

THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

INQUIRY INTO POLITICAL PARTY FUNDING: INTERNATIONAL EVIDENCE SESSION

**35 Great Smith Street, London
14 April 2011
Morning/Afternoon Session**

Members Present: Sir Christopher Kelly KCB (Chairman)

Dame Denise Platt DBE
David Prince CBE
Dr Elizabeth Vallance JP
Oliver Heald MP
Rt Hon Margaret Beckett MP
Dr Brian Woods-Scawen DL CBE
Lord Alderdice

Witnesses: Dr Marcin Walecki, Chief of Democratic Governance,
OSCE/Office for Democratic Institutions and Human
Rights, Warsaw
Professor Michael Malbin, Director, Campaign
Finance, Washington

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1. SIR CHRISTOPHER KELLY KCB (Chairman): Dr Walecki, can you hear me?
2. DR MARCIN WALECKI (Chair of Democratic Governance, OSCE/Office for Democratic Institutions and Human Rights, Warsaw): Good morning, yes, I can hear you.
3. SIR CHRISTOPHER KELLY: Good, thank you very much for speaking to us. You know what we are about, I hope. You have been briefed as to what the Committee is trying to do?
4. DR MARCIN WALECKI: The connection is not really good and I was told it is preferable I should not move, so just my voice. I would very much appreciate if your questions can be asked in a clear way, because the connection -- we are only receiving 60% so it is not necessarily the best connection, but I will do my best.
5. SIR CHRISTOPHER KELLY: Thank you very much. You are coming across quite clear to us and we are enjoying your movements.
6. Can I begin with a general question, which is I think you are on record as saying that there is no one ideal model for political finance, but nevertheless I imagine you have a view as to what features you would look to see in a good system of party funding?
7. DR MARCIN WALECKI: Let me start first with thanking the Committee for this opportunity to contribute to the very important work that you are doing, and on a personal note I want to recognise the outstanding report which you published in 1998. In fact, I have been personally using this report as basis for our own reform which we undertook in Poland in the late 1990s, and I have been using this report when I was advising a number of governments in Central and Eastern Europe and I want (break in audio) to thank you for this report and the work you are doing now. Once again, thank you for having me here. I am really privileged to be contributing to your work.
8. SIR CHRISTOPHER KELLY: Thank you.
9. DR MARCIN WALECKI: I have received your questions and I have prepared some brief answers. Starting with the first question: what makes a good party finance system? An example of a very good party finance system in Europe. I would like to start with one where there is strong public control based on transparency, proper disclosure, an independent and strong regulator, the system which also encourages participation in politics and elections through small contributions. The ultimate test for the system is if political parties can perform their roles and expectations.
10. In order to have parties meet their expectations, and to have them perform these roles, some level of public funding is required (break in audio). It is my understanding we are going to talk about public funding later.

11. We should also recognise that parties are private organisations that play a crucial role in public affairs. We need to find a balance between recognising the private character of the parties and the role they are performing as semi-public bodies. That is why legislation really should not interfere with the freedom of association and we need to recognise that contributions, donations to political parties are a form of public participation and they should be encouraged.
12. When it comes to examples of a good party finance system in Europe, it is very much like asking about the examples of good political systems or good political party systems in Europe. There is huge diversity in Europe . when it comes to party finance systems in Europe. A few components which we have in Europe would differ, for example, from the US is that many European countries have non-partisan regulators, that many European countries provide public funds and that there is a strong emphasis on internal party control. Political parties in many European countries have mechanisms to know who their donors are and they should be responsible, first of all, for making sure that illegal and corrupt contributions are not coming into the system.
13. But I do not think that there is an ideal system in Europe and every country - every country - has some problems and issues. So I would certainly argue there is no ideal party finance system in Europe.
14. SIR CHRISTOPHER KELLY: Thank you very much. Elizabeth.
15. DR ELIZABETH VALLANCE JP: Good morning, Dr Walecki. Can I ask you some --
16. SIR CHRISTOPHER KELLY: I am not sure he is hearing us at all.
17. DR ELIZABETH VALLANCE: Can you hear us? You can? Can I ask you some questions --
18. DR MARCIN WALECKI: No, not really. Yes, I can hear you, yes.
19. DR ELIZABETH VALLANCE: You can hear now? Can I ask you some questions about donations to parties? We started with this inquiry partly because there was a suspicion that people giving very large donations to political parties were, in effect, buying influence and therefore one of the things we are looking at is the possibility of capping donations, of limiting the amount of money people can give to political parties. Is there any way in which you think that donation caps contribute seriously to the control, a proper control, of financing of political parties?
20. DR MARCIN WALECKI: Thank you very much. Let me just make clear that I understood this question properly. The first thing is the influence of large donations and the perception that they buy influence. The second thing is caps and limits on donations and what kind of effects this might have. Is that correct?

21. DR ELIZABETH VALLANCE: Yes, exactly that. Yes, thank you.
22. DR MARCIN WALECKI: First of all, we should recognise that there is a strong public perception amongst all the European countries that large donations are not done without a purpose. Indeed, there is a perception that large donations which are coming from companies, interest groups, rich individuals, they are done to meet short-term goals and it is buying access to information, buying access to decisions, there is a perception like that. Another thing is, are we actually fighting this perception, are we preventing corruption or are we dealing with it on a superficial level only (break in audio). In general, many European countries decided to address this issue of perception and introduced bans and ceilings to prevent corruption. However, these bans are very difficult to enforce and there are a number of ways you can go around them. For example, you could make donations by family and have five or ten members of the family making donations; you can have small companies contributing on behalf of one larger group, interest group. So they are difficult to be properly enforced.
23. But we should also recognise that in a number of cases we have actually seen that parties do rely on large donations and there are cases where you have certain MPs in many Central European countries being connected with what we call oligarchs. I do not want to make any reference to cases in UK, I can just tell you that in a large number of transition countries in Central and Eastern Europe indeed we have cases that some of the parties, many MPs, rely on very wealthy individuals and their operations are financed by these individuals. So definitely it is a concern in Central and Eastern Europe, it is a concern in south-east Europe.
24. There is also a question of to what extent we should limit contributions. One of the things we should keep in mind is that this limit should encourage moderate contributions whilst limiting unduly large contributions (break in audio). We should recognise, as I said earlier, that contributions are a form of political participation and there needs to be a balance. I think every system needs to look at this and take into consideration GDP per capita and how wealthy the society is. In Poland, in my opinion, the limit should be lower than the contribution limit in the US. Part of the experience is you have a number of countries which have a very high contribution limit and they are not necessarily policing what we would like to see.
25. There is also an issue of ceiling on disclosure and that is another problem. Many European countries have a ceiling, let us say only donations above certain limits are disclosed are transparent. That is another loophole which can contribute to the fact that many donations are not disclosed. But all in all you will see in many European countries contribution limits, ceilings on donations. This method is more popular than actually spending limits. You have more contribution limits than spending limits in Europe. I will stop here.
26. DR ELIZABETH VALLANCE: Thank you. Can I just press you on two issues in relation to capping donations? What do you think generally has

been the effect of capping donations? Has it had the effect of making people feel that politics is more transparent and therefore they have greater trust in politics and politicians? That is one question.

27. The other question is if you do bring in caps do you inevitably have to bring in state funding? So these are two separate questions.
28. DR MARCIN WALECKI: Thank you very much. Yes, those are two very good questions and I will try to answer them briefly.
29. The first one, indeed, the issue of perception. All the European countries are struggling with increasing public trust and trying to improve the perception for politicians. The Council of Europe and my own organisation OSCE recognise political corruption as one of the major challenges in the 21st century to our own political systems and to the perception which the general public have of politics and politicians.. Many European citizens are very concerned with the influence money has on our political systems. I think this is something the legislature, your Committee and political parties should take into consideration to make sure you are dealing with the demand of the public and you are responding to this perception. I also think that it is the responsibility of political parties to increase trust in politics and politicians (break in audio), in particular they should be very careful with checking every donor over, let us say, €5,000 or €10,000 or pounds and they should do due diligence when it comes to verifying their own donors.
30. We have seen it in many European countries, accepting live donations without asking questions, without properly verifying who the donors are. At the end of the day political parties need to act in the same way as a bank, they need to check who their clients are. They should be - at this level of internal democracy, the level of intraparty business - doing better job with verifying the donors. It will also require the Election Commission to do extra work when it comes to verifying instances of non-compliance and cases where political parties are going around these contribution limits.
31. As I said, how should we deal with the case, for example, Marcin Walecki is asking his mother, his father, his sister to make a series of smaller donations to pick up the deficit rather than relying (break in audio) on state funding.
32. DR ELIZABETH VALLANCE: No state funding?
33. DR MARCIN WALECKI: In my opinion, the link between contribution limit and state funding, is not so strong. State funding in many European countries has been introduced mostly to meet the needs of political parties and to respond to the fact that we are seeing a growing transparency and there is greater public control. In many countries state funding comes first and only then you discuss limiting private contributions.

34. DR ELIZABETH VALLANCE: Sorry, can I just ask you, you do not then think that if you have a contribution cap that you have to make up, as it were, the gap that may be left in parties' finances by state funding?
35. DR MARCIN WALECKI: We have seen in a number of cases where political parties tend to diversify their sources of funding. We have seen cases where political parties just had to attract more donations. If you introduce a cap, the parties need to be more aggressive in terms of targeting small and mid-level donors. Public funding is, as you know, a dominant feature in most of the European countries with three exceptions, and it should not, in my opinion, be used just as a compensation. Public funding should be used to encourage parties to comply with other provisions on this level, on transparency, to help them to do their policy development work. Governments generally agree that public funding should be used as a substitute for large donations (break in audio). Those large kind of donations, we are limiting them because there is a perception of corruption and that is why we are limiting them. We are not limiting them and then saying, "Fine, in consideration of the £2 million you will get £2 million from the budget".
36. DR ELIZABETH VALLANCE: Thank you very much.
37. DAVID PRINCE CBE: Good morning, Dr Walecki. I would like to move on to spending controls over party spending in elections and on all their activities. My question is how effective you think spending controls have been in those European countries that currently have them?
38. DR MARCIN WALECKI: Would you be kind enough to repeat your question so I can get it right? Could you repeat your question, sorry?
39. DAVID PRINCE: Yes, indeed. I would like to ask you how effective you think spending controls have been in the European countries that currently have them.
40. DR MARCIN WALECKI: How effective have spending controls been in the European countries? Again, my experience with spending limits comes from post-communist countries mainly (break in audio) and it was extremely difficult to implement spending limits. First of all, most of the countries which introduced spending limits had introduced them at unrealistic low levels. Because they had been introduced in countries like Russia, Ukraine, Armenia, but even in my own country, Poland, it really contributed to distorted and corrupt practices and reporting. So we had parties reporting at unrealistic levels because they had been afraid of going above the spending limit.
41. The first and the most important thing is spending limits need to be introduced at reasonable and realistic levels. The second thing, as you well know, the moment you introduce spending limits you have the issue of third parties. At the moment the parties want to run very dynamic, aggressive campaigns and they cannot do it because of unrealistic spending limits, so (break in audio) they are looking at a way of going around the spending limit.

So the overall experience is that spending limits are the most difficult regulations to be enforced.

42. DAVID PRICE: Thank you. Do you think that if you introduced donation caps you also need to introduce expenditure caps?
43. DR MARCIN WALECKI: Not necessarily. It really depends on what the legislator and regulator are seeking to achieve. You should really have a clear idea of what you are trying to achieve. Spending limits have been promoted even by the UN and general comments of the type by international conventions. Basically the guiding principle in any measure introduced should be to provide a level playing-field for parties (break in audio) and ensure that there is a free choice of voters.
44. Spending limits being promoted in the case where you had one dominant political party or when you have very rich individuals who are looking at politics as a way to enrich themselves. Again, I do not think there is a clear direct link between donation caps and expenditure caps. Two of those regulations have slightly different goals and every legislator has a clear vision of the system. They can be introduced at the same time or they can be introduced in different stages of the reform.
45. DAVID PRINCE: Thank you, that is helpful. Finally from me, do you think spending controls are best directed just at election campaigns or should they cover the whole of a political party's spending?
46. DR MARCIN WALECKI: Again, a very good question. This division is really a distinction between campaign and party current activities, it is a really artificial distinction and there were a number of court rulings in Germany in 1990s, and there were court rulings in Poland, it is again a very difficult distinction and, in my opinion, depends how long campaign period is.
47. If I can make a reference to the UK, if the campaign period is reasonable short it is pretty obvious that many parties will try to spend most of its money before the real campaign starts. But in some European countries where the campaign period is four or six months, this is a sufficient time to regulate if you have a very definition of a political campaign, if you have a long campaign cycle, then the spending limit is more realistic to be enforced.
48. DAVID PRINCE: Thank you very much.
49. DR BRIAN WOODS-SCAWEN DL CBE: I would like to ask you a bit more about state funding. There are those in the UK who are opposed to the principle of state funding because they argue that it discourages parties from engaging with a broad membership and that people almost see the political system as part of the state rather than a voluntary activity. What is your experience about that issue across Europe?
50. DR MARCIN WALECKI: Again, a very good question. I would agree with those critics who are saying that the way we do politics, the way we

practice politics is changing. Indeed, we have noticed in many European countries that there is a decline when it comes to volunteers and members. We have also seen them in the past relying on paid staff, and especially taking advantage of parliamentary subsidies, so Members of Parliament, Members of European Parliament, Councillors are using their offices to run party branches and party activities. To a certain extent this criticism is right, yes. Indirect subsidies, in a form of parliamentary subsidies, to run offices are used by parties and this has an effect on the party's past interest in recruiting new members and any volunteers.

51. In many Central European countries, I know certainly for the parties -- now I have noticed that the whole idea of volunteers has been replaced by ...

(break in video link)

52. SIR CHRISTOPHER KELLY: Welcome back.

53. DR MARCIN WALECKI: Hello, can you hear me now?

54. SIR CHRISTOPHER KELLY: Yes, we have been off for three minutes or so. We lost you at the point at which you talking about people using their offices.

55. DR MARCIN WALECKI: Shall I continue with my answer?

56. SIR CHRISTOPHER KELLY: Yes, please.

57. DR MARCIN WALECKI: Okay, yes, that is one of the problems. Indeed, we are seeing decline in recruiting new members and new volunteers because of the type of public funds are being used to pay for permanent staff. However, there are European countries - and I strongly believe that UK is one of them - that there is an important tradition of private funding and making contributions to membership in small donations.

58. The question is whether this position changed. We see in many Central European countries decline in membership subscriptions although some other democracies are seeing that it is not necessarily the case if you have a new party, a new candidate and a very good campaign. Indeed, I can make a reference to presidential campaigns in US. Obama has received an enormous number of small donations. Some popular politicians in Germany are still receiving considerable donations. So I think, in an attempt to make sense, we are seeing a decline in membership, we are seeing a decline in donations, small donations, coming in, but right now there is no political party in my opinion who could only survive on membership fees.

59. The 19th century concept of a mass party is wrong; the parties will not be able to rely on membership fees.

60. DR BRIAN WOODS-SCAWEN: If I can follow that up then. If you believe that it is essential to have some element of state funding but that a

consequence damage to the volunteer nature of political activity, to what extent do you think that state funding should not be unconditional but should be linked to some criteria around raising membership funding so that it follows that state funding helps to reinforce the importance of a membership base?

61. DR MARCIN WALECKI: I strongly believe that and is a major mistake which we did in a number of new democracies in Europe, that we introduced unconditional public funds at the very lowest level, we undermined public control because in many cases public funds were abused. We actually increased the cost of politics by introducing substantial public funds, we made campaigns more expensive and we did not provide regulators with the necessary powers to control what parties are doing with the public funding. This is a lesson learnt and I would strongly encourage you to look at the issues such as conditionality of public funds. The parties need to comply with other requirements and need to be fully transparent and accountable in order to receive substantial public funding and a public regulator, in this case, Election Commission, should have sufficient resources to control what parties are doing with public funds. Public funds should not be used purely for campaigning purposes. They can be used, and we have seen it in a number of countries, as an effective way to promote women's participation, to promote policy debates, to build local branches rather than be spent at the central level on billboards and TV campaigning. I will stop here.
62. DR BRIAN WOODS-SCAWEN: If I could ask one final question, what is the risk that public funding causes people to feel less engaged and less committed to the importance of political activity?
63. DR MARCIN WALECKI: This is a very good question; it is a question about the perception of public funding. One thing we might want to keep in mind is that public funding has been extremely unpopular in most of the European countries. I have prepared some statistics, I would be happy to send them later. It is difficult to find any European countries where public funding would be supported by public opinion. It is usually on the level of 10-25% of public opinion supporting public funding. But I think you might have a situation where public opinion will perceive public funds as a way to supplement parties with some of the figures they are running. But it should not be done in a way that is an excuse for members and supporters not to make a modest contribution. I know they have got a point, but I believe the level of public funding should not go above 50% of parties' budget. I still believe that 50% of money should be coming from private donations.
64. We have seen a number of European countries with a huge dependence on public funds. In some countries going to the level of 90-95% of money coming from public subsidies.
65. DR BRIAN WOODS-SCAWEN: Thank you very much.
66. OLIVER HEALD, MP: You have told us that having restrictions on donations and expenditure can lead to distorting behaviour and also to the use of third parties. Can you give some examples and what would your overall

judgment be about whether it is right to introduce a tough regime despite those concerns?

67. DR MARCIN WALECKI: If you could just repeat it, please, because it was not clear, I had some problems with the first part of the question. Sorry for that.
68. OLIVER HEALD: Yes. You have told us that to restrict donations or expenditure of political parties can lead to distorting behaviour, bad behaviour or the use of third parties to spend money. I then went on to ask you if you had examples of this and also whether, on balance, you would think that was a reason not to have a very tough regime?
69. DR MARCIN WALECKI: I will give your three examples. Those are the sort of regimes which, in my opinion, you do not want to follow. One example is Belarus where it is technically impossible to make a private donation to political parties. The money is going to an overall pool and then the Election Commission is distributing money. There are other cases where because of hyperinflation in 1990s contribution limits for donations were so low that it was technically impossible to make any meaningful donation in Bulgaria in the mid-1990s, because of the hyperinflation you could not make a donation (break in audio).
70. So when you are introducing caps on donations, they have to be low to eliminate many donors and you should avoid using amounts, you should have some system for indexation so you take inflation in consideration. With spending limits, it is the same issue. In many countries they have been introduced at unrealistically low levels, thus privileging to the ruling party because the ruling party is always at an advantage when it comes to exposure and publicity, (break in audio) and if the spending limit is introduced at analytically low level it is very difficult for a politician to be engaged in a meaningful campaign. This is what happened in 1990s, and we are seeing in Russia now, this is also the case in Armenia and in Georgia. Unrealistic limits really undermine the possibility for an effective campaign.
71. Could you just briefly repeat the second part of your question? Sorry for that.
72. OLIVER HEALD: Would these concerns, these worries about bad behaviour and third parties lead you not to recommend a very tough regime on donation caps and expenditure caps?
73. DR MARCIN WALECKI: I am not in favour of introducing a very tough regime when it comes to enforcement which is based on purely criminal assumptions, which contribute to what I call criminalisation of politics. Many European countries introduce disproportionate sanctions for breaching limits on contributions and spending limits and I do not believe it is the right way. At the end of the day, this is not the most important violation; there are other more important violations when you have elections and the political process. It is better to connect this involvement mechanism with public funding. The

parties are not complying with contribution limits, if they do not comply with spending limits they should not be entitled to public funds.

74. So the question is how far you want to go with your enforcement mechanisms. If you only rely on prosecution and criminal sanctions it will not be very effective. It is a recipe for disaster. The Election Commission will be reluctant to use the sanction. I also have a problem that you are prosecuting politicians for relatively minor offences, like happened in the Ukraine with unrealistic spending limits for MPs in certain (inaudible) districts. I will stop here.
75. LORD ALDERDICE: We can all have our thoughts and opinions but can you help us with any evidence, research evidence or other evidence, that state funding has improved public confidence and has it affected public donations?
76. DR MARCIN WALECKI: It will be very difficult to expect that in the short term public funding on its own will improve public confidence. We used an argument in the late 1990s, roughly ten years ago, in Poland to convince public opinion to support providing (break in audio) parties with public funding. It was said that without it, we would see a significant increase in the number of corrupt cases. This was not the case.
77. If you decide to introduce state funding you really also need to invest in mechanism to increase public control or internal control for the party sake. We have a number of cases of individual party members, individual MPs, being involved in some corrupt activities and the perception of the whole party system and the perception of the guilty party was suffering from it. So I do not think just introducing state funding, providing parties with money will solve the problems of perception. Public funding needs to be connected with other reforms, needs to be a part of the package where political parties can use this money to improve their own internal controls. They can have better financial departments, they can have a better financial committee which scrutinise donors and what the branches are doing.
78. Public funding should also be connected with compliance, with other requirements, when the Election Commission can decide to suspend public funding from the party who is not performing, not meeting other reporting requirements. So it needs to be really a package to improve this public perception. Just introducing public funding on its own, providing more money into the system, it will be like adding clean water to the glass which is already half full with the poisoned water. I will stop here.
79. LORD ALDERDICE: Can I just press you a little further? Can you give us some evidence that any or all of these measures actually demonstrate improved public confidence in politics in any particular country?
80. DR MARCIN WALECKI: Yes, we see it in new democracies, new member states of the European Union of countries that decided to introduce substantial public funding in late 1990s. Ten years later there is a more stable

party system because the parties are, I would argue, more accountable to the public, to the regulators. We introduced substantial party funding in Poland in the late 1990s, we did exactly the same as what was happening in Mexico 15 years ago, we decided to invest on average about €20-25 million into the party system per year to make sure that oligarchs do not play such an important role as they used to play 10-15 years ago. Overall, within the perspective of two electoral cycles I think public opinion rated this party system to be more stable, more accountable. We still have cases of individual corruption but we are not talking about a case of systemic corruption any more. So new democracies, countries that introduce substantial public funding some years afterwards I think are on a better footing, certainly they can talk about successful reform. I can provide you with statistics about personal vs. systemic corruption to resolve this argument.

81. OLIVER HEALD: That would be very helpful.
82. DAME DENISE PLATT DBE: A question about third parties. Could you give us any examples about any countries in Europe where third party expenditure is perceived as a problem?
83. DR MARCIN WALECKI: Sorry, could you repeat the question, because there were some problems with reception.
84. DAME DENISE PLATT: I think it is the mics at our end. Could you give any examples from Europe where third party expenditure is perceived as a problem?
85. DR MARCIN WALECKI: The most recent examples come from two Baltic country - Latvia - when they introduced spending limits in 2006. In the case of Latvia, during 2006 election, two parties which were then in coalition, in the ruling coalition, decided to use Bank NGO, some third parties, to run a very aggressive, very expensive campaign just before the election and during the election, and actually, this NGO, those organisations which were linked with both of the parties, spent four times more money than the spending limit was.
86. This case actually received a great deal of attention, with two parties taking this case to the European Court of Human Rights, (break in audio) and there are many academics and experts who would argue that this usage of third parties distorted the election results and helped this ruling coalition to win the election. It is a problem you see in countries which are introducing very strict spending limits. Some political parties will use third parties to go around these limits and mostly because sanctions for violations are really not very effective, if they exist at all.
87. DAME DENISE PLATT: Could you say where they exist and what the sanctions are?

88. DR MARCIN WALECKI: So as I said, Latvia and Lithuania, and I can send you an exact description of those two cases.
89. DAME DENISE PLATT: That would be very helpful, thank you.
90. DR MARCIN WALECKI: Could you repeat the question?
91. DAME DENISE PLATT: Could I just ask you --
92. DR MARCIN WALECKI: Yes, I will send you the evidence from those two countries.
93. DAME DENISE PLATT: Could I ask you to go back to your point about public confidence and public funding? Are there examples in Europe of where the rules on donations or on expenditure were changed separately from the introduction of public funding? Is there an example of where public funding is measured against public confidence as opposed to other democratic changes being measured against public confidence?
94. DR MARCIN WALECKI: If you allow me, I will start with some statistics, which can show you what is the overall perception, public perception about public funding, which I hope will help you to understand that it is very difficult for public opinion to accept that the parties and politicians should be receiving public funds. So, for example, in Nordic countries, in Finland, when the public funding was introduced, 72% were against public funding, only 19% in favour. In Norway, in late 1960s, only 29% were in favour of public funding. In Germany, public opinion polls in 1961 and 1965 - Germany was one of the first countries to introduce public funding - polls showed 17% and 19% in favour. In Poland, funding in 2000, only 7% were in favour of public funding.
95. So it would be very difficult to have an expectation that the public confidence will grow with the introduction of public funding, when from the starting point, public opinion is against introducing public funds. So that is one of the things you might want to take into consideration.
96. Another thing I want to stress is that you cannot(break in audio) introduce one regulation without connecting it with other regulations, and what happened in Poland, we introduced a spending limit for the presidential election in 2000 at the level of €3 million for presidential election, which was an unrealistic limit for a country of 40 million people. At the same time, we put into the system €25 million, believing that the campaign spending is not going to be affected. This is one thing you need to keep in mind, if you are going to introduce a substantial amount of money into the system, how will this reform influence the existing spending limits you already have?
97. In some cases, you might find out that extra €20 million or €30 million - or £20 million or £30 million - which you are introducing to the system can be used by parties for campaigning and your spending limit becomes unrealistic. That is why there needs to be serious research on how much money parties need and how much money they are planning to use for campaigning, and will

the introduction of public funding distort and affect the existing spending limits?

98. SIR CHRISTOPHER KELLY: Dr Walecki, a final question, please. You talked about the experience in Latvia and Lithuania, where third parties got round the spending caps that were imposed. Are there any examples in Europe of countries which do have spending caps which have nevertheless dealt satisfactorily with the issue of third parties being used as avoidance devices?
99. DR MARCIN WALECKI: Mr Chair, the problem with the third parties is a reasonably recent phenomena in Europe, and I have to admit that UK is a system which has more complex regulations and most advanced framework, and most of us European scholars and researchers are using UK to give us answers to our questions. It is really a question we should be asking our US colleagues, because this is a phenomena which really comes from the US, and I think Europe is going to see more of those problems in the next decade.
100. We are very happy to see the UK to be the first country to seriously address this issue. But you can ask me about examples. We are really behind you, everyone else is behind you. You are the first one to tackle this problem seriously.
101. SIR CHRISTOPHER KELLY: Thank you, Dr Walecki. We are coming to the end of our time. Is there anything you would like to say to us that we have not given you the opportunity to say to us?
102. DR MARCIN WALECKI: With your permission, I would like to send you some of my points in writing. I will respond to some of the questions you asked, and I will provide you with additional information and I would like to submit my evidence, let us say by Monday at the latest.
103. SIR CHRISTOPHER KELLY: That would be extremely helpful, thank you very much. We are very grateful to you for giving us your time and your helpful advice and for persisting with the difficult communication link. Thank you very much. Goodbye.
104. DR MARCIN WALECKI: Thank you very much indeed, and all the best. Thank you.

COMMITTEE ON STANDARDS IN PUBLIC LIFE

INTERNATIONAL LESSONS: NOTE OF SESSION WITH JEAN-PIERRE KINGSLEY, FORMER HEAD OF ELECTIONS CANADA¹

1. Jean-Pierre Kingsley (JPK) thanked the Committee for the opportunity to participate in the party political finance inquiry. He said he had enjoyed working previously with the Committee on the Fifth Inquiry and had received a visit from Committee members to Canada during the Electoral Commission inquiry chaired by Lord Neill.
2. JPK said the most difficult part of any **election regulation** is the matter of **money** for political parties and money for campaigning, including for established democracies.
3. Sir Christopher Kelly (CK) asked **what makes a good system**. JPK said that a good system has to provide enough money to allow parties to field candidates, to mount campaigns, to have a Secretariat to prepare for elections and events and organise the party, and to allow parties to develop policy platforms. He further added that a good system is one where the source of funding creates neither the impression nor the reality of undue influence. JPK believes that the Canadian model is effectively achieving this now.
4. CK asked whether the improvements in the system have increased **public confidence**. JPK said it has and that this is evidenced in opinion polls and in fact that there has been no real issue in the media. Prior to 2004, parties relied on big donations from corporations and the system was dependent on public knowledge. Banks, unions, companies and associations could freely donate with no limits, even though \$50,000 constitutes a glass ceiling
5. CK asked whether there was one particular **scandal** that triggered reform. JPK said the biggest driver for ethical reforms is usually a scandal. This is what forces people to reconsider the system. He said the trigger was the sponsorship scandal in 2004 in which it emerged that the Canadian federal government sponsorship programme, which aimed to raise awareness of the Government of Canada's contribution to Quebec society, was giving contracts to generally little known ad firms that were making substantial donations to the governing Liberal party and not performing substantial work as well. The media latched on after the details of the contracts were published on the web, as were the donations.
6. JPK said cleaning the system after this incident was the main driver, based on the notion that only individual human beings should be able to donate reasonable amounts of money to political parties. There was pressure to continue to allow corporations and unions to give up to \$5,000 a year. In 2007 PM Harper reduced the limit of individual donations to \$1,000 and banned corporation or union donations to candidates. From then on there was a maximum limit of \$1,000 on donations which meant individuals could give this sum to a candidate, party and campaign each year.

¹ Due to the failure of communication equipment this session was not transcribed. The following note has been cleared for publication by Jean-Pierre Kingsley.

7. CK asked about the **transition of reform** and what the impact was on parties' finances and whether it was particularly difficult for any one party. JPK said that the Liberal Party experienced problems but this was mainly because the cause – sponsorship scandal - was attributed to that party. JPK said the transition was smooth for other parties and parties had other sources of state funding as a substitute.
8. The **per-vote state funding** contribution was introduced in 2007. The level (of \$2) was calculated based on parties' revenue habits and was designed to fill the gap left by the donations cap. There are two other sources of public funding. One is the **reimbursement of campaign expenses** of between 50-60% of the total expenditure (up to an average maximum of \$80,000 for candidates and \$20m for parties) contingent on securing at least 5% of the popular vote. The other is **tax credits** for individuals who donate up to \$1,100 (up-rated for inflation from the original \$1,000) which is set at 75% for the first \$400, 50% on the next \$350, and 33.3% on any amount over \$750.
9. JPK said that the Liberal Party's problem was its unpopularity and its inability to adapt its strategy on fundraising to the new reality it had created. They did not have quite as much money under the new rules as individual contributions had declined, so the rules therefore affected their party more.
10. CK asked whether the **tax benefit** went to the party or to the donor. JPK said the tax credit goes to individuals rather than the party receiving the donation.
11. David Prince (DP) commented that the level of **donations cap** is low in Canada by international standards and asked how this had left parties financially now. JPK said donations had dwindled significantly, obviously. He said the cap was considered acceptable and went largely unmentioned in the media. The sponsorship scandal was seen as an abhorrent event in Canadian history, as evidenced in the latest general election in Canada
12. DP asked whether there was any opposition to **unions** being included in the ban on donations. JPK said it mainly affected the New Democratic Party but it accepted the change. It became easier for the party to have less formal relationships with the unions without the financial tie. They are now seeing unions supporting other candidates and parties.
13. DP went on to ask about **evasion** and possible **loopholes** in the regulation. JPK said there has always been noise about some people avoiding the rules but overall the system is viewed as working well. Elections Canada has a simple yet effective complaints system in which a Commissioner – appointed by the Chief Electoral Officer – investigates all complaints and determines whether there is a case for prosecution. The prosecutor then decides whether guilty or not. Crucially, the Justice Minister cannot interfere in the process as it is independent. If the matter is not as serious there is an option for a voluntary compliance agreement of infraction whereby the party or candidate or other person who broke the rules will sign a declaration acknowledging they broke the rules and undertaking not to do it again. This is published on the web so it is a great demotivator. He said it is important to note that guilt is determined by the courts and not by the Public Prosecutor who determines whether to proceed with a court action or not.
14. DP asked how **intrusive** the process was in terms of general transactions and who initiates the complaints. JPK said neither the Chief Electoral Officer nor mounts any direct effort to monitor infractions; the Commissioner only takes on cases referred by the CEO, the parties, the candidates and the

public. The CEO taxes all the returns, publishes them upon their being deposited, and refers problem cases to the Commissioner.

15. he Commissioner monitor infractions; the Commissioner only takes on cases referred by the Chief Electoral Officer , who scrutinises all the accounts and returns and publishes them, referring problem cases to the Commission
16. Dame Denise Platt (DDP) moved on to **expenditure limits**, both for parties and candidates, asking how the limits were agreed. JPK said the spending limits preceded the 2004 scandal dating back to the 1970s. There is deep popular support for ceilings on campaign spending but he said he is not sure how the limits were calculated. The limit varies as the formula is dependent on the size and population of the riding, which means it is not exactly per capita but generally so. There are 308 ridings and the limit is around \$20m for a party which includes TV advertising. He said this is considered reasonable and no party has ever complained as it is deemed an acceptable arrangement. The strength of the system lies in the fact that if you cheat you will get found out and if you are a winning candidate you lose your seat automatically. He cites a recent example from the 2006 general election in which four Conservative officials (including two Senators) stand accused of exceeding their party's spending limits by taking on other candidates' unused allowance to justify effectively overspending theirs. The case is before the courts.
17. DDP asked what the **penalties** are. JPK said there is a monetary fine for parties at a level relative to the sin committed. For candidates there is also a fine and the possibility of a jail sentence.
18. DDP asked whether **candidates spend** up to the limits. JPK said that it is very close for those from the established parties – if they have the money to spend, they spend it. He estimated they spend about half the limit on print advertising and therefore the money goes very quickly.
19. DDP asked whether the **spending cap** applied to campaign spending or all spending. JPK said it applied only to campaigning. The campaign period is very short - a minimum of 36 days - so it is very unlike the UK system. Between elections parties and candidates can spend as much as they like, including on negative advertising. DDP asked whether this spending was a problem. JPK said there is legislation on fixed election dates and he thinks this may bring with it a ban on advertising, say up to 30 days before the start of the campaign.
20. DDP asked whether it is necessary to have both **caps on donations and spending**. JPK replied that for the Canadians it is about egalitarianism, which dates back to the 1930s droughts in which hard working farmers suffered the most. He said the notion of levelling the playing field to help those who are less favoured in the first place is what drives their system, even though they know the level playing field will never be perfect.
21. Dr Elizabeth Vallance (EV) went on to the topic of **state funding**. JPK said there are three types of state funding in Canada: tax credits on donations; refunds on campaign expenditure; and the \$2 per-vote scheme. He said this funding makes up between 60-85% of parties' total income. All forms of state funding relate in some way to the electoral process.
22. EV asked how essential the state funding was and whether it **filled the gap** left by the donations cap. JPK said that two of the state funding mechanisms (tax credits and the reimbursement of campaign expenses) already existed prior to the 2004 scandal. The only innovation to affect the cap on

contributions was the \$2 per-vote scheme.. The amount was actually slightly higher than needed – it was originally estimated at \$1.25-\$1.75 but the extra was intended to satisfy parliamentarians the gap was filled.

23. EV asked for JPK's thoughts on which **kind of state funding** works best – **incentivised** or **direct grants**. JPK said it was hard to give a straight answer to this question as the incentivised scheme in Canada rewards the individual who gives and not the party, yet the \$2 per-vote and campaign expenditure schemes reward parties for electoral success. The \$2 per-vote scheme is an excellent way of supporting parties between elections and because it is based on popularity it incentivises parties to get support.
24. EV asked whether JPK thought there is value in the criticism that state funding makes parties less **engaged with the population**. JPK said he could see the case and that actually participation was falling in Canada – voter turnout was only 58.8% at the last election. He said it is mainly the youth that are less engaged and not showing up to vote, and that parties are not doing enough to try to reach out to them. He said some parties have more success with the youth – e.g. the Greens..
25. EV asked if state funding is perceived as **state takeover** or the **nationalisation** of political parties. JPK said there is not a sense of that at all. He said most Canadians do not even know how much state funding there is and even if they did he doubts they would care because ultimately it has made the whole system more honest. Achieving an open and honest system is the pay back for the public's money. With time, it becomes part of the fabric of political life.
26. Lord Alderdice (LA) turned to the issue of **third parties** and asked whether they provided a way of getting around the spending limits. He asked if there is any evidence of this being a problem. JPK said this area was governed by the Elections Act which covers any group which wishes to take part in an election. Any group or individual who wants to spend more than \$500 in advertising for or against a party or candidate has to register with the Chief Electoral Officer. They have to name their principals and declare the regions in which they will be active. There is then a \$3,000 limit on spending in each riding or a \$160,000 limit on spending nationally. Activities of third parties have been regulated as a result of the 1988 election in which some organisations spent millions, generally in favour of the governing party. Now, regulation means third parties cannot set up third parties and cannot act in collusion with political parties or candidates which puts a dampener on the ability of political parties to rely on their friends to campaign. This measure was also necessary to preserve the integrity of the cap on spending during elections by parties and candidates.
27. LA asked whether the donations cap had differential impacts on parties' **funding sources**, specifically parties reliant on wealthy individuals or corporations. JPK said that PM Harper had essentially taken the rules that applied to parties and extended them to candidates as well. The Liberals suffered because they had relied on corporations as a source of big contributions. The scandal of 2004 further reduced their income because the public were less willing to give \$100 to them, let alone \$1,000. The issue was that parties needed to sustain a small individual donor base alongside the \$2 per-vote scheme designed to fill the gap. JPK said the Liberals' additional problem was they had lost votes which reduced this funding stream as well, although the per-vote scheme had been brought in at a higher level than was

required so in actuality the level of funding should have been enough to plug the gap left by the corporate and union donations.

28. JPK said there was no real **transition** period. The new rules were brought in to take effect at the following general election.
29. CK returned to the issue of **third parties**. He summarised the Canadian position as characterised by controls on the relationship of third parties with political parties; controls on the amount of money they can spend; and controls on registration. JPK said in addition they report campaign advertising expenditure within four months of the election and they must report their sources of funding as well. There are no limits on donations to third parties but they have to be Canadian sources.
30. JPK stressed there is no issue with third parties being a **loophole** because of the anti-collusion measures and the caps on spending. The Supreme Court has looked at the system – including the levels of the limits – and has ruled that it is fair.
31. CK asked whether the third party legislation had become an issue for **charities** campaigning for or against a particular issue. JPK said that charities are governed separately by the Charities Act. He said that charities would not be allowed to campaign and if they did they would be caught by the existing regulation.
32. Turning back to **regulation**, CK asked whether the rules were considered to be excessive or a burden on parties. JPK said the Chief Electoral Officer was responsible for the entire electoral system and there has never been a complaint about the size of the office. Parties complain about the seeming complexity of the forms they have to complete and they complain that their election agents are not professionals. In this respect they find the regime demanding. However, JPK said the forms were devised in consultation with the parties and paperwork always upsets people, especially those who work voluntarily.
33. JPK said that auditing requires 20-25 people in the accounting department, including temporary staff. The Chief Electoral Officer publishes all accounts directly to the web as soon as they are submitted which helps to remove doubt that Elections Canada is in some way amending the accounts.
34. Finally, on **standardisation**, JPK said there are guidelines parties have to follow on filing quarterly reports and these are available on their website.

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