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*Presidential Elections*

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Izvorni znanstveni članak  
324:342.511](497.5)"2005":336.1  
342.849.3(497.5)"2005":336.1  
Primljeno: 12. ožujka 2005.

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**Financing the 2005 Presidential Elections:  
The Role of Regulative Institutions**

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Summary

The paper looks into the institutional features of regulating the 2005 campaign for the election of the president of the Republic of Croatia. The role of the regulative institutions is analyzed within a broader context of the regulation of political funding in Croatia. The paper deals with the non-transparency of the system of party and election funding in Croatia based on a comparison of the principles of good practice in political funding. Nassmacher's approach to the regulation of political finance is used as the analytical framework for the analysis of financing the 2005 presidential campaign in Croatia. It is based on four options: the autonomy option, the transparency option, the advocacy option, and the diversified regulation option. Ad finally, the paper offers a brief overview of the funds used by the presidential candidates in the 2005 election campaign.

*Key words:* political finance, political funding regulation, public financing, financing election campaigns



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It seems the political party and election campaign funding in Croatia has become one of the central concerns in the sensibilization of the Croatian public for the issues related to the democratic political life. This was confirmed by the election for the president of the Republic in 2005. It was the first time that a considerable number of self-financing candidates partici-

pated in the campaign, giving the campaign a distinctive – albeit perfunctory – character the Croatian public was not accustomed to. The principal novelty, however, in the financial aspect of the last elections was not the above feature, but the public disclosure of the funds the candidates for the head of state spent during the campaign. Due to the legal obligation<sup>1</sup> to submit to the State Electoral Committee the report about the sources of the funds for the election campaigns, Croatia – at long last – is no longer among those countries in which the public disclosure of the data on political financing (party and election funding) is not mandatory.<sup>2</sup>

Nevertheless, this legislative headway did not eliminate the crucial shortcoming of the general system of political financing in Croatia: the nonexistence of a public agency for the verification of the validity of the information regarding the funds spent in the election campaigns. This resulted – immediately after the elections – in the accusations regarding the credibility of the election funds reports that the electoral camps of individual candidates submitted to the State electoral Committee.<sup>3</sup> Since there were no institutions that could assess the validity of such accusations, the public was never fully informed about the funds spent during the election campaigns. It also became clear that the State Electoral Committee was not equipped to verify these financial reports. By obtaining the reports from the parties' electoral headquarters, the Committee made these financial data public but not credible.

Once again it was demonstrated that the nonexistence of adequate regulatory institutions is the greatest weakness of the Croatian system of political finance. Namely, the practice of political finance in the world has shown that this role can be played solely by independent public agencies with a sound auditing potential. The fact that since 1990 the State Audit Office has not brought a single political party's balance sheet under scrutiny is indicative of the enduring unwillingness of the Croatian political elite to establish a body with such powers. This did not deter it, however, to regularly control the finances of the NGOs.

<sup>1</sup> Law on Financing Election Campaign for the President of the Republic, *Official Gazette* no. 105, 2004.

<sup>2</sup> In a review paper on the global situation regarding financing parties and election campaigns, one of the most eminent researchers of this subject, the British political scientist Michael Pinto-Duschinsky, listed Croatia among the countries in which there is no such obligation. With the exception (due to the specific circumstances) of Sweden and Finland, such practice, as a rule, has not been a feature of Western democracies. See Pinto-Duschinsky (2002: 76-77).

<sup>3</sup> The electoral camp of the President of the Republic Stjepan Mesić accused the HDZ's presidential candidate Jadranka Kosor of the preposterousness of the financial report of her camp about their election campaign funds. The claim that Ms Kosor in her election campaign spent about 6.500 EURO less than Mr Mesić was countered by the claim that the HDZ's electoral camp spent for their candidate's campaign more than 4 million EURO.

The shortcomings in the regulation of political funding in Croatia today are relatively well-known to social scientists. Unlike the period before 2000, when it was next to impossible to find in the Croatian journals any texts on political finance by political scientists or sociologists, or the Croatian translations of the relevant books about this topic, in the post-2000 period the situation dramatically changed and a number of works on that subject have been published, particularly in the fields of political science and law. It might be said with a considerable degree of certainty that the turning point was the 2001 initiative of the *Croatian Legal Centre* that the university professors (political scientists, lawyers, philosophers) join forces in drafting the law on political parties. The major part of that working group's effort, led by Professor Ivan Prpic, was related to the drafting of the legal provisions on financing political parties. The drafted law on political parties, as well as a series of related papers and the initiatives were later published in the book form.<sup>4</sup> In only a few years the literature on political party funding became ample, although there is still a paucity of the Croatian translations of the seminal works.<sup>5</sup>

While waiting for the major texts about political finance to be translated into Croatian, the initial works by Croatian researchers provide a good picture of the situation in that field. These works defined the standards of good practice in financing political parties and elections in the world and highlighted the significant deviations from this practice in Croatia. It should be noted that the expression good practice does not refer to a certain model of political financing but to a series of institutional arrangements of different models of financing parties and elections. The relevant authors advise caution when suggesting models of good practice to new democracies (Burnell, Ware, 1998). Generally, it is possible to identify only several basic rules that would enable Croatia to retain democratic control over public financing in a country.

Using as our starting point the assumption of the German political scientist Karl-Heinz Nassmacher, it may be said that the successful reform of party and election funding requires the existence of a system of public financing, the full disclosure policy, and the existence of an implementation agency with sanctioning powers (Nassmacher, 2003). In other words, for good practice in political finance it is essential to ensure at least partial party funding from the state budget, the full transparency and the sanctions in the case of the violation of the basic rules on financing politics.

<sup>4</sup> Ivan Prpic, ed., *Država i političke stranke /The state and political parties/*, Zagreb, Narodne novine, 2004.

<sup>5</sup> See Heidenheimer (1970), Pinto-Duschinsky (1981), Gunlicks (1993), Alexander, Shiratori (1994), Burnell, Ware (1998), Nassmacher (2001), Austin, Tjernström (2003).

How does the political financing in Croatia compare with the dominant financing models, and how does the Croatian practice in political finance compare with the above principles of good practice? The system of political finance in Croatia undoubtedly belongs to the continental model of financing politics, which relies on the funding from party budgets. This system is characteristic for all Central and East European transitional countries (Walecki, 2003). The distinguishing feature of the Croatian system is perhaps in its heavier reliance on the state budget funding than is the case in most other countries, and as a rule makes up more than 80% of the regular party funds (Petak, 2003). This situation somewhat changes during the election campaigns when the parties try to replenish their party budgets by a heftier share of private donations.

Much more problematic for Croatia is the second criterion – the full disclosure of party finances. The extent to which this standard is ignored in Croatia is obvious from the fact that it was only at the end of the 1990s that the political parties began submitting their financial reports to the Committee for the Constitution, Standing Orders and Political Parties of the Croatian Parliament, although they were obliged to do so ever since the Law on Political Parties had been passed in 1993. Moreover, even today some parties do not submit their financial reports, regardless of the fact that – as previously mentioned – the basic source of their party funds is the state budget.

This problem is illustrated in Table 1. Out of the sixteen parliamentary parties who had their representatives in the Croatian parliament during the studied period, only five of them (DC, HDZ, LS, SDP, SNS) regularly submitted their financial reports to the parliamentary Committee. Several political parties submitted no (HKDU, HSLS, PGS) or only one report (IDS). The fact that they did not submit their financial reports regularly (or ever), did not cost any political party their regular state budgetary subsidies.

Another example of the partial disclosure of information concern the funds that the parties obtain from the sources apart from the state budget. Putting aside the funds they get from the membership fees and their own activities, the rest of these revenues are itemized as “other revenues and contributions”, whose sources are impossible to trace. In the parties’ 2003 reports, the non-budgetary funds totalled 28.2 million kunas; the unaccounted funds (other revenues and contributions) amounted to 25.5 million kunas. This means that 90.5% of the non-budgetary revenues or 25.4% of the total revenues of the political parties in Croatia *de facto* remained unaccounted for (Gong, 2005: 5-6).

Concerning the prevailing practice of financing election campaigns in Croatia, there are many shortcomings that deviate from good practice elsewhere in the world, and even in the transitional countries. For example, before the 2005 presidential elections, there was no obligation in Croatia of

providing the full reports about the funding sources. The presidential candidates in 2000 did not submit to the public the financial reports about the funds used in their campaign simply because there was no legal obligation to do so. Added to this is the fact that in the Croatian system of political finance there are no restrictions of the donations that can be given to a candidate or a political party, just as there is no regime of sanctions in case of the noncompliance with the rules on financing. Consequently, the system does not contain much good practice in the party and election funding. Croatia's case is one of universal nontransparency of private funding, which became partly transparent only during the 2005 presidential elections.

*Table 1.* Reports of political parties sent to the parliamentary committee

	2000	2001	2002	2003
DC		+	+	+
HB			–	–
HDZ	+	+	+	+
HIP				–
HKDU	–	–	–	–
HNS	–	+	+	+
HSLŠ	–	–	–	–
HSP	+	–	–	+
HSS	+	+	–	+
IDS	–	–	–	+
LIBRA			–	+
LS	+	+	+	+
PGS	–	–	–	–
SBHS	+	+	+	–
SDP	+	+	+	+
SNS	+	+	+	+

*Source:* The analysis of the financial reports of the parliamentary parties for 2003, Zagreb, GONG, p.3

*Note:* When a party submitted its financial report to the parliamentary Committee for the Constitution, Standing Orders and Political System for a particular year, this is marked with a (+); if not, it is marked with a (–). In the year when a party did not have any representatives in the Croatian Sabor, the box is empty.

The above features of the practice in funding the parties and elections in Croatia have not gone unnoticed by foreign researchers (Pinto-Duschinsky, 2002; Ikstens et al., 2002; Toplak, 2003). The Croatian system of political finance is regarded as a typical example of “slim regulation”, meaning that

the entirety of political finance is regulated by only a few legal provisions. The regulation of the party funding still relies on a few general articles from the Law on Political Parties of 1993. The only concrete provision in that Law regarding this matter is Article 19 which regulates the manner of allotting budgetary subsidies to the political parties. As previously noted, financing the presidential election campaigns, on the other hand, is regulated by a separate Law adopted in 2004. This Law represented a slight shift towards good practice in regulating political finance; in Article 3 it provides a detailed list of the sources from which the participants in the Croatian presidential campaigns cannot accept donations in cash, other assets or services. Even more important is the provision from Article 6 which for the first time in the practice of the electoral funding in Croatia requires the public disclosure of the collected funds.

Although this Law does not regulate, for example, the maximum donation from a single source, or the manner of financial reporting or the sanctions for those who do not comply, the Law of 2004 was nevertheless a turning point in regulating political finance in Croatia. Namely, all the descriptions of the condition of political financing in Croatia underline that Croatia is one of only a few European countries in which there is no obligation of the public disclosure of the sources of financing the electoral campaigns (Pinto-Duschinsky, 2002). This practice meant the total nontransparency of financing politics in Croatia, which many political studies about Croatia consider as one of the worst deficits in the development of the democratic processes in that country. This Law enabled Croatia to finally be excluded from the small group of European countries in which there is no obligation of the public disclosure of the sources of political finance, though it should be pointed out that the non-existence of the provisions regarding the public disclosure of the sources of funding does not necessarily and invariably lead to an undemocratic practice.<sup>6</sup>

A much bigger problem confronting Croatia is the control of political finance and sanctioning those who do not comply with the regulation regarding the finance laws. There has been no shift in this regard practically from the first democratic elections held in 1990. This especially applies to the private sources of financing which are often completely nontransparent and out of reach of any sanctioning. The extent to which the practice in this segment

<sup>6</sup> For example, in Sweden the transparency of political party funding has been achieved without the legal provisions on the public disclosure of political funding. In the debates about this issue in Sweden it was claimed that political parties are private associations of civil society and thus cannot be obliged to publicly disclose their budgets. Nevertheless, the parliamentary political parties reached an agreement on the public disclosure of their finances. Political scientists think that this decision can be attributed to the high level of political culture in that country. See: Nassmacher (2003: 10).

of the political finance regulation is weak can be seen from the fact that the State Audit Office so far has not audited the finances of any political party although it regularly audits the finances of the non-governmental organizations.

That is why the list of the donations from private sources financing the election campaigns of the Croatian parties and presidential candidates often remains unfathomable. Besides, even when the data about the corporate donations are listed, there is no institutional mechanism for verifying the legality of such transactions. It has turned out, for example, that the biggest flaw of the system of political financing in Croatia is the nonexistence of a public body (agency) with the capacity and the powers of sanctioning bad practice in political funding. Bad practice does not imply solely the private sources of financing. In the relevant literature on party and election funding, the case of the 2000 parliamentary elections in Croatia is cited as an almost textbook example, when the State Post Office did not charge the then ruling political party the huge postage fees for sending their campaign materials. .

In today's political literature it is taken for granted that regulating political finance is as important a criterion for constituting a democratic regime in a country as is the existence of an appropriate electoral system or the choice of basic political institutions that underpin governance, such as the choice between the parliamentary or the presidential system (Nassmacher, 2003:1). The political finance regulation is the problem that varies from one country to another and cannot be reduced to a sort of a package of universal rules. The only thing we can say for certain is that regulating the funds for parties and elections includes two essential elements: 1. the bans and restrictions; 2. the rules of the public disclosure and the manner of reporting about the spent funds.

The first part of the regulatory mechanisms – bans and restrictions – will result in limiting anonymous donations, particularly those by companies and by the corporate sector in general. The consequence of the second element of the regulation will be increased political finance transparency. These two regulatory mechanisms may result in different systems of regulation. Nassmacher distinguished among four such systems or options, at least in the developed Western democracies: the autonomy option, the transparency option, the advocacy option, and the diversified regulation option (Nassmacher, 2003: 10-13).

The first option considers parties as voluntary associations which have the right to freely dispose of their funds. The example of this type of regulation is Sweden in which the political parties are not obliged to disclose the data about the funds they plan to use in their election campaigns. However, even in Sweden, whose system of party funding is as a rule free of corruptive elements, it had turned out that fund-raising for the political parties had

a set of connotations that would not allow this issue to remain hidden from the public eye. The five Swedish parliamentary parties therefore agreed in 1980 to swap the information on the obtained funds and also to allow everybody else to get the information regarding their party finance.

The intention of the second option is to raise the level of transparency in financing political parties and elections. It focuses on citizens' rights to gain insight into all aspects of party life, including party finance. This requires a very precise legislation regulating this matter. Nassmacher's example of this option in the political finance regulation in Germany. Regarding this, he also points out that the inauguration of such a system may lead to overlooking two essential facts. The first is that voters may sanction the bad practice of some parties or candidates only if it is brought to their notice or they are reminded of it on the eve of elections, which is generally not the case. Second, citizens do not learn about party finances directly. The information about party funds are prepared and vetted by various actors – financial experts, journalists, social scientists – so that the relevant information reach citizens in a roundabout and often cryptic way. Since voters – as Anthony Downs (Downs, 1957) pointed out half a century ago – behave as rational ignoramuses, the data on party finances should not be interesting to them per se unless they create some public outrage and then it is difficult to ignore them.

Due to the fact that transparency alone does not suffice, some countries resort to the institutional arrangement which Nassmacher calls the advocacy option. The example are the United States. To secure at least a semblance of regularity in political funding it is necessary to set up a public agency which will, on behalf of the public, monitor and control the funds intended for parties and elections. Thus in the 1970s the US established the Federal Election Commission, tasked with the scrutiny of all the flows of political funding. However, as has been often pointed out by the experts for this type of regulating political finance, such agencies are just one of the actors in the policy process related to the regulation. This system is supposed to galvanize public action, which is not possible without different sorts of incentives, and such an agency is not enough to provide them.

Hence the fourth type of the regulation which Nassmacher calls the diversified regulation option, the example for which is Canada. This regulation does not rely on only one kind of measures, but combines the diversified system of measures. By trying to avoid the traps of the systems of total openness (the autonomy option), or of the detailed systems (the transparency option) or the systems in which the existence of a public agency does not resolve the problem of the structure of political finance (the advocacy option), this last approach introduces a multidimensional system that combines the transparency of political funding with a plethora of the measures in the structure of financing. For example, the Canadian Election Law envisages



the ceiling in electoral campaign spending, the financing structure has been expanded by providing subsidies to small donors, parties and candidates, the public must be informed about all the donations exceeding 100 Canadian dollars, and an independent agency for monitoring the activities connected with political finance has been established.

The lack of a public agency with the capacity and the power of auditing the funds spent in election campaigns is the most serious drawback of the entire Croatian system of political finance. The transparency option, introduced in the form of the obligation of the presidential candidates to account for the financial sources of their electoral promotion, has turned out to be an insufficient model of regulation. Croatia lacks certain forms of the advocacy option, and simply there is no institution that could verify the data presented to the public.

Table 2. Financial reports of presidential candidates (in kunas)

	Personal funds	Donations by physical persons	Donations by corporations and associations	Donations by political parties	Total
Stjepan Mesić	1,000,000	1,996,883	2,911,604	580,000	6,488,487
Jadranka Kosor	–	–	–	6,438,926	6,438,926
Boris Mikšić	6,000,000	–	–	–	6,000,000
Đurđa Adlešić	–	200,000	–	1,263,540	1,463,540
Ivić Pašalić	112,500	1,091,300	–	30,000	1,233,800
Ljubo Česić	758,754	–	–	–	758,754
Miroslav Blažević	738,000	–	–	–	738,000
Slaven Letica	–	–	420,503	64,757	485,260
Doris Košta	150,000	1,000	–	–	151,000
Ante Kovačević	90,700	7,800	36,600	–	135,100
Mladen Kešer	44,445	37,000	20,000	–	101,445
Tomislav Petrak	–	–	–	37,257	37,257
Miroslav Rajh	1,000	2,500	–	4,000	7,500

Source: Official Gazette, 2005.

Namely, what have the data published by the State Electoral Committee shown? As can be seen from Table 2, the data provide the structure of the presidential candidates' funds that has been divided into four key categories: personal funds, donations by physical persons, corporate donations and the donations by various associations, and political party donations. The two candidates with the smallest budgets aside, personal funds were the only or the major source of financing for more than half of the candidates (Mikšić,

Ćesić, Blažević, Košta, Kovačević, Kešer); however, only one of them achieved notable results in the elections (Boris Mikšić). The parties, on the other hand, were the chief source of funding for only two candidates (Kosor, Adlešić), and to a smaller degree for two more candidates (Mesić, Letica). For the campaign camp of the last two candidates as well as for another candidate (Pašalić), the most important source were their sympathizers' donations and contributions, both from individuals and corporations.

Without the appropriate public agency which could verify the data from the financial reports of the presidential candidates, this role was taken up by an NGO – Transparency International Croatia. It was only after the dogged insistence of this NGO that the HRT published the data on the campaign spending on the Croatian TV and the Croatian radio. It turned out that the biggest spender was Jadranka Kosor (2.9 million kunas), and that Stjepan Mesić spent a much smaller amount (1.45 million kunas), the fact that brought into question the credibility of the information that Mesić spent more money on his election campaign than Kosor.

The financial aspect of the 2005 presidential elections campaign contained some new elements, until then nonexistent in the system of political financing in Croatia. This especially refers to the obligation of the public disclosure of the budgets used for financing the campaigns, and the cutting down on the possible sources of funding. It is especially important that the public disclosure of the financial reports for the first time brought under public scrutiny the money entering politics from the private sector, until then more or less hidden from the public. This also allayed the misgivings about political corruption, regularly accompanying the political funds coming from anonymous donations from the private sector (Williams, 2000). The key shortcoming of the system of political finance is, again, the nonexistence of the agency that might verify the financial reports that the candidates and the political parties send to the State Electoral Committee. The establishment of such an agency, which would be underpinned by considerable auditing powers, thus remains the chief task in reforming the Croatian system of political finance.

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