



Party Law in Modern Europe

The Legal Regulation of Political Parties in Post-War Europe

State Resources and Pocket Money: Shortcuts for Party Funding in Romania

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The Legal Regulation of Political Parties

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STATE RESOURCES AND POCKET MONEY: Shortcuts for Party Funding in Romania¹

Sergiu Gherghina, Mihail Chiru and Fernando Casal-Bértoa

Abstract

This paper is the first systematic attempt to map the evolution of legal regulations concerning campaign finance in post-communist Romania and to link them with corruption practices parties have been engaged in, over the last decade. Our document analysis reveals a general increase in the complexity of the legal framework regulating campaign spending with a positive impact on reducing corruption. Still, many flaws remain which have been intensely exploited by the political parties. Using empirical data, we make an attempt to illustrate the different ways in which the Romanian parties have developed tools to indirectly obtain (and use) state resources for their own electoral purposes. These practices include: partisan tailored transfers of money from the government to own constituencies prior to elections; relying on large-scale patronage to reward party sponsors and activists; as well as making state agencies contribute indirectly to campaign funds under the guise of innocent workshops

Introduction

Following the regime change of 1989, post-communist countries in Central and Eastern Europe (CEE) faced the crucial challenge of constructing and maintaining strong and stable political institutions. As representative democracies are unthinkable without political parties (Bryce 1921, 119; Schattschneider 1942, 1), one major concern was to ensure the (re)establishment of multi-party systems in which independent and competitive actors had the opportunity to run in free and fair elections. Such an attitude was fueled by two main factors: the lack of representation for half a century and the preeminence of political parties as the first post-communist institutional actors. Regarding the latter, political parties fulfilled relevant functions in the process of power transfer (e.g. the Round Table Talks) and initial design choices (Kitschelt 1992; Berglund

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and Dellenbrant 1994). In new multi-party CEE systems three types of political competitors can be identified: continuous (i.e. successors or satellites of the former communist parties), revived (i.e. historical parties with interrupted existence during communism), and newly emerged (Kopecky 2001). Among these categories, only the first enjoyed and, subsequently benefited from structural and human resources before the first post-communist elections. Consequently, a solution was necessary to foster the development of revived and newly emerged parties that represented the opposition parties and counterbalanced the political space. In this respect, public funding appeared to be the most likely type of support as it provided a number of advantages for the competing political actors (i.e. organizational costs, subventions for electoral campaign etc.). Moreover, greater resources allowed parties to develop complex organizations, recruit more and higher-quality candidates, strengthen ties with the electorate, and mobilize voters (Mendilow 1992; Lewis 1998; Grzymala-Busse 2002; Booth and Robbins 2010, 633). At the same time, public funding was aimed at increasing the transparency of the political system (van Biezen and Kopecky 2007, 239; van Biezen 2008, 35), party system stability (Roper 2002, 179) and the accountability of the competitors (Smilov 2007, 1).

The two major downsides of public funding became visible, however, as soon as it became widespread. On the one hand, although it is aimed at reducing inequalities between parties and at increasing competition, public funding may have the opposite effect. The accumulation of state money by political parties competing in elections was thought to create a gap between existing actors and newcomers, thus discouraging the entries of new parties in the system (Birnie 2005, 918). In this sense, the different allocation of state funding between parliamentary parties according to the votes received or between these and extra-parliamentary parties would create additional barriers for small actors. However, the existing research has found little evidence in favor of the claim that public subsidies have an impact on party competition (Scarrow 2006).

On the other hand, irrespective of its extent, public funding is not sufficient to cover party expenses as it is always accompanied by restrictive finance guidelines. At a theoretical level, this observation derives from the tripartite funding scheme proposed by von Beyme (1985), who lists the most common sources of revenues for political parties: public funding, private contributions, and membership fees. The importance of

the latter in the CEE countries is heavily reduced as previous research emphasized low levels of membership in post-communist countries. Even after party membership decline in Western European countries (Katz and Mair 1994; Mair and van Biezen 2001; Poguntke *et al.*, 2009), their rates are still considerably higher than those of CEE political parties (Lewis 1996; Bielasiak 1997; Kopecký 2001, van Biezen 2003, Spirova 2007). In this respect, political parties lack relevant internal funding with the revenues from their members being reduced (Lewis 1998; van Biezen 2000; Gherghina 2009). For example, figures from the mid-1990s reveal that, with the exception of communists' successors, the political parties in the Czech Republic, Hungary, and Poland could rely on members for less than 10% of their revenues (Lewis 1998, 138-139; Lewis 2008, 184). At the same time, party officials of the political alliance governing Romania between 1996 and 2000 – the Democratic Convention – declared in 1996 that membership fees were never systematically collected although such fees were explicitly mentioned in the statute (Birni 2005, 920).

Consequently, private donations are the sole available tools to fill in the budgetary gaps of CEE political parties. As the private contributions also follow finance regulations, restrictive guidelines require political parties' strong efforts to collect sufficient money for their survival. In this respect, the very existence of political actors is conditioned by their capacity to attract funds. The practical alternative is the elusion of the laws, thus evading all prohibitions and limitations. The post-communist region provides quite a few illustrative examples of corruption scandals with private donations. In 1997, a corruption scandal broke out in the Czech Republic following the discovery of a Swiss account belonging to the governing Civic Democratic Party (ODS) in which companies that did not want to be identified as donors made their contributions. As a result, the coalition partners of the ODS left the government and the executive led by Vaclav Klaus fell (Ondrej and Petr 2007, 85-86). In Slovakia, using the names of ordinary people on the donors' list, although they had never contributed to campaign finance, was a practice deployed by the main governing party at the time, the Slovak Democratic and Christian Union Coalition (SDKU) (*Slovak Spectator* 2004). In Poland, an official investigation revealed large donations fictitious in the case of the AWS candidate, Marian Krzaklewski, in the 2000 presidential elections. Among other factors, the negative publicity it received seems to have contributed to 'the gradual collapse of the party' (Walecki 2007, 117).

Summing up, with isolated exceptions (e.g. Latvia), the post-communist political parties share the common feature of relying on state subventions for their funding (Ikstens et al. 2002; van Biezen 2003; Lewis 2008). The intensity of state support differs: in the Czech Republic, Estonia, Hungary, and Slovenia parties are highly subsidized by the state (Smilov and Toplak 2007), whereas in Romania it amounts to considerably less². This constitutes an interesting paradox, which will be the main empirical puzzle addressed in this paper. In this context, and bearing in mind that the Romanian legislation about private funding is also quite prohibitive, the main question to be answered is: how can Romanian political parties gather sufficient funds for campaigns and current expenses? This becomes even more difficult to understand as their self-reported evaluations after the 2008 legislative elections indicate expenditures twenty times higher than state subventions for the whole year. Using mainly document analysis and process tracing, we illustrate how in the most recent parliamentary elections, the Romanian political parties found means to supplement the financial aid stipulated by law. Irrespective of formal regulations, Romanian parties have developed tools to indirectly obtain and use state money. Our study covers the last three parliamentary elections in 2000, 2004 and 2008, which are the ones with the largest spending in the country since the nascent of democracy in 1990.

In this context, our paper constitutes the first systematic attempt to map the evolution of legal regulations concerning campaign financing in Romania and link them with corruption practices parties have been engaged in. We have to emphasize from the onset that despite party finance regulations having attained some of their goals, the Romanian case is not a success story. In spite of stricter regulations that diminished some of the problems, political parties found ways to avoid the formal provisions and get access to funds. Although a single-case study, this analysis bears relevant implications for broader transitional contexts in which illicit party funding is involved, while the judiciary is too politicized to penalize it.

The first section analyzes the legal framework in which party campaigns have taken place in the twenty years since the fall of communism. Then we specifically point to faults in the regulations that have allowed for or even triggered corrupt practices. The third section presents and explains the main patterns of campaign spending in the last

² The Romanian parliamentary parties spent almost €42 million in the local and general elections in the spring and autumn of 2008. The aggregate sum the state allocated to all the parties that entire year was a mere € 2.15 million.

three general electoral cycles (2000-2008). Next, our empirical section analyzes several party finance scandals illustrative of the ways in which Romanian parties have developed tools to indirectly obtain (and use) state resources for electoral purposes. The conclusion synthesizes our findings and points to further fruitful directions of research.

The Evolution of Party Funding Regulations in Romania

Political funding regulations aim at ensuring sufficient resources for political competitors (either institutional or individual) in order to fulfill the functions of representation. State funding of parties may be either direct (i.e. subventions, direct public funding) or indirect (i.e. access to state media, tax relief), or both. Previous studies (Ikstens et al. 2002; Nassmacher 2003; Smilov 2007) indicate that political parties in all the CEE countries have access to free airtime and most of them receive in-hand subsidies. With some exceptions (e.g. Latvia, Moldova, Ukraine) public funding is widespread in European political systems, whereas tax relief appears to be the least popular type of state support (apparent only in Hungary and Slovenia). Direct funding may be either party or campaign based. In particular, while the former refers to organizational costs of (parliamentary) parties between elections, the latter targets specific costs for the electoral campaign, available to all the competitors on a different basis (Birbir 2005, 926; Roper 2007, 98). The line separating the two budgetary categories is rather thin as the money received for general expenses and specific campaign finance is used for the same final goal of electoral success (Pinto-Duschinsky 2002). Consequently, in this study we do not differentiate between these two categories, treating public funding as a monolithic source.

Party financing in Romania gradually evolved from very general provisions valid for the first post-communist elections from 1990 to very specific regulations applicable in the 2008 parliamentary elections. Table 1 summarizes the evolution of legal regulations concerning the parties' and individual politicians' campaign expenditures for the entire post-communist period. Our primary aim is not explaining why governing parties have engaged in public finance reforms (for a comprehensive theoretical framework on the matter see: Scarrow 2004), but to assess the overall efficiency of the latter in preventing and reducing corruption practices.

For the first three elections - 1990, 1992, and 1996 - the issues related to party funding were included in broader general laws. For example, the decree issued in March

1990 for the organization of parliamentary and presidential elections guarantees free access to public radio and television (Article 51). Furthermore, it stipulates that all competing political parties and formations will receive state subventions, whereas donations from foreign sources are not permitted (Article 53). The decree was issued by the Provisional Council for National Union (CPUN) – the caretaker government until the first elections – and had the character of a law as no legislature was in place. The provisions of the decree had a strong component of electoral strategy, obviously accounting for context specific factors. Thus, free access to media did not provide equal opportunities, but favored the National Salvation Front (FSN) whose president and candidate in the 1990 elections was also the leader of CPUN. FSN featured prominently in every broadcast (Carothers 1992; Linz and Stepan 1996, 361) as there were solely public media assets and the CPUN was identified with the state.

Table 1: Key components of laws on party financing

Components	1990	1992	1996	2003	2006
Free access to media	x	x	x	x	x
Public funding to parliamentary parties	x	x	x	x	x
Public funding to extra-parliamentary parties	x		x	x	x
Private donations		x	x	x	x
Ban of foreign donations	x	x	x	x	x
Ban of public donations		x	x	x	x
Ceiling for private donations			x	x	x
Anonymous donors			x	x	x
Financial reports and control mechanisms				x	x
Expenditures caps				x	x
Punishment for disobeying the law				x	x

State subventions were also a strategic tool for the FSN, the successor of the former Romanian Communist Party, which controlled the financial resources of its predecessor and thus had substantial funding without using this provision. Public funds were introduced by the FSN to encourage the proliferation of parties with two goals. On the one hand, the electorate was confronted with an afflux of new parties to which FSN was the stable alternative competitor (Roper 2007, 102). On the other hand, the creation of new parties divided opposition voters, thus no political party apart from FSN was to have a strong representation in the new legislature. Apart from allocating some financial resources to the opposition parties with this decree (Carothers 1992), the FSN reached both goals as it gained more than two thirds of the popular vote in the legislative

elections, while its candidate was elected as president of the country with more than 85% of the votes. Furthermore, the prohibitions towards private funding were not aimed at limiting the propensity of corruption, but rather at forbidding the leader of one opposition party (the National Peasants Party Christian Democratic- PNTCD) to use in the electoral campaign his personal fortune amassed during his exile in Great Britain (Roper 2007, 101).

For the 1992 elections, party funding was again included in the general law referring to the legislative elections for the two Chambers of Parliament (Law 68/1992). The provisions regarding access to media and the public or private funding suffered modifications compared to the previous decree as a different goal had to be reached. The 1990-1992 period was marked by internal convulsions (e.g. miners called to Bucharest to oppress street protests) and political opposition intensified. As a result, the goal of the incumbent National Democratic Salvation Front (FDSN) party – the conservative faction after the split of FSN in the spring of 1992 – was to reduce the number of opponents getting access to Parliament. It did so by two measures. First, it introduced an electoral threshold of 3% for access to Parliament. Second, it promoted discriminatory party funding legislation making it difficult for extra-parliamentary parties to obtain financial aid for the electoral campaign. In this respect, free access to media was granted to all the political formations and independent candidates represented in Parliament, whereas the extra-parliamentary competitors had to pay for it (article 46, par. 2). Moreover, not only did parliamentary parties receive twice as much access to media than other competitors but the distribution was made according to the number of seats in the legislature (article 46, par. 4).

On the other hand, all competitors received public funds on the basis of a complementary law to be provided by Parliament, but all those that failed to receive more than 5% of the votes at national level had to return the money within two months of the elections (article 45, par. 1). Private donations were allowed without a ceiling as long as they were publicly declared, but foreign aid was banned (article 45, par. 3). Similarly, accepting money from public institutions and authorities was forbidden. Two problems were clearly visible with respect to these provisions: (1) the legal lack of necessary control mechanisms - state institutions were supposed to implement these provisions, but no specific instructions regarding the control and enforcement were

stipulated; and (2) none of the competitors in those elections received public funding as the complementary law was never adopted.

The 1996 elections brought new regulations, and specific attention was paid to party finance and electoral campaigns (Law 27/1996). According to article 33 (par. 1), the funding sources of a political party were membership fees, donations and contributions, revenues from its own activities, and the state budget according to the annual budget law. As membership fees were considered to be tax-free, the total paid by an individual per year should be less than 50 times the minimum salary (article 34, par. 3). The yearly donations could not exceed 0.005% of the state budget revenues, whereas this percentage increased to 0.01% in electoral years. An individual donation could not be more than 100 times the minimum salary, whereas an institutional donation should be less than 500 times the minimum salary. All private contributions had to be reported, but the donor could remain anonymous when the amount did not exceed 10 times the minimum salary. A party could receive anonymous donations up to 20% of the state subvention in a year (article 35). Donations from public institutions, companies where the state holds the majority of shares, from foreign states or organizations were completely forbidden. However, the political party could receive funding from international political organizations which it was affiliated to or from foreign parties it collaborated with on political grounds (article 36).

State support for parties included extra-parliamentary political formations, but severely discriminated against them. A four-step procedure of money distribution dominated by the parliamentary parties was then established (article 39). The amount designated for political parties could not be more than 0.04% of the state budget. The first phase included the equal distribution of one third of the total amount to parliamentary parties as a base subvention. In the second phase, the remaining two thirds of the amount was divided among the same parliamentary parties proportionally to the number of their seats, up to a maximum of five base subventions. The third phase took the leftovers from the second phase and distributed them equally to all the parties getting at least 2% of the votes in the previous elections. The share of money for individual parties could not be higher than a base subvention. The final phase implied the proportional (i.e. mandates) distribution of the leftovers from the third phase to all the parliamentary parties. One major observation to be made with respect to the content of such law is that parliamentary parties tended to receive considerable amounts of

public money, whereas extra-parliamentary parties received almost nothing. As a result, it comes as no surprise that since 1992 no new political party has gained mandates in Parliament.

The numerous problems of the 1996 law, occurring mostly in the 2000 elections (see the following sections), determined the creation of a special law on the funding of political parties (Law 43/2003).³ The basic provisions regarding the sources of income for political parties stayed the same as in the previous law, but some of the revenue thresholds were modified. Thus, private donations could now total up to 0.025% of the state budget and 0.05% in electoral years, while individuals could make donations of up to 200 times the minimum salary, with companies being able to do so up to 500 times the minimum salary. As in the previous law, confidential donations could not be larger than 10 times the minimum salary, instead they should add up to no more than 15% of state funding in a year (Article 5). State support for political parties remained unchanged with just one exception. In the third phase, the 2% vote share for the extra-parliamentary parties was replaced by a percentage of votes of maximum 1% below the electoral threshold.⁴ Following this modification, no extra-parliamentary party competing in the 2000 and 2004 was entitled to financial assistance. Similarly to the 1992 law, there were special state subsidies provided to political parties for the electoral campaign on the basis of a complementary law. The parties that did not gain access to Parliament had to return the money within two months of Election Day (Article 13). At the same time, the 2003 law imposed maximum expenditure caps to political parties relatively to minimum salaries. For example, every candidate to a seat in any of the two Chambers of Parliament was entitled to expenses of maximum 150 times the minimum salary (Article 21). Importantly enough, it was also the first law in which strict control mechanisms and sanctions were explicitly mentioned (articles 24-32), issues extensively discussed in the following section.

In 2006 a new law regarding party finance came into effect (Law 334/2006), slightly modifying the previous 2003 regulations. In particular, it is from this moment that discounts higher than 20% to goods and services provided to political parties and candidates are considered - for the first time - private donations (Article 6). At the same

³ Starting 2003, none of the laws regarding party finance included provisions on free access to media. This is mentioned in the special laws concerning the electoral campaigns and are different for the local, legislative, European, and presidential elections.

⁴ Starting 2000, the electoral threshold is 5% for individual parties, 8% for a two-party alliance, 9% for a three-party alliance, and 10% for an alliance that includes four or more parties.

time, the total amount of private donations is calculated in relation to state budget revenues rather than to state subvention, as it was before (Article 7, par. 3). The most important modification was with respect to the distribution of state subventions. The presence in Parliament is complemented by a new criterion – the share of votes obtained in local elections. Thus, 75% of state subventions are proportionally divided – according to the mandates – between parliamentary parties, whereas 25% is proportionally divided – according to the share of votes – among the parties that have at least 50 county⁵ councilors (Articles 15-16). The establishment of a special department, the Permanent Electoral Authority (Article 35) in charge of control mechanisms for party financing is another novelty. The limits of expenditures were loosened, political competitors being allowed to spend more money on candidates. Thus, every candidate in the legislative elections is entitled to expenditures of maximum 350 times the minimum salary (Article 30, par. 2).

The 2006 law maintains the ban against donations received from foreign states or organizations, public institutions or agencies, companies where the state holds the majority of stocks, trade unions, and religious cults (the second last was introduced in 2003, whereas the last item occurs only in the 2006 version). As in the previous law, the value of goods and services received by political actors is estimated in money and considered donations (Article 8).

Four general remarks are directly observable at the end of this brief overview. First, the provisions regarding party finance have clearly become more specific with time. Whereas, at the beginning, legislators were preoccupied with ensuring the framework for funding, the most recent versions of the law focus on details regarding expenditure caps and control mechanisms. Second, strictly related to the previous point, the lawmaker's caution also increased mainly due to the fact that numerous problems occurred when? (as illustrated in the following section). Third, the amounts of money provided to political parties significantly increased from one law to another. Two quite illustrative examples of what we are saying is that while limitations imposed on private donations have decreased, expenditure caps provided to political parties have increased significantly. Finally, parliamentary parties tend to enact laws on public funding that obviously favor them. Starting with the 1996 law, the vast majority of public funds

⁵ The county is the territorial-administrative division of Romania and represents the constituency level in the national legislative elections.

reached parliamentary parties. Although not obvious from the provisions of the law, private contributions mostly target parliamentary parties as they return this help in the form of other benefits. This point has become most visible in the section discussing the 2000-2008 elections.

The Direct Effect of Control Mechanisms: Diminishing Corruption?

The central argument of this section is that the problematic provisions of the laws regulating party funding in Romania have brought along the emergence of corruption scandals. Our analysis focuses on the 1996, 2003, and 2006 laws, as they represented the framework in which the elections in the last decade were organized. The general overview in the previous section helps when trying to identify the modifications undertaken over time with respect to major categories in party financing laws. However, the elusion of the law resides in the total lack of control mechanisms. Using document analysis, we address this topic further, referring to a few practical consequences. By 'corruption practices' we refer generically to all three types of particularistic exchanges: clientelism, corruption and patronage (Kopecký and Scherlis, 2008). As we will have the opportunity to observe in this section, as well as in the next, all of them have been alternatively employed by Romanian parties to illegally gather campaign resources and/or to reward their benefactors.

The 1996 law had three major shortcomings, mostly related to the private donations, which were carefully exploited by political competitors. First, the provision of goods and services was not included among the contributions. The solution to calculate the value of goods and services at market value and to declare it as part of private donations occurred as late as the 2003 law. Second, there were no control mechanisms with respect to the expenses of political parties, and public institutions were unable to trace the destination of money. The 2003 law filled this gap by demanding political parties to present full reports of the revenues and expenditures and by enforcing a rigorous control of campaign materials. The absence of these first two components from the 1996 law generated a few corruption scandals. One of the biggest scandals involved the 1996 campaign of the former president Ion Iliescu: 5.79 million dollars was illegally spent on campaign materials through a contract for the creation of a luxury album presenting Romania. Such a situation was also possible due to the fact that control mechanisms were loose. The only requirement for political parties was to publish the

list of their private donors by the end of the following March.⁶ Thus, all the financial revenues in an electoral year were reported long after the elections. At the same time, no punishment was included for the oversight of the law.

What were the consequences of these shortcomings? Tables 2 and 3 illustrate the discrepancies between the parties' officially reported spending and the evaluations derived from the campaign monitoring undertaken by the largest civic NGO in the country, *Asociatia Pro Democratia* (APD – 'Pro Democracy Association').⁷ The main differences were registered at the 2000 parliamentary elections when the aggregate sum acknowledged by the parties was more than nine times smaller than the APD estimations. The fact that such an enormous disparity existed in the framework of a law that did not impose any spending limits (Law 27/ 1996) may mean only one thing: the parties could not justify where the(ir) money was coming from. This argument was further corroborated by the shocking declaration by Valeriu Stoica, an MP of the National Liberal Party (PNL), and Justice Minister at the time of the 2000 elections, stating that '80% of the parties' campaign financing was illegal' (Pîrvulescu et al 2005).

Table 2: Campaign expenditures in Euros* at the 2000 parliamentary elections

Party	Declared	APD evaluations
PDSR	409,387	4,639,098
PNL	454,053	2,877,026
PNȚCD	250,135	2,052,329
PRM	-	600,592
PD	382,222	2,987,823
UDMR	-	449,650
PSDR	55,602	95,343
UFD	58,479	267,678
APR**	77,902	1,277,454
PSM**	1,879	233,054
Total	1,689,659	15,480,047

Notes: *All sums are converted into Euros. ** Extra-parliamentary party

PDSR: Romanian Social Democracy Party, PNL: National Liberal Party, PNTCD: Christian Democratic National Peasants' Party, PRM: Greater Romania Party, PD: Democratic Party, UDMR: Democratic Alliance of Hungarians in Romania, PSDR: Romanian Social Democratic Party, UFD: Union of Rightist Forces, APR: Alternative for Romania Party, PSM: Socialist Party of Labor.

Source: APD 2001

⁶ Local elections are organized in the early summer (June) and general elections in the autumn.

⁷ The APD monitoring efforts mainly targeted outdoor ads and advertising spaces bought in national and local newspapers. We are grateful to Mr. Arpad Todor for providing the APD reports.

The figures reflect that the discrepancies are similarly high for both the incumbent (PNL, PNTCD, and PD) and major opposition parties (PDSR – the successor of FDSN). Interestingly enough, however, a party size “effect” can be observed here: as it follows from the table below, small parties were closer to the real figures, but this was mainly due to the fact they could not attract a lot of private donations.

To partially overcome such shortcomings, the 2003 law installed control mechanisms. In this respect, it demanded political parties to declare their revenues and expenditures to the Court of Accounts within 15 days of having the final election results. The validation of elected candidates was conditioned by such financial reports (Article 25). At the same time, this law included a series of measures that the Court of Accounts could take whenever irregularities were noticed (Article 27). In a similar vein, the introduction of expenditures caps was supposed to diminish the incidence of money that could not be justified. The direct effect is seen in table 3, where a diminishing discrepancy between the declared and real expenditures in the 2004 elections is clearly observed. One major exception to it is the governing party at the time (i.e. the PSD), which declared much less than observed as a result of the monitoring process. This is not surprising if we take into account that the party very effectively colonized state resources in those years and developed clientelistic networks run by the so-called, ‘local barons’, presidents of the county councils. Moreover, the big difference appears mainly because the APD also evaluated the discounts made by the newspapers to the party in exchange for publicity bought by state agencies (Gallagher 2005).

Table 3: Campaign expenditures in Euros* at the 2004 Parliamentary elections

Parties and Alliances	Declared	APD evaluations
PSD+PUR	2,283,448	4.317.093
PNL – PD	2,405,926	2.336.909
PRM	572,309	524.878
PNG**	242,990	645.368
URR**	39,566	-
Total	5,544,239	7.824.249

Notes: *All sums are converted in Euros. ** Extra-parliamentary party
 PSD: Social Democratic Party, PUR: Humanist Party of Romania, PNL: National Liberal Party, PD: Democratic Party, PRM: Greater Romania Party, PNG: Christian Democratic New Generation Party, URR: Union for Reconstruction of Romania.
 Source: (Pîrvulescu et al. 2005)

Unfortunately, less information is available for 2004 than for the previous (2000) elections (we lack data for the spending made by the UDMR and the PNȚCD). Still, it is important to note here that three of the parties participating in the 2000 elections were the subject of a merger through absorption into larger competitors: APR and UFD were swollen by the PNL, while the tiny PSDR united with the giant PDSR to form PSD (Social Democratic Party). There was even further simplification and polarization of the political scene, as PNL and PD formed the Justice and Truth Alliance (DA) in order to mobilize the right wing electorate against the PSD. The latter party ruled Romania (2000-2004) with a rather strong hand and politicized many aspects of public life, starting with media freedom limitations and the indirect control of newspapers through strategic subsidies. These developments seem to explain, although only to a certain extent, why the total amount of money spent in the 2004 parliamentary elections seems to have been smaller than the campaign costs in 2000. Even so, the APD monitoring campaign estimated the total spending to have surpassed by € 2.3 million the amounts the main parties officially reported.

The 2006 law brings two important modifications. First, it requires political parties to provide detailed financial reports with respect to their revenues and expenses at constituency level. Second, the control mechanisms are strengthened by introducing discounts within the private donation category and by fostering harsher punishments for disobeying the law. The steady economic growth that Romania registered until 2008 is reflected also in the exponential increase of the money spent by the three main parties: the PSD and, especially, the PDL and the PNL in the campaign for the general elections held in that year (table 4). Due mainly to the significant increase of control and the strict regulation of the spending caps, achieved through this law, at the 2008 local elections the amounts of money declared by the parties have for the first time coincided to a large extent to the APD monitoring (APD 2008). This is why the organization did not monitor anymore the campaign spending at the general elections held that same autumn.

An important pattern regarding the campaign spending of the Romanian parties can be identified with respect to their incumbency or opposition status. Unsurprisingly, parties that governed either alone or in coalition governments, tend to have more money at their disposal and accordingly to spend more than their counterparts in the opposition. Figure 1 shows that this was the case with both the PNL and the PDL (who

governed in the extended CDR coalition between 1996 and 2000 and again after the 2004 elections). PRM is the only party represented in the graph that did not join any government coalition in the most recent decade. Its funds stay relatively constant for 2000 and 2004, and dramatically decrease (see table 4) for 2008.

Table 4: Campaign expenditures in Euros* at the 2008 parliamentary elections

Parties and Alliances	Declared	Neutral evaluations
PDL	6,913,041	NA
PSD+PC	6,126,136	NA
PNL	6,421,546	NA
PRM	122,200	NA
UDMR	855,234	NA
PNG-CD**	341,830	NA
Total	20,779,987	NA

Notes: *All sums are converted in Euros. ** Extra-parliamentary party

PDL: Democratic Liberal Party, PSD: Social Democratic Party, PC: Conservative Party, PNL: National Liberal Party, PRM: Greater Romania Party, UDMR: Democratic Alliance of Hungarians in Romania, PNG-CD: Christian Democratic New Generation Party.

Source: Official data from the Romanian Permanent Electoral Authority

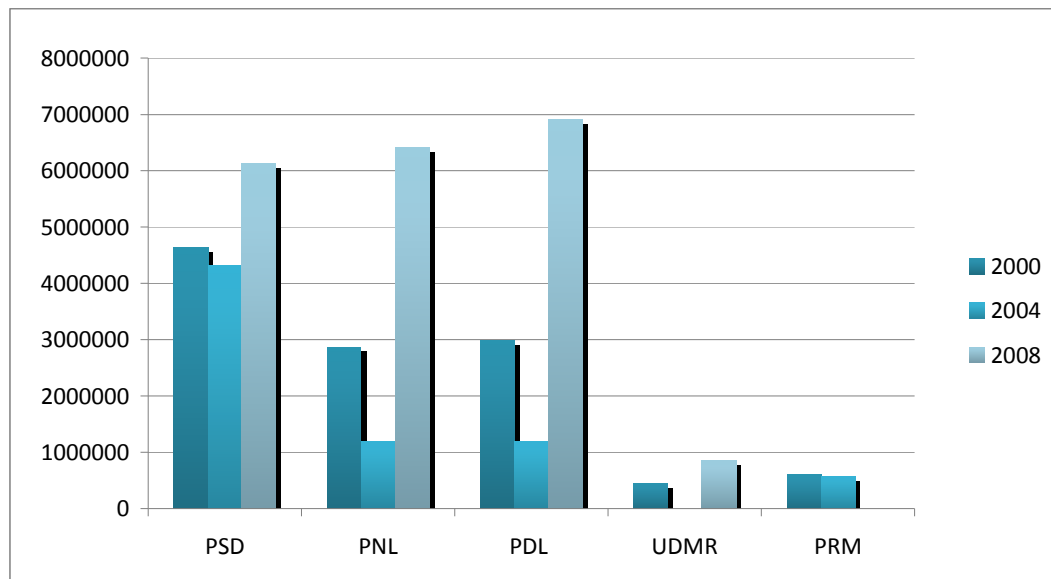
Unlike them, PSD represents the exception – with constantly high spending irrespective of whether the party governed or not. There is a rather unambiguous explanation for this. On the one hand, PSD enjoys the largest number of members (Gherghina 2009) and consequently can rely more on their contributions. On the other hand, the party has had for the whole post-communist period the leading number of locally elected representatives (mayors, county councils presidents etc) and has developed well-functioning clientelistic networks (Gallagher 2005). This was possible mainly because PSD is the direct successor of the Romanian Communist Party, from which it inherited a gigantic organizational structure, including many of its activists.

The quasi-insignificance of the extra-parliamentary parties' campaign spending after the 2000 elections explains why they were excluded from the APD monitoring reports. Accordingly, another trend that can be observed in relation with these electoral spending cycles is that the decreasing number of parties represented in Parliament (if we take the 1996-2000 legislature as reference point⁸) brought also a substantial decrease in the money extra-parliamentary parties spent in their campaigns. The most

⁸ There were six political actors which gained representation at the 1996 parliamentary elections (three of them being coalitions). In 2000 this number decreased to five, and then to four in 2004 and 2008.

plausible explanation for this situation is that businessmen have become increasingly reluctant to finance the campaigns of challengers in light of the latter's small chances to surpass the 5% threshold and considering also the APR's 2000 disaster, which happened in spite of heavy spending. The only exception to this trend is represented by the New Generation Party (PNG), the political toy of the controversial businessman and currently Member of the European Parliament, George Becali. PNG unsuccessfully spent more than one million Euros at the 2004 and 2008 general elections.

Figure 1: Campaign Spending of the Major Parliamentary Parties



Campaign Financing and 'The Honey Jar' of Public Money

Despite the obvious progress with respect to the declaration of unknown sources of money from private donations, the laws on party funding cannot cover the entire spectrum of tricks political parties have devised to abuse state resources. This section provides a few illustrative examples of corruption, emphasizing how political parties used public money in an indirect manner that bypassed the law. None of these examples resulted in the punishment of the people or institutions responsible.

In the context of the 2003 prohibitive law, one of the most notorious corruption scandals over campaign finance regarded the 2004 presidential elections. More specifically, it tackled the way in which Adrian Năstase, Prime Minister between 2000 and 2004 and PSD's candidate in the 2004 presidential elections, obtained some of his

campaign funds. Under his government, an official agency, *The State Inspectorate in Constructions* organized a competition, named the 'Quality Trophy in Constructions' for state companies and state monopolies, even if they had little to do with constructions – like the National Veterinary Agency or ROMSILVA (The National Authority for Forests). These state companies had to pay a considerable participation tax and in the end 1.74 million Euros was collected from the 'workshop'. According to the *National Department for Anticorruption*, the resulting funds were collected by four private companies in exchange for fictitious services. The operation also included several money laundering maneuvers. Finally, half of the entire sum was spent on buying personalized propaganda materials for Năstase's campaign: from lighters to t-shirts (Mediafax 2009).

At the end of September 2008, two months before the parliamentary elections, Prime-Minister Călin Popescu Tăriceanu (PNL) allocated more than € 273.7 million from the budget at the disposal of the government to correct financial disequilibria of mayoralities all over Romania (Governmental Decision 11555/2008). His cabinet was at the time a minority government tolerated by the Social Democrats, in exchange for favorable resource distribution and acceptance of certain law amendments.

Hence, the pre-electoral money allocation almost exclusively targeted those localities that had PNL and PSD mayors. The measure comprised two objectives. The first was to encourage mayors to mobilize their activists well for the incoming parliamentary elections, while the second was to give the two parties' candidates arguments (about future similar pork allocations in those SMDs) for the electoral campaign. To take a random example, in the Teleorman county, out of the total amount of 15,152,000 Euros distributed by the government, less than 347,000 Euros was allocated to the 17 towns and villages ruled by PDL mayors (out of which 8 received nothing). The rest was more or less equitably distributed between the 27 liberal localities and the 52 controlled by PSD mayors. On a national scale, according to the declarations made at the time by the Democratic Liberals' president, E. Boc, the 908 PDL mayors received 31 million Euros compared to the 146 million Euros directed to the 1100 PSD mayors (*Foaia Transilvană* 2008).

Another recurrent practice for the entire period analyzed here is the scenario in which the most generous campaign donors of the parties that will form the government/ the presidential party are rewarded with lavish public contracts and political protection from unfavorable judicial decisions. This definitely triggers a perception of corruption

practices, even if they may not be legally punishable. In this sense, one of the most telling cases is that of the Cluj-based businessmen, Arpad Paszkany, who officially donated 340 thousand Euros to the 2008 parliamentary campaign of the PDL. Previously, the PDL authorities of Cluj (main city in Transylvania) endowed Paszkany with the leasing under very advantageous conditions of more than 200 hectares for his real estate developments (*Financiarul* 2008). At least one of these transactions included illegal transfers, blackmails and money laundering, facts for which Paszkany has become the subject of an official investigation. In this context, President Băsescu intervened in his favor in 2006, writing a note to General Attorney Laura Kovesi in which he referred to the businessman as an ‘honest citizen’ and urged ‘analysis and a legal solution to the case’ (Savaliuc 2007). In the same category of party sponsors that received huge public deals, one should also include the sanitary companies and those in charge of road building. They are ranked first among the donors of the governmental party, PDL and in turn they have been offered contracts for extended periods – up to 15 years. Many of these activities imply consumables, which are then easily over-estimated so as to boost the costs artificially, while the proofs of their ‘consumption’ are by definition unavailable (Nitu 2009).

From 1990 until 2008 all parliamentary elections took place in a closed proportional representation electoral system. Then, the candidates who were better positioned on the party ballot had to contribute substantially to the costs of the common campaign. Indeed, this was shown to hold true even for generally unattractive elections, such as those for the European Parliament (Gherghina and Chiru 2010). The introduction of SMDs at the 2008 elections meant also the replacement of the general party campaigns from the PR era, conducted with unique political advertising materials for all the candidates present on the party list, with personalized campaigns. The consequence was a partial shift which moved the financial burden away from the party and the most privileged candidates, to a more balanced distribution in which the vast majority of those running had to contribute (Chiru 2010). In this context it is not surprising that approximately 100 politicians donated to the campaigns (PNL, PDL and PSD) sums several times larger than the revenues they reported to have obtained during their entire year (Şercan 2009).

As a final remark, the exponential increase in campaign spending in 2008 can certainly be perceived as one of the main causes for the all-encompassing patronage

scheme implemented by the grand coalition PDL-PSD and then by PDL alone, a move which exceeded everything the Romanian parties had managed before. Although partisan appointments at all administrative levels have been quite common for the entire post-communist period, the 2009-2010 operation was several times larger in scope, reaching even the management of publicly financed local sports clubs. In this way, party sponsors and activists were rewarded for their money and efforts. Beyond the de-professionalization of public management the partisan sackings and appointments generated thousands of lost trials for the state and a schizophrenic situation in which politically backed directors continue to run agencies despite the fact that the courts obliged the re-hiring of the dismissed directors.

Summing up, Romanian parties have indeed developed ingenious tools to indirectly obtain and use state resources for electoral purposes. These practices include partisan tailored transfers of money from the government to own constituencies prior to elections; offering lavish public contracts to campaign sponsors; relying on large-scale patronage to reward party sponsors and activists and making state agencies contribute indirectly to campaign funds under the guise of innocent workshops. As long as the judiciary remains ineffective and politicized - as it is at present - any hope that this situation will improve is rather vain.

Conclusion

Our paper represents the first systematic attempt to map the evolution of the legal regulations concerning campaign financing in Romania and link them with corruption practices parties have been engaged in. Four main findings are directly observable. First, the regulations of party financing fulfilled collateral goals such as dividing the opposition, putting an obstacle to the use of private money of opposition leaders, or reducing access to public money by extra-parliamentary parties. As a result, there has been no new entry in the Romanian legislature since 1992 and the parliamentary parties have access to more than 90% of public money (although the redistribution mechanisms differed in the 1996, 2003, and 2007 laws). Second, when the legal framework was loose (e.g. the first post-communist decade), corruption targeted mainly the usage of private donations not properly regulated. As time passed, the legal provisions became specific and thus narrowed the spectrum of illegal financial activities. As a consequence, the level

of discrepancies between the declared and observed figures decreased considerably as soon as restrictive laws got into effect.

Third, given the changing character of legal modifications – indicating a longitudinal learning process of legislators – the nature of corruption issues diversified. It comes as no surprise that those promoting the laws (i.e. incumbent parties) reaped the greatest advantage from them. The most recent examples indicate how public money is used for campaigning through the indirect channels of contracts given to sponsor companies. Finally, our analysis implies that the difference between public and private money diminishes as time passes by. Whereas we explained how private money represents the sole resource to fill the financial gap in Central and Eastern Europe, the Romanian experience indicates that private donations are encouraged by the use of public money. Such an intertwined process reveals the complex web of corruption procedures at hand to the contemporary Romanian parties.

The first relevant contribution that this paper makes to the scholarship on party finance consists in illustrating how a general increase in the complexity of the legal framework regulating campaign spending in Romania had a positive impact on reducing corruption. We did so through document analysis of the main party funding laws and then by comparing the officially declared campaign costs and those that the largest civic NGO in Romania estimates as the real ones by. At empirical level, we have emphasized the main corruption practices developed by the Romanian parties to indirectly obtain (and use) state resources for their own electoral purposes. The list presented is by no means exhaustive, but it certainly captures the most widely-used methods of directing public money into campaign coffers. These practices were successful despite the more and more complex legal framework that attempted to prevent them.

One limitation of the study resides in the fact that we have relied on a single source of data – which might imply a reliability problem if the APD coders had biases in certain directions. Although there are no reasons to believe that this was the case, alternative data are desirable. We have tried to compensate for this shortcoming by the use of qualitative assessments – based on media reports – and declarations of party officials.

Further directions of study can consider the impact of institutional changes on corruption practices. Apart from the legal framework under scrutiny in this paper, there are numerous changes that may influence the intensity of directing public money to

political parties. One such example is the recent modification of the electoral system (2008) in which the combination of SMD voting and PR requires party organizations to share responsibilities, finance, and visibility with their individual candidates. A second direction of research can focus on the consequences of various levels of corruption in party funding. For example, to what extent the amounts of money acquired through illegal practices determine parties to engage in state colonization through patronage and clientelism.

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