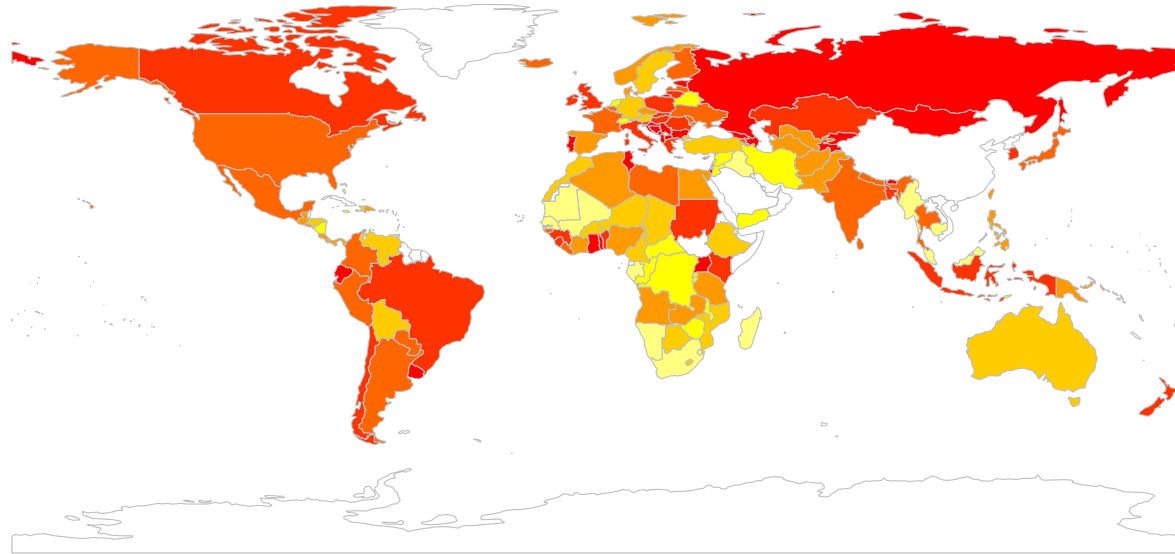


MEASURING THE ENFORCEMENT CAPACITY OF POLITICAL FINANCING SUPERVISORY BODIES

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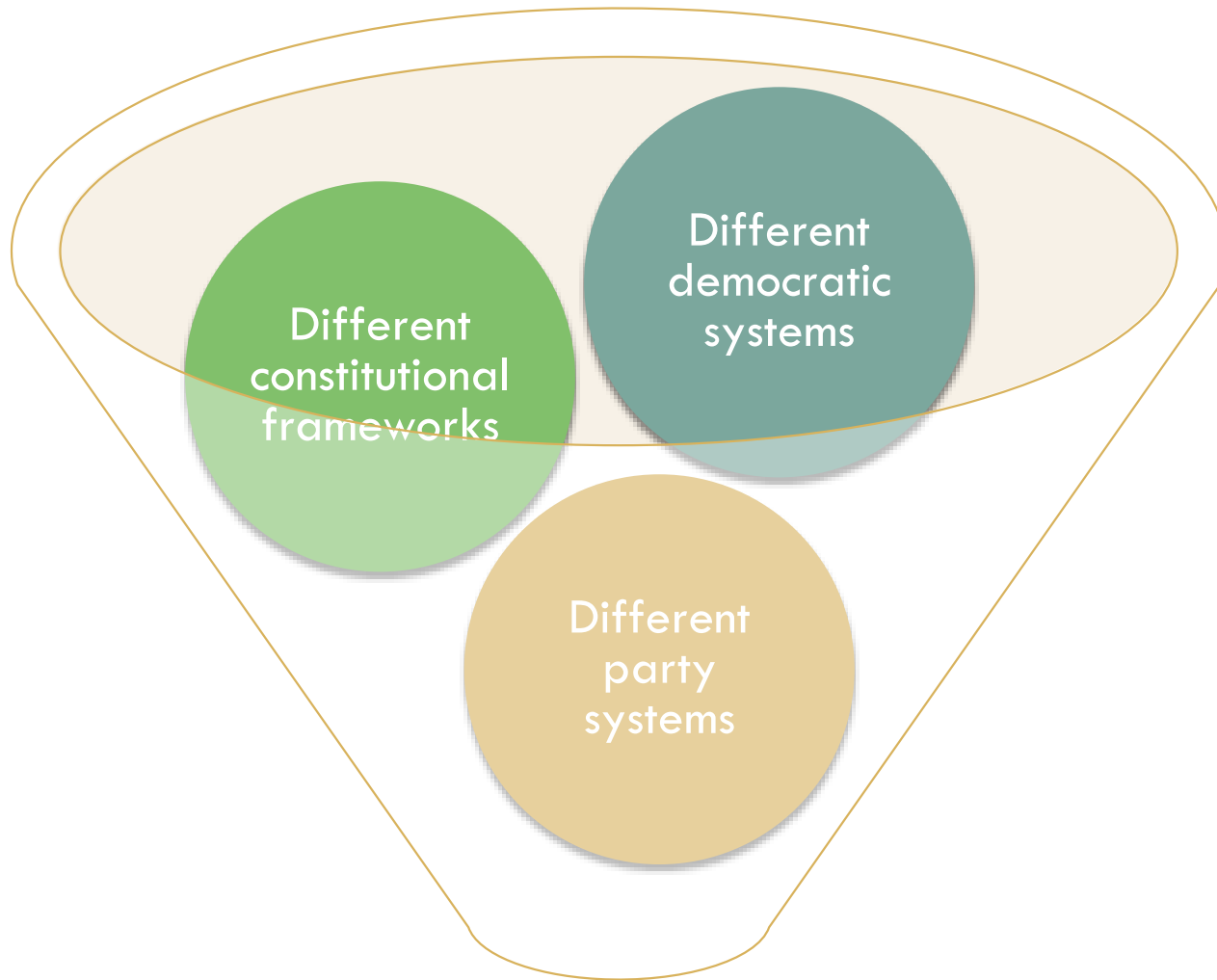
The Degree of State Intervention in Political Finance Regimes



Source: van Es 2015, Electoral Integrity Project, IDEA-international

Object of study

- According to IDEA's PF database nearly 77% of the surveyed countries (180) have created or designated a PFSB
 - ▣ electoral commissions are the most popular model
- Political financing supervisory bodies (PFSBs) are public bodies entrusted to monitor and enforce party and campaign financing regulations



**Different formatting of
PFSBs**

Poor performance

- Regardless of what “model” is adopted, the overall perceived levels of efficacy of these bodies are below optimal:
 - ▣ The majority of Europeans believe the **levels of transparency and party financing supervision, are insufficient** (Eurobarometer, 2012: 87).

Problem

- 'failure to punish blatant violations undermines public confidence in the oversight system and makes political competitors less willing to respect the regulations' (IDEA, 2014: 4)

Research question

- “Does the statutory-design of the enforcement powers of PFSBs matter to their overall performance?”

Research design

- **Objective:** measuring the enforcement capacity of PFSBs:
 - ▣ by focusing on their statutory powers and functions.
 - ▣ through three interrelated dimensions of control: (1) detection, (2) disciplinary action and (3) prevention.

- **Case selection:** France, Germany, Latvia, Portugal, Slovenia and UK (each corresponding to a PFSB model)

Table 1. Taxonomy of PFSB

Country	Type	Name of Agency	Acronym	Date of Creation
France	Independent administrative body	National Commission for Campaign Accounts and Political Funding	CNCCFP	1990
Germany	Parliamentary Administrative unit on behalf of the Speaker	President of the German <i>Bundestag</i>	PM3	1967
Latvia	Anti-corruption Agency	Corruption Prevention and Combating Bureau	KNAB	2002
Portugal	Administrative unit of the Constitutional Court	Entity for Accounts and Political Financing of the Constitutional Court	ECFP	2005
Slovenia	National audit	Court of Auditors of the Republic of Slovenia	CA	2010
United Kingdom	Electoral Management Body	Electoral Commission	EC	2000

Table 2. Mapping supervision powers and functions

Dimensions of control		FR	G	LV	PT	SI	UK	
Detection	Monitor campaign costs	1	0	1	1	1	1	
	Obligations of financial disclosure to the PFSB by parties/candidates	Any data concerning their financial activities	0	0	1	1	1	1
		Budgets	0	1	1	1	1	1
		Annual and electoral accounts	1	1	1	1	1	1
	On site inspections by the PFSB	Own initiative	0	0	1	1	0	1
		Acting on complaints	0	0	1	1	0	1
		By request of a body	0	0	1	1	0	1
	Auditing of accounts	Annual party accounts	1	1	1	1	1	1
		Electoral campaign accounts	1	0	1	1	1	1
		Referenda campaign accounts	0	0	1	0	1	1
	Coordination/articulation with other investigative units	The agency can ask for the collaboration of any investigative body in the pursuit of its mandate	1	0	1	1	1	1
		Other state bodies and departments in possession of potentially relevant information about illicit financing have the duty to report to the supervisory body	0	0	1	0	1	1
	Private entities	The agency can ask for information to private entities	1	0	1	1	1	1
		Private entities in possession of potentially relevant information about illicit financing have the duty to report to the supervisory body	0	0	1	0	1	1
	Hold meetings/hearings (with experts, journalists, NGOs, public officials, magistrates, etc.)		0	0	1	0	0	1
Collection, centralisation and processing of information		1	1	1	1	1	1	
Sub-total = 16		7	4	16	12	12	16	

Disciplinary action	<i>The agency can issue regulations to clarify and/or harmonise various procedural aspects of the political financing regime</i>		0	0	1	1	1	1
	<i>The agency can make its regulations binding to parties and candidacies</i>		0	1	1	1	0	1
	<i>Further to the sanctioning regime applicable to parties, candidates and third parties, the agency has disciplinary powers over parties, candidacies and third parties directly linked with party or campaign activities</i>		0	0	1	0	0	1
	<i>Inquiry/ evidence hearings</i>	<i>The agency can instruct party officials, financial officers to give or clarify evidence</i>	1	1	1	1	1	1
		<i>The agency can instruct private agents with commercial links to parties or candidacies to give or clarify evidence</i>	0	0	1	1	1	1
	<i>The agency can initiate judicial procedures (by instructing the process)</i>		0	0	1	0	1	0
	<i>The agency is legally obliged to refer cases of illicit financing to the competent judicial authorities</i>		1	1	1	1	1	1
	<i>The agency has the duty to enforce the political financing regime to parties, candidacies and third parties (directly linked with party or campaign activities) by verifying breaches to the law and applying the designated sanctions</i>		1	1	1	1	0	1
Sub-total = 8		3	4	8	6	5	7	
Prevention	<i>Set a reference price list of campaign material</i>		0	0	0	1	1	0
	<i>Set an accreditation system for political marketing firms and other companies providing (commercial) services to parties or candidacies</i>		0	0	0	0	1	0
	<i>Issue recommendations and/or draft reform proposals</i>	<i>On legislative matters (to the legislator)</i>	0	0	1	0	1	1
		<i>On procedural matters (to parties)</i>	0	0	1	1	1	1
	<i>Advice / guidance to parties and candidacies on financial accounting procedures and other regulatory aspects</i>		0	0	1	1	1	1
	<i>Training / specialised courses</i>	<i>To party officials, financial officers</i>	0	0	1	0	0	0
		<i>Stakeholders (journalists, NGOs, etc)</i>	0	0	1	0	0	0
	<i>Carry out research on sensitive/risk areas of political financing</i>		0	0	1	0	0	1
	<i>Educational programs (including collaboration with academia)</i>		0	0	0	0	0	1
<i>Informing the public</i>		0	1	1	0	1	1	
Sub-total = 10		0	1	7	3	6	6	
Total score = 34		10	9	31	21	23	29	

Table 3. PFSBs Enforcement Capacity Index

Control Dimensions	Weighing factor	FR	G	LV	PT	SL	UK
Detection powers	0.35	$7/16 \times 0.35 = 0.15$	$4/16 \times 0.35 = 0.09$	$16/16 \times 0.35 = 0.35$	$12/16 \times 0.35 = 0.26$	$12/16 \times 0.35 = 0.26$	$16/16 \times 0.35 = 0.35$
Disciplinary powers	0.45	$3/8 \times 0.45 = 0.16$	$4/8 \times 0.45 = 0.23$	$8/8 \times 0.45 = 0.45$	$6/8 \times 0.45 = 0.34$	$5/8 \times 0.45 = 0.28$	$7/8 \times 0.45 = 0.39$
Preventive powers	0.20	0	$1/10 \times 0.2 = 0.02$	$7/10 \times 0.2 = 0.14$	$3/10 \times 0.20 = 0.06$	$6/10 \times 0.2 = 0.12$	$6/10 \times 0.2 = 0.12$
Average score		0.31	0.34	0.94	0.66	0.66	0.86

Table 4. Enforcement capacity and regulatory performance

Country	Indicators	PFSBs Enforcement Capacity Index	Eurobarometer 2012 (In)efficacy of PFS
Latvia		0,94	79%
United Kingdom		0,86	56%
Portugal		0,66	71%
Slovenia		0,66	85%
Germany		0,34	65%
France		0,31	73%

Limitations

- There are a number of limitations that need to be underlined the Enforcement Capacity Index:
 - ▣ The data was collected at a given point in time, hence it does not reflect statutory changes over time
 - ▣ The author was the solely responsible for deciding the weighing scheme (**based on CoE PF standards**)
 - ▣ The measurement exercise focus on formal powers and functions only and not on their actual practice

Lessons drawn

- Few PFSBs have been empowered with fully-fledge supervision competences
- New specialised bodies with multiple statutory competences in the three control dimensions are likely to develop a more complex and balanced supervision approach



Thank you for your attention!