations for political advertising, monitoring that all the parties involved comply with such regulations is also important. Hidden advertising is the material that appears in the media during electoral campaigns as objective reporting or analysis, but in fact, attempts to promote or discredit a particular candidate. Such

advertising is a form of media bias and may be the result of the party's or candidate's influence over the media or paid for by a candidate or a third party. Two forms of such bias coverage are possible: qualitative and quantitative. The former refers to the media deliberately portraying a particular candidate or party in a positive or negative light. The latter form occurs when the media covers candidates unequally, i.e. one candidate receives a more extensive coverage than the others. In the instance when the media engaged in such practices is a state-run or controlled, hidden advertising becomes a clear case of the misuse of administrative resources (Open Society Institute, 2005, p. 68).

To identify qualitatively bias media coverage, one can examine its relevance, i.e. whether the topic deserves attention; accuracy, i.e. whether the information is based on real facts; transparency, i.e. whether the source of information is identified; balance, i.e. whether different political opinions are presented equally; timeliness, i.e. whether the information is relevant at the time of its presentation; comprehensibility, i.e. whether the information is easy to understand; and diversity, i.e. whether the media in general present a wide range of information. Judging the coverage against these criteria can help monitors to pick up qualitative bias in reporting. Identifying quantitative bias, on the other hand, is a simpler process, yet it also has its challenges. After defining a monitoring period, one may count and compare the number of appearances and references to candidates in each media. Yet unequal result in coverage does not necessary mean hidden advertising, since it may also be due to the effort of active campaigners, or the fact that incumbents may naturally receive more coverage due to their appearances in the media in their capacity as government figures (Open Society Institute, 2005, pp. 69, 71).

Non-advertising spending such as operational and administrative costs as well as costs of polling, market research, rallies, transportation, vote buying, etc. can be monitored by consulting party official documents, interviewing candidates and relevant experts, requesting this information from parties, obtaining estimates from agencies, venues, transportation companies, conducting anonymous surveys of households, etc. (Open Society Institute, 2005, pp. 73-75).

When it comes to **monitoring the misuse of administrative resources**, some types of abuses may be less or more common depending on a particular country, hence it is recommended to implement a selective approach. One should first analyze previous electoral campaigns to uncover the most relevant categories of abuse. This could be accomplished by studying

academic literature written on the subject, reports produced by election monitoring organizations, relevant articles from the press, and interviewing experts. Secondly, a detailed analysis of the existing laws and regulations dealing with campaign finance, as well as media and budget regulations, regulations dealing with management of state-controlled enterprises, codes of administrative procedure, etc. is necessary. Finally, the scope of monitoring should be determined, i.e. which categories of abuse, party, candidate or constituency to monitor, and a relevant method must be selected, i.e. monitoring the media or the budget, directly observing the campaign, choosing a case study approach or conducting interviews (Open Society Institute, 2005, pp. 109-110).

When monitoring the media, one should pay close attention the hidden and institutional advertising as discussed above to identify instances of bias and the misuse of financial resources. Monitoring the budget is a long-term exercise. One should analyze each category spending record and then compare it to actual expenditure. It is important to additionally compare these records to the records in a similar period in previous years since it is more likely that different categories of abuse will be identified in this way. During the direct observing of election campaigns, one can focus on monitoring several categories of administrative resources misuse, for example, whether public officials, state-owned vehicles, and venues are being involved or used in campaigning; whether all candidates have equal access to public spaces for campaigning; whether services and/or goods are being distributed to voters, etc. Case studies can be an effective method for analyzing a particular example of abuse in detail, determining its financial impact, and identifying loopholes in laws, etc. Conducting interviews with experts and practitioners can provide monitors with information on various campaign finance issues, especially the issues that are rather new. One can additionally engage in targeted interviews which are very helpful for acquiring detailed knowledge of concrete issues (Open Society Institute, 2005).

Finally, the obtained results of the monitoring should be disseminated to various media and legislative bodies, relevant monitoring, nongovernment, and international organizations, different enforcement bodies. They can be used for the purpose of advocacy, i.e. promotion of targeted reforms to decrease the probability of corruption and abuse in campaign finance in the future. When monitoring results uncover severe violations in campaign finance, they can be used as evidence while filing formal complaints with enforcement bodies and courts. The results can also always serve as the input for further monitoring in order to enhance

methodologies and find additional monitoring areas and targets (Open Society Institute, 2005, p. 131).

## **Chapter 3. Political Finance Regulations in France, Germany, and the United Kingdom**

### **3.1. Features of Electoral Systems**

#### **3.1.1. France**

France is a semi-presidential, unitary state with a bicameral legislature. Its President is directly elected by a popular vote for a five-year term with a majority requirement and serves as the head of the executive branch (Head of State). The President appoints the Prime Minister as the Head of Government, as well as other ministers as the heads of ministerial departments (the Cabinet) (Center for Responsive Politics [CRP] & Center for a New Democracy [CND], 1993, p. 44).

France's main legislative body, the lower house, is the National Assembly (Assemblée Nationale). It consists of 577 members, who are directly elected to serve a five-year term, unless the President decides to dissolve the Assembly and trigger an early election, in accordance with Article 12 of the Constitution. 556 seats are reserved for the candidates representing metropolitan France, 11 for the citizens who live abroad, and 10 for overseas departments. France uses a two-stage runoff electoral system. To win a seat in the first round, a candidate must receive an absolute majority of votes and at least 25 percent of the vote of registered in the constituency electors. If no candidate wins in the first round, the candidates that receive more than 12.5 percent of the votes proceed to the second round. The candidate that wins the most votes in the second round, which is held on a Sunday a week after the first, wins the seat (Assemblée Nationale, 2014, p. 94). Article L126 of the French Electoral Code states that in the event of a tie, the older candidate is elected.

French citizens over the age of 18 are qualified to be elected, unless an individual is placed under wardship or guardianship; has not fulfilled his national military service obligations; has committed serious breaches concerning the rules of electoral campaigns financing legislation; and has been declared as ineligible due to his or her functions involving certain authority, such as judges, military officers with a territorial command, managers of national enterprises, etc. (France. Assemblée Nationale, 2017). Each MP represents the entire nation, even though he or she is elected in a single constituency consisting of 125,000 inhabitants. If a judge

annuls an MP's election, or the MP resigns or gets elected to the Senate or the European Parliament, his or her seat becomes vacant. In this case, a by-election takes place within a maximum period of three months; no by-election is held if the powers of the National Assembly are due to expire in 12 months. In other cases, such as death or appointment of an MP to the government, a substitute, elected at the same time as the MP, takes his or her place (Assemblée Nationale, 2014).

The upper house is the Senate (Sénat). Currently, there are 348 Senators representing 128 constituencies and serving a six-year term (a nine-year term prior to 2004). Half of the Senators stand for an election every three years. Senators are indirectly elected by popularly chosen departmental electoral colleges (The French Senate, n.d.). To be eligible, candidates must fulfill requirements similar to those of an MP, yet Senate members must be at least 24 years old. The National Assembly is responsible for passing most laws (the Senate has comparatively limited powers); the government has the power over the budget, and the President is entitled to ratify treaties (CRP & CND, 1993).

All French citizens over 18 years old, “who are in possession of their civil and political rights and who are not in a state of legal incapacity”, can vote (Assemblée Nationale, 2014, p. 93). That means that persons under guardianship and persons who received certain penal sentences are disqualified from voting in the National Assembly election.

The official campaign period for the National Assembly begins 20 days before the first election day (Code électoral, 2018, Art. L164). During the six months preceding the first day of the month of an election, providing a candidate's toll-free number and affixing electoral posters in places other than those reserved by municipal authorities is prohibited. Additionally, during the same six-month period, all forms of commercial advertising for the purpose of electoral propaganda in the press or by any audio-visual means are forbidden (Code électoral, 2018, Arts. L50-1, L51, L52-1).

### 3.1.2. Germany

Germany is a parliamentary, federal state with a bicameral legislature. It consists of 16 states (Länder). Its President is indirectly elected for a five-year term; he serves as the Head of State but has a largely ceremonial role (Election of the Federal President, n.d.). The Head of the Government (Bundesregierung) is the Federal Chancellor (Bundeskanzlerin). She or he is elected by an absolute majority of the Members of the Parliament (Bundestag). The Chancellor chooses other members of the government (German Bundestag, n.d.).

The Bundestag is the lower house and the main legislative body. Currently, it has 709 members serving a four-year term: 598 statutory members, 46 *overhang seats*, and 65 *balance seats*. Germany uses a mixed voting system, giving its citizens two separate votes on the same ballot. In the first vote, 299 members are elected in single-seat electoral districts (SSEDs) through a first-past-the-post system. With the second vote, the rest of the candidates are chosen using the closed party list in 16 multi-seat electoral constituencies (MSECs) corresponding to each state through a proportional representation system. According to the law, if a party gained at least three seats in the single-member constituencies or received at least five percent of the nationwide vote, it is eligible to be proportionately allocated additional seats; their number is calculated using the formula specified by the so-called Sainte-Laguë/Schepers method. In the situation when a party receives more seats through the first vote than it is entitled to according to the result of the second vote, German Federal Electoral Act (FEA) states that these “excess” seats, so-called overhang seats (Überhangmandate), may be kept by the party. However, in order to ensure complete proportionality, the Act was amended in 2013 to specify that if a party receives overhang seats, balance seats (Ausgleichsmandate) must be given to other parties (OSCE/ODIHR, 2013).

All German citizens over the age of 18 are qualified to run for a Bundestag seat unless the person has been deemed ineligible to hold a political or public office by a judicial decision (Federal Elections Act [FEA], 2013, Section 15). Vacant seats are assigned automatically to the “next-in-line” candidate according to the party association. In the case, when the seat previously held by an independent becomes vacant, a special election is held in the constituency to determine the new MP.

The Bundesrat, the upper house, has 69 members, who are not directly elected but rather appointed by individual state governments to represent the states (Bundesrat, n.d.). The length of the term of the Bundesrat members depends on their State government's term, and thus is not equal and fixed for all the members. Similarly, the eligibility rules may vary from state to state, yet all members must be at least 18 years old, be German citizens for at least one year, and cannot be members of the Bundestag at the same time (Germany. Bundesrat, 2017). The Bundestag and the Federal Government are the two most powerful bodies. Typically, the Federal government introduces the majority of bills, the Bundesrat has the first say in reviewing the bills and even the power of veto in some cases. The President has the powers to veto the law and even dissolve the Parliament (Constitutional basis, n.d.).

All German citizens over 18 years old, provided they have been permanently residing in the country for at least three months, are eligible to vote. Those German citizens who live abroad, but “after reaching the age of fourteen years, they had a domicile or were otherwise permanently resident in the Federal Republic of Germany for an uninterrupted period of at least three months and this stay dates back not more than 25 years” or can prove that they are familiar with the political situation and are affected by it may also cast their votes on the election day in accordance with Section 12 of the Federal Elections Act. (FEA, 2013, p. 12). Citizens deemed not eligible to vote by a judicial decision, those with a custodian appointed to attend to their affairs, and persons housed in a psychiatric hospital with certain cases of mental disorders are disqualified from voting (FEA, 2013).

There is no official campaign period for the Bundestag elections. Federal legislation does not specify or limit its length. In theory, parties are allowed to campaign at any time before the elections; typically, campaign activities begin after candidates' registration. Yet, individual states regulate such activities, and these regulations may vary significantly in different states and even within the states (OSCE/ODIHR, 2017). Generally, though, states specify the period during which flyers may be distributed, billboards put up, and limited airtime given to political parties on public and private television and radio. For instance, Bavaria allows billboards on state-owned roads to be used for political campaigning for only six weeks before the federal election and recommends that local communities apply the same regulation to the roads owned by them (Palmer, 2009).



### **3.1.3. United Kingdom**

The United Kingdom is a constitutional monarchy and a unitary state with a bicameral legislature. The Monarch is the Head of State and she or he appoints the Prime Minister and performs a number of other ceremonial duties. The Prime Minister is the Head of the Government. He or she appoints members of the government (the Cabinet) and is typically the leader of the largest party in the House of Commons. The government is compiled of 25 Ministerial departments, 20 non-ministerial departments, and over 300 various agencies and public bodies (How government works, n.d.).

The House of Commons, the lower house, has 650 MPs: 533 for England, 59 for Scotland, 40 for Wales, and 18 for Northern Ireland. Each MP is directly elected in accordance with the first-past-the-post system to represent a single-member constituency (UK Parliament, n.d.). MPs serve a five-year term (House of Commons, 2001). To run in an election a candidate must be at least 18 years old and a British or Commonwealth citizen or a citizen of the Republic of Ireland, unless they are civil servants, police and armed forces members, persons in certain judicial positions and those who are members of a large number of tribunals and public boards. The ineligibility criteria are imprisonment exceeding one year, insanity, and undischarged bankruptcy. Additionally, a GBP 500 deposit is required to be submitted along with the nomination papers; it is refundable provided that a candidate receives more than five percent of the votes (Who can stand as an MP, n.d.) Vacant seats are filled through by-elections. (United Kingdom. House of Commons, 2018).

The Upper House, the House of Lords, has about 800 members, 689 of whom are appointed to serve by the Queen (About MPs, Lords & Officers, n.d.). All Lords must be at least 21 years old, British or Commonwealth citizen or the citizen of the Republic of Ireland, archbishops and bishops of the Church of England, life peers, and hereditary peers. Lords who have been convicted of treason and persons with undischarged bankruptcy cannot serve in the House of Lords (United Kingdom. House of Lords, 2018). There is no strong separation of powers in the UK. Both houses of the Parliament and the government can make and change laws, however, the final version has to be approved by the Parliament and signed by the Queen (How government works, n.d.).

To vote in a Parliamentary election one has to be at least 18 years old British or Commonwealth citizen or a citizen of the Republic of Ireland. Persons serving a prison

sentence or those accommodated in mental health institutions are disqualified from voting; additionally, members of the House of Lords cannot vote, and individuals with a conviction for an electoral offense are disqualified from voting for the period of five years (Electoral Administration Act [EAA], 2006).

The *Fixed-term Parliaments Act* (2011) introduced a set election schedule starting from the 2015 election. Prior to this, the exact dates of the elections were determined shortly before the election day, which meant that campaign periods typically lasted for six to seven weeks. For instance, during the 2005 election, parties had less than five weeks to campaign (April 4 – May 5); in 2010 the campaign period lasted for one month (April 6 – May 6); 2015 election (the first scheduled election) was held on May 7, around six weeks after the previous legislature was dissolved on March 30; finally, the 2017 snap election was called around eight weeks in advance (April 18 – June 8) (Feikert, 2009; Elections in 2010, 2010; Elections in 2015, 2015; UK snap election, 2017).

**Table 3.1A: Features of the French, German, and British Electoral Systems. Summary.**

	<b>France</b>	<b>Germany</b>	<b>United Kingdom</b>
<b>Head of State</b>	The President	The President	The Monarch
<b>Head of Government</b>	Prime Minister	Federal Chancellor	Prime Minister
<b>Type of System</b>	Unitary	Federal	Unitary
<b>Type of Governance</b>	Semi-Presidential system	Parliamentary system	Parliamentary system
<b>Parliament</b>	Bicameral	Bicameral	Bicameral
<b>Voting System</b>	Two-Round	Mixed PR	FPTP
<b>Party System</b>	Multi-Party	Two and a half	Two
<b>Campaign Period for Parliamentary Election</b>	Twenty days	Unspecified on a Federal level, state laws vary	Unspecified, typically five to seven weeks

*Source:* created by the author

### **3.2. Finance Regulations**

**France** passed its first legislation on party finance and electoral campaign finance in 1988. Until 1988, parties were operating according to the 1901 law on associations; donations and gifts were forbidden; no direct public finance mechanism was implemented. At the same time, the costs of electoral campaigns were rising due to the implementation of new forms of communication. In this environment, parties often used illegal ways to finance themselves and their electoral

campaigns. Several embarrassing political finance scandals were uncovered by the press in 1987, putting pressure on the government, parliament, and electoral courts to deal with the situation. The 1988 laws treat party finance and campaign finance separately. The aim was to make the country's political life more transparent by forbidding particular practices, regulating public finance, electoral expenses, and private donations. Importantly, the *Commission nationale de contrôle des comptes de campagnes et des financements politiques* (National Commission on Campaign Accounts and Political Party Financing, hereafter CNCCFP) was created to monitor the compliance with the laws (Atwill, 2009). Since 1988, the laws on party funding have remained largely stable, while the electoral campaign financing laws have been often amended, i.e. in 1990, 1990, 1993, 1995, 1996, 2001, 2006, 2011, 2013 and 2015 (Doublet; 2016). France's Electoral Code (*Code electoral*), for instance, was last modified as recently as February 2018 (Code electoral, 2018).

In **Germany** the *Act on Political Parties* (Gesetz über die politischen Parteien, hereafter APP) introduced in 1966, adopted in 1967 and amended as recently as 2017 is the main law regulating political financing. The law is focused on political parties and not individual candidates due to Germany's electoral system, under which parties are the main players in politics and elections, i.e. they nominate candidates and finance electoral campaigns. In fact, parties are recognized as institutions of constitutional law (Basic Law, Art. 21), and no rules exist to regulate third-parties and independent candidates campaigning (OSCE/ODIHR, 2017). Germany does not have an independent agency overseeing political financing; this function is performed by the office of the President of the Bundestag who is responsible for receiving and publishing parties' annual financial statements (Palmer, 2009).

**The United Kingdom** has passed a number of Acts and Regulations that set up the rules for electoral campaigns and party funding. As early as 1883, the *Corrupt and Illegal Practices Prevention Act* was passed to curb excessive electoral spending by candidates. In general, the relevant UK's legislation is aimed at limiting expenditure rather than controlling donations. Today's framework is outlined in the main three Acts: *The Representation of the People Act 1983* (RPA), the *Political Parties, Elections and Referendums Act 2000* (PPERA), and the *Political Parties and Elections Act 2009* (PPEA). The Electoral Commission is a special agency in charge of monitoring elections and ensuring compliance with political finance regulations (Feikert-Ahalt, 2016; Grist & Wright, 2016).

**Table 3.2A: Finance Regulations in France, Germany, and the UK. Summary.**

	<b>France</b>	<b>Germany</b>	<b>United Kingdom</b>
<b>Time of First Regulations</b>	1988	1967	1883, more relevant 2000
<b>Overseeing Institution</b>	National Commission on Campaign Accounts and Political Party Financing	the President of the Bundestag	Electoral Commission

*Source:* created by the author

### **3.2.1. Contributions**

#### **3.2.1.1. France**

In France, to accept financial contributions, election candidates must do so through a financial representative, i.e. an association financing his or her election or a natural person (so-called financial agent). Candidates may begin to accept donations six months prior to the first day of the election month (Code electoral, 2018, Art. L52-4). Each candidate needs to set up a single deposit account associated with all operations of the electoral campaign (Id., Art. L52-6).

Duly identified natural persons residing in France or the citizens of France are allowed to make donations of up to EUR 4,600 to a candidate or up to EUR 7,500 per year in total to all the parties and candidates (Law No. 2013-907); donations of up to EUR 150 are allowed to be made in cash (in practice can be made anonymously), in the case when a donation exceeds EUR 150, it must be made by transfer, check, debit or credit card. Additionally, cash donations cannot exceed 20 percent of the allowed expenditure, provided that the expenditure exceeds or is equal to EUR 150,000 (Code electoral, 2018, Art. L52-8). A natural person may also provide a candidate with a loan. Such a loan cannot last for more than five years, cannot be a disguised gift; it should have an applicable interest rate, ceiling, duration, terms of conditions and repayment (Id, Art. L52-7).

No legal entity or person such as a corporation, union, state-owned enterprise, advocacy group, credit institution or finance company, unless it is a political party or a group, can make direct (e.g. money, properties) or indirect (e.g. services, favors, advantages) donations to

political groups, parties, and candidates since 1995 (Nassmacher, 2006; Code electoral, Art. L52-8).

No foreign state or legal person or entity can make direct or indirect donations to candidates or parties (Code electoral, Art. L52-8). Donations from foreign physical persons and loans from foreign legal persons are permitted (Doublet, 2016). Additionally, French legislation does not mention the requirement for candidates to raise a certain percentage of the money in their constituencies (Atwill, 2009).

Political parties may make donations to candidates within the expenditure limit. Candidates can use their personal funds to contribute to their campaigns, yet, within the expenditure limit. No public figure is allowed to make campaign contributions to a candidate. Elected officials and party members are allowed to contribute to parties (Atwill, 2009). Finally, the limit amounts are indexed to inflation and annually updated (Code electoral, 2018, Art. L52-8).

### **3.2.1.2. Germany**

Germany allows its political parties to accept donations from a variety of sources. Yet, it also has a comprehensive list of forbidden types of donations set out in APP (2017) Article 25(2), i.e. parties are not allowed to accept donations from (1) public corporations, parliamentary parties and groups; (2) donations from exclusively non-profit, charitable or church foundations, associations and entities; (3) donations from foreigners exceeding EUR 1,000, unless they come from German nationals living abroad; or foreign interests from adjacent to Germany countries where members of a particular ethnic group live may donate to parties of that national minority in Germany; or donations which accrue directly to a political party from the assets of a German or European Union citizen, or of a business enterprise more than 50 percent of which is owned by the German or European Union citizens or when it has a registered office located in the EU state; (4) donations from professional organizations that were deliberately created for the purpose funneling funds to political parties; (5) donations from enterprises ran by the state (more than 25 percent of); (6) anonymous donations of more than EUR 500; (7) of quid pro quo donations; (8) when a political party accepts a donation solicited by a third party for a fee which exceeds 25 percent of the value of the solicited donation. There is no ban on cash donations of up to EUR 1,000, as well as donations from Trade Unions and corporations. In general, there is no limit on how much permissible donors can contribute. Individual party members can also accept donations; however, they are required to

pass them to their parties as soon as possible. There are no particular regulations for individual candidates running for an election since, in practice, candidates are nominated and financed by a party. Political parties have the obligation to hand over impermissible donations to the President of the Bundestag (Act on Political Parties [APP], 2017, Art. 25). Additionally, German MPs pay a percentage of their wages to their parties (Money, Politics and Transparency [MPT], 2015). In 2014, the total revenue of the five parties in the Parliament was EUR 422.5 million (Figure 3.2.1.2A) (Niedermayer, 2017). Finally, sponsorship is not considered to be a donation (Doublet, 2017).

### **3.2.1.3. The United Kingdom**

The United Kingdom has no restrictions on the amounts of *donations* that *regulated donees* can accept from *permissible* donors. The term *donations* includes money, goods or services that are provided without charge or on non-commercial terms; importantly, contributions under GBP 500 and GBP 50 made to political parties and candidates respectively are not considered to be donations (Figure 3.2.1.3A) (Uberoi, 2016). Regulated donees are members of registered parties, members associations, and holders of relevant elective offices (The Electoral Commission [EC], 2010). The criteria for a permissible donor is defined in the PPERA Art. 54, i.e. a permissible donor is (1) “an individual registered in an electoral register”; (2) a registered UK or another member state company that does its business in the UK; (3) a UK-registered party; (4) a UK-registered trade union; (5) a UK-registered building society; (6) a UK-registered limited liability partnership; (7) a UK-registered friendly society; (8) an unincorporated organization that carries out business in the UK (pp. 42-43). Both parties and candidates are obligated to check the permissibility of donations before they can legally accept them; impermissible donations must be returned, and in the situation when a party or candidate receives an anonymous donation, it must be returned to the Electoral Commission (Political Parties, Elections and Referendums Act [PPERA], 2000, Art. 57). Foreign donations are not permissible, however, technically, contributions below the amount that qualifies as a donation can be made. Loans can be accepted by parties and regulated donees according to the same rules as the donations. Loans to candidates, however, are not at the moment regulated. Permissible donors, except political parties, may contribute to third parties provided they abide by the same rules as for when donating to regulated donees. Political party’s membership fees are not subject to any rules. State institutions are not on the list of permissible donors; hence they cannot contribute to a party or candidate. Cash

contributions are not banned and there is no legislation that regulates them (MPT, 2015). Finally, until 2014 affiliation fees paid to the Trade Unions that made donations to political parties were also treated as donations (Uberoi, 2016).

**Table 3.2.1A: Contribution Rules in France, Germany, and the United Kingdom.**  
**Summary.**

	<b>France</b>	<b>Germany</b>	<b>United Kingdom</b>
<b>Cash contributions</b>	Allowed under €150	Allowed under €1,000	No ban
<b>Individual contributions</b>	Allowed, limited max. total €7,500	Allowed, unlimited	Allowed, unlimited
<b>Corporate/Trade Union</b>	Not Allowed	Allowed	Allowed
<b>Donations from foreign interests</b>	Not Allowed	Allowed, under €1,000	Not Allowed; international travel and accommodation may be provided
<b>Anonymous</b>	Contributions under €150 not banned	Allowed, under €500	Contributions to a party under £500 and £50 to a candidate are not banned

*Source:* created by the author

### **3.2.2. Expenditures**

#### **3.2.2.1. France**

France does not limit its political parties' electoral expenditure; candidate's expenditure is limited to EUR 38,000; plus, an additional sum of EUR 0.15 for every inhabitant of the constituency; this amount depends on the type of the election (Table 3.2.2.1A) (Code electoral, 2018, Art. L52-11). In practice, the average limit is about EUR 60,000. The limit is adjusted for inflation every two years (Doublet, 2016).

### 3.2.2.2. Germany

Germany has no ceiling on the amount of money parties and candidates may spend on electoral campaigns and routine matters. The APP in Article 1(4) specifies that parties should use their funds for carrying out their constitutional functions exclusively. Third parties also have no spending limits (MPT, 2015). Vote buying is forbidden by the German Criminal Code's Section 108e and is punishable by a fine or the imprisonment of one to ten years (German Criminal Code, 2010). In 2014, five parties in the Parliament spent together EUR 146.2 million on election campaigns (Niedermayer, 2017).

### 3.2.2.3. United Kingdom

The United Kingdom's PPERA and PRA establish the rules on how political parties (and no-party campaigners i.e. campaigning but not running for election individuals and organizations) and candidates respectively can spend money during their *election campaigns*. For political parties and non-party campaigners, PPERA establishes a 365-day regulated period before the polling day. Since the *Political Parties and Elections Act 2009* amended the law, candidates have two regulated campaign periods: a so-called *long campaign* normally lasts for about three and a half months prior to the day when an individual officially becomes a candidate, that is the day of the dissolution of the Parliament; the other, so-called, *short campaign*, can last for up to five weeks between the day an individual becomes a candidate and the polling day. Understandably, when a general election is not scheduled, and a snap election is called for, there is no long campaign period, as was the case in 2017. Hence, the focus here is on the 2015 general election (Figure 3.2.2.3A).

The UK law defines and regulates three distinguishable types of expenditures during a general election: *campaign expenditure*, *election expenditure*, and *controlled expenditure*. A *campaign expenditure* is defined as the expenses by or on behalf of the party which were used during an election campaign for the election promotion purposes (PPERA, 2000, p. 56). The relevant qualifying expenses are those associated with party political broadcasts, advertising, unsolicited materials to electors, production of policy documents and party manifesto, market research, transport, events such as rallies, press conferences or other media services. (PPERA, 2000, c. 41, Sch. 8). During a campaign period for a general election for the Westminster Parliament, PPERA sets limits on campaign expenditure, which are different from those applied to other regional election and when elections overlap. When a registered party



contests one or several constituencies in England, Scotland or Wales, there are two sets of limits to choose from: in England a party can spend up to GBP 810,000, in Scotland GBP 120,000, in Wales GBP 60,000; alternatively, it can spend an amount equal to GBP 30,000 multiplied by the actual number of contested constituencies. Parties may choose whichever limit is greater, i.e. if a party is running in three constituencies in Scotland it may spend either GBP 30,000 multiplied by three, which is GBP 90,000, or it can spend the greater limit of GBP 120,000. In Northern Ireland, there is only one limit: GBP 30,000 per constituency, e.g. if a party contests one constituency, the limit is GBP 30,000 (PPERA, 2000, c. 41, Sch. 9). Importantly, spending limits in single constituencies intended to prevent vote buying have been in some form in place since the 1883 Act (Nassmacher, 2006). In the 2015 general election, the total reported campaign expenditure across the UK by all political parties was GBP 37.3 million (Figure 3.2.2.3B) (EC, 2016a).

Candidates are subject to their own limits associated with the costs of the electoral campaign promotion, i.e. *election expenditure*. During the 2015 general election long campaign, the expenditure limit for candidates was GBP 30,700 plus additional 9p or 6p per elector in a *county* or *borough* constituency respectively. The difference between these two types of constituencies is that county constituencies are mostly rural and borough constituencies are urban. The short campaign expenditure limit was fixed to GBP 8,700 plus additional 9p or 6p per elector in a county or borough constituency respectively. Prior to 2015, these amounts were lower (EC, 2016a). In the 2015 election, candidates collectively spent GBP 14.4 million (EC, 2017a).

*Controlled expenditure* is expenses of third-parties used for production and publication of election materials presented to the public (PPERA, 2000, c. 41, p. 66). Third-party campaigners (also called non-party campaigners) are divided into two types: *local* and *general non-party campaigners*. Local non-party campaigners do not have to register with the Electoral Commission (EC, 2016a), and during the short campaign they may spend up to GBP 700 in total on promotion or disparagement of a candidate. This amount was increased from GBP 500 by the *Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014*.

General non-party campaigners are those whose planned expenditure intended to influence voters by promoting or disparaging a registered political party(es) or a category of candidates exceeds GBP 20,000 in England, or GBP 10,000 in either Scotland, Wales, or Northern Ireland. This type of campaigners must be registered with the Commission and are subjected

to limits on their expenditures in each part of the UK. The 2015 election's limits were GBP 319,800 in England, GBP 55,400 in Scotland, GBP 44,000 in Wales and GBP 30,800 in Northern Ireland, and a maximum of GBP 9,750 per any constituency during the campaign period. Importantly, the campaign period for third-parties lasted for only seven and a half months and not 365 days in 2015. This was done deliberately so that non-campaigners could have time to get familiar with the new rules introduced in the 2014 Act. Together, third-party campaigners reported spending GBP 1.8 million on the 2015 election (Figure 3.2.2.3C) (EC, 2016a; Feikert-Ahalt, 2016).

**Table 3.2.2A: Expenditure Rules in France, Germany, and the United Kingdom.**  
**Summary.**

	<b>France</b>	<b>Germany</b>	<b>United Kingdom</b>
<b>Candidate Limit</b>	€38,000 plus €0.15 per inhabitant	Unlimited	Long Period: £30,700 Short Period: £8,700; plus 9p or 6p per elector*
<b>Party Limit</b>	Unlimited	Unlimited	England: £810,000 Scotland: £120,000 Wales: £60,000 or if greater: £30,000 per constituency. Northern Ireland: £30,000 per constituency
<b>Third-parties</b>	Not Applicable	Unlimited	England: £319,800 Scotland: £55,400 Wales: £44,000 Northern Ireland: £30,800
* 9p in county or 6p in borough constituencies			

*Source:* created by the author

### 3.3. State Funding

#### 3.3.1. France

France typically provided a generous amount of funds to its political parties. The appropriate legislation was adopted between 1988 and 2010. Recently though, public aid has been decreasing in accordance with the cost-saving measures (Assemblée Nationale; 2014). Nevertheless, each year, approximately EUR 61 million from the budget is distributed among political parties (Doublet, 2016). For instance, in 2013, over EUR 76 million was directly distributed among 40 parties and groupings (see Figures 3.3.1A to 3.3.1C), which was equal to 37.8 percent of their total income (Assemblée Nationale; 2014).

The money is given to parties in two equal instalments. The sum of the first installment depends on the parties' results in the previous parliamentary election and is proportional to the number of votes received by the party, provided it met the qualification requirements, i.e. to qualify, a party needs to have its candidates to obtain at least one percent of the votes in at least 50 constituencies and at least in one overseas community or department. This sum is reduced if a party fails to follow the rules regarding gender equality specified in the Law No. 2000-493 (2000) aimed at promoting equal access for women and men to electoral mandates and elective functions. The law was amended in 2007 and 2014. Currently, it states that if “the difference in the number of candidates of each gender having declared to be affiliated to a party or a political group at the last elections to the National Assembly exceeds 2 % of the total number of candidates”, then the sum of the first instalment will be reduced by a percentage corresponding to three-halves of that difference in proportion to the total number of candidates (150% from 2014 vs. 50% in 2000, and 75% in 2007) (Doublet, 2016, p. 148; CNCCFP, 2017).<sup>1</sup> In 2013 for instance, the state collected EUR 6 million in fines from political parties for violating the principles on gender parity. In 2017, the qualified parties received EUR 1.42 for each vote in the first installment (CNCCFP, 2017). The second installment goes to the parties which were qualified to receive the first. The money is distributed according to the number of MPs each party has; in 2017 parties received EUR 37,731.14 for each MP (CNCCFP, 2017). Importantly, these funds are not earmarked in any

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<sup>1</sup> To illustrate this, if a party presents 100 candidates: 70 men and 30 women it will see its funding cut by 60 percent ( $[(70-30) \times (1.5)] / 100 = 60 \%$ ).

way (International IDEA, 2017). Additionally, political parties in the French Parliament receive substantial resources in indirect public funding, such as tax reductions, free airtime, and space for posters, the supply of staff, etc. It is estimated that together direct and indirect public funding accounts for 60 to 70 percent of the total party income. (Doublet, 2016).

Moreover, there are other ways in which France finances its political parties and political life. For instance, contributors are entitled to a 66 percent tax reduction; since 2011 this amount is limited to EUR 15,000 per year per household (CNCCFP, 2017). The National Assembly also finances the activities of *political groups*. To form a political group, it must have at least 15 MPs and a signed by all members political statement (Curtis, 2017). During the official campaign period, parties and groups are entitled to three hours of free airtime on public television and radio stations preceding the first vote, and one hour and thirty minutes preceding the second vote. This time is divided in half between the parties in the majority and those in opposition. Those parties and groups without representation in the Parliament, yet running at least 75 candidates, are entitled to seven and five minutes of airtime preceding the first and second round of voting accordingly. (Code electoral, 2018, Art. L.167-1). Third party political advertising is forbidden unless candidates or their representatives consent to it (Code electoral, 2018, Art. L.52-16).

Finally, if a candidate receives more than five percent of vote he or she is entitled to be reimbursed 47.5 percent of the spending, provided that the candidate followed all the rules and the final sum does not exceed his personal campaign expenditure; such candidates are also reimbursed for the costs of paper, printing, flyers, posters, and postal services (Code electoral, 2018, Arts. L52-11-1, L.167).

### **3.3.2. Germany**

Political parties in Germany have been receiving public funds since the late 1950s. (Campaign Finance: Germany, 2015). The Act on Political Parties (2017) in Article 18 states that public funds shall be allocated each year among the eligible political parties to assist them in financing their constitutional functions. A party is considered to be eligible to receive the funds when it (1) obtained at least 0.5 percent of votes for its party list in the most recent Federal (Bundestag) or European Parliament elections; (2) or it obtained at least one percent at one of the State (Land) most recent parliamentary elections; (3) or does not have an authorized party list (i.e. individual candidates running), but obtained ten percent of the direct

votes in a constituency; (4) submitted its last due account statement to the President of the Bundestag; (5) and submitted an application for assessment and distribution of public funds, provided it was not entitled to them in the previous year; (6) was never banned or disbanded (APP, 2017, Arts. 18 & 19)

The APP in Article 18(2) establishes the absolute upper limit on the amount of funds that should be distributed among the eligible parties. The total amount for the year 2011 was EUR 141.9 million, EUR 150.8 million for the year 2012. Since 2013, this limit increases annually in accordance with the principles described in Article 18(2) and is published by the President of the Bundestag by May 31st. The limit for the year 2017 was 161.8 million (Table 3.3.2A) (German Bundestag, 2018) Eligible parties receive EUR 1.0 for each of the first four million votes, and EUR 0.83 for each additional vote; as well as matching funds of EUR 0.45 for each EUR 1.0 (up to EUR 3,300) donated by a natural person e.g. in the form of a membership fee (APP, 2017, Art. 18). There is also a relative limit on the amount of funds a party can receive in public funds, i.e. the amount cannot exceed the amount raised by the party itself. When the total calculated amount of money all the parties are supposed to receive exceeds the absolute upper limit, each party then receives a reduced sum (Id. Art. 18(5)). The money is paid to the parties in advance in four parts (each no more than 25 percent of the total sum) quarterly; excess money must be repaid if necessary (Id. Art. 20).

Germany also has indirect means of public financing. According to the German *Interstate Treaty on Broadcasting and Telemedia* (2017) those parties that are running a list in at least one state and parties running at least one candidate in the national or European elections are entitled to appropriate airtime during electoral campaigns on private national level broadcasting channels (Article 42); otherwise parties are always prohibited from purchasing airtime (Article 20a). The same rules apply to the national public broadcasters. Public broadcasters provide airtime for free, while private broadcasters may charge parties broadcasting costs. Broadcasters may refuse to air a spot provided its content is clearly unlawful. The amount of time political parties get depends on their results in the previous elections and vary from state to state. In general, large parliamentary parties get twice as much time as smaller parliamentary parties and four times the amount non-parliamentary parties get (OSCE/ODIHR, 2013). Free space for putting up political posters and billboards can also be provided and regulated by individual states (Nassmacher, 2006). Parties are not allowed to use public facilities (Germany, 2016).

Finally, individuals may claim a tax reduction on their annual donations to political parties of half the donated amount but no more than EUR 825 (Art. 34g) and individual donations of up to EUR 1,650 per calendar year are deductible from income; (Art. 10b); both amounts are double when filed jointly by spouses (Income Tax Act, 2017).

### **3.3.3. United Kingdom**

The United Kingdom provides three main types of funding to its political parties, i.e. *policy development grants* (PDGs) administered by the Electoral Commission, *short money* paid by the House of Commons, and *cranborne money* paid by the House of Lords.

Policy development grants are distributed to *registered* parties to assist them in developing policies. A registered party is one that has at least two sitting MPs in the House of Commons and has taken the oath under the Parliament Oaths Act 1866. The policies are supposed to be included in any manifesto intended for the UK, European, and Scottish Parliaments, Wales and Northern Ireland National Assemblies, and local government elections. (PPERA, 2000, p. 9). The total amount of the grant is GBP 2 million per year. It is distributed in two parts based on a formula specified by the Electoral Commission and approved by the Parliament. The first part, GBP 1 million, is provided to the eligible parties in equal partitions. The other GBP 1 million is “divided based on the proportion of the registered electorate where the party contest elections (England, Wales, Scotland and Northern Ireland), and weighted share of the vote received by each party in each part of the UK” (Public Funding for Parties, 2018). Parties must submit an application to receive the grant. The application should include an outline of planned and intended policy development activities for the following year. The Commission may approve the application and advance up to 75 percent of the grant money. It then reviews parties’ final cost reports and verifies that the money was used as intended. At the end of the review, the Commission pays, or depending on its findings, recovers the owing or recoverable amounts (Id.).

Short money was introduced in 1975 with the aim to provide financial support to the opposition parties in the House of Commons. Consequently, the original scheme was several times amended, most recently in 2016. Today, opposition parties with either two MPs or those who have one MP in the House of Commons but also secured more than 150,000 votes in the previous General Election are eligible to receive short money. Importantly, the parties whose MPs have not sworn the oath are not eligible to receive the funds. Yet, *Sinn Fein*, the Irish

political party is a somewhat exception to this last rule. The money is provided for three basic reasons. The eligible party receives (for 2016/17 financial year) GBP 16,938 for every seat as well as an additional GBP 33,83 for every 200 votes they gained in the last election in general funding for carrying out the Parliamentary business (Table 3.3.3A). Secondly, all qualifying parties share GBP 186,073 provided to them for travel and associated expenses and distributed according to the same principles as the general funding. Thirdly, GBP 789,146 is given to the Leader of the Opposition's Office (introduced in 1999) to be used to cover the running costs. These figures are annually updated, from 2017 onwards in accordance with the percentage increase in the consumer price index; previously, the figures were based on the retailer price index (Table 3.3.3B). Money intended for general funding and for the Office of the Leader of the Opposition is paid on a monthly basis; travel money has to be claimed when qualifying trips are taken. The 2016 amendment additionally introduced the funding floor and ceiling for parties with maximum five MPs, i.e. 50 and 150 percent accordingly of the Independent Parliamentary Standards Authority's (IPSA) staff allowance for one non-London area MP (GBP 70,700 and GBP 212,100 respectively for 2016/17). Finally, broader transparency requirements were established with the most recent amendment. Prior to 2016 parties had to submit an Auditor's Certificate within two months after the financial year was over. From 2016/17 onwards, parties are also required to publish audited accounts on short money spending as well as the information on senior staff salaries funded from short money (Kelly, 2016).

Cranborne money is a similar to soft money scheme that was introduced in the House of Lords in 1996. Originally, it provided financial assistance to the two largest opposition parties in the House of Lords. The sums were annually adjusted for inflation (Table 3.3.3C). Consequently, several amendments were adopted, for instance, the funding was increased, funding for the Convenor of Crossbench Peers was introduced, and from 2010 until 2015 only one party was receiving the funds. In the financial year 2016/17, the Labour Party received GBP 587,117, the Liberal Democrats GBP 293,142, and Cross Bench GBP 89,165 in cranborne money. If a party wants to claim cranborne money it must submit an auditor's certificate to the Accounting Officer of the House of Lords showing that the money was spent exclusively on the party's parliamentary business. The state also pays from public funds the salaries of the Leader of the Opposition and Opposition Chief Whip in the Lords: GBP 69,433 and GBP 64,206 respectively as of 2016 (Kelly, 2016).

The United Kingdom, additionally, has a number of indirect ways in which its parties may receive certain benefits. For instance, the *Broadcasting Act 1990* made it illegal to pay for political advertising on radio and television, but political parties are entitled to free airtime, so-called *party political broadcasts* (PPBs), which is a general term that includes *party election broadcasts* (PEBs) and *referendum campaign broadcasts* (RCBs). Commercial radio services (e.g. Talksport, Classic FM, and Absolute Radio), as well as commercial public service TV channels (e.g. ITV1, Channel 4, and BBC), must allocate time in their programming for PPBs. *Ofcom* is the UK communications agency that regulates PPBs (except on BBC, which is regulated by the BBC Trust). According to the rules set out by Ofcom, prior to a General Election, each *major* party (specific parties here are determined by Ofcom, see Table 3.3.3D) is entitled to at least two PEBs. The actual duration and number of PEBs is specific to a particular election and is based on such factors as a party's past and present support, and the nation in which the election is held. Other registered parties qualify for a PEB, provided they are contesting at least one-sixth of the election seats; additional time is determined based on the party's past and present support (White & Gay, 2015).

UK parties benefit from free postage of electoral communications, as specified in the *Representation of the People Act 1983*. The Act additionally allows parties to use public buildings for free during the electoral campaign for the purpose of holding public meetings. Finally, the *Inheritance Tax Act 1984* relieves parties from paying an inheritance tax on legacies (The Funding of Political Parties, 2007). Other forms of tax relief are considered to be too expensive to be provided to the parties (Nassmacher, 2006). Other than these provisions, the UK does not provide any direct public funding for electoral campaigns (MPT, 2015).

**Table 3.3A: State Funding in France, Germany, and the UK. Summary.**

	<b>France</b>	<b>Germany</b>	<b>United Kingdom</b>
<b>Provision of Direct Public Aid</b>	Yes	Yes	Yes
<b>Direct Public Aid Ceiling</b>	No	Yes	No
<b>Provision of Indirect Public Aid:</b>	Yes	Yes	Yes
<b>Tax Relief for Donors,</b>	Yes	Yes	No
<b>Tax Relief for Parties,</b>	Yes	Yes	Yes
<b>Free Airtime,</b>	Yes	Yes	Yes
<b>Other Indirect Public Aid.</b>	Advertising space, postage	Advertising space	Advertising space, meeting rooms, postage, premises



<b>Is the money earmarked?</b>	No	No	Yes
<b>Are public funds linked to gender equality</b>	Yes	No	No
<b>Eligibility Criteria</b>	Share of votes in the previous election	Share of votes in the previous election; Number of Candidates	Share of votes in the previous election; Representation in the Parliament
<b>Distribution</b>	Proportionate to votes and seats received,	Proportionate to votes received,	Proportionate to votes and seats received,

*Source:* created by the author

### 3.4. Disclosure and Monitoring

#### 3.4.1. France

France requires its MPs as well as a number of other office holders to declare their estate at the beginning and end of their term in office. Failure to do so properly and honestly can result in a three-year prison sentence and an EUR 45,000 fine, as well as the prohibition to hold a public office and the loss of civic rights (Assemblée Nationale; 2014).

Individuals, who exceeded the EUR 7,500 donation limit can face a one-year prison sentence and EUR 3,750 fine (CNCCFP, 2017, p. 68).

Attempting to influence the vote by providing electors with gifts, money, favors etc. is punishable with an EUR 15,000 fine and a two-year imprisonment under Articles L106 and L108 of the Electoral Code. This penalty is doubled if the violator is a public officer (Code electoral, 2018, Art. L109).

France does not directly specify the rules for the use and/or abuse of administrative resources. Indirectly, however, article L52-8 covers this subject by forbidding incumbents to accept any kind of support from legal persons and entities (International IDEA, 2017).

If a candidate obtained more than one percent of the votes he or she must submit to the CNCCFP a complete and detailed campaign account (a track of all the contributions and expenses) certified by a financial representative by 6 pm on the tenth Friday that follows the first election round (within 68 days) (Code electoral, 2018, Art. L52-12).

CNCCFP (The National Commission for Campaign Accounts and Political Financing) is an independent administrative monitoring body that consists of nine members, who are appointed by decree to serve for five years; it additionally has approximately a 40-person secretariat and a number of judges in its possession. Normally, CNCCFP is supposed to perform the monitoring of the accounts within six months after the submission deadline. The Commission can approve, revise, or reject an account. The reasons for rejection vary, e.g. the account was submitted after the deadline, the account was not open by an agent, the account has a deficit, the candidate exceeded the expenditure limit, no invoices and receipts were attached, etc. Rejected accounts are referred to an electoral judge who will decide on the appropriate punishment, e.g. declare a candidate ineligible, force a fine, or send him or her to prison (Code electoral, 2018, Art. L52-15; Doublet, 2016). The commission additionally ensures the publication of the campaign accounts in a standard, simplified and easily-searchable way (Code electoral, 2018, Art. L52-12).

When CNCCFP determines that a candidate exceeded the expenditure limit, he or she must pay the difference to the Public Treasury (Code electoral, 2018, Art. L52-12). Additionally, a candidate can face a three-year prison sentence and an EUR 45,000 fine if he or she violates electoral campaign funding rules, exceeds the spending limit, does not properly follow the campaign account keeping and submission rules. If a candidate violates the rules on commercial advertising and the distribution of a toll-free telephone number (Arts. L50-1, L51, L52-1), he or she can face a one-year prison sentence and an EUR 15,000 fine (Code electoral, 2018, Art. L113-1).

Political parties must keep and submit annual consolidated accounts certified by two auditors to CNCCFP no later than June 30 of the following year (CNCCFP, 2017, p. 69). Just as candidates, parties are required to have a financial representative, on the other hand, unlike candidates, parties are not required to report on their electoral finance (International IDEA, 2017). It is recommended that expenditure on communication and propaganda, electoral campaigns, expenses on consumables, bank charges, interest expenses, etc. are included in the accounts. Party account information is available publicly on the CNCCFP website and in the French official gazette; parties themselves are not obliged to publish their financial records. When political parties violate financing rules, they can lose access to public funds (Doublet, 2016).

In general, the powers of CNCCFP are rather limited (Nassmacher, 2006). In terms of the supervision of the accounts, CNCCFP relies heavily on auditors. Until 2013, CNCCFP did not have the means to investigate party funding, had no access to supporting documents, had no power to engage in the on-site supervision. Until now, it cannot issue an order or injunction to parties, its monitoring focus is lawfulness of parties' financial operations and not the expediency; parties may even refuse to cooperate with CNCCFP without facing sanctions. Finally, it can be argued that the Commission does not have sufficient resources to perform effectively. As an example, CNCCFP was expected to monitor approximately 11,850 accounts in 2015; yet its budget for the year was EUR 6,7 million, and the number of its staff was 47 (Doublet, 2016).

### **3.4.2. Germany**

The Act on Political Parties sets out the rules for party finance accountability and enforcement. Political parties eligible for public finances must annually submit their accounts audited by a certified auditor to the President of the Bundestag. The accounts of parties whose yearly income does not exceed EUR 5,000 do not have to be certified (APP, 2017, Art. 23). There is no requirement to submit separate accounts during an election year. If a party does not submit its annual accounts in time, it becomes disqualified from receiving public funds (Id. Art. 19a). Accounts should include the information on the incoming funds, expenditure, and party's assets. The information from the accounts of all the state and subordinate party branches (the names and addresses of all the donors should be included) should be incorporated. These requirements have been in place since 1984 (Nassmacher, 2006). The accounts should separate the total amount of the contributions which were less than EUR 3,300 and more than EUR 3,300 made by natural persons (APP, 2017, Art. 24).

Not all donations need to be itemized and reported. When a single donation exceeds EUR 50,000, it should be immediately reported to the President of the Bundestag. When aggregated donations from elected representatives exceed EUR 10,000 a year, they should be recorded; donors' names, addresses, and the amounts should be included in the records (Id. Art. 25).

The President of the Bundestag is responsible for verifying whether the submitted accounts are accurate and circulate the information in the Bundestag printed paper. He is also tasked with the preparation of an annual summary of parties' income and spending as well as every two years reporting on the party finance situation to the Bundestag. In a situation when the

President of the Bundestag suspects that a particular party's submitted accounts are inaccurate, he may give the party an opportunity to comment; he may also, in agreement with the party, commission an auditor to check the accounts (Id. Art. 23). When a party unintentionally submits inaccurate accounts, but, as soon as it becomes aware of the fact that the statements provided are inaccurate, immediately notifies the President of the Bundestag, in such a situation the party will not face legal consequences for submitting inaccurate information (Id. Art. 23b).

Individual candidates should report contributions and expenditure, no itemization is required for the latter. Donations exceeding EUR 5,000 should be reported to the President of the Bundestag together with the specific amount, name, and the address of the donors; donations from a single source exceeding EUR 1,000 per month should also be reported. The President should publish the information on the donations to candidates from the same donor that exceed EUR 10,000 (Code of Conduct, 2013, Rules 4 and 1). Independent candidates do not need to publish their accounts (Germany, 2016).

Third-party actors are not obliged by law to report itemized expenditures and received contributions; they do, however, annually submit their accounts to the German tax authorities; the reported information is not open to the public (MPT, 2015).

Section 6 of the APP sets out the procedures and applicable administrative and criminal sanctions for violating accountability rules. If a party was wrongly allocated a higher amount of public money than it is entitled to, the party should reimburse the amount (APP, 2017, Art. 31a). In cases when inaccuracies were found in the submitted accounts, the party is liable to pay double the amount it underreported or incorrectly stated; when the party failed to correctly list its assets, the amount it needs to pay is equal to ten percent of value of the unlisted interests (Id. Art. 31b). If a party accepted impermissible donations it shall pay three times the amount of those donations; failing to publish the required donations results in the obligation of the party to pay twice the amount of the unpublished donations (Id. Art. 31c). When an individual fails to report correctly on the origins of the funds or accepts funds from impermissible donors he or she can be punished by a fine or even imprisonment of up to three years. Examiners and auditors can be punished by a fine or imprisonment of up to three years for falsifying reports; the imprisonment can be up to five years in cases when an auditor reports incorrect information in exchange for a payment (Id. Art. 31d). Additionally, individuals who violate the electoral law can lose the ability to take part in elections and/or to

hold public office in accordance with Section 45 of the German Criminal Code (2010). The President of the Bundestag is responsible for issuing the notice of sanctions and initiating court proceedings; his office acts as the enforcement authority and has the power to refer cases to the Federal Prosecutor (APP, 2017, Art. 38; MPT, 2015).

The Federal Audit Office (Bundesrechnungshof) has the power to investigate how public money is used and examine the work of the President of the Bundestag (Id. Art. 21). It also has the right to audit some kinds of third-party actors. Finally, the Federal Audit Office cannot monitor finances of MPs and their staff, but some State level bodies, such as the Audit Court in Bavaria has the power to do so; this is the only instance related to enforcement and monitoring where the Federal authority is weaker than the State one (MPT, 2015).

### **3.4.3. United Kingdom**

The United Kingdom makes its political parties, regulated donees, candidates, and third parties record and report to the Electoral Commission certain kinds of donations and loans (Table 3.4.3A).

Political parties must submit quarterly reports on loans and donations to the Electoral Commission. During the election period, political parties, unless they do not run any candidates and notify the Electoral Commission about this, must compile and submit reports on a weekly basis. The central party must report all the donations and loans of over GBP 7,500; an *accounting unit*'s threshold is GBP 1,500 (e.g. Table 3.4.3B). When a party has an accounting unit it means it has a party section or sections whose finances are not directly controlled by its headquarters (EC, 2015). Importantly, since contributions under GBP 500 are not considered to be donations, they do not need to be recorded and reported, even their aggregated amounts. Prior to 2010, the GBP 500 figure was set at GBP 200, and the reporting limit was GBP 5,000 and GBP 1,000 and not the current GBP 7,500 and GBP 1,500 respectively. (EC, 2015; EC, 2013).

When a political party's yearly income or expenditure is over GBP 25,000 it must submit its accounts to the Electoral Commission. There are two different periods for the submission: those parties whose expenditure or income was below GBP 250,000 must submit their accounts within four months after the end of the financial year; those parties whose expenditure or incomes was over GBP 250,000 must submit their accounts within six months

and seven days after the end of the financial year. Parties that spend or collect more than GBP 250,000 in a year must also attach an independent auditor's certificate to their reported accounts. Similarly, when a party spends the amount equal to or less than GBP 250,000 during an electoral campaign, it must submit its accounts to the Commission within three months after the elections take place; if it spends more than GBP 250,000, the accounts must be submitted within six months and an independent auditor's certificate must be included (EC, n.d.).

Candidates must record and report all donations, as well as the total amount of all donations over GBP 50. Candidates must submit their spending returns to the Electoral Commission within 35 days after the election results were declared. Registered third-party actors must provide itemized contributions and expenditures reports to the Electoral Commission (MPT, 2015). Permissible donations, loans and aggregated donations and loans from the same source in the same calendar year received by political parties (also members associations and third parties) and regulated donees individuals over GBP 7,500 and GBP 1,500 respectively must be reported. Regulated donees, i.e. party and associations members, sub-nations' MPs, certain elected office holders must provide the Electoral Commission with information regarding the acceptance or return of each donation within 30 days from its acceptance or return. Even though Members of the House of Commons fall under the category of regulated donees, they report donations they received to the *Registrar of Members' Financial Interests* and the donations they returned are reported to the Electoral Commission (MPT, 2015; Uberoi, 2016). The Register is run by the UK Parliamentary Commission for Standards in Public Life, an independent governmental advisory body, which has the authority to scrutinize Parliamentary expenses and MPs' financial interests and review campaign finance spending (Register of Members' Financial Interests, 2017).

All impermissible donations must be reported. Typically, the following information has to be reported for permissible donations: donor's name and address, the amount, nature and value of the donation, the date the donation was received, accepted or returned, in what manner the donations were made; in case of a loan, it is necessary to also specify the date the loan is due to be repaid, the interest rate (EC, 2015). Additionally, those who donated to political parties were obliged to report to the Electoral Commission, the Electoral Administration Act 2006 abolished this practice (Feikert, 2009).

PPERA (2000) in Article 145 on enforcement calls for the establishment of the Electoral Commission. The Commission acts to ensure transparency and integrity, compliance with the law and deter non-compliance. In practice, it does so by ensuring that all the appropriate financial information of parties, candidates, and third parties is reported and disclosed by them, and published by the Commission (as the information becomes available); except loans and donations in Northern Ireland (PPERA, 2000, p. 168); it also provides parties with advice and reminds them of deadlines (Grist & Wright, 2016). Until 2010, criminal prosecution for offenses such as the failure to provide or providing false information on accounts was often the only tool for enforcing PERA requirements (EC, 2013). In 2010, the Commission was given a variety of civil sanctioning powers. In general, besides the sanctioning powers, it also has supervisory and investigative powers, as well as the ability to recommend cases for criminal prosecution. Not complying with some of the sanctions imposed by the Commission, such as a failure to act upon a stop notice, is a criminal offense (Grist & Wright, 2016). Currently, the Commission's enforcement tools include fines between GBP 200 and 20,000, disclosure, stop, compliance, and restoration notices, entering premises with a warrant, interviewing witnesses, etc. (EC, 2016b; EC, 2017c).

The Commission employs seven commissioners, about 17 executives, and about a hundred other staff members (EC, 2018). In the financial year 2014-15 it had a budget of about GBP 21 million (OECD, 2016); importantly the expenditure plans envision a sharp cost reduction, i.e. for the financial year 2018-19 the budget is set at GBP 15.4 million (EC, 2017c).

**Table 3.4A: Disclosure and Monitoring in France, Germany, and the United Kingdom.**  
**Summary.**

	<b>France</b>	<b>Germany</b>	<b>United Kingdom</b>
<b>Auditing body</b>	National Commission for Campaign Accounts and Political Funding (CNCCFP)	No. the President of the German Bundestag	The Electoral Commission
<b>Financial Reports Submission</b>	Yes	Yes	Yes
<b>Parties report on election campaign financing</b>	No	No	Yes
<b>Candidates report on election</b>	Yes	No	Yes

<b>campaign financing</b>			
<b>Punishment for violations</b>	1-3 year imprisonment; EUR 15,000-45,000 fine, ineligibility	1-5 year imprisonment; fine twice/three times the amount	imprisonment, GBP 200-20,000 fine
<b>Information available publicly</b>	Yes	Yes	Yes
<b>Threshold to make donations public</b>	No	Yes	Yes
<b>Law against vote buying</b>	Yes	Yes	Yes

*Source:* created by the author



## Chapter 4. Evaluation and Recommendations

Political finance regulatory frameworks come in a variety of forms, i.e. regulations can focus on income and/or expenditure controls, be directed at private individuals, political parties, or candidates, concentrate on state funding distribution and transparency. All three countries, France, Germany, and the United Kingdom, at some point in their history, faced political finance scandals and realized the need to develop and tune their political finance regimes to combat political corruption and increase openness and transparency of financial transactions in politics.

The so-called *Urba case* from the French city of Marseilles in 1987 exposed that the Socialist Party exchanged political favors in return for donations. This case, as well as several others, inspired strong regulatory reforms in the 1980s (Pujas & Rhodes, 1999, p. 53). In Germany, in 1981 the so-called *Flick Affair*, in which it was discovered by a *Der Spiegel* journalist that a number of leading politicians were receiving money from a German industrial conglomerate Friedrich Karl Flick, led to the amendment of both the Constitution, and the Party Act (Kroeze, Vitória, & Geltner, 2017, p. 287; Nassmacher, 2003b, p. 11). In the United Kingdom in the so-called *Ecclestone Affair* of 1997, it was revealed by the *Sunday Telegraph* that the Formula One tycoon Bernie Ecclestone made a donation of GBP 1 million to the Labour Party in exchange for exempting Formula One from the ban on tobacco advertising (Wintour & Maguire, 2000). After ignoring the rules on political parties spending, contributions, and public subsidies for many decades prior, in 1999 the UK was finally forced to reassess and upgrade its political financing legal framework (Nassmacher, 2003a, p. 141).

Several general explanations can be found for why such scandals occur and why finance regulations cannot always prevent them. Pujas and Rhodes (1999) reasons that problems with political financing that many countries face may be the result of the emergence of cartel parties, the high costs of running election campaigns, the decrease in the traditional means of financing parties, and the changing nature of competition in politics (p. 46).

Likewise, various authors have made attempts at evaluating the effectiveness of political finance regulations and consequently crafting recommendations and guidelines for transparency and accountability. Nassmacher (2003b) rightly notes that in order to establish the best and most adequate political finance regime one must first “consider the specific features of the national polity as well as the general problems of democratic governance”, and

only after attempt “a multifaceted search for the optimum, not the mere transfer of a perfect set of rules applied somewhere else” (p. 13). Indeed, there is no one-size-fits-all approach to political finance regimes, and laws should vary accordingly, even when it comes to rather similar countries. Yet, the author notes, some standards can exist, and as early as 1976, K. Z. Paltiel in *Party, Candidate, and Election Finance: A Background Report*, claimed that:

A system of public financing, full disclosure and an enforcing agency backed by legal sanctions are essential to the success of a reform for party finance. Disclosure requires systematic reporting, auditing, public access to records and publicity. Enforcement demands a strong authority endowed with sufficient legal powers to supervise, verify, investigate and if necessary institute legal proceedings. Anything less is a formula for failure (as cited in Nassmacher, 2003b, p. 13)

## **4.1. Guidelines on Good Practice in Political Finance**

### **4.1.1. Contributions**

It is recommended that grassroots support for parties and candidates should be emphasized over other sources of funding (Nassmacher, 2003b). Donations considered to be susceptible to political corruption should be banned or at least limited (Mulcahy, 2012). For instance, contributions from legal entities should be limited, completely prohibited, or strictly regulated, i.e. legal entities must inform their shareholders if such donations are made and keep them on their books; legal entities controlled by the state must be forbidden from making any donations (Council of Europe, 2003, Art. 5; Open Society Institute, 2005, Art. 5). The same principle should apply to donations from foreign governments and entities (Open Society Institute, 2005, Art. 7) to defend national sovereignty and the principle of self-determination (Nassmacher, 2003b). Having no ceiling on the amount that can be donated may contribute to the decrease in public confidence in political parties, and having no bans or limits on anonymous donations may shield donors of interested money from the scrutiny of the public (Mulcahy, 2012). Cash contributions in small amounts are considered safe and unlikely to exercise undue influence (Nassmacher, 2003b). Treating membership fees as donations may help to avoid the situation when they are used to evade contribution limits (ODIHR & Venice Commission, 2011, §163). In general, regulating contributions, states should ensure that various channels for political fundraising are available and balanced, donations are made in a transparent and public way, conflicts of interest are avoided, the

funding rules should favor all kinds of parties equally and provide them with equal opportunities establishing a level playing field for parties to compete effectively (Nassmacher, 2003b; Council of Europe, 2003, Art. 3). The legislation should clearly specify what is to be considered as a donation, e.g. “any deliberate act to bestow advantage, economic or otherwise, on a political party”, (Open Society Institute, 2005, p. 158) to prevent the practice of funneling money through entities which are not bound by the same transparency requirements (Mulcahy, 2012).

#### **4.1.2. Expenditures**

It is recommended that states place reasonable limits on electoral campaign expenditure to prevent “an arms race” in electoral campaigns; and oblige parties and candidates to keep records of their spending – direct and indirect (Council of Europe, 2003, Arts. 9, 10). Such limits may be based on a particular amount that can be spent on an inhabitant of an electoral district or in a form of a percentage of the total public funding (OECD, 2016, p. 30). It is important to set realistic limits accounting for inflation so that parties and candidates can run their campaigns effectively (ODIHR & Venice Commission, 2011, §197).

#### **4.1.3. State Funding**

In a situation when parties become too dependent on public parties, the linkage between the parties and society may weaken, hence, it is recommended that public resources cover party’s expenses only partially and in a way that ensures the independence of the political parties. Additionally, parties, completely depended on the state, cannot effectively contribute to sustainable democracy, hence, it is recommended that the amount of money parties receive from the state is gradually reduced and/or terminated to encourage them to develop permanent groups of supporters. At the same time, having no available public funds for parties can turn them towards dangerous money, hence, at least basic forms of indirect subsidies should be provided; and they are also considered preferable to simple cash subsidies. It is recommended for states to provide such in-kind subsidies as advertising space, free airtime, public halls for meetings and events, free or subsidized postage, matching funds, and income, property, inheritance, and sales tax benefits and exemptions (Nassmacher, 2003b). States should consider how they can encourage gender equality in politics, for instance by providing certain non-traditional in-kind subsidies such as free child-care, or earmarking state resources (ODIHR & Venice Commission, 2011, §§180, 191). A clear eligibility and allocation criteria

must be developed, for instance, the state may distribute the subsidies equally to all parties or proportionately, based on the popularity of parties according to the previous election results, how gender-balanced they are, whether they properly comply with the regulations on disclosure (ODIHR & Venice Commission, 2011, §§188-192). Outside of the regulated state funding, the use of public resources for political reasons must be banned and strictly monitored for abuse (OECD, 2016 p. 30). Finally, it should be clear how the state funding may be used (party vs. campaign financing) by parties and what constitutes its abuse (ODIHR & Venice Commission, 2011, §§162, 208).

#### **4.1.4. Disclosure and Monitoring**

Even though a complete transparency and privacy cannot be simultaneously achieved, the rules on disclosure and monitoring must be adequately drafted to ensure the reasonable degree of public confidence in the political process. The basic principle here is that all parties and candidates must follow the same rules on disclosure in order to avoid loopholes in the law (Nassmacher, 2003b). Additionally, all parties and candidates should follow a particular disclosure format, for instance, divided into clearly defined spending categories, so that the data can be comparable (ODIHR & Venice Commission, 2011, §200). It is recommended that every donation should be recorded, its nature and amount noted, and a threshold for the donor identification established (transparency vs. privacy) (Council of Europe, 2003, Art. 12). Unfortunately, such thresholds can still be abused and exploited, i.e. donations are made just below the limit and hence, kept secret (Mulcahy, 2012). Political parties and candidates should regularly (at least annually) present their accounts to the independent monitoring authority, who makes them available to the public (Council of Europe, 2003, Art. 13).

States must additionally make sure that the compliance with the political finance laws is monitored, enforced, and violators are sanctioned (Council of Europe, 2003, Arts. 14-16). A variety of appropriate sanctioning powers, such as the confiscation of the funds obtained illegally, fines, imprisonment, loss of office or access to state funds, or even a deregistration of a political party, should be available to the monitoring agency (OECD, 2016 p. 30). The general rule here is that regulations that cannot be enforced, should not be enacted (Nassmacher, 2003b). As it was discussed in Chapter 2, such monitoring independent agencies should have the appropriate resources and enforcing powers. Additionally, a pure accounting approach to monitoring may not be effective enough, hence it is recommended that accounts are verified in detail (Nassmacher, 2003b).

#### **4.1.5. General Principles**

In general, it is recommended that developing political finance regulations, legislators consider how to improve transparency, increase public confidence, discourage large donations and instead encourage the smaller grassroots donations, keep the rules simple and easy enough to understand, and focus on incentives, yet if there are bans or limits, they must be strongly enforced, and not just exist symbolically on paper (Nassmacher, 2003b). Incentives and support should be provided to political parties and candidates to help them understand and comply with the regulations. Finally, the regulatory framework should be periodically evaluated and adjustments, if necessary, should be made (OECD, 2016 p. 31).

### **4.2. Political Finance Framework Evaluations**

Various reports by the Group of States against Corruption (GRECO) on the transparency of party funding provide information on how well the political finance framework of a certain country is developed and how well it functions in practice.

#### **4.2.1. France**

According to GRECO's (2009b) *Evaluation Report on France Transparency of Party Funding*, the French system of political finance is designed to make money in politics less important, parties to be less dependent of private donors, and spending on elections to become less (§105). The same report concluded that the French legal framework on transparency in political finance has eleven areas in need of improvement. Most recently, *Addendum to the Second Compliance Report on France* GRECO (2017) concludes that only five out of those eleven issues still require the attention of the regulators, even though they have been partly dealt with (§71).

GRECO points out that the French legislation on political finance does not account in any way for candidates running their election campaigns and collecting contributions, but in the end stepping down before the election takes place. GRECO recommends that France should expand its regulatory framework to include a mechanism for dealing with such cases (GRECO, 2009b, §106; GRECO, 2017, §31).

Second, there should be a legal requirement for parties to include the activities of their associated structures and political groups into the consolidated accounts in order to close the

potential loophole in this area and allow for more transparency (GRECO, 2009b, §109; GRECO, 2017, §36).

Third, the fact that political parties are not required to report to the CNCCFP on their financial and other investments in election campaigns of candidates (except presidential elections) leaves a major gap in transparency. GRECO recommends that parties must include such details in their accounts (GRECO, 2009b, §110; GRECO, 2017, §45).

Fourth, GRECO found that in practice not all funds parties receive go through the financial agent, which hinders, and sometimes, makes it impossible to monitor the incoming funds. Hence, GRECO recommends that funds for parties should be received “as far as possible” via the agent or fundraising association (GRECO, 2009b, §112; GRECO, 2017, §50).

Finally, as it was already discussed in the previous Chapter, the powers and resources of the CNCCFP are still rather limited when it comes to monitoring political parties. GRECO recommends enhancing the CNCCFP’s supervisory functions (GRECO, 2009b, §123; GRECO, 2017, §60).

Hence, even though a lot of progress has been done in the past several years, French political finance framework still contains identifiable weaknesses, i.e. there is room for improvement in the area of the consolidation of party accounts, how funds reach political parties, and when it comes to the powers and resources of the CNCCFP.

#### **4.2.2. Germany**

GRECO’s (2009c) *Evaluation Report on Germany on Transparency of Party Funding*, highlights five undeniable qualities of the German system on political finance, i.e. it is one of the first and oldest frameworks in Europe with deep constitutional roots, it strongly emphasizes transparency when it comes to the resources of political parties, it ensures a balance between public and private funding for its parties, and has an intelligent and unique account consolidation mechanism (§99). Yet, the report provides ten recommendations on how Germany can additionally improve its legal framework on transparency in political financing. Most recent *Addendum to the Second Compliance Report on Germany* (2018) concludes that seven out of ten issues still need improvement (§28).

GRECO (2009c) points out that due to the lack of a defined campaign period, the absence of the requirement for political parties to publish their campaign accounts separately, and the fact that, in practice, it takes about two years after the election for the public to receive the information on parties' electoral expenditures, it is, in the name of transparency, strongly recommended to establish a federal and local systems "for the publication of election campaign accounts ... which would make the information available shortly after election campaigns" (§103).

Second, the EUR 50,000 threshold Germany sets for the immediate disclosure and reporting must be lowered, as well as other thresholds for donations disclosure (e.g. EUR 10,000 per year); anonymous donations should be banned (GRECO, 2009c, §104). Such high thresholds are frequently criticized on the grounds that they do not allow for the adequate understanding of the political party funding sources (Mulcahy, 2012).

Third, since German political finance regulatory framework focuses mostly on parties, individual candidates remain rather unregulated. For example, there is nothing that prohibits MPs and other party candidates from accepting private donations, and it is their choice whether they transfer the money to the party or not. Hence, it is recommended that either such practice must be prohibited, or proper rules on disclosure and record keeping should be introduced for candidates (GRECO, 2009c, §105).

Fourth, in Germany, both political parties and parliamentary groups/foundations receive state funds and the former are prohibited to receive donations from the latter. Yet, it is known that the strict separation in this area is missing and hence, it can be hard to estimate the actual amount of state money received by various political parties. Therefore, it is recommended that Germany introduces stricter separation laws for the financing of political parties and parliamentary groups/foundations, and develops a document reflecting all the forms of available state aid (GRECO, 2009c, §§107-8).

Fifth, for the sake of better accuracy in auditing parties' financial reports, it is recommended "to strengthen the independence of the external audit of the parties' financial statements, for instance by introducing a reasonable degree of rotation or by appointing a second auditor from a different company" (GRECO, 2009c, §111).

Similarly, it is recommended to transfer the supervision of party financing to a different body (e.g. the Federal Court of Accounts), and provide it with the sufficient resources, powers, and the degree of independence (GRECO, 2009c, §114).

Finally, it is recommended that potential breaches of the Rules of Procedure of the Bundestag described in the attached to it Code of Conduct, i.e. regarding the rules on making donations to MPs, are clarified and appropriate sanctions are introduced (GRECO, 2009c, §119).

Hence, even though the German framework on political finance is rather robust and has its undeniable advantages, particular adjustments in legislations should still be made, i.e. Germany should introduce the requirements for parties to timely and separately publish election campaign accounts, consider lowering the thresholds for donations disclosure, regulate how its MPs and other members of political parties standing in an election accept private donations, separate the financing of political parties and parliamentary groups/foundations, and increase the powers and resources of the President of the Bundestag or a different body when it comes to the supervision of party funding. (GRECO, 2009c, §122; GRECO, 2018, §37).

#### **4.2.3. United Kingdom**

GRECO's (2008). *Evaluation Report on the United Kingdom on Transparency of Party Funding* points out the longstanding democratic tradition in the United Kingdom, the fact that between 50 and 80 percent of political parties' funding comes from private donations (§117), and the important role of the PPERA in increasing transparency and regulating donations above a certain threshold (§120). Yet, the report identifies six areas recommended for improvement. Most recent GRECO's (2013) *Second Compliance Report on the United Kingdom* establishes that two out of those six recommendations still need to be dealt with by the country's authorities (§20).

It is recommended to subject third parties and electoral candidates to laws that would increase transparency regarding their use of loans (GRECO, 2013, §29).

Secondly, even though the powers of the Electoral Commission have been increased, GRECO recommends to carry out a research into police investigations and prosecutions of political funding offences in the future not connected merely to the Electoral Commission, based on



the allegations that the police is generally reluctant to investigate such cases (GRECO, 2013, §§31, 34, 38).

Hence, significant improvement in the transparency of political funding in the United Kingdom is obvious, and the new framework seems to perform effectively, yet the authorities should still look closely into laws regulation loans for electoral candidates and third parties.

**Table 4.2A: Main Political Finance Recommendations for France, Germany, and the United Kingdom. Summary.**

France	Germany	United Kingdom
Regulate candidates running electoral campaigns, but ultimately stepping down	Require political parties to timely and separately publish election campaign accounts	Improve transparency in laws regulating loans for third parties and electoral candidates
Require political parties to produce more consolidated accounts	Lower the thresholds for donations disclosure	Research police investigating practices on political finance offenses
Political parties should report their election campaign spending	Regulate how MPs and other members of political parties standing in an election accept private donations	
Funds for political parties should income via the agent or fundraising association	Introduce stricter separation between political parties and parliamentary groups/foundations financing	
Increase the powers and resources of the CNCCFP	Increase the powers and resources of the President of the Bundestag	

*Source:* created by the author

## Conclusion

This paper attempted to answer the questions of what constitutes an effective political finance regulatory framework and which regulatory practices strengthen the democratic governance, and which carry potential risks. For this purpose, the examples of three countries with an established and rather longstanding tradition of democracy – France, Germany, and the United Kingdom – were analyzed and compared. In the process, however, several other important conclusions were drawn. These findings are summarized below.

Many definitions exist of what a political party is and what it should be. In general, a political party's definition consists of five elements: a political party has the objective to gain access to a political office; it employs particular methods, such as making nominations and contesting elections, to achieve this objective; a party competes for its right to be in office and pursue its program; it is autonomous and has an organizational structure.

Identifying the exact time when first parties in Europe emerged seem to be an impossible task. What is obvious is that due to the two major political developments of the 19th century related to institutional democratization – the transfer of political power to legislatures, and the expansion of the electorate – parties rose to be in the center of politics during the century. In this respect, the United Kingdom differs from France and Germany: parliamentarization in the UK came first and was followed by the expansion of the electorate; in France and Germany these two developments occurred in the opposite order.

In modern democracies, political parties perform a variety of tasks, roughly grouped into four major categories: coordination, recruitment, contesting elections, and representation. Parties may organize and finance themselves according to the elite, caucus or cadre party, mass party, catch-all party, cartel party, and business firm party models. Their lives and activities are regulated by laws that address party-state relations, inter-party relations, and intra-party relations. Party and campaign finances regulatory framework, specifically, has four main areas: donation bans and limits, spending bans and limits, public funding, and financial reporting.

Donation bans and limits are typically imposed with the aim to stop or reduce donations that are considered damaging to democracy. Banning and limiting spending is less common but can be imposed in order to reduce the cost of electoral campaigns or ban a specific kind of

spending, such as vote buying. Public funds are available in most European countries. Such funds can help parties and candidates to reach their electorate, reduce the influence of interested money, and motivate political actors to comply with the regulations. The funds are usually distributed proportionately to the qualifying parties based on their results in the previous election, and come in the form of money, or indirectly in the form of free or subsidized goods and services. Financial reporting regulations oblige political actors to disclose information about how they raise and spend their money. This practice can enhance transparency, facilitate oversight, prevent potential conflicts of interest, and allow the public to judge the independence of political actors and candidates and how wisely they spend the money. Imposing such regulations on the party and campaign finance activities is crucial for advancing the rule of law and principles of democracy. Unfortunately, the existence of political finance regulations does not mean that political actors will obey the rules, and Europe still faces several common challenges in this area.

Political corruption in the form of illicit financial practices, abuse of administrative resources, illegal and quid pro quo donations still hunts European states, especially some. Second, political parties and candidates often do not have equal access to resources resulting in skewed competition during elections. Third, certain political parties have become completely dependent on public funding loosening their linkages with the society as the result. Fourth, improperly regulated third-party spending during electoral campaigns continues to pour vast sums of interested money into politics and consequently lower transparency. Finally, gender inequality in political life and decision making still remains an issue in Europe.

In order to ensure compliance with the regulations states may empower an administrative body, public authority, or special agency to perform financial audits, investigative violations, and sanction lawbreakers: most commonly by imposing fines, however, the loss of public funding or office, and even imprisonment can also be ordered. Strong civil society and watchful media can perform additional monitoring, especially if financial accounts of parties and candidates are available to the public.

In France, the law treats party finance and campaign finance separately and covers independent candidates as well as political parties. Germany is different in this sense: political finance legislation there is strongly focused on political parties, since they are the main actors in the German politics, and individual candidates remain mostly unregulated. The United Kingdom, like Germany, focuses more on regulating its political parties, yet a lot of emphasis

is also put on regulating third-party campaigners. In general, the French system of political finance is designed with the aim to make money in politics less important by setting out clear requirements on donations and expenditure; in the UK, the legislation is aimed at limiting expenditure rather than controlling donations; and the German political finance regime is focused on state aid and reporting regulations.

When it comes to the regulations on contributions, France, Germany, and the United Kingdom do not always follow the same logic. For instance, France and Germany have a threshold for the amount of money that can be donated in cash; the United Kingdom has no threshold and, in fact, no ban on such contributions. Germany and the UK, unlike France, in general, have no limits for how much an individual wants to contribute to a political party or candidate. Moreover, corporate donations and donations from trade unions are allowed in Germany, and the United Kingdom, but not in France. Donations from foreign interests under a certain threshold are allowed in Germany but banned in France and the United Kingdom. Finally, anonymous donations under a certain threshold are allowed in France and Germany, but not the United Kingdom, however, since contributions under GBP 500 and GBP 50 made to political parties and candidates respectively are not considered to be donations, it is, in practice, possible to contribute anonymously below these amounts.

The expenditure rules in Germany allow candidates, political parties, and third-parties to spend unlimited amounts of money on electoral campaigns. In France, the sum is limited for individual candidates but not the political parties. Similarly, the United Kingdom limits candidate's expenditure, yet it also has strict rules on how much political parties and third-parties can spend in each part of the country.

Germany was the first country to start providing its parties with state funds, followed by France, and the United Kingdom. It additionally, sets a ceiling on such aid, unlike France and the UK. Indirect funds are also provided in all three countries, but the forms differ slightly. In all three countries, parties can qualify for such funds based on their share of votes in the previous election; distribution occurs proportionately as well. In the UK, unlike France and Germany, the money is earmarked. Finally, in France, unlike Germany and the UK, it is linked to gender equality.

All three countries require its parties to submit financial reports, and the UK additionally, requires parties to submit separate reports on election campaign financing. This information is

available to the public. Violations are punishable by a range of sanctions including fines and imprisonment. France and the United Kingdom empower an independent agency to oversee political financing; in Germany, this function is performed by the office of the President of the Bundestag. Regardless of the type of the auditing body each country has, it is a common recommendation for all three to give them more powers and resources.

Other recommendations for France – there are five according to GRECO – include making improvements in the area of the consolidation of party accounts and how funds reach political parties. GRECO provides seven recommendations for Germany such as the introduction of the requirements for parties to timely and separately publish election campaign accounts, consider lowering the thresholds for donations disclosure, regulate how its MPs and other members of political parties standing in an election accept private donations, separate the financing of political parties and parliamentary groups and foundations. The United Kingdom, according to GRECO, can benefit from two recommendations: the authorities should look into laws regulation loans for electoral candidates and third parties, and carry out a research into police investigations and prosecutions of political funding offenses.

Finally, the political finance regime in France, Germany, and the United Kingdom is closely, but not always, built on the principles of good practice in political finance. All three countries ban or limit contributions considered to be susceptible to political corruption, yet in their specific political environments. All three in one way or another limit campaign expenditure, sometimes, directly by setting expenditure limits, or indirectly, by limiting political advertising. All three distribute public money proportionately and encourage parties to remain independent from such funds. The rules for disclosure and monitoring are also well-developed in all three countries, including the fact that the information is available publicly. In general, France seems to be the country that follows the guidelines on good practice most closely, followed by the United Kingdom, and Germany. On the other hand, the German regime is the oldest; comparing to the UK, and France, German legislation did not have to be reformed so many times for the effective working of the political finance regime. Therefore, as this paper repeatedly emphasized, there is no one-size-fits-all approach when it comes to the laws regulating political finance, and it is impossible to say which country provides the ideal example of how to design an effective political finance regime. What is clear, however, that all three countries strive to increase transparency and reduce the role of interested money in politics, and valuable lessons in this area can be learned from their experiences.

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## Appendices

### Appendix 1: Tables

**Table 1.2A: Parliamentarization vs. Expansion of the Electorate in Europe.**

<b>Country</b>	<b>Parliamentarization</b>	<b>Expansion of the Electorate</b>
<b>Austria</b>	1919	1873
<b>Belgium</b>	1831	1894
<b>Denmark</b>	1901	1849
<b>Finland</b>	1917	1907
<b>France</b>	1875	1848
<b>Germany</b>	1919	1871
<b>Italy</b>	1861	1882
<b>Netherlands</b>	1868	1888
<b>Sweden</b>	1917	1875
<b>Switzerland</b>	1848	1848
<b>United Kingdom</b>	1832-35	1869

*Adopted from: Scarrow, 2006, p.18.*

**Table 2.1A: Introduction of Political Finance Laws in Northern, Western, and Southern Europe.**

Country	Year
Germany	1966
Finland	1969
Sweden	1972
Norway	1973
Italy	1974
Austria	1975
Spain	1977
Portugal	1977
Greece	1984
Liechtenstein	1984
Denmark	1986
France	1988
Belgium	1989
Cyprus	1991
Portugal	1993
Ireland	1997
The Netherlands	1999
Luxemburg	1999
UK	2000
Andora	2000
S. Marino	2005
Iceland	2006

*Adopted from:* Piccio, 2014, p. 211

**Table 2.1B: Introduction of Direct Public Funding for Political Parties in Northern, Western, and Southern Europe.**

Country	Year
Germany	1959
Finland	1967
Sweden	1966
Norway	1970
Italy	1974
Austria	1975
Spain	1977
Portugal	1977
Greece	1984
Denmark	1986
France	1988
Belgium	1989
Cyprus	1991
Ireland	1997
The Netherlands	1999
Luxemburg	1999
Iceland	2006

*Adopted from: Piccio, 2014, p. 222*

**Table 2.2A: Challenges with Political Financing.**

Political System Challenges	Political Finance Control Challenges
Unequal access to funding for different political actors	Unsuitable legislation (ambiguous or overly ambitious legislation or rules not suitable for the context)
Ability of wealthy interests to unduly influence politics	Lack of political will to control money in politics
Influx of illicit funding into politics	Popular acceptance of vote buying
Co-optation of politics by business interests	Lack of independence of enforcing institutions
Abuse of state resources	Biased enforcement of political finance regulations
Widespread vote buying	Lack of resources for enforcing regulations

*Source: Ohman, 2014, p. 20.*

**Table 3.2.2.1A: Additional Amount Candidates Can Spend. France.**

Fraction of the population of the constituency:	Ceiling per capita of election expenses (in EUR):			
	Election of municipal councilors:		Election of departmental councilors	Election of Regional Advisers
	First round list	Second round list		
Less than 15,000 inhabitants	1,22	1,68	0,64	0,53
15,001 to 30,000 inhabitants	1,07	1,52	0,53	0,53
30,001 to 60,000 inhabitants	0,91	1,22	0,43	0,53
60,001 to 100,000 inhabitants	0,84	1,14	0,30	0,53
100,001 to 150,000 inhabitants	0,76	1,07	-	0,38
150,001 to 250,000 inhabitants	0,69	0,84	-	0,30
Over 250,000 inhabitants	0,53	0,76	-	0,23

*Adopted from:* Code electoral, art. L52-11).

**Table 3.3.2A: State Funding Limit. Germany.**

Year	Amount in EUR
2012	150,800,000
2013	154,117,600
2014	156,737,599
2015	159,245,400
2016	160,519,363
2017	161,803,517

*Adopted from:* Determination of State Resources, 2017

**Table 3.3.3A: Short Money Allocations in GBP in 2016/17. United Kingdom.**

Party	General	Travel	Leader of the Opposition	Total
<b>Democratic Unionist Party</b>	166,661.00	3,845.94		<b>170,506.94</b>
<b>Green Party</b>	212,100.00	4,894.65		<b>216,994.65</b>
<b>Labour Party</b>	5,510,661.00	127,169.17	789,146.00	<b>6,426,976.17</b>
<b>Liberal Democrats</b>	544,170.00	12,557.69		<b>556,727.69</b>
<b>Plaid Cymru</b>	81,532.00	1,881.57		<b>83,413.57</b>
<b>Social Democratic and Labour Party</b>	70,700.00	1,631.49		<b>72,331.49</b>
<b>Scottish National Party</b>	1,194,540.00	27,566.34		<b>1,222,106.34</b>
<b>UK Independence Party</b>	212,100.00	4,894.65		<b>216,994.65</b>
<b>Ulster Unionist Party</b>	<b>70,700.00</b>	<b>1,631.49</b>		<b>72,331.49</b>

Source: Kelly, 2016, p. 6

**Table 3.3.3B: Funding Rates in GBP, 1997/98-2016/17. United Kingdom.**

Financial Year	Per seat	Per 200 votes	To the Leader of the Opposition's Office
<b>1997/98</b>	3,840.65	7.67	NA
<b>1998/99</b>	3,975.07	7.94	NA
<b>1999/2000</b>	10,732.69	21.44	500,000.00
<b>2000/01</b>	11,011.73	21.99	513,000.00
<b>2001/02</b>	11,265.00	22.50	524,799.00
<b>2002/03</b>	11,411.45	22.79	531,621.39
<b>2003/04</b>	11,765.20	23.50	548,101.65
<b>2004/05</b>	12,094.63	24.16	563,448.50
<b>2005/06</b>	12,518.00	25.00	583,169.00
<b>2006/07</b>	12,793.00	25.55	595,999.00
<b>2007/08</b>	13,356.00	26.67	622,223.00
<b>2008/09</b>	13,890.00	27.74	647,112.00
<b>2009/10</b>	14,015.00	27.99	652,936.00
<b>2010/11</b>	14,351.00	28.66	668,606.00
<b>2011/12</b>	15,039.85	30.04	700,699.00
<b>2012/13</b>	15,761.76	31.48	734,333.00
<b>2013/14</b>	16,250.37	32.46	757,097.32
<b>2014/15</b>	16,689.13	33.33	777,538.48
<b>2015/16</b>	16,956.16	33.86	789,979.10
<b>2016/17</b>	16,938.00	33.83	789,146.00

Adopted from: Kelly, 2016, pp. 29-30.

**Table 3.3.3C: Cranborne Money Allocations, 1997/98 - 2014/15. United Kingdom.**

<b>Year</b>	<b>Total in GBP (thousands)</b>
1997/98	133,380
1998/99	138,048
1999/2000	291,894
2000/01	309,743
2001/02	316,867
2002/03	620,555
2003/04	639,792
2004/05	656,426
2005/06	677,432
2006/07	693,691
2007/08	726,988
2008/09	773,056
2009/10	773,056
2010/11	587,319
2011/12	589,165
2012/13	610,375
2013/14	630,518
2014/15	646,282
2015/16	924,989
2016/17	969,424

*Source:* Kelly, 2016, p. 31

**Table 3.3.3D: Ofcom List of Major Parties, as of 2015. United Kingdom.**

Great Britain	Scotland	Wales	Northern Ireland	England and Wales
The Conservative Party	The Scottish National Party (SNP)	Plaid Cymru	Sinn Fein	UKIP
The Labour Party			The Democratic Unionist Party	
The Liberal Democrats			The Alliance Party	
			The Social Democratic and Labour Party	
			The Ulster Unionist Party	

*Source:* White & Gay, 2015

**Table 3.4.3A: Donations and Loans Reporting Requirements. United Kingdom.**

Donation Type	Political Parties	Regulated Donees		Candidates	Third Parties
		Members Associations	Individuals		
<b>Impermissible Donations</b>	Report All	Over £500		Record/Report	Report All
<b>Permissible Donations</b>	over £7,500	over £1,500	over £1,500	the total of all over £50 donations	over £7,500
<b>Permissible Loans</b>				Not Applicable	the total of all between £500-£7,500
<b>Aggregations of Donations/Loans</b>					Not Applicable
					over £7500

*Source:* The Electoral Commission, 2010.

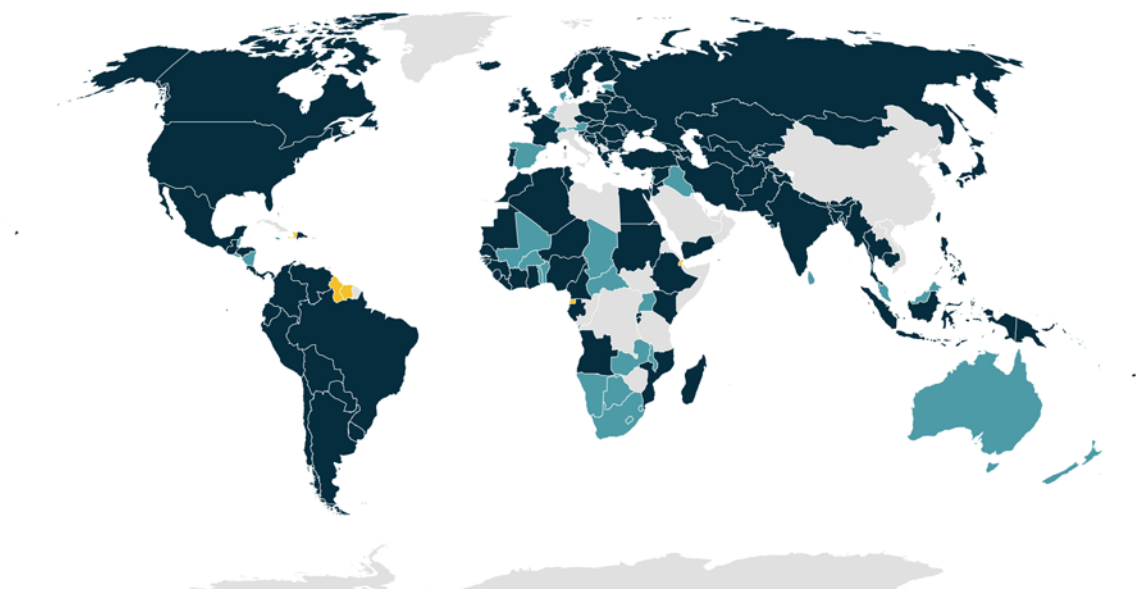
**Table 3.4.3B: Examples of Reporting Requirements. United Kingdom.**

Hypothetical Situation	Action	The reason
<b>A donor gives £7,600 to a CP</b>	Report	It's over the £7,500 threshold
<b>A donor gives £1,600 to a single AU</b>	Report	It's over the £1,500 threshold.
<b>A donor gives £600 each to 13 AUs</b>	Report	It totals £7,800, so is over the £7,500 threshold when the donations are aggregated.
<b>A donor gives £1,450 each to 3 AUs</b>	Do not Report	It totals £4,350, but it's under the £1,500 threshold for an AU and under the £7,500 threshold when the donations are aggregated.
<b>A donor gives £6,000 to a CP and £1,450 to an AU</b>	Do not Report	It totals £7,450 but it's under the £1,500 threshold for an AU and under the £7,500 threshold when the donations are aggregated

*Adopted from:* The Electoral Commission, 2015, p. 8.

## Appendix 2: Figures

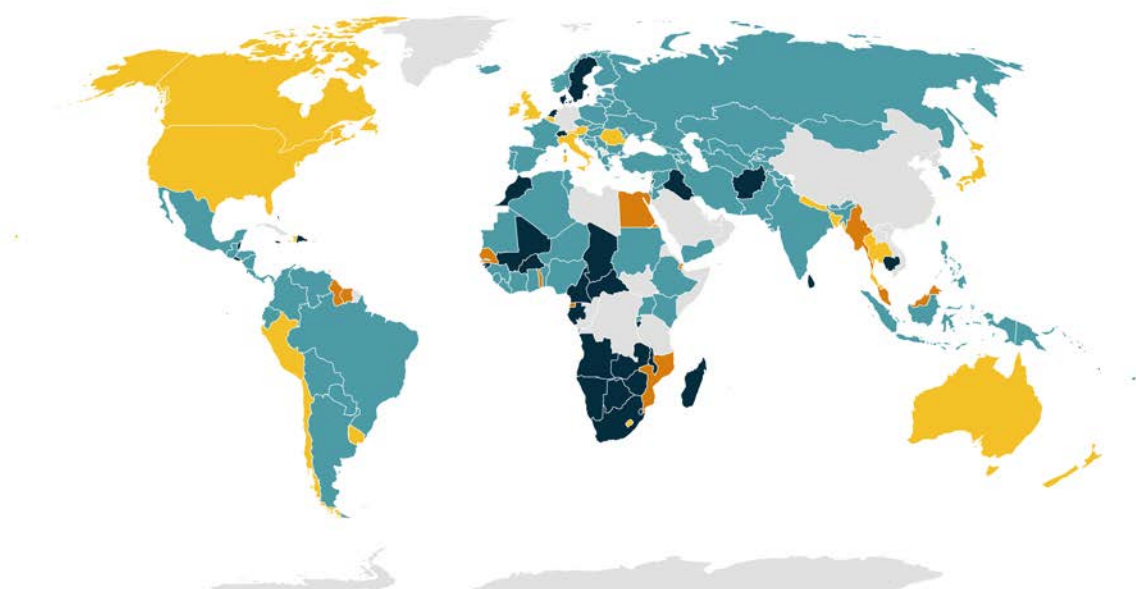
**Figure 2.1A: Ban on Donations from Foreign Interests to Political Parties**



*Adopted from:* International IDEA, n.d.(e).

■ Yes ■ No ■ No data

**Figure 2.1B: Ban on Anonymous Donations to Political Parties**

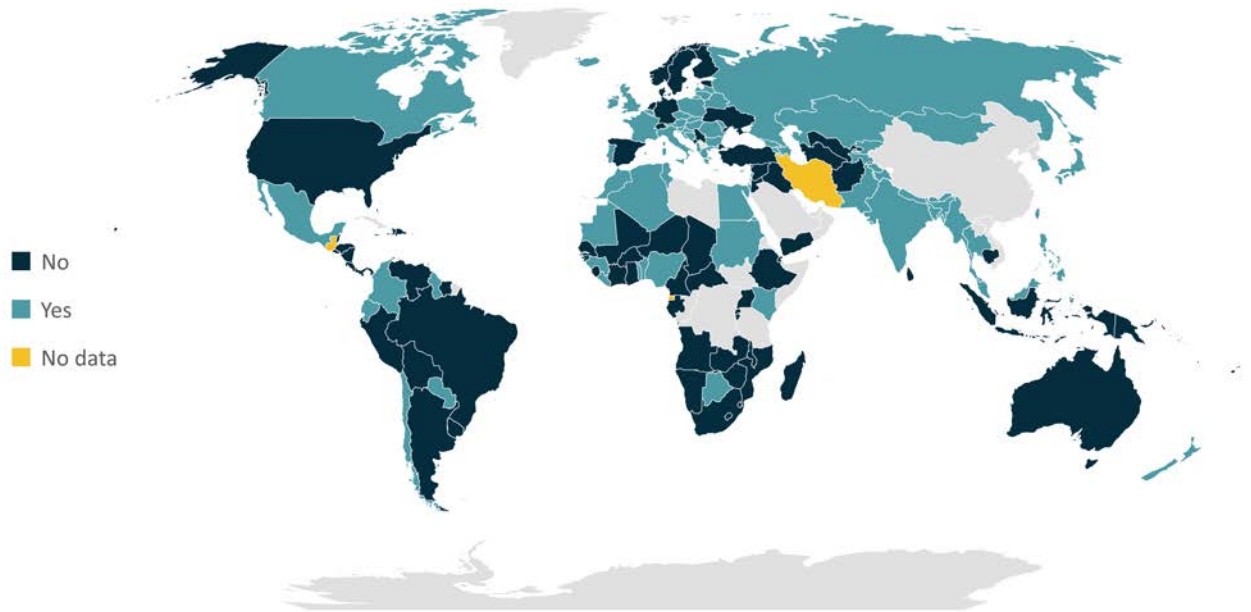


*Adopted from:* International IDEA, n.d.(d).

■ No ■ Yes ■ No, but specific limit ■ No data

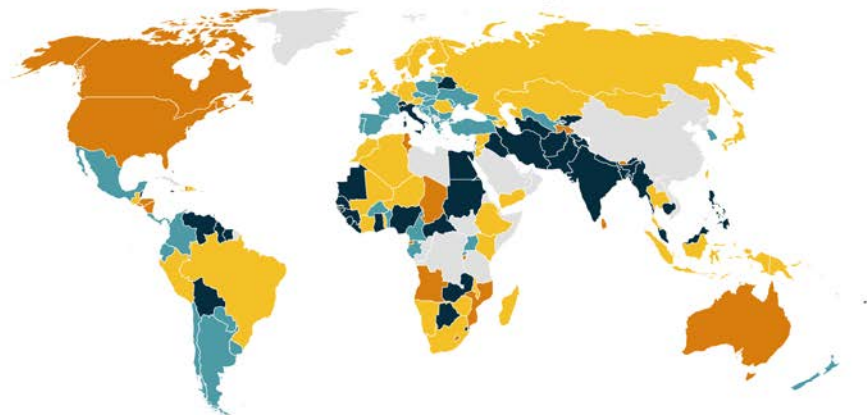


**Figure 2.1C: Spending Limits for Candidates**



*Adopted from:* International IDEA, n.d.(b).

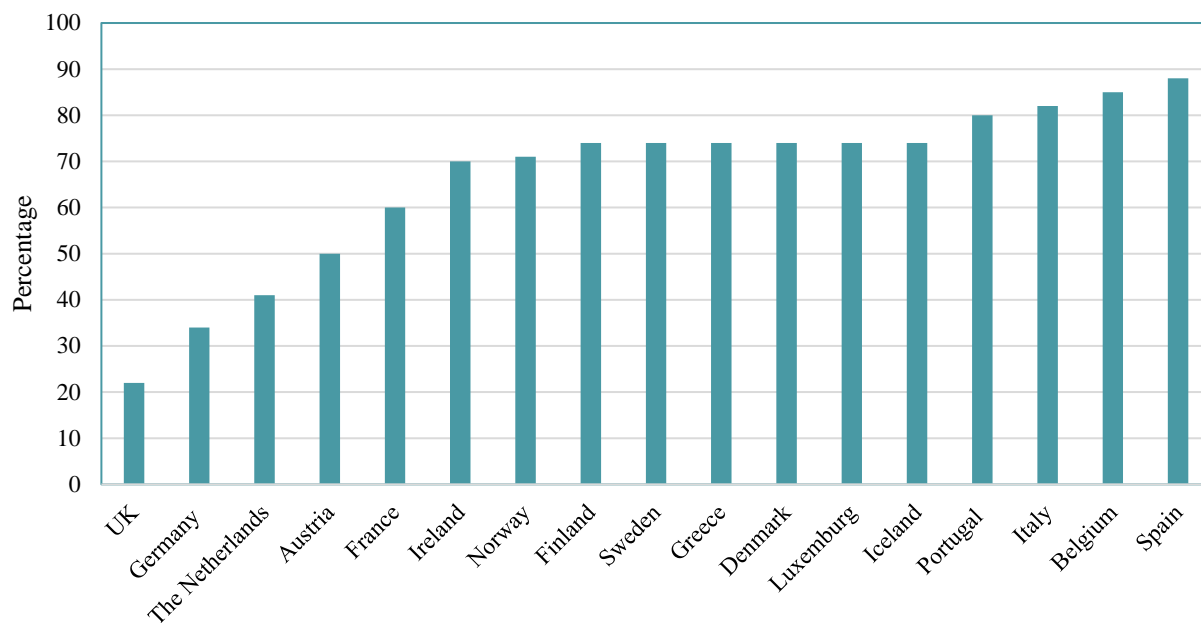
**Figure 2.1D: Provision of Direct Public Funding for Political Parties**



- No
- Yes, both regularly provided funding and in relation to campaigns
- Yes, regularly provided funding
- Yes, in relation to campaigns
- No data

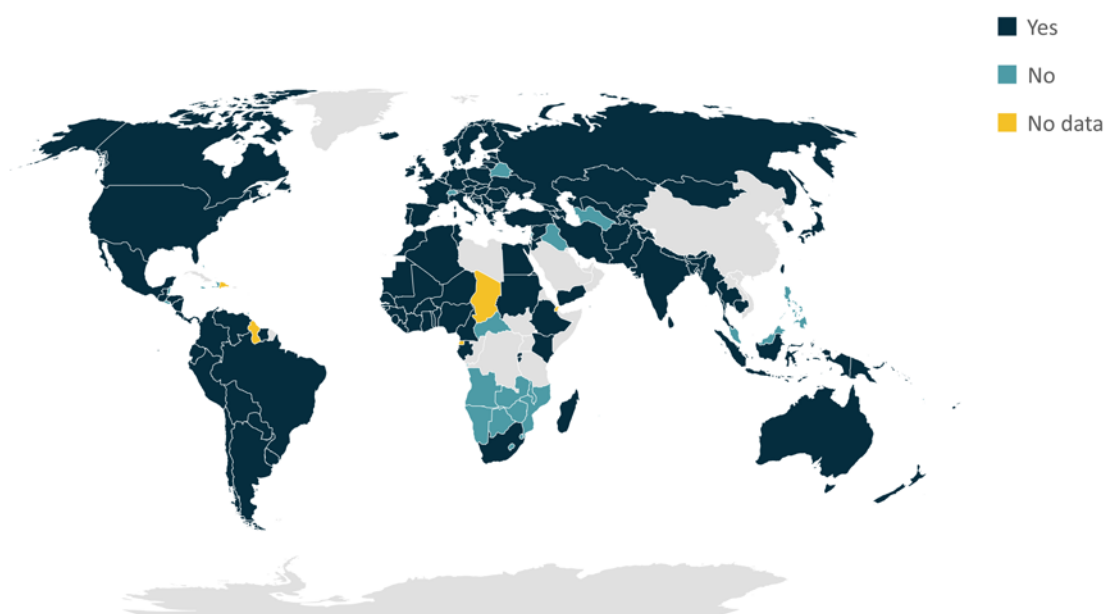
*Adopted from:* International IDEA, n.d.(a).

**Figure 2.1E: Dependency of Political Parties on State Funding, 2007-2011**



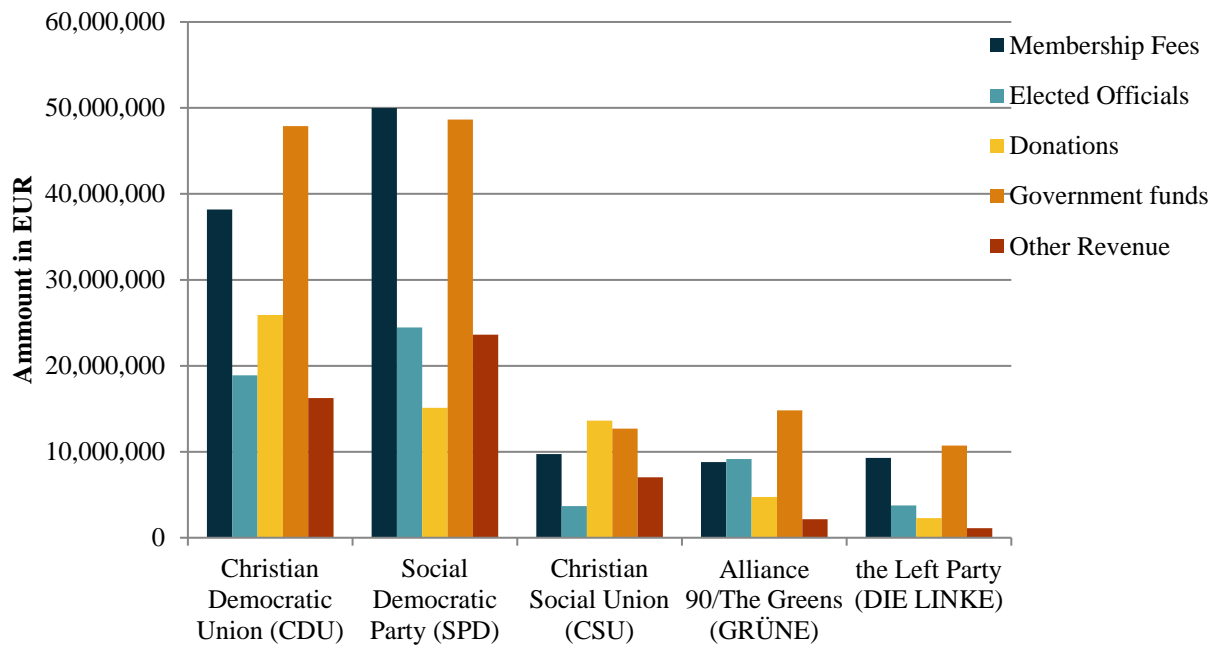
*Adopted from: Piccio, 2014, p. 224*

**Figure 2.3A: Requirements for Political Parties to Report Regularly on Their Finances**



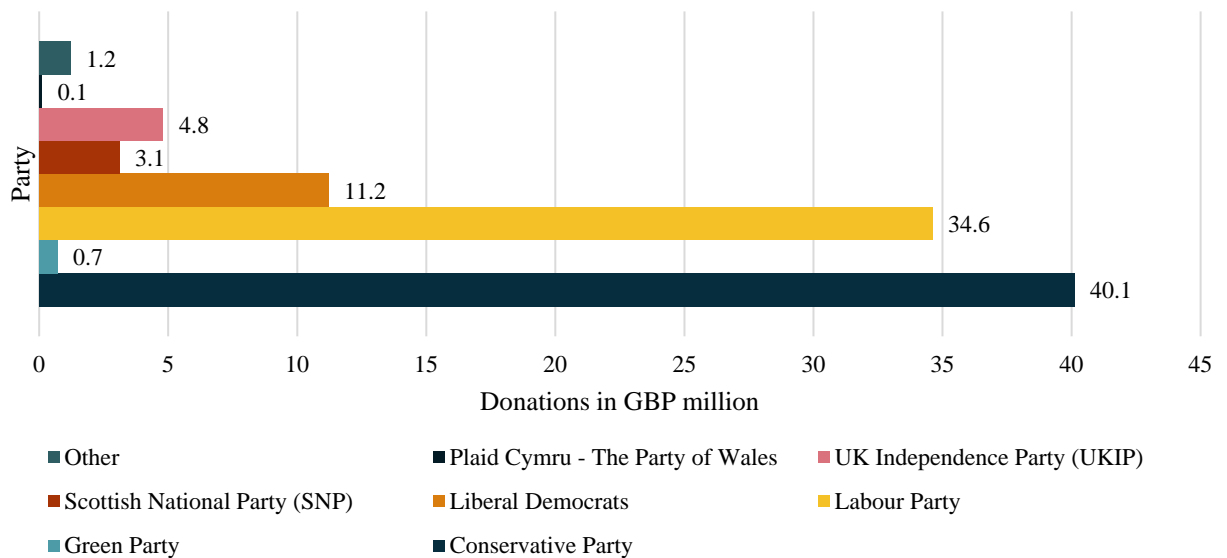
*Adopted from: International IDEA, n.d.(c).*

**Figure 3.2.1.2A: Party Revenue. Germany, 2014**



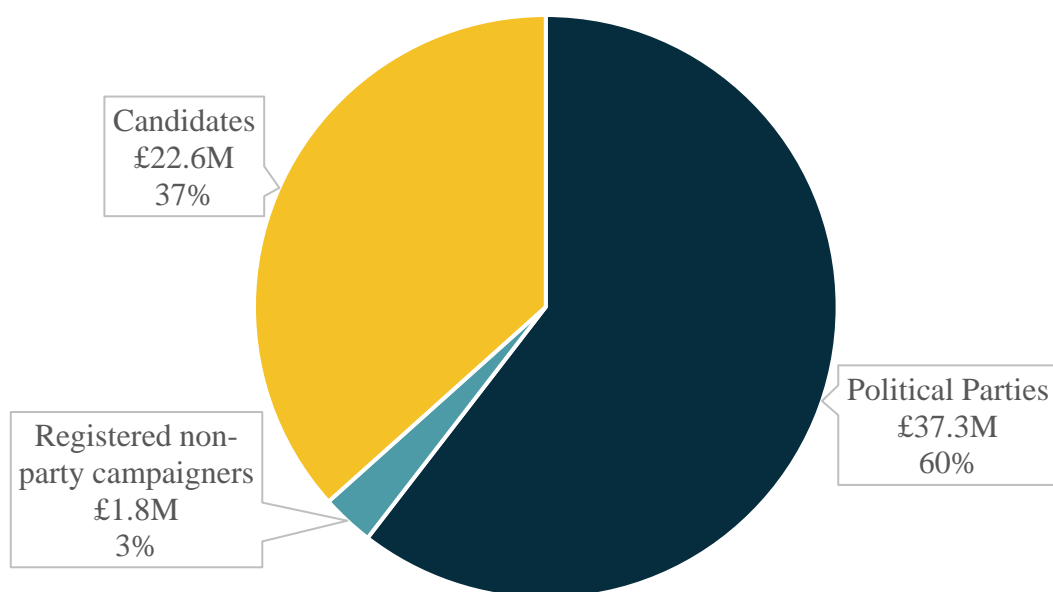
*Adopted from: Niedermayer, 2017*

**Figure 3.2.1.3A: Donations Reported by Political Parties, Q3 2014 - Q2 2015. United Kingdom**



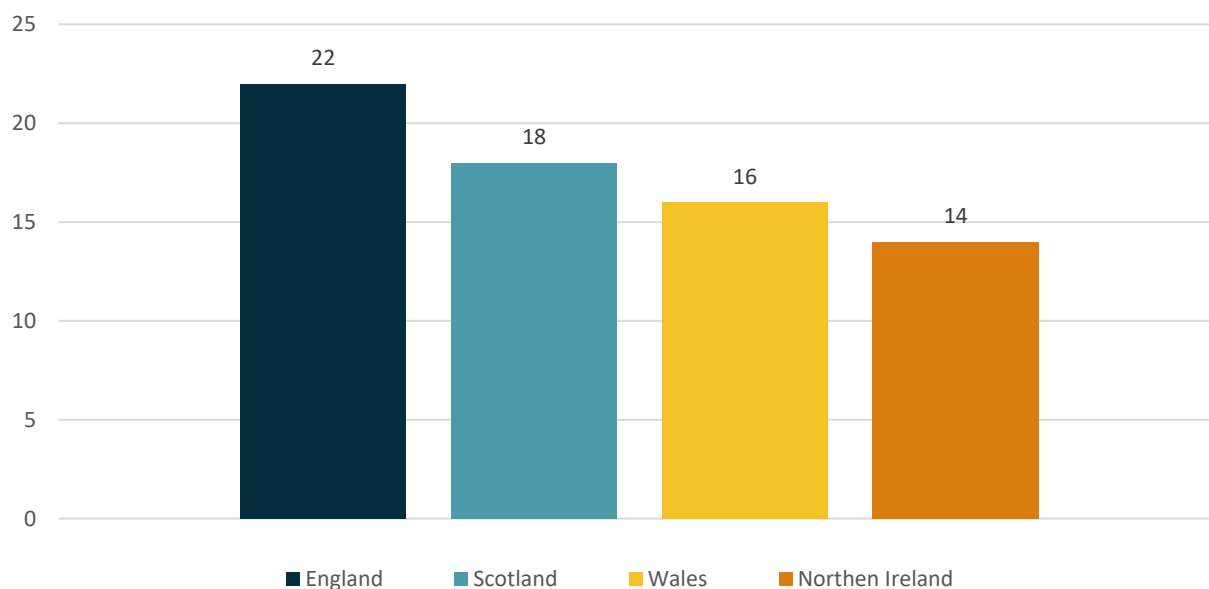
*Adopted from: The Electoral Commission, 2016a, p. 40*

**Figure 3.2.2.3A: Total Reported Campaign Expenditure by Campaigner Type, 2015. United Kingdom**



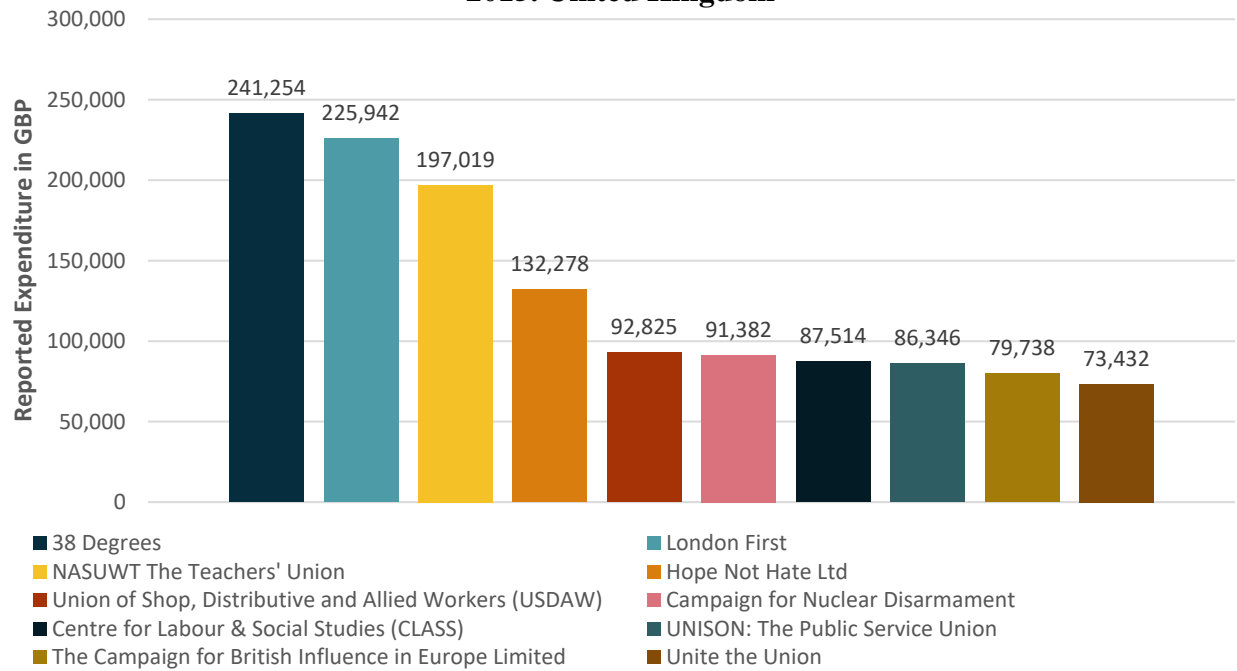
*Adopted from: The Electoral Commission, 2016a, p. 19*

**Figure 3.2.2.3B: Number of non-Party Campaigners that Reported Spending in Each Part of the UK, 2015**



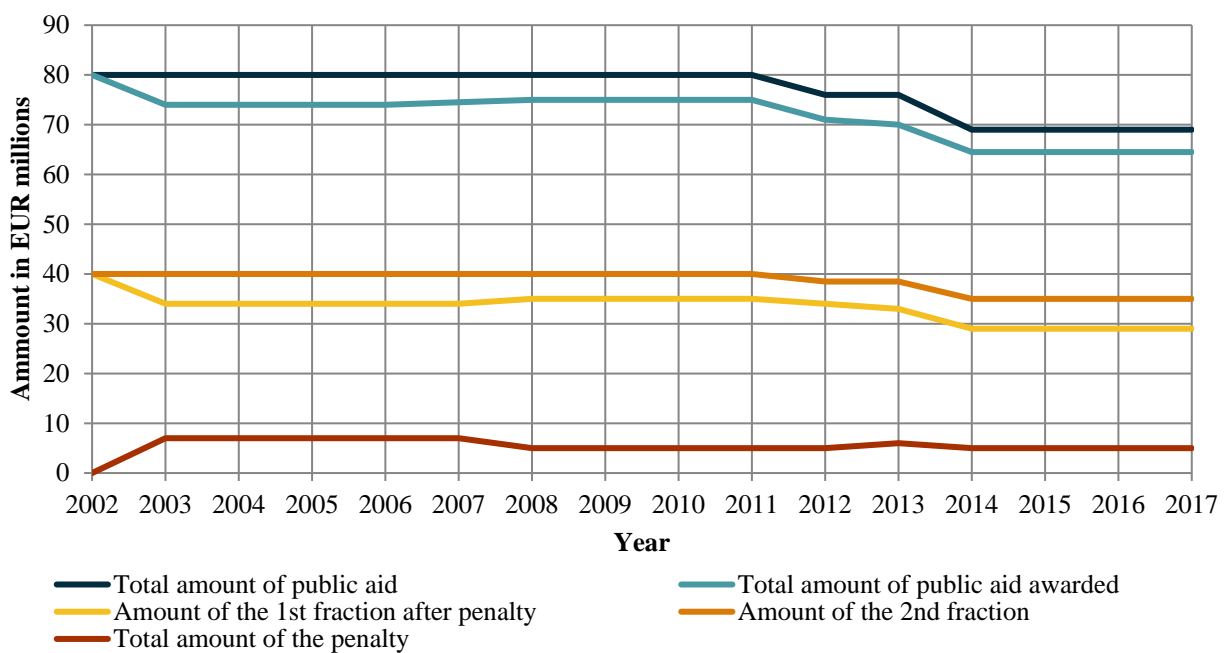
*Source: The Electoral Commission, 2016a, p. 34*

**Figure 3.2.2.3C: Highest Reported Spending Non-party Campaigners, 2015. United Kingdom**



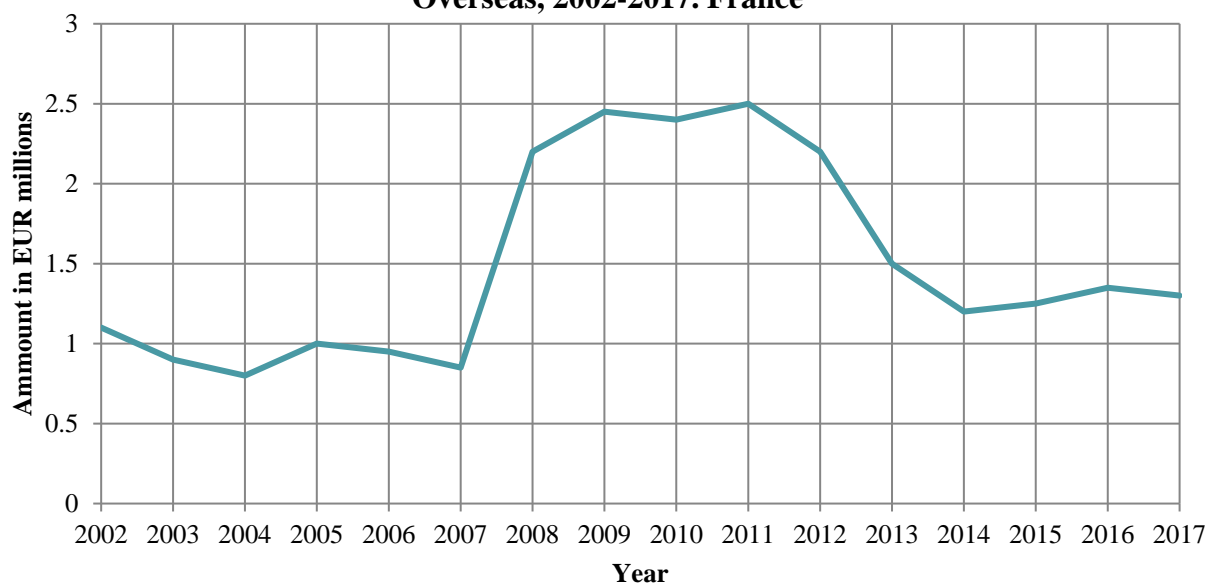
Adopted from: The Electoral Commission, 2016a, p. 34

**Figure 3.3.1A: Direct Public Aid across all Parties, 2002-2017. France**



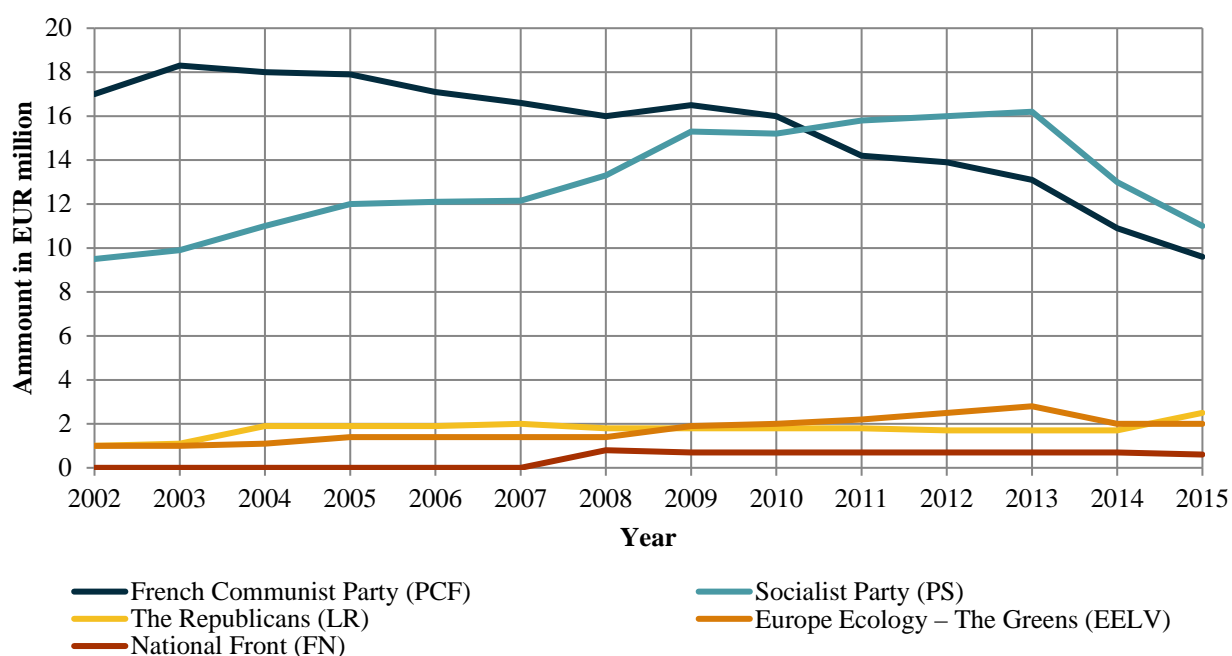
Adopted from: CNCCFP., 2017, p. 62

**Figure 3.3.1B: Direct Public Support for Parties and Political Groups Overseas, 2002-2017. France**



Adopted from: CNCCFP., 2017, p. 64

**Figure 3.3.1C: Contributions of Elected Representatives to the Five Political Parties Having the Most Important Resources in 2015. France**



Adopted from: CNCCFP., 2017, p. 72

