Magnus Ohman
Ukraine-Political Finance Reforms 2015
Transcript

Magnus Ohman: I'm Magnus Öhman, Senior Global Political Finance Advisor at the International Foundation for Electoral Systems, or IFES, and I've been working with issues around money and politics, political finance, campaign finance, since the 1990s. I want to start with a few words about why working on campaign finance, more broadly political finance, is a relevant part of supporting electoral processes. While it is essential that elections are run technically well, with efficient administration and independence, elections can only further democracy if actors cannot buy the electoral outcome.

This is not an expression of naivety. It is true we can never get rid of money in the electoral process. Indeed, if we try, we are more likely to succeed in getting rid of democracy. Having said this, regulations, when implemented, can help in reducing the advantages that wealthy interests can get over elections and so level the playing field, at least somewhat. Equally importantly, through increased transparency, voters can get information about how those wishing to run their country or their locality raise and spend money, and the voters can take this information into account when they go to the polling station.

This is why working on political finance is an essential part of election assistance, and I'll give an account of an example of this, the efforts made in Ukraine, roughly from the 2015 reforms until the start of the Russian war of aggression. Money has been a major part of Ukrainian politics since independence. This is nothing unique for Ukraine, but it is important to realize that the specific role that money plays in the political process varies significantly between countries.

If we take the Ukraine as an example, unlike in many countries in the region, incumbent presidents have not been able to use the resources of the state to be reelected. In fact, it's only happened once that a Ukrainian president has been reelected, and that was back in 1999 when Leonid Kuchma won a second term.

This does not mean that money has not played an important role in Ukrainian politics and in Ukrainian elections. You can argue that the high turnover of presidents has been connected to what citizens expect from their politicians, the activities of oligarchs in Ukrainian politics over the years. And please note, by the way, that I'm simplifying radically here. These are issues about which whole books have been written. So to get a background of the money in Ukrainian politics, it's valuable to look at what the Group of States Against Corruption, commonly known as GRECO, wrote in their evaluation of party finance in Ukraine back in 2011. GRECO is an advisory body to the Council of Europe.

GRECO concluded that, and I quote, the "current regime suffers from the lack of effective external supervision of the legal regulation of political funding."[1] End quote. And in 2013, GRECO concluded that none of the nine recommendations that they had made had been

[1] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806ca325 page 26.

implemented.[2] So there had been movements for reform in place for quite some time in Ukraine, but this didn't really pick up pace until the Euromaidan in 2013-14.

This led to significant legal reforms in 2015 and '16 on how funds could be raised, how they could be spent in politics and elections, and importantly, how this would all be monitored, and how information would be made public. There were a lot of legal changes, and this is not the place to go through them all. It should also be stressed that the legal reforms themselves did not substantially change the situation. This was all related to how they would be implemented in practice.

I should mention one regulatory reform, though. This was the public funding of political parties. This was introduced as part of this package with the idea to reduce the dependency of Ukrainian political parties on oligarch financers. Admittedly, there were some provisions for public funding of political parties already before, but there was great legal uncertainty regarding the situation.

And the provision of public funding is directly relevant to the topic of enforcement of regulations, since withholding public funds can be an effective tool to penalize violations of the different regulations. And indeed, this has happened several times in Ukraine in recent years.

In the interest of focusing on political finance oversight, we will focus on one of the most important reforms, the creation of the National Agency on the Prevention of Corruption in 2015 or '16, NAPC. The acronym was changed later on to NACP, but since we are talking about a time when in the beginning, I will use the acronym NAPC predominantly. It's interesting to note that when GRECO did a second compliance report on Ukraine in 2015, they stressed that, and I quote, "The true independence of the NAPC still remains to be seen, as well as to what extent it will be adequately funded and equipped with the staff and tools necessary to carry out this function."[3]

The NAPC didn't only focus on political finance, they still don't, but it is a significant part of their mandate. Also note that to some extent, this mandate is shared with the Central Election Commission, especially when it comes to campaign finance. The NAPC started working on the implementation of the new legal framework, and they made significant strides forward.

They sometimes got it wrong. In some cases, they unfortunately ended up going from no regulations to solutions that were too complicated. For example, pretty much the only way to make a financial contribution to a political party was to go to a bank office and fill in various forms, forms that the bank offices often lacked. This understandably went directly against the idea of grassroot funding that it was hoped would play. Understandably, this went directly against the idea of grassroot funding that it was hoped would play at least a certain role in the financing of Ukrainian political parties.

---

[2] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806ca327 page 20.
[3] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806ca329 page 16.

In addition, while the new legal framework clarified the situation regarding in-kind donations, before that, we didn't even know if they were permitted or not. The approach that NAPC developed to put a price tag on such donations was way too complicated.

About international assistance to political finance integrity in Ukraine. IFES reached out to the nascent NAPC. Our first meeting was actually held even before the agency had been provided with an office by the Ukrainian government. Our first meeting was in a cafe, and the first plan for IFES assistance to the NAPC was developed in May 2016. IFES became the key partner to NAPC in political finance oversight. There were some concerns about the effectiveness of the agency, and the assistance was put on hold for a brief period.

But over time, the NAPC or NACP has proven an impressive institution, often working in difficult circumstances. A leading role in the cooperation between IFES and NAPC was played by Oleksii Sydorchuk, who had been writing about Ukrainian political finance even before the reforms. Later on, this role was taken over by Igor Feschenko, who had previously worked for Chesno, which is a leading Ukrainian civil society group that focuses on political finance, among other issues.

It quickly became clear that work in this field required a holistic approach, though, and that coordination between donors and implementers would be needed. So to achieve this, the subgroup was created to the Donor Coordination Committee on Democracy and the Donor Coordination Committee on Corruption. This subgroup focused specifically on work relating to political finance. The group first met in July 2016. Between then and late 2021, the group met a total of 14 times, hosted by the IFES offices in Kyiv.

And the Embassies of Canada, the UK, and the US were regularly represented in these meetings, as was the Council of Europe, the European Union, and UNDP. Among implementers, apart from IFES, International IDEA, NDI (National Democratic Institute), the Open Society Initiative, and many implementers of different EU-funded projects participated in these meetings. And among Ukrainian stakeholders, the NAPC was present in effectively all the meetings. And frequently, civil society groups like CENTR UA (Center of United Actions), CVU(Committee of Voters Ukraine), and OPORA also participated in the meetings.

On the initiative of the IFES Country Director, Peter Erben, this subgroup created a common assistance strategy, in 2016, for the main donors and implementers, informed by input from Ukrainian public and civil society institutions. The strategy aimed at establishing the needs that existed for different Ukrainian stakeholders on political finance.

Through this, we could determine what support that was missing in the combined efforts by donors and implementers, and where overlaps might exist. One of the Ukrainian stakeholders that the assistance strategy focused on was parliament, Verkhovna Rada, where activities included input on legal reforms that had been implemented, how well these actually worked in practice, and the sharing of experiences of legal solutions found in other countries.

Various organizations worked on this topic. One I should mention was the Westminster Foundation for Democracy, that carried out important research on political finance in Ukraine in 2016, providing input for parliament to consider. The next stakeholders were the public institutions mandated to oversee compliance with political finance regulations, primarily the NAPC and the Central Election Commission.

IFES carried out a series of closed-door trainings of staff for these institutions using the Training In Detection and Enforcement (TIDE) curriculum. This training took place in Kyiv, although after the war started, they continued to be held through the IFES Regional Europe office in the Czech Republic. Many activities also focused on assistance experience sharing between the Ukrainian institutions and their counterparts in similar countries, and on supporting their engagement with different Ukrainian groups.

Another Ukrainian stakeholder in the joint assistance strategy were the political parties in Ukraine. So various organizations like NDI and IRI (International Republican Institute) supported political parties in strengthening bookkeeping practices, complying with political finance rules, as well as on fundraising strategies and increasing the access to funding for women within the political parties. IFES and NDI, for example, carried out numerous trainings for political parties on how to comply with the different regulations.

Next, we had other Ukrainian state institutions. It was realized that many institutions were not very familiar with, or not sure how to engage with, the existing political finance regulations that had been adopted. For example, IFES carried out two studies following cases of potential political finance violations from oversight institutions to prosecutors and to courts to see how the process worked. Various shortcomings were identified, and these shortcomings led to the holding of specialized trainings of court staff on handling political finance cases.

Another example was work with the Ukrainian Ministry of Health on protecting health facilities and their resources from being abused for political purposes. So protecting them against abuse of state resources in elections.

The joint assistance strategy also focused on civil society, including supporting the very active Ukrainian civil society groups that were monitoring the role of money in politics in different ways. Key issues in this work were oligarch financing, vote buying, and abuse of state resources. Myself, I was very impressed by the dedication of many Ukrainian activists, not least among youth, in relentlessly targeting corruption in their political system. As one example, I should mention the Gold of Parties database on party finance that was created by the Ukrainian CSO, Chesno, that I mentioned earlier. This was set up in 2017, and it is still going strong, showing the long-term dedication and impact that this work can have. I also remember meeting civil society activists in Odesa and Dnipropetrovsk, as it was still called then, back in 2015 to discuss the monitoring of campaign finance.

Next was the media, and a lot of different activities were carried out during the years, as it was realized that only through the media could average Ukrainian citizens access user-friendly

information on political finance. One example that sticks in my mind was a training, by IFES in this case, of Ukrainian journalists on monitoring potential abuse of state resources. Training carried out by other journalists from the region. The training was followed by a competition for the best piece of investigative journalism on the topic, and the prize in the competition was a trip to the Baltic States to learn more about the work there on political finance and abuse of state resources by journalists, by other civil society actors, and by public institutions.

At the end of the day, work on political finance integrity requires that you can reach the general public. Apart from the various efforts to support other stakeholders to reach the Ukrainian people, stakeholders like the oversight institutions, political parties, civil society organizations, and media, work was also done to reach the people directly. This included public service announcements on the importance and the details of political finance regulations and data research on the public view and perceptions on various related issues.

Finally, the assistance strategy also focused on the international community. It was crucial to keep stressing the importance of political finance integrity with international actors in Ukraine, and to have international stakeholders in Ukraine raise this issue in their interactions with their Ukrainian counterparts. It was part of this focus that a series of international conferences on political finance were held, especially in Kyiv and in Kharkiv, giving particular attention to the role of money in Ukrainian politics.

The strategy was always intended to be a living document, which would need to be updated as the situation and requirements changed over time. And having been created in 2016, it was updated in 2017 and then again in 2018. It was not updated in 2019. It was not considered appropriate because of the elections that were held that year. But it was updated again in 2020 and in 2021 in spite of the pandemic. Sadly, it's not been updated since, as assistance in this field has been very challenging because of the war of aggression by the Russian Federation.

I want to end by saying a few words of what has happened in recent years. A lot of credit should be given to different Ukrainian stakeholders, including in civil society, as well as the NACP, which has worked hard on gradually improving the publication and availability of political finance data, which led to the creation of the PolitData system in 2020-2021. Unfortunately, part of this system had to be taken offline when the war started for security reasons.

Of course, there have not been any elections in Ukraine since the war started. The focus now is largely on the political finance oversight to come once the war has been won. And as part of these preparations, NACP has created the significantly improved PolitData 2.0 system that came online last year and has continued to be improved this year. I very much look forward to the day when we can return to fully supporting Ukrainian stakeholders in protecting the integrity of money in the political process.

Safeguarding Ukrainian democracy against corruption will be one of the main challenges for post-war Ukraine.