



**A Law Unto Themselves:
Money, Regulation and the Development of Party Politics in the Czech Republic**

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Introduction

If there is one thing all pundits seem to agree on it is that money matters in politics. Without money it is difficult to do much politically. Both running an organization and campaigning require resources. Moreover, political parties in democracies function in systems with frameworks of laws and regulations. Even those who like to downplay the importance of institutional frameworks recognize that at the very least such laws and regulations provide guiding lights and reference points for parties. Parties may seek to circumvent and bend rules which they see as limiting their behaviour and room for maneuver, but their actions are shaped, at least in part, by the existence of such rules.

Acknowledging that money, laws and regulation matter in politics, however, merely provokes another set of questions. Both money and party laws may matter, but they are clearly not the only determinants of politics. Even in the money saturated world of American presidential politics money cannot buy you everything. Hence we are prompted to ask how, when and where does money matter in politics and what role does it play? Moreover, money can come from a variety of sources in part due to laws proscribing, limiting or facilitating the use of specific channels. But what impact do these different sources have on parties and the party systems in which they operate? Furthermore, how significant are party laws in shaping party

politics? In addition, to what extent do money and party laws play a different role in newer democracies as opposed to those of the longer-established variety?

There is a large and growing body of literature which addresses a number of these questions which feed into debates such as the applicability of the cartel model (e.g. van Biezen, 2003; Birnir, 2010; Blyth and Katz, 2005; Bolleyer, 2009; Bottom, 2007; Detterbeck, 2005; Katz and Mair, 1995, 2009; Koole, 1996; Kitschelt, 2000; Krašovec and Haughton, 2011; Scarrow, 2004; Sikk, 2003 etc.), the relationship between parties and the state (van Biezen and Kopecký, 2007; Kopecký et al, 2012), especially during the process of state-building in Central and Eastern Europe (O'Dwyer, 2006; Grzymała-Busse, 2007; Ganev, 2007; Kopecky 2008; and Haughton, 2008), and a burgeoning literature on the role of constitutions and party law in shaping politics (e.g. van Biezen, 2011).

This paper seeks to contribute to existing scholarship – and the body of knowledge contained in other papers presented in this panel - by looking in some detail at the Czech Republic. Although there have been some notable articles, chapters and books seeking to examine aspects of party politics in the country (e.g. Deegan-Krause, 2006; Hanley 2001, 2008, 2010; Hloušek and Pšejja, 2009; Kopecký, 2006; Kopeček, 2010; Linek, 2010; Linek and Outlý, 2008), there has hitherto been no attempt to address systematically the role of both laws and money in shaping party politics in the Czech Republic.

The often murky links between money and politics in the Czech Republic generate much media attention. Rarely does a week go by without readers of newspapers or viewers of the television news being regaled with the lurid details of (alleged) dodgy financial practices of some politician or wannabe political hotshot. Notable scandals of late include envelopes stuffed with cash to secure the loyalty of parliamentarians and a clear indication that one of the successful parties in the 2010 elections, Public Affairs (VV) was created to further the business interests of its most powerful figure.¹

Although at first glance it may seem as if money and party law are two separate categories worthy of individual analysis, it is worth stressing how much the latter is concerned with the former. Indeed, in their analysis of 16 countries, van Biezen and Rashkova (2011) discover that financing accounts for 81% of the regulations in their study. Such a finding is not surprising when we realize that the provision of state subventions has led in many instances to demands for a 'more codified system of party registration and control' (Biezen and Rashkova, 2011:2).

¹ See, for example, the court trial involving the main power broker in Věci veřejné, Vít Barta, <http://www.ceskatelevize.cz/ct24/domaci/167084-koci-dal-mi-obalku-a-rekl-abych-zase-zacala-byt-loajalni/>

The goal of this paper is to assess how important money and party laws are to explaining party politics. I begin by outlining some of the main features of politics in the Czech Republic, most notably the remarkable stability of party politics. I then outline the laws affecting the organization and operation of political parties as well as those which determine the allocation of funds to parties. Although recognizing some of the potentially insuperable hurdles to reaching a definitive conclusion, in the following section I seek to assess the overall impact of money on party politics in the Czech Republic. I argue that state funding has clearly aided the development and entrenchment of the longer-established political parties. Nonetheless, in light of the lack of limits on campaign spending and the generally permissive features of the funding arrangements in the Czech Republic, non-state funding has played just as significant - if not more significant – a role both in maintaining support levels for the big parties and aiding their ability to bounce back from set-backs, but also in both shaping the chances of new party breakthrough and the deals which may need to be struck. Nevertheless, I maintain that although significant, money is not always decisive. I conclude by suggesting that the role of money and laws is best understood with reference to a motor race metaphor.

Party Politics in the Czech Republic

Czech politics appeared to be quite unusual in contrast to other states in Central and Eastern Europe both in terms of its stability and in the number and strength of its major 'issue divides' (Deegan-Krause, 2006). In his sophisticated measure of party system institutionalization, Casal Bertoa (2011) ranks the Czech Republic as the third most institutionalized party system of the 2004/7 EU entrants from Central and Eastern Europe after Hungary and Slovenia. The country's party system - dominated as it was by two major parties - appeared to be an island of stability in an ocean of instability until the 2010 election (Deegan-Krause and Haughton, 2010a; Haughton et al, 2011).² Between 1992 and 2010, four parties accounted for over 80% of the seats during that entire period and over 90% between 1998 and 2010. Of these four parties, the Civic Democratic Party (ODS) and the Social Democrats (ČSSD) won over half of all of the seats. Two other parties, the Christian and Democratic Union – Czechoslovak Peoples Party (KDU-ČSL) and the Communist Party of Bohemia and Moravia (KSČM) played more minor roles, but were ever presents in parliament. Although the former lost its parliamentary presence at the 2010 elections, the quartet of parties still won over two-thirds of the seats (see table 1) despite what some analysts were quick to label an 'electoral earthquake'.

² It was notable that the two countries ranked higher, Hungary and Slovenia, experienced earthquake elections in recent times (Batory, 2010; Haughton and Krašovec 2012, forthcoming)

Table 1 about here

The dominance of these parties is reflected in the composition of governments which apart from two caretaker/technocratic governments have all been led by either ODS or ČSSD since 1992 with KDU-ČSL almost a permanent fixture of government. KSČM's absence from government is something to which we will return later, but needless to say its pariah status made it a 'fixed star in the political firmament' (Vlachova, 1997: 45) (see table 2).

Table 2 about here

The strength of these parties, however, argued Kopecký (2012) has been achieved even though they appear to be weakly anchored in Czech society, illustrated by modest numbers of party members, low voter turnout and weak links between parties and collateral organizations. Most stark of all is the disdain towards existing parties. When asked in a poll if political parties are 'corrupt', for example, over 70% have consistently answered in the affirmative. Similarly a half of all respondents expressed agreement when reacting to the statement, '[n]o political party represents the interests and opinions of citizens like me' (CVVM, 2011).

Trust in political parties and politics in general took a major hit in the mid-1990s thanks not just to the shine coming off the Czech economic miracle and a series of party funding scandals which tarred the reputation of leading politicians to which we return below, but also the decision of the two major parties following the 1998 election to sign an 'opposition agreement', whereby ČSSD would be allowed to govern in return for ODS being awarded the speakership of parliament, chairmanship of certain committees and could share in the spoils of office, most notably allowing their party (wo)men to land influential positions in the state administration (Linek, 1998; Tabery, 2008; Roberts, 2003).

Given the lack of trust in government, politicians and parties, the succession of scandals involving party financing (mysterious anonymous donors, Swiss bank accounts, dodgy apartment deals and holidays in Tuscany with rich businessmen) it is surprising there has not been more electoral turbulence in the Czech Republic and few successful "new" parties.³ The collapse of two governing coalitions led to the appointment of two expert

³ The 2010 election is again an exception. Two new entrants crossed the parliamentary threshold and even entered government (Haughton et al, 2011).

technocratic/caretaker governments which became more popular than party governments; hardly a ringing endorsement of the qualities of party politicians.

Nonetheless, research on party identification both confirms Kopecký's argument, but also offers clues towards the longevity of the parties. Although 'very strong party identification' fell rapidly from 40% in 1990 to under 20% just five years later (Klima, 1998:498), Vlachová (2001), for instance, showed at the end of the first post-communist decade that parties such as the Civic Democratic Alliance (ODA) and the Freedom Union (US) which have failed to survive the course are those which had much weaker attachment to voters than those voting for KSČM, KDU-ČSL and ODS. More recent work shows a similar picture. In the mid-2000s there was a relatively strong attachment to their parties among supporters of ODS and KSČM and an increase in party identification for ČSSD in the latter part of the second post-communist decade (Linek and Lyons, 2007; Linek and Lyons, 2009; Linek, 2010), whilst party identification as a whole remained quite low. Between 1995 and 2006 only around 10% of the population and 20% of voters were confirmed supporters of a particular party (Linek, 2010: 181).

The second notable aspect of Czech party politics is the dominance of a left-right socio-economic division (Kopecký 2012; Evans and Whitefield, 1998; Kitschelt et al, 1999; Kopecký, 2006; Deegan-Krause, 2006). Whilst such a division is common in many established democracies, as several expert surveys and studies of specific cases have both shown, the politics of other CEE countries have been dominated by different (and more) divides, particularly surrounding values, attitudes to the Communist past, ethnicity and illiberalism and the rule of law (e.g. Whitefield and Rohrschneider, 2009; Benoit and Laver, 2006; Vachudova, 2008; Deegan-Krause, 2006; Enyedi, 2005; Haughton and Rybář 2008; Millard, 2009; Szczerbiak, 2003).

Thirdly, although there are stark differences in the levels of party membership, the extent of party presence at the local and regional level, the number of staff members and the importance of the party in public office, the formal organizational framework of political parties in the Czech Republic is remarkably similar (van Biezen, 2003; Enyedi and Linek, 2008; Hanley, 2001, 2008; Kroupa and Kostelecký, 1996).

Party Law and the Constitution

Although some stricter definitions of party law (e.g. Karvonen, 2007:439) focus on 'specific legislative acts that exclusively or primarily deal with political parties', Janda (2005) and van Biezen (2011) argue that 'constitutions must now be considered a source of party law, since many often say a great deal about political parties' (Janda, 2005: 6). Indeed, recent work by van

Biezen and colleagues (e.g. van Biezen, 2011; van Biezen and Kopecký, 2007) highlights the potential of constitutions to constrain parties. The creation of such documents is seen often as a critical part of the democratization process. They 'not only impose limits and constraints on party activity and behavior, or their ideological and programmatic profile, they also tend to regulate internal party organizational structures' (van Biezen, 2011:204). Moreover, van Biezen (2011) observes that various constitutions – most notably the German Basic Law- place demands on parties, requiring the internal structure and organization of political parties to be democratic (van Biezen, 2011:204).

The Czech Constitution, however, devotes little attention to political parties. One of the early articles (no. 5) does state that the 'political system is based on the free and voluntary origins of political parties and their free competition respecting basic democratic principles and rejecting force as a means of enforcing one's interests'. But beyond that mention of political parties is limited to passing references such as article 87 which refers to the Constitutional Court's jurisdiction over deciding if dissolution of a political party or 'other decisions concerning the activity of a political party is in accord with constitutional or other laws'; although in practice all such decisions are now taken by the Supreme Administrative Court following its creation in 2002. Indeed, it was the Supreme Administrative Court which decided on the banning of the far right Workers Party (*Dělnická strana*) (Nejvyšší správní soud, 2009).

Mention of the Constitutional Court reminds us that one of the most significant impacts of the Constitutional Court on electoral and party politics was the decision on 10 September 2009 to invalidate the manner in which the legislature had dissolved itself, which led to elections being held not early in October (as the main parties wished), but at the end of the constitutionally mandated four-year term (Williams, 2011). This decision not only meant parties had already spent a considerable amount on election campaigning in the late summer, but crucially for the development of Czech party politics, the extra time before polling day accorded VV the chance to promote its message and advance in the polls (in September 2009 it was scoring well below the 5% threshold [CVVM, 2009]) and allowed former Prime Minister Miloš Zeman to form his new Party of the Rights of Citizens which went on to achieve a modicum of success in the 2010 elections (Haughton et al, 2011). In short, the political and electoral consequence of the Court's decision was to weaken the position of ČSSD and ODS at election time.

Constitutions are political documents, their provisions and language are reflective of the 'constitutional moment' (Ackerman, 1989). Although other countries in the region adopted new constitutions many years after the 1989 revolutions such as Poland in 1997 and more recently Hungary in 2011, it is worth stressing that the immediate cause behind the new Czech Constitution written in haste in 1992 was not to distinguish the state from its communist past, but to deal with the impending reality of the split of Czechoslovakia. Nonetheless, it is striking

that whilst the Slovak Constitution drawn up in similar circumstances at the same time does have an article (29.4) which states explicitly that political parties are separate from the state, the Czech Constitution does not contain such a clause, although article 20 of the Czech Charter of Fundamental Rights and Freedoms does include a virtually identical provision.

As article 5 of the Constitution indicates, political parties are integral to the Czech democratic system, hence there are many laws which may touch on “party matters”, nonetheless in the remainder of this section I focus on laws and amendments which explicitly focus on political parties. Most party law tends to concern itself with finance, but it can cover a range of different areas including restrictions such as various types of bans or limitations on the orientation, activity, organization and membership of parties and the internal regulation of parties (Karvonen, 2007:444). Van Biezen and Rashkova’s (2011) analysis suggests that nearly half of the party laws in the Czech Republic were devoted to reporting and disclosure (47.9%), and that almost 90% of the provisions referred to party finance matters (89.6%), with the rest concerned with party organization (10.4%). (See table 3).

Whilst the remainder of this section examines the impact of laws and regulations, it is worth stressing that arguably one of the most influential decisions in terms of party regulation was a “non-decision”: the decision not to ban the Communist Party. If seeking to assess the impact of actual laws provides significant challenges, proving the impact of a decision not to ban is virtually impossible. Nonetheless, it seems plausible to argue that the non-banning of KSČM, allowing it to maintain its presence on the political scene and its hardline communist stance, has been significant for the shape of the Czech party system. KSČM has been one of the ‘evergreens’ of Czech party politics and barring a major disaster for the party is likely to remain so for some time (Deegan-Krause and Haughton, 2010a; Linek, 1998). The party’s adherence to a hardline stance and its refusal to distance itself from the Communist past has made it a pariah party in the Czech Republic with which other parties have refused to form coalitions⁴, with knock-on effects on the stability of governing coalitions which can be formed, especially those involving ČSSD. Moreover, the party is the focal point for the communist/anti-communist divide, keeping that division visible, but also largely marginal.⁵ This stands in contrast to the other states in the region such as Poland and Hungary where reformed Communist Parties became - at least in the first post-communist decade – one of the major parties on the scene,

⁴ It is worth noting Václav Klaus became Czech president in 2003 only thanks to the votes of the Communists in the parliament. Moreover, Communists have been involved in coalitions at the sub-national level.

⁵ Although there was a large slice of anti-communist sentiment in Klaus’s *Doleva nebo s Klausem?* electoral campaign in 1998

placing the Communist/anti-communist charge and division more central to party politics, albeit mixed in with other appeals.

Table 3 about here

An analysis of the party statutes and the financial reports of the political parties clearly shows the impact of party law on the organization of parties in the Czech Republic. 424/1991 (and subsequent amendments) is the key law which affects the organization of political parties. Beyond requiring that the party is registered with the Ministry of Interior, it lays down membership requirements (e.g. membership is voluntary and citizens can only belong to one political party at any one time), that a party has to have a name which is distinctive from others, and specifies the party's obligations to submit annual financial reports. In a clear response to party practices during communist times, the law also bans organization in the workplace and within the state apparatus. The law, however, is largely silent on internal organization beyond the requirement that parties have democratic articles and democratically elected bodies.

Whilst the formal frameworks of parties are very similar, there are (and have been over the past two decades) some stark differences between the levels of party membership, the extent of party presence at the local and regional level, the number of staff members and the importance of the party in public office (van Biezen, 2003; Hanley, 2008; Kopecký, 1995; Cisář and Tomáš, 2007). These differences owe much to the respective parties' origins and development. As Hanley (2001: 454) noted at the end of the first post-communist decade, despite attempts by scholars to divide parties into 'old' and 'new', all four of the evergreen parties were 'hybrids' based on the transformation of pre-existing political organizations. ODS, for instance, which as Hadjiisky (2011) notes is sometimes mistakenly seen as an elite creation without roots, received a 'substantial organizational inheritance' from Civic Forum in the form of 'material resources, personnel, activists and organizational networks and structures' which was to be 'crucial for the viability of the party until state funding arrived after the June 1992 elections (Hanley, 2001:461). Moreover, ČSSD - which had been initially founded in the 19th century - was successful in reclaiming the party's pre-1948 Prague headquarters and able to tap into donations from the Socialist International by translating the exiled party's associate membership.

The distinction between old and new – or perhaps might be better described as longer-standing parties and newer creations – however is more useful in recent times if we contrast a party

created in the early 1990s, ODS, with a party which burst onto the national scene in 2010, VV, albeit one which had been active in local Prague politics for some time. Whereas ODS has a fairly extensive network of branches and members throughout the country accorded significant autonomy on local and regional issues and a steady membership of around 20,000 since the early 1990s (Hanley, 2008; Enyedi and Linek, 2008; Cisář and Tomáš, 2007), VV was little more than a shell in the 2010 elections, although it has been keen to project itself as a new party of 'direct democracy' through the use of social media and on-line referenda.

The Font of Resources

Party financing has been seen to be a major factor shaping both the relationship between parties and the state and the internal structures of parties in Central and Eastern Europe (Birnie, 2005; Spirova, 2007). Czech party financing went through three phases (Linek and Outlý, 2008:82-3). Following an initial phase in which general laws and state subsidies were introduced, the 117/1994 law largely established the party finance model. Following the scandals of the late 1990s and attempts between the two large parties to reorganize arrangements to their benefit which were subsequently struck down by the Constitutional Court, a third phase involving significantly greater regulation of party funding began in 2001.

Since 1994 Czech parties have received state funding in four different ways: a payment for regular activities (*stálý příspěvek*), a payment for a mandate (*příspěvek na mandát*), money for the payment of election costs, and the funds for the activities of parliamentary groups or factions⁶, although the balance between the four has changed over time. In terms of the regular activities subsidy, all parties which received over 3% of the vote in the previous national election are entitled to this source of funding until the subsequent election.⁷ Between 1994 and 2001 these parties were awarded 3 million Czech crowns (approximately \$93 000) plus an additional 100 000 crowns for each 0.1% of the vote above the 3% limit.⁸ This amount was doubled in 2001. Financing based on parliamentary seats⁹ was initially set at 500 000 crowns

⁶ These funds are allocated to parliamentary factions rather than parties per se. Intended for the 'purchase of consumables, minor tangible assets, expenses for refreshments for working meetings' etc. they are set at much lower rates than the direct funding. In 2005, for instance, it was fixed at 24 500 crowns for each faction plus 3 400 crowns for each member (Linek and Outlý, 2008:87).

⁷ For the 1990 and 1992 elections, the threshold was 2%.

⁸ Between 1995 and 2001, the average exchange rate between the Czech crown and the dollar was 32.15 crowns to the dollar. Since January 2000, the crown has seen a noticeable appreciation against the dollar. The exchange rate was around 21 crowns to the dollar at the time of the May 2010 elections.

⁹ Only parties are entitled, hence independent senators are disadvantaged (Linek and Outlý, 2008: 85).

per seat, it was increased to 900 000 in 2001 when parties also began to receive remuneration for seats held in regional assemblies, but as part of austerity measures was cut by 5% in 2010. Payment to compensate for election costs was initially allocated to all parties winning over 2% at 10 crowns per vote, but this was increased to 15 crowns in 1992. Although the 1994 law scrapped these arrangements given the introduction of the regular subsidy, the 1995 Election Law reintroduced a one-off payment for parties winning more the 3% of the vote of 90 crowns per vote. The cut-off level was subsequently reduced to 1.5% as a result of complaints submitted to the Constitutional Court by smaller parties. The Constitutional Court also acted as a counterweight when ODS and ČSSD agreed on a new electoral law that was passed by parliament in 2000. Given the expected increases in seats (but not necessarily in votes) for the two main parties thanks to the more majoritarian voting system, the envisaged rebalancing was clearly in the financial interest of the signatories of the Opposition Agreement (Linek and Outlý, 2008) underlining the well-known fact that politicians tend to tinker with party finance laws or introduce new ones if they see it will be to their financial advantage. Nevertheless, it is worth stressing that the main thrust of the law was not driven by a desire for money, but a thirst for power: ODS and ČSSD expected the more majoritarian system would deliver them more seats in parliament.

State funding has not been the only source of income for political parties in the Czech Republic. Donations and membership dues, for instance, have also contributed a sizeable chunk of income to some parties, although this has varied between different parties (Cisář and Tomáš, 2007). Nonetheless, as figure one and table four illustrate the largest slice of funding has come from state subsidies, except in the case of new political parties. Party donations were initially unregulated and even when they became regulated through the 1991 and 1994 laws they were remarkably permissive. Moreover, the financial reports were not made public and no penalties were in place for breaching the rules (Linek and Outlý, 2008: 83). Since the adoption of new rules in 2000, there have been only minor changes in the regulation, targeted towards the liberalization of this stricter regime. Table 4 illustrates well three points. Firstly, the increase in public funding in a parliamentary election year (due to the election payment)¹⁰, secondly the increase in donations in an election year; and thirdly, the longer-established parties derive the bulk of their declared income from public funding sources (although ODS appears an exception to this general rule). Table 5 underlines that the bulk of funding in recent years has gone to the large parties.

Figure 1 and tables 4 and 5 about here

¹⁰ 2009 was also an election year: elections to the European parliament were held.

Can't Buy Me Love? Money and Czech Party Politics

Given the largely permissive regulatory and financial environment in which political parties operate in the Czech Republic, the potential for money to play a decisive role is high. Returning back to the main features of party politics outlined above, I will devote this section to exploring the answers to three linked questions. Firstly, how important is money for the emergence and success of new parties? Secondly, to what extent does the stability of Czech party politics owe much to money and the financial regulation of parties? Thirdly, to what extent does money contribute to explaining the dividing lines of Czech party politics?

On new party entry and funding arrangements no clear picture emerges from comparative research. The cartel model thesis might make us expect state subventions will reinforce the eponymous model of parties and limit new party emergence and success (Katz and Mair, 1995, 2009; Birnir, 2005). State funding clearly brings advantages for parties that receive money through that source, both to finance their continued existence and their future electoral efforts. In effect, therefore, argues Birnir (2005:918), 'state funding creates a barrier to entry for parties that have not received state support', maintaining further that, '[t]he core of funded parties has an advantage that accumulates between elections and makes new entry increasingly difficult'. In short, state subsidies are seen to have a stabilizing role on party systems. Other scholars, however, have cast doubt on this thesis. Studies by van Biezen and Rashkova (2011) and Scarrow (2006) question the role of increased regulation and threshold funding on the emergence and success of new parties. Indeed, van Biezen and Rashkova (2011:16) conclude their analysis by noting that 'within the set of countries with a Party Law, being a post-communist democracy has a stronger effect on the number of new entrants than the regulation found in the p[arty] l[aw]'.

In the Czech case there have been remarkably few "new" parties which have succeeded in crossing the 5% electoral threshold. Just three new entrants have crossed the threshold in elections since 1992: the Greens in 2006, and TOP 09 and VV in 2010, to which we may add US – a splinter from ODS – formed in January 1998 and crossing the threshold at the elections held a few months later.¹¹ The creation and success of these four parties, however, owed less to the provision of state subventions to the established parties and more to a different pecuniary reason: corruption. US was forged by disaffected members of ODS in part due to the leadership style of Václav Klaus, but intimately linked into the financing of the party and the role of shady donors and secret bank accounts (Hanley 2008; Cisář and Tomáš, 2007). The 'Bacs and Sindha'

¹¹ Depending on definition of 'new', we might also add the creation of the KDU-CSL/US-DEU coalition which entered parliament in 2002, but for the purposes of this paper the key point to make is that its creation was not directly related to money.

scandal in which money was tunneled from business interests associated with Moravia Steel to ODS through intermediaries who were clearly fictitious (or deceased) individuals was a 'crude subterfuge which both concealed the origin of the money and reduced the party's tax liability' (Hanley, 2008:132; Krnačková, 2006). The damage to the party's image was compounded in 1997 when the existence of a secret Swiss bank account came to light which contained around 170 million crowns. In a report ODS commissioned itself from Deloitte and Touche, the conclusions pointed to the routine falsification of accounts to conceal the identity of donors, avoid tax or siphon off resources to firms the party controlled (Hanley, 2008:134).

More recently, the appeal of VV was tied to a broader-based anti-corruption appeal with its 2010 election rallying cry, 'the end of political dinosaurs' (Haughton et al, 2011). Neither the emergence of the Greens in the 2006 elections nor TOP 09 in the subsequent election coalition, however, were driven by anti-corruption appeals per se, although the backing the Greens received from former President Václav Havel and the decision to make the avuncular Karel Schwarzenberg TOP 09's election leader gave both parties a clean(er) profile. The creation of TOP 09 owed much to the dissatisfaction of the right-leaning members of KDU-ČSL who were increasingly discontent with the leftward drift of the party under the leadership of Cyril Svoboda. Moreover, the 2010 elections also highlighted that personality clashes and egos can be the decisive factors in the creation of new parties. Former Prime Minister and leader of ČSSD Miloš Zeman who had been a longtime critic of the then ČSSD leader Jiří Paroubek created a party bearing his name, the Party of the Rights of Citizens – Zemanites, and former TV moderator and MEP Jana Bobošíková formed her Sovereignty party, largely as a personal vehicle. Although neither crossed the 5% threshold, both won sufficient votes (i.e. over 3%) to be eligible for state funding.

It is worth stressing two broader points here. The corrupt-clean dimension has become increasingly important in the politics of many Central and Eastern Europe states including the Czech Republic (Deegan-Krause and Haughton 2010b). Many new parties have used the anti-corruption appeal to garner votes, but the dependence of these parties on alternative (non-state) sources of income makes them dependent on wealthy benefactors who may not be whiter than white and are likely to expect something in return for their money. In the Czech case, for example, disaffection with politicians has recently prompted the successful businessman Andrej Babiš to launch an *Action of Dissatisfied Citizens* (ANO) which may be the springboard for a political party at the next parliamentary election.¹² Even those new parties which are formed for more ideological or simply egotistical reasons such as former Prime Minister Jiří Paroubek's National Socialist Left of the 21st Century (LEV 21), face the challenge of finding funding before state funding has a chance to kick in (at the next election). In Paroubek's

¹² ČTK, 13 November 2011

case the main sponsor of the party, Jaroslav Andres, has appeared reluctant to explain the source of his wealth.¹³

Although a constant flow of funds is needed to keep the parties in operation by paying overheads and staff throughout the parliamentary term, the importance of money is particularly clear during election time, especially for new parties. In 2010, for instance, 94% of VV's spending was spent on the campaign. Given our concern here with money and regulation, two aspects of Czech campaigns are worthy of note. Firstly, the campaign finance regulations are remarkably permissive in contrast to many other states in Central and Eastern Europe (Iksten et al, 2002:66). Not only on the output side is there no limit on spending¹⁴, but on the input side money flows in thanks to the absence of limits on contributions and eligibility for tax relief amongst other measures. The only clear limitation was the ban on foreign donations in place since 2000, the introduction of which owed much to the financing scandals which had ensnared ODS in the mid-1990s. Secondly, even discounting for the impact of inflation and the rise in the general cost of living, as figure 2 illustrates parties have spent much more on election campaigning in recent times. There was a particularly notable increase at the time of 2006 election.

Figure 2 about here

The 2006 and 2010 elections, however, appear to provide contrasting lessons for the importance of money in Czech politics. The 2006 elections witnessed not just a massive increase in campaign spending on the part of the two main parties, but also an increase in the share of the vote for ODS and ČSSD. Moreover, in 2010 the two new parties which crossed the threshold into parliament -TOP 09 and VV – both spent significant amounts in the elections. Although still some way behind ODS in particular, VV for instance, spent the third largest amount of money in the campaign, totaling three times as much as KSCM and four times as much as KDU-ČSL. Spending money, therefore, seemed to help “buy” the love of voters. Nonetheless, in the 2010 election ODS spent 164 million crowns more than all of the other parties which crossed the parliamentary threshold combined, but yet experienced a 15.2% drop in support (see table 6). Furthermore, the new entrant on the centre-right, TOP 09, spent just a

¹³ *Česká pozice*, 11 February 2012

¹⁴ Following the 2010 elections placing restrictions on spending has become a more prominent theme with even more cross-party support, although not cross party agreement on the exact measures.

tenth the amount ODS spent on the campaign and yet garnered three-quarters of the number of votes as ODS.

Table 6 about here

The election spending statistics, therefore, do not seem to provide a clear picture of being able to buy support. Two points are worth making here. Firstly, not all money used to help shore up support for parties is disclosed through these official channels. Moreover, very favourable deals with advertising agencies such as Medea in the case of ČSSD, for example, which involve prices well below market levels indicate additional indirect means of support. Nevertheless, although I would suggest that whilst we should be cautious about the veracity of actual figures, observing the 2010 elections at close hand I would suggest that in relative terms at least the differences between the different parties in table 6 seems to strike a chord given various indicators (number of billboards, leaflets distributed, party political broadcasts, and the size, extent and number of election meetings, etc.).

Secondly, and more significantly, support for parties is also reinforced through party patronage. Parties in government have at their disposal the right to nominate a number of positions in the state administration (Kopecký, 2012), which proved particularly helpful to parties during the process of state-building in the 1990s (Grzymała-Busse, 2007; O'Dwyer, 2006; Kopecký, 2008; Haughton, 2008). As Anna Grzymała-Busse (2007: 3, 6) noted of the CEE region as a whole 'the ostensible building of democracies and markets was inextricably linked to state exploitation and side benefits for the political actors in charge' in a process of 'self-serving reconstruction'. Not only does Kopecký and Spirova's (2011:916) recent research indicates that ODS, ČSSD and KDU-ČSL displayed 'well-coordinated mechanisms for patronage appointments', but Novotný's (2011:60) analysis highlights that key positions in the state administration were allocated to party nominees in a manner roughly proportional to the success of the party at the ballot box, and a large slice of those who were accorded such positions had given money to a political party.

Nonetheless, whilst patronage mechanisms and links with wealthy donors can help consolidate the support base for a party, parties are not thereby insulated from damaging scandal. Although the revelation of ODS's secret Swiss bank account provokes a degree of caution into reading too much into the differences between the parties, it is striking that in the 1990s the small Civic Democratic Alliance (ODA) was remarkably successful in gaining private donations, at times clearly outscoring ODS (Cisák and Tomáš, 2007:79-80). The party, however, was soon

embroiled in salacious scandal as journalists investigated some of the donations and discovered that foreign companies involved in privatization (over which ODA had some responsibility) were the real source of donations to the party (Hanley, 2008:137). These revelations tied to conflicts between pragmatists and fundamentalists in the party led to the party's disintegration (Hanley, 2008:136-7).

The preceding discussion highlights that money plays both a facilitating and corrosive role in party politics in the Czech Republic, but to what extent does it help explain the patterns of party politics? Whilst inherited resources (and the "absence" of a party ban) have contributed to KSČM's place and position on the Czech party scene and the anti-corruption appeal has been used effectively by VV and others, how far can the dominance of ODS and ČSSD be explained with reference to the significant slices of both state funding and private donations they have received?

As I have argued with Kevin Deegan-Krause in a succession of papers, (e.g. Deegan-Krause and Haughton, 2010b; Haughton and Deegan-Krause, 2011), the key to the longevity of parties which consistently manage to win large slices of the vote lies in a combination of three factors: an organization which permits adaptation, but also facilitates entrenchment; becoming and remaining the standard bearer on the main issue divide of programmatic competition; and decisive decision-making at moments of crises.

Both ODS and ČSSD have invested significant amounts of money in party organization from the very beginning. Not only does a network of branches, a well-resourced headquarters and professional staff at both the regional and national level help a party's visibility, but it also helps cushion blows (Tavits, 2012; Deegan-Krause and Haughton 2010a). Following the ODS funding scandal, the creation of US and the collapse of the Klaus government in 1997, the potential for a realignment of Czech politics was high. Nonetheless, the party bounced back in the June 1998 elections with 27.8% of the vote. Although the remarkable turnaround in the party's fortunes owed much to the weaknesses of US (which included a lack of a developed party organization), it was aided by the loyalty of the rank and file ODS party members and by a shrewd election campaign encapsulated in the slogan, 'To the Left or with Klaus' (*Nalevo nebo s Klausem*) (Deegan-Krause and Haughton, 2010a) identifying Klaus as the standard bearer of one side of the issue divide. Such tactics were also in evidence in the 2006 election campaign. Both ODS and ČSSD adopted aggressive campaigns, in part a reflection of the characters of their party leaders at the time, but also a product of outside consultants (Matúšková 2006). Both parties directed most fire against each other, helping to foster the image in the mind of voters that the election was a choice between two alternatives. Although there are a number of ideological differences between ČSSD and ODS – not least over Europe in recent times - the main 'issue divide' has been and remains a dispute over the role of the state in socio-economic questions

(Deegan-Krause, 2006; Rohrschneider and Whitefield, 2009; Hanley, 2008; Kopecký, 2006) and the two parties have identified themselves as the standard bearers of the two sides of that debate, albeit throwing in some other appeals into their 'integrative narratives' (Hanley et al, 2008).

Conclusion

Both party laws and money matter in Czech politics. Party regulation and financing rules in the Czech Republic have created a largely permissive environment. These conditions *per se* have not been decisive in helping new parties or those of a longer-established vintage achieve success, but they have shaped choices. State funding has channeled significant amounts of money to the main political parties, helping them to entrench their positions at the heart of politics in the Czech state, although it has not made them immune from significant electoral set-backs. Moreover, the existence of state funding has ensured the barrier for new parties has been set higher, requiring them to acquire a large war chest from private donations, which may or may not come with strings attached.

The role of party laws and money can be best understood with reference to a motor race metaphor.¹⁵ Money is the fuel for the engines of party politics. Fuel does not determine which car is faster or who will win the race, but at high speeds cars need plenty of fuel, and vehicles need access to refueling stations during a long race. In this particular race new competitors are not entitled to fuel immediately, but only after they have been in the race for some time and have achieved a degree of success, hence they are dependent on private fuel stations which may demand a high price and whose fuel can prove to be explosive. Party laws (including constitutions), in contrast, are more like the rules of the race requiring cars to stay on the track. These laws for the Czech racetrack are not very prescriptive about the types of parties that can be driven. Indeed, the vehicles in the electoral race can have very different and decidedly odd specifications. The electoral race at times appears more akin to 'Wacky Races' than Formula 1. Nonetheless, vehicles and fuel do not determine who will win the race. The skill of the driver

¹⁵ I am grateful to Kieran Williams who after reading my metaphor brought to my attention the 2006 Randall v Sorrell campaign finance case in the United States in which Justice John Paul Stevens argued: '[b]ut, of course, while a car cannot run without fuel, a candidate can speak without spending money. And while a car can only travel so many miles per gallon, there is no limit on the number of speeches or interviews a candidate may give on a limited budget. Moreover, provided that this budget is above a certain threshold, a candidate can exercise due care to ensure that her message reaches all voters. Just as a driver need not use a Hummer to reach her destination, so a candidate need not flood the airways with ceaseless sound-bites of trivial information in order to provide voters with reasons to support her'.

and navigator to chart a careful course, avoid accidents and use the precious reserves of fuel effectively are ultimately the key determinants of sustained electoral success.

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Table 1: Seats in the Czech Parliament Won by Selected Parties

| | ODS | ČSSD | KSČM | KDU-ČSL | Others | % of seats held by ODS and ČSSD | % of seats held by ODS, ČSSD, KSČM, KDU-ČSL |
|------|-----|------|------|---------|--------|---------------------------------|---|
| 1992 | 76* | 16 | 35** | 15 | 58 | 46.0 | 71.0 |
| 1996 | 68 | 61 | 22 | 18 | 31 | 64.5 | 84.5 |
| 1998 | 63 | 74 | 24 | 20 | 19 | 68.5 | 90.5 |
| 2002 | 58 | 70 | 41 | 22*** | 9 | 64.0 | 95.5 |
| 2006 | 81 | 74 | 26 | 13 | 6 | 77.5 | 97.0 |
| 2010 | 53 | 56 | 26 | 0 | 65 | 54.5 | 67.5 |

*with KDS

** As part of the left bloc coalition

*** KDU-ČSL joint list with US-DEU. Use of preferential votes on evenly-split lists meant of 31 elected 22 MPs from KDU-ČSL and 9 from US-DEU

Table 2: Composition of Czech Governments 1992-present

| 1992-1996 | 1996-1998 | Jan 1998-August 1998 | 1998-2002 | 2002-6 | 2007-9 | 2009-10 | 2010- |
|------------------------------|-----------------------|---|---|---------------------------|----------------------|--|---------------------|
| ODS KDU-ČSL ODA KDS | ODS KDU-ČSL ODA | Caretaker/technocratic including nominants of KDU-ČSL, US and ODA | ČSSD Minority government supported by the 'Opposition Agreement' | ČSSD KDU-ČSL US-DEU | ODS KDU-ČSL SZ | Caretaker/technocratic including nominants of ODS and ČSSD | ODS TOP 09 VV |

(Sources www.vlady.cz; *European Journal of Political Research Political Year Databook*)

Table 3 Selected Party Laws 1990-2010

| Law/Amendment/Constitutional Court Decision | Main Provisions |
|---|--|
| 15/1990 | Law on political parties containing basic rules governing party registration |
| 47/1990 | Regulations of first free elections including introduction of election expenses |
| 424/1991 (amended 468/1991, 68/1993, 189/1993, 117/1994, 296/1995 (322/1996), 340/2000, 98/2001, 104/2001, 170/2001, 151/2002, 556/2004, 501/2004, 342/2006, 296/2007, 227/2009, 345/2010, 420/2011) | Introduced regulation of many aspects of parties including the introduction of annual financial reports. |
| 563/1991 | Reporting on financial activities of the party |
| 1/1993 Constitution (amended 347/1997; 300/2000; 448/2001; 395/2001; 515/2002) | Rules governing a democratic Czech Republic |
| 247/1995 | Election Law including definition of the state's financial contribution to cover election expenses |
| 231/2001 | Gives parties free of charge access to the media during the campaign |
| 62/2003 | Regulation of party financing in elections to the European Parliament |

Source: Ministerstvo vnitra České republiky, *Sbirka zákonů a Sbirka mezinárodních smluv*

Figure 1: Income Structure of Czech Political Parties 1995-2006

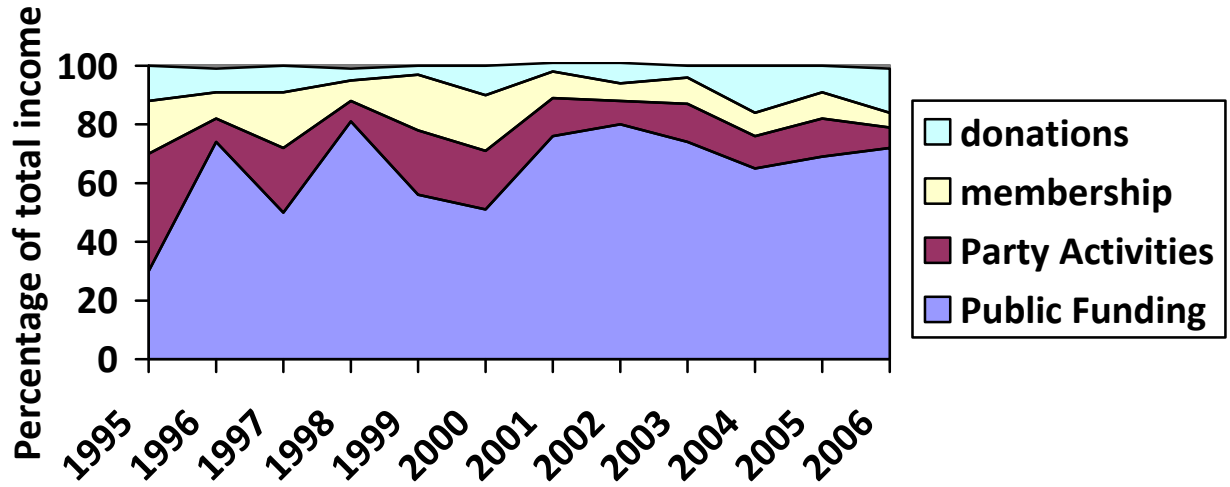


Table 4: Sources of Funding for the Major Parties in 2009 and 2010 (in million crowns)

| | Public Funding | | Membership | | Donations | |
|----------------|----------------|-------|------------|------|-----------|-------|
| | 2009 | 2010 | 2009 | 2010 | 2009 | 2010 |
| TOP 09 | 0 | 120.5 | 1.2 | 2.3 | 40.8 | 57.5 |
| VV | 1.7 | 78.0 | 0.2 | 0.5 | 11.1 | 22.6 |
| ČSSD | 191.5 | 284.5 | 17.8 | 23.3 | 24.6 | 65.9 |
| ODS | 192.1 | 258.5 | 16.4 | 15.8 | 97.0 | 232.9 |
| KSČM | 76.2 | 124.8 | 27.3 | 26.3 | 4.5 | 5.5 |
| KDU-ČSL | 47.4 | 57.3 | 4.8 | 4.3 | 7.6 | 9.8 |
| SZ | 19.3 | 21.2 | 0.6 | 6.7 | 1.5 | 3.3 |

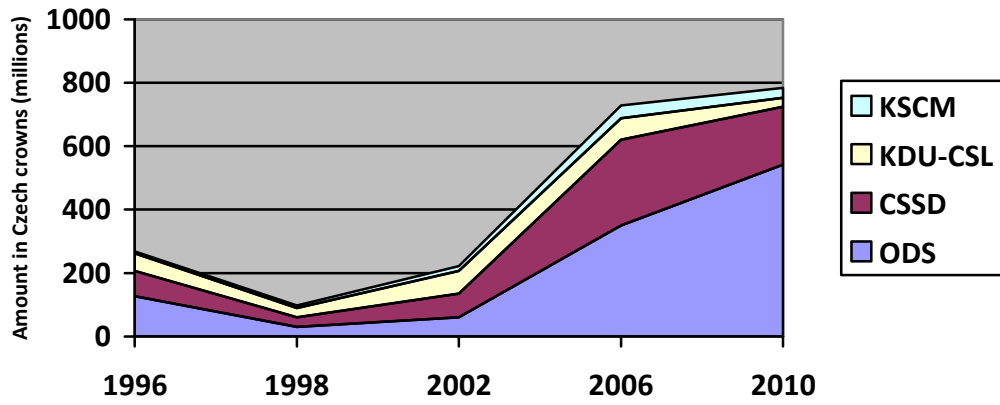
Sources: Parties' financial reports.

Table 5: State Funding for Political Parties in the Czech Republic in 2009, 2010 and 2011

| | 2009 | | 2010 | | 2011 | |
|----------------------|--------------------------------|-------------------------------------|--------------------------------|-------------------------------------|--------------------------------|-------------------------------------|
| Party | Amount of State Funding | % of the total state funding | Amount of State Funding | % of the total state funding | Amount of State Funding | % of the total state funding |
| ODS | 192 158 380 | 34.7 | 258 562 533 | 25.5 | 124 190 000 | 25.3 |
| ČSSD | 191 543 960 | 34.6 | 284 601 700 | 28.1 | 162 688 750 | 33.1 |
| KSČM | 76 137 310 | 13.8 | 124 801 500 | 12.3 | 61 727 500 | 12.6 |
| KDU-ČSL | 47 413 530 | 8.6 | 57 296 700 | 5.7 | 27 230 000 | 5.5 |
| SZ | 19 258 630 | 3.5 | 21 199 767 | 2.1 | 0 | 0 |
| TOP 09 | 0 | 0 | 120 499 967 | 11.9 | 52 085 000 | 10.6 |
| VV | 1 699 080 | 0.3 | 77 979 367 | 7.7 | 30 520 000 | 6.2 |
| SPO-Zemanovci | 0 | 0 | 28 519 367 | 2.8 | 8 800 000 | 1.8 |
| Suverenita | 3 015 420 | 0.5 | 24 147 833 | 2.4 | 7 400 000 | 1.50 |
| Others | 22 978 840 | 4.0 | 15 658 429 | 1.5 | 16 812 500 | 3.4 |
| Total | 554 205 150 | 100 | 1 013 267 067 | 100 | 491 453 750 | 100 |

Sources: Ministerstvo financí České republiky (2010, 2011, 2012)

Figure 2: Election Spending of the four longstanding parties



Sources: Linek and Outly, 2008; ODS (2011); ČSSD (2011); KSCM (2011), KDU-ČSL (2011)

Table 6: Campaigning Spending in the 2010 Elections and its Effectiveness for Political Parties

| Party | Votes won (% of total) | Change in support from previous election (%) | Amount (Kc) | Vote Spend ratio (total spent/votes won) |
|---------|---------------------------|---|-------------|---|
| ČSSD | 1 155 267 (22.1) | -10.2 | 184 124 000 | 159.38 |
| ODS | 1 057 792 (20.2) | -15.2 | 541 566 000 | 511.98 |
| TOP 09 | 873 833 (16.7) | +16.7 (new party) | 53 630 917 | 61.37 |
| KSČM | 589 765 (11.3) | -1.5 | 31 039 030 | 52.63 |
| VV | 569 127 (10.9) | +10.88 (new party) | 108 047 076 | 189.85 |
| KDU-ČSL | 229 717 (4.4) | -2.8 | 28 051 542 | 122.11 |
| SZ | 127 831 (2.4) | -3.9 | 16 240 913 | 127.05 |

Sources: ČSSD (2011); KDU-ČSL (2011); KSČM (2011); TOP 09 (2010); ODS (2011); SZ (2011); VV (2011)