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STATE FUNDING OF POLITICAL PARTIES IN UKRAINE: OBJECTIVE NEED OR RESULT OF EXTERNAL PRESSURE?

This article analyzes recent amendments and supplements made to the Law of Ukraine “On Political Parties in Ukraine” to the extent of financial support of political parties. It contains an overview of the main potential sources of funding for political parties in Ukraine and an outline of the requirements for political parties’ receiving pecuniary compensation from the state budget. The article presents data provided by the National Agency for Prevention of Corruption as of 2016 on the allocation of public funds between political parties eligible to receive state funding to ensure adequate performance of their statutory objectives. It also deals with the requirements for preparation, compilation and disclosure of financial statements of political parties and their regional centers.

Key words: state funding, private funding, membership fees, political party, Ukraine.

The Constitution of Ukraine assigns to parties a leading role in formation and expression of citizens' political will. Yet, the practical implementation of this role is not possible without adequate financial resources for political parties not only to communicate their goals and ideas to people, but also to compete with one another, to take part in elections to representative state and local bodies, and to influence the country's foreign and domestic policies.

Reconsideration of the approaches to political parties' funding in our country is based on the long struggle of civil society for the parties to become real representatives of people rather than oligarchic clans. However, we can speak about political accomplishments in this area only now.

According to the Law of Ukraine *On Political Parties in Ukraine*, since July 1, 2016, state funding of political parties has come into effect which considerably restricts the possibilities of funding of political parties by individuals and legal entities and should contribute to enhancing the financial independence of political parties, reducing the level of dependence of political parties on funding by private donors, and diminishing the appropriate corruption risks.

According to the updated provisions of Ukrainian laws, the following sources of funding of political parties are possible¹:

- 1) membership fees;
- 2) state funding (financial support from the state budget);
- 3) private funding (voluntary contributions collected during entertainment, cultural, sporting, and other events organized by political parties);
- 4) other legally received inflows.

Also, every political party must have its own fund (bank account) to be opened in the national currency and with a banking institution in Ukraine, and the money will be transferred to such accounts on a non-cash basis only (which will be accumulated by a political party, its structural unit). And all details of banks where a political party's accounts are opened, bank account numbers, and other fund information should be posted on the political party's website (if any), indicated in the annual report on political party's property, incomes, expenses, and financial liabilities, and communicated to the Government Accountability Office, and the National Anti-Corruption Bureau of Ukraine². That's because funding of political parties is

¹ Закон про політичні партії в Україні 2001 (Верховна Рада України). Офіційний сайт Верховної Ради України. <<http://zakon0.rada.gov.ua/laws/show/2365-14?test=4/UMfPEGznhhxsE.Zi7iLGObHI4qQs80msh8Ie6>> (2016, December, 10).

² Закон про внесення змін до деяких законодавчих актів України щодо запобігання політичній корупції 2015 (Верховна Рада України). Офіційний сайт Верховної Ради України. <<http://zakon2.rada.gov.ua/laws/show/731-19>> (2016, December, 10).

controlled by the National Anti-Corruption Bureau of Ukraine, and using the financial support from the state budget is a partial responsibility of the Government Accountability Office.

Membership fees. Amount and payment procedure for membership fees is determined by a party's charter, while information on total amount of membership fees received by a political party, and its structural units within a calendar year must be included in the annual report on political party's property, income, expenses, and financial liabilities.

State funding provides financial support from the state budget, i.e. allocation of financial resources from the State Budget of Ukraine for the appropriate year to political parties that gained two or more percent of popular votes at the latest scheduled or early elections of people's deputies of Ukraine by an electoral list of candidates from this party (with regard to the current parliament, state funding applies to parties that garnered 5% support of voters who participated in voting¹). This financial support applies to political party's charter activities, and recovery of expenses associated with its election campaign funding. Under the new law, the annual amount of funding of charter activities of political parties from the State Budget of Ukraine accounts for 0.02 of the minimum pay rate established as at January 1 of the year preceding the year when financial resources were allocated, multiplied by the number of citizens included at the latest scheduled elections of people's deputies of Ukraine².

According to Article 172 of the Law of Ukraine *On Political Parties in Ukraine*, the annual amount of state funding for political parties' charter activities shall be calculated as follows³: $(1,218 * 0.02) * 16,052,228 = \text{UAH } 391,032,200$, where: UAH 1,218 — minimum pay rate established as at January 1, 2015 under the Law of Ukraine *On State Budget of Ukraine for 2015*; 0.02 — coefficient defined in the Law; 16,052,228 — total number of voters who participated in voting in the nationwide multi-mandate electoral district.

Private funding provides that voluntary contributions may be made in the form of money, or in the form of property, services, and loans, including those offered free of charge, or on more beneficial terms than their market value, particularly, in the form of free transportation or advertising. The new law focuses on private funding as this source of funding is the most corrupt compared to others. Therefore, the law prescribes a more detailed procedure for voluntary contribution and its amount. From now on, legal entities or individuals may make voluntary contributions on a non-cash basis (through banking) to one or more political parties, structural units thereof that acquired a legal entity status in accordance with the established procedure. However, an individual, or a legal entity must give some information in a bank payment document, i.e. first name, surname, date of birth, place of residence, company name and location (if it is a legal entity), and amount (sum) of payment. If an individual has no bank account, and a financial contribution is made in cash, then the financial resources will be transferred to the bank account of a party, or its structural unit⁴.

Every political party shall maintain a register of voluntary contributions received which will show the date, person (company) name, place of residence (location) of an individual/legal entity that has made a voluntary contribution, and its amount (sum). Contributions made in the form of property, services, and loans are recorded in the appropriate legal entity's accounting at their market value which methodology is established by the central executive authority creating the state policy in state accounting. The whole information of voluntary contributions shall be included in annual reports on property, incomes, expenses, and financial liabilities. However, making voluntary contributions is prohibited for⁵: ● foreign states; ● international organizations; ● foreign legal entities; ● non-residents; ● stateless persons; ● Ukrainian

¹ Фінансування партій з бюджету не почнеться 1 липня – Сироїд (2016). *Українська правда*. <<http://www.pravda.com.ua/news/2016/06/6/7110949/>> (2016, December, 10).

² Закон про внесення змін до деяких законодавчих актів України щодо запобігання політичній корупції 2015 (Верховна Рада України). *Офіційний сайт Верховної Ради України*. <<http://zakon2.rada.gov.ua/laws/show/731-19>> (2016, December, 10).

³ НАЗК: політичні партії отримали понад 141 мільйон гривень державного фінансування (2016). *Офіційний сайт Національного агентства з питань запобігання корупції*. <<https://nazk.gov.ua/news/nazk-politychni-partiyi-otrimaly-ponad-141-milyon-gryven-derzhavnogo-finansuvannya>> (2016, December, 10).

⁴ Закон про політичні партії в Україні 2001 (Верховна Рада України). *Офіційний сайт Верховної Ради України*. <<http://zakon0.rada.gov.ua/laws/show/2365-14?test=4/UMfPEGznhhxsE.Zi7iLGObHI4qQs80msh8Ie6>> (2016, December, 10).

⁵ Закон про політичні партії в Україні 2001 (Верховна Рада України). *Офіційний сайт Верховної Ради України*. <<http://zakon0.rada.gov.ua/laws/show/2365-14?test=4/UMfPEGznhhxsE.Zi7iLGObHI4qQs80msh8Ie6>> (2016, December, 10).

nationals under 18; • Ukrainian nationals adjudged incapable; • anonymous persons or persons under a pseudonym.

However, there are restrictions on the total amount of voluntary contributions made by a legal entity and an individual in favor of a political party or its structural unit. The total amount of voluntary contributions made by a legal entity within one calendar year may not exceed 800 minimum pay rates established under the laws of Ukraine as at January 1 of the current year (currently equal to UAH 1,160,000). In turn, the total amount of voluntary contributions made by an individual within one calendar year may not exceed 400 minimum pay rates (currently equal to UAH 580,000)¹. If an individual is a political party member, the total amount of voluntary donations also includes the amount of membership fees paid by this individual within one calendar year, but membership fees and voluntary contributions are separately defined in accounting and financial reports of a political party.

If a political party received financial resources in violation of requirements, it must transfer them to the State Budget of Ukraine within ten calendar days, or they will be collected to the state revenue by judicial procedure. If a political party receives a voluntary contribution exceeding the allowed amount (sum), a part of financial resources will be refunded to an individual who made a voluntary contribution within ten calendar days, or have to be transferred to the State Budget of Ukraine by a political party in the event of failure to do so, or collected to the state revenue by judicial procedure.

In addition, requirements for financial reports of political parties have been greatly expanded and made more specific. From now on, Article 17 of the Law of Ukraine *On Political Parties of Ukraine* not only indicated that financial reports on incomes, expenses and property should be published in nationwide mass media, but also specifically prescribed where and when they should see the world. In particular²: 1) annual report on property, income, expenses, and other financial liabilities shall be published in *Holos Ukrainy* (Voice of Ukraine), and *Uriadovyi Kurier* (Governmental Courier) periodicals, and posted on the party's official website (if any); 2) annual report on property, income, expenses, and other financial liabilities shall be submitted to the Government Accountability Office, and the National Anti-Corruption Bureau of Ukraine in printed and electronic form. A detailed description of the content of the annual report, and the order of priority of information has been added. Now a political party's annual report must include the following data³: • political party's property, and its value; • total amount of membership fees collected by a political party, and its structural units; • detailed information on each voluntary contribution in favor of a political party (date, amount, purpose, as well as full details of the contributor); • date of all payments from political party's accounts, beneficiary, reference, and amount of each payment etc.

An annual report on property, incomes, expenses, auditor's opinions (if any), and other financial liabilities, and also a quarterly report on voluntary contributions received in favor of a political party and its structural units are checked and analyzed by the National Anti-Corruption Bureau of Ukraine. Parts of annual reports covering the use of financial support of political parties from the state budget are checked and analyzed by the Government Accountability Office. The results of checking annual financial reports of political parties are posted on the official webpage of the National Anti-Corruption Bureau of Ukraine, and the Government Accountability Office within two weeks after they have been received and processed. It is the same case with quarterly reports, but they are posted on the website of the National Anti-Corruption Bureau of Ukraine only.

According to part one of Article 175 of the Law of Ukraine *On Political Parties in Ukraine*, the financial resources received by political parties from the state budget for funding their charter activities shall be distributed by the National Agency for Prevention of Corruption.

In October 2016, the National Agency for Prevention of Corruption reported that state funding of charter activities amounting to UAH 141,647,000 for quarter 3 and 4 of 2016 had been received by four of the six political parties represented in the Verkhovna Rada of Ukraine, by presenting a document package

¹ Лемєнов, О. (2016) Чи будуть партії фінансуватися з державного бюджету. *Економічна правда*. <<http://www.epravda.com.ua/publications/2016/05/18/592890/>> (2016, December, 10).

² Закон про політичні партії в Україні 2001 (Верховна Рада України). *Офіційний сайт Верховної Ради України*. <<http://zakon0.rada.gov.ua/laws/show/2365-14?test=4/UMfPEGznhhxsE.Zi7iLGObHI4qQs80msh8Ie6>> (2016, December, 10).

³ Тєслюк, С.А. (2016). Key changes to funding political parties in the updated law of Ukraine On political parties in Ukraine. *Дні науки філософського факультету – 2016: матеріали доповідей і виступів*. Київ: Видавничо-поліграфічний центр "Київський університет", 2, 88-90.

in time, that should be sent to the National Agency for Prevention of Corruption, i.e.¹:

- ✓ report on political party's property, incomes, expenses and financial liabilities for quarter 1 and quarter 2 of 2016;
- ✓ duly certified copy of the statute with amendments in accordance with the Law of Ukraine *On Prevention and Fight against Political Corruption*;
- ✓ certificate issued by a banking institution of Ukraine regarding a separate account opened in the national currency of Ukraine.

The following political parties received state funding in 2016: Narodnyj Front (People's Front) — UAH 50,272,000; Petro Poroshenko Bloc Solidarnist (Solidarity) — UAH 49,543,000; Samopomich (Self-Reliance) Union — UAH 24,923,000; Oleh Lyashko Radical Party — UAH 16,907,000². The All-Ukrainian Union Batkivshchyna (Fatherland) received state funding for their charter activities for quarter 4 of 2016 only, because they did not duly submit a set of documents in accordance with applicable laws. Therefore, the political party All-Ukrainian Union Batkivshchyna received 25% of the total amount of annual state funding for a political party, i.e. UAH 6,448,475³.

It is worthy of note that political parties also have the right to refuse state funding, and this right was exercised by the parliamentary party Opposition Bloc in 2016⁴.

Consequently, with introduction of state funding, Articles of the Law of Ukraine *On Political Parties in Ukraine* with most amendments are as follows: Article 14 *Funds, and Other Property of Political Parties*, Article 15 *Restrictions on Funding of Political Parties*, Article 17 *Financial Accounting of a Political Party*, and Article 18 *Agencies Regulating the Activities of Political Parties*⁵. The rest of the Law Articles have seen slight changes, certain aspects have been reworded, and some details added.

In general, the demand of the European Union to introduce state funding of political parties in Ukraine can be explained primarily by the fact that state funding is the main trend of development of modern laws on political parties, and it is intended to reduce financial dependence of political parties on private contributors. We can say that constitutional recognition of political parties as the most important institution of civil society has become a legal ground for state funding.

Notwithstanding the already adopted amendments to laws, it is planned to adopt a number of amendments with regard to political advertising in the future (restrictions on commercial advertising, on short videos providing no complete picture to citizens in a short period of time, but only manipulating their minds). That was particularly noted by the people's deputy of Ukraine Sergii Leshchenko during the lecture "How the rules of play are changed for political parties by the law on funding thereof" for the audience of Taras Shevchenko National University of Kyiv held on October 20, 2015.

It took Ukraine a long time to achieve changes in funding of political parties; that was spoken about a lot, but no resolute actions were done. The fact that Ukraine is ready for such changes is certain, but it is unknown whether adoption of this law has become a result of internal struggle of civil society for reforming the principles of our country's political system functioning, or that of external pressure of the European Union. From now on, new statutory regulations should provide that activities of political parties will be based on the principles of publicity, openness (availability for general public), and accountability to society.

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¹ НАЗК: умови фінансування політичних партій виконали чотири політичні сили (2016). *Офіційний сайт Національного агентства з питань запобігання корупції*. <<https://nazk.gov.ua/news/nazk-umovy-finansuvannya-politychnyh-partiy-vykonalu-chotyry-politychni-syly>> (2016, December, 10).

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³ НАЗК: ВО «Батьківщина» отримає державне фінансування у четвертому кварталі поточного року (2016). *Офіційний сайт Національного агентства з питань запобігання корупції*. <<https://nazk.gov.ua/news/nazk-vo-batkivshchyna-otrymaye-derzhavne-finansuvannya-u-chetvertomu-kvartali-potochnogo-roku>> (2016, December, 10).

⁴ Чи допомогло державне фінансування партій в Україні зробити їх прозорішими? (2016). *Офіційний сайт Transparency International Україна* <<http://ti-ukraine.org/news/media-about-us/6405.html>> (2016, December, 10).

⁵ Теслюк, С.А. (2016). Key changes to funding political parties in the updated law of Ukraine On political parties in Ukraine. *Дні науки філософського факультету – 2016: матеріали доповідей і виступів*. Київ: Видавничо-поліграфічний центр "Київський університет", 2, 88-90.

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