

I Annex - Democracy and the rule of law

3. LAW ON FINANCING OF POLITICAL PARTIES

LAW ON FINANCING OF POLITICAL PARTIES

I BASIC PROVISIONS

Subject of Regulation

Article 1

This Law shall regulate means for acquiring and providing financial funds for political parties' operation and political campaigns as well as their mode to control financing and financial operation aiming to achieve legality and transparency of their operation.

Pursuant to this law, political parties may acquire funding for regular operation and election campaign through public and private funds.

Public Funds

Article 2

Pursuant to this Law public funds are financial means allocated by the State Budget of Montenegro and budgets of local self-governments (hereinafter referred to as the "budget funds").

Private Funds

Article 3

Private funds, pursuant to this Law, are: membership fees, contributions, activity incomes, property incomes, legacies, all kinds of non-lucrative activities and gifts.

Membership fee is amount of money which political party member pays on a regular basis in the manner and under conditions prescribed by the statute and other political party's acts.

Contributions are occasional or regular payments which natural and legal persons voluntarily give to political parties in amount exceeding the membership fee amount.

Promotional activities income is income which political party acquire through publishing, selling of advertising items and organization of political party events.

Incomes on property are incomes which political party acquires through selling and lease of own property thereof.

Legacy is a gift consisted of money and movable property of artistic, cultural or historical value, or real estates given to a political party either to use or dispose.

Non-lucrative activity is activity aiming to satisfy public interest.

Gift is securities or any other item which value exceeding amount of 50 euros.

The Budget Funds Use

Article 4

Budget funds can be used for funding:

- 1) regular operations of political parties,

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- 2) Members of parliament work in the Assembly of Montenegro (hereinafter referred to as the: assembly), members of municipal assembly or town municipality (hereinafter referred to as the: municipal assembly), and
- 3) Election campaign for election of members of parliament, members of municipal assembly, President of Montenegro, mayor and president of municipality.

Right to Budget Funds

Article 5

Political party, coalition and group of citizens that participate on elections or won at least one Assembly or municipal assembly seat (hereinafter referred to as the: parliamentary party) are entitled to budget funds mentioned in article 4 Paragraph 1 and 2 of this Law.

The nominator of announced and confirmed electorate list (hereinafter referred to as the: nominator of electorate list) is entitled to budget funds from the Article 4 item 3 of this Law.

Budget funds for financing election campaign for election of president of Montenegro, mayors and municipality presidents shall be allocated pursuant to particular law.

Use of Funds from Private Sources

Article 6

Pursuant to this Law, parliamentary party and nominator of electoral list may collect funds from private resources for financing regular operations and covering expenses of election campaign.

Supervision

Article 7

Supervision over implementation of provisions of this Law performs public administration body competent to finances (hereinafter referred to as the: ministry).

II FINANCING OPERATIONS OF POLITICAL PARTIES

Allocation of Budget Funds

Article 8

Budget funds for financing regular operations of parliamentary parties in the Assembly shall not be less than 0, 2% or exceeding 0, 4% of total budget funds, reduced for funds of capital budget and national funds budgets – current budget for a year in which the budget is adopted.

Budget funds for financing regular operations of parliamentary parties in the municipality assembly shall not be less than 0,5% or exceeding 1% of total budget funds, reduced for funds of capital budget and national funds budgets – current budget for a year in which the budget is adopted.

Funds from Paragraph 1 and 2 of this Article in amount of 15% shall be allocated in equal amounts to parliamentary parties in the Assembly, or municipal assemblies, and remaining 85% of funds proportionate to overall number of seats in the Assembly or municipality assembly during allocation period.

Ministry or local administration body competent for financing affairs (hereinafter referred to as the: local administration body) from Paragraph 1 and 2 of this Article shall distribute funds to parliamentary parties monthly and before the 5th day of the month for the preceding month.

Financing from Private Resources

Article 9

The amount of funds from private resources, except from membership fees funds, collected by a political party in a single calendar year for its regular operations, may not exceed 100% of the funds accrued by the budget funds.

A political party not entitled to budget funds may collect funds from private resources up to 5% of all funds from Article 8 Paragraph 1 of this Law, except for membership fees funds.

For financing regular operations of a political party natural person may pay up to 2.000 euros and legal person up to 10.000 euros per annum.

III FINANCING ELECTION CAMPAING

Election Campaign Costs

Article 10

Pursuant to this Law election campaign costs shall relate to: pre-election meetings, posters, advertisements, radio and television and other media programs, commercials, publications, programs in various media, public opinion researches, overhead costs and administration, transportation costs during the period from calling of elections until Election Day.

Allocation of Budget Funds

Article 11

Budget funds for financing costs of election campaign from Article 10 of this Law shall be allocated in calendar year in which regular elections are held amounting to 0,15% of current budget for a year in which budget is adopted.

Funds from Paragraph 1 of this Law amounting 20% shall be allocated in equal amounts to electoral lists nominators during eight days from the day of electoral list confirmation.

Funds amounting 80% shall be allocated to electoral lists nominators that won seats, proportionate to number of seats won.

Funds from Paragraph 3 of this Article shall be allocated during period of 15 days from the day when electoral list nominators submit to a competent election commission reports on funds collected and spent for election campaign together with reports on audit performed by the Ministry auditors.

Joint Budget Funds

Article 12

For covering costs of election campaigns budget funds shall be provided in amount of 0, 05% in a year in which regular elections are held. The funds shall be allocated to nominators of electoral lists who won seats, proportionate to number of seats won, providing that they collected double amount from private resources accrued pursuant to Article 11 Paragraph 2 of this Law.

To nominators of electoral lists who collect from private resources amount smaller than prescribed by Paragraph 1 of this Law, beside seats won, they shall proportionally accrue smaller amount from budget funds as stipulated by Paragraph 1 of this Article.

Reduction of Budget Funds

Article 13

If several elections are held at the same time, the amount of budget funds from Article 11 Paragraph 1 and Article 12 of this Law allocated for financing of election campaign on all levels for one third shall be reduced.

Article 14

Ministry or local administration body shall allocate funds prescribed by Article 11 and 12 of this Law to nominators of electoral lists after competent election commission submit notification on fulfillment of conditions prescribed by Article 11 and 12 of this Law.

Extraordinary elections

Article 15

If extraordinary elections are held needed funds for covering costs of elections campaign shall be provided from the existing budget reserve.

Private Resources Funds

Article 16

Amount of funds from private resources that nominator of electoral list collected for financing election campaign shall not exceed twentyfold amount of funds accrued pursuant to Article 11 Paragraph 2 of this Law.

For financing election campaign natural person may not pay amount exceeding 2.000 euros and legal person 10.000 euros per annum.

Mandatory Gyro Account Opening

Article 17

For the purpose of collecting funds for financing election campaign, nominator of electoral list shall open individual gyro account with authorized body for payment affairs. This account shall not be used for other purposes.

All funds allocated for financing election campaign shall be paid on the account from Paragraph 1 of this Article and all election campaign costs shall be paid from this account.

If funds for financing election campaign collected from private resources exceeding amount from Article 16 Paragraph 1 of this Law, the surplus of funds shall be transferred to permanent gyro account of political party.

If overall amount of funds on the permanent gyro account of political party exceeding amount from Article 9 Paragraph 1 and 2 of this Law it shall be returned to national budget or municipality budget.

Responsible Person

Article 18

The nominator of electoral list shall appoint person responsible for purposeful funds spending and reports submitting.

Signature of responsible person from Paragraph 1 of this Law shall be deposited with authorized body for payment affairs.

The nominator of electoral list shall inform competent election commission within three days from the date responsible person from Paragraph 1 of this Article appointment and in the case of any change in status of such person.

IV PROHIBITIONS

Prohibition of Financing

Article 19

It is prohibited to accept material and financial assistance from: foreign states, foreign legal and natural persons; anonymous givers; public institutions and public enterprises; institutions and companies with government capital share; trade unions; religious organizations; non-governmental organizations; casinos, betting houses and other organisers of games of chance.

It is prohibited to accept material and financial assistance in cash.

It is prohibited to the parliamentary party and other nominators of electoral lists to accept donations from business organizations and entrepreneurs performing public services pursuant to contract with government bodies for two years, during period of business relations, and for duration of two years after business relation is completed.

Prohibition of Exerting Pressure

Article 20

It is prohibited to exert pressure of any kind on legal entities and natural persons during collection of donations for a political party.

It is prohibited to promise or hold out the prospect of any privilege or personal gain to a donor of a political party or nominator of a registered electoral list.

V PRESENTING AND PUBLISHING REPORTS

Submitting Report on Spent Budget Funds for Election Campaign

Article 21

The report on spent budget funds for election campaign together with all documents related to the report a nominator of electoral list shall submit to the competent election commission within 45 days of the Election Day.

A municipality election commission shall submit report to the National Election Commission within three days from receipt of the report from Paragraph 1 of this Article.

A nominator of electoral list shall submit report and documents from Paragraph 1 of this Article to auditor of the Ministry in order to effecting audit.

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The Ministry auditor shall submit the audited report to a nominator of electoral list within 30 days from receipt of the report and documents from Paragraph 3 of this Article.

A nominator of electoral list shall submit the audited report together with the report from Paragraph 1 of this Article.

Submitting Report on Spent Funds from Private Resources for Election Campaign

Article 22

A nominator of electoral list shall submit the report on origin, amount and structure of collected and spent funds for election campaign from private sources and additional documents related to the report to a competent election commission within 45 days of the Election Day.

A municipality election commission shall submit report to the national election commission within three days from receipt of the report from Paragraph 1 of this Article.

If total amount of collected and spent funds for election campaign from private resources exceeding 50.000 euros, a nominator of electoral list, within 15 days of the election day, shall appoint authorized auditor and sign a contract, informing competent election commission.

A nominator of electoral list shall submit the report and documents from Paragraph 1 of this Article accompanying the report of authorized auditor on auditing completed.

Submitting the Completed Report

Article 23

A parliamentary party shall submit the completed report on origin, amount and structure of collected and spent funds for election campaign in electronic form to a competent election commission within 45 days of the Election Day.

Municipality election commission shall submit the report from Paragraph 1 of this Article to the National Election Commission within three days of the report receipt.

Ministry shall prescribe content or form of the report from Articles 21, 22, 25 and 28 of this Law.

Publishing Reports

Article 24

The National Election Commission shall publish, within 10 days of their receipt, reports from Articles 21, 22, 25 and 28 of this Law in the 'Official Gazette of Montenegro' and on the web site of the National Election Commission.

Submitting Report on Property

Article 25

Political parties are required to submit to the National Election Commission annual report on their property, expressed by type, size and origin not later than 31 March of current year for the pervious one.

Publishing Legal and Private Persons Names

Article 26

The National Election Commission shall publish on its web site names of legal and private persons who donated funds to nominators of electoral list.

VI FINANCIAL OPERATION OF POLITICAL PARTY

Legal System of Political Party Property

Article 27

Funds which political party acquired by membership fees, as well as funds acquired by non-lucrative activities (humanitarian events and etc.) are not subject to taxation.

Funds which political party acquired by property and business activities are subject to the general taxation framework.

Duties Regarding Bookkeeping and Financial Control

Article 28

A political party shall perform bookkeeping on incomes and expenditures pursuant to the positive regulations.

According to regulations political party shall submit annual financial report to a competent body.

A political party shall submit to the National Election Commission the report on audited financial report from Paragraph 2 of this Article.

The National Election Commission shall publish the report from Paragraph 3 of this Article in the 'Official Gazette of Montenegro' and on the web site within 10 days from receipt of the report.

Financial Operations Control

Article 29

The Statute of a political party shall regulate the internal audit of financial operations.

The Statute shall stipulate body responsible for financial operations and prescribe right of a party member to examine income and expenditures of the party.

VII PENAL PROVISIONS

Misdemeanours

Article 30

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A legal person shall be fined by one hundredfold to two hundredfold minimal salary in Montenegro if:

- 1) Raises funds contrary to Article 9 Paragraph 1 and 2 of this Law;
- 2) Raises funds exceeding amount prescribed by Article 16 Paragraph 1 of this Law;
- 3) Fails to open specific gyro account and pay all funds for financing election campaign to that account (Article 17);
- 4) Fails to appoint person responsible for purposeful funds spending and reports submitting (Article 18 Paragraph 1);
- 5) Fails to inform competent election commission on appointment of such a person in a manner and within the time limit prescribed by Article 18 Paragraph 3 of this Law;
- 6) Exerts pressure of any kind on legal and natural persons during collection of donations for political party (Article 20 Paragraph 1);
- 7) Promises or holds out the prospect of any privilege or personal benefit to a donor of a political party or other nominator of electoral list (Article 20 Paragraph 2);
- 8) Fails to submit reports on origin, amount and structure of funds raised and spent in a manner and within the time limit prescribed in Article 21, 22 and 23 of this Law;
- 9) Fails to appoint competent auditor in the manner stipulated in Article 21 and 22 of this Law;
- 10) Fails to inform the National Election Commission in accordance with Article 22 Paragraph 3 of this Law;
- 11) Fails to submit report in accordance with Article 25 of this Law;
- 12) Performs bookkeeping contrary to Article 28 Paragraph 1 of this Law;
- 13) Fails to submit report in accordance with Article 28 Paragraph 3 of this Law.

The responsible officer within legal person shall be fined from fifteen fold to twentyfold amount of minimal salary in Montenegro for violation (misdemeanour) set in Paragraph 1 of this Article.

The natural person – nominator of electoral list shall be fined from fifteen to twenty times amount of minimal earnings in Montenegro for misdemeanour set in Paragraph 1 of this Article.

Article 31

The legal person shall be fined from one-hundred to two-hundred times amount of minimal earnings in Montenegro for misdemeanour if:

- 1) For expenditures of regular financing of political party disburses amount that exceeding the amount prescribed by Article 9 Paragraph 3 of this Law;
- 2) For expenditures of financing election campaign disburses amount exceeding the amount prescribed by Article 16 Paragraph 2 of this Law.

For misdemeanour stipulated by Paragraph 1 of this Law responsible officer within legal person and natural person shall be fined from fifteenfold to twentyfold amount of minimal salary in Montenegro.

Article 32

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A municipal election commission shall be fined for misdemeanour from one-hundredfold to two-hundredfold amount of minimal earnings in Montenegro if fails to submit reports to the National Election Commission in accordance with Article 21 Paragraph 2 and Article 22 Paragraph 2 of this Law.

For misdemeanour stipulated by Paragraph 1 of this Article the responsible officer of a municipal election commission shall be fined from tenfold to twentyfold times amount of minimal salary in Montenegro.

Article 33

The National Election Commission shall be fined for misdemeanour from one-hundredfold to two-hundredfold amount of minimal earnings in Montenegro, if:

- 1) Fails to publish reports in accordance with Article 24 of this Law;
- 2) Fails to publish names of natural and legal persons in accordance with Article 26 of this Law;
- 3) Fails to publish report in accordance with Article 28 Paragraph 4 of this Law.

For misdemeanour stipulated by Paragraph 1 of this Law the responsible officer of the National Election Commission shall be fined from tenfold to twentyfold amount of minimal earnings in Montenegro.

VIII TRANSITIONAL AND FINAL PROVISIONS

Article 34

The content or forms of the report in Article 23 of this Law shall be adopted within 30 days of entering into force of this Law.

Article 35

On the day this Law enters into force the Law on Financing Political Parties shall expire ('Official Gazette of Republic of Montenegro', no. 21/04 and 33/05).

Article 36

This Law shall enter into force the next day following that of its publication in the 'Official Gazette of Montenegro'.