

FUNDING POLITICAL PARTIES

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Abstract

As I previously mentioned, in a specialty article, from the point of view of the source of money, the financing of electoral campaigns has two large systems, namely public financing (governmental) and private financing (non-governmental). From this point of view, it can be said that there is a similarity between the financing of the electoral campaigns and the financing of the research and development activity because it can also be financed by public and private sources.

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Introduction

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Sources of private funding for the activity of political parties are:

- Contributions

Members of political parties can deposit contributions through bank accounts or cash. Contributions collected through bank accounts are recorded and accounted in the appropriate accounting documents, in accordance with applicable regulations. These are evidenced in the annual register detailed for income and expenditure.

Cash contributions can be cashed only based on a receipt, which will also include the personal numeric code of the political party member, the mention of the contribution, the name and surname of the member for whom the

contribution is paid, all these being recorded and accounted in the appropriate accounting documents, in accordance with applicable regulations.

- Donations

Political parties can receive only donations that have one of the following objects:

- a) sums of money;
- b) movable tangible goods, other than money;
- c) immovable property;
- d) services;
- e) price reductions, higher than 20%.

All donations, irrespective of their value, form and purpose, are recorded and evidenced in the appropriate accounting documents, in accordance with applicable regulations, being recorded date on which the donation contract was signed, the names and surnames of the donors, their personal numerical codes or the names of the legal persons, their unique registration or fiscal identification codes, their nationality or citizenship, as the case may be.

Donations in cash up to 25,000 ROL are valid through a written donation contract, accompanied by deposit of donation in the political party's bank account or its cash deposit at the political party's cash desk, according to the law.

All donations having an object other than sums of money will be recorded in the accounting documents at the market value from the date of the signing of the donation contract, established by the evaluation reports drawn up by the authorized valuers.

Donations received from an individual person in a year may be up to 200 minimum basic salaries gross per country. By individual person we will understand the individual subject of civil rights and obligations, participant in the civil legal circuit. This participation may take place if the subject of law also has civil legal capacity (Culda, 2017).

Political parties can receive donations in cash, whose total annual value exceeds 10 minimum basic salaries gross per country, only through their own bank accounts.

Political parties can receive donations in cash whose total annual value is less than 10 minimum basic salaries gross per country, in cash, and is only receivable on a receipt basis.

The donations having as object real estate and donations whose value is more than 25,000 RON end only by an authentic document.

Political parties may conclude consumer loan contracts having as object amounts of money, according to the law, only by authentic notary documents.

Political parties may have only the quality of the borrower.

Proof of surrender-receipt of the loan can be done by any documents under private signature attesting the bank transfer.

Own revenues

Political parties can obtain their own revenues, exclusively from the following activities:

a) Publishing, producing and disseminating publications or other printed materials of their own propaganda and political culture, without these activities being rendered to other beneficiaries outside the political party;

b) sale of tickets, participation fees or the like for cultural, sporting events, as well as for political, economic or social meetings and seminars, without these activities being provided to other beneficiaries outside the political party;

c) selling the printed materials with the political party's own marks;

d) services offered to party members for organizing the events referred to b);

e) renting the premises of his own patrimony for conferences or social-cultural actions and for organizing the parliamentary offices of the members of the Chamber of Deputies and the Senate;

f) the alienation of land and buildings in the patrimony, but only after at least 10 years from registration in the patrimony, except for political parties in the process of dissolution; the 10-year term does not apply to inherited real estate;

g) the alienation of movable assets from the patrimony;

h) issuance of political party membership cards without the amounts collected being higher than the issuing costs;

i) bank interest related to own bank accounts.

1. The procedure for granting subsidies from the state budget, as well as the use of subsidies from the state budget

Thus, political parties receive an annual subsidy from the state budget, according to art. 18 -23 of Law no. 334/2006, republished¹.

According to the provisions of Article 3 (1) letter d) of the Law no.334 of 2006 on the financing of the activity of political parties and electoral campaigns, as subsequently amended and supplemented, the activities of the political parties may also be financed by subsidies from the state budget.

¹ Law no. 334/2006 on the financing of the activity of political parties and electoral campaigns, republished in the Official Gazette of Romania no. 510 / 22.07.2010. Law no. 113/2015 for amending and completing the Law no. 334/2006 on the financing of the activity of political parties and electoral campaigns, published in the Official Gazette of Romania no. 339 / 18.05.2015.

In accordance with Art. 14 par. (2) of the Law no.334 of 2006, the amount allocated to the political parties annually can not be higher than 0.04% of the revenues provided in the state budget.

Subsidies from the state budget are allocated according to the following criteria²:

- Number of votes received in parliamentary elections;
- Number of votes received in local elections.

Starting with 2008, the political parties receive subsidies from the state budget through the budget of the Permanent Electoral Authority, in the proportions mentioned in Articles 15 and 16 of the Law no.334 of 2006, as follows:

- 75% of the annual budget allocated to political parties will be divided in proportion to the number of votes received in the parliamentary elections, ie the average of votes validly cast for the Chamber of Deputies and the Senate if they have reached the electoral threshold;

- 25% of the annual budget allocated to the political parties will be divided in proportion to the number of votes cast in the local elections for the election of county councilors and councilors in Bucharest if they have obtained at least 50 counselor and advisor positions in Bucharest.

Pursuant to the provisions of Article 14 paragraph (2) of the Law no.334 of 2006, the state budget subsidy for political parties promoting women on electoral lists on eligible places will be increased in proportion to the number of mandates obtained in the election by the women candidates.

In the case of political or electoral alliances, the subsidy from the state budget is divided according to the agreement between the members of the alliance or, in the absence of agreement, by the number of mandates obtained.

The subsidy from the state budget is paid monthly, in the first decade of the month, on account of each party, through the budget of the Permanent Electoral Authority.

The Permanent Electoral Authority may temporarily suspend the grant from the state budget if, after checks made at political parties, it finds deviations in the application of the legal provisions of the Law no.334 of 2006.

As a result of the general elections for the local public administration authorities, the grant will be granted according to the number of votes received at these elections for the county councils and for the General Council of Bucharest and according to the number of mandates obtained by the women candidates in the sums stipulated by law, starting with the month following the publication of the election results in the Official Gazette of Romania, Part I.

² Through the Permanent Electoral Authority.

The political parties receive the subsidy from the state budget through the budget of the Permanent Electoral Authority and have the obligation to register separately the received subsidy in their own accounting records.

Subsidies from the state budget are allotted and distributed to each political party, according to the quarterly provisions, approved according to the Law on Public Finances no. 500/2002, with subsequent modifications and completions, based on an algorithm.³

The grant from the state budget may be temporarily suspended by decision of the Permanent Electoral Authority, according to the law.

The subsidy obtained by the political parties from the state budget can be used only for the following destinations:

- a) material expenses for the maintenance and functioning of the spaces;
- b) staff costs;
- c) press and propaganda expenses;
- d) expenses on the organization of political activities;
- e) travel expenses in the country and abroad;
- f) telecommunication expenses.

2. The source from which electoral campaigns and referendum campaigns can be funded

2.1. Contributions of candidates for the electoral campaign

Thus, a first category of sources from which election campaigns can be funded is the contributions of the candidates.

These can come only from the following sources:

- a) own incomes;
- b) donations received from individuals;
- c) loans from individuals or contracted with credit institutions.

Contributions for the electoral campaign may be deposited or paid by the financial mandatory in the bank accounts opened for the election campaign, after the candidatures are final.

2.2. Contributions of the political party for the electoral campaign

At central level, in addition to electoral campaign candidates' contributions, the political party or political alliance who is participating in the elections individual or in an electoral alliance can transfer, by bank transfer, funds which came from outside of the electoral campaign in a bank account opened at central level by the financial mandatory, after the candidatures are final, for the political party or political alliance, as the case may be.

³ Published in the Official Gazette no. 597 / 13.08.2002.

The political party, through the co-ordinating financial mandatory, may transfer sums of money from the account opened at the central bank level in the account opened at county level, at Bucharest level or at the level of its sectors, respecting the limits provided by the law.

In the case of contributions destined for referendum campaign, the political party participating in the campaign opens, within 5 days from its commencement, a bank account at national level in the case of the national referendum or at county / Bucharest level in the case of the local referendum.

Contributions paid by the political party may come only from transfers of funds from outside of the electoral campaign, respecting the limits provided by the law.

3. Electoral expenses and types of electoral expenses

Electoral expenses can only be made through bank accounts for the electoral campaign, opened at central level, at county level or at Bucharest level.

In the election campaign, political parties, political alliances, citizens' organizations belonging to national minorities, electoral alliances and independent candidates may acquire and use only the following types of electoral propaganda material:

- a) electoral posters with a maximum of 500 mm on one side and 350 mm the other side;
- b) electoral posters by which is convened an election meeting will have 400 mm one side and 250 mm the other side which shall be placed in the special places for display;
- c) audio or video electoral propaganda material, broadcasted by the audiovisual media;
- d) advertising in the print media;
- e) online electoral propaganda materials;

Political parties, political alliances, and citizens' organizations belonging to national minorities can make only the following types of electoral expenses:

- a) expenditures for the production and distribution of electoral propaganda materials on radio, television and print media in the amount of maximum 40% of the electoral total expenditures;
- b) expenses for the production and dissemination of online electoral propaganda materials, in the amount of maximum 30% of the electoral total expenditures;
- c) expenses for sociological research, in the amount of maximum 30% of the electoral total expenditures;

d) expenses for electoral posters, in the amount of maximum 20% of the electoral total expenditures;

e) expenses for printed brochures, leaflets and other printed propaganda materials, in the amount of maximum 50% of the electoral total expenditures;

f) expenditure on space and equipment renting and protocol expenses for the organization of political, economic, cultural or social events, for transport and accommodation, for legal assistance and other types of consultancy, as well as the payment of financial mandators services, in the amount of maximum 30% of the electoral total expenditures;

g) expenses for bank commissions.

Financial Mandators

Records of electoral contributions and expenses are exclusively organized by financial mandators.

The financial representative is appointed by the leadership of political parties or by independent candidates.

A political party will have only one coordinating financial mandatory at the central level, respectively a financial representative appointed at the level of each county, sectors of Bucharest Municipality and at Bucharest level.

The admission or rejection of the registration of the financial representatives is made by decision of the Permanent Electoral Authority.

May be financial representative only individuals who are expert accountant or authorized accountant and only legal entities that provide specialized accounting services.

Political parties, political alliances, citizens' organizations belonging to national minorities and independent candidates who have appointed financial officers who do not have the capacity of expert accountant or authorized accountant have the obligation to conclude a specialized assistance contract with authorized natural persons or legal persons specializing in offering accounting services.

4. Procedure and measures having as goal controlling the financing of the current work of political parties

Thus, the control of the observance of the legal provisions regarding the financing of the current activity of political parties and political alliances is carried out by the Permanent Electoral Authority through the controllers, with the support of the other specialized departments, ex officio or by the notification of the interested persons, according to the law.

The control over state budget subsidies will be carried out simultaneously by the Court of Accounts.

Also, are regulated the stages of control as well as verification techniques specific to control operations.

The Permanent Electoral Authority is the public authority empowered to control compliance with the legal provisions regarding the financing of political parties, political or electoral alliances, independent candidates and electoral campaigns, according to art. 35 paragraph (1) of the Law no. 334 /2006 on the financing of the activity political parties and electoral campaigns, republished, with further additions.

Receiving donations from individuals or legal persons is made only by a financial agent, appointed for this purpose by the party leadership, according to art.26 paragraph (1) of the Law no. 334/2006 on the financing of the activity of political parties and of the electoral campaigns, republished, with subsequent additions.

The quality of a financial agent is acquired only after his official registration with the Permanent Electoral Authority.

According to Article 26 (3) of the Law no. 334/2006 on the financing of the activity of political parties and electoral campaigns, republished, with subsequent supplements, the financial mandate is obliged to keep records of the financial operations as follows:

- a) at national level, in the case of the elections for the position of President of Romania and for the election of the representatives of Romania in the European Parliament;
- b) for each electoral college, in the case of the elections for the Chamber of Deputies and, respectively, for the Senate;
- c) for each county electoral district, in the case of the elections for the positions of county councilors and the position of president of the county council;
- d) for each local constituency, in the case of candidates for mayor positions and local councilors.

According to Article 26 (4) of the Law no. 334/2006 on the financing of the activity of political parties and electoral campaigns, republished, with subsequent completions, the financial mandatory has the following attributions:

- a) organizes the evidence of the incomes received for the electoral campaign, the transfers of other funds from the incomes obtained outside of the electoral period and of the expenditures made for the electoral campaign;
- b) verifies the legality of the financial operations carried out during the electoral campaign, the observance of the provisions regarding the donations registered in the period between the announcing of the election date and the completion of the electoral campaign;

c) presents to the Permanent Electoral Authority the report on the observance of the legal conditions regarding the financing of the parties during the electoral campaign.

Within 15 days from the date of the election, the financial mandatory is obligated to submit to the Permanent Electoral Authority a detailed report on electoral revenues and expenditures for each political party, political alliance, electoral alliance, organization of Romanian citizens belonging to national minorities or independent candidate according to art. 38 paragraph (1) of the Law no. 334/2006 on the financing of the activity of political parties and electoral campaigns, republished, with further additions.

After the expiration of the term stipulated in art. 38, par. (1) of the Party Financing Law, the Permanent Electoral Authority announce publicly the list of political parties, political alliances, electoral alliances, organizations of Romanian citizens belonging to national minorities and independent candidates who have submitted detailed reports on electoral revenues and expenditures, through successive publications in the Official Gazette of Romania, Part I, according to art. 38 paragraph (2) of the Law no. 334/2006 on the financing of the activity of political parties and electoral campaigns, republished, with subsequent amendments.

The reports are published by the Permanent Electoral Authority in the Official Gazette of Romania, Part I, within 30 days from the publication of the election result according to Article 38 paragraph (3) of the Law no.334 / 2006 on the financing of the activity of the political parties and of the electoral campaigns, republished, with further additions.

Candidates declared elected can not validate their mandates if the detailed report on election revenues and expenditures for each political party or independent candidate has not been filed under the terms of the law according to art.38 paragraph (4) of the Law no.334 / 2006 on the financing of the activity political parties and electoral campaigns, republished, with further additions.

Conclusions

Thus, the request for reimbursement of the electoral expenses is submitted by the coordinating financial officer to the Permanent Electoral Authority, within 30 days from the date of the elections. In the request for reimbursement of the electoral expenses will be included only reimbursements made until the election date.

Within 60 days of the expiration of the term before mentioned, the Permanent Electoral Authority will reimburse political parties, political alliances and citizen organizations belonging to national minorities to the amounts paid for the election campaign at the time of filing the request for reimbursement, according to law and methodological norms.

The reimbursement of the electoral expenses is made only based on following documents: the control report, the reimbursement request, as well as the supporting documents.

If the conditions for reimbursement are accomplished, the Permanent Electoral Authority will issue a reimbursement decision under which money will be transferred by payment order to the political party, political alliance, or national minority or independent candidate.

If the conditions for reimbursement are not accomplished, the Permanent Electoral Authority will issue a no reimbursement decision of electoral expenses.

The decision accompanied by the report is transmitted to the political party, the political alliance or the organization of the citizens belonging to the national minorities and can be appealed to the competent court, according to the law.

The sums of money necessary to reimburse the electoral expenses is provided by the state budget, through the budget of the Permanent Electoral Authority, according to the law.

Contraventions are observed by the Permanent Electoral Authority's controllers and the sanctions are enforced by a decision of the Permanent Electoral Authority.

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