

**Financing of political parties and electoral campaigns
from the Republic of Moldova: legislative realities, alternatives
and draft laws**

List of abbreviations:

CA: Chamber of Accounts;

CAORM: Code of Administrative Offences of the Republic of Moldova;

EC: Electoral Code from 21.11.1997;

CEC: Central Electoral Commission;

CC: Criminal Code;

LPP: Law on political parties No. 294 from 21.12.2007;

MEA: Movement „European Action”;

MR: Movement “Ravnopravie”;

CP: Conservative Party;

CPRM: Communist Party of the Republic of Moldova;

DPM: Democratic Party of Moldova;

EPGA: Environmental Party “Green Alliance” from Moldova;

PAOM: Party Alliance „Our Moldova”;

LDPM: Liberal Democratic Party of Moldova;

PUMEM: Party „United Moldova — ”

PNL: National Liberal Party;

PPCD: Popular Christian Democratic Party of Moldova;

PPM: Party „Patriots of Moldova”

PPC: Party „For the people and country”;

RPM: Republican Party of Moldova;

SDP: Social Democratic Party;

PUM: Humanist Party of Moldova;

DLFPPEC: Draft Law on financing of political parties and electoral campaigns, initiative of the member of the Parliament Vladimir Plahotniuc;

c.u.: conventional unit.

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PRELIMINARY SUMMARY

The system for financing of political parties from the Republic of Moldova aspired to reflect the values, norms and dominant conventions, both formal and informal of the Moldovan society. However, the institutional practices and procedures by which these values, norms and conventions have been applied reflect dominant social-economic and cultural structure of the society.

The evolution of the legislative framework in this field has been slow and the changes made to it were mainly incremental, without a radical change of the existing state of affairs. This situation was a result of a tacit connivance of the entire political layer to maintain the status quo, since a more strict regulation of financing of political parties and electoral campaigns would affect negatively the main channels for supplementing the budgets of political parties. The draft laws on financing of political parties and electoral campaigns which couldn't move further on the institutional agenda confirm this fact.

Amendments to legislation were merely a compromise to the pressures from international organisations to adapt national legal framework to the international standards in this field and the internal needs of the political class, which mimicked such compliance. The fundamental problems which needed to be addressed and solved by a more strict legislative framework regarding financing of parties and campaigns, such as minimising political corruption and promoting political and electoral competency, based on equality of chances for all participants, remained only at the stage of political debates.

Amending the legislative framework in this field, by adoption of the „Law on political parties” No. 294 from 21.12.2007, did not change significantly the financing regime, so as to eliminate the problems associated with political financing. Although the law was going to supplement the Electoral Code with the provisions which had the purpose to eliminate some of the shortcomings of the Code and introduce state funding, it did not comply with the international standards, since some provisions on financing were very controversial.

Thus, in the last years, the discussions and debates on financing of political parties and electoral campaigns became intense and have been made public by CEC with the support of the development partners: OSCE/ODIHR, International Foundation on Electoral Systems (IFES), United Nations Development Programme (UNDP). In this regard, a series of measures and events on financing of political parties and electoral campaigns have been organised. By the end of 2011, under the Central Electoral Commission supervision, a

working group has been set up, composed of representatives of civil society and representatives of interested authorities from the Republic of Moldova. In June 2012 was elaborated the draft law on amending and supplementing of some legislative acts, and namely of: CE, LPP, CAORM, CC and CPC, FC and the Law on Chamber of Accounts, which shall be further named in this study – amendments of the civil society to the legislation on financing of political parties and electoral campaigns.

Also during this period of time, on 8 June at the Standing Bureau of the Parliament of the Republic of Moldova, the member of the Parliament, Mr. Vladimir Plahotniuc, presents as legislative initiative an alternative draft law, which contains all the aspects of financing of political parties and electoral campaigns, entitled Draft Law on financing of political parties and electoral campaigns (hereinafter, to be referred to as DLPPEEC).

In this regard, this study has the goal to highlight all the aspects of financing of political parties and electoral campaigns through the prism of current legislation, of the amendments proposed by the civil society and the DLPPEEC. This study is not a critique, but rather a presentation of realities and normative researches in the assessed area.

The assessment is structured by chapters, as follows:

-„Resources of private financing and means of distribution of public financing to the political parties from the Republic of Moldova”, which reflects the aspects pertaining to private financing (subscriptions, commercial activities, private and corporative donations, occult donations), public financing (direct and indirect);

-„Limits of expenses of political parties”, presents the limits of expenses and incomes (in case of electoral campaigns) of political parties, deduced from private financing and from public financing;

-„Agencies for control and transparency regarding political parties and electoral campaigns from Republic of Moldova”, reflects the functions of supervision agencies and means of reporting on financial flow within the political parties;

-„Sanctions for infringement of the legislation in the field of financing of political parties and electoral campaigns”, reveals the sanctions classified per type: administrative, economic, criminal and electoral, and of ceasing the state allocations”;

-„Conclusions and recommendations”, sums up the general statements on the studied issues and provides some recommendations for improvement of the assessed areas.

Within the study, the notion of the political party has been sometimes assimilated to the electoral contestant or candidate to electoral position.

PRIVATE FINANCING SOURCES AND MEANS OF DISTRIBUTION OF PUBLIC FINANCING OF THE POLITICAL PARTIES FROM THE REPUBLIC OF MOLDOVA

This chapter shall assess the current normative framework and existing alternative draft laws regarding the private eligible and non-eligible financing sources, as the means for obtaining public financing of the political parties from the Republic of Moldova.

Thus, we shall rely on the analysis of the universal provisions on private and public financing of the political parties, which could be related or not to the current and prospective normative framework of the Republic of Moldova.

Private financing

Fees of the members of parties

Fees of the members of the parties are an important issue, considered as traditional private financing source of political parties. Though considered an important source of income for political parties, being one of the main coefficients of affiliation to a political party, in reality it is ignored in the Republic of Moldova by all actors, irrelevantly of their degree of participation: members of the party, leadership of the parties, civil society etc.

Even at the external level, these are not a viable source of private financing, although their existence and regulation would boost positively the consolidation of the system of parties in the Republic of Moldova.

Unfortunately, the reality regarding the fees remains a fact and they are only very vaguely reflected in the current and draft legislation regarding the assessed area.

Thus, Article 25 paragraph 1(a) of the LPP stipulates that the fees of the members of the party are eligible sources of income, without mentioning any limits, except that paragraph 3 of the above-mentioned article provides that the amount and payment procedure of the member fees shall be established in the statute of the political party. Subscriptions of the members of the parties are not separated from donations and are rather cumulative. Thus in the Article 26 paragraph 3 it is stipulated that if a donor is a physical entity (an individual) and a member of a party, the membership fees for one year shall be included into the sum of this donation.

Civil society has brought into attention some amendments to the Article 25, paragraph 3 of the LPP on transparency of fees, which stipulates that the total amount of annual fees of a political party shall be published on its web page and that of the Central Electoral Commission.

The DLFPPEC, in Article 17 refers to the amount of fees, mentioning that their quantum, repartition and use shall be established by the decisions of the political party, in compliance with its statute. Incomes resulted from fees are not limited and the sum of paid fees within a year by a member of a political party shall not exceed the limit of donations stipulated by the law. Article 18 of the same draft law contains the provisions on the transparency of submissions and stipulates that the political parties have the obligation to publish annually in the Official Gazette of the Republic of Moldova the total amount of incomes resulted from the collected fees, and the list of the members of the party which submitted the fees during a year, the value of which does not exceed the value of personal exemption¹ of a resident individual for the respective year, in compliance with the Fiscal Code of the Republic of Moldova (FC). The list of the contributing members shall include the following elements: name and surname of the member of the party, personal code, amount and date of payment of the fee. In Article 19 paragraph 4, and in the Article 21 paragraph 1 is stipulated the difference of fees versus donations, thus in case the individual donor is a member to a party, the sum of donation shall not include the sum of the membership fee paid by this person within a year and it is stipulated that the payment of the membership fee shall not be considered a donation.

The sources resulted from the patrimony and commercial activities specific for the political parties

In this case, current legislation, amendments and existing draft laws emphasise the sources specific to the traditional patrimony and commercial activities of political parties, derived from their statutory goals: real estate, specific equipment, publishing, printing houses, means of transport etc.

¹ Personal exemption rate established for 2012 is 8.640 MDL.

Thus Article 24 of the LPP envisages specifically the patrimony of the political parties and allows the political parties to own, as property, buildings, equipment, publishing companies and printing houses, transport and other assets, not prohibited by the law. The assets of the political parties shall not be used only in compliance with their statutory goals and in no other way. Paragraph 3 of the same article stipulates that a political party is entitled to perform editorial activities, inherently linked to the management of its property, and other economic activities resulting directly from its statutory goals. Regarding patrimonial and commercial prohibitions, paragraph 4 stipulates that political parties shall not possess, dispose or use, or accept for deposit or keeping ammunition, explosive substances, or other materials which pose danger to the life and health of people.

Civil society proposed an amendment for supplementing the Article 24 paragraph 3 of the LPP, emphasising that a political party is entitled to perform editorial activity, linked immediately with the management of its property, „and other activities which bring income for the needs of the party, if these activities are not prohibited by the law and are expressly provided for in the statute of the party.”

The DLFPPEC, basically, reiterates the provisions of the LPP on the patrimony of political parties, but names specifically in the Article 24 the type of allowed commercial activities:

- a) publishing, printing and dissemination of the publications and other own propaganda and materials on political culture;
- b) organising of assemblies and seminars on politic, economic or social subjects;
- c) organising of entertainment, cultural, leisure, sportive or other mass events;
- d) internal services of the party;
- e) hiring venues for the conferences or socio-cultural actions and for the organisation of the parliamentary commissions;
- f) performing activities linked directly to the management of its activity, including sale of the real estate and assets from the patrimony, without a commercial goal (for profit), sale of land and buildings from the patrimony. Real estate may be sold not earlier than 2 years after the registration of the patrimony, with the exception of the political parties at the stage of dissolution.

Other commercial activities, except for those stipulated, shall be prohibited. Bank interests represent an interesting commercial source, allowed for ensuring the income of the political parties.

Private donations

The experience proves that this private financing source is the most important for the political parties from the Republic of Moldova. Due to the risk of establishing relative dependence between the money and the political decisions, there is a perpetual need for an enhanced clarity of the provisions regarding this type of private financing. Otherwise, there shall exist unending discussions, debates, contradictions, accusations on the monopoly of the intra-party power.

In the Republic of Moldova are accepted donations from the physical entities (individuals) and/or from the legal entities (corporate), in financial form and/or as assets and services.

Thus, Article 26 of the LPP stipulates that the donations is a patrimony handed unconditionally and free of charge to the political party and accepted by it and the annual income resulting from donations of the political party shall not exceed the equivalent of 0,1%² of the incomes envisaged by the state budget³ for the respective year.

A physical entity may make donations to one or several political parties. Donations made by an individual to one or several political parties within one budgetary year shall not exceed the amount of 500⁴ of average monthly salaries⁵ established per national economy for the respective year. If the physical entity is a member of the party, into the mentioned sum shall also be included the sum of party fees paid by this individual within one year.

Donations made by a legal entity to one or several parties within one budgetary year shall not exceed 1000 average monthly salaries⁶, estimated per national economy in the respective year.

² Aproximately 21.100 thousands MDL;

³ In compliance with the Law No. 282 from 27.12.2012 on the state budget for the year 2012, the incomes represent 21.033.082,5 thousands MDL;

⁴ Aproximately 1.775 thousands MDL;

⁵ Average salary per economy for the year 2012 is prognosticated at 3.550 MDL;

⁶ Aproximately 3.550 thousands MDL;

By contrast, the amendments of the civil society to the Article 26 of the LPP stipulate that the annual income of a political party resulted from donations shall not exceed the equivalent of 0,25%⁷ from the incomes envisaged by the state budget for the respective year, and the donations made by a physical entity to one or several parties within one budgetary year shall not exceed the amount of 20⁸ average monthly salaries per national economy, established for the respective year. In case the individual is party' member, the mentioned sum shall also include party membership' fees, paid by him/her over a year. Respectively, donations made by a legal entity to one or several political parties within a budgetary year shall not exceed the amount of 40 average salaries⁹. Also, the civil society practically doubles the limit for this type of private financing, dedicated separately to the electoral campaigns, highlighting the donations in Article 38, paragraph 1 (d) in the amendments to the EC, in provisions regarding equal conditions on the limits of the electoral fund for electoral contestants.

In Article 26 paragraph 1(b) are also stipulated donations in the form of properties, assets, free services or provided in conditions more favourable than their commercial (market) value, payment for some goods and services used by the party. These donations are reflected in the accountancy of the party at the market value and are counted within the limits of donations envisaged by the LPP.

The article regarding donations of the DLFPPEC is not essentially different from the provisions of the current legislation regarding the limits of donations, except for the statements from the Art 21, paragraph 2, that the donations made by a legal entity to one or several political parties within a budgetary year shall not exceed the sum of 10% from the income liable for taxation. However, it reiterates very closely the information regarding other non-financial donations. Thus, the Article 19 paragraph 1 (b) stipulates that in kind donations and services as donations free of charge or provided on more favourable conditions than their market value or payment for some goods or services used by the party shall be allowed. Commercial adjustments which exceed 50% of the cost of goods and services rendered by the political party shall also be considered as donations, and the activities based on volunteer work shall not be considered as donations.

⁷ Aproximately 53.000 thousand MDL;

⁸ Aproximately 71.000 MDL;

⁹ Aproximately 142.000 MDL;

Another provision on donors is Article 20 paragraph 6, which stipulates a different category of donors, international political organisations to which the respective party is affiliated to or the political parties or political fractions which have relations of political collaboration and which may make donations only in the form of material goods necessary for political activity, but not materials of electoral propaganda. These donations, except for the transport means, shall be exempted of customs fees.

**Approximate limits of donations from physical and legal entities
(comparative table)**

Entity	Current legislation (thousand MDL)	Amendments from civil society ¹⁰ (thousand MDL)	DLFPPEC (thousand MDL)
Physical entity	1.775	71	1.775
Legal entity	3.550	142	3.550

Non-eligible donations

The occult area of donations in the Republic of Moldova is very wide, given the fact that the donations from interested associations, donations from public and semi-public authorities, partially foreign donations and anonymous are strictly prohibited.

Thus, Article 26 paragraph 5 of the LPP and Article 38 paragraph 5 of the Electoral Code stipulate prohibition of direct and indirect financing, any form of material support of political parties from other states and international organisations, enterprises, institutions and organisations financed by state or having state capital, with foreign capital, non-governmental organisations, syndicates, charitable, religious organisations and minor citizens or citizens of the Republic of Moldova who live abroad, those who are not citizens of the Republic of Moldova, anonymous persons and on behalf of third parties. Similarly, Article 36 of the EC prohibits direct and indirect financing, material support in any form to electoral campaigns, candidates to elections and electoral contestants, provided by other states, enterprises, foreign institutions and organisations, international and mixed, and individuals who are not citizens of the Republic of Moldova. Sums thus obtained shall be forfeited by the court decision and shall be incorporated into state budget. An exception to foreign financing is made in Article 36 paragraph 1 of the CE, which stipulates that the afore-mentioned provisions shall not be interpreted and applied so as to limit financing allotted with the goal of

¹⁰ Limits of donations, as amended by the civil society, are doubled in case of electoral campaigns;

supporting the efforts to promote the democratic values, international standards for free and fair elections.

The civil society consolidates the amendments brought to Article 38 of the Electoral Code, by detailed description of non-eligible donations to the political parties and/or electoral competitors from the Republic of Moldova, and namely:

a) foreign legal entities, including those with mixed capital, other states and international organisations, including international political organisations;

b) citizens of the Republic of Moldova under the age of 18, citizens limited in their exercise capacity or declared incapable by a final judicial decision;

c) public authorities, organisations, enterprises, public institutions, other legal entities financed from the state budget or which have state capital, except for the cases when rendering services or financial support is expressly allowed by the legislation;

d) legal entities (commercial organisations) which, one year prior to the period of electoral campaign, have performed activities financed from public resources (funds) and legal entities with foreign or mixed capital (legal entities with state capital);

e) anonymous persons or on behalf of third parties;

f) individuals which are not citizens of the Republic of Moldova;

g) non-residents of the Republic of Moldova;

h) charitable organisations, syndicates and religious organisations.

Article 7 of the DLPPEC stipulates identical non-eligible donations made to political parties/electoral competitors, adding the exception regarding the prohibition on financing from the citizens of the Republic of Moldova from the sources which have not been fiscally declared, and by derogation from the limitations, the financing from political international organisations with which the respective political party is affiliated and the parties and political formations with which there is a political collaboration relationship, shall be allowed.

In conclusion, it is observed that the current legal framework and the amendments and existing draft laws regarding private financing of political parties have reasons to exist and be subjected to public debates.

Thus it is recommended that:

- in all conditions, membership fees are limited, in order to consolidate this traditional type of financing and in order to set up a system of „matching funds”, synchronised to public financing (*to see the external recommendation from the public financing section*);

- in conformity to DLFPPEC, on commercial activities, the source of internal services within the party shall be clarified;

- in conditions of the current EC, it shall be expressly provided what actors fall under the exception for foreign financing, mentioned in Article 36, paragraph 1.

Public financing

Even though, frankly speaking, this type of financing political parties by the state is somehow regulated by law, its introduction in the legislation on state budget is continuously postponed, because the state cannot identify resources for the respective article from the budget. Nevertheless, the normative basis should exist and should be consolidated, hoping that direct public financing, that represents 0,2%¹¹ of anticipated state budget incomes for the respective year, will be truly implemented during the next years.

Legislation of the Republic of Moldova also includes indirect incentives for political and electoral actors.

Therefore, in order to be eligible for public financing, Article 28 of the Law on Political Parties stipulates that annual allocations from the state budget for financing political parties represent 0,2% of anticipated state budget incomes for the respective year and are distributed as follows:

a) 50%¹² - to political parties proportionally to the number of mandates received during parliamentary elections and validated at the moment the new composition of the Parliament is set up;

b) 50%¹³ - to political parties proportionally to the number of votes accumulated at general local elections, with condition that they received not less than 50 mandates within the representative bodies of territorial-administrative units of second level.

Respectively, considering the real situation from 2012, annual allocations from the state budget for financing political parties would be distributed as follows:

¹¹ Approximately 42.066 thousands MDL, in the situation of income envisaged in the state budget of the Republic of Moldova from 2012;

¹² Approximately 21.033 thousands MDL, in the situation of income envisaged in the state budget of the Republic of Moldova from 2012;

¹³ Idem;

a) 21.033 thousands MDL shall be distributed among CPRM (42 mandates), LDPM (32 mandates), DPM (15 mandates) and PAOM (12 mandates) in the following manner¹⁴: CPRM ~8.746 thousands MDL, LDPM ~6.663 thousands MDL, DPM ~3.123 thousands MDL, LP ~2.500 thousands MDL;

b) 21.033 thousands MDL shall be distributed among CPRM (508.422 votes, 434 mandates), LDPM (311.988 votes, 300 mandates), PAOM (223.257 votes, 130 mandates) and DPM (212.548 votes, 226 mandates) as follows¹⁵: CPRM ~8.643 thousands MDL, LDPM~5.304 thousands MDL, LP~3.795 thousands MDL and DPM~3.613 thousands MDL.

Therefore, according to the distribution above, only four political parties would annually receive from state allocations during the related electoral cycles in total the following amounts: CPRM ~17.389 thousands MDL, LDPM ~11.967 thousands MDL, DPM ~6.736 thousands MDL and LP ~6.295 thousands MDL.

Also, current legislation envisages indirect assistance and guarantees offered by the state to electoral contestants. In this sense, Article 64¹ paragraph 5 from Electoral Code stipulates that public broadcasting institutions shall daily provide to electoral contestants one minute free of charge air for electoral advertising during parliamentary elections and republican referendums. In case of paid electoral advertising, each electoral contestant shall be offered broadcasting space that does not exceed two minutes per day for the entire electoral campaign for each broadcasting institution. Conditions of booking air time and respective fees shall be announced three calendar days prior to the broadcast of the respective electoral advertising. Fees for the air time provided to electoral contestants may not exceed fees for the commercial advertising. Air time for paid electoral advertisement shall be provided to all electoral contestants at the same broadcasting hours.

Another provision that indirectly supports electoral contestants is found in Article 37 of the Electoral Code which specifies that electoral contestants receive loans without interest rates from the state. State loans received shall be cleared off fully or partially by the state depending on the overall number of votes received by the electoral contestant in the respective electoral district. The sum to be cleared off by the state shall be established by dividing the sum of loan received by the number of voters who participated in elections and

¹⁴ According to the number of mandates received during parliamentary elections from 28 November 2010 and validated at the moment of setting up the 19th composition of the Parliament of the Republic of Moldova;

¹⁵ The votes accumulated and mandates received in raional and municipal councils, according to the results of general local elections from 5 June 2011;

then multiplying it by the number of valid votes cast for the respective electoral contestant. Electoral contestants, who fail to receive at least three percent of the valid votes cast in the election throughout the republic, or in respective district, shall pay back state loans received within two months of the voting closer. Other electoral contestants shall pay back the state loans within four months.

Proposals of the civil society concerning the distribution of votes are quite ambitious and interesting, and refer to several aspects: distribution among large and small political parties, distribution according to the results of general local and parliamentary elections, as well as distribution according to gender promotion, however calculations still demonstrate certain deficiencies in the distribution of public finances flows to political parties.

Therefore, the proposal is to distribute annual public allocations coming from the state to political parties, according to the following algorithm:

a) 20% - are distributed proportionally to the number of accumulated votes among political parties that accumulated at least 2% of valid votes cast during parliamentary elections, with condition that the amount awarded to a party does not exceed 50%¹⁶ of expenses declared by the political party in the respective parliamentary elections;

b) 30 % - are distributed proportionally to the number of accumulated votes among political parties that accumulated at least 3% of valid votes cast during parliamentary elections, but not more than 50%¹⁷ for one party from the total amount allocated according to the results of parliamentary elections;

c) 10 % - are distributed to political parties that promoted women on their lists of candidates during parliamentary elections, proportionally to the number of mandates received by women candidates;

d) 30 % - are distributed to political parties proportionally to the number of mandates received within local councils of 2nd level (raions and municipality of Chi in u) during general local elections, but not more than 50% for one party from the total amount allocated according to the results of local elections;

¹⁶Article 27 paragraph 3 of draft amendments proposed by the civil society to the Law on Political Parties. The amounts from the state budget that cannot be allocated to certain political parties because they do not comply with the criteria or exceed the existing limits shall be equally redistributed among the remaining political parties;

¹⁷ Idem;

e) 10 % - are distributed to political parties that promoted women for positions of local councilors of 2nd level (raions and municipality of Chi in u) and mayors, proportionally to the number of mandates received by women candidates during general local elections.

Therefore, according to the respective algorithm, and considering the situation of 2012, financial sources would be distributed in the following manner:

a) 20%~8.413 thousands MDL among ¹⁸ CPRM (677.069 votes, ~4.325 thousands MDL declared expenditures), LDPM (506.252 votes, ~10.140 thousands MDL declared expenditures), DPM (218.620 votes, 11.716 thousands MDL declared expenditures), PAOM (171.336 votes, 3.802 thousands MDL declared expenditures) and PAOM (35.289 votes) as follows: CPRM ~2.162 thousands MDL, LDPM~3.037 thousands MDL, DPM~1.311 thousands MDL, LP~1.028 thousands MDL and PAOM~211.445 MDL¹⁹;

b) 30%~12.620 thousands MDL²⁰ among CPRM (677.069 votes, ~4.325 thousands MDL declared expenditures), LDPM (506.252 votes, ~10.140 thousands MDL declared expenditures), DPM (218.620 votes, 11.716 thousands MDL declared expenditures) and PAOM (171.336 votes, 3.802 thousands MDL declared expenditures) as follows: CPRM ~2.162 thousands MDL, LDPM~4.050 thousands MDL, DPM~1.749 thousands MDL, LP~1.370 thousands MDL;

c) 10%~4.207 thousands MDL²¹ among CPRM (12 women), LDPM (3 women), DPM (2 women) and PAOM (2 women) as follows: CPRM ~3.366 thousands MDL, LDPM~841.401 MDL, DPM~561 thousands MDL and LP~561 thousands MDL;

d) 30%~12.620 thousands MDL²² among CPRM (435 mandates), LDPM (301 mandates), DPM (223 mandates), PAOM (130 mandates), SDP (6 mandates), PCDP (5 mandates), RPM (5 mandates), EPGA (2 mandates) and NLP (1 mandate) as follows: CPRM ~4.960 thousands MDL, LDPM~3.432 thousands MDL, DPM~2.542 thousands MDL,

¹⁸ Electoral contestants that received more than 2% of valid votes, according to the results of parliamentary elections from 28 November 2010;

¹⁹ According to rough calculations, without equal distribution of the outstanding amount among other parties except the CPRM, following partial loss of allocation as a result of exceeding the limit of declared expenditures, namely without total application of Article 27, paragraph 3 of amendments put forward by the civil society to the Law on Political Parties;

²⁰ Idem;

²¹ According to the number of mandates received by women candidates during parliamentary elections from 28 November 2010 and validated when the 19th legislature of the Parliament of the Republic of Moldova was set up;

²² According to the number of mandates received during general local elections from 05 June 2011 at the second level of local public administration (raional and municipal councils);

LP~1.482 thousands MDL, SDP~68.406 MDL, PCDP~57 thousands MDL, RPM~57 thousands MDL, EPGA~23 thousands MDL and NLP~11 thousands MDL;

e) 10%~4.207 thousands MDL²³ among CPRM (142 mandates), LDPM (89 mandates), DPM (84 mandates), PAOM (34 mandates), PCDP (2 mandates) and EPGA (1 mandate) as follows: CPRM ~1.698 thousands MDL, LDPM~1.064 thousands MDL, DPM~1.004 thousands MDL, LP~407 thousands MDL, PCDP~24 thousands MDL and EPGA~12 thousands MDL.

In such conditions, it is possible to conclude that large parties and parliamentary parties are in the most favorable position and will benefit most of all from annual allocations according to relevant electoral cycles, and small parties either are not eligible, or their financial and final coefficients are too small. Therefore, total public financing would be distributed, according to the situation in 2012, as follows: CPRM ~16.857 thousands MDL, LDPM~12.424 thousands MDL, DPM~7.167 thousands MDL, LP~4.848 thousands MDL, PAOM~211 thousands MDL, PCDP~88 thousands MDL, SDP~68 thousands MDL, RPM~57 thousands MDL, EPGA~35 thousands MDL and NLP~11 thousands MDL.

DLFPPEC also envisages the quantum of 0,2% from the state budget for financing political parties, which, according to Article 12, are awarded as follows:

a) 90% of allocations (~36.860 thousands MDL) for political parties represented in eligible authorities;

b) 10% of allocations (~4.207 thousands MDL) for political parties that are not represented in eligible authorities;

Paragraph 2 of the same Article also specifies the mechanism of paying each type of allocation. Therefore, the 90% of allocations for political parties that are represented in eligible authorities shall be distributed as follows:

a) 50% - to political parties proportionally to the number of mandates received during parliamentary elections, but not more than 50% for one party from the total amount allocated, according to the results of parliamentary elections;

b) 50% - to political parties proportionally to the number of mandates received during general local elections, but not more than 50% from the total amount allocated, according to the results of local elections

²³ According to the number of mandates received by women during general local elections from 05 June 2011 at the second level of local public administration (raional and municipal councils) and at the level of mayors;

In such conditions, the amount of 36.860 thousands MDL would be distributed in 2012 in the following manner:

a) 50% (~18.430 thousands MDL) shall be distributed among CPRM (42 mandates), LDPM (32 mandates), DPM (15 mandates) and PAOM (12 mandates) as follows: CPRM ~7.664 thousands MDL, LDPM~5.839 thousands MDL, DPM~2.737 thousands MDL and LP~2.190 thousands MDL;

b) Despite the fact that the level of local elections concerning eligible authorities which led to such distribution is not specified, and a cumulation of mandates at the 1st and 2nd level of local public administration is really difficult and incorrect, nevertheless, we will hypothetically try to distribute these allocations according to the number of mandates received during general local elections from 05 June 2011 at the 2nd level of local public administration (raional and municipal councils). Therefore, the 50% (~18.430 thousands MDL) shall be distributed among CPRM (435 mandates), LDPM (301 mandates), DPM (223 mandates), PAOM (130 mandates), SDP (6 mandates), PCDP (5 mandates), RPM (5 mandates), EPGA (2 mandates) and NLP (1 mandate) as follows: CPRM ~7.253 thousands MDL, LDPM~5.007 thousands MDL, DPM~3.710 thousands MDL, LP~2.162 thousands MDL, SDP~100 thousands MDL, PCDP~83 thousands, RPM~83 thousands, EPGA~33 thousands MDL and NLP~17 thousands MDL.

Therefore, the total public funding for eligible public authorities in 2012 would be distributed as follows: CPRM ~14.917 thousands MDL, LDPM~10.846 thousands MDL, DPM~6.447 thousands MDL, LP~4.352 thousands MDL, SDP~100 thousands MDL, PCDP~83 thousands, RPM~83 thousands, EPGA~33 thousands MDL and NLP~17 thousands MDL.

Despite of the fact that the basis for distribution of 10% of allocations for political parties that are not represented in eligible authorities is not specified, nevertheless, we will try to hypothetically distribute these sources for 2012 in equal manner among electoral contestants/political parties who participated during parliamentary elections from 28 November 2010 and who continue to carry out their activities also today. Therefore, the amount of ~4.207 thousands MDL shall be distributed among PUMEM, MEA (by transferring instalments to PAOM as legal successor²⁴) PPM, PUM, PPC, CP, MR and

²⁴ According to Article 16 paragraph 4 of the DLFPPEC, in case of reorganization of political parties that are entitled to receive allocations from the state budget, this right shall be transmitted to their legal successors – reorganized political parties;

PAOM (by transferring instalments to LDPM as legal successor²⁵), each of them receiving 526 thousands MDL.

Even though DLPPEC is mainly advantageous for large and parliamentary parties, nevertheless public funding is granted quite efficiently also to small parties chosen at the local level. In this regard, we may ascertain that according to the distribution carried out among the parties that are not represented, these parties are in a much more advantageous situation position in 2012 from financial point of view, comparing to the parties that received at least one or several mandates during general local elections of the second level.

We shall furthermore schematically present the approximate distribution of annual total public allocations among political parties from the Republic of Moldova in 2012, based on current legislation, amendments put forward by civil society and DLPPEC:

Political party	Current legislation (thousands MDL)	Amendments of the civil society (thousands MDL)	DLPPEC (thousands MDL)
CPRM	17.389	16.857	14.917
LDPM	11.967	12.424	10.846
DPM	6.736	7.167	6.447
LP	6.295	4.848	4.352
PAOM	-	211	526
SDP	-	68	100
PCDP	-	88	83
RPM	-	57	83
EPGA	-	35	33
NLP	-	11	17
OTHERS (MEA, PPM, PUM, PPC, PUMEM, CP, MR)	-	-	526 thousands MDL for each

In such conditions, we can easily ascertain the realities and tendencies put forward by the draft Law concerning public financing of political parties from the Republic of Moldova.

In order to improve and consolidate the system of political parties in the Republic of Moldova, *it is also recommended* that aside from the amendments and existing draft Laws in the field of public financing of political parties the following should be done:

-under the amendments put forward by the civil society, and considering the results of previous parliamentary elections, general local elections and gender distribution, it is ascertained that financial resources are essentially distributed only among large political parties, and the small political parties receive insignificant allocations or are not eligible at all,

²⁵ Idem;

the recommendation therefore is to diversify the eligibility criteria, so that parties that accumulated at least 0,5% during parliamentary elections could also receive allocations from the state;

-under conditions of the DLPPEEC, it is recommended to exactly indicate in the draft Law which are the eligible authorities during in case of general local elections (1st and 2nd levels), (cumulatively, it is necessary to engage the methodology of calculation of mandates);

-under the same conditions, it is recommended to clarify the basis (former parliamentary elections, former general local elections) for distributing 10% of allocations to parties that are not represented within eligible authorities;

-under external conditions, the recommendation is to introduce a new Article concerning eligibility of allocations (approximately 10% of state allocations) based on synchronization with party membership fees. This system allows consolidation of smaller parties and receiving more funds from the state.

LIMITS OF EXPENDITURES OF POLITICAL PARTIES

It is obvious that expenditures of political parties are limited at the level of private financial sources, both under statutory conditions, as well as under conditions of electoral legislation, and at the level of allocations from the state budget, they have clear and limited destinations.

Therefore, at the level of private finances, the expenditures are equal to income only in electoral context; otherwise distribution of finances and the patrimony are regulated by the Statutes. Only Article 24 paragraph 5 from the Law on Political Parties stipulates that political parties' patrimony, including their revenue, cannot be distributed among their members.

In electoral context, Article 38 paragraph 2 of the Electoral Code specifies that the limit²⁶ of resources that can be transferred to Election Fund of the electoral contestant shall be established by the Central Electoral Commission, and paragraph 7 of the same Article mentions that financial means transferred on the account „Election Fund” cannot be used in personal interests. According to the respective algorithm, hypothetical limits of expenditures for one political party during parliamentary elections in 2012 would constitute 21.164 thousands MDL. And Article 31 from the Law on Political Parties reveals that expenditures borne by political parties during electoral campaigns represent information of public interest.

²⁶ 0,5 euro cents for a voter, and according to the results of parliamentary elections from 28 November 2010 2.645.488 voters were included in electoral lists;

Concerning allocations from the state budget, Article 29 from the Law on Political Parties stipulates that they could be used for the following destinations:

- a) office maintenance;
- b) staff costs;
- c) expenditures for press and promotional materials;
- d) expenditures for travelling in the regions and abroad;
- e) telecommunication expenditures;
- f) expenditures for organizing political activities;
- g) expenditures related to receiving official delegations from abroad;
- h) payment of membership fees to international organizations to which the respective party belongs to;
- i) investments in movables and immovable necessary for the activity of the respective party;
- j) protocol expenditures;
- k) expenditures for office supplies;
- l) expenditures for electoral campaign.

Civil society excludes from this Article expenditures related to electoral campaign and includes the following eligible expenditures:

- audit costs (external/mandatory);
- seminars, trainings and other courses for the members of the party, carried out within the country.

Concerning electoral campaign, amendments of the civil society to the Electoral Code stipulate that the general limit of financial resources that can be transferred to the Election Fund of electoral contestant shall be established by the CENTRAL ELECTORAL COMMISSION, by taking as basis for calculation a coefficient multiplied to the number of voters from the electoral district where elections took place, and the limit of donations (respectively of expenditures) that can be transferred by natural persons and legal entities to the Election Fund for electoral campaign represents 20 and, respectively, 40 average monthly salaries established by the national economy for the current year.

Concerning the expenditures, Article 8 from the DLFPPEC mentions that political party shall bear all expenditures from its own patrimony, and during electoral campaign, some expenditures can be borne from the state budget or by other persons.

Section 5 from the DLPPEC directly refers to the maximum limits of expenditures to be borne during electoral campaign. Thus, Article 34 stipulates the maximum amount allowed for one candidate during elections, and specifies that the maximum limit of expenditures that can be borne by a political party in each electoral campaign is calculated by adding up the maximum amounts allowed by the law for each candidate. The maximum amount of expenditures allowed to be borne for one candidate is established by the CENTRAL ELECTORAL COMMISSION and represents 1% from the monthly average salary forecasted for the respective year multiplied to the total number of voters in the Republic of Moldova, for parliamentary elections, or multiplied to the total number of voters from the respective district, for local elections.

According to the respective algorithm, the hypothetical limits of expenditures for one political party within parliamentary elections in 2012 would constitute 93.915 thousands MDL.

Regarding the articles related to expenditures coming from the sources allocated from the state budget, DLPPEC repeats the current legislation, stressing in Article 13 paragraph 5 the fact that efficiency and opportunity of expenditures deducted from public allocations is decided by the governing bodies of political parties, according to their status and legal provisions.

In the context of amendments put forward by the civil society and DLPPEC:

- it is recommended to exactly stipulate the calculation coefficient for establishing the limit of expenditures to be borne by electoral contestant;
- it is recommended to decrease the percentage of calculation coefficient for establishing the limit of expenditures to be borne by electoral contestant.

AGENCIES OF CONTROL AND TRANSPARENCY OF FINANCING OF POLITICAL PARTIES FROM THE REPUBLIC OF MOLDOVA

Control agencies

Even though there are various discussions and opinions about control agencies that should exist in the field of financing political parties, the current legislation, current amendments and the existing alternative draft Law authorizes the CENTRAL ELECTORAL COMMISSION to carry out control of all financing sources and the CA to carry out control of all sources of public financing of political parties.

Therefore, current legislation expressly stipulates the control of public allocations received from the state budget. Article 30 of the Law on political parties stipulates that, according to the regulation approved by the Ministry of Justice, political parties shall annually submit financial reports to the Court of Accounts, Ministry of Finance and Ministry of Justice, until March 31. Reports on subsidies received from the state budget shall be verified by the Court of Accounts, and reports on other income shall be verified by the Ministry of Finance.

On electoral context, Article 31 stipulates that on the date of registration of an electoral contestant, and later on every two weeks until the end of elections, according to the regulation approved by the Central Electoral Commission, every political party that participates in elections shall submit to it the reports on the parties' financial resources, including the expenditures borne during the respective electoral campaign and the sources of these means. Further on, similar reports for the entire electoral period shall be submitted to the Central Electoral Commission within a month after publication of election results.

Amendments proposed by the civil society concerning the agencies of control in the field of financing political parties aim at consolidating the legal basis, by expressly stipulating in the amendment to Article 1 of the Electoral Code that „CENTRAL ELECTORAL COMMISSION” is an independent administrative body set up for implementing electoral policy for conducting elections in a proper manner and an independent body responsible for supervising and exercising control of how legal provisions regarding financing of political parties and electoral campaigns are observed”.

Therefore, supplementing Article 22 of the EC with paragraph 2 will increase and further elaborate the duties of the CEC in the field of financing political parties and electoral campaigns. Accordingly, Commission might exercise the following duties of control:

- a) elaborate and issue necessary normative acts in order to apply and execute legislative provisions concerning financing of political parties and electoral campaigns;
- b) elaborate guiding documents (templates, guidelines, methodological norms) necessary for providing assistance related to financial activity and training of political parties and electoral contestants regarding their rights, obligations and responsibilities in the process of managing the finances;
- c) collect and systematize annual financial reports and audit reports of political parties;
- d) ensure publication on its web page of information and annual financial reports of political parties, as well as of reports concerning financing of electoral campaigns;

e) examine requests concerning violation of the legislation in the field of financing political parties and complaints against violation of the legislation in the field of financing electoral campaign;

f) apply sanctions stipulated in the EC and the Law on Political Parties for violation of the provisions concerning financing of electoral campaigns/political parties, inform competent bodies about violations that are subject to contravention, criminal liability or about fiscal violations;

g) cooperate and provide informational assistance for elaboration of independent studies on monitoring financing of political parties/electoral campaigns;

h) study and monitor the implementation of legislation in the field of financing political parties/electoral campaigns, submit to the Parliament and Government proposals concerning amendments of legislative framework in the field of financing political parties/electoral campaigns;

i) have the right of access to information held by public authorities of all levels and by state registries, including to information that represents personal data, with condition that legislation concerning protection of personal data is observed;

j) exercise other duties related to supervision and control in the field of financing electoral campaigns and political parties.

Similarly, amendments put forward by the civil society to Article 30 of the Law on Political Parties also refer to the supervision and control of political parties' financing. These amendments include the following elements:

1) CEC is an independent body that ensures supervision and control of legal financing of political parties;

2) control of the use of allocations received by political parties from the state budget is exercised simultaneously by the CA, according to the provisions that regulate its activity.

3) bodies that exercise functions of supervision and control shall issue detailed instructions and guidelines concerning the transfer, receipt and record of donations, of non-financial contributions received by political parties, and about their use according to the destinations established by law, as well as other aspects that are related to the financing of political parties and electoral campaigns.

4) CEC shall annually submit in front of the Parliament, until 1st of August, a report concerning financing of political parties and electoral campaigns.

DLFPPEC has a separate section related to financial control which describes agencies that shall exercise the functions of control and the mechanism of their creation.

Therefore, paragraph 1 of Article 44 provides that CEC is a public authority competent to exercise control over the observance of legal provisions concerning financing of political parties and electoral contestants and Direction of financial control, which is a subdivision within the CEC, shall be responsible for implementation of these provisions²⁷.

Article 45 of the same draft Law also regulates the functions of the body responsible for financial control, which are as follows:

a) to elaborate and issue necessary normative acts in the field of financing political parties and electoral contestants;

b) to elaborate guiding documents (templates, guidelines, methodological norms) necessary for providing assistance related to financial activity and for training political parties and electoral contestants regarding their rights, obligations and responsibilities in the process of fund management;

c) to collect and systematize annual financial reports and auditing reports that are submitted;

d) to ensure publication on the web page of information in the field of financing political parties and electoral campaigns;

e) to examine requests and complaints concerning violation of the legislation in the respective field;

f) to apply sanctions for violation of legislation within the respective field;

g) to submit proposals to the Government regarding amendment of legislative framework in the respective field;

h) to ensure cooperation and provide informational assistance upon elaboration of independent studies related to monitoring of the respective field;

i) to exercise other functions of control within the respective field, according to the legislation.

²⁷ This Direction will be headed by a director with exclusive duties in organizing activities related to financial control and suggesting application of sanctions to the head of the CEC. The head of this Direction shall be appointed based on a public competition process, and he/she needs to have high education in the field of economical and legal sciences and should not be party member in the last 5 years;

Following the duties listed above, the CEC shall have access to information and registries with database, including with personal character, which are held by public authorities of all levels in order to be able to exercise its duties within the respective field.

According to paragraph 8 from Article 44, the control of allocations received from the state budget shall be carried out by the CEC simultaneously with the CA.

Transparency of financing of political parties and electoral campaigns

The main provision that refers to transparent receiving of money by political parties is included in Article 25 paragraph 4 of the Law on Political Parties, according to which payment and cash operations of political parties are performed through accounts in Moldovan lei and, in cases regulated by the current legislation, in foreign currency, opened in banks based in the Republic of Moldova.

As mentioned before, Article 31 of the Law on Political Parties stipulates that the expenditures borne by the political parties during the electoral campaigns represent information of public interest.

Paragraph 2 of the same Article regulates that on the date of registration of an electoral contestant, and later on every two weeks until the end of elections, according to the regulation approved by the Central Electoral Commission, every political party that participates in elections shall submit to the Commission the reports on the parties' financial resources, including the expenditures borne during the respective electoral campaign and the sources of these means. Further on, similar reports for the entire electoral period shall be submitted to the Central Electoral Commission within a month after publication of election results. In case the information submitted by a political party is incomplete, the Central Electoral Commission is entitled to request the respective party to provide additional data on each amount received on the party's account and on the origin of these funds. Within two months after holding the elections, the Central Electoral Commission shall publish on its web page the invoice for the electoral campaign of each political party, on the basis of information submitted by the political parties.

According to Article 29, paragraph 3 of the Law on Political Parties, the use of allocations from the state budget is reflected separately in the bookkeeping of the political parties.

In electoral context, Article 38 paragraph 1 stipulates that after the start of electoral campaign, electoral contestants shall declare their financial resources and other forms of

support on a weekly basis: in case of parliamentary elections – in a publication of republican circulation; in case of local elections – in a publication of regional circulation, on the respective territory; and after the set up of the respective electoral council or electoral bureau, electoral contestants must also declare their financial means and other forms of material support received from the sources mentioned in the current Article, before using them. Another provision of the same Article stipulates that in case of parliamentary elections and republican referenda, information about incomes and expenses borne by electoral contestants shall be placed on the web page of the Central Electoral Commission within 24 hours or after it was received and it shall include information on identification of natural persons or legal entities who donated/spent resources, their amounts and the numbers of financial accounting documents.

Similarly, Electoral Code in Article 38 stipulates that electoral contestants shall open a bank account, specified as an "Electoral Fund", to which the participants shall transfer their own money, funds granted by natural and legal entities of the country. These funds may only be transferred into the account with the candidate's prior consent. Electoral contestants shall submit financial reports to the respective electoral body once in two weeks, and the reports shall include information about the income and expenditures borne according to their destination.

The bank shall inform the CEC and the respective district electoral council about the amounts of money transferred to the bank account of the electoral contestant within 24 hours after their transfer. The CEC and the district electoral council may request the CA or IFPS, which functions within the Ministry of Finance, to carry out controls of the sources of income, the correctitude of the accounting and the use of money by electoral contestants according to destination. The CEC or district electoral councils will keep a register that will include all data that needs to be presented by the present Article and will make this information available for the public. Additionally, the respective electoral body will group the information presented and draft a weekly report about the volume of contributions received by each electoral contestant and the origins of these sources. Two days before the Election Day, the respective electoral body shall elaborate a final pre-electoral report and a summing up report, which shall comprise all available information about the amounts and the sources of financial means received by electoral contestants.

In Article 26, paragraph 1, civil society proposes to introduce some transparency measures for the mechanism related to receiving donations. Therefore, pecuniary donations

for a political party shall be granted through the banking system (banking card, direct transfer), and identity of the donor shall be indicated in the banking document. In case the donor does not have a bank account and donation is granted in cash, the money shall be deposited in the bank account of the party. In case money are granted to the party in cash, the natural person should confirm the deposit of donation by signing a personal liability statement, which shall be kept by the party and shall be attached to the accounting documents. The template declaration concerning donations shall be approved by the CEC.

Concerning donations received from legal entities, Article 26, paragraph 5 stipulates that legal entities that donate money to political parties shall present the official decision of the body responsible for making a donation, shall register donation and shall reflect it in its accounting reports, as well as inform the shareholders/members about operations that are carried out.

Paragraph 8 of the same Article reveals that political parties shall report donations according to the generally applicable rules as follows: each political party shall open a special bank account where all financial contributions awarded to the party shall be transferred, including donations and membership dues. The details of the special bank account shall be placed on the web page of the party, shall be indicated in financial reports of the party and shall be communicated to the CEC.

Article 29, *Annual financial reports*, is a distinct article which refers to financial reports that need to be submitted by political parties and which has been amended by the civil society. This Article provides as follows:

1) Political parties annually, until 31 March, shall present their financial reports to the CEC. Political parties, which are beneficiaries of allocations from the state budget, shall also present the respective reports to the CA.

2) The reports shall be checked and analyzed in details by the CEC. In order to ensure verification, CEC may request from political parties and other public or private agencies information which is necessary for carrying out verifications. Upon request, parties and other relevant public or private agencies must present the requested information within 2 weeks time. This time limit might be extended by the CEC, depending on the nature of information requested.

3) Information about incomes and expenditures, including information about identity of donors included in annual financial reports of political parties, as well as concluding information (conclusions) from audit independent reports (opinions) shall be placed on the

official web page of the CEC within two weeks time after this information is received and accepted, as well as on the official web pages of political parties, where they exist.

4) The CEC shall elaborate templates for annual financial reports which are mandatory and which need to include (but are not necessarily limited to) the following information:

a) information about material resources and incomes of the party, including grouping these incomes in categories;

b) information about all donations granted to the party, including the amount donated, the identity of the donor (full name/last name, title and organizational form), residence/office and occupation/place of employment or the type of activity;

c) information about obligations and expenditures of the party (others than those for electoral campaign), grouped in operational expenditures and expenditures related to management of material resources.

Within electoral campaigns, civil society is consolidating quite explicitly the requirements concerning reporting of expenditures and incomes in Article 38¹. Therefore:

1) In case of parliamentary elections, political parties shall submit a report to the CEC, both in electronic form and on paper, with signature of responsible persons, about financial resources that were accumulated and about expenditures borne during electoral campaign, within 3 calendar days after entering in the electoral campaign and, subsequently, once in two weeks. The template of the report shall be approved by the CEC and must necessarily include the following information:

a) identification data of natural person or legal entity who donated financial means;

b) the list of all donations received, including the nature and amount of each donation in cash, material resources, objects, works or services;

c) related to the total value of donations and the number of donors;

d) related to donations which have been reimbursed;

e) identification data of natural person or legal entity who received funds from Electoral Fund and the purpose of the respective expenses;

f) the amounts of debts, numbers of financial record documents and other concluding information;

g) accounting information for the corresponding period concerning legal entities that were founded or controlled in another way by the respective political party.

2) The received reports concerning financing of electoral campaigns shall be preliminary checked by the CEC from the perspective of plenitude of information and their

correspondence to the requirements of financial reporting related to financing of electoral campaigns and shall be published on the web page of the CEC within 48 hours since they are received.

4) Financial reports for the entire electoral period shall be submitted to the CEC by electoral contestants registered by the Commission, latest two days before the day of elections, and the reports shall be published on the web page of the CEC within maximum two weeks since they are received.

5) CEC shall elaborate mandatory templates for reporting of incomes and expenditures borne during electoral campaigns. The template must necessarily include at least the following information under the column related to expenditures:

a) the costs of electoral meetings and events, including the related costs (rent, stage, sound system, stands, posters, expenditures related to protocol, security, reflecting the event in mass-media etc.);

b) expenditures related to advertisement, including on television, radio, other electronic media, written press, billboards, other street and mobile advertising platforms;

c) expenditures related to promotional materials, including electoral programs of the parties, posters, flags, T-shirts, other promotional articles offered free of charge;

d) expenditures related to transport (of persons and material resources);

e) the costs of services related to organizing public opinion polls;

f) additional costs related to maintenance: such as renting additional offices for electoral purposes, paying salaries of staff who are temporarily employed during electoral campaign;

g) costs related to delegation/detachment of persons;

h) costs related to payment of electoral and political consultancy.

An important article that was put forward by the civil society in order to ensure transparency is the one related to the audit and verification of financial reports of political parties. Therefore, Article 31 of the Law on Political Parties stipulates the following:

1) Political parties whose annual incomes or expenditures exceed one million lei must carry out audit of financial reports at least once every 3 years. In case when the party received allocations from the state budget, the audit report, together with annual financial report, shall be sent to the CEC and CA.

2) Auditor is selected by political party and the condition is that he/she should not have acted as member or candidate of any party during electoral campaigns in the last 5 years.

3) In order to ensure verification and control of the mechanism of financing the parties, CEC elaborated a special form to be filled in by auditors in order to check the accounts of political party and guidelines on how to fill in this form, that include information which is necessary for verifying their compliance with the requirements of the legislation concerning financing of political parties and electoral campaigns.

DLFPPEC also stipulates measures aimed at increasing the transparency of private financing, which require political parties, as it has been mentioned above, to annually publish in Monitorul Oficial of the Republic of Moldova the total amount of income deriving from membership fees, as well as the list of party members who paid membership fees within the period of one year, and whose total amount, according to the Fiscal Code of the Republic of Moldova, does not exceed the value of personal exemption applied to a resident natural person for the respective year. The list of members' tax-payers shall include the following elements: the name and last name of the member of the party, personal code, amount and the date of paying membership fee.

Concerning the public nature of donations granted for political parties, DLFPPEC stipulates in Article 23 that each political party must open a special bank account where all pecuniary incomes shall be transferred, including donations and membership fees. The details of this special bank account shall be published on the web page of the political party, shall be indicated in financial reports of political parties and shall be communicated to the CEC. All donations shall be highlighted in accounting documents in a corresponding manner, with indication of the date when they were granted and of data related to identification of donor (name, last name, title of the legal entity), domicile (office) and the donated amount.

In order to ensure overall transparency of financial reports, DLFPPEC describes in details in a separate chapter the elements of this field of reference, which are structured by separate articles and which relate to the declaration of origin, declaration of income received during electoral campaign and declaration of conformity.

Thus, Article 37 refers to the declaration of origin, according to which every person, with exception of the state, who provides some kind of financial support to one or several parties must submit a personal liability statement to the beneficiary in written form, with indication of the origin of finances, within 5 days after the payment was made.

Concerning usual financial reports, Article 41 stipulates that political parties shall submit their financial reports to the CEC on an annual basis, until 31 March. Political parties, which are beneficiaries of allocations from the state budget, shall also submit the respective

reports to the CA. The respective reports, as well as independent auditing reports, shall be published on the web page of the CEC and of the respective political parties, in case they exist.

Annual reports shall comprise the following information:

- a) information about material resources and incomes of political party, including grouping these incomes in categories;
- b) information about all donations granted to the party;
- c) information about the identity of the donor;
- c) information about obligations and expenditures of the party (others than those for electoral campaign), grouped in operational expenditures and expenditures related to management of material resources.

Article 42 refers to reports about financing of electoral campaigns, which must necessarily include the following information:

- a) identification data of natural person or legal entity who donated financial means;
- b) the list of all donations received, including the nature and amount of each donation in cash, material resources, works or services;
- c) related to the total value of donations and the number of donors;
- d) related to donations which have been reimbursed;
- e) identification data of natural person or legal entity who received funds from Electoral Fund and the purpose of the respective expenses.

At the level of reporting the expenditures and mandatory external audit, the normative basis is identical with the proposals of the civil society.

All reports that were received shall be published on the web page of the CEC within 48 hours after they are received, and according to Article 43, CEC shall annually present in front of the Parliament, until 1st of August, a report about financing of political parties and electoral campaigns.

An important provision is found in paragraph 8 of Article 42, stating that the mandate of the candidate in elections cannot be validated in case when the report about financing of his/her electoral campaign was not submitted according to the corresponding norms.

In conclusion, we ascertain that amendments put forward by the civil society, as well as the DLPPEC, regulate in sufficient manner the responsibilities of agencies of control and the reporting of financial resources of political parties, however they need to be simplified and

adjusted to the real capacities of the CEC, taking into consideration the reality, and namely financial deficiencies and deficiencies related to the staff of the CEC.

Other recommendations concerning the reporting refer directly to the protection of personal data.

Respectively, national and international experts imperiously suggest the need to improve the reporting process by political parties related to including information about the accumulated income and expenditures borne by them. Maximizing the transparency of income and expenditures of political parties is a priority especially from the perspective of financing electoral campaigns of these organizations. Therefore, one of the suggestions put forward by experts, who recommend elimination of problems related to potential fictional donors, refers to the topic related to personal data. In other words, it is necessary to discuss how much of personal data political parties must present to the control bodies according to the law. Supplementing legislation with provisions that would regulate this aspect would discourage, at least, donations from donors that cannot demonstrate the legal origin of such financial resources.

Of course, parliamentarians from the Republic of Moldova could regulate by law the type of personal data that needs to be processed (without the need to have consent of the subject of this data) in order to maximize the transparency of financial record reports of the political parties under the chapter on accumulated income and expenses borne. However, introduction of such amendments may be viable only if several conditions are met. First of all, according to Article 3 of the Law on protection of personal data, there are *special categories of personal data* that cannot be subject of discussions, and namely those that disclose racial or ethnical origin of the person, his/her political, religious or philosophical convictions, social status, data related to the health condition or sexual life, as well as those related to criminal convictions, procedural constraint measures and contravention sanctions applied.

Secondly, any initiative that regulates processing of personal data without the consent of the subject of such data shall justify the purpose of such requests. It is inopportune to process personal data that would not serve the purpose of such initiative, but that could represent violation of the right to inviolability of personal, family and private life.

Any initiative to process personal data should ensure a balance between the right of members of the society to satisfy their interest about the events related to exercising public power or regarding certain important problems and the right of a concrete person to

inviolability of his/her personal, family and private life”.²⁸ Ideally, personal data should be processed in the shortest possible period of time by the competent entity and the access of the public should be granted to the least possible personal data. Certainly, if the initiative concerning processing of personal data aimed at maximizing transparency of income and expenditures of political parties is justified, certain amendments may be operated in order to discourage cases of dubious financing of political parties. A solution in this case would be introducing different regimes for processing different categories of personal data that need to be offered by political parties. Certain categories of data provided could be open for public access; however other categories could be of limited accessibility and could be open only for control bodies.²⁹

**Information concerning donations available in countries
from Central and Eastern Europe**

Country	Available information
Poland	Name, last name and residence
Georgia	Name, last name and ID number
Estonia	Name, last name and ID number of the donor, the amount donated and the date of donation
Czech Republic	Natural persons – Name, last name, the amount donated and home address; legal entities – title of the organization, the amount donated, address and identification number

**SANCTIONS FOR INFRINGEMENT OF THE LEGISLATION ON FINANCING OF
POLITICAL PARTIES AND ELECTORAL CAMPAIGNS**

There are quite many types of sanctions for violation of legislation concerning financing of political parties, ranging from contravention and economical, criminal and electoral sanctions and the total or partial lose of allocations from the state budget.

Contravention and economical sanctions

Paragraph 7 of Article 25 of the Law on Political Parties stipulates that violation of legal provisions concerning financing of political parties and the way these financial means and material resources are used by the political parties is sanctioned according to the law, and

²⁸ According to the deputy director of the National Center for Protection of Personal Data from the Republic of Moldova, Vasile Foltea;

²⁹ Idem;

paragraph 6 of Article 27 stipulates that the share of the donations' value, received by a political party, which exceeds the established limit, as well as amounts received with violation of provisions related to non-eligible donations are transferred to the state budget. Paragraph 3 of Article 27 stipulates that in case when receiving of anonymous donations or donations that exceed the limit set by the present law is established, political party must transfer the respective amounts in the state budget within 10 days.

In the context of violation of provisions related to financing of electoral campaigns, EC makes reference to Article 48 from CAORM, "*Use of funds coming from abroad or funds which are not publicly declared in elections or in referendum*". This Article stipulates that the use of funds coming from abroad or funds which are not publicly declared in elections or in referendum shall be punished by a fine in the amount of 30 to 40 conventional units³⁰ in case of natural persons, or by a fine in the amount of 300 to 500 conventional units in case of responsible persons.

Amendments of the Code of Administrative Offences proposed by civil society related to violation of the legislation regulating financing of political parties clearly reflect the nature and the grounds for applying the sanctions. Therefore, proposals for amendment of Article 48 of the CAORM "*Use of non-declared, inaccurate funds or funds coming from abroad for financing of political parties or electoral campaigns*" stipulate that the use of funds coming from abroad or funds which are not publicly declared in elections or in referendum shall be punished by a fine in the amount of 50 to 150 conventional units in case of natural persons, or by a fine in the amount of 300 to 500 conventional units in case of responsible persons. Non-execution of the CEC request (formal notice) concerning the transfer to the state budget of money received from political parties/electoral contestants with violation of law or of money which exceeded the limits established by law shall be punished by a fine in the amount of 300 to 500 conventional units in case of responsible persons, with the deprivation of the right to hold certain positions or to practice certain activities from 3 months to 1 year.

At the same time, civil society puts forward a proposal at the level of contravention sanctions to introduce sanctions for failure to timely report about the incomes and expenditures, as well as for failure to present reports in corresponding manner. Therefore, CAORM shall be supplemented with Article 48¹ that shall stipulate the following: the failure of independent candidates to submit reports concerning financing of electoral campaign

³⁰According to Article 34 from CAORM, one conventional unit is equal to 20 MDL.

within the time limits provided by law and in the established format shall be punished by a fine in the amount of 100 to 150 conventional units or with community service from 20 to 60 hours.

The same Articles also stipulate that violation of the legislation regulating the rules concerning the record and the use of property belonging to political parties and resources from Electoral Fund, including the failure to submit identification data of the donors shall be punished by a fine in the amount of 100 to 300 conventional units in case of responsible persons and with deprivation of the right to carry out certain activity for the period from 3 to 6 months.

According to the proposal of civil society initiated in the context of annual reports of political parties, the non-presentation by political parties of annual financial reports within the time limit and in the format established by the CEC, including presentation of incomplete data in annual financial reports, shall be punished by a fine in the amount of 300 to 500 conventional units in case of responsible persons and with deprivation of the right to carry out certain activity for the period from 3 to 6 months.

In the context of resources received from the state budget, CAORM follows to be supplemented with a specific provision stating that the use by political parties of allocations from the state budget or of the means from Electoral Fund against their destination shall be punished by a fine in the amount of 200 to 500 conventional units in case of responsible persons and with deprivation of the right to carry out certain activity for the period from 1 year.

Within the DLPPEEC, contravention and economical sanctions follow the current legislation, with exception of Article 49, paragraph 5 that stipulates that in case prohibited donations are accepted during electoral campaign, the candidate will be obliged to transfer to the state budget, within 10 days, the double value of the object of donation.

Criminal sanctions

Current legislation, as well as the DLPPEEC does not include sanctions for violation of legislation concerning financing of political parties and electoral campaigns.

For this reason, civil society puts forward some amendments to the criminal legislation for violation of the respective field.

Therefore, in electoral context, Article 181¹ of the CC refers to the bribing of voters and stipulates that offering or giving goods³¹, services or other patrimonial advantages to the voter in order to determine him/her to exercise his/her electoral rights in a certain manner during parliamentary, presidential, local elections or during referendum shall be punished with community service from 100 to 200 hours or by imprisonment for up to 3 years.

In usual context, Article 181 proposed to the CC directly refers to illegal financing of political parties and electoral campaigns, stipulating that falsification of financial reports of political parties and/or of reports concerning financing of electoral campaigns, in order to substitute or hide the identity of donors, hide the amount of accumulated resources or destination/amount of resources used shall be punished by a fine in the amount of 200 to 500 conventional units or by imprisonment for up to 3 years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities for up to 5 years.

According to the same Article, receiving financial donations by political parties and/or Electoral Funds through extortion shall be punished by a fine in the amount of 200 to 500 conventional units or by community service for 100 to 200 hours or by imprisonment for up to 4 years, with the deprivation of the right to hold certain positions or to practice certain activities from 1 to 5 years.

Blackmailing of donors of political parties and electoral contestants is stipulated in the same Article and such an action shall be punished by a fine in the amount of 300 to 500 conventional units or by community service for 180 to 240 hours or by imprisonment for up to 5 years, in all cases with the deprivation of the right to hold certain positions or to practice certain activities from 2 to 5 years.

Knowingly accepting financing of political party or electoral contestant by an organized criminal group or by a criminal organization (association) shall be punished by a fine in the amount of 500 to 1000 conventional units or by imprisonment from 1 to 6 years, in all cases with the deprivation of the right to hold certain positions or to practice certain activities from 2 to 5 years, according to paragraph 4 of the same Article.

Paragraph 5 of the same Article stipulates that illegal use of administrative resources (public materials), including favouring or consenting to the illegal use of administrative

³¹ The respective category of material resources does not include resources that bear printed symbol of electoral contestant and/or that contain an electoral slogan, with condition that the value per unit does not exceed two conventional units;

resources (public materials) during electoral campaigns, if this caused large-scale damage, shall be punished by a fine in the amount of 3000 to 5000 conventional units or by imprisonment for up to 3 years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities from 2 to 5 years.

At the level of public allocations, paragraph 6 of the same Article stipulates that the use of allocations from the state budget or of resources from Electoral Fund allocated for political parties contrary to their destination, in case it caused large-scale damage, shall be punished by a fine in the amount of 3000 to 5000 conventional units or by imprisonment from 1 to 5 years, in both cases with the deprivation of the right to hold certain positions or to practice certain activities from 2 to 5 years.

Electoral sanctions at the level of allocations from the state budget

Article 28 paragraphs 3 and 4 of the Law on Political Parties stipulate that political parties that during electoral campaign exceeded the maximum limit of expenditures provided by law, as well as parties, which were financed with violation of legal provisions, lose their right to receive financial allocations from the state budget. Political party which lost the right to receive financing from the state budget, due to exceeding the limit of expenditures for the electoral campaign or due to the violation of legal provisions on financing electoral campaigns, may be re-established in this right after the next elections.

Article 29 paragraph 2 of the Law on Political Parties stipulates that allocations from the state budget used for other purposes than those stipulated are returned to the state budget on the basis of the final court decision.

In electoral context, paragraph 4 of Article 69 from Electoral Code stipulates that registration of electoral contestant may be cancelled upon the request of the Central Electoral Commission, and in case of local elections – also upon the request of district electoral council, by a final court decision that established the following: deliberate use by electoral contestant of financial resources and material resources which were not declared or exceeding the expenditures beyond the limit of resources available in Electoral Fund, in all cases in considerable proportions (more than 5 percent from the amount which represents the limit) as well as, deliberate use by electoral contestant of financial resources from abroad.

Civil society reiterates the current legislation, mentioning in the amendments to the EC that in case during the same electoral period the sanction in the form of warning is applied repeatedly, the Central Electoral Commission shall apply to political parties that registered as

electoral contestants a complementary sanction in the form of suspending allocation of resources from the state budget for a period from 6 months to up to 1 year.

DLPPEC applies in Article 50 a punishment in the form of suspending allocations from the state budget in cases when it establishes violation of the norms related to financial management, and namely: incorrect record of the property and its use in electoral campaigns, failure to present data concerning identification of donors, failure to timely present financial reports, use of public allocations against destination.

In conclusion, we can ascertain that at the level of sanctions, current legislation, as well as amendments and the alternative draft law in this field are quite concise and clear and need to be applied in practice; the deficiency however rests with the capacities of agencies that exercise functions of control and punishment.

CONCLUSIONS AND RECOMMENDATIONS

Following the comparative analysis described in this Study, we can ascertain that current legislation, as well as amendments proposed by civil society and the alternative draft law that refers to financing of political parties and electoral campaigns reflects in its complexity all necessary aspects and elements of the field of reference.

Details concerning private and public financing, agencies of control and methodology of reporting financial flows that are allocated to political parties are important in this context.

However, even if the current and the future normative framework is quite vast and imposes certain conditions and responsibilities, the question remains regarding the applicability of these norms, the ability of political parties to execute the norms that are related to their financial flows in accordance with legislation, as well as possibilities and competences of control bodies in the respective field, in this case of the Central Electoral Commission.

Debates existing in the society concerning these processes should continue, because they do not create confusions, but only consolidate normative initiative in the field of financing political parties and electoral campaigns from the Republic of Moldova, which is the case regarding amendments elaborated by civil society vs. the draft of deputy V. Plahotniuc.

Along general appreciations concerning financing of political parties and electoral campaigns from the Republic of Moldova, the following recommendations are put forward:

-in all cases, party membership fees should be limited, in order to consolidate this traditional type of financing, as well as in order to create a system of „matching funds” synchronized to public financing;

-under conditions of DLPFPEC, in case of commercial activities, the source of internal service within the party should be clarified;

-under conditions of current Electoral Code, there is a need to introduce express provision which would explain what actors are meant in the derogation concerning financing from abroad, this is mentioned in Article 36 paragraph 1;

-under conditions of amendments elaborated by civil society, and taking into consideration the results of previous parliamentary elections, general local elections and gender distribution, we conclude that financial resources are essentially distributed only among large political parties, and the small parties benefit only from insignificant allocations or are not eligible at all, the recommendation therefore is to diversify the eligibility conditions, so that the parties that accumulated at least 0,5% at the parliamentary elections shall also have access to allocations from the state;

-under conditions of DLPFPEC, the recommendation is to clarify in the draft Law which authorities are eligible in case of general local elections (level I or II), (cumulatively, there is a need to have a mechanism for calculating the mandates in this respect);

-under the same conditions, the recommendation is to clarify on which basis (previous parliamentary elections, previous general local elections) the 10% of allocations for political parties which are not represented in eligible authorities are distributed;

-under external conditions, the recommendation is to introduce an Article on eligibility of allocations (approximately 10% from state allocations) based on synchronization with party membership fees. This system would provide more possibilities for small parties to consolidate and to receive more financing from the state;

-the recommendation is to stipulate in exact manner the calculation coefficient in order to establish the limit of expenses borne by electoral contestants;

-for the DLPFPEC, the recommendation is to decrease the percentage of calculation coefficient for establishing the limit of expenses borne by electoral contestants;

-under conditions of ensuring protection of personal data, there is a need to ensure elaboration and posting of financial reports as soon as possible, with condition that a balance is ensured between the right of members of the society to learn about the events related to the

exercise of public power or certain important problems and the right of individual persons to inviolability of their personal, family and private life.