

Political Parties between Conflict and Consensus, with Special Review on Party Finance: the Example of Germany

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Abstract: Political parties as voluntary organizations of free citizens in democratic state feature their candidates for parliament and strive to gain the best results in elections. In order to participate in elections and accomplish the tasks they were founded for, political parties should have access to financial resources for paying expenditures related to their activities. This paper will show that political parties in Germany, contrary to the conflicts shown in public have build up mutual cooperation in developing generous system of party financing from public sources. Cooperation in political life and consensual decision making were developed in Germany as the outcome of the totalitarian past, and this conceptual background has been used by political parties in order to develop the system of public party financing. In this way party cartel was created, and parties took over the country and created party state.

Keywords: political party; cartel party; party finance; Germany

1. Introduction

A very important attribute of modern democratic state is multi-party system – organization of state in which several mutually opposed political parties competes in gaining advantage in representative bodies. Political parties as voluntary organizations of free citizens in democratic state feature their candidates for parliament and strive to gain the best results in elections. Political parties differ immensely in various countries, depending on political, party or electoral systems they act upon. Those systems immensely form their attributes; however, the one attribute which characterises political parties in all democratic systems is competition or some other form of power struggle. In his classic work “Parties and

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party systems” from 1976 Giovanni Sartori states that party is “*an assembly of individuals which form constellation of rival groups*” (Sartori, 2002, p. 70). In the same work Sartori cites Schumpeter’s meaning of political parties, that parties are “groups which members mutually operate in competitive power struggle” (ibid, p. 60).

Contrary to the classical understanding of political parties, this paper will describe political parties in Germany, i.e. parties with cartel party characteristics (Katz & Mair, 1995). Cartel parties confront in parliament or are likely to do so, but they also cooperate together on various issues. However, the information about their mutual cooperation mostly doesn't reach the public. The example of political parties financing, issue closely connected with their survival and existence, will show how intensive cooperation developed in Germany among different political parties and how political parties gave advantage to mutual usage of budgetary resources over mutual struggles and confrontations. Therefore, with introduction and gradual increase of public party funding, donating parties as a way of expressing political viewpoints significantly lost its power, which lead to the creation of a small number of wealthy parties separated from citizens and society, which instead of working on the ground with members and potential “small” donors, opt to turn to mutual cooperation in order to preserve the financial status quo (Johnston, 2005, p. 16).

2. Theoretical Determination of Political Parties in Germany

Older political theory looks with suspicion at political parties considering that parties, instead of acting to achieve public good, give priority to their own narrow interests and goals. Particularity, one of the fundamental characteristics of the political parties was seen as oppositional to the whole, which is personalized in the community or homeland, and it was considered that parties represent certain kind of danger for the whole. Over time, the modern theory broke down distrust in political parties (Posavec, 2004, pp. 6-7), which is particularly evident in Germany, where political parties, according to some of Germany's leading jurists of the 20th century such as Heinrich Triepel or Gerhard Leibholz, have been given undoubtedly positive, and above all, an important role.

According to Triepel “atomistic individualism overwhelmed development of modern democracy” (Triepel, 1967, pp. 126-127). Public power was transferred to the individualistically formed mass, however, since the mass could not act alone, it

appeared organizations, through which mass could create and form its will to participate in government. Mass almost could not exercise its right, since the electoral right for the popular representation had been formed individualistically so the mass was organized in groups and exactly through this organizing political parties were created, and the political system of parties, states Triepel, is self-organization (*Selbstorganisation*) which created mass democracy.

Hans Kelsen states that “modern democracy rests on political parties” (Kelsen, 1967, p. 132) so it is quite understandable to constitutionally establish and legally form political parties since they are bodies necessary for forming the state will. Not so long ago, in accordance with the theory of old age, state legislators officially ignored political parties and directly refused them. In Germany, according to Kelsen, hostility to political parties coming from “old monarchy” and the constitutional monarchy, which was constructed between political parties and the state, did not represent “anything but a poorly covert hostility to democracy” (Kelsen, 1967, p. 133). Politically, an isolated individual has no real existence and cannot really influence formation of the state will; democracy is possible only when individuals are connected in groups that have different political goals and so between individuals and the state various collective creations are formed, such as political parties, which “summarize targeted individuals will” (Kelsen, 1967). Kelsen emphasizes that discrediting political parties, characteristic for political theory and constitutional law teaching of constitutional monarchy, was nothing but an ideologically disguised coup against the actualization of democracy since, as he said, democracy is not possible without political parties (Kelsen, 1967, pp. 133-134).

Kurt Lenk and Franz Neumann are trying to define political parties arguing that in the parliamentary-democratic societies, political parties can be seen as “social associations, which, mostly ideologically based goals, are represented by referencing to the interests of certain sections of the people in the political field of state action with political means” (Lenk & Neumann, 1967, p. LXXIX). Therefore, political parties are associations which are trying to implement their goals through power and they are in certain social, ideological and political relations with other associations, whose political efficiency refers to the possibility of sharing formation of political will within the state.

It has been intensively written in Germany about constitutional regulation of political parties: such regulation is important since it significantly affects the

formation of political will (Lalovic, 2004, p. 11). Today there is no doubt that political parties are inevitable factor in the formation of political will and in a way in certain formation of state institutions, hence it follows that it is necessary to regulate their constitutional status (Posavec, 2004, p. 5). Parties primarily found their place in the constitutions of the German regions (*Länder*); for example, in Bad constitution from 1947 or in the Berlin constitution, which in its article 27 stated special “state-legal tasks of political parties”. In the German constitution (Basic Law) political parties’ responsibilities rise from the level of political and sociological phenomenon and are observed as “constitutionally necessary instrument for the formation of the political will of the people” (Leibholz, 1967, p. 155). In similar way parties are described by the Federal Constitutional Court, arguing that parties “become an integrated part of the constitution and of constitutionally regulated political life” (Leibholz, 1967, p. 156) and that they emerge as essential parts of the constitution building, and which by participating in formation of the political will of the people perform “constitutional authority functions” (ibid). The Constitutional Court went even further, stating that parties are incorporated in the constitutional structure, and that in this way they are “listed in order of state’s integration factors” (Leibholz, 1967, p. 157); with this statement the Constitutional Court clearly highlights parties’ significant importance which was, until then, unthinkable in constitutions and in the state doctrine, because they ignored political parties or showed them in negative way.

In this way, political parties in Germany gained their place in the constitution, but they also led to the development of so-called party state (*Parteienstaat*). Gerhard Leibholz, a long standing Federal Constitutional Court judge and a prominent supporter of political parties, already emphasized in 1931 unstoppable “development towards a mass democracy party state” . According to Leibholz, fundamental difference between the modern party state and the traditional liberal democracy lies in the fact that the party state in its essence is “rationalized appearance form of plebiscitary democracy” (Leibholz, 1967, p. 158). In the plebiscitary democracy the will of most active citizenry is identified with the common will of the people; but, as in the party state political will of the people is formed through political parties, political will of the people will be identified with the party majority in the government and in parliament. It should not be forgotten that in this process representative structural elements are lost (ibid). Regardless of the fact that classical liberal doctrine teaches that the state will is formed through “manifestation of free men in the parliament” (Lenk & Neumann, 1967, p. XLVII),

in reality political parties have actually taken over the state. The very idea of representation is contrary to party state; parliamentary representatives who should be independent and free in their speeches in parliament and voting, are no longer willing to come forward in parliament or to make political decisions and thus have lost their representational dimension (Lenk & Neumann, 1967, p. XLIX). The decision-making role of party members is more symbolic than real, since the decisions that have real strength are made by small nucleus of active members. It is somewhat a reminiscent of the first modern political parties, where decisions were made by honoratian cliques. In modern party state cliques are replaced with the party leadership and the caucuses, which make decisions before they are even presented through the government or parliament (Lenk & Neumann, 1967, p. LXIX).

Kurt Kluxen states that political parties, which are seen as private associations, according to the classical liberal view, after having penetrated into parliament and become its part, have also become a part of the supreme legislative power, namely, a state body. The classic liberal parliamentary system and related classic principle of representation has become “functionally disabled” (Kluxen, 1983, p. 189) because of structural changes caused by the development of modern mass democracy and party state, as one of the mass democracy forms of appearance. Heinrich Triepel, one of the Weimar Republic most prominent lawyers, believes that “through its development parliamentarism has been gradually taken very far from its basic starting points” (Triepel, 1967, pp. 122-123). After the parties imbued parliament inside and out, they diminished its independence and also limited the independence of MPs since the caucus took primacy in the parliament. Discussions in parliament and parliamentary committees do not have actual strength and have predominantly formal character, and parliament conclusions are very often nothing more than party’s conclusions. In that way parliament lost its original meaning and emerged “state tied by party assignees” (Leibholz, 1967, p. 159). Although parliament can still, despite these obvious changes, work off the actual tasks, political parties have become “true masters of the legislation” (Leibholz, 1967, p. 160) and with their parliamentary activities they are still transforming parliament. It has also changed caucuses status and they have been increasingly transformed from “parliamentary law institutions in the party state institution” (Leibholz, 1967, p. 159), and it has also changed the position of MPs. MPs in the party state must adapt to the party in cases of possible conflicts, and they can hardly be considered as free representatives who, following their personal

attitudes, make their political decisions for the entire nation with their own efforts, so it can be concluded that they lack legitimacy (Leibholz, 1967, pp. 161-162) .

Gerhard Leibholz considers that it is not by accident that there is “plenty of party connections” (Leibholz, 1967, p. 162) exactly in a party state democracy, through which a party affects voting outcomes and the decisions made by MPs. In this way a certain kind of imperative mandate has been created; ways and means by which the parent party ensures the homogeneity of party bodies necessary for the functioning of the party state are very different - both in form and intensity. This attitude adjustment can be done by teaching through party instructions but also with threats that MP will be nominated for re-election. This sacrifice which is a “result of the joint activity necessity” (Leibholz, 1967, pp. 162-163) has very little in common with the demands of a representative parliamentary system.

3. Development of Consensual Behaviour in Germany

Decision-making through negotiations and search for consensus have ideological base in the concept of the interdependence of state and society and its important determinant is power-sharing. Decisions imposition approach is based on the state versus society concept, and this concept believes that the common good must be guaranteed by imposing technically correct solutions (Dyson, 1982, p. 18). Consensual behaviour in the German social and political life has rather obvious causes. The authoritarian nature of the previous regimes has developed in Germany a tendency to observe competition as “dysfunctional”; from the establishment of the Federal Republic there was desire to avoid conflicts between political parties, winner-take-all outcomes and situations where one group or political party has a monopoly on government policy. On the basis of such thinking corporatist partnership and consensual negotiation were developed. Although over time political parties have increasingly realized the benefits of inter-party competition, many Germans saw “grand coalition” of the CDU and the SPD in the period from 1966 to 1969 as end of party conflicts (Clemens, 2005, pp. 36-37).

Based on such ideas and concepts there were developed key features of the German policy process: divided powers and jurisdictions, multiple veto points and veto players, determination to compromise and political stability among all stakeholders (Kitschelt & Streeck, 2004, p. 25), and they allowed German political system to achieve and maintain balance (Kitschelt & Streeck, 2004). Other features such as federalism, coalition governments, non-adversarial parliament and the active role

of interest groups in policymaking are evident in the policy style of “cooperative federalism”, “neocorporatism” and “cooperative opposition” (Bartle, 2002, pp. 6-7). Consensual approach to decision-making and policy-making is present in Germany at three levels: regional inter-state level (cooperative federalism), the level of labour and capital relations regulation (neocorporatism) and at the party system level (cooperative opposition).

Cooperative federalism, which can be defined as a voluntary self-coordination of federal units stresses the role of the federal states in the creation of public policies in Bundesrat (ibid, p. 7). Germany is a federal state divided into 16 federal states that have specific governmental functions, which are primarily related to education, mass media and the public order (Conradt, 2002, p. 176). Immediately after the World War II, at the Federation level decentralization tendencies and vertical separation of powers concept were dominant; federal states were separated among themselves and operated separately, while taking special care about their own competences and financial resources, without indicating ambition to intensify mutual cooperation. Over time the cooperation between the states was developed, initially through informal cooperation such as individual meetings of Minister-Presidents, but also through institutionalized forms of cooperation, such as the conferences of the Minister-Presidents and relevant ministers. Legal arrangements between the Federal Republic and the states were also concluded, as well as closer coherence between the federal and state executive authorities which was realized through administrative agreements for partner’s conflicts solving (Beyme, 1999, pp. 256-257).

Cooperative federalism slows down the adoption of authoritative decisions, since it is a decision-making system in which federal state and national level are interdependent and this dependence makes impossible to distribute funds and coordinate decisions about the lowest common denominator of all veto players (Kitschelt & Streeck 2004, p. 27). A co-operative nature of German policy style has been additionally intensified with establishment of the Bundesrat, the parliament’s second chamber.

Bundesrat was initially designed as a body in which federal states could defend their interests against the central government (Clemens, 2005, p. 46) and it has the power to veto any federal law which directly concerns federal state jurisdiction. Initially it was thought that this would be the laws from the limited area of internal policy, such as education and culture. It was also assumed that in the range of the

Bundesrat veto will be one-tenth of all federal laws, however, since the federal government began to rely on the federal states administration in the implementation of federal policies, the proportion of laws on which a veto could be potentially put increased to almost 60 percent of all the adopted laws (ibid). Furthermore, voters often used regional elections to express protest against the federal government. If different parties were controlling the majority in the Bundesrat and in the Bundestag, chancellor was in an unfavourable position since even those items that cannot be formally subject of the veto can be hold as hostage, to threaten blocking of items on which can be given veto (ibid) and in such cases, the search of the federal government for state votes in the Bundesrat often proved to be very difficult (Kitschelt & Streeck, 2004, p. 7).

German cooperative federalism differs from “market - preserving federalism”, in which federal units compete for the preservation of certain public goods, but it is possible that the deepening of economic crisis will lead to a shift from the cooperative to market preserving federalism, in which the federal state will itself look for solutions to remove political and economic difficulties (ibid, p. 27).

Another aspect of political decision-making, where there is evidently preference for consensus, is neocorporatism which reflects the close relationship between interest groups and the government in policymaking (Bartle, 2002, p. 7). One of the important features of corporatism (and neocorporatism) is that the state is actively involved in the creation and transformation of interest groups (Müller, 1993, p. 425) by the law or indirectly by guaranteeing stakeholders that will play an important role in the process of policies creation (ibid). In the German economy important role has unique configuration of institutional mechanisms (Kitschelt & Streeck 2004, p. 2) that connects and coordinates activities of labour, capital and the state representatives, and many elements of those specific configurations existed even in the very beginning of industrialization. The whole tripartite system was additionally developed and improved in the years after World War II, and it rests on the assumption that various political and organizational incentives will encourage interest groups to express and articulate its members’ interests in a way which will be acceptable and consistent with the common interest of all stakeholders (Streeck, 2006, p. 26); “policy takes place in stable relationships and conditions, through specialization, conflict control from the top, hierarchical relationships and the like” (Grdešić, 1995, p. 79).

Interest groups play important role in all stages of policy-making, because according to the German law all relevant stakeholders should be contacted during formulation of new policies (Adolino & Blake, 2001, pp. 83-85). Their role in the policy making process is two-fold: on the one hand, the government is using the expertise of these groups, and on the other, they participate in negotiations aimed that stakeholders express their views about certain issues and, in the end, agree with the new policy and cooperate in its implementation. In societies such as German, with a strong corporatist tradition, policy actors generally favour reforms which are agreed upon negotiations rather than unilateral deregulation; for example, in 1993 all the social partners adopted the so-called "Solidarity Pact" designed to foster reconstruction of East Germany, including emergency measures such as the load of the income tax in the amount of 7.5 percent (Nakano, 2005, p. 14).

The most important of all these consensual procedures is cooperative opposition: the logic behind cooperative opposition action consists in understanding that "monitoring the government is not achieved through individual measures and improvement of auxiliary instrumental resources, but above all through activities of effective opposition" (Beyme, 1999, p. 209). Cooperative opposition emphasizes willingness to enter into a coalition government and willingness to negotiate and compromise between the government and the opposition through the so-called "working parliament" (Bartle, 2002, p. 7). Despite the open and quite often sharp conflicts in the German parliament, it is quite obvious that the confrontation in the Bundestag between government and the opposition has still more rhetorical character and that parliament activities can be described as "cooperative parliamentarism". Beyme gives indicative example of the sixth Bundestag, in which CDU / CSU who were in opposition agreed to the 93% of all adopted laws, and it is interesting that the opposition approved the government's proposals even in those situations when the parliamentary majority smoothly refused opposition objections or suggestions. Most of legislative initiatives came from the parties in power and in the first ten electoral periods after World War II only 7.8% of all laws came out from opposition initiatives.

Cooperative behaviour is not something that was created overnight or that always existed - for example, during the period from 1949 to 1952, when the SPD was led by Kurt Schumacher, SPD conducted "militant confrontation policy" by giving, much more than in later years, legislative initiatives and presenting to parliament its solutions as an alternative to the ruling party proposals. Thirty years later, the

Green Party entered new opposition spirit into the somewhat sleepy Bundestag, but most of their requirements and legislative initiatives did not receive support of established parties. Increased openness towards cooperation with the opposition was especially obvious in the external crisis threats, such as the construction of the Berlin Wall, when the SPD after the Bundestag elections in 1961 advocated the formation of government with all parties because of the serious national state that was initiated by construction of the Berlin Wall. Also in situations of internal vulnerability, such as those of 1977 when the Red Brigades kidnapped industrialist Hanns-Martin Schleyer, there was an increased cooperation with the opposition (Beyme, 1999, pp. 209-210).

Consensual cooperation was also strongly present in the post-unification period (1990-1995) which Zohlnhöfer called “post-unification consensus” policy (Zohlnhöfer, 2003, p. 139). The competition for votes has not played a major role in the years after unification and in that time government and the opposition succeeded to find a compromise in the most of the cases. Reason for that is quite similar problems perception between the federal government and the opposition and from that common perception came out cooperation. Cooperation is evident in the example of the railway and telecommunications reform: all veto players have jointly defined the problem, i.e. there was a common perception that the status quo is no longer sustainable. The change in policy positions was due to similar perception of the economic crisis situation, which made impossible maintenance of the current situation, and the economic crisis deepening initiated convergence of major political parties (Zohlnhöfer, 2003, pp. 142-143).

4. The Impact of Consensual Behaviour on the Party Finance

Appendices, if needed, appear before the acknowledgment. After 1945 Western allies adopted various measures that were introduced to prevent the Nazism restoration, so for example, industry decartelization was conducted and a strict system of market competition was introduced, as the allies believed that organized capitalism served the emergence of National Socialism. For the same reasons so called “balanced federalism” was also established and it gave wide powers to the federal states; a strong constitutional court and an independent central bank were also established. To ensure that these reforms will be really implemented, provisions on these issues were included in the new Federal Republic constitution (Kitschelt & Streeck, 2004, pp. 8-9).

The status of political parties in Germany has been addressed in response to the instability of the Weimar Republic and the emergence of National Socialism. Political parties had strong support of the Allies as they wanted to support the consolidation of democracy in Germany and prevent the restoration of National Socialism through the strengthening of the democratic parties, as well as through their financial strengthening. Many important actors of pre-war social and political life, such as bureaucracy, military and industry were discredited by cooperation with the National Socialist regime and thus the Western Allies did not have any important pre-war actors in whom they could confide. In the newly established political parties allies found a partner to build a new German state and they gave them, except political support, also various material benefits, so in this way in 1948, after the decision on the establishment of the Federal Republic of Germany, the political parties were put in a “strong starting position” (Conradt, 2002, p. 206). One of the most significant changes in post-war Germany was the creation of effective political parties that control political process, as in pre-war Germany politics was dominated by the executive and the bureaucracy. The system of weak and fragmented political parties, typical for the Weimar period, was fundamentally changed after 1945, when the parties were assigned major leadership role in the parliamentary committee that worked on the Basic Law about the establishment of the West German state (ibid, p. 205). From the reaction to callous Weimar and national socialist past, in the Federal Republic political parties have become important and powerful as they had never been before in German history, and have become one of the most important German policy actors.

Their importance was confirmed with entering of political parties in the new German constitution in 1949. Soon after coming to power national socialists forbade activities of political parties, so the German constitution makers with constitutional and legal regulation of the political parties’ status tried to protect political parties from a possible reappearance of the past. By protecting the political parties at the same time they were protecting the democratic order (Prpić, 2004, p. XIV). Entering of political parties in the constitution was a precedent since the constitutional regulation of the political parties’ status and activities does not have particularly long tradition in the history of parliamentary democracy. Therewith it was shown that in Germany overcame idea that political parties are not only politically but also constitutionally necessary instrument for forming the will of the people. The parties, citing the Federal Constitutional Court, “have become integrated parts of the constitution building and of constitutionally

regulated political life” (Leibholz, 1967, p. 155) and they were “raised from politically - sociological area to constitutional institution rank” (Leibholz, 1967, p. 156). They appear as “essential components of the constitution building” and they become one of the states integration factors” (Leibholz, 1967, p. 157).

Entering political parties in the new German constitution in 1949 initiated a series of interconnected causally related events: constitutional status has led to the development and strengthening of political parties in Germany; strengthened parties, in addition to other benefits that received, give themselves funding from the state budget in 1959; this penetration of political parties in the state budget has led to the adoption of the Party law in 1967 which legalized public party funding. Party law and its many changes, which were mostly in favour of strong political parties led to the creation of the German party finance model, primarily known for its generous budget funding. Consensual way of decision-making directly influenced the design of party finance model; all the major political parties, with more or less resistance, harmonized their views about the state as the source of party finances only with one goal - to receive more public money. However, consensual treatment of party finance issues was not always common.

At the proposition of the Gerhard Stoltenberg, CDU’s MP, in 1959 there were 5 million German marks specified for the first time in the state budget as support to political parties. It should be noted that funds, that had been indicated in the budget as a subsidy to the political parties education (Drysch, 1998, p. 124) were assigned to political parties on the basis of inter-party agreement of the Bundestag budget committee, since at that moment there had not been any regulations to treat (ibid, p. 125). The inter-party agreement would not have meant anything to the parties, if there had not been any consensus about party funding issue (Landfried, 1994, p. 34). It is also interesting that in this inter- party agreement non-parliamentary parties were not included; therefore a consensus of parliamentary parties can be noticed, to the disadvantage of non-parliamentary. In 1962, this time on the initiative of “financially strapped” (Scarrow, 2004, p. 661) FDP, a budget item “political parties costs on the basis of the Article 21 of the Basic Law” (Drysch, 1998, p. 124), was foreseen in the federal budget plan. It brought parties additional 15 million DM annually. Therefore, public financing of political parties, which itself was a groundbreaking event at that time, was introduced exclusively on the basis of inter-party agreement, and in addition, again on the basis of the inter-party agreement, state support to political parties was increased from 5 million DM in 1959 to 64 million DM in 1964 (Drysch, 1998, pp. 124-125).

SPD was the main opponent of state financial support to political parties. In 1957 SPD filed a complaint to the Federal Constitutional Court (Landfried, 1994, p. 34) claiming that the system of tax relief on political donations is unconstitutional since it gives advantages to the parties with wealthier supporters (Scarrow, 2004, p. 661). Since in 1950s began debates about political parties public financing, SPD argued that direct public financing of political parties is problematic and that is acceptable only to support political education, but in a limited extent (Landfried, 1994, p. 32). Proposition to increase budgetary resources for the parties financing in 1964 was vividly described by SPD's MP as a "quick step to that cancer which limited Central American and South American countries" (Landfried, 1994, p. 34). SPD's MP Schmitt Vockenhausen in 1965 explained his disagreement on public funding with fear that it will make parties dependent which will, in turn, increase citizens aversion towards political parties (Landfried, 1994, p. 39). At that time SPD had a large membership and it was mainly financed by membership fees, so looking from this side it is quite understandable that they opposed solutions that fit ruling party, which had not large membership.

Other political parties were also opponents of state support established in this way – in 1964 two smaller parties DP/BHE and Bayernpartei filed complaint to the Federal Constitutional Court because state aid excluded non-parliamentary parties (Scarrow, 2004, p. 661). It is interesting that during the 1950s, the main discussion topic regarding party finances was not, for example, whether political parties should publish their financial statements and what impact it can have on them who were, according to the dominant view in that time, private entities, but the nature of the discussion was much more prosaic: at that time the most debated issue was whether the parties which are not represented in the federal parliament should receive public financial support and favourable tax treatment on donations (Scarrow, 2004, p. 660).

Social Democrats ended their long-standing opposition in 1967 participating in development of Party law draft which, among other things, regulated parties financing. It was still not easy, since SPD remained opposed to general financial support without indication of support's specific purpose and they mostly, as usual, insisted on support of political education. However, the financial needs of the SPD have increased, and besides that, SPD and CDU began to collaborate on other policy issues, and simply from the common interest they adopted this law (Scarrow, 2004, p. 661). Beginning of 1970s brought financial difficulties to all German political parties, which arose as a result of high inflation and expensive

election campaigns. As all major parties had similar financial problems, the rival parties quite simply agreed to increase the public support for the election campaign, so in 1974 campaign support to all the parliamentary parties was increased. The new elections for the European Parliament proved to be a good justification for further increase, so in 1978 support for European elections was introduced. Two years later upper limit of tax deductions was raised for parties' donations. It is very interesting and indicative that in all these cases representatives from different political parties worked out together details of legislative changes. It represents a typical cartel behaviour since all parliamentary parties, which are otherwise tough opponents in parliament, jointly cooperated and quietly adopted measures to increase their revenues from the budget, without causing too much controversy in public (ibid, p. 662).

Inter-party development of Party law draft in 1998 involved SPD, CDU/ CSU and FDP. The new provisions in this law have led, according to Landfried's opinion to "further etatisation and capitalization of party income structure" (Landfried, 1994, p. 65). In the beginning of his parliamentary activities the Green Party performed as opponent of public party financing and has submitted the complaint to the Constitutional court: their opposition ended in 1988 as they established a foundation "Rainbow Foundation". Beyme picturesquely described this creation of foundation as a situation where "the urge to participate in a state money overpowered concerns of pure fundamentalist flame guardians" (Beyme 1999, p. 117).

Except on the regulation related to the revenue increase, political parties also worked together on regulation about control and limitation - this kind of cooperation was more motivated by public pressure after the discovery of corruption scandals connected with party financing than from parties own interests. Legislative changes in 2002 were direct reaction to the CDU's scandal from 1999 (Scarrow, 2004, p. 664), when it was discovered that large money transfers from secret accounts were not reported in the financial statements. The scandal resulted in the change of the CDU's national leadership, and they were also obliged to return the millions of marks from obtained support and to pay fines. Contemporary CDU president Helmut Kohl was pushed to the margins of political life. Initiated by the discovery of reporting failures, Federal President appointed a commission that was supposed to assess current financing party system and to propose changes that will prevent future corruption scandals (Scarrow, 2004, p. 664). The new regulation prohibited cash donations larger than 1,000 euro, and donations

exceeding EUR 50,000 had to be immediately reported to the Bundestag president. Forced by the Helmut Kohl example, legal provision was adopted according to which party leaders have become legally responsible for the credibility of the parties' financial reports, which had not been the case until then. It also changed formula for the distribution of financial support, to increase the importance of the number of votes obtained in the elections. CDU and SPD treasurers did not work together on the proposed legislative changes, as until then, which differs from the previous practices and represents major change in the way of resolving party financing the issue (Scarrow, 2004, pp. 664-665). SPD's readiness to adopt this law and even provisions that were quite important to them such as the reduction of income that can be earned from the economic activities and newspaper printing significantly increased in spring of 2002, when financial scandal was discovered, in connection to money laundering and extortion, in which SPD in Cologne was involved. By cooperation in law changes SPD leadership wanted to remove itself from the local scandal and to show SPD willingness to participate in the adoption of regulation that contains more severe sanctions for those who break the law (Scarrow, 2004, p. 665).

How to explain “the spirit of consensus” (Landfried, 1994, p. 77) among German political parties? Before answering this question the current status of the parties should be shown, which is contradictory because political parties are in certain kind of conflict of interest. The logic of the representative democracy functioning allows them to regulate their status by themselves. In doing so, instead to react objectively as they act in the regulation of other institutions or entities, they can give themselves privileged position or privileged financing (Prpić, 2004, p. XV). Political parties in Germany, earlier than parties in many other countries, used this contradictory position and thereby showed many signs of what Katz and Mair (Katz & Mair, 1995) called “cartel behaviour”; cartel party is primarily characterized by the fact that they become agents of the state and use state funds to ensure their collective survival (Katz & Mair, 1995, p. 5), and they do that on the basis of mutual agreement between the parties, which are also include opposition parties. Cartel members compete in elections and confront over various issues but they are also willing to cooperate on issues of common interest. They refuse to compete in issues that can produce changes in the institutional framework and thereby harm the party in power, but also the parties in opposition. The most prominent features of the cartel party model which were evident in German parties are appointments and public service promotions on the basis of party affiliation and

cooperation in the creation of a generous party financing system (Scarrow, 1997, 455).

The basis for the construction of party cartel were set unintentionally in 1959 when the parties began to receive direct financial support from public funds, generous and without too many responsibilities since the financial support was introduced on the basis of inter-party agreement (instead on the law), containing only the rights (on the financing from public sources) and almost without any obligations. For all these reasons, the parties have become extremely important and strong, and with the introduction of public funding also rich (at least in comparison with the parties in other countries), and thus became in a certain way untouchable. Willingness on consensus significantly influenced design of the party finance system; the whole system would have easily been different if there had not been any rational consensus among German political parties: on the one hand, it was a consensus and a common view on party finance issue, and on the other hand there was a significant dose of rationality, awareness that it is possible to take a lot of money from the state - much more, in a much simpler way and without special obligation as was the case with other sources. If there had been an opposite case, the system would not have become so generous to parties at such an early stage. Changes in the party finance system would be probably introduced gradually, in a much slower and more limited way, as was the case in other European countries. The general picture of party finances would be similar to the situation at the end of the 1950s when the reform of the party finances system was conducted with difficulty and slowly after long negotiations, since the SPD, an important player in policy making, was opponent of unspecified and unlimited funding. Major parties succeeded in including new parties, such as the Green party in their cooperation of party finances, thus gaining their support. There is another important effect of this cooperation - the fact that in these cooperative activities was involved several large and small parties isolated party finance agreements from the scandal effects and from public discontent, which stems from them (Scarrow, 2004, p. 666).

5. Conclusion

The new German constitution, under the influence of Western allies, gave political parties status of a quasi-state institutions, which in the 1950s was extremely rare, and explicitly stated their indispensable role in formation of political will of the people; political parties used this constitutional provision as a justification for the

introduction of financing from public funds (Conradt, 2002, p. 206), which was in 1950s also very rare and uncommon. One of the first significant result of political parties privileged position was introduction of “first package of indirect party support” (Arnim, 1996, p. 22) in 1954, when it changed the tax treatment of political contributions from trade unions associations. Public funding of parties was justified with the explanation that “the parties’ main task is to re-educate German population from Nazi dictatorship to parliamentary democracy” (Arnim, 1996). Additionally, parties claimed that in the Federal Republic there still existed anti-party sentiment, and therefore it was difficult to find co-workers, since very few people were interested to cooperate with political parties (Landfried, 1994, p. 35). Decisions about financing of parties were brought consensually, by agreement between the policy actors of which the most important were political parties. Consensual decision-making is rooted in the German political culture and the specific historical circumstances - after 1945 due to the historical experiences of unstable parliamentary system of the Weimar Republic, it was insisted on the consensus policy and on the avoidance of conflicts between the parties. In the post-war period, the political parties tried to overcome traditional rivalries that characterized the Weimar Republic so political actors learned to work with their political rivals in the resolution of the main political issues, and compromises and mutual trust began to dominate the political process (Detterbeck, 2005, p. 188). Thus, the political tradition of cooperation facilitated parties’ cartel formation. Over time, the parties strengthened to such an extent that they, in a certain way, took over the state and turned it into a “party state”; in the party state parties “swallowed” parliament, MPs and party members. Parliament is transferred into a place there are enacted decisions earlier taken in the highest party circles, MPs have become party appointees and cronies and party members become “self-voters” and “self-numerators”. The political work is left to a small core of active members mainly stationed in the party's leadership. After political parties strengthened their powers, they began to assign leading positions in the civil service and the public authorities to party members, and enabled them to make businesses with the state, circumventing the public procurement procedures (Scarrow, 1997, p. 455). Most importantly, they realized that their dominant position in the political system can be used to service a new, previously unknown source of finance, and this was achieved through joint activities and sharing of resources provided by the state. The creation of the party cartel and profusely usage of public money in Germany was motivated simply with the ability of the main parties to advance their common interests (Detterbeck, 2005, p. 187). Through joint

cooperation of the parties there was created a system that was generously funding parties with public money - as everyday activities as the election campaigns for regional, federal and European elections.

6. References

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