

# The Czech Legislative Election of 2017 and the New Regulations of Political Finance

Vít Šimral\*

**Abstract:** *The present report focuses on the campaign before the 2017 election to the Chamber of Deputies of the Parliament of the Czech Republic. First, it discusses the legal development of Czech political finance before the major reform in 2016. Second, it describes changes in the regulatory framework of Czech elections that were adopted before the campaign. Third, it looks at the level of transparency of election campaigns by major contenders in the election and illustrates to what extent the reform was successful in increasing the overall level of transparency. Finally, the overall impact of the reform is shortly assessed and further steps towards a better regulatory framework proposed.*

**Keywords:** *Election campaign 2017, Czech republic, Regulatory framework of Czech elections, Transparency of election campaigns*

## Introduction

The Czech Republic experienced its ninth general election since the 1989 regime change in October 2017. While the electoral system has remained virtually the same since the first election to the Chamber of Deputies<sup>1</sup> in 1990, regulations

\* This research was supported by the Czech Science Foundation, project No. 16-25570S "Political Financing in Central Europe on the National and the Sub-National Level".

on campaign finance have changed significantly. A major reform bill was adopted in 2016, after a long debate amongst politicians and experts on how to best achieve a transparent environment for the funding of political parties and election campaigns.<sup>2</sup>

The reform came in force on 1 January 2017 and covered all elections in the Czech Republic — to the Chamber of Deputies, Senate, European Parliament, regional assemblies, and the Office of the President — except for the election to municipal assemblies. The reform focused on the supervision of political parties, but did not omit independent candidates in the presidential and in the Senate elections. The new rules were tested for the first time in practice in October 2017.

## The Development of the Legal Regulations before 2016

The Czech model of political finance deals primarily with political parties and only secondarily with independent candidates. Political parties are heavily subsidized by the state. The share of state funding in of large political parties oscillates between 40 and 70 per cent (Šimral 2016, 684) and the 2016 reform did not change it. While the election threshold in the Czech Republic is estimated at 5 per cent, state subsidies are also allocated to parties who have not managed to enter a representative body. The current Law on the Association in Political Parties and Movements was adopted in 1991, which establishes a) a permanent contribution to parties which received at least 3 per cent of the vote in elections to the Chamber of Deputies, b) a mandate contribution to parties with at least one candidate elected to the Chamber of Deputies, with further amendments also introducing contributions for mandates in the Senate (Law 117/1994 Coll.), regional assemblies and the Prague Municipal Assembly (Law 340/2000 Coll.). Two other laws crucial for the regulation of Czech political parties, the Law on Election to the Parliament and the Law on Election to the European Parliament, were adopted in 1995 and 2000, respectively. These laws establish contributions towards expenses incurred in connection with elections to the Chamber of Deputies, for parties which received at least 1.5 per cent of the total vote (Section 85, Law 247/1995 Coll.), and in connection with elections to the European Parliament, for parties over a 1 per cent threshold (Section 65, Law 62/2003 Coll.).

The system of state subsidies indicates the prominent role the Czech party regulations assign to the Chamber of Deputies: first, for the Chamber of Deputies, the contribution towards expenses stands at 100 CZK per vote to parties which received at least 1.5 per cent of the total of all valid votes. For the European elections, the contribution equals only 30 CZK per vote to parties over a 1 per cent threshold. Second, mandate contributions today amount to 900,000 CZK annually per MP and per Senator, while contributions for mandates in regional assemblies and in the Prague Municipal Assembly stand at only 250,000 CZK annually per Assembly

person. Third, the Chamber of Deputies previously also functioned as the central supervisory body over the activities and funding of all political parties. Specifically, it was the Chamber's Supervisory Committee. The review process was very liberal: parties' books were inspected and checked for financial irregularities by independent private auditors chosen by the parties themselves. The Committee focused mostly on monitoring whether the required amount of standardized forms was received, since it did not have the capacities or the legal powers to perform a thorough investigation of parties' property and activities. The supervisory work carried out by the Committee was thus more of a matter of protocol than a genuine scrutiny of capital flows.

## The 2016 Reform

The 2016 reform of the Law on Political Parties and of electoral laws changed the model of supervision. The work of the Supervisory Committee is now carried out by a new, independent body, the Office for Supervision of the Economic Management of Political Parties [*Úřad pro dohled nad hospodařením politických stran a hnutí*]. It oversees the financial dealings of political parties and the conduct of election campaigns, possesses tools for proactive supervision and the power to fine offences against the law. It is comprised of 1 chairperson and 4 members, nominated and elected by the Chamber of Deputies, the Senate, and the President of the Supreme Audit Office and appointed by the President of the Czech Republic (Section 19-19e, Law 302/2016 Coll.).

In addition to the change in the supervisory mechanism, the reform targeted three specific issues on the side of private income to political parties. These issues were previously assessed to keep the overall level of transparency of Czech political finance low (see, e.g., Šimral 2015): first, there were frequent instances of political advertising being paid by unknown third parties, with no direct financial link to political parties or their representatives. Some parties used private, unsanctioned political campaigns, carried out outside of the official budgets of political parties and only detectable by private media monitoring companies. A second problem, closely related to the previous, were discounts obtained on products and tools used for political campaigns. There was evidence of large discounts for political parties and their candidates by some Czech media companies; in effect, such discounts functioned as indirect material support for parties and skewed significantly the financial data on costs of political campaigns. (see, e.g., Mediář, 27 November 2012). Third, the real identities of party donors were often carefully hidden. The use of dummies and slush funds and their uncovering by journalists led in December 1997 to a government crisis and the subsequent fall of Prime Minister Klaus (see, e.g., Rutland 1998, 83–4). Large donations, originating from one donor, were also divided into

several smaller ones, using a network of party colleagues, personal friends or family relations. Since the law also allows for company donors, many private businessmen chose to financially support parties through one of their companies.

Apart from the establishment of the Office, the reform therefore included other significant amendments. In order to more easily identify the donors, all donations to political parties and independent candidates in the Senate and presidential elections now go to transparent bank accounts, i.e., accounts continually accessible by the public via the Internet. To identify who is behind campaigns not carried out by parties themselves, third persons, who wish to campaign independently, have to register with the Office of Supervision. Parties, candidates, and third persons are also required to submit new post-election campaign reports. Moreover, they can be fined directly by the Office of Supervision for their transgressions against the law and can only appeal to the court. Finally, spending caps have been introduced to all types of elections with the exception of local elections. Elections to municipal assemblies, including the Prague Municipal Assembly, fall outside the scope of the reform, which remains a point of criticism by international experts and organizations (see, e.g., GRECO 2016).

The entire reform and its major characteristics are sketched out in Table 1, where it is compared with the regulatory frameworks of other Visegrad countries.

**Table 1: Political Finance in the Visegrad Countries (December 2017)**

	Czech Republic	Hungary	Poland	Slovakia
State Funding for General Elections	900k CZK per seat; permanent subsidy over 3 %; 100 CZK per vote over 1.5 %	amount decided per law; 75 % to parliamentary parties, 25 % to all over 1 %	Dotacje podmiotowa for all parliamentary parties and coalitions, all expenses divided by 560 and multiplied by seats taken; dotacje celowa to all parties over 3 % and coalitions over 6 %, rates per vote share	20–30 * monthly average wage per seat; 1 % of monthly average wage per vote to parties over 3 %; permanent contribution equals contribution for votes to all over 3 %
State Funding Other	30 CZK per vote over 1 % in European elections; 900k CZK per Senate mandate, 250k CZK per regional or Prague mandate	subsidy to political foundations of parties consecutively in parliament; approx. €180 subsidy to all candidates in parliamentary election	X	X

	<b>Czech Republic</b>	<b>Hungary</b>	<b>Poland</b>	<b>Slovakia</b>
Disclosure	all donations go to transparent bank account; annual and post-election reports online	donations only from Hungarian citizens; all donors over 500k HUF published in reports; annual and post-election reports	permissible donations only from physical persons; annual and post-election reports published on PKW website	all donations published quarterly on party website; annual and post-election reports online
Monitoring Body	independent Office, appointed by Parliament, President, SAO President for 6 years	State Audit Office, appointed by National Assembly	independent National Electoral Committee, current high judges appointed by President until they turn 70	State Committee appointed each election cycle, 10 members nominated by parties, 4 outside members
Spending Caps	90m CZK in election to Chamber of Deputies; 2.5m CZK per Senate seat; 50m CZK in European elections; 7m CZK for each region in regional election; 50m CZK in presidential election	5m HUF per one candidate in parliamentary election	voters * 0.82 PLN for Sejm, voters * 0.18 PLN for Senate, voters * 0.60 PLN for European election, 0.30-0.60 PLN for local election	€3m in national and European election, €500k in presidential and regional election, €250k in Bratislava mayoral election, up to €100k in local election
TI CPI 2016	55	48	62	51
Average Annual Income of the Party System 2003–15 (mill. USD)	58	37	60	12
Subsidized Parties	32	5	8	10
Eff. Parties Average 1990–2016	4.1	3	4.3	4.5
Registered Parties	210	128	85	158

Sources: Compiled by Author; Transparency International; Corruption Perceptions Index.

## The 2017 Campaign to the Chamber of Deputies

The 2017 campaign to the Chamber of Deputies was the first real-world test of the new regulatory framework and of the new Office of Supervision. The campaign officially began on 2 May 2017, when the President's decree to call the election to the

Chamber of Deputies was promulgated in the Collection of Laws. Since that date, the spending limit and other legal requirements, such as the exclusive use of an official transparent election bank account or the signing of all campaign materials, applied.

The Office of Supervision, despite some technical problems caused by its late physical establishment and the late appointment of its all members (Česká televize, 9 December 2016; Respekt, 12 August 2017), managed to begin its work on time and from the earliest phase of the campaign functioned as the main interpreter of the law for political parties. The Office conducted its first two seminars for party campaign managers on 20 June and on 30 August, where ambiguities in the law were discussed. The Office also set up a comprehensive F&Q section on its website, where it analyzed and answered further questions about the regulations.<sup>3</sup>

In total, 31 political parties were involved in the 2017 election, 22 of them in all 14 electoral districts (i.e., 13 regions and the Prague capital). The sum of all expenses from transparent election bank accounts registered at the Office of Supervision shows that political parties spent on their campaigns together around 490 million CZK.<sup>4</sup> Moreover, a total of 59 third persons registered with the Office ([udhps.sh.cz](http://udhps.sh.cz)). Their expenses cannot be precisely estimated before they publish their post-election reports in January 2018, since not all of them have registered their bank accounts; in all probability, only a few of them reached the legal spending cap of 1.8 million CZK (Section 16e, Law 247/1995 Coll.).

Two domestic NGOs conducted independent monitoring of the 2017 campaign: the Reconstruction of the State coalition, which also entered the campaign as a registered third person, and the Czech Chapter of Transparency International. The first began a crowd-sourced website, where anyone could upload pictures of political advertising to assess whether these adverts carried the required identification data.<sup>5</sup> The latter used its time-tested monitoring methodology to estimate the prices of outdoor campaigning and the level to which political parties kept to both formal and formal requirements of transparent finance.<sup>6</sup>

Both NGOs showed that some of the major problems that plagued the Czech system of political finance previously, were not fully resolved by the new rules. The Reconstruction of the State website finally recorded 54 campaigns with no or insufficient identification data ([Fervolby.cz](http://Fervolby.cz) 2017). Among these were campaigns conducted by non-registered third persons, but also campaigns conducted by political parties. The monitoring project of Transparency International revealed that some parties managed to secure significant discounts for their advertising, disregarded the new rules and did not report these discounts as non-financial donations (Transparency International, 18 October 2017). Finally, information on donors to campaigns could still be hidden from the public eye as well as from the Office of Supervision and would be published in more detail only in the post-election reports and parties' annual financial reports, expected in January 2018.

The campaigns of three parties, which scored lowest in the transparency ranking established by Transparency International, illustrate the simplest ways to get around the new rules. *Realisté*, a party set up in November 2016 around the Czech-German political scientist Petr Robejšek and the businessman Marek Dospiva, paid only 23 million CZK for advertising, while the standard price for the same amount of advertising space, estimated by Nielsen Media, stood at over 50 million CZK (Transparency International, 18 October 2017). SPD, the anti-immigration party led by the Czech-Japanese political entrepreneur Tomio Okamura, did not mark the vast majority of their outdoor advertising with the required identification data, claiming that all their posters and billboards were the responsibility of their supporters who independently put them up without the party's supervision.<sup>7</sup> The structure of donors to SPO, the party of President Miloš Zeman's closest supporters and collaborators, remained largely hidden until after the election, when the party publicly recorded half of their campaign expenses ([transparentnivolby.cz](http://transparentnivolby.cz)).

The other side of the spectrum, scoring the most points for their transparency, was occupied by the Green Party, Pirate Party, STAN, and TOP 09. The ANO movement, Civic Democrats (ODS), Social Democrats (ČSSD), Communist (KSČM), and Christian Democrats (KDU-ČSL) ended up in the middle, funding their campaigns in a semi-transparent manner. When the ranking of the parties is compared with the transparency ranking created by Transparency International for the 2013 election to the Chamber of Deputies (Transparency International 2013), it is virtually the same. This might indicate that the 2016 reform did not affect the behaviour of the parties themselves. The actual levels of campaign funding transparency were still largely driven by the parties' own efforts to be transparent, or a lack of it.

## The Results of the 2017 Election and Further Reforms

**Table 2: Results of the 2017 Election to the Chamber of Deputies**

Party	Vote (%)	Seats
ANO	29.6	78
ODS	11.3	25
Pirate Party	10.8	22
SPD	10.7	22
KSČM	7.8	15
ČSSD	7.3	15
KDU-ČSL	5.8	10
TOP 09	5.3	7

Party	Vote (%)	Seats
STAN	5.2	6
Free Citizens	1.6	0
Green Party	1.46	0

Source: volby.cz

Table 2 shows the result of the 2017 election. There is no significant statistical correlation with the Transparency International ranking of transparent campaign funding. While the Pirate Party, with their emphasis on anti-corruption issues and transparent politics, succeeded, the Green Party did not even reach the 1.5 per cent threshold needed to secure the state contribution towards expenses incurred with the election campaign. The other two parties ranked as transparent, TOP 09 and STAN, managed to enter the Chamber of Deputies, but between them lost 13 seats from the previous election. On the other side of the ranking, SPD, funding-wise one of the least transparent parties, rose to 22 seats and matched the Pirate Party.

It is still early to fully assess the quality of the new rules on political finance that were adopted in 2016. With the possible exception of the success of the Pirates, transparency of campaign funding did not affect the final result of the election to a significant degree. The Office of Supervision, however, already fined 18 political parties for transgressions against campaign funding rules. Moreover, in October 2017, it initiated administrative proceedings against 121 parties that did not open transparent bank accounts or/and did not transform their day-to-day accounts to comply with the new law. These actions of the new Office may very soon have a momentous impact on the Czech party system. First, many of those 121 parties, if they did not comply in time, will be deleted from the official register, which will lower the number of existing parties by half. Second, once the Office successfully completes their proceedings concerning campaign funding offences and wins potential court cases, it will set an important precedent. Czech political parties will be, for the first time in history, financially penalized for non-transparent funding.

That being said, the maximum legal limit for these fines, 300,000 CZK (Section 16h, Law 247/1995 Coll.), is quite low, especially when compared to the annual budgets of the parliamentary parties. Possible future reforms should increase the amount. Furthermore, the law should be amended so as to also allow for regulation and direct supervision of business corporations connected to political parties. These corporations are heavily involved in the production and management of campaigns and election expenses are commonly channelled through them. Finally, rules for municipal elections in large cities, such as Prague, Brno, or Ostrava, should also be tightened and their campaigns, costing millions, monitored by the Office of Supervision.



## Notes

- <sup>1</sup> Known as the Czech National Council until 31 December 1992.
- <sup>2</sup> The reform is comprised of Laws 302/2016 and 322/2016 Coll.
- <sup>3</sup> <http://udhpsch.cz/dotazy-odpovedi-poslanecka-snemovna/>.
- <sup>4</sup> As of 1 December 2017.
- <sup>5</sup> <http://fervolby.cz/>.
- <sup>6</sup> <http://www.transparentnivolby.cz/>.
- <sup>7</sup> An anonymous source knowledgeable about the ongoing administrative case (December 2017).

## References

- Česká televize. 9 December 2016. "Úřad dohlížející na strany má fungovat od ledna. Nemá lidi ani sídlo." <http://www.ceskatelevize.cz/ct24/domaci/1977649-urad-dohlizejici-na-strany-ma-fungovat-od-ledna-nema-lidi-ani-sidlo>.
- Fervolby.cz. 2017. [https://fervolby.cz/report\\_list?elections=PARLAMENT\\_2017&person\\_identification=UNKNOWN](https://fervolby.cz/report_list?elections=PARLAMENT_2017&person_identification=UNKNOWN).
- GRECO. 2016. 3rd Interim Compliance Report, 3rd Evaluation Round Czech Republic. Strasbourg, 12 February 2016.
- Mediář. 27 November 2012. Ondřej Aust. "Na inzerci v tisku dostává prezidentský kandidát Fischer slevu průměrně 80,5 %." <http://www.mediar.cz/na-inzerci-v-tisku-dostava-prezidentsky-kandidat-fischer-slevu-prumerne-80-5-pct/>.
- Respekt, 12 August 2017. Andrea Procházková. "Po volbách se uvidí." <https://www.respekt.cz/tydenik/2017/33/po-volbach-se-uvidi>.
- Rutland, Peter. 1998. *The Challenge of Integration. Annual Survey of Eastern Europe and the Former Soviet Union*. EastWest Institute. Armonk, NY: M. E. Sharpe.
- Šimral, Vít. 2015. *The Funding and Oversight of Political Parties and Election Campaigns in East Central Europe*. Brno: Frank Bold.
- Šimral, Vít. 2016. "Proměny českého stranického systému ve světle účetních knih politických stran." *Sociologický časopis* 5/2016. 679–708.
- Transparency International. 2013. <http://www.transparentnivolby.cz/snemovna2013/>.
- Transparency International. 18 October 2017. "Utratit v kampani hodně peněz vám nezaručí, že budete vidět. A že jste vidět vám nezaručí, že se o vás bude mluvit." <http://www.transparentnivolby.cz/snemovna2017/utratit-kampani-hodne-penez-vam-nezaruci-ze-budete-videt-ze-videt-vam-nezaruci-ze-se-vas-bude-mluvit/>.
- Law 424/1991 Coll., on the Association in Political Parties and Movements.
- Law 117/1994 Coll., amending the Law on the Association in Political Parties and Movements and other laws.
- Law 247/1995 Coll., on Election to the Parliament.

Law 340/2000 Coll., amending the Law on the Association in Political Parties and Movements and other laws.

Law 62/2003 Coll., on Election to the European Parliament.

Law 302/2016 Coll., amending the Law on the Association in Political Parties and Movements and other laws.

Law 322/2016 Coll., amending electoral and other laws.