

Financing of Political Parties and Election Campaigns in Central Eastern Europe

Regulation of income

Funding of political parties in **Moldova** is regulated by the Electoral Code of November 21, 1997 and Law on Political Parties of 21 December 2007.

Law on Political Parties (LPP), section 26, paragraph 1, defines donations as "assets transmitted free of charge and non-conditionally to the political party and accepted by the latter." Only two categories of donors to political parties are stipulated by law: natural persons and legal persons; this does not include a detailed list of potential donors or other 'special' organisations. Natural and legal persons located within the country can make donations to one or more political parties. The law sets restrictions on donations that a legal and natural persons can make to one or more political parties. Thus, donations from an individual to one or more political parties in a financial year cannot exceed 500 monthly average national wage calculated for the year in question¹, which is about 108 000 euro in 2012.

According to section 26, paragraph 4 of LPP, donations made by a legal person to one or more political parties in a financial year cannot exceed the 1000 monthly average national wage calculated for the year in question, which is about 216 000 euro in 2012.

Independent experts have criticized the limit on the amount for donations from individuals and legal entities to party budgets. It is very difficult to believe that this kind of private financing regime could decrease risks associated with political corruption, especially those referring to selling seats in the party lists, which was widely discussed but not proven so far.² It is unlikely that such circumstances could ensure equal conditions for all citizens to participate in political life.

The annual revenue that a political party derives from donations may not exceed 0.1% of the total public financial support allocated in the national budget for the year in question.³

¹ Section 26, paragraph 1, of the LPP

² Sergiu Lipcean, *Evaluarea finanțării partidelor politice și campaniilor electorale in Republica Moldova*, Public Policies, nr.5, 2009, IDIS "Viitorul", Chisinau, p. 23

³ Section 26, paragraph 2, of the LPP

According to the Budget Law for 2012, budget revenues are estimated at 21.367 billion lei. As a result, the maximum donation that parties can receive from private sources should not exceed the amount of 21,367,000 lei (1 410 363 euro) in 2012, an amount which is very impressive⁴.

According to Article 26, 'political parties shall not accept material support in any form from other state or international organizations, enterprises, and organizations financed by state or with state or foreign capital, non-commercial organizations, trade unions, philanthropic and religious organizations, citizens of the Republic of Moldova who are still minors, those residing abroad, or non-citizens of the Republic of Moldova'. Anonymous donations are prohibited by LPP.

The LPP stipulates that that each political party shall keep a record of donations received, where the name and address of the donor shall be provided along with the donated amount. The legal regulations are not clear as to whether the date of the donation needs to be reported.

The LPP establishes the **conditions of state budget financing of political parties**. It should be noted that public funding of political parties has been postponed several times following the amendments made by the legislature. Thus, public financing of political parties shall apply with effect from 1 July 2017 for parliamentary elections and the July 1, 2015 for local elections.⁵

According to Section 28 of LPP - which, as was said above, not yet in force - annual allocations to the political parties from the State budget cannot exceed 0.2% of the cumulative total proposed for the budget year concerned and are to be distributed as follows:

- a) **50% to be distributed among political parties in proportion to the number of mandates obtained in parliamentary elections, as validated at the time of constitution of the new legislature - with effect from 1 July 2017;**
- b) **50% to be distributed among political parties in proportion to the number of votes scored in local elections, provided they have obtained at least 50 mandates in representative bodies of second level territorial-administrative units - with effect from 1 July 2015.**

⁴ The monthly average salary in Moldova is 3400 lei/\$274\$/221 €

⁵ Section 32, paragraph 1, of the LPP

The existing system laid down in the Law on Political Parties (2007) gives considerable advantages to the parties that got the best results in parliamentary elections, and **limits extremely any access of small or new political parties to budgetary financing**. Application of the 'proportionality' principle in the allocation of public financing, without considering the principle of 'equality' is certainly propping up the dominant position of senior/ruling parties and could **seriously jeopardize the principle of political pluralism**.⁶ Because of the relatively high election threshold, most of the newly emerging political parties will simply not qualify for financing from the state budget, and will be out of reach from state subsidies. Since the adoption of the public financing system is conceptually based on equal opportunities for political actors, this causes serious doubts about the rationality of the existing financing system, suggesting that this should be further reconsidered and developed in law, ensuring more balanced positions for political actors in elections.

The corresponding sums are to be transferred to the parties' accounts by the CEC all year long in equal monthly installments. In the event of a re-organisation of the parties concerned, the right to funding from the State budget will be transferred to their beneficiaries that are the re-organised political parties.

In this context, it should be noted that national legislation provides material support from the state for election campaigns in the form of **interest-free loans extended to candidates in parliamentary or local elections, repaid in full or in part by the state according to a formula that takes into account the results of elections**.⁷

The CEC established the following amounts of interest-free loans for campaigning in the parliamentary elections of 5 April 2009: MDL (Moldovan lei) 32 000 (circa 2110 euro) for political parties and MDL 5 000 (about 330 euro) for independent candidates; and for the parliamentary elections of 29 July 2009: MDL 25 000 (about 1650 euro) for parties and MDL 3 000 (about 198 euro) for independent candidates. But, given the fact that few candidates had applied for these small loans in the past, the CEC decided not to offer any such loans to cover the cost of campaigns for the elections held on 28 November 2010.⁸

⁶ Igor Munteanu, *Political Parties Legislation in Moldova: review and recommendations for reform*, Chisinau, 2010, p. 185

⁷ Section 37 of the EC

⁸ Third Evaluation Round (launched in 2007). *Evaluation and Compliance Reports. Theme II - Political Funding*, Adopted by GRECO at its 50th Plenary Meeting (Strasbourg, 28 March – 1st April 2011)

In addition to provisions on direct public funding, not yet in force, political parties enjoy indirect public funding. First of all, political parties benefit from **tax advantages**. Section 25, paragraph 5, of the LPP provides that their lawfully-obtained income is tax exempt or taxable according to the provisions of the Tax Code.

In addition to tax advantages Electoral Code provides that all candidates participate in the campaign with the same rights, especially access to the media, state-funded.⁹ **Thus, during the parliamentary and local election campaigns, public television and radio must give free air time to candidates, distributed on an equitable basis.** During campaigning, candidates are entitled to unpaid leave and cannot be fired or transferred to another job without their consent. They must also not be made subject to criminal proceedings, arrested, detained or have administrative sanctions imposed on them without the agreement of the electoral bodies that registered them, except if they are caught in flagrante delicto.¹⁰

Speaking of transparency should be noted that there exist several deficiencies in this topic that were highlighted by internal and external reports. First of all we are referring to the content of annual financial reports that political parties must submit to the Court of Auditors, the Ministry of Finance and the Ministry of Justice. These reports contain general information on the total amounts received by category of contributor and the total sums paid by type of expenditure. In this context, GRECO recommends to make it obligatory for political parties' annual financial reports destined for publication and submission to the supervisory authorities to include more precise information, guaranteeing a full overview of the party's assets and its income and expenditure.¹¹

Data on political party's donors (name, surname and place of residence.) are available in internet on the site of CEC only during electoral campaign. The financial reports do not indicate the identities of donors and the amounts of their donations or the identity of the person or entity to which the payment was made outside election campaigns.¹² It is necessary to achieve transparency in this case to prevent violations of the law on financing political parties. There is also some risk that donations received by political parties outside of election campaigns to

⁹ Section 46, paragraphs 1 and 2, of the EC

¹⁰ Section 46, paragraph 5, of the EC

¹¹ Third Evaluation Round (launched in 2007). Evaluation and Compliance Reports. Theme II - Political Funding, Adopted by GRECO at its 50 th Plenary Meeting (Strasbourg, 28 March – 1st April 2011)

¹² *ibidem*

come only from a few individuals who could help financially with higher amounts than those provided by law.

Regulations of spending

Political parties and independent candidates spend their funds. Moldovan regulation on political parties prohibits vote buying. Section 38, paragraph 7 of CE states that “candidates are forbidden to offer voters money, gifts, to distribute free goods, including humanitarian aid or other charity”. However, vote buying is a phenomenon practiced by political parties during election campaigns. Despite the fact that electoral candidates reported cases of buying votes, CEC didn’t impose sanctions on political for such violations of law because because is difficult to prove vote buying by the candidates.

Speaking about the spending in a campaign by political parties or independent candidates, the article 38, paragraph 7 of the EC states that the amounts deposited to the account election cannot be used for private purposes. Furthermore, paragraph 2 of the same article states that the CEC sets a maximum transfer that can be performed on election accounts.

Before the beginning of the election campaign the Central Electoral Commission can impose limits on the amount a political party or an independent candidate can spend. For example, during the Parliamentary campaign in July 2009 political parties could spend circa 12,000,000 MDL (aprox. 775000 €), in Parliamentary campaign in 2010 - 21,664,445 MDL (aprox. 1,400,000 €) and for Local elections in 2011 – 22,000,000 MDL (aprox. 1,420,000 €). The limits on the amount the independent candidate could spend during the Parliamentary election in July 2009 were of 500.000 MDL (aprox. 32,300 €) and for Parliamentary election in 2010 were of 2,166,444 MDL (aprox. 140,000 €). On Local elections from 2011, for independent candidate, the cap was set depending on the number of voters in the district in which candidates (50 eurocents per voter).

The use of administrative resources is a problem that has consistently challenged the integrity of the political process in the Republic of Moldova. Section 47, paragraph 7 of EC states that ‘candidates can not use public resources and goods (administrative resources) in election campaigns’, but stipulates no specific sanctions for the abuse of administrative resources by politically appointed civil servants.

Regular monitoring reports produced for the two consecutive waves of parliamentary elections in 2009 have described an extreme situation in which the entire state apparatus, including its territorial executive offices, have been working for the Communist Party. Coalition 2009 noted dozens of cases of direct and indirect implication of the state agencies (police, local agencies, state-run enterprises and services) campaigning for former ruling party, and making extensive use of state resources to the advantage of one political group.¹³ There are three main categories of observed irregularities: (1) institutional, (2) budgetary and (3) media: participation in elections of incumbent officials, allowed to remain in their official positions, using state resources for election purposes, thus taking undue advantage of state resources; another type of irregularities is generally referred to as the “abuse of administrative resources”, which takes place usually through the use of the incumbent government officials of important budgetary incentives during campaign; all news programmes of the main four TV channels with national coverage reflected the government activities only in positive tones, offering prime time to the high ranking officials of state, while presenting the opposition only in dark colours and with negative labelling.¹⁴

Despite the fact that Communist Party lost the power in 2009, situation has not changed much since then. The governing coalition parties have continued to use administrative resources in parliamentary and local elections.

The last Parliamentary campaign of October – November 2010 proved that the parties continue to conceal the real expenses they incur. Unfortunately, the legislative ambiguity favors this subversive behavior of political parties. Both the electoral code and the law concerning political parties do not clearly stipulate what expenses have to be declared by parties. According to article 30 of the Electoral Code the parties file, once a year, a financial statement to the Court of Accounts, Ministry of Finance and the Ministry of Justice. Meanwhile, the same parties have to file, once in two weeks, another kind of financial statements during the electoral campaign.

These stipulations have been interpreted in such a way that political parties considered that the electoral reports have to contain only the sums spent for producing material with an electoral character. For this reason, in these reports we will not find, for instance,

¹³ Report on the monitoring of parliamentary elections, Coalition 2009, LADOM, http://www.alegeliber.md/files/rapoarte/raport_5_ladom_rom.pdf

¹⁴ Igor Munteanu, Political Parties Legislation in Moldova: review and recommendations for reform, Chisinau, 2010, pp.204-206

employees or political technologists' salaries or even the parties costs of organizing concerts, sums that, theoretically, have to be included in the general financial statement, filed once a year (as a matter of fact you will not see these amounts there either). Thus, because of this loophole in the law that does not clearly stipulate what expenses have to be reported by parties during campaigns, it gives parties the opportunity to conceal a significant part of expenses contributing therefore to the phenomenon of organized hypocrisy.

In our opinion, the law must include a clear stipulation of parties' expenses during the electoral campaign. For example, the electoral staff salaries during the campaign are much higher than those during the usual period of activity and, subsequently, they must necessarily appear in the financial statements during campaigns. In accordance with some inside sources within certain political parties, local staffs have received from the center amounts of up to 500 000 lei for a campaign.

Multiplied by 33 districts these expenses reach the sum of 1million Euro, an exorbitant sum that cannot be seen under any form in any financial statement. Even if these sums might be exaggerated, monitoring shows that major parties easily fall in amounts between 200 000 – 300 000 lei per district. Therefore, the law must clearly specify the parties' expenses categories that have to be necessarily reported.

Although parties might be tempted to declare less than they spend, however they will be encouraged to cast light on certain campaign costs that have not been reflected at all so far.

Meanwhile, although the official caps for personal contributions are growing, a fact that allows political parties to spend officially more and more money, the unofficial sums are continuously increasing as well. As a matter of fact, the money declared by parties in their financial statements during November 2010 campaign represents just the peak of iceberg; the largest expenses staying out of the accounts are not known by society and are spent in a non-transparent manner.

On the whole, we notice significant gap between the officially reported sums and those really spent. We might admit that the total campaign sum of the three biggest parties amounted up to about 54 000 000 lei (3564356 euro).¹⁵ This sum is 4.5 times as high as that officially reported by political parties. (PDM reported 11 700 000 MDL – about 772 277 euro,

¹⁵ Corneliu Ciurea, in "Financing political parties: between transparency and obscurity", Public Policies, nr.8, 2010, IDIS "Viitorul", Chisinau, p. 36

PLDM reported 10 077 100 MDL – 655 155 euro, and PCRM reported 4 463 810 MDL – 294 640 euro).The mentioned gap expresses the degree of financial secrecy of our electoral campaigns. In our opinion, legislation imperfection encourages parties to conceal real expenditures.

Reporting and sanctions

Both the Electoral Code and Law on political parties containing provisions that require political parties to be transparent in relation to financing parties activities of election campaigns. In this context, the Electoral Code requires candidates to report in mass-media, within one month after the beginning of election campaign, funds or other funds or other forms of material support. Also, candidates are obliged to declare all the funds before they use them.¹⁶ The procedure for opening and operating a bank account specified as an "Electoral ", implying that all the operations related to income and campaign expenses, is included in the same direction to ensure transparency and control, monitoring financial flows to all parties.

According to Section 38, paragraph 9 of EC, candidates are required to submit financial reports to electoral bodies, which must contain information destination of the revenue and expenditure. According to Election Code, banks are responsible for reporting to CEC and district electoral council all information on means transferred to the election fund within 24 hours after deposit in the account.

Section 38, paragraph 9 of EC states that CEC or district electoral council may request the Court of Auditors or the State Tax Inspectorate verification of income sources, the accuracy of accounts and use according to destination of candidates' money. All, political parties and institutions responsible for organizing elections, are required to be transparent in relation to financial information gathered from the candidates. CEC and district electoral councils are required to open a registry that would include all information on financing electoral process and to make this information available to the public.

Electoral bodies are required to prepare weekly reports that contain information on the amount of contributions received by each competitor and background of sources of income. Then, at the end election campaign should develop a pre-election report and a final report

¹⁶ Section 38, paragraph 1 of EC

summarizing that will include all available in the amount and sources of money received by the candidates¹⁷.

Law on political parties points out the public character of the information. The law specifies that additional to periodic financial reports, competitors are required to submit a final report for all campaign within one month after publication of election results. CEC publishes on its website, all expenditures of each political party for election campaign, based on information submitted by parties within two months of the date of the election.¹⁸

Electoral candidates present financial statements only to CEC during election campaigns. Outside of electoral campaigns, political parties are bound by the same law to submit annual financial reports of the Court of Accounts, Ministry of Finance and Ministry of Justice. Court of Auditors will check the use of subsidies from the budget, while the Finance Ministry will check other categories of income.¹⁹ There is a significant deficiency in ensuring transparency - the large number of institutions responsible for overseeing the process. There are four institutions charged with monitoring and control functions. CEC is responsible for this process during election campaigns. CEC members are appointed by the Parliament. CEC consists of 9 members: 1 is designated by the President and 8 by the Parliament. Court of Accounts, Ministry Finance and Ministry of Justice is responsible outside the election campaign. Moreover, the CEC is dependent on the expertise of other institutions even during election campaigns, if CEC consider checking financial information of candidates. This problem was highlighted by several national and international experts.²⁰ GRECO, recommends to mandate an independent central body, endowed with sufficient powers and resources and assisted by other authorities where necessary, so as to allow the exercise of effective supervision, the conduct of investigations and the implementation of the regulations on political funding.²¹

Criminal Code (CC), the Code for Administrative Contraventions (CAC) and the Electoral Code – provides certain sanctions for violations related to the electoral legislation. The Law on

¹⁷ Section 38, paragraph 10 of EC

¹⁸ Section 31 of LPP

¹⁹ Section 30 of LPP

²⁰ Third Evaluation Round (launched in 2007). Evaluation and Compliance Reports. Theme II - Political Funding, Adopted by GRECO at its 50 th Plenary Meeting (Strasbourg, 28 March – 1st April 2011); Igor Munteanu, Political Parties Legislation in Moldova: review and recommendations for reform, Chisinau, 2010; Sergiu Lipcean, Evaluarea finanțării partidelor politice și campaniilor electorale in Republica Moldova, Public Policies, nr.5, 2009, IDIS “Viitorul”, Chisinau

²¹ Third Evaluation Round (launched in 2007). Evaluation and Compliance Reports. Theme II - Political Funding, Adopted by GRECO at its 50 th Plenary Meeting (Strasbourg, 28 March – 1st April 2011)

Political Parties states that donations received by parties exceeding the limit laid down and any sums of unlawful origin (for example sums received from foreign or international sources, State funded entities, non-profit organizations, trade unions or anonymous donors) must be transferred to the State budget by court order. A person that used funds received from abroad or non-declared funds – shall be punished by a fine up to 30 conventional units, with confiscation of these funds (1 conventional unit = 20 Moldovan lei). Also, section 162/1 of the CAC sanctions different types of violations of the accounting legislation, including failure to submit financial reports and submitting false information, with fines from three up to 75 conventional units. Another sanction envisioned by LPP, that will be applied in the future when public funding for parties will enter in force, states that parties will lose their right to State grants if violate the LLP rules. International experts expressed their concern about the lack of a clear, precise definition of the offences against the rules on transparency, the obvious deficiencies in the system of sanctions – for instance, no penalty is laid down in the event that a party fails to file its annual report with the supervisory authorities – and the limited range of sanctions provided for.²² That means that the sanctions could, for example, include criminal penalties and far greater contraventional fines, proportionate to the seriousness of the offence.

Speaking on funding of election campaigns, the EC provides for the CEC to issue a warning to an electoral candidate who fails to comply with the rules on transparency and for the annulment, by the competent court at the request of the CEC or the district electoral council, of the registration of a contestant who has used funds that are undeclared or of foreign origin.

Moldovan and international experts expressed their concern about the lack of a clear, precise definition of all the offences in this field and about the very limited range of sanctions provided for²³.

Also, it should be mentioned that moldovan legislation doesn't provide any penalties for donors.

²² ibidem

²³ Third Evaluation Round (launched in 2007). Evaluation and Compliance Reports. Theme II - Political Funding, Adopted by GRECO at its 50 th Plenary Meeting (Strasbourg, 28 March – 1st April 2011); Igor Munteanu, Political Parties Legislation in Moldova: review and recommendations for reform, Chisinau, 2010; Sergiu Lipcean, Evaluarea finanțării partidelor politice și campaniilor electorale in Republica Moldova, Public Policies, nr.5, 2009, IDIS “Viitorul”, Chisinau

Practice

One of the most frequent irregularities associated with the financing of political parties and election campaign refers to the fact that some people were inscribed in the donations lists of political parties but had no donations to them. Mass media revealed, during local elections in 2011, the fact that some people, inscribed onto the Party of Communists lists, who made donations, some extremely generous, subsequently declared that they were not aware of this and anyway they would not have been able to donate these sums, however the CEC or other state bodies responsible for the political parties financial resources control have not taken a stand.²⁴

The Moldovan politics has long ago taken the way of the principle “pay to play”, scandals about buying places in the list being the most obvious. In spite of not being always proved, such cases like the alleged sale of Mircea Snegur’s place on the list of the Democratic Moldova Bloc in 2005 by Veaceslav Untila, incited the interest in clandestine circulation of political money, suggesting the existence of exorbitant sums landing into the pockets of politicians’ coats.

The biggest problem of 2010 electoral campaign – non-declaration of expenses and revenues. The electoral campaign of October – November 2010 proved that the parties continue to conceal the real expenses they incur. Evidence of such a way of circumventing the obligation to report about the revenues and expenditures during the campaign came even from political leaders who have confirmed their malevolence in an excess of sincerity.

NGOs role in monitoring of political finance is important. During the election campaigns, moldovan representatives of different NGO combined their efforts by creating a supervision body of electoral campaigns (for example coalition2007). The goal of this ad-hoc organization was to monitor the fairness of electoral campaigns and to identify possible cases of irregularities. Also it should be mentioned that several NGOs elaborated reports and researches on financing political parties. For example, IDIS “Viitorul” has elaborated several reports and researches on this topic. We can mention following reports: Sergiu Lipcean, Cornel Ciurea, Leonid Litra, Cornelia Cozonac, “Financing political parties: between transparency and

²⁴ Sergiu Lipcean, Cornel Ciurea, Leonid Litra, Cornelia Cozonac, “Financing political parties: between transparency and obscurity”, Public Policies, nr.8, 2010, IDIS “Viitorul”, Chisinau, p. 42

obscurity”, Public Policies, nr.8, 2010, IDIS “Viitorul”, Chisinau; Igor Munteanu, Political Parties Legislation in Moldova: review and recommendations for reform, Chisinau, 2010; Sergiu Lipcean, Evaluarea finanțării partidelor politice și campaniilor electorale in Republica Moldova, Public Policies, nr.5, 2009, IDIS “Viitorul”, Chisinau. Also, it should be mentioned the effort made by IFES, ADEPT and other ONG in this domain.

Recommendations

- A clear separation in legislation of parties funding during their routine activities from their financial activities during election campaigns. This will restrict the possibilities to transfer without entering into accounts the revenues and expenses from one period to another.
- A significant reduction of donation from corporate donors as well as from individual. In this respect it is necessary to cap the donations in order to adjust them to the standard of living in the Republic of Moldova. The goal is to reduce the parties’ dependency on large donors to develop a mechanism discouraging large donations from private sources both of individuals and companies. Meanwhile it is necessary to encourage small donations from individuals through fiscal incentives under the form of a differentiated and progressive mechanism applied in relation to individual donors.
- Introduction financing of political parties from the state budget.
- More detailed financial reports submitted by political parties containing more expenditure categories than now with goal to prevent cases of hiding all expenses of political parties
- In order to maximize the transparency and eliminate problems related to fictitious potential donors it is required to clearly regulate, in a normative way, the correlation between the income statements and value of donations. It is also necessary to prohibit donations from sources that can not be checked in order to prove the legal origin of these sources. Indicating the source of donations might be a guarantee of their legality.
- The existing normative framework demonstrated the inefficiency of the exercised control over financing. In order to optimize the control mechanism it is required to review the powers of institutions involved in this process. The CEC is the most suitable institution for carrying out the monitoring and control over financing both during and between campaigns because it is the most independent institution in comparison

with the others being under a direct political control. In this context CEC has to be equipped with the resources, competences and responsibilities necessary for an autonomous activity in terms of checking parties' financial activity.