

Gia Gogiberidze*

Peculiarities of Legal Regulations of Financing Political Parties in Foreign Countries (Comparative-legal aspects)

Political parties are important and indispensable subjects of modern political life, which play an essential role in functioning of democratic political system. Increasing the role of political parties in political processes made such unions face new challenges, think about institutional strengthening and perfecting consistently, develop effective mechanisms to overcome the confrontations related to the organization of a complex and multifaceted election campaign, as well as their participation in other aspects of political life. The increased role of political parties, in turn, has a significant impact on the issues of financial support of parties. The new functions and tasks require additional financial resources to ensure the capacity and sustainability of parties. The specifics of financing political parties, keeping healthy competition, fairness and transparency in the mentioned process, force the states to implement the regulation of financing parties on the basis of a special legislative norm.

The presented article reviews the features related to the legal regulation of financing political parties in foreign countries. The range of discussed issues concerns the overview of the peculiarities of the legal regulation of both state financing and private financing of political parties. The article also discusses the issues concerning the publicity and transparency of the financial activities of political parties and the mechanisms of supervision and responsibility for the financial activities of political parties.

Keywords: *political party, state financing, private financing, donation, membership fee, transparency.*

1. Introduction

Political parties play an important role in the development and functioning of modern representative democracy. Political parties establish and develop a specific political worldview among people, moreover, they form government bodies through the election that contributes to implementation of government. The functioning of political parties has institutionally reinforced the point of view that the political party is the most important link, an intermediary institution¹ for ensuring the

* Doctor of Law, Professor of David Aghmashenebeli University of Georgia, invited lecturer at Ivane Javakhishvili Tbilisi State University Faculty of Law.

¹ *Morlock M., Functions of Parties and Work of the Parliament, International Scientific Collection – Constitutionalism – Achievements and Challenges, Ugrekheldidze M., Kantaria B. (eds.), 2019, 222 (in Georgian).*

relationship between the government and the people.² The institutional development of political parties has a history³ of centuries that offer the characteristics which determine the foundations of activities of modern political parties and their multifaceted functions. Among these multifaceted functions of political parties, it is worth noting the function of “providing the participation of people in making fundamental decisions (function of transmission belt), selection of political leaders (function of electing the ruler), uniting and taking into account the views of different interest groups with common ground (function of integration of groups)”.⁴

The institutionalization of political parties, the growth of their role and importance in the political system of a country, naturally led to the necessity of legal regulation of their activities. Currently, the legislation of almost all countries contains special norms regarding the legal bases of the activities of political associations. Moreover, in some countries, the norms and principles of the activities of political parties are confirmed by the constitution of the country. One of the interesting norms for organizing the activities of political parties concerns the legal regulation of financing political parties. The functional and institutional development of political parties, the recognition of their leading and irreplaceable role in political processes, complex and multifaceted election processes, complicated election technologies and, accordingly, the increase in the resources needed for elections, the complex organizational arrangement of political parties and the grown personnel resources necessary for functioning parties arose a necessity for solid financial foundations, which in turn, encouraged political parties to seek new sources of financing, cover the increased financial needs and facilitate the smooth functioning of the parties. In order to conduct the mentioned processes on the basis of fair, equal and healthy competition, the states should ensure the formation of an appropriate legal support which would contribute to the smooth operation of political parties, dealing with the challenges and ensure the transparency and accountability of political parties' activities. Last century modern democratic states began to care about the creation of legal norms regulating the financing of political parties. This process has taken place especially actively since the second half of the last century. The documents adopted by a number of international organizations made a significant contribution to the legal regulation of financing political parties which defined the essential principles of financing. In this regard, it is worth noting Recommendation 1516 of the Parliamentary Assembly of the Council of Europe of May 22, 2001 “On financing political parties”,⁵ Recommendation of the Committee of Ministers of the Council of Europe of April 8, 2003 to member states on “Common rules against corruption in financing of political parties and election campaigns”.⁶ It should be

² Standards in Public Life, The Funding of Political Parties in the United Kingdom, Fifth Report of the Committee on Standards in Public Life, 1998, 24, <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336870/5thInquiry_FullReport.pdf> [24.02.23.]

³ *Kernalegenn T., van Haute É. (eds.)*, Political Parties Abroad, A New Arena for Party Politics, the Taylor & Francis Group, 2020, 1.

⁴ *Gegenava D. (ed.)*, Constitutionalism, general introduction, Book I, 2018, 277 (in Georgian).

⁵ Parliamentary Assembly, Recommendation 1516 (2001), Financing of political parties <<https://pace.coe.int/pdf/663caf382b4bd9ad74a07342af142ba826d215d445bb7cdfbe3cccf9cd70e4a4/recommendation%201516.pdf>> [24.02.23].

⁶ Recommendation of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns <<https://www.coe.int/t/dg1/>

mentioned the 2006 document of the Venice Commission (European Commission for Democracy through Law) “Regarding the Limitation of Financial Contributions from Foreign Sources to Political Parties”,⁷ the 2010 Venice Commission Document “Guiding Principles – Regarding the Legal Regulation of the Activities of Political Parties”⁸ and the 2020 Venice Commission Document “Political Parties Guidelines on legal regulation of activity – second edition”.⁹ The Convention of the United Nations Organization “Against Corruption” also includes the norms on ensuring the financial transparency of the activities of political parties and candidates participating in the election process.¹⁰ These specified documents defined the principles which should be considered by the legal norms to regulate financing of political parties. For example, according to the recommendation 1516 of the Parliamentary Assembly of the Council of Europe of May 22, 2001, “the rules of financing political parties and conducting election campaigns should be based on the following principles:

- existence of a reasonable balance between state and private funding;
- distribution of state subsidies among parties based on fair criteria;
- existence of clear rules regarding private donations;
- determining the limit of the maximum amount of expenses during the election campaign;
- full transparency of reporting;
- existence of an independent audit body;
- introduction of liability measures for violation of existing rules.¹¹

In the majority of democratic states, the adoption of the necessary legislative acts for the legal regulation of financing political parties began in the second half of the last century. Following the current practice, the norms related to the regulation of financing political parties are either directly covered in the laws regulating the activity of political parties or imposed a particular law. For example, in the Federal Republic of Germany, the mentioned issues are regulated by the Law “On Political Parties”,¹² in Spain by the Organic Law “On the Financing of Political Parties”,¹³ in Austria

legalcooperation/economiccrime/ cybercrime/cy%20activity%20interface2006/rec%202003%20(4)%20pol%20parties%20EN.pdf> [24.02.23].

⁷ Opinion on the Prohibition of Financial Contributions to Political Parties from Foreign Sources, Adopted by the Venice Commission at its 66th Plenary Session (Venice, 17-18 March 2006) <[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2006\)014-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2006)014-e)> [24.02.23].

⁸ Guidelines on Political Party Regulation by OSCE/ODIHR and Venice Commission, Adopted by the Venice Commission at its 84th Plenary Session (Venice, 15-16 October 2010) [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2010\)024-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2010)024-e) [24.02.23].

⁹ Guidelines on Political Party Regulation, 2nd ed., Adopted by the Venice Commission at its 125th online Plenary Session (11-12 December 2020), <[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2020\)032-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)032-e)> [24.02.23].

¹⁰ United Nations Convention „against Corruption” (7.3.) <https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf> [24.02.23].

¹¹ Parliamentary Assembly, Recommendation 1516 (2001), financing of political parties ,Art.7, <<https://pace.coe.int/pdf/663caf382b4bd9ad74a07342af142ba826d215d445bb7cdfbe3cccf9cd70e4a4/recommendation%201516.pdf>> [24.02.23].

¹² Gesetz über die politischen Parteien (Parteiengesetz), <<https://www.gesetze-im-internet.de/partg/BJNR007730967.html>> [24.02.23].

by the Federal Law “On Federal Support of Political Parties”,¹⁴ specific laws on financing political parties are also applied in Argentina,¹⁵ Iceland,¹⁶ Serbia¹⁷ and other.

It is significant that the regulation of funding political parties is determined by the constitution of individual countries. For example, the Constitution of the Republic of Turkey, the Constitution of the Republic of Brazil, the Constitution of the Federal Republic of Germany and others. Article 68 of the Constitution of the Republic of Turkey enshrines the principle of the state to “provide political parties with necessary financial resources on an equal basis”.¹⁸

The existing legal norms regulate not only the general financing of parties, but they also concern the financing of parties in the process of conducting elections and election campaigns (for example, in France). In addition, the norms regulating the financing of election campaigns include much stricter requirements than the norms regulating the current financing of political parties. According to the existing legal norms in different countries, the main sources of funding political parties are the following: a) state funding; b) private donation; c) membership fee; d) revenue streams from various events and others. For example, in accordance of Article 2 of the Organic Law of Spain “On the Financing of Political Parties”, the source of financing of political parties can be: state financing; membership fees and affiliate contributions; income received from the own activities of the parties; private donation in cash or in kind; resources acquired by loan or credit and others.¹⁹

2. Regulation of State Financing of Political Parties

One of the most important sources of funding political parties is state funding. The purpose of state funding is to support political parties to overcome the multifaceted challenges, create a fair balance between public and private funding, to facilitate the fair conduct of political competition and the introduction of democratic principles in the activities of parties.

It is meaningful that one of the tasks of state financing is to assist parties to maintain their independence from large donors and promote the creation of equal opportunities in the activities of political parties. As the famous German scientist M. Morlock notes. “the model of state funding

¹³ Ley Orgánica 8/2007, de 4 de julio, sobre financiación de los partidos políticos, <<https://www.boe.es/buscar/pdf/2007/BOE-A-2007-13022-consolidado.pdf>>, [24.02.23].

¹⁴ Federal Act on Federal Support of Political Parties, <https://europam.eu/data/mechanisms/PF/PF%20Laws/Austria/Austria_Federal%20Act%20on%20Federal%20Support%20of%20Political%20Parties_2012.pdf>, [24.02.23].

¹⁵ Ley De Financiamiento De Los Partidos Politicos, <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/120000-124999/124231/texact.htm>>, [24.02.23].

¹⁶ Act on the Finances of Political Organisations and Candidates and their Information Disclosure, <https://europam.eu/data/mechanisms/PF/PF%20Laws/Iceland/Iceland_Act%20on%20Political%20Party%20Funding_2006_en%20amended%202011.pdf>, [24.02.23].

¹⁷ Law on Financing of political parties, <<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/71474/76708/F1388605993/YUG71474%20English.pdf>> [24.02.23].

¹⁸ Turkey's Constitution, <https://www.constituteproject.org/constitution/Turkey_2017.pdf?lang=en> [24.02.23].

¹⁹ Ley Orgánica 8/2007, de 4 de julio, sobre financiación de los partidos políticos, Art 2. <<https://www.boe.es/buscar/pdf/2007/BOE-A-2007-13022-consolidado.pdf>>, [24.02.23].

should be principally neutral towards the parties which means that it should not include impulses having a beneficial or harmful effects on the competition for one or another party.”²⁰ Recommendation 1516 of the Parliamentary Assembly of the Council of Europe of 22 May 2001 also emphasizes the importance of financing political parties from the state budget and indicates that the existence of such financing avoids their dependence on private donors and ensures equal opportunities for political parties. In addition, according to the recommendation, the state subsidy should take into consideration the political support which political parties enjoy because it is evaluated by objective criteria, such as the number of received votes and the seats in the parliament, however, it should pave the way for new parties in the political arena and make the equal conditions for them to compete with the parties which have been operating for a long time.²¹

There are distinguished two main directions of state financial support of political parties. One direction is related to direct state financing, when the state allocates financial resources for financing political parties, while the second, indirect financing provides for the establishment of certain benefits for a political party. For example, allocating free airtime for political parties, free or subsidized space or communication facilities for the events organized by political parties, tax benefits, and others. The indirect support towards political parties is usually implemented during the election campaign.

In different countries, there are different models of receiving state funding, which are reinforced by the legislation of the respective countries. They depend on the results acquired by the political party in the last elections of the legislative body, including the number of parliamentary mandates.

Following one of the models, one part of the state funding, allocated to political parties is distributed equally to all political parties, while another part of the funding is received by the political parties in keeping with the number of received votes in the elections. For example, in Argentina, 20 percent of the funding allocated to political parties is distributed equally among all political parties, and 80 percent is distributed among the parties according to the number of received votes in the elections. Referring to Serbian law, 30 percent of funds allocated to political parties are distributed equally among all political parties, and 70 percent is distributed among political parties represented in the legislative assembly.

According to one of the models, political parties enjoy the direct state financing considering the number of received votes in the election and proportional mandates in the legislative body. A similar mechanism is provided, for example, by the Spanish Law “On the Financing of Political Parties” based on which a one-third of the subsidies allocated for the financing of political parties are proportionally distributed among the parties which have received seats in the legislative body. Two-thirds of the state subsidy is disbursed among those parties which obtained votes in the last election of the legislative body proportionally to the received votes.

Conforming to another model, the receipt of state funding by political parties is related to the number of votes received by the political party in parliamentary, presidential and/or local self-government body elections. For example, in Finland, a political party cannot receive state funding if it

²⁰ *Morlock M.*, The Law of Parties as Competition Law, *TSU Journal of Law*, 2009, #2, 251 (in Georgian).

²¹ Parliamentary Assembly, Recommendation 1516 (2001), Financing of political parties, Art.8, <<https://pace.coe.int/pdf/663caf382b4bd9ad74a07342af142ba826d215d445bb7cdfbe3ccef9cd70e4a4/recommendation%201516.pdf>> [24.02.23].

fails to win a seat in the legislature. According to another model of state financing, financial resources allocated by the state to political parties are equally distributed among all registered political parties. However, such a model is rarely used nowadays.

Irish legislation considers the concept of “qualified party”, which in turn, creates a basis for the relevant party to receive state funding. As claimed by the law, a qualified party is the party which is registered in the registry, participated in the last election and has a representative in the House of Representatives or the Senate.²² In addition, in order a political party to receive funding, it must be entered in the registry of political parties and have received at least 2 percent of votes in the last election of the House of Representatives.

In some countries (for example, France), along with the financial assistance furnished by the state to political parties, there is also a rule of providing individual assistance to the candidate nominated by the political party for participating in the elections. In compliance with this rule, the state provides the candidate participating in the elections with various types of assistance to arrange election campaign, for example, printing the essential materials, allocating the necessary space for the placement of election-campaign materials, etc.

The legislation regulation of financing political parties also contains a reference to the volume of direct state financing. For example, according to the Austrian law “On State Support of Political Parties”, non-parliamentary parties, which have obtained the right to funding from the state budget, are given funding in an amount of 2.5 euros for each vote received in the elections, and those parties that are represented in the legislative body – in amount of 4.6 euros for each vote. Besides, if a political party gets more than 5 seats in the legislative body, it receives additional state funding in amount of 218,000 euros. A similar mechanism was provided by the Law of Lithuania “On Financing of Political Organizations”, following which political parties enjoyed the right to receive state funding if they passed the electoral threshold in the last parliamentary elections. The amount of funding was determined by 0.50 Lithuanian litas for each vote of the elector.

In some countries, in agreement with the principle of “relative upper limit” which protects the proportionality, the amount of state financing of parties should not exceed the total amount of own income of the respective party.²³ By the legislative experience of some countries, the amount of financial aid allocated by the state to political parties is determined based on a specific percentage of the country's state budget, for example, in Serbia, the amount of total funding of political parties is 0.15% of the state budget of the year.

3. Regulation of Private Financing of Political Parties

Along with state funding, private funding is an important source of financing political parties, which plays an essential role in formation of budgets of political parties. The sources of private financing of political parties include membership fees of a political party, donations, and income received from various events.

²² Electoral Act, 1997, <<https://www.irishstatutebook.ie/eli/1997/act/25/enacted/en/html>> [24.02.23].

²³ *Kobakhidze I.*, Law of Political Unions, Tbilisi, 2008, 118 (in Georgian).

Membership contributions of the members of political party are one of the oldest sources of funding for political parties, which played a significant role in the financial provision of political parties. The amount of membership fees is usually determined by the authorized body of the relevant political party and represents the monthly contribution of the members of political party. In addition, for a long time the legislation did not establish any limitation regarding the amount of membership contribution of a political party, however, in the recent period, in the legislation of individual countries, there is a tendency to establish the maximum amount of membership contribution of a political party.

Donation as a kind of private funding of political parties is a subject to special legislative regulation in most cases. As a rule, donation is made by a physical or legal person in favor of a political party, which can be either in monetary form or free of charge or at a discount (under favorable conditions), transfer of other material or non-material value or provision of services.

In accordance to the existing legal regulations, different countries apply threshold to accept financial donation. Legal norms also set limits who a political party cannot receive donations from. Based on the recommendation 1516 of the Parliamentary Assembly of the Council of Europe of May 22, 2001, along with state funding, private funding, especially donations, is considered an important source of financial support for political parties. However, according to the recommendation, to avoid the possibility of illegal influence and corruption on the party created by private donation, the following rules should be applied:

“a) Donations from state enterprises, state-controlled enterprises and firms that supply goods or provide services to state bodies should be prohibited;

b) Getting donations from companies registered in the offshore zone should be prohibited;

c) Strict restrictions on donations of legal entities should be introduced;

d) The maximum amount of donation should be defined by the legislation;

e) Donations from religious organizations should be prohibited.”²⁴

The legislation of different countries provides for a different approach to the legal regulation of the donation. Legislation usually specifies from whom donations cannot be accepted but some countries define from whom private donations can be accepted. For example, the Icelandic law “On the Financial Activities of Political Parties and Candidates and Their Obligation to Submit Relevant Information” determines the circle of individuals and groups from whom it is prohibited to receive donations, in particular, it is prohibited to receive donations from: “Anonymous donors; from enterprises owned by the state or municipality or being under the control of the state or municipality; from public organizations that are owned by the state or municipality; From a foreign citizen who does not have the right to vote in Iceland, as well as from enterprises and organizations that are registered abroad.”²⁵ Also, in keeping with the mentioned law, it is limited to receive donations from one legal

²⁴ Parliamentary Assembly, Recommendation 1516 (2001), Financing of political parties, Art.8 <<https://pace.coe.int/pdf/663caf382b4bd9ad74a07342af142ba826d215d445bb7cdfbe3ccef9cd70e4a4/recommendation%201516.pdf>> [24.02.23].

²⁵ Act on the Finances of Political Organisations and Candidates and their Information Disclosure No. 162 of 21 December 2006, <https://europam.eu/data/mechanisms/PF/PF%20Laws/Iceland/Iceland_Act%20on%20Political%20Party%20Funding_2006_en%20amended%202011.pdf> [24.02.23].

entity in the amount of more than 400,000 Icelandic Krona during a year. A similar norm is offered in the Spanish legislation, following which the amount of donation made by the same person in favor of a political party during a year should not exceed 50,000 euros.

One of the important prohibitions related to the implementation of the donation in different countries involves the inadmissibility of receiving a donation from an anonymous source or from a legal or individual person of a foreign country. In this regard, the recommendation of the Committee of Ministers of the Council of Europe of April 8, 2003 “Common rules against corruption in the financing of political parties and election campaigns” considers the obligation to the states to “restrict, prohibit or regulate foreign donors”.²⁶ Accepting donations from an anonymous source or from a legal or physical person of a foreign country is prohibited by the Spanish organic law “on the financing of political parties”. Gaining donations from foreign legal entities and individuals is also precluded by Irish legislation. However, Irish law allows a certain amount of money to be accepted as an anonymous donation (up to €126). If a political party acquires a donation of more than the above amount from an anonymous source, the information should be reported to the Standards Commission within 14 days, and the mentioned amount should be transferred to the specified commission.

In some countries, legal entities participating in public procurement are forbidden from donating to a political party. According to the amendments to the Spanish law of 2015 “On the financing of political parties” (Article 5), in Spain, legal entities and also associations without the status of a legal entity have not got the right to make a donation to a political party.²⁷

4. Publicity of Financial Activities of Political Parties

One of the important aspects related to the legal regulation of financing political parties is recording the information about the income of the political party and ensuring its publicity. This requirement is reinforced in the recommendations provided by international organizations. For example, according to the recommendation 1516 of the Parliamentary Assembly of the Council of Europe of May 22, 2001, “funding of political parties should be capitalized in compliance with the principle of publicity, for which the political party is required to:

- a) Strict accounting of all income and expenditure, which must be submitted to the audit authority at least once a year and which must be published.
- b) Disclosure of information about the donor whose financial support exceeds a specific limit”.²⁸

²⁶ Recommendation of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns, art. 7 <[https://www.coe.int/t/dg1/legalcooperation/economiccrime/cybercrime/cy%20activity%20interface2006/rec%202003%20\(4\)%20pol%20parties%20EN.pdf](https://www.coe.int/t/dg1/legalcooperation/economiccrime/cybercrime/cy%20activity%20interface2006/rec%202003%20(4)%20pol%20parties%20EN.pdf)> [24.02.23].

²⁷ Ley Orgánica 8/2007, de 4 de julio, sobre financiación de los partidos políticos, Artículo 5. <<https://www.boe.es/buscar/pdf/2007/BOE-A-2007-13022-consolidado.pdf>>, [24.02.23].

²⁸ Parliamentary Assembly, Recommendation 1516 (2001), Financing of political parties, Art.8 <<https://pace.coe.int/pdf/663caf382b4bd9ad74a07342af142ba826d215d445bb7cdfbe3ccef9cd70e4a4/recommendation%201516.pdf>> [24.02.23].

A similar provision is contained in the recommendation of the Committee of Ministers of the Council of Europe of April 8, 2003 “Common rules against corruption in the financing of political parties and election campaigns”, according to which “the state should take into account the requirement that the budget of a political party should comprehend detailed information about all types of donations, including their nature and value”.²⁹

In consonance with the same recommendation, “the state should require that political parties regularly, but not less than once a year, submit information on their financial activities to the independent body³⁰ exercising control over the financial activities of political parties” But at least once a year they should publish information about their financial activities, including information about the expenses incurred on the election campaign.³¹

The domestic legislation of the majority of countries provides for the publicity of data on the income and expenses of political parties and establishes the obligation of the political party to submit the relevant information to the authorized state body, which in turn, ensures the hype of the submitted information. According to legal regulations, political parties are required to account for all income received, indicating the source, form and origin. Special heed is taken of the issue of receiving and recording private donations. Political parties should pay special attention to receiving donations in accordance with the requirements of the legislation, as well as to the observance of the limits established by the legislation for gaining donations. Otherwise, the party must ensure that the donation received in violation of the legislation is either returned or transferred to the state budget. The mentioned issue gains special relevance in the process of the pre-election campaign.

The mentioned issue gains special relevance in the process of the pre-election campaign. In some countries (Canada, Norway) political parties assure the publicity of their financial reports and post the information on a special website.³² As stated by the legislation of the majority of countries, information on the incomes of political parties, as well as data on expenditures and their targeting, are subject to publicity. The information about donors also takes special notice of publicity. For example, according to the Austrian law, if the amount of the donation exceeds 50,000 euros, the information about the donation is immediately subject to publicity with reference to the data of the donor. In Norway, a similar obligation arises if a political party receives a donation of more than NOK 30,000, and in New Zealand if it gains a donation of more than NZD 15,000.

²⁹ Recommendation of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns, Art. 12 <[https://www.coe.int/t/dg1/legalcooperation/economiccrime/cybercrime/cy%20activity%20interface2006/rec%202003%20\(4\)%20pol%20parties%20EN.pdf](https://www.coe.int/t/dg1/legalcooperation/economiccrime/cybercrime/cy%20activity%20interface2006/rec%202003%20(4)%20pol%20parties%20EN.pdf)> [24.02.23].

³⁰ Ibid, Article 14.

³¹ Ibid, Article 13.

³² For example, in Norway there is a website for this purpose: <<http://www.partifinansiering.no>>; In Canada web-site: <www.elections.ca>.

5. Mechanisms of Taking Supervision and Responsibility for Financial Activities of Political Parties

The mechanism of taking supervision over the financial activities of political parties is considered as a part of the legislative regulation of political party financing. The recommendations of international organizations provide for the obligation of the states to form an independent body to supervise the financial activities of political parties. From this perspective, based on the recommendation 1516 of the Parliamentary Assembly of the Council of Europe of May 22, 2001 “the state should establish an independent audit body with sufficient powers to control the reports submitted by political parties and the expenses of the election campaign.” A similar recommendation to the states is included in the recommendation of the Committee of Ministers of the Council of Europe of April 8, 2003 “Common rules against corruption in the financing of political parties and election campaigns”.

The legislation of most countries provides norms that determine the existence of similar bodies and their functions. In various countries, the state bodies that are entrusted with the authority to supervise the financial activities of political parties are different. For example, in a number of countries (Spain, Austria and others), the role of an independent body for supervision over the financial activities of political parties is played by the audit service. In some countries (for example, Canada, New Zealand, etc.), the Central Election Commission performs a similar function, and in other countries (Norway, Luxembourg, etc.), the function of supervision over the financial activities of political parties is provided by several state bodies (including the Court, the Chamber of Control, the Statistical Service and other). The bodies supervising the financial activities of political parties, as a rule, ensure the receipt of information and relevant documentation regarding the income and expenses of political parties, as well the annual financial declaration of the political party, and promote the publicity and accessibility of the information to the public. In most cases, these bodies reveal violations in the financial activities of the political party and apply the mechanisms provided by the law to respond to the violations. In addition, they request the relevant political party to ensure the correction of the violation.

Different types of sanctions are used in many countries for the violation of the requirements established by the legislation of financial activities by political parties. The sanctions take the form of financial sanctions, as well as administrative-legal and in some cases criminal liability.

The most common form of financial sanctions is the temporary or permanent suspension of state funding for a political party for violating the requirements related to financial reporting by the political party. For example, under Czech law, a political party is cut off from state funding if the political party does not submit an annual financial report within the stipulated time.

Administrative or financial fines are also applied to political parties. For example, under Austrian law, if a political party submits incomplete or incorrect information in its annual report, it will be fined up to 30,000 euros or 100,000 euros, depending on the type of the violation. Under Czech law, if a political party or movement gains a donation prohibited by law and does not return it to the donor, a fine of twice the amount of the illegal income is imposed.

The legislation of individual countries anticipates criminal liability for the political party in the form of a fine or suspension of the right to work. Another type of sanctions includes banning the activities of political parties or canceling the results obtained in the elections for the candidate

nominated by the party. For example, according to Article 69 of the Turkish Constitution, “Political parties that accept aid from foreign states, international institutions and persons and corporate bodies of non-Turkish nationality shall be dissolved permanently.”³³

6. Conclusion

As mentioned, political parties are the most important institution of modern representative democracy, which plays an essential role in the development of parliamentary democracy and the functioning of the political system. In addition, for the sustainable functioning of political parties and overcoming the multifaceted challenges, it is important to provide political parties with proper financial support, which should be based on various sources of funding.

In order to conduct the financing process of political parties fairly, transparently in healthy competition, the states are implementing appropriate legal regulations, which in turn, are based on the principles defined by international organizations.

The legal regulations adopted by the states enhances the mechanisms of both state funding and private funding of political parties, determine the terms and conditions of their acceptance and use, ensure the existence of a reasonable balance between state and private funding. Countries have rational approaches to the formation of the state funding system of political parties and the regulation of private financing. An important task of the legislative regulation of financing a political party is to increase the publicity of the process related to the financing of political parties, to promote proper awareness of public, to ensure effective supervision of the financial activities of political parties, to identify and prevent those mechanisms and sources of financing that are not provided by the legislation and oppose the healthy financing of political parties, the principles of management based on competition.

Bibliography:

1. *Gezenava D. (ed.)*, Constitutionalism, general introduction, Book I, 2018, 277 (in Georgian).
2. *Kobakhidze I.*, Law of Political Unions, Tbilisi, 2008, 118 (in Georgian).
3. *Morlock M.*, Functions of Parties and Work of the Parliament, International Scientific Collection – Constitutionalism – Achievements and Challenges, *Ugrekheldze M., Kantaria B. (eds.)*, 2019, 222 (in Georgian).
4. *Morlock M.*, The Law of Parties as Competition Law, TSU Journal of Law, 2009, #2, 251 (in Georgian).
5. United Nations Convention „against Corruption” (7.3.) <https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf> [24.02.23].
6. Federal Act on Federal Support of Political Parties, <https://europam.eu/data/mechanisms/PF/PF%20Laws/Austria/Austria_Federal%20Act%20on%20Federal%20Support%20of%20Political%20Parties_2012.pdf>, [24.02.23].

³³ Turkey's Constitution, Art. 69 <https://www.constituteproject.org/constitution/Turkey_2017.pdf?lang=en> [24.02.23].

7. Act on the Finances of Political Organisations and Candidates and their Information Disclosure, <https://europam.eu/data/mechanisms/PF/PF%20Laws/Iceland/Iceland_Act%20on%20Political%20Party%20Funding_2006_en%20amended%202011.pdf>, [24.02.23].
8. Act on the Finances of Political Organisations and Candidates and their Information Disclosure No. 162 of 21 December 2006, https://europam.eu/data/mechanisms/PF/PF%20Laws/Iceland/Iceland_Act%20on%20Political%20Party%20Funding_2006_en%20amended%202011.pdf [24.02.23];
9. Law on Financing of political parties, <<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/71474/76708/F1388605993/YUG71474%20English.pdf>> [24.02.23];
10. Electoral Act, 1997, <<https://www.irishstatutebook.ie/eli/1997/act/25/enacted/en/html>> [24.02.23].
11. Turkey's Constitution, <https://www.constituteproject.org/constitution/Turkey_2017.pdf?lang=en> [24.02.23].
12. Gesetz über die politischen Parteien (Parteiengesetz), <<https://www.gesetze-im-internet.de/partg/BJNR007730967.html>> [24.02.23].
13. Ley Orgánica 8/2007, de 4 de julio, sobre financiación de los partidos políticos, <<https://www.boe.es/buscar/pdf/2007/BOE-A-2007-13022-consolidado.pdf>>, [24.02.23];
14. Ley De Financiamiento De Los Partidos Politicos, <<http://servicios.infoleg.gob.ar/infolegInternet/anexos/120000-124999/124231/texact.htm>>, [24.02.23].
15. Financing political parties and election campaigns – guidelines, Ingrid van Biezen University of Birmingham, <https://eos.cartercenter.org/uploads/document_file/path/309/Financing_Political_Parties_en.pdf> [24.02.23].
16. Guidelines on Political Party Regulation by OSCE/ODIHR and Venice Commission, Adopted by the Venice Commission at its 84th Plenary Session (Venice, 15-16 October 2010) [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2010\)024-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2010)024-e) [24.02.23].
17. Guidelines on Political Party Regulation, 2nd ed., Adopted by the Venice Commission at its 125th online Plenary Session (11-12 December 2020), <[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2020\)032-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)032-e)> [24.02.23].
18. *Kernalegenn T., van Haute É. (eds.), Political Parties Abroad, A New Arena for Party Politics*, the Taylor & Francis Group, 2020, 1.
19. Opinion on the Prohibition of Financial Contributions to Political Parties from Foreign Sources, Adopted by the Venice Commission at its 66th Plenary Session (Venice, 17-18 March 2006) <[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2006\)014-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2006)014-e)> [24.02.23].
20. Parliamentary Assembly, Recommendation 1516 (2001), Financing of political parties <<https://pace.coe.int/pdf/663caf382b4bd9ad74a07342af142ba826d215d445bb7cdfbe3ccef9cd70e4a4/recommendation%201516.pdf>> [24.02.23].
21. Political Finance Regulations Around the World, An Overview of the International IDEA Database, <<https://www.idea.int/sites/default/files/publications/political-finance-regulations-around-the-world.pdf>> [24.02.23].
22. Political Party Funding Regulation in Europe, East and West: A Comparative Analysis <<https://www.osce.org/files/OSCE-ODIHR%20Discussion%20Paper%20on%20Political%20Party%20Finance%20Spain.pdf>>, [24.02.23].

23. Recommendation of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns <[https://www.coe.int/t/dg1/legalcooperation/economiccrime/cybercrime/cy%20activity%20 interface2006/rec%202003%20\(4\)%20pol%20parties%20EN.pdf](https://www.coe.int/t/dg1/legalcooperation/economiccrime/cybercrime/cy%20activity%20interface2006/rec%202003%20(4)%20pol%20parties%20EN.pdf)> [24.02.23].
24. Standards in Public Life, The Funding of Political Parties in the United Kingdom, Fifth Report of the Committee on Standards in Public Life, 1998, <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/336870/5thInquiry_FullReport.pdf> [24.02.23].