**REPORT ON THE TECHNICAL ROUND TABLE**

**“FINANCING OF POLITICAL PARTIES & ELECTORAL CAMPAINGS”[[1]](#footnote-1)**

**Organised by Central Electoral Commission (CEC) with the support of OSCE/Presence in Albania**

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***Brief background***

Money is a necessary element for a functioning democratic system. Political parties and candidates need resources for building solid organisations and canvassing public support. Yet money in politics can pose serious corruption risks to the quality of government and democracy. Money may come into conflict with the democratic principles of fair competition in elections and can also undermine political representation.

Many studies agree that laws and regulations cannot always prevent the undue influence of money and private interests in politics. The role of state bodies is decisive in ensuring compliance with the law. The involvement of the media, political opposition and civil society organisations, as well as academia and citizens, is absolutely necessary to report violations, to monitor state oversight bodies and ensure they work effectively, and to censor improper practices through voting. In addition, political actors must commit to, and engage in, accountable and transparent political financing practices.

Political parties are primary vehicles for citizens to channel their participation in the political process and must therefore have the highest standards of integrity and transparency. Transparency is a pivotal element in monitoring the flow of money in politics and in helping restore trust in politicians. Funding of the political parties by the state could be a leap forward in addressing the loopholes associated with accountability.[[2]](#footnote-2)

Recent appeals by civic activists and international organizations for political party finance regulations and anti-corruption measures indicate a need to further balance the democratic playing field to ensure fair competition. The combination of increased skepticism by Albanian voters and recognition of the problem by academics, activists, politicians, and civic leaders has created an environment for a more open debate concern­ing the need for greater reforms in the area of political party financing and corruption in Albania.[[3]](#footnote-3)

***Overview of the contributions***

Ambassador Florian Raunig, Head of the OSCE Presence in Albania said that “*Political parties need to serve as beacons of integrity in Albanian society and place at the heart of their decisions the interest of the public. Lack of integrity and transparency among political parties undermines the country’s democratic processes and damages its economy. It directly influences the country’s security and long-term stability….The CEC cannot tackle this oversight alone. Much depends on the level of co-operation by political parties as well as relevant state agencies. Attentive monitoring from society is also needed … While the legislative framework on political party financing has been continuously improving over the past few years, proper implementation of the legislation is lagging behind*”. He suggested further legislative improvements in line with the recommendations made in OSCE/ODIHR election observation reports.

Mrs. Lefterije Luzi, chairwoman of CEC, said that control of financing of political parties in Albania is a new phenomenon. With the recent amendments of the law “On political parties” CEC has the duty and responsibility to monitor and audit annual fund of political parties. She emphasized that “*CEC has approved all the package of the subsidiary legislation for the proper implementation of these two laws. This is done in close cooperation with the experts of PACA project and at the same time constitutes fulfillment of GRECO recommendations in this filed*.”

She presented also difficulties that is actually facing CEC in the exercise of its legal competences like a huge number of political parties are subject to control, the law ‘treats’ the parties in equal basis regardless their political importance or participation in parliament/government, lack of human resources and capacities within CEC and the decreased interest of audit experts to participate in the process of auditing.

Mr. Ilirjan Celibashi, Minister for the Relations with the Parliament, said that is very difficult for the politic and the politicians to show their pockets, as well as the money of political parties they belong. This is a very difficult process even for the countries with developed and consolidated democratic traditions, not only for a country like Albania, in a process of consolidating the democracy. “*Very often for a politician or a political party it is not enough to have a very good electoral/political program in order to achieve a good electoral result. It is not enough also to have good results on government in order to have further political success. It is very important to have always the possibilities to transmit always and in a clear way to the voters, every political and electoral message or achievement in government. During these last 20 years the attention of the general public towards the political parties financing is increased dramatically. This is partly dedicated to a sophisticated report between the politics and the money during these years in Albania*.”

Mr. Oerd Bylykbashi, deputy chairman of Committee on Legal Issues, Public Administration and Human Rights emphasized that “*the Albanian legislation now has fulfilled all the GRECO recommendations of the field of financing of political parties. Constitutional changes on the electoral system in 2008 did take in consideration also the aspects on the issue of political parties financing… Of course, if it is necessary amendments in the respective laws must be done. But important at this stage is the proper implementation of the legislation and for this impartiality of CEC is crucial, as well as the necessary budget and human resources to exercise its legal competences…. Albania today is facing a very serious problem i.e. political corruption, so our challenge is how to stop it. Much it is said about huge amount of money for the vote buying in the last elections. We did experience such a phenomenon before, but in the* *last election this phenomenon was indeed very much bigger. If it not stopped immediately, there is no more issue of political party financing, but a state capture. “*

Dr. Marcin Walecki, expert, gave a short presentation on the issue of political parties and electoral campaigns. According to Transparency International (TI) 2013 Global Corruption Barometer in 51 countries (out of 107) around the world, political parties were perceived to be the most corrupt institution. In 2011 OSCE/ODIHR and the Venice Commission issued Guidelines on Political Party Regulation. They are considered as a tool for member states in formulating the legal framework that comply with international standards. The OSCE/ODIHR Final Report on elections 2013 recommended that in order to enhance transparency on campaign financing, it is necessary to oblige contestants to regularly report to the CEC all income and expenditures for campaign expenditures and to require CEC to publish preliminary campaign finance reports prior to the election day. He continued with a short presentation of good practice in the enforcement of legislation and emphasized that the legislative basis must provide a diversity of sanctions. The rules concerning infringement of funding of political parties and electoral campaigns must be subject to effective, proportionate and dissuasive sanctions.

Mr. Quentin Reed, expert, in his presentation was focused in the beginning on the issues of political finance regulation i.e. objectives of regulation, techniques of regulation, implementation, oversight/monitoring and enforcement. In Albania all the GRECO recommendations of 2008 are implemented. For the future Albania must consider the remaining legislative issues on the duty of all political parties to submit reports and to be audited, the unjust duty to return public funds after failure to win seats in the parliament because no party can predict its result, the amount of 100 000 ALL as a very high threshold, and other possible outstanding issues. Furthermore CEC has not started to perform an active role in the verification of political party financing. Key challenges for the CEC are to increase the capacity of monitoring and audit, to improve verification techniques, assessment of resource requirements and to institutionalize independence. Promoting of self-regulation and training is required and partnership with non state actors must be solidly established.

Mr. Lutfi Dervishi, Transparency International Albania, emphasized that political parties in Albania are not in a good position because are ranked as corrupted by polls. “*Although they play an important role in Albanian society their motto is “do what I say and don’t do as I do”. Article 9 of the Albanian Constitution requires the transparency of party financing which as a matter of fact is never done. Reforming Electoral Code and the law “On political parties” is a necessity and in this undertaking Albanian legislators must take into consideration international standards and legislation of other countries in the region.”* He presented examples from Balkan countries on the threshold of non-public funds (Kosovo, Serbia, Croatia) to illustrate the high level of the Albanian legislation threshold, and concluded with the urgent need for further reform of legislation.

*Mr. Arjan Madhi*, representative of the Republican Party, gave a brief overview of the history of party financing in the last 20 years and emphasized that all the political parties in electoral campaigns that gain at least twenty thousand votes in national scale must benefit from public funding. Those parties that are below this threshold must return the received public funds or they will lose in the future the right to benefit from public funds.

*Mr. Ilir Rusmali*, expert and former chair of the Law Committee, said that the issue of financing of political parties and electoral campaigns is a matter of integrity, transparency, accountability and democracy. We were focused very much on transparency, but it is important not to forget the accountability and integrity, features that are not known by Albanian political parties. Therefore, this is the last chance for the actual system to be applied effectively in practice; otherwise we have to think for another model of financing.

*Mr. Alfred Moisiu*, former president of the Republic, said that we are now one year before the local elections and it is not in the agenda the change of the Electoral Code. Private financing of political parties and electoral campaigns is a major problem in Albania. We lack proper implementation of the laws and in this perspective media and NGOs have a crucial role to play. We must find way to make CEC an independent institution and to increase its accountability along with other actors involved in this field.

*Mr. Aldo Merkoçi,* MJAFT Movement, said that their results of monitoring confirms that there is a huge discrepancy between what is declared by political parties and what is *de facto* spend by political parties in electoral campaigns. According to MJAFT report *de facto* expenses of political parties are around two to four times more than what they declare officially.

*Mrs. Aranita Brahaj,* Albanian Institute of Science AIS, said that the Project Open Data Albania, based on the analysing and transcribing in the format *open data* information on electoral expenses during the period 2009 – 2013, has found out irregularities and problems that require interventions in form of legislative changes or introduction of best institutional practices. The suggestions elaborated by her are mentioned below in Recommendations section.

*Mr. Ligoraq Karamelo*, representative of the Union for Human Rights Party, said that the topic under discussion is very important. Huge improvements are made in the legislation, but further reforms are evident to be undertaken. It is evident that the financing of political parties and electoral campaign is a problem in Albania and until now we do not have concrete results by the state organs which have legal competence to fight illegal party financing. There is a tendency in Albania that more businessmen will be involved as candidates in general and local elections.

***Recommendations:***

**1.** Disclosure of financial information by political parties should be regulated by specific legal provisions and monitored by the designated state oversight agency (in case of Albania, the CEC). Political parties in Albania have failed to disclose financial information to the public, its party members and voters. This is considered the main indicator of non-responsibility and lack of transparency.

 A specific legal provision to regulate the disclosure of such information by the parties themselves is necessary.

Therefore article 23 of the law “On political parties” should be amended accordingly.[[4]](#footnote-4)

**2.**  Clear provision to be included in the law in order to separate the reporting format of annual finances from the reporting of election finances in case of electoral years. Exact deadline for submission by political parties to CEC and the obligation of CEC, in exact deadlines, to made public these reports should be provided in the law. On the other side, the Electoral Code should have a provision for a “report” on electoral campaign financing. Article 23/4 of the law “On political parties” refers to the election campaign finance report, though this is not provided yet in Electoral Code.

For example, due to the fact that local elections were held in the year 2011, annual financial reports and electoral campaign reports should have been drafted and submitted together to the CEC, which did not happen in practice for all the parties. Among the five parliamentary parties, one party submitted a report only for the period of local elections while other four political parties submitted reports for the annual period of 2011. The audit reports were prepared only for the electoral campaign finances while according to the law, the audit reports should cover both reporting for the annual period and local elections period.[[5]](#footnote-5)

Therefore, article 23 paragraph 4 of the law “On political parties” should be amended accordingly.

**3.** The experts of the Institute of Authorized Chartered Auditors of Albania (IEKA) recommend to be mentioned in the law the accounting standard known as “EVR” (Expenditure Verification Report). This standard must be provided in the law as a general rule, and CEC in cooperation with IEKA should be delegated to approve the technical subsidiary rules and regulations.

 The current format of auditing required by legislation is too much detailed and makes the auditing task a voluminous task. A “stripped down” form of accounts should be required containing what is important, like revenue, spending, loans, etc.

 Therefore, article 23, paragraph 5 of the law “On political parties” and article 91 of the Electoral Code should be amended accordingly.

**4.** For the year 2012 the CEC was obliged to provide the audit of 123 political parties registered in the Register of Political Parties in Tirana district court. The audit reports were presented by 13 political parties. 21 political parties are not contacted at all by CEC because they do not have or made known to CEC an accurate residence. For the remaining 89 political parties there is no information at all for their financing.[[6]](#footnote-6)

The law “On political parties” must provide a legal solution for these circumstances. The parties must be obliged by law that if they change the residence the latter must be made known officially within a fixed time period to CEC, by the political parties themselves or by chairman of Tirana district court.

The law should provide a mechanism and procedure that must be followed (like public announcements) in case that this obligation is not respected and the proportionate sanctions to such situation.

Therefore article 11 of the law “On political parties” should be amended accordingly.

**5.** Financial reports are submitted and disclosed by CEC in different periods of timing. There is a legal loophole regarding the deadline of submission because the law “On political parties” does not provide specifications on the date of reporting.

 Therefore article 23 of the law “On political parties” should be amended accordingly.

**6.** The law “On political parties” provides that the control of party financing must be done every year for each political party. But around 50 % of the registered of political parties in Tirana district court did not take part in the last four electoral competitions.[[7]](#footnote-7)

The law should provide an effective mechanism of party financing control in cases of restricted budget and human resources. Priorities for the control of party financing should be provided expressively in the law. Priorities are for example annual control for those parties that are funded by public funds, important political parties in Albania, the level of compliance and respect for the law and sublegal acts, complaints received for non-respect of financing legislation by state institutions, NGO-s or individuals, etc.

Therefore a new article on the law “On political parties” should be added accordingly.

**7.** Article 23/1 of the law “On political parties” provides that the list of persons donating more than 100,000 ALL (approximately 720 EUR) should be disclosed to the public. Article 90, paragraph 2 of the Electoral Code provides that non-public funds exceeding ALL 100,000 shall be donated only through a special bank account of the electoral subject and the finance officer of the electoral subject declares the number of the bank account opened for this purpose.[[8]](#footnote-8)

This threshold is very high and creates possibilities to hinder the transparency of funding sources under this amount.

Therefore these provisions should be amended in order to lower the threshold (up to 150 euro as the minimal wage) in order to disclose all donations made to the political parties.[[9]](#footnote-9)

**8.**  Article 88 of the Electoral Code should address more rigorously the prohibition on using public resources to support electoral subject. The CEC must have the competence to adopt all the necessary mechanisms in order to prevent political parties from abusing with state resources. If this happens, the CEC should react immediately and take all necessary measures and penalties that the same will not be repeated in the following days of electoral campaign.[[10]](#footnote-10)

 Therefore article 88 of the Electoral Code should be amended accordingly.

**9.** Article 89 of the Electoral Code provides that donation of funds by a legal person or any of its shareholders is prohibited if he/she has received public funds, public contracts or concessions in the last 2 years, exceeding ALL 10 million; exercises media activity; has been a partner with public funds in different projects or has monetary obligations towards the State Budget or any public institution.

However Electoral Code does not provide the conflict of interest for post election period. The conflict of interest in party financing is not only before the election date, but must be extended also after the election date.

Furthermore restrictions should be provided for individual donors so that party donors must not held any public office in the state administration or state owned companies after the election.[[11]](#footnote-11)

The Electoral Code should specify the institution that should exercise control on these issues and the respective sanctions in case of their violations.

 Therefore article 89 of the Electoral Code should be amended accordingly.

**10.** The Law “On political parties” lacks media regulation concerning political advertising during political parties` annual activity (non-electoral campaign). Even though the law does not guarantee price equality to parties for media advertising, parties do have access to paid media advertising. The frequency of advertising is high, especially during electoral campaigns or even prior to the official starts date of campaigns. Comparing the regular prices set by media companies, the cost of airtime and advertising seems to be high; parties should disclose the details of these costs in their financial reporting. The decision makers must consider carefully whether the length of electoral campaign needs to be enforced more effectively (or advertising outside electoral campaign banned) or whether advertising should be restricted (for example banned on private televisions or quantity restricted much more in order to reduce spending).

Therefore it is needed to insert articles in the law “On political parties” that would guarantee fiscal incentives for media companies to disclose information for the airtime and costs of advertising paid by political parties.[[12]](#footnote-12)

**11.** The Electoral Code and the law “On political parties” should provide clearly the competence to CEC to submit for further consideration its findings in the prosecution office or the tax administration office.

**12.** The Electoral Code and the law ”On political parties” should provide some sort of guarantees or protection for audit experts to guarantee their performance in a non bias, honest and professional manner, free from external political pressure and intimidation, especially when they audit financing of the main parties in power or parties that won the election.[[13]](#footnote-13)

**15.** Article 84, paragraph 6 of the Electoral Code creates an additional financial resource for the important political parties. The way how it is implemented, it implicates in financial transactions and fiscal activities even media institutions creating confidential economic situations among parties and radios and televisions. This is an article which is very difficult to be monitored and it involves several monitoring structures (the media board, taxation office, etc.).

The situation provided in this article has been implemented in an arbitrary way in the 2011 elections by at least one party and two media companies[[14]](#footnote-14), although this law should be implemented only for parliamentary elections.

Article 84 paragraph 6 of the Electoral Code provides that: “*For elections to the Assembly, private national and satellite radios and televisions that accept paid advertisements in accordance with this article are obliged to make available to the electoral subjects, free of charge, half of the total airtime for advertisement provided for in point 5 of this article. The cost for making the free airtime available to the electoral subjects by private radio/televisions is calculated as a deductible expense for taxation purposes. The CEC, the National Council on Radio and Television and the Minister of Finance are responsible for issuing the respective instructions*.” There are two issues here: i) the financing of 50% of the time by the state is extra hidden funding and moreover its size its not clear because this provision says half of the total airtime and not half of the costs, *and* ii) in practice, Open Data Albania observed that one political party reported for the local election 2011 it has benefited, on the basis of Article 84, point 6, of the Electoral Code, free airtime by private radio/televisions for political advertising, which is calculated as a deductible expense for taxation purposes. This particular accounting item has been recorded separately by the auditor.

**16.** Article 90, paragraph 2 of the Electoral Code allows the public to access information about donations with a value higher than ALL 100 000. The law provides that these data should be “always public” which means that the right to information starts at the moment the donation is recorded in the respective bank account.

 During the 2013 Electoral Campaign, the team that worked for Open Data Albania requested in a written form to eight main parties to reveal their donors from the beginning of the campaign. Although the request was made in an official written form, it was never replied with information be it during or after the campaign. The political parties tried to argue that they are not subject to this legal provision, and some of them even replied that they are not subject to the right to access information, i.e. they are not obliged by the Albanian law on right to information to provide information.[[15]](#footnote-15)

Therefore Electoral Code should be amended in such way to guarantee transparency and the right to information on financing of political parties. The law should not only provide declaration of the general nature, but also effective remedies and sanctions in case of violation.

**17.** The CEC role should be strengthening by provide enough human resources and budget to effectively and timely exercise the competences defined by law. This can be done based on a detailed regulatory impact assessment.

**18.** The law should provide mechanisms to make the participation in the auditing of political parties financing more attractive for IEKA members. The task of the audit expert is very delicate and the law obliges them with the duty of finding and signing over accounting regularities or irregularities of very powerful subjects (executive and legislative).

The issue of unpaid salaries must be fixed through the budget of the CEC. The CEC, as an administrative organ that assigns duties to audit experts through lot drawing, has the obligation to guarantee the payment for a job that the CEC itself ordered. In cases when the political parties do not fulfil these obligations for payment, then the CEC should pay for the services of the audit experts and should calculate the amount as an obligation the parties owe to the CEC.[[16]](#footnote-16)

**19.** The Electoral Code should be amended to provide that the political parties in electoral campaigns will have a proportionate reduction of financing by public funds, if they do not respect the gender requirements provided by Electoral Code.

**20.** The Central Election Commission needs to conduct proactive investigations to verify the financial accounts of political parties.

 Channels of communications with representatives of civil society must be established and explicit cooperation between CEC and civil society organisations monitoring elections must be created.

 Also, it is important that CEC not only must be an independent institution, but must be seen by the public as an independent one.

***Conclusion***

Political party financing and electoral campaign financing has two components: they are highly technical and political, and these two elements are closely interdependent.

A technically proficient legislation conducted in a negative political climate will be useless - and on the other side - an environment of political goodwill will not salvage a technically chaotic legislation. The process is indeed a complex one, and the formulation of particular rules to govern party financing is not an easy task: it has a crucial effect on the extent and type of political competition in a country.

Over a period of nearly 23 years, the Albanian framework of party funding regulation and electoral campaign financing has undergone a total transformation. Further reforms are needed and first this must be done through a cross party wide political consensus. For this reason, the report contains a list of legislative and administrative recommendations, with a short guide for translation into legislative language at a later stage. If the political parties, NGOs, state institutions, international organisations, media, academics, etc. endorse these recommendations the experts are ready to give their contribution in the process of drafting the respective articles.

It is important to stress at the end that transparent, inclusiveness and wide political consensus is the best route to a fair, sustainable party/electoral campaign funding settlement in Albania.

1. This Report is written by Viktor Gumi, expert. This report is a product of the combined efforts and thoughts of numerous participants in the Conference and would not have been possible otherwise. We would also like to express our deep gratitude to all of the participants of the Conference for their constructive comments and valuable advices. [↑](#footnote-ref-1)
2. See more on this issue: “*Funding of political parties and electoral campaign*”, International Institute for Democracy and Electoral Assistance, 2003, at http://www.idea.int/publications/funding\_parties/upload/full.pdf [↑](#footnote-ref-2)
3. In compliance the international legislation, Albania`s legal framework on oversight and control of political finance offers good provisions for transparency and accountability of political parties, but the most serious concern is its effective implementation. [↑](#footnote-ref-3)
4. Transparency International, *Buying influence: Money and Political Parties in Albania*, 2012, p. 5 at http://tia.al/wp-content/uploads/2013/11/CRINIS-publication.pdf [↑](#footnote-ref-4)
5. *Ibid*, p. 6 [↑](#footnote-ref-5)
6. These data are presented in the conference by CEC Chairwomen. [↑](#footnote-ref-6)
7. CEC Chairwomen speech. [↑](#footnote-ref-7)
8. According to Open Data Albania: *Electoral campaign 2009*: 59%of the value ‘Donations’ has as source donors with a value below ALL 100 000. In absolute value, this is ALL 64 435 904 million. The other part are donors for values above ALL 100 000.

*Electoral Campaign 2011*: 78,8%of the value ‘Donations’ are from donors with a value below ALL 100 000, which are not subject to the provisions of Article 90 of the Electoral Code.

*Electoral Campaign 2013*: 30 %of the value ‘Donations’ are donations with a value below ALL 100 000. [↑](#footnote-ref-8)
9. See also *TIA Report*, supra note. Article 59 of the law “On taxation procedures in Republic of Albania”, provides the threshold for cash payments for less than 300 000 ALL. [↑](#footnote-ref-9)
10. *Ibid*. [↑](#footnote-ref-10)
11. A careful examination from a human rights perspective must be elaborated on this issue. [↑](#footnote-ref-11)
12. *TI Albania Report*, supra note, p. 20 [↑](#footnote-ref-12)
13. It was mentioned in the conference to use a similar protection as for the judges of Electoral College. However we think that this is not proportionate. Accounting experts are somehow private and public function therefore providing for them a very wide scope of defense goes beyond the aim of the law. Alternative solutions for this purpose are needed to be found. [↑](#footnote-ref-13)
14. Recommendation of Open Data Albania at <http://open.data.al/sq/lajme/lajm/id/739/LSI---Fonde-dhe-Shpenzime-Elektorale-2011> [↑](#footnote-ref-14)
15. *Ibid*. [↑](#footnote-ref-15)
16. One proposal was that since audit experts are a public function than all the members of IEKA must be included in lot drawing, and not those that request to participate as the actual law ‘On political parties” provides. However, because they are at the same time a public and private function, the situation must be carefully examined from a perspective of forced labor. [↑](#footnote-ref-16)