



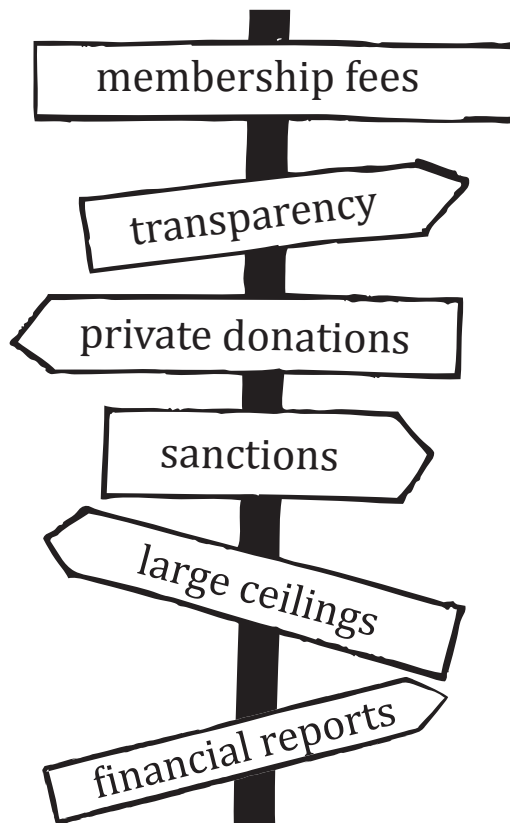
British Embassy
Chisinau

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Advancing democracy and human rights

Study

STRATEGIES, PRACTICES AND TOOLS FOR FINANCING POLITICAL PARTIES IN MOLDOVA



Chisinau, 2016



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IN MOLDOVA**

Chisinau, 2016

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The views expressed in the Study reflect only the opinions and positions of the authors and Promo-LEX Association. They cannot be interpreted in any way as reflecting the positions and opinions of the British Embassy Chisinau.

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1. EXECUTIVE SUMMARY

On 9 April 2015, the parliament adopted a number of amendments to the Law on Political Parties, Electoral Code, Penal and Contravention Code, pursuant with the system of financing political parties was changed from solely private funding to the mixed system in which the private funding is complemented by funds from the state budget. Consequently, the provisions that regulate allocations from the state budget were to be applicable to the eligible parties for the first time on 1 January 2016. The legislative changes brought tangible improvements to the existent legal framework, in terms of reporting, disclosure and oversight of the political parties funding.

Promo-LEX decided to implement the project “Fighting political corruption in the Republic of Moldova by improving political parties funding regulations and civic oversight”, funded by the British Embassy in Chisinau, through the Good Governance Fund. The project offers an analysis of the amended political finance legislation through the perspective of international practice and recommendations in that field. In order to attain a comprehensive picture of the current situation regarding political financing in Moldova, Promo-LEX undertook 14 interviews at the central level, 245 interviews at the territorial level and 3 more interviews with the stakeholders, analyzed 43 statutes of the registered political parties, 28 annual financial reports and 21 election campaign finance reports for parliamentary elections 2014, collecting both qualitative and quantitative data on the subject. The study aspires to contribute to the process of changing the system of political parties financing in Moldova, by bringing recommendations on actions needed for successful implementation of the recently adopted amendments and identifying possible needs for further legal amendments.

The field research and the qualitative analysis of the Moldovan legislation reveal three types of issues, which require further attention of the legislator, the electoral stakeholders and civil society.

First, the amended Law on Political Parties puts on them a number of requirement related to political finance management and transparency of funding. The Promo-LEX research revealed that in majority of cases the internal documentation and structure of political parties are not in line with the legal requirements. This situation is characteristic to large extent for the parties with limited financial and human resources as well as attributed to little awareness or miscomprehension of legal stipulations. Thus, there is a great need for training, which would increase parties’ capacities in political finance management and to raise their awareness about new legislative procedures.

Second, the legislation provides the system of checks and balances which are to protect the Moldovan political landscape from illegal funding, dependency of parties on few donors or over-spending, which eventually drowns out the voices of ordinary citizens. The checks and balances system is ensured by introduction of limits on received donations or on the total amount of revenues a party can obtain from private sources. The problem is

that the limits are set on very high levels, hardly serving their purpose. Therefore, even though the mechanism of checks and balances is well designed, it needs to be strengthened by setting much lower limits on donations and generally on parties' revenues.

Third, there is a number of provisions that aim at transparency and control of the political parties financing. If fulfilled by the parties, those provisions will ensure full transparency of the political financing process. Yet, already at the stage of Promo-LEX consultations with political parties, the latter revealed great reluctance to disclose their financing records. Also, the political parties annual financial reporting has been very erratic so far. Of the 43 political parties registered, only 10 submitted their financial reports in 2013 and 18 in 2014. At the same time, sanctions envisioned for non-compliance with disclosure obligations are very weak and may not serve as an effective deterrent. Hence, Promo-LEX recommends that the sanctions related to non-compliance with the provisions aiming at political parties' financial transparency need to be substantially increased.

2. INTRODUCTION

In the year 2001 the European Commission for Democracy through Law (the Venice Commission) developed a Guidelines and a Report on the Financing of Political Parties, in which it described the general situation from the time before the introduction of political financing regulations. “Each party had to raise funds at all costs, and the richest were the strongest – reads the document. – Since there were no rules, and therefore no limits on either income or expenditure, parties competed with one another in a frantic race to find contributors, and the firms contacted took advantage of the position of strength in which they then found themselves in order to provide funds – with strings attached – to those parties that would get their message across and safeguard their interests.”¹ Such a description of reality bares a certain resemblance to the political financing in Moldova. Gradually, regulations providing for a level playing field and transparency of funding have been introduced both in campaign finance and the finance of political parties’ regular activities.

On 9 April 2015, the parliament adopted a number of amendments to the Law on Political Parties, Electoral Code, Penal and Contravention Code, pursuant which the system of financing political parties was changed from solely private funding to the mixed system in which the private funding is complemented by funds from the state budget. Consequently, the provisions that regulate allocations from the state budget were meant to be applicable to the eligible parties for the first time on 1 January 2016. The legislative changes brought also palpable improvements to the existent legal framework in terms of reporting, disclosure and oversight of the political parties funding.

Amendments regarding private source of funding, introduction of the state funding and vesting the Central Election Commission (CEC) with the oversight duties are profound changes that aim at enhanced transparency of political parties financing and – more broadly – improved dynamics of political parties’ activities. The changes introduced to the political finance legislation were welcomed by Group of States against Corruption (GRECO), which assessed that “[t]he Republic of Moldova now has a legal framework which aims to ensure transparency in the funding of political parties.”²

Promo-LEX decided to implement the project “Fighting political corruption in the Republic of Moldova by improving political parties funding regulations and civic oversight”, funded by the British Embassy in Chisinau, through the Good Governance Fund. The project offers an analysis of the amended political finance legislation through the perspective of international practice and recommendations in that field. In order to attain a comprehensive picture of the current situation regarding political financing in Moldova, Promo-LEX undertook 14 interviews at the central level, 245 interviews at the

¹ CoE Venice Commission, Guidelines and Report on the Financing of Political Parties, CDL-INF (2001)8, Strasbourg, 23 March 2001. Guiding principles.

² GRECO, Third Evaluation Round, Addendum to the Second Compliance Report on the Republic of Moldova, Transparency of Party Funding, Greco RC-III (2015) 8E, 9 December 2015.

territorial level and 3 more interviews with the stakeholders, analyzed 43 statutes of the political parties registered at 1st of December 2015, 28 annual financial reports and 21 election campaign finance reports for parliamentary elections 2014, collecting both qualitative and quantitative data on the subject. Consequently, Promo-LEX organized a public consultation with the party representatives of the findings and the prospective recommendations before launching the final conclusions of the study.

Objectives of the study:

1. Analysis of compliance of the Moldova's legal framework on political parties financing with international practices and recommendations;
2. Assessment of the current state of political parties' finance in the country, the level of transparency and compliance with the legal stipulations on political parties' incomes, financial management and reporting. Assessment of political parties' preparedness to act under the new regulations on parties' financing;
3. Assessment of the political finance oversight both done internally by the parties, as well as externally by the bodies vested with that competence. Analysis of the role played by media and civil society as the external stakeholders in the political parties' financing oversight process;
4. Drafting recommendations on actions needed for successful implementation of the legal amendments and identifying possible needs for further legal amendments, promulgation of which would be promoted through advocacy initiatives.

3. METHODOLOGY

The team responsible for the development of the Study was composed of two political finance experts (one national and one international), a network of 35 district monitors and core team members that conducted interviews with the parties at the central level. The activity of the monitors was supervised by the network coordinator.

Qualitative analysis of compliance of Moldova's legal framework on political parties financing with international practices and recommendations was done by the international political finance expert, who analyzed inter alia the Election Code, the Laws on Political Parties, the Law on the Court of Accounts as well as the Criminal and Contravention Codes and the relevant CEC regulations and decisions. The aforementioned legislation was compared with the international practice and recommendations specified by the Council of Europe (CoE), the Venice Commission and Organization for Security and Co-operation in Europe / Office for Democratic Institutions and Human Rights (OSCE/ODIHR). The analysis included as well the specific recommendations regarding political financing in Moldova made by the CoE and GRECO, the OSCE/ODIHR and the Venice Commission.

Assessment of the state of political finance in the country was done also through field research. The international and national experts on political parties' financing designed questionnaires to collect quantitative and qualitative data from political parties. One questionnaire was elaborated for the interviews with persons responsible for parties financing at the headquarter level and another for interviews at political parties' territorial branches.³ The field research aimed at showing the correlation between parties' finances at the central and local level. The national expert conducted interviews at parties' HQs and trained 35 regional monitors who approached people responsible for political parties financing at the district and primary levels. The interviews were conducted starting from 3rd week of January and till the mid of February 2016. Subsequently, the collected data was analyzed by both political finance experts.

Promo-LEX requested from all 43 registered political parties, from the Ministry of Justice and from the State Tax Service for a number of documents, i.e. parties' statutes, their annual financial reports, information about parties' bookkeeping, 2014 election campaign finance reports, information about size and structure of parties' memberships, information about keeping track of cash and collection of membership fees within the parties. Analysis of the data from the received documents is also included in the study.

³ Upon consultations with the Center for Continuous Electoral Training and Research, Promo-LEX added to both forms questions on political parties training needs related the latest legislative changes.

During the period from mid of February till mid of March 2016, the experts worked on the analysis of the relevant documents and data obtained through interviews. As far as the analysis of parties' annual financial reports is concerned – the study is based on the reports of political parties presented at the Ministry of Justice for the year 2014 and 2013. The currencies used in the study are both in Moldovan lei (MDL) and in Euros (EUR). The calculations are done according to the rate 1 EUR = 22,05 MDL – official rate of the National Bank of Moldova rate from 15 March 2016.

4. FINANCING OF POLITICAL PARTIES ACTIVITIES

According to art. 25 of the Law on Political Parties, membership fees, donations, subsidies from the state budget and other incomes are envisioned by law as the sources of political parties' funding. This chapter examines the sources of parties funding, dividing them into self-financing i.e. generated within a party's structure and external – donations and public funding. The chapter examines whether:

- the new legislation allows for appropriate funding of political parties, which enables them to fulfill their core functions;
- the public funding will not make the parties overly dependent on the state money;
- the current legal provisions guarantee parties independence from undue influence created by donors;
- and finally
- whether the new legislation gives parties the opportunity to compete in accordance with the principle of equal opportunity.

“Parties should receive financial contributions from the state budget in order to prevent dependence on private donors and to guarantee equality of chances between political parties”

PACE Recommendation 1516 (2001)1

It is generally believed that state funding may achieve a greater equality between parties and limit undue influence on them as the need for private funding would be reduced.⁴ Parliamentary Assembly of the Council of Europe (PACE) strongly advocates for the public funding, stating that the parties “must receive financial contributions from the state budget to prevent

dependence on private donors and to guarantee equality between political parties”.⁵ Countries that decide to support political parties in their regular activities regard them as officially recognized bodies, since they contribute to the state's ongoing democratic functioning, and it is therefore reasonable that the state should help to support their existence.⁶ Such a perception of the role of a political party can be found in the respective law, which defines political parties as the democratic institutions of the state of law that promote democratic values and political pluralism, contribute to the formation of public opinion (Art. 1.2 of the Law no. 294).⁷ Moreover, the Article 5.1 of the respective law states clearly that state supports the development of political parties “[w]ith the aim

⁴ CoE Venice Commission, Guidelines and Report on the Financing of Political Parties, *op.cit.* and IDEA A Handbook on Political Finance. International Institute for Democracy and Electoral Assistance, Stockholm 2014, pp. 22-26.

⁵ PACE, Recommendation 1516 (2001)1, Financing of political parties, 8 a.ii.

⁶ CoE Venice Commission, Guidelines and Report on the Financing of Political Parties, *op.cit.*

⁷ According to the OSCE/ODIHR and the Venice Commission a political party is “a free association of persons, one of the aims of which is to participate in the management of public affairs, including through the presentation of candidates to free and democratic elections”. OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, Paragraph 9.

of stimulating the efficient exercise of government activities and, in order to efficiently establish, via this exercise, the principle of public wellness”.

One of the key principles of financing political parties is that the level of state support should not make parties completely reliant on state funding, for it could lead to weakening of links between parties and their electorate. What’s more, funding political parties through private contributions is also a form of political participation. Thus, legislation should attempt to achieve a balance between encouraging moderate contributions and limiting unduly large contributions.⁸ Law on Political Parties stipulates that financing for political parties and their structures is established both from private sources and from the state budget’ (Art. 5.1). Thus Moldovan parties will still be reaching out to the electorate and nourish the civic engagement in the political process.

4.1. Self-financing

4.1.1. Membership fees

The Council of Europe Group of States Against Corruption (GRECO) recommended Moldova to take appropriate measures to limit the very risk that parties’ membership fees may be used to circumvent the transparency rules applicable to donations.

GRECO Compliance Report on the Republic of Moldova, Third Evaluation Round, GRECO RC-III (2013) 2E

Generally, membership fees rarely constitute a substantial part of political parties’ incomes.⁹ What appears more important in that sphere is that legislation and political parties’ internal regulations clearly distinguish the membership fees from donations. The reason for that being, there are no upper limits for membership fees and some countries use that to bypass donation limits.

GRECO considers that the new requirement under the law that donations and subscriptions are to be recorded separately in a party’s accounts and in its financial reports could help to limit the risk that parties may use the subscriptions they receive from members to circumvent the transparency rules applicable to donations.¹⁰ In case of Moldova, GRECO recommended to take appropriate measures to limit this risk and consequently, such provisions have been introduced to the political parties’ financing legislation.¹¹

The obligation to pay membership fees is stipulated in the Article 186 of the Civil Code, where it is expressly provided that membership fees are compulsory payments to ensure the continued membership of the political party. According to the data from the financial

⁸ OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, Paragraph 159.

⁹ Funding of Political Parties and Election Campaigns. A Handbook on Political Finance. International Institute for Democracy and Electoral Assistance (IDEA), Stockholm 2014, pp. 213-215.

¹⁰ GRECO Compliance Report on the Republic of Moldova, Third Evaluation Round, GRECO RC-III (2013) 2E, 22 March 2013.

¹¹ *Ibidem*.

reports for the years 2013 and 2014, only 4 political parties (PLDM, PCRM, PNL, PSRM), from those that submitted reports to MoJ, have any practical mechanism for payment of membership fees: PLDM and PNL organized the collection of membership fees in a manner, which allowed them to draw 40–50 per cent of revenues from that source of income. PCRM recorded a significant decline in size of collected membership fees. In 2013 they constituted 22 percent of the PCRM revenues, whereas in 2014 – only 5 per cent. PSRM – in 2014 draw almost 100 per cent of their income from membership fees.¹²

Chart 1. Parties' compliance to the law in regulating membership fees in their statutes

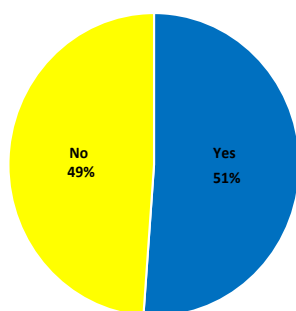
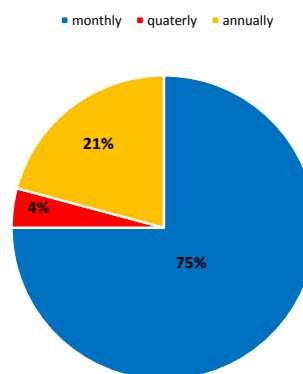


Chart 2. Periodicity of paying membership fees



Analysis based on the data obtained from political parties' statutes

According to the Article 25.3 of the Law on Political Parties “[t]he amount and manner of the dues paid by the members of a political party is established by the party’s statute “and, together with the total amount of annually accumulated contributions by the party, shall be published on its website and the web page of the CEC”. The provision is further detailed in the CEC Regulation on Political Parties Financing, Art. 15, which requires that the statute determines amount, periodicity (not less than once per year) and manner of payment of membership fees. The fee should be a fixed sum or percentage of e.g. average salary, incomes of the party member, etc.¹³

Pursuant the analysis of 43 political parties’ statutes done by Promo-LEX, as of February 2016, only half of the political parties (22 of 43 political parties) have the membership fees specifically regulated in their statutes – PSRM, PL, PPPNT, PPCNM, PDM, PCRM, PPPAM, PSM, PLD MSPFN, PPPFP, PPNOI, PPPN, PE, PMUEM, PPSM, PAD, PPPR, PPP, PPMPPUV, PPPPEM, PPPVE (see *Chart 1: Parties’ compliance to the law in regulating membership fees in their statutes*).

As for the other half – 18 parties (PNL, PC, PMAE, MSPRRM, PLDM, PPM, PPCD, PSD, MSPRR, PM, PPUCM, PPPPDM, PP MPA, PPPPRM, PP DA, PRM, PPPLR, PP PSP) regulate the membership fees via internal party regulations (National Political Council, Standing

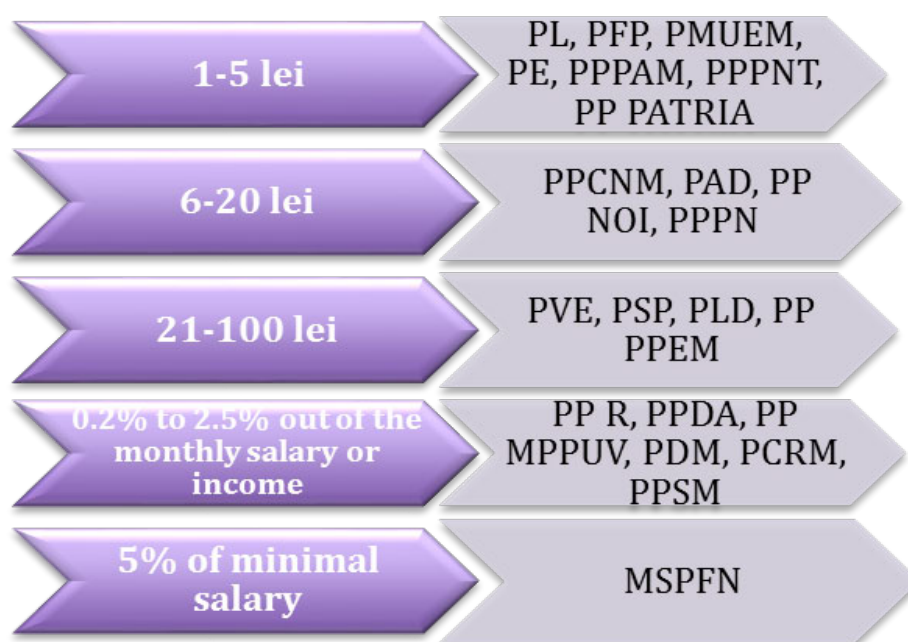
¹² No data from 2013 on PSRM.

¹³ Venice Commission and OSCE/ODIHR recognize the membership fees as legitimate source of party incomes, provided that the level of the fee is not “so high as to unduly restrict membership be discriminatory in nature”. OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, Paragraph 163. See also: CDL-AD(2009)002 Code of Good Practice in the Field of Political Parties Adopted by the Venice Commission at its 77th Plenary Session (Venice, 12-13 December 2008), Paragraph 39.

Bureaus of political parties, Republican Council of the Party, the National Coordination Council etc.), while 3 parties lack any provisions regarding membership fees. The amount of the membership fee varies from 5 to 100 MDL. Some parties opted for defining the size of the membership fee as a percentage of an average salary (*see Chart 3: The amount of membership fees*).

The membership fees are collected on monthly, quarterly or annual basis. Two parties do not have the periodicity of the membership payment regulated (*see Chart 2 and 4: Periodicity of the membership payment*).

Chart 3. The amount of membership fees



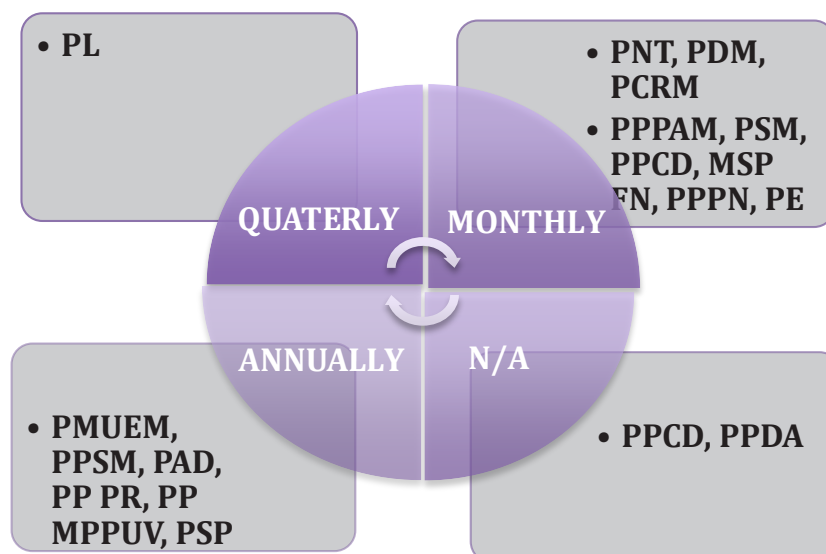
Analysis based on the data obtained from political parties' statutes

The Venice Commission Code of Good Practice in the Field of Political Parties recognizes that non-payment of membership fees may constitute grounds for expulsion from the party.¹⁴ Among the political parties interviewed by Promo-LEX 2 parties – PCRM and PPUCM have disciplinary measures for non-payment of fees, but none of them goes as far as expulsion from party's ranks. Furthermore 6 parties – PPPPEM, PPPNT, PPPN, PPSM, PSD and PSRM provide possibility of waiving the membership fee or payment of a reduced amount, which is in line with international good practice.¹⁵

¹⁴ CDL-AD(2009)002 Code of Good Practice in the Field of Political Parties Adopted by the Venice Commission at its 77th Plenary Session (Venice, 12-13 December 2008), Paragraph 39.

¹⁵ Any membership fee should be of a reasonable amount. The inclusion of a waiver of the fee requirement in cases of financial hardship should be encouraged in order to ensure that political party membership is not unduly limited to the wealthy. This waiver could also be based on a sliding scale, so as to take into consideration the specifics of each individual case. At a minimum, where fees are required, the creation of a distinct level of membership for those unwilling or unable to pay a membership fee would allow such persons to still associate with or participate in the party's functions on a limited basis. OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, Paragraph 164.

Chart 4. Periodicity of the membership payment



Analysis based on the data obtained from political parties' statutes

Although the legislator did not provide any limits for the membership fees, stating only that they should observe the principle of equality (Art. 16 of the CEC Regulation), there is a ceiling for the money a party can collect jointly via membership fees and donations and it is set at the level of 0,3% of the incomes scheduled in the national budget for the respective year (Art. 26. para. 3 of the Law on Political Parties and Art. 13 of the CEC Regulation). Taking 30 billion MDL as an average level of annual incomes to the Moldovan state budget, the ceiling for membership fees and donations is set at the level of some 90 million MDL per year for each party, which is certainly a high one, especially given into consideration that parties will be also supported with the public funding, at the level of approximately 40 million MDL.¹⁶

RECOMMENDATION: The legislator should consider lowering the ceiling of membership fees and donations collected annually from 0,3 per cent of the state budget revenues to 0,2 per cent, in order to prevent undue influence of the private sector on political parties in Moldova.

4.1.2. Other party incomes

The OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation provides that “parties that produce an income through the sale of merchandise or party-related materials should be able to utilize these funds for their campaigns and operations. While the use of such proceeds must respect disclosure and spending requirements, it should not be otherwise limited by relevant legislation.”¹⁷

¹⁶ The draft law of the State budget in 2016 (http://gov.md/sites/default/files/document/attachments/intr05_63.pdf).

¹⁷ OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, Paragraph 167.

The Law on Political Parties allows parties to own their own mass media and carry of editorial activities (Art. 17 para. 2.c). Furthermore, Article 24 of the Law allows political parties to own properties as long as they are used for fulfillment of party's statute only. The same caveat of funds being used solely for the tasks provided in parties' statutes is reiterated in the Article 24 para. 3 of the respective law and the CEC Regulation, Article 12 c., which list among the private financing of political parties "other incomes from publishing activity, activities directly linked to property management, and other activities that generate incomes for the needs of party".

According to the Promo-LEX interviews parties rarely draw their incomes from sources outlined in the aforementioned articles. None of the political parties reported media outlets, 1 party (PCRM) owns properties, 3 parties (PCRM, PPPN, PSRM) possess newspapers and 4 (PCRM, PL, PLDM, PPPN) have their own transportation means. According to the financial reports, only 1 party (PCRM) obtained revenues from real estate management from 3 per cent in the year 2013 to one per cent in the year 2014.

4.2. External funding

The OSCE/ODIHR and the Venice Commission state that "legislation should require that all political parties be financed, at least in part, through private means as an expression of minimum support".¹⁸ But in order to protect political landscape from undue influence of private donors, states should: provide for donations to be public, consider introduction of ceilings for the value of donations and consequently, adopt measures to prevent the introduced ceilings from being circumvented.¹⁹

The legislation also divides the donations depending on the donor – donations from legal entities and individuals (Articles 26 para. 1 – Art. 26 para. 5 of the Law no. 294). The donations from individuals, including party members are the main source of revenues for political parties in Moldova. Furthermore, the share of income that constitute private donations appear to be rising. It increased in 2014 compared to 2013 from 55 per cent to 76 per cent given that 2014 was an electoral year and the number of parties that have registered donations as financial contributions, rose more than 2 times. An inversely proportional relation linked to the electoral year can be seen in comparing the dynamics of donations from legal persons whose share dropped by 8 per cent in 2014, although in 2013 there were recorded less parties who registered such contributions.

According to the political parties' annual financial reports, in 2014, for 7 out of 18 political parties (PPMPA, PDM, PPPFP, PL, PPPLR, PRM and PPR) donations from individuals constituted 100 per cent of revenues and for another 2 (PCRM and PPPVE) – 90 per cent of revenues, for 3 political parties (PLDM, PPPN, PNL) is raised up to 60–65 per cent and for other 2 political entities (PPCD, PPCNM) up to 30–40 per cent.

¹⁸ *Ibidem*, Paragraph 170.

¹⁹ Council of Europe Committee of Ministers Recommendation Rec (2003)4 to member states on common rules against corruption in the funding of political parties and electoral campaigns. Art. 3 (b) and PACE, Recommendation 1516 (2001)1, Political parties financing, 8.a.v.

The share of donations from individuals to political parties' budgets was significantly lower in 2013. Three parties (PL, PMUEM and PRM) obtained 100 per cent of their revenues from individual donations, another three (PCRM, PLDM, PNL, MPA) – 50 to 65 per cent of their revenues.

As far as that goes to donations from legal entities, in 2013 two parties (PPMPA – 53 per cent, PCRM – 12 per cent) reported such donations. In 2014 four parties reported this type of donations, which constitutes the following share of their incomes: PLDM – 0,2 per cent, PPPLR – 0,5%, PPCD – 5 per cent, PPCNM – 18 per cent, PPPVE – 9 per cent.

During their interviews with Promo-LEX, the majority of political parties' representatives from the central level were of the opinion that legal entities are reluctant to donate to political parties for the fear of tax inspection bodies and they didn't deliver prominent information that would emphasize on this segment of contributions. At the territorial level 30 per cent of respondents informed Promo-LEX that they are collecting donations from legal entities (rayon – 21 per cent, primary – 9 per cent).

4.2.1. Transparency of donations

Article 27 of the Law on Political Parties, in line with GRECO REC-III (2013) 2e, obliges political parties to keep the register of received donations, including donor's identity and amount donated, and prohibits anonymous donations¹

GRECO Compliance Report on the Republic of Moldova, Third Evaluation Round

According to the Recommendation Rec (2003)4 of the CoE Committee of Ministers on common rules against corruption in the funding of political parties and electoral campaigns “[s]tates should require the accounts of a political party to specify all donations received by the party, including the nature and value of each donor. In case of donations over certain value, donors should be identified”.²⁰

As far as Moldova is concerned, GRECO recommended that all donations received by political parties outside election campaigns that exceed a given amount, as well as the identity of the donors, are disclosed to the supervisory authorities and are made public.²¹ In line with that recommendation, the Article 27 of the Law on Political Parties fulfill these conditions.²²

The Moldovan legislation distinguishes donations depending on the character of donation: monetary and in-kind. The CoE Committee of Ministers in its Recommendation Rec (2003)4 to member states on common rules against corruption in the funding of political parties and electoral campaigns advocate for donations in cash or in kind to be recorded

²⁰ Council of Europe Committee of Ministers Recommendation Rec (2003)4 to member states on common rules against corruption in the funding of political parties and electoral campaigns. Art. 12

²¹ GRECO Compliance Report on the Republic of Moldova, Third Evaluation Round, Greco RC-III (2013) 2E, 22 March 2013.

²² Similarly, the CoE Committee of Ministers Recommendation Rec (2003)4 states “[e]qually important is the identity of the donor if the donation is above a certain value, for it is such donations that may influence the attitude and actions of the party or but access to the party's decision-makers.” See: Council of Europe Committee of Ministers Recommendation Rec (2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns.

in the accounts of a political party so as to show accurately the amount of funding received by the party.²³

CEC shall submit to the State Tax Inspectorate of the Ministry of Finance a request to verify the source of donations which exceeds the amount of MDL 75 000. If necessary, CEC shall request to the Court of Accounts that they perform a verification of income sources, political parties' accuracy of recording revenues according to the destination of expenses.

Art. 27 of CEC Regulation on Political Parties Financing

According to Article 26.8 of the Law on Political Parties “[e]ach political party shall open a special bank account where all the monetary contributions will be transferred, including donations and membership dues” and the bank account details should be published on party’s website. As far as in-kind donations are concerned, GRECO, in Moldova’s Compliance Report, noted that the provisions on the recording of in-kind donations and services provided on advantageous terms or of financial obligations go in line with recommendations.²⁴

Until March 15, 2016 only one party (PPEM) has placed on its official website the bank requisites so that any interested person can easily access their data and donate to the party. According to GRECO, “evidence of donations payment and party spending through the banking system not only ensures transparency, but most importantly – their traceability.

RECOMMENDATION: The electronic recording of donations and membership fees should be implemented with respect of personal data protection provisions.

4.2.2. Donations’ limits

There is couple of reasons for introducing limits for donations. First, designing any system of political financing it is important that the money does not prevail over the voice of citizens and second, which actually stems from the first, is to limit the possibilities of undue influence and corruption. For those objectives to be met, the donations limits have to be set at a level which encourages political parties to look for many donors rather than depend on few.

Article 26.4 and 26.5 of the Law on Political Parties introduces the limits for donations for private persons and legal entities respectively. However the very introduction of ceilings for donations is in line with international recommendations, the level at which they have been established in Moldovan legislation raises concerns as to whether they will serve their purpose. According to the Law, donations made by a private person to one or more political parties in a fiscal year cannot exceed the total amount of 200 average monthly salaries established for the current year; for a legal entity that limit is put at the level of 400 average monthly salaries. At the stage of drafting the amendments to the Law no. 294, the ceiling for donations was planned at the level of 20 and 40 average

²³ *Ibidem.*

²⁴ GRECO Compliance Report on the Republic of Moldova, Third Evaluation Round, GRECO RC-III (2013) 2E, 22 March 2013.

salaries for individuals and legal entities respectively, but the limits were increased ten times during the adoption of the amendments to the law in the course of the legislative process.²⁵

With the limits of donations set at the level of 200 and 400 average salaries for private and legal entities, and the average Moldovan salary forecasted for the year 2016, calculated at the quantum of 5 050 MDL, the donations ceilings amount to 1 010 000 MDL for a private person and 2 020 000 MDL for a legal entity. It is unlikely that being set at such high levels they will serve their purpose of diversifying the political parties' sources of donations.

The legislator introduced also a limit for the annual income of a political party from membership fees and donations. The amount jointly cannot exceed the equivalent of 0,3% of the revenue foreseen in the state budget for the current year.²⁶ Taking 30 billion MDL as an approximate level of annual incomes to the Moldovan state budget for the year 2015, the ceiling for membership fees and donations is set at the level of maximum 90 million MDL per year for each political party. This generous limit combined with high ceilings for donors leads to something that Secretary General of International IDEA, Yves Leterme, described as "a deeply worrying trend of money in politics drowning out the voices of ordinary citizens".²⁷ However political parties should have financial resources to fulfill their core functions, the amounts they operate with cannot be so starkly detached from the level of incomes of the citizens they represent.

RECOMMENDATION: The legislator should consider reinstating the provisions, which were establishing the ceilings for donations from private and legal persons at the level of 20 and 40 average salaries respectively. Exceptional cases of donations that exceed the stipulated ceilings should be subject to approval by the institution responsible for the financial control of political parties.

RECOMMENDATION: The legislator should consider lowering the limit for annual income of a political party from private sources.

4.2.3. Donations from Moldovans living abroad

The Committee of Ministers of the CoE recommends that states should specifically limit, prohibit or otherwise regulate donations from foreign donors, reason for that being a country's protection against an improper and interfering foreign influence.²⁸ Also the

²⁵ *Ibidem*, Paragraphs 56 and 57.

²⁶ Art. 26 para. 3 of the Law on Political Parties and Art. 13 of the CEC Regulation.

²⁷ Funding of Political Parties and Election Campaigns. A Handbook on Political Finance. International Institute for Democracy and Electoral Assistance (IDEA), Stockholm 2014, p. IV.

²⁸ Council of Europe Recommendation Rec (2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns. Art. 7. Explanatory notes "This Article enables States to control foreign donations more strictly than domestic donations or even to prohibit them entirely. The rationale for the provision is that foreign donations may exert an improper, interfering influence on the political life of a country. Furthermore, the identity of a foreign donor or the origin of the donation may be more difficult to verify. A donation may be defined as 'foreign' if it emanates from abroad or if it is made by a non-citizen."

Venice Commission recognizes that the domestic law may prohibit donations from certain sources.²⁹

At the same time, the Venice Commission in its Guidelines and Report on the Financing of Political Parties stipulates:

Political parties may receive private financial donations. Donations from foreign States or enterprises must however be prohibited. This prohibition should not prevent financial donations from nationals living abroad.

Venice Commission, Guidelines and Report on the Financing of Political Parties

According to the Article 26.6.b. of the Law no. 294, financing, provision of services free of charge or material support in any form to political parties is prohibited for Moldovan citizens with revenues from abroad. The OSCE/ODIHR observers noted during Moldova's local elections in 2015 that the fact that "citizens cannot donate out-of-country income, which may constitute a disproportionate restriction on political participation" and recommended the revision of the ban on donations from out-of-country.³⁰ Recognizing the reasons for ban of out-of-country donations in Moldova, one needs to appreciate that country's situation, with some 554 000 Moldovans of the population living abroad,³¹ is particular and the ban disfranchises a large part of the citizens from the possibility to actively participate in political life of their country.

RECOMMENDATION: The legislator may wish to examine legal possibilities that would allow Moldovans living abroad to support financially political parties of their choice, at least at the level of a minimum ceiling, without risk of exposing Moldovan political landscape to an improper foreign influence.

4.2.4. Sources of political parties incomes – observed patterns

On the eve of introducing the funding for political parties from the state budget, according to the data from the political parties 2013–2014 annual reports submitted to the Ministry of Justice, the political parties' finances rely largely on donations, whereas collection of membership is treated as a marginal source of income.

A comparative analysis of data from the annual financial reports connected with the information obtained from the interviews reveals the following picture: the key source of private funding is donations from individuals, including party members. In case of 10 parties, those donations constitute 73 per cent of annual incomes. The second segment of financing according to the analysis are membership fees, that constitute around 38

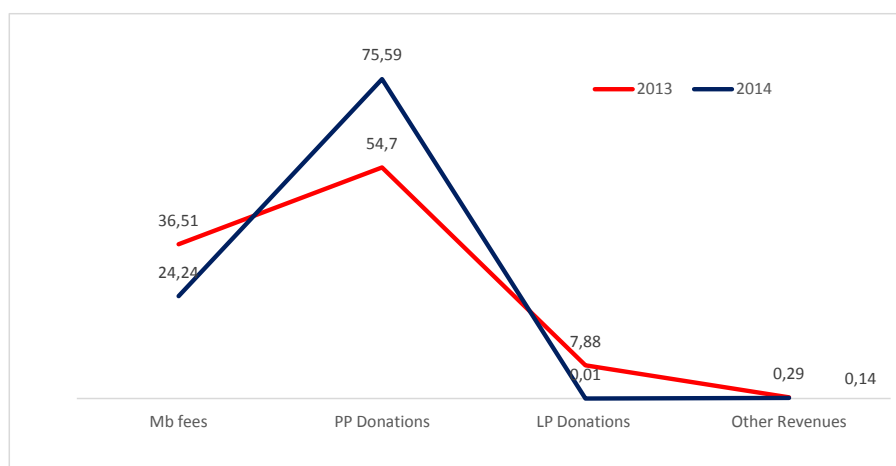
²⁹ CDL-AD(2009)002 Code of Good Practice in the Field of Political Parties Adopted by the Venice Commission at its 77th Plenary Session (Venice, 12-13 December 2008), Para. 40.

³⁰ OSCE/ODIHR Limited Election Observation Mission, Final Report, Republic of Moldova Local Elections, 14 and 28 June 2015.

³¹ Całus K., Migration between the EU, V4 and Eastern Europe: the Present Situation and Possible Future. The Perspective of Moldova, in: ed. Jaroszewicz M., Lesińska M., Forecasting Migration between the EU, V4 and Eastern Europe, Impact of Visa Abolition, Center for Eastern Studies, Warsaw, July 2014, p. 183.

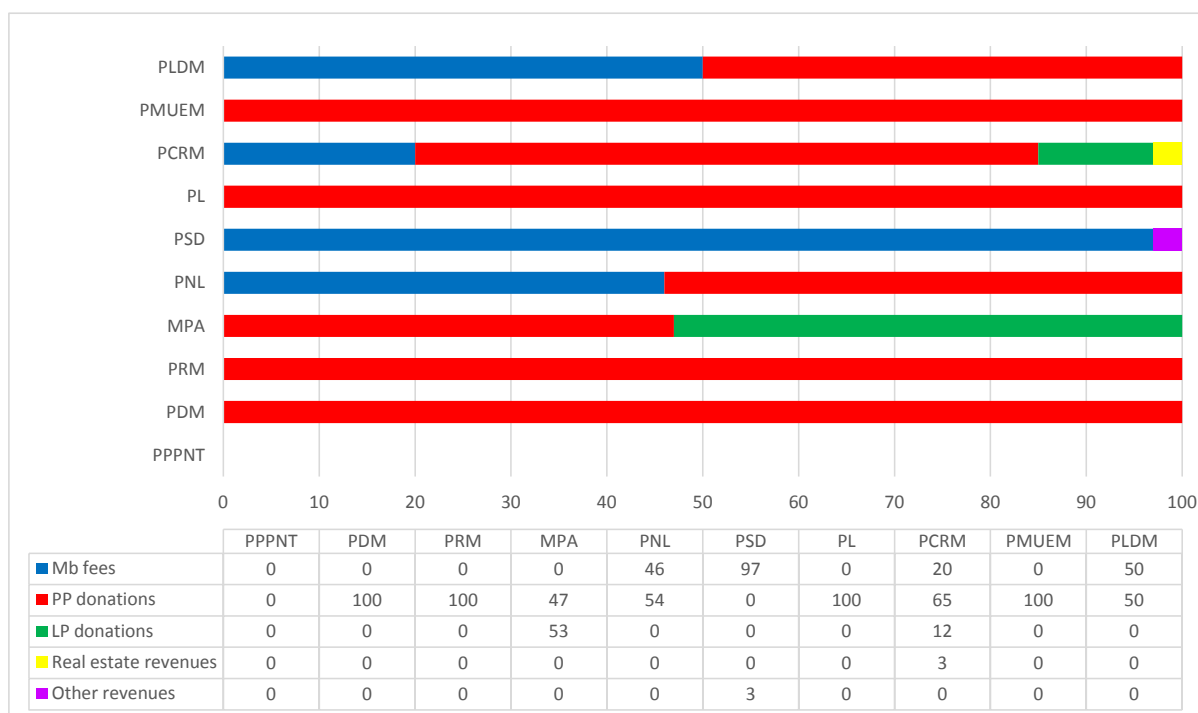
percent of incomes for eight parties, and the third segment represents donations from legal persons, which for four political parties constitute 13 per cent of incomes. Only two parties – PLDM and PSRM – resorted to gathering revenues from fundraising events, one – MSPFN – draws its financial resources from publishing activity and one – PCRM – from property management (see: Chart 5: Share of political parties incomes – years 2013–2014, Chart 6: Sources of revenues per political party – year 2013 and Chart 7: Sources of revenues per political party – year 2014).

Chart 5. Share of political parties' incomes – years 2013–2014, %



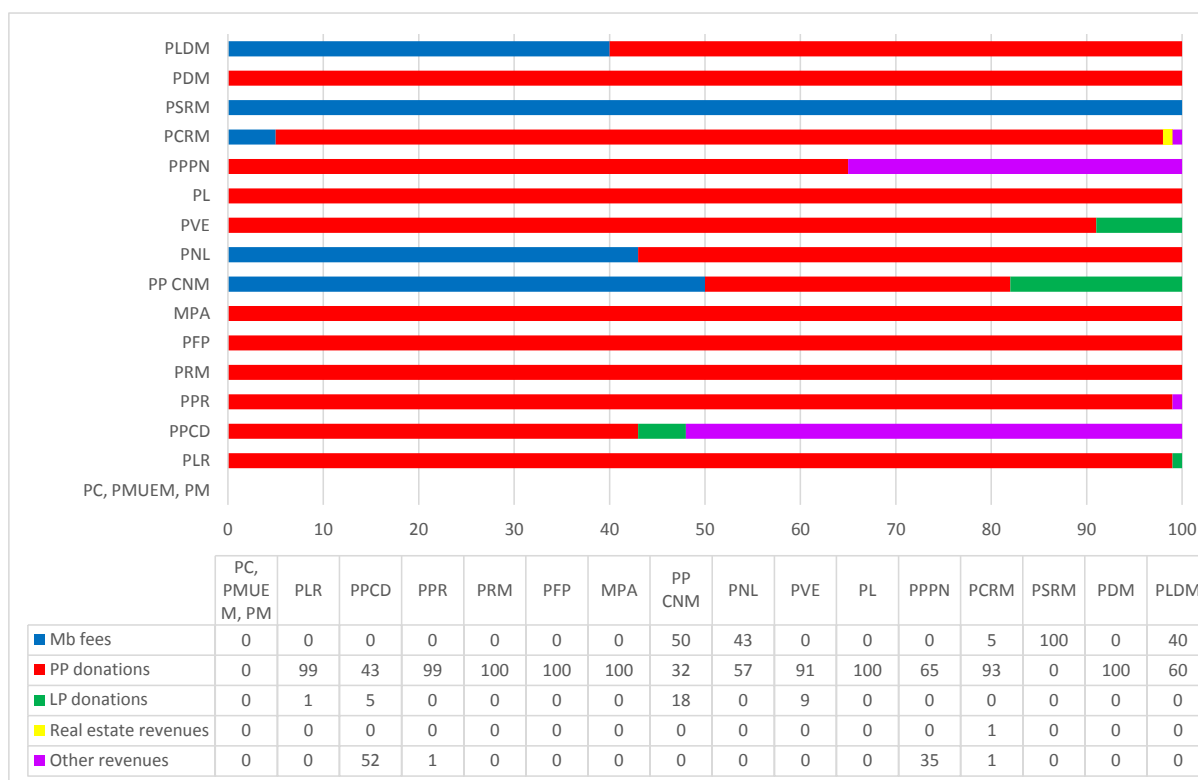
Analysis based on political parties' annual financial reports submitted to the MoJ

Chart 6. Sources of revenues per political party – year 2013, %



Analysis based on political parties' annual financial reports submitted to the MoJ

Chart 7. Sources of revenues per political party – year 2014, %



Analysis based on political parties' annual financial reports submitted to the MoJ

4.3. Public funding

Article 27.1 of the Law on Political Parties stipulates that amount of money designated to financing of political parties shall not exceed 0,2% of the state budget revenues. Taking 30 billion MDL as an average level of annual incomes to the Moldovan state budget, the ceiling of money that can be dedicated to financing political parties is set at an approximate level of 40 million MDL.

Promo-LEX made an attempt to calculate an approximate of political parties' expenses within last four years (2012–2015). The annual financial reports from 2013 and 2014 and the campaign finance reports from 2015 local elections were taken as a base for the calculations. The data for the year 2012 (non-electoral year) was extrapolated to the data from the year 2013, when the total income of all parties constituted approx. – 10 million MDL (also a non-electoral year) and added to the data from 2014 – 155 million MDL (electoral year) and to the data from the electoral campaign 2015 – 82 million MDL.

Thus, in total, during 2012–2015 political parties have spent about 267 million MDL. On the other hand, according to the state budget law for the year 2016, there is an amount of approximately 40 million MDL that would have to be allocated to the political parties. Corresponding to 4 years of a regular (non-electoral) cycle, parties could benefit from a total amount of about 160 million MDL. These allowances would cover some 60 per cent of the expenditure declared by political parties in the last 4 years (including campaign expenses) and accordingly constitutes an acceptable share of parties' expenses, which would not lead to parties' excessive reliance on state funding.

4.3.1. Public financing and gender equality

The CoE Committee of Ministers Declaration “Making gender equality a reality” recommends to enable positive action or special measures to be adopted in order to achieve balanced participation, including representation, of women and men in decision-making in political life and public decision-making.³²

Allocation of funds based on party support for women candidates may not be considered discriminatory and should be considered in light of the requirement for special measures to enhance gender equality in politics.

CEDAW, article 4

Public funding of political parties opens the possibility to introduce regulations that enhance gender equality in political life. “While it is important to respect the free internal functioning of parties in candidacy selection and platform choices, public funding may reasonably be restricted based on compliance with a set of basic obligations.” – state OSCE/ODIHR and the Venice Commission.³³

At the stage of drafting the amendments to the Law no. 294, the bill included financial incentives meant to ensure gender balance at a ratio of 20 per cent of the total computed amount of public funds, proportional to the performances at both parliamentary and

³² Committee of Ministers Declaration “Making gender equality a reality”, CM (2009)68 final 6 May 2009, 119th Session of the Committee of Ministers (Madrid, 12 May 2009).

³³ Examples of such a requirement are found in the legislation of Croatia and Slovenia. A requirement for gender balance can be enacted with regards to political finance, as public financial support is not a right of political parties but an advantage offered to them. Recommendation on Balanced Participation of Women and Men in Political and Public Decision Making, op. cit., note 55, Appendix, paras. A(3)–(4), states that: “Member states should consider adopting legislative reforms to introduce parity thresholds for candidates in elections at local, regional, national and supra-national levels. Where proportional lists exist, consider the introduction of zipper systems; consider action through the public funding of political parties in order to encourage them to promote gender equality.” OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, Paragraph 191.

general local elections. Still, those were not endorsed, missing the opportunity to use public funding to enhance the gender equality within political parties.

As far as political parties internal regulations are concerned, the youth and women organizations were created within 14 political parties (MPA, MSPR, PCRM, PDA, PDM, PL, PLDM, PNL, PPNOI, PPCNM, PPPPEM, PPRM, PSRM and PPPVE). According to the information given by the political parties to Promo-LEX during the interviews, on average 40 per cent of party members are women, which is twice more than women in the parliament, where 21 female MPs constitute 20,8 per cent of the legislative. Still, only 3 of 14 (PL, PLDM and PCRM), interviewed parties informed Promo-LEX that their membership data is disaggregated by gender³⁴, the other parties were able to give only an approximate data. At the territorial level only 21 per cent of respondents could provide exact data about the percentage of women in their branches, while 67 per cent gave an approximate data and 12 per cent were not able to provide any information.

From the total number of 43 political parties registered at the Ministry of Justice, only one party is led by a woman (PNL).³⁵ Women are also put on a disadvantaged position when it comes to access to the campaign funds. According to the Center for Partnership Development, even if the number of female candidates for the 2014 parliamentary race constituted 30,5 per cent of all candidates, their revenues amounted only to 8,1 per cent of the total amount of candidates' declared revenues.³⁶

RECOMMENDATION: The CEC should consider amending the forms for register of members, donors and register of membership fees so that they provide gender disaggregated data, in line with international commitments.³⁷

RECOMMENDATION: The legislator should consider reinstating the affirmative provisions which, through public funding of political parties, encourage gender equality.

4.3.2. Public funding and public endorsement

The introduction of the public funding of political parties is a major change and its implementation may be a challenge, with negative social perception of such a reform of political parties' financing in Moldova. Despite the fact that the public funding is meant to ensure a greater equality between parties and to limit undue influence on political parties as the need for private funding would be reduced, one needs to recognize there might be voices critical towards public funding.

³⁴ Although the three parties informed of having gender disaggregated membership data – the figures given to Promo-LEX on women membership differed at the central and district level. I.e. women constitute 40 per cent of PCRM membership according to the central office and 32 per cent according to information from territorial branches). PL – 48 per cent according to the central office and 40 per cent according to the territorial branches, PLDM – 48 and 39 per cent respectively.

³⁵ Article 7(b) of the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Paragraph 26 of the 1997 General Recommendation 23 on CEDAW by the UN Committee on the Elimination of Discrimination Against Women (CEDAW Committee) provides that “states parties have a responsibility, where it is within their control [...] to appoint women to senior decision-making roles”.

³⁶ Sources: National Statistical Bureau, Women's Rights Center, Center Partnership for Development (CPD).

³⁷ Article 48 of the CEDAW General Recommendation No. 23: Political and Public Life.

Recommendation Rec (2003)4 of the Committee of Ministers points out such arguments against public funding as unwillingness of the taxpayer to support all the political parties, including those s/he does not approve politically, the public funding system ossifies the political landscape making it difficult for new parties to break in or the fear that reliance on state support could lead parties to abandon efforts to raise money from electors and thus damage civic engagement in the political process.³⁸

Promo-LEX asked political parties about their opinion about introducing state funding for political parties. The responses at the central level were highly ambiguous. Half of the respondents did not have an opinion about the issue, 13 per cent were against state funding and only 37 per cent of the respondents welcomed the public funding for political parties, but even the latter group wanted to see some changes to the current legal provisions with regard to the change of the formula used for sharing the allocations. On the other hand, the territorial branches of political parties strongly welcomed the introduction of state funding. Almost 88 per cent of respondents welcomed the public financing, and only 12 per cent stated that there are no sufficient mechanisms to ensure a level playing field.

RECOMMENDATION: Recognizing the gravity of the political financing reform in Moldova, the institutions responsible for its implementation as well as civil society shall consider launching public awareness campaigns on the subject, with focus on the advantages of the public funding of political parties.

³⁸ Council of Europe Committee of Ministers Recommendation Rec (2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns.

5. POLITICAL PARTIES' FINANCIAL MANAGEMENT

The manner in which political parties handle their incomes and expenditures is fundamental. According to the OSCE/ODIHR and the Venice Commission guidelines “legislation should generally allow political parties at the national level to provide support for their regional and local organizations, and vice versa. Such support should be considered an internal party function and generally not be limited through legislation. However, parties can be reasonably expected to report their internal distribution of funds”.³⁹

The Moldovan legislation put on political parties the obligation to define their financial management structure in party's statute. Article 13 of the Law on Political Parties requires that a party's statute defines the party's financial resources and management of its goods as well as the structures of the party responsible of accounting. Furthermore, the Law makes opening a bank account a prerequisite for party's registration (Article 8.1 of the respective law). The account is to be used for revenues and payment operations (Article 25.4 and Article 26.8).

The CEC Regulation further defines the requirements related to the structure of financial management of a party. It should have:

- a treasurer, the contact, details of whom need to be communicated to the CEC (Article 10 of the CEC Regulation);
- a person in charge of collecting membership fees, and administrating the register of membership fee. The person should be nominated through party's internal documents. Furthermore, “where appropriate” the persons in charge of collecting membership fees should be appointed in territorial branches of a party (Article 18 of the CEC Regulation);
- a person in charge of collection of donations and keeping their register, similarly, with persons responsible for collection donations in territorial branches. (Article 35 of the CEC Regulation).

The CEC Regulation does not forbid for the same person to exercise both the responsibilities for collecting membership fees and for collecting donations.

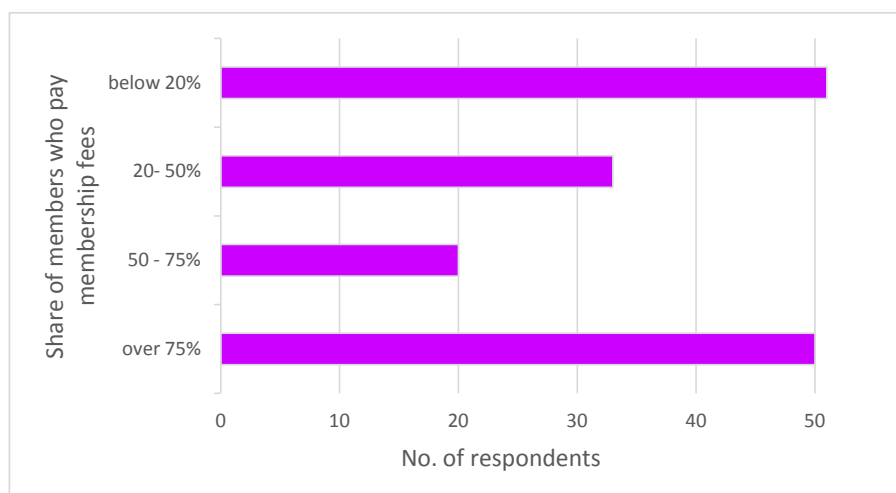
The consequences of failing to adjust to the new provision in the Law on Political Parties are stipulated in Article 87a of the CEC Regulation, pursuant which as of the year 2018, the CEC has the right to suspend the transfer of state funds in the case of parties' failure to pay the membership fees in the established amount, according to the annual data, by more than half of political party members. In order to regulate the parties' membership fees, CEC wants to develop the database for the register of membership fees by 2018.

³⁹ OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, Paragraph 166.

This provision requires that the parties have accurate data on their membership. According to the field interviews done by Promo-LEX, eight political parties (PCRM, PL, PLDM, PPPPEM, PPPN, PSD, PSRM, PPPVE) regularly update registers of their members, either weekly (PPPN), monthly (PLDM, PSD), quarterly (PCRM, PL, PSRM) or every half a year (PPPPEM, PPPVE). The other parties do not keep track of the fluctuations of their membership or do it in a sporadic manner.

At the territorial level, only 154 representatives of the territorial branches of political parties, which is 65 per cent of respondents, reported a practice of collecting membership fees. 51 territorial branches informed Promo-LEX that only 20 per cent of their members pay membership fees; according to the information provided by 33 territorial branches – share of members that pay these fees is between 20 and 50 per cent; 20 parties at district level declared that 50 to 75 per cent of their members pay the membership fee; 50 territorial branches stated that the share of members that pay these fees is higher than 75 per cent (see chart 8: The mechanism of paying membership fees at the territorial branches). Out of all political parties interviewed at the territorial level, 22 per cent of the respondents collect membership fees at the primary level, 38 per cent declared that the collection of membership fees is taking place at the central level, 25 per cent of the respondents do not have a practice of collecting membership fees, while 15 per cent did not answer.

Chart 8. The mechanism of paying membership fees at the territorial branches



Analysis based on data withdrawn from the interviews at the territorial level

RECOMMENDATION: The Political Parties should consider following the provisions stipulated in CEC Regulation on Financing Political Parties institutionalize their financial management structures by nominating treasurers in every territorial branch.

RECOMMENDATION: The Center for Continuous Electoral Training (CCET) may wish to consider providing training to political parties on the changes in the political financing legislation and the requirements of statutes' changes that stem from that fact.

5.1. Structure of financial management of political parties

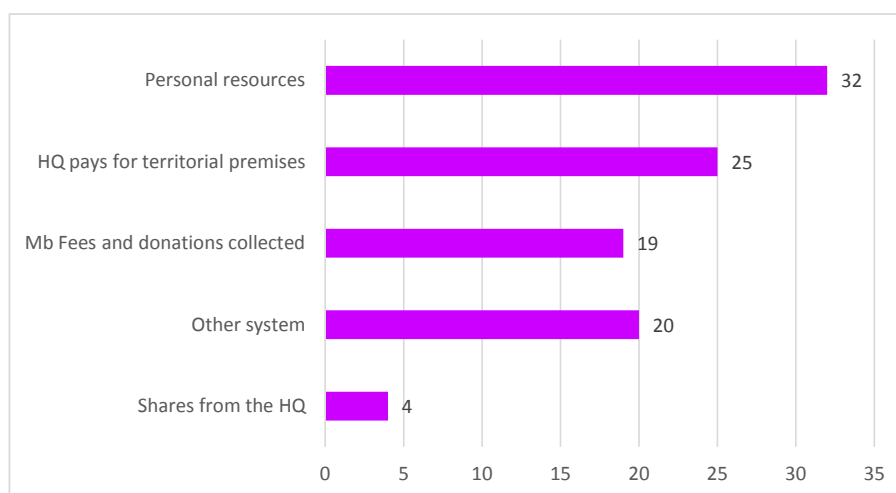
Promo-LEX asked political parties, both at the central and territorial level, about the structure of their financial management. Almost all the political parties (13 of 14 interviewed) informed that the management of revenue and expenditure is done directly from the party's headquarters. In 9 of 14 cases parties' accountants were named as those in charge of the financial structures.⁴⁰ Five parties informed that the presidents of the territorial branches are responsible for the financial management in the field.

Only one party – PCRM – nominated a treasurer responsible for managing the finances at the local level, in addition to the main accountant at the central level.

At the territorial level, in 32 per cent of cases the financial management of party branches is done by party members, 19 per cent of respondents explained that they finance their activity out of the donations and membership fees collected at the territorial level of the party structure,

while 25 per cent receive finances from the headquarters for the expenses related to rent of their offices. 4 per cent manage their territorial branches' activities from the money received from the parties' center. 20 per cent of respondents informed Promo-LEX of a different system of financial management than those mentioned in the questionnaire (see Chart 9: Structure of financial management of the territorial branches).

Chart 9. Structure of the financial management of the territorial branches



Analysis based on data withdrawn from the interviews at the territorial level

In regards to keeping the registers for membership fees and donations, 7 of 14 parties interviewed by Promo-LEX keep both registers, three parties keep only register of donations and another three – register of membership fees. 2 political parties (MSPFN, PL) where not aware that such evidence of revenues was required.

⁴⁰ In a few cases, the accountants were supported by a Secretary General or a Head of Administration Department.

The Promo-LEX research examined also the relations between parties' headquarters and territorial branches. The Promo-LEX interviewers were inquiring about the level of decentralization of political parties' financial management. Furthermore, interviewers asked whether the parties would welcome a greater degree of financial autonomy.⁴¹

The idea of decentralization of political parties' financing was welcomed by small and medium size parties (up to 7 500 members), whereas bigger parties (with 200 000 members and more) expressed reluctance towards the possibility of giving autonomy to regional branches.

In 7 cases (50 per cent of the respondents) party leaders of MSPFN, PPPNT, PPSM, PPUCM, PSD, PPPSP, PPPVE expressed willingness to examine possibilities of offering more financial autonomy to their territorial branches. In one case – PSD – stated the desire to follow a grassroots based, bottom-up pattern of financial management, i.e. from the local level (primary) to the regional level (district) and

then eventually to the party's headquarters. Four political parties would like that their territorial organizations would have separate bank accounts, in three cases parties want territorial organizations of the party to independently manage all the membership fees collected locally. PCRM and PPPPEM informed Promo-LEX they had already developed mechanisms of redistribution of incomes from membership fees.

In 6 cases (43 per cent) interlocutors at the central level expressed reluctance towards the decentralization of the political finance management. Among those only the one party – PL – would like to introduce certain financial autonomy for its territorial branches.

As far as the opinion of the parties' territorial branches is concerned, in two cases, territorial organizations of the parties would like to independently manage all donations collected locally and in 2 cases they would wish to have independent financial management in local elections.

Promo-LEX research reveals a great need for training on financial management for political parties. According to the international research in this area, it is believed that the way parties manage funds sets the tone for how citizens take part in politics. It also affects women's access to funds and their ability to participate in politics on an equal footing with their male counterparts. Therefore well-organized party finances are fundamental in the debate on political finance.⁴²

From interviewed political parties, 12 requested specialized trainings organized by CCET, CEC and specialized NGOs in the field. At the same time, most of them have requested that MoJ and CEC should send the amended normative acts and information materials to the political parties.

The initiated by Promo-LEX discussion about a certain degree of decentralization of political parties financial management shall be continued. Less centralized systems would improve the professionalism of parties' local branches and nourish greater activity of local politicians, making them reach out to the electorate more often.

⁴¹ The question had an open character. The interviewee was free to express its opinion.

⁴² Funding of Political Parties and Election Campaigns. A Handbook on Political Finance. International Institute for Democracy and Electoral Assistance (IDEA), Stockholm 2014, p. 5.

RECOMMENDATION: The CCET shall consider providing political parties, both at the central and local levels, with training on:

- legal obligations that apply to political parties pursuant the CEC Regulation on Political Parties Financing;
- financial management issues, to build the capacity of parties' human resources.

RECOMMENDATION: The civil society and media may wish to consider their role in fomenting the discussion about possible decentralization of political parties' financial management.

5.2. Political parties' expenses

Promo-LEX research reveals complaints from at least 2 parties (PPPP, PPPSP) with reference to the difficulties encountered in the process of collection of membership fees through the banking system.

In general, provisions limiting political parties' expenses are much more seldom than those that put ceilings on party's incomes. According to the IDEA research, around 30 per cent of all countries limit the amounts that political parties may spend, while over 40 per cent limit candidate spending.⁴³

Moldova's legislation does not provide for any limits of expenditures for regular activities of political parties. Such limits are however defined for electoral contestants. For example in parliamentary elections 2014 the CEC established a ceiling for campaign spending at 55 million MDL per political party and electoral bloc, and at 2 million MDL per independent candidate. However, the provision that political parties, which during the elections exceeded the maximum limit of expenditures provided by the law, lose the right to receive financial allocations from the state budget, was not eventually included in the Law no. 294.

Limit on political parties' expenditures is not a prerequisite of a good political parties' finance framework. However, as noted by the Committee of Ministers of the CoE, "political parties believe it is necessary to spend ever increasing amounts on advocating their views to the public. The rate of this expenditure is increased by competition from policy rivals."⁴⁴ Introduction of any limits – either on scale of revenues or expenditures – is effective only if it is set at the right level to curb the advantage of those with access to a lot of money.⁴⁵ As discussed in Chapter IV of the report, the limits on individual donations as well as on the scale of party's revenues from membership fees and donations together are so high that it is unlikely they will contribute to a level playing field. In this context the lack of limit of political parties' expenditure further weakens the chances of the political parties' finance legislation to have a positive impact on political competition.

⁴³ *Ibidem*, p. 27.

⁴⁴ Council of Europe Committee of Ministers Recommendation Rec (2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns.

⁴⁵ Funding of Political Parties and Election Campaigns. A Handbook on Political Finance. International Institute for Democracy and Electoral Assistance (IDEA), Stockholm 2014, p. 27.

Among the possible expenses of political parties, vote buying and the use of public resources for partisan purposes are banned almost everywhere.⁴⁶ This general rule applies also to Moldova, as its Election Code, Article 47.6 stipulates: “Candidates may not use public means and goods (administrative resources) during electoral campaigns, and public authorities/institutions and other related institutions may not send/grant to candidates public goods or other benefits unless on a contract basis, providing equal terms to all candidates.”⁴⁷

According to Article 25.4 of the Law no. 294, revenue and payment operations of the political parties are performed “through the accounts opened in the licensed banks from the Republic of Moldova with the issuing of supporting documents”. Article 28 of the Law lists party’s expenses that can be covered from the state budget allowances, and requires that receiving and using the allowances from the state budget are reflected separately in the bookkeeping records of the political parties.

During the interviews at political parties’ headquarters, Promo-LEX was informed that the main expenses of the parties are: expenses for regular statutory activities – stated by 9 parties – MSPFN, PCRM, PL, PLDM, PPDA, PPPPEM, PPPN, PPPNT, PSD (71 per cent of respondents); expenses for premises and maintenance – 5 parties – PPDA, PPPPEM, PPPNT, PPUCM, PPPVE (36 per cent of respondents and costs of transportation – 4 parties – PPPNT, PPUCM, PSD, PPPVE (29 per cent of respondents).⁴⁸

At the territorial level, the three biggest segments of expenses mentioned by the interlocutors were – premises and maintenance (72 per cent of respondents), transportation costs (51 per cent of respondents) and expenses for telecommunications (36 per cent).⁴⁹ For a comparison of the three major categories of expenses officially declared by the parties in their annual financial reports at both political parties’ levels, please see:

- Table 1. Comparison of the major declared expenses for 2013–2014, based on different sources of information;
- Chart 10. Political parties’ expenditures based on 2013 financial reports;
- Chart 11. Political parties’ expenditures based on 2014 financial reports.

⁴⁶ *Ibidem*, p. 26.

⁴⁷ During the local elections in 2015 the OSCE/ODIHR Limited Election Observation Mission noted the misuse of office in Donduseni, Edinet and Comrat and distribution of goods in Stauceni. See: OSCE/ODIHR Limited Election Observation Mission Final Report, Republic of Moldova Local Elections, June 2015.

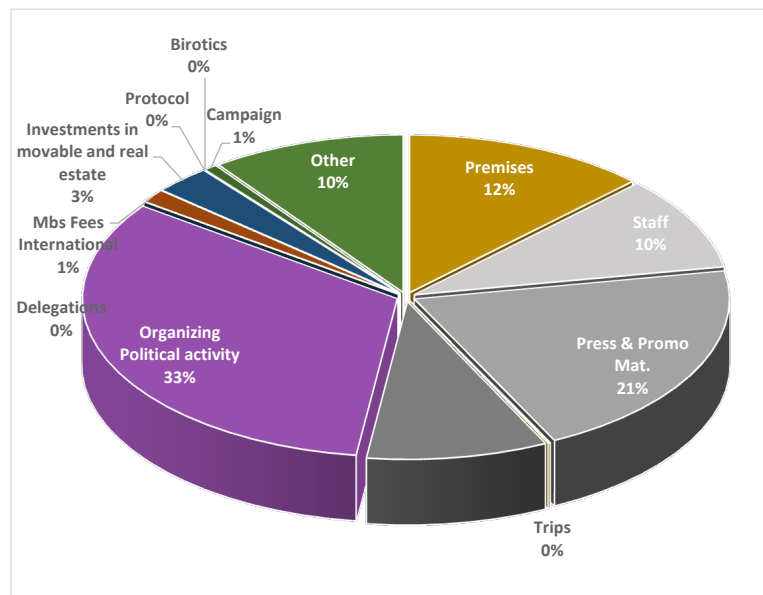
⁴⁸ The percentages do not add up to 100 as the question allowed for multiple choice of answers.

⁴⁹ *Ibidem*.

Table 1. Comparison of the major declared expenses, based on different sources of information

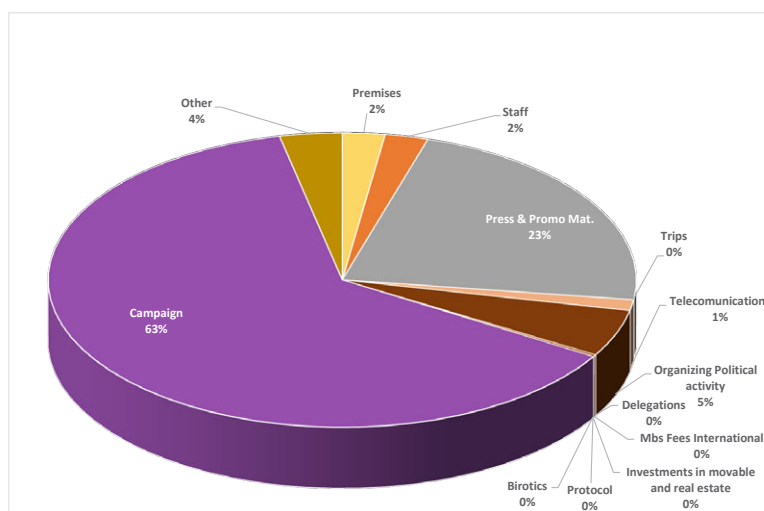
Financial Reports 2013–2014	Interviews at HQ level	Interviews at the Territorial level
I. expenses for political activity	I. expenses for regular statutory activities	I. expenses for premises & maintenance
II. expenses for press & promo materials	II. expenses for premises and maintenance	II. expenses for transportation
III. expenses for premises & maintenance	III. expenses for transportation	III. expenses for telecommunications

Chart 10. Political parties' expenditures in 2013, %



Analysis based on political parties' annual financial reports submitted to the MoJ

Chart 11. Political parties' expenditures in 2014, %



Analysis based on political parties' annual financial reports submitted to the MoJ

5.3. Correlation between political party financing and campaign financing

According to the Article 27.4 of the Law no. 294, “funds transferred to accounts of political parties from the state budget, which were not used in the current budget year, will be available to be used in the following years.” Subsequently, the CEC Regulation allows the transfer of party’s financial means from the bank account of state subventions into the “Election fund” account, opened by the party during the electoral period.

There is a number of parties in Moldova, which are fairly financially inactive in the period between elections. The aforementioned provisions may further strengthen the tendency, as the parties may decide to save the money assigned to them from the state budget in order to later transfer it to the “Election fund”. Development of such pattern of behavior would be contrary to the principle that the level of state support should not make political parties completely reliant on state funding, for it could lead to weakening of links between parties and their electorate.

Furthermore, according to the Article 63 of the CEC Regulation, use of subventions from the national budget for

- expenses for advertising and promotional materials;
- expenses for travelling within the country and abroad;
- expenses for telecommunications;
- expenses for office supplies;
- expenses for audit

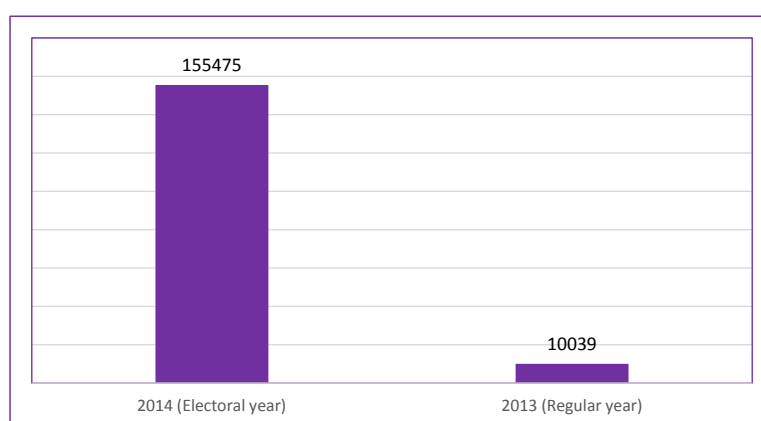
shall be performed under the Law on Public Acquisitions, with the exception of the financial means transferred in the bank account called “Electoral Fund”. Such provision bares

a risk that a party might attempt to circumvent political finance regulations by conducting activities during a “pre-electoral” period, when the restrictions imposed by the Law on Public Acquisitions are not imposed.

In order to compare the scale of political parties’ revenues in electoral and non-electoral years, Promo-LEX requested the Ministry of Justice for the parties’ annual financial statements for the years 2013 and 2014. Of the 43 political parties registered, only 10 submitted their financial reports in 2013 and 18 in 2014. Out of those 18 parties who submitted reports in 2014, 3 reported no revenues and expenses while in 2013 it was the case for 2 parties. According to financial reports, in 2014 – which was the electoral year, 15 political parties in total reported revenues of 155 475 000 MDL, at the same time in 2013 – which was non-electoral year, 8 political parties in total reported revenues in the amount of 10 039 000 MDL for 2013 (*see Chart 12: Total reported revenues of political parties in electoral & non-electoral year*).

Even taking into consideration that the number of annual financial reports submitted to the Ministry of Justice in the electoral year 2014 was higher than in 2013, still the difference in parties’ revenues is substantial – the revenues from 2014 are 16 times higher than those from 2013. In the same time the comparison of the segments of expenditures in both years shows an excessive mobilization of resources for expenditures for the campaign in the electoral year and a significantly poor record on expenditures for the regular activities aside from the electoral campaign (2013: premises – 12 per cent, staff – 10 per cent; 2014: premises – 2 per cent, staff – 2 per cent while campaign – 63 per cent). The respective unfolding represents a good example of grounds for infringements in the current state of legal framework but at the same time easily establish a grey corridor that would make it much harder to monitor the application of the law and apply the legal sanctions.

Chart 12. Total reported revenues of political parties in electoral & non-electoral year, thousand



Amounts given in MDL

Analysis based on political parties’ annual financial reports submitted to the MoJ

According to the OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation “[i]f relevant legislation distinguishes between party and campaign financing, it should include clear and precise guidelines for the appropriate use and allocation

of funds for these different purposes. (...) Guidance should also be given with regards to how to classify expenses that are necessary for a campaign...”⁵⁰. Certainly, the actual dynamics of the correlation between political parties financing and campaign financing will only be possible to observe the moment the parties are provided with the state subventions. The electoral stakeholders and oversight bodies may wish to pay special attention to that sphere on political financing, once the public funds are transferred to parties’ bank accounts.

RECOMMENDATION: The correlation between political parties financing and campaign financing needs to be closely monitored, to prevent cases of parties circumventing political finance regulations by conducting activities during “pre-electoral” period.

⁵⁰ OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, Paragraph 162.

6. CONTROL AND OVERSIGHT OF POLITICAL PARTIES FINANCING

6.1. Internal political party control

According to the literature of the subject, this reports considers such tools of the internal party control like: keeping complete and accurate records of financial activities, submitting reports about financial activity to the relevant bodies, approving all contributions for compliance with legal restrictions as well as following accepted accounting procedures in performing record-keeping and reporting duties.⁵¹

The Venice Commission Code of Good Practice in the Field of Political Parties states that “[e]very political party should include in its statutes mechanisms for audits of its accounts at the national level and for supervising accounting on any regional and local levels”.⁵² Very much in line with that recommendation the Law on Political Parties (Article 13.1) requires political parties to stipulate in their statutes “the modality of the internal financial control”. According to the Promo-LEX analysis of political parties’ statutes, 40 of 43 parties have the system of financial control defined in their statutes, including the responsible organs (e.g. Central Censor Committee, Ethics and Arbitration Court), their responsibilities and the timelines.

As far as the system of internal reporting on political parties’ financing is concerned the CEC Regulation (Article 23) requires political parties’ district and primary organizations to present the membership fees registers to the headquarters and consequently political parties’ treasurers to totalize the data regarding membership fees per semester. A half of parties (7 of 14) interviewed at the central level informed Promo-LEX that they did not have a mechanism of reporting on their revenues and expenditures from the lower levels to the central level. And for those that do report to the parties’ headquarters, the reporting does not have a clearly defined periodicity but is conducted randomly or in response to requests from the party’s center. Only five political parties (PCRM, PPPPEM, PPPDA, PPPN, PSD) declared having a model of reporting on revenues and expenditures from the territorial level to the headquarters.⁵³

The insufficient internal reporting in the political parties is owned to irregular and poor collection of contributions both at the territorial and central and lack of the necessary

⁵¹ Walecki M., *Challenging the Norms and Standards of Election Administration: Political Finance*, in: *Challenging the Norms and Standards of Election Administration* (IFES, 2007).

⁵² CDL-AD(2009)002 Code of Good Practice in the Field of Political Parties Adopted by the Venice Commission at its 77th Plenary Session (Venice, 12-13 December 2008), Paragraph 44.

⁵³ In PPPN, PCRM the parties’ territorial structures report to the center on monthly basis, in PPEM – per semester, PSD – quarterly and PPDA – on annual basis.

human and financial resources.⁵⁴ Especially the smaller parties found it difficult to remunerate a treasurer in each territorial organization. Even some big traditional parties, with sufficient financial resources to develop the required structure of internal financial control expressed were of opinion that it is easier to manage all the finances of territorial organizations at the central level.

As stipulated in the OSCE/ODIHR and the Venice Commission Guidelines political parties “should be required to submit disclosure reports to the appropriate regulatory authority on at least an annual basis in the non-campaign period. These reports should require the disclosure of incoming contributions and an explanation of all expenditures”.⁵⁵ According to the Law on Political Parties (Article 29) political parties should submit financial management reports every six months of the reporting period as well as an annual reports by March of the following year to the CEC and – if they obtained the state budget allowances – to the Court of Accounts.

The change of the institution to which the reports are to be submitted – from the Ministry of Justice to the CEC – belongs to the latest amendments to the Law on Political Party. Till April 2015, it was the Ministry of Justice that had the mandate to receive financial reports from political parties.⁵⁶ At the time of drafting this study, the CEC didn’t receive yet any financial management report from political parties. Therefore, in order to analyze the quality of disclosure reports prepared by political parties Promo-LEX requested the Ministry of Justice for the parties’ annual financial statements for the years 2013 and 2014. What came as surprise was a low number of the financial reports. Of the registered political parties registered, only 10 submitted their financial reports in 2013 and 18 in 2014 (*see Chart 13: Political parties compliance with submitting annual financial reports*).

On the other side, the political parties appear much more diligent when it comes to election campaign financing. According to data collected by Promo-LEX during the 2014 parliamentary elections campaign, of the 21 the political parties registered as candidates all provided the campaign finance reports in the required format and periodicity to the supervisory body, i.e. the CEC. One of the reasons for such diligence may be connected to the legal consequences of non-compliance or higher accessibility of the CEC financial reporting forms. According to the Article 69.4 of the Electoral Code “deliberate use of undeclared financial and material funds” may lead to candidate deregistration.

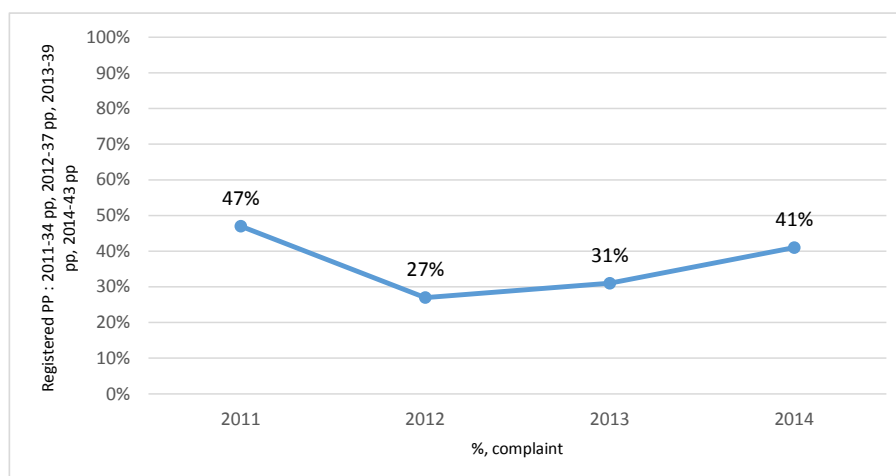
Thus, Promo-LEX asked the political parties their opinion if deregistration would be a reasonable sanction for parties that do not comply with the obligation of disclosure of their financing. Vast majority of political parties (12 of 14) did not see the non-compliance as a ground for party’s deregistration, whereas a couple of political parties opted for official warnings.

⁵⁴ The problem is not unique to Moldova. As the authors of IDEA Handbook on Political Finance noted: “Diversified fundraising and strong accounting require professional organizations with trained (often expensive) staff and established support networks. Internal checks and balances that include regular financial accountability to party members are crucial to maintain the trustworthiness that all parties require. In reality, though, political parties are typically underfunded, understaffed organizations that rely on volunteer support and political enthusiasm rather than well-oiled organizational machineries.” Funding of Political Parties and Election Campaigns. A Handbook on Political Finance. International Institute for Democracy and Electoral Assistance (IDEA), Stockholm 2014, p. 5.

⁵⁵ OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, paragraph 202.

⁵⁶ IDEA online database: <http://www.idea.int/db/fieldview.cfm?field=296>.

Chart 13. Political parties' compliance with submitting annual financial reports, 2011–2014



Analysis based on political parties' annual financial reports submitted to the MoJ

According to the amended legislation on political parties financing, not presenting the annual financial report by the political parties to the CEC is regarded a violation and subject of liability under the Contravention Code (Article 31².1 of the Law no. 294). Consequently, the Contravention Code, Section 48¹ provides that a political party that fails to submit an annual financial report by the deadline and in line with the requirements of the standard form or to provide the full data required shall incur a fine of 300 to 500 conventional units⁵⁷ (6 000 to 10 000 MDL or about 272 to 454 EUR).

Certainly, deregistration of political party for not submitting the financial report would be excessive⁵⁸, but at the same time the fines envisioned for non-compliance with the obligation of disclosure appear modest, especially when one compares them with ceilings for donations, and for party's incomes obtained from membership fees and donations as well as in comparison with the money envisioned for the state subsidies for political parties. It remains to be seen whether the envisioned fines will be a sufficient deterrent for political parties to comply with reporting obligations, taking into consideration the poor reporting records of political parties in previous years.

Disclosure is a necessary condition for any system of public control of political finance, and a variety of disclosure requirements are adopted.⁵⁹ It contribute to an overall transparency of the electoral process, offering voters an opportunity to learn more about political contenders in order to make informed choices. It also promotes the professionalism of political parties and poses an obstacle to corruptive practices. But at the same time public disclosure in political finance shall not be perceived as a solution in itself for

⁵⁷ In 2016 one conventional unit equals 20 lei.

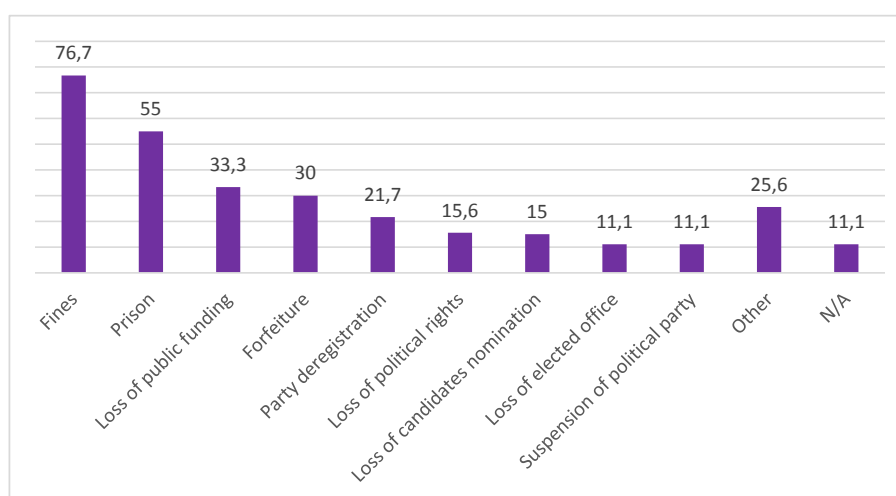
⁵⁸ According to the Venice Commission Guidelines, "Any sanction with regard to political parties' financing have to be proportionate to the severity of the offence, that may consist of the loss of all or part of public financing for the next year, CDL-INF (2001) 8, Strasbourg, 23 March 2001. C.13.

⁵⁹ Money in Politics Handbook: A Guide to increasing transparency in Emerging Democracies, USAID (Washington: Office of Democracy and Governance 2003).

does not automatically increase good governance. Transparency can only identify problems or irregularities that should be addressed and solved.⁶⁰

According to IDEA Institute, in order to ensure compliance, political finance regulations must be accompanied with sanctions against breaches (see *Chart 14: Sanctions for political parties' finance non-compliance out of 180 countries worldwide*). The chart covers the different sanctions that are applicable for violations such as failing to submit accurate financial reports, failing to submit financial reports at all, receiving funds from prohibited sources, not revealing the source of big donors' money, exceeding spending limits, abusing state resources or buying votes.

Chart 14. Sanctions for political parties' finance non-compliance at the international level, %



Analysis based on IDEA database on Political Finance

RECOMMENDATION: Close attention should be paid to the diligence of political parties annual reporting on their financial management. In case the reporting rate remains at the same levels as in the years 2013 and 2014, the legislator should – in line with international recommendations – take into consideration introducing more severe sanction for non-compliance.⁶¹ The following sanctions could be given consideration:

- if a party does not comply with the reporting duties and despite the Contravention Code sanctions for this violation fails to submit financial reports for six months, the CEC adopts a decision to deprive the party from the right of state budget allowances for a period of 6 months up to one year
- parties not eligible for state budget allowances could be sanctioned up to suspension of the right to register as an electoral candidate in the next electoral exercise.

⁶⁰ Walecki M., *Challenging the Norms and Standards of Election Administration: Political Finance*, in: *Challenging the Norms and Standards of Election Administration* (IFES, 2007), p. 78.

⁶¹ "If the law is violated, political parties should receive significant penalties, including partial or total loss of state contributions or their mandatory reimbursement, as well as imposing fines." and PACE, Recommendation 1516 (2001)1, Political parties financing, 8.e

6.2. Independent regulator of political parties' financing

Revision of political parties financial reports can be undertaken by a variety of different bodies, including a competent supervisory body or state financial body, but it is independent from political pressure and impartial.⁶² Such independence is fundamental to this body's proper functioning.⁶³ Consequently, GRECO in its Third Evaluation Round recommended Moldova "mandate an independent central body, endowed with sufficient powers and resources and assisted by other authorities where necessary, so as to allow the exercise of effective supervision, the conduct of investigations and the implementation of the regulations on political funding."⁶⁴

According to the latest amendments of the Law on Political Parties, the CEC is vested with the authority to supervise and control the financing of political parties, which includes the control of both financing of the regular activities of political parties and campaign financing. The amendment was welcomed by GRECO, which assessed that the provision gives the CEC an overview of various aspects of political parties' financing. Furthermore, GRECO assessed that "CEC offers more statutory guarantees of independence than other bodies".⁶⁵

The CEC checks and analyses the reports, having the right to requests from the political parties and public or private institutions further information for verification purposes. The reports are public as they are published on the CEC website 48 hours after the receipt and acceptance, as well as on the websites of political parties, if existing.

Article 31 of the Law on Political Parties requires that parties, whose annual income or expenses exceeded one million MDL, make an internal audit at least once every three years. The audit needs to be done by an external accountant, which is in line with the GRECO recommendations.⁶⁶ However, GRECO took note of the required periodicity of auditing, inviting the authorities "to consider imposing more regular audits".⁶⁷ The audit should be done and submitted to the CEC together with the annual financial report. In case the party received allowances from the state budget, the audit report needs to be also presented to the Court of Accounts.

RECOMMENDATION: The legislator should consider amending the Law on Political Parties in line with the GRECO recommendations – imposing the requirement on annual auditing for political parties, whose annual income or expenses exceeded one million MDL.

As far as control of allowances political parties receive from the state budget is concerned, the Venice Commission recommends that public funding is provided "on condition that the accounts of political parties shall be subject to control by specific public

⁶² "States should establish independent auditing bodies endowed with sufficient powers to supervise the accounts of political parties and the expenses linked to electoral campaigns." PACE, Recommendation 1516 (2001)1, Financing of political parties 8d.

⁶³ OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, paragraph 212.

⁶⁴ GRECO Compliance Report on the Republic of Moldova, Third Evaluation Round, Greco RC-III (2013) 2E, 22 March 2013.

⁶⁵ *Ibidem*.

⁶⁶ GRECO recommended introducing independent auditing of party accounts by certified experts. See: *Ibidem*.

⁶⁷ *Ibidem*.

organs (for example by a Court of Audit). States shall promote a policy of financial transparency of political parties that benefit from public financing.”⁶⁸ In the Law on Political Parties, the Articles 28.5 and 30.2 provide that the control of the allowances received by the political parties from the state budget is exercised by the Court of Accounts.

The responsibilities for infringement of political party funding rules are stipulated in Articles 311–313 of the Law on Political Parties and provide that the infringements may lead to sanctions under the rules of the Contravention Code. If more than one of the infringements is committed, and a penalty imposed, in the course of a calendar year, the CEC can adopt a decision whereby the party concerned is stripped of its entitlement to public subsidies for a six-month period. It is worthwhile however to look into the severity of the sanctions envisioned for given infringements.

According to the Contravention Code:

- infringement of the rules on financial evidence and management of political parties’ assets and campaign funds, including failure to submit donor identification data – a fine of 100 to 500 conventional units (2 000 to 10 000 MDL or about 90 to 454 EUR);
- assigning subsidies from the State budget to uses contrary to their intended purpose – a fine of 200 to 500 conventional units (4 000 to 10 000 MDL or about 181 to 454 EUR);
- illegal use of public resources or facilitating or consenting to their illegal use during election campaign – a fine of 150 to 400 conventional units (3 000 to 8 000 MDL or about 136 to 363 EUR).

The Criminal Code provides criminal liability for “Illegal funding of political parties and election campaigns” (Criminal Code, Article 181²) and in accordance with its stipulations:

- forgery of political parties’ financial reports and/or reports on election campaign funding with a view to substituting or concealing donors’ identities or concealing the amount of sums accumulated or used is punished with a fine of 200 to 500 conventional units (about 4 000 to 10 000 MDL or 181 to 454 EUR) or up to three years’ imprisonment;
- obtaining donations through extortion or blackmail (whether this occurs during election campaigns or between elections) – a fine of 200 to 500 conventional units (4 000 to 10 000 MDL or about 181 to 454 EUR);
- accepting funds from a criminal organization – a fine of 500 to 1000 conventional units (10 000 to 20 000 MDL or about or about 454 to 907 EUR);
- unlawful use of administrative resources where this has caused major loss or damage – a fine of 3 000 up to 5 000 conventional units (6 000 to 10 000 MDL or about 272 to 454 EUR).

According to the PACE recommendation on financing political parties “[i]n the case of a violation of the legislation, political parties should be subject to meaningful sanctions, including the partial or total loss or mandatory reimbursement of state contributions and the imposition of fines.”⁶⁹ The fines envisioned by the Moldovan legislator for administrative and criminal liability appear modest in comparison with ceilings for dona-

⁶⁸ CoE Venice Commission, Guidelines and Report on the Financing of Political Parties, CDL-INF (2001)8, Strasbourg, 23 March 2001. A.a.5.

⁶⁹ PACE, Recommendation 1516 (2001)1, Financing of political parties, 8e.

tions, and for party's incomes obtained from membership fees and donations as well as in comparison with the money envisioned for the state subsidies for political parties. It remains to be seen whether the envisioned fines will be a sufficient deterrent for political parties to abide the law. There is a risk that the fines are too low and parties will rather opt for paying them than for following the law.

RECOMMENDATION: Close attention should be paid to the scale of occurrence of infringement of political party funding rules. In case the occurrence is more than sporadic, the legislator should – in line with international recommendations – take into consideration introducing more severe sanction for non-compliance.

International recommendations instruct that the disclosure reports should follow a specified format and should be produced on a consolidated basis to include all levels of party activities.⁷⁰ First of all, the reports should clearly distinguish between income and expenditures. Further, they should “include the itemization of donations into standardized categories as defined by relevant regulations” with identified nature and value donations received by a political party.⁷¹ In the electoral years, reports should include both general party finance and campaign finance.⁷² The provisions of the Article 29.4 of the Law on Political Parties, requiring that that all of a party's assets, income, financial obligations and expenditure should be listed individually, follow the aforementioned recommendations and were positively assessed by GRECO during Moldova's Third Evaluation Round.⁷³ The actual formats of reporting are provided in the CEC Regulation.

6.3. External stakeholder oversight

According to the literature on the subject “in an ideal system civil society organizations, journalists, and even individuals who believe that a violation has occurred, or is going to occur, should be able to file a complaint to the regulatory agency.”⁷⁴ A complaint procedure, which allows an individual, a political party or a civil society organization to file a complaint, which alleges violations and explains the basis for the allegations, allows external stakeholders to take active part in the oversight of political financing. The Moldova's legislation on political parties' financing does provide for a complaint system, which is opened to “any person with voting rights or a legal entity of the Republic of Moldova, including public authorities or institutions.” (Article 313.1 of the Law on Political Parties).

⁷⁰ OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation Adopted by the Venice Commission at its 84th Plenary Session Venice, 15–16 October 2010, paragraph 202.

⁷¹ *Ibidem*, paragraph 203.

⁷² *Ibidem*, paragraph 204.

⁷³ “GRECO takes note of the proposed amendments to the LPP, which expressly determine the minimum content of political parties' annual financial reports to be submitted to the supervisory authorities (the CEC and, in some cases, the Court of Audit) and published. In particular, the draft legislation requires that all of a party's assets, income, financial obligations and expenditure should be listed individually. GRECO considers that the proposed amendments go in the direction recommended.” See: GRECO Compliance Report on the Republic of Moldova, Third Evaluation Round, Greco RC-III (2013) 2E, 22 March 2013.

⁷⁴ Walecki M., *Challenging the Norms and Standards of Election Administration: Political Finance*, in: *Challenging the Norms and Standards of Election Administration* (IFES, 2007), p. 88.

In what concerns the advocacy and monitoring, civil society can contribute to developing effective regulations by participation in the hearings of legislative commissions entrusted with revising campaign finance legislation or form partnerships with monitoring bodies charged with supervising accounts.⁷⁵

The joint efforts of the civil society organizations (CSOs) and public institutions in Moldova proved to be vital for the progress made towards the transparency and accountability of political parties' financing. For the first time campaign finance issues were monitored in 2010 by Promo-LEX⁷⁶ and integrated as separate paragraphs in the election campaign monitoring reports, which provided data on revenue and expenditures. It was all due to introduction in the mission's organizational chart, for the first time, of a special position of campaign finance analyst. Consequently Promo-LEX raised awareness about many gaps identified in their reports in regards to candidates' poor reporting to CEC, lack of financial disclosure in terms of transportation costs, promotional materials, meetings with the electorate and electoral concerts. In the same year CReDO, jointly with Center Partnership for Development (CPD)⁷⁶ as well as IDIS "Viitorul" elaborated studies with focus on campaign finances.

In 2011 Promo-LEX had a similar campaign finance monitoring experience⁷⁷ where it drew attention to similar issues found in the previous scrutiny. At the end of 2011 the CEC established a working group comprised of a range of stakeholders – public institutions, representatives of political parties and the civil society organizations. The group was responsible for drafting a law on political parties and campaign finance that would bring more clarity to the subject, promote anti-corruption efforts but also ensure a level playing field for all the political actors.

As a result of the former campaign finance monitoring experiences and of the public interest in political finance issues, in 2012, Promo-LEX started working on a comprehensive methodology of campaign finance monitoring⁷⁸, which was completed in 2013 and presented to the public. In continuation, it has been successfully tested initially at a smaller scale in the 2013 New Local Elections⁷⁹, conducted in several villages. Subsequently, in 2014 Promo-LEX has conducted a thorough monitoring of campaign financing for parliamentary elections⁸⁰, and in 2015 there was conducted a similar monitoring experience in the context of general local elections⁸¹. Based on the findings of campaign finance monitoring, Promo-LEX raised the issue of the parties' lack of compliance with the existent provisions, lack of disclosure of both revenues and expenditures and promoted the adoption of the current legal framework on political parties and election campaign financing.

In addition to their advocacy work, civil society also plays an important role in monitoring compliance with existing rules and standards. NGOs can use innovative measurement and

⁷⁵ Policy Position No. 01/2009: Standards in Political Funding and Favors, Transparency International.

⁷⁶ Final Monitoring Report of the early parliamentary elections of November 28, 2010, https://promolex.md/upload/publications/en/doc_1297170943.pdf.

⁷⁷ Final Monitoring Report of the general local elections of June 5, 2011, https://promolex.md/upload/publications/en/doc_1314964419.pdf.

⁷⁸ Methodological Guide for networks of non-partisan observers, https://promolex.md/upload/publications/ro/doc_1372325169.pdf.

⁷⁹ Final Monitoring Report of the new local elections from 2013, https://promolex.md/upload/publications/en/doc_1373976829.pdf.

⁸⁰ Report on the finances of electoral candidates during the campaign for 2014 parliamentary elections, https://promolex.md/upload/publications/en/doc_1419319553.pdf.

⁸¹ Final Monitoring Report of the general local elections of June 14, 2015, https://promolex.md/upload/publications/en/doc_1444721147.pdf.

outreach strategies to make it more difficult for political actors to circumvent and infringe existing political finance regulations.⁸² The work of CSOs in the field of monitoring election campaign finances during every elections contributed greatly to both the professionalism of political parties' financial management and their transparency. It also raised awareness of the society about the campaign finance issues.

A breach in the Electoral Code would easily obstruct the work of any CSO that would like to conduct monitoring, observation, interviews and discussions with the electoral stakeholders in the non-electoral period, even if art.63 (6) of the Electoral Code stipulates that observers may be accredited before the beginning of the electoral period and can operate both on election day, as well as periods before, during and after the electoral campaign.

During the interviews Promo-LEX monitors without having any status or any well-established legal right, didn't have a full opportunity to request and receive relevant information from political parties. All information received from the political parties was based on parties' openness and goodwill. However observers didn't try to request or see certain primary internal financial documentation. In this way the legal provision that allow the accreditation of observers before the start or after the electoral period without an exact stipulation of the observers rights in the inter-electoral periods, especially in terms of monitoring the financing of political parties seem to be inapplicable norms.

RECOMMENDATION: Authorities should review the provisions of article 63 of the Electoral Code as well as the Regulation on accreditation and the work of observers in order to clarify their role and place in inter-electoral periods and also their rights in terms of monitoring political party finances.

⁸² Funding of Political Parties and Election Campaigns. A Handbook on Political Finance. International Institute for Democracy and Electoral Assistance (IDEA), Stockholm 2014, p. 193.

LIST OF RECOMMENDATIONS

1. Close attention should be paid to the diligence of political parties annual reporting on their financial management. In case the reporting rate remains at the same levels as in the years 2013 and 2014, the legislator should – in line with international recommendations – take into consideration introducing more severe sanction for non-compliance.⁸³ The following sanctions could be given consideration:
 - if a party does not comply with the reporting duties and despite the Contravention Code sanctions for this violation fails to submit financial reports for six months, the CEC adopts a decision to deprive the party from the right of state budget allowances for a period of 6 months up to one year;
 - parties that are not eligible for state budget allowances could be sanctioned up to suspension of the right to register as an electoral candidate in the next electoral exercise.
2. The authorities mandated with receiving political parties' financial reports, should run public information campaigns regarding the quantity and quality of received reporting. To add to the transparency of political financing, the public information campaign should include e-platforms through which citizens can access data from submitted reports.
3. The Center for Continuous Electoral Training shall consider providing political parties, both at the central and local levels, with training on:
 - changes in the political financing legislation and legal obligations that apply to political parties pursuant the implementation of the CEC Regulation on Political Parties Financing;
 - financial management issues, to build the capacity of parties' human resources.
4. Political parties should consider to provide records and internal reporting (bottom-up) not only in regards to membership fees but also donations and expenses incurred in the territories.
5. Political parties should examine legal possibilities of decentralization of their financial management. The civil society and media may wish to consider their role in fomenting the discussion about possible decentralization of political parties' financial management.
6. The legislator should consider to amend the Law on Political Parties with the obligation of paying membership fees, with provisions disclosing the exact amount of the membership fee and the periodicity of payment.
7. The legislator should consider to review the possibility of establishing sanctions for evasion from the obligation referred to the previous recommendation.

⁸³ “In the case of a violation of the legislation, political parties should be subject to meaningful sanctions, including the partial or total loss or mandatory reimbursement of state contributions and the imposition of fines.” PACE, Recommendation 1516 (2001)1, Financing of political parties, 8e.

8. The legislator should consider reinstating the provisions meant to encourage gender equality through public funding of political parties.
9. The legislator should introduce article 87a of the CEC Regulation on Financing Political Parties, in the Law on Political Parties, pursuant which as of the year 2018, the CEC has the right to suspend the transfer of state funds in the case of failure to pay the membership fees in the established amount, according to the annual data, by more than half of political party members.
10. The legislator should consider reinstating the provisions which establish the ceilings for donations from private and legal persons as the level of 20 and 40 average salaries respectively. Exceptional cases of donations that exceed the stipulated ceilings should be subject to approval by the institution responsible for the financial control of political parties.
11. The legislator should consider lowering the ceiling of membership fees and donations collected annually from 0,3% of the state budget revenues to 0,2%, in order to prevent undue influence of the private sector on political parties in Moldova.
12. The legislator should consider lowering the limit for annual income of a political party from private sources.
13. The legislator may wish to examine legal possibilities that would allow Moldovans living abroad to support financially political parties of their choice, without risk of exposing Moldovan political landscape to an improper foreign influence.
14. Recognizing the importance of the political parties' financing reform in Moldova, the institutions responsible for its implementation, as well as civil society shall consider launching public awareness campaign on the subject.
15. The correlation between political parties financing and campaign financing needs to be closely monitored, to prevent cases when parties may choose to avoid respecting regulations on political parties' financing by conducting activities during a "pre-electoral" period.
16. The legislator should consider amending the Law on Political Parties in line with the GRECO recommendations – imposing the requirement on annual auditing for political parties, whose annual income or expenses exceeded one million MDL.
17. Close attention should be paid to the scale of occurrence of infringement of political party funding rules. In case the occurrence is more than sporadic, the legislator should – in line with international recommendations – take into consideration introducing more severe sanction for non-compliance.
18. The electronic recording of donations and membership fees should be implemented with respect of personal data protection provisions.
19. The Political Parties should consider following the provisions stipulated in CEC Regulation on Financing Political Parties institutionalize their financial management structures by nominating treasurers in every territorial branch.
20. The legislator, but also the Central Election Commission should review the provisions of article 63 of the Electoral Code as well as the Regulation on accreditation and the work of observers in order to clarify their role and place in inter-electoral periods and also their rights in terms of monitoring political party finances.

LIST OF ABBREVIATIONS

MPSN – Movement of Professionals “Hope-Nadejda”
MSPFN – Social-Political Movement “New Force”
MSPRR – Republican Social-Political Movement “Ravnopravie”
MSPRRM – Social-Political Movement of Roma people in Moldova
PAD – Democratic Action Party
PPPAM – Political Party Agrarian Party of Moldova
PC – Conservative Party
PE – European Party
PCRM – Party of Communists of the Republic of Moldova
PPDA – Political Party “Democracy at Home”
PDM – Democratic Party of Moldova
PPPPEM – Political Party “European People’s Party of Moldova”
PPFP – Political Party “Party People’s Force”⁸⁴
PL – Liberal Party
PLDM – Liberal Democratic Party of Moldova
PLD – Law and Justice Party
PPPN – Our Party Political Party
PPPPDM – Political Party Democratic People’s Party of Moldova
PNL – National Liberal Party
PPMPA – Political Party Popular Anti-mafia Movement
PM – Labor Party
PPPR – Party Political Party “Renaissance”
PPCD – Popular Christian Democratic Party

⁸⁴ On 24 February 2016, Political Party “Party People’s Force” changed its statutory provisions including the party name into Political Party “Dignity and Truth”.

PPCNM – Political Party “Our Home – Moldova”
PPPLR – Political Party “Liberal Reformist Party”
PPNOI – Political Party New Historical Option
PM – Labor Party
PPP – Patria Political Party
PPM – Party “Patriots Moldova”
PMUEM Party – “United Moldova – Единная Молдова”
PMAE – European Action Movement Party
PPMPPUV – Political Party “Popular Movement for Customs Union”
PPPNT – Political Party “For People and Country”
PRegiunilor – Regions Party of Moldova
PRM – Republican Party
PPRM – Political Party People’s Party of Moldova
PPSM – Socialist People’s Party of Moldova
PSM – Socialist Party of Moldova
PSRM – Political Party “Party of Socialists of the Republic of Moldova”
PPPSP – Political Party “Progressive Society Party”
PPUCM – Political Party Centrist Union of Moldova
PPUM – Political Party for Unification of Moldova
PPPVE – Political Party Ecologist Green Party
PACE – Parliamentary Assembly of the Council of Europe
CEC – Central Election Commission
CCET – Center for Continuous Electoral Training
CoE – Council of Europe
GRECO – Group of States against Corruption
MoJ – Ministry of Justice
ODIHR – Office for Democratic Institutions and Human Rights
CSOs – Civil Society Organizations

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LIST OF POLITICAL PARTIES AND INSTITUTIONS THAT HAVE PARTICIPATED TO THE RESEARCH

Political parties that have accepted the invitation to attend the interview at the central level:

1. Society Party Political Party Progressive
2. Political Party “Party of Socialists of the Republic of Moldova”
3. Liberal Democratic Party of Moldova
4. Party of Communists of the Republic of Moldova
5. European People’s Party Political Party of Moldova
6. Our Party Political Party
7. Social Democratic Party
8. Ecologist Green Party
9. Party Democracy at Home
10. Political Party Centrist Union of Moldova
11. Social Political Movement New Force
12. Political Party for Nation and Country
13. Socialist People’s Party of Moldova
14. Liberal Party

Political parties that have accepted the invitation to attend the interview at the territorial level:

1. Democratic Party of Moldova
2. Party of Communists of the Republic of Moldova
3. Socialist People’s Party of Moldova
4. Popular Christian Democratic Party
5. Liberal Party
6. Social Democratic Party

7. Political Party “Party of Socialists of the Republic of Moldova”
8. Political Party New Historical Option
9. Our Party Political Party
10. Republican Party of Moldova
11. Labor Party
12. Political Party Centrist Union of Moldova
13. National Liberal Party
14. Liberal Democratic Party of Moldova
15. Political Party “Our Home – Moldova”
16. Political Party Popular Anti-mafia Movement
17. Political Party People’s Party of Moldova
18. Democratic Action Party
19. Political Party “Liberal Reformist Party”
20. Political Party “European People’s Party of Moldova”
21. Political Party “Party People’s Force”

List of interviewed institutions:

1. Central Election Commission
2. Center for Continuous Electoral Training
3. Association for Participatory Democracy