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**PROJECT AGAINST CORRUPTION IN ALBANIA (PACA)**

**TECHNICAL PAPER**

**RECOMMENDATIONS FOR AMENDMENTS TO THE POLITICAL PARTIES  
LAW**

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## **Introduction**

This Technical Paper has been drafted to implement Activity 1.2.2 of the PACA Workplan, namely to “Provide a review of the legal and institutional framework for regulating and supervising the financing of political parties and elected representatives, including recommendations for amendments to the Law on Political Parties, and the Electoral Code as appropriate, *inter alia* in the light of Third Round GRECO Evaluation recommendations.” Following the first Technical Paper of the Expert and two Roundtable Discussions with key stakeholders on 18 April and 2 June 2010, this contribution outlines/suggests where and how the Political Parties Law should be amended in order to improve the legal framework in such a way as to fulfill GRECO recommendations.

## **1 AMENDMENTS TO SPECIFIC ARTICLES**

The Expert recommends the following changes as a starting point for amending the Political Parties Law. The Article numbers refer to the current numbering, which will clearly change if and when Articles are added.

### **1.1 Article 1: General Principles**

It is recommended to insert an additional article stating/reiterating that the financing of political parties is to be fully transparent and to be conducted in a way that does not undermine the equality of parties and citizens before the law

### **1.2 Article 11 ç)**

It is recommended to delete this article. The Law already defines permitted sources of financing for political parties, and the Article is therefore superfluous, and in the worst case unnecessarily restrictive.

### **1.3 Chapter III: financial means and materials of the parties**

In general, we recommend rearranging the articles of this chapter more logically, for example in the following order of titles:

- financial resources;
- contributions/donations;
- expenditure;
- state subsidies and other assistance;
- reporting;
- oversight and enforcement;
- sanctions

### **1.4 Article 17**

It is recommended to insert a bullet point b) reading as follows: b) financial or other contributions from permitted sources.

### **1.5 Article 18**

The amount stated (100,000 ALL) should be indexed in line with inflation.

### **1.6 Article 19**

It is recommended to include provisions establishing the following:

- A minimum level of state assistance should be defined – for example expressed as a percentage of the state budget.

- The Article should make the provision of state assistance each year conditional on the submission of the party's annual report on its finances for the previous year.

### **1.7 Before Article 21**

We recommend the insertion of an Article that defines what is a contribution to a political party. The definition should include financial donations, in-kind contributions and other transactions including loans and guarantees. The Article should also state that the body that oversees party finances (see below) provides more detailed guidelines in this area. The Article should also require that all financial donations over a certain size are paid to a party bank account

### **1.8 Article 21**

An additional provision should be added to this article to prohibit contributions (or at least ones that are larger than a certain value) from entities whose identity is not known to the party or who do not provide proof of identity.

### **1.9 After Article 21**

It is recommended to insert an article here that provides a definition of what constitutes spending on an electoral campaign, and states that other spending constitutes ordinary (i.e. non-election campaign) spending. This should serve to clarify for the Electoral Code that election campaign spending is 'expenditure incurred by a registered political party in promoting the party or its candidates at a relevant election, or in promoting the standing of the party or its candidates in connection with future relevant elections, including through efforts to damage the prospects of other parties/candidates' (or similarly worded). It is also important to ensure that the definitions make clear that any expenditure on items or services that are used for campaign purposes counts as election campaign spending, even if it is made before the start of the official election campaign period. Again, the Article should provide that the oversight body provides more detailed guidelines on these issues.

### **1.10 Article 23**

This Article should be deleted and rewritten to provide the following provisions:

- Establish the Central Election Commission as the body authorised and responsible for oversight of political party finances
- Define the CEC's role in this area clearly, including the following:
  - establishment of sub-legal framework including binding instructions and guidelines;
  - establishment of rules for the financial audit of parties;
  - power to inspect political party finances, including to demand any documents and evidence necessary to conduct its activity;
  - imposing penalties for violations.

## 1.11 After Article 23

It is recommended to insert two new Articles here containing the following:

Reporting. This article should include the following:

- Political parties have a duty to submit financial reports to CEC on an annual basis
- Financial reports must contain the following:
  - detailed information on income according to templates issued by the CEC – which should include a methodology for accounting for in-kind contributions and other transactions such as loans and guarantees;
  - the identity/specification of the donor for all contributions exceeding a certain size;
  - information on non-election campaign related expenditure;
  - inclusion of information on entities that are established by political parties (e.g. foundations) or related to parties or otherwise under their control.
- Political parties must submit the financial reports together with an independent audit report from an auditing entity from the approved list of CEC, according to a template issued by CEC.
- Annual accounts, audit reports and CEC report/conclusions must be made public on the CEC website within a clearly-defined deadline from the submission of reports by parties.
- The reports should be submitted together with the most recent election campaign financial report if the reporting period included a relevant election

Sanctions. This article (or a separate Chapter if appropriate)

- The law should define responsible persons within political parties as responsible for the proper conduct of party finances (e.g. party leader or party financial officer), or define in which cases the party as an entity is responsible
- The law should define clear and proportionate sanctions for violations of the party financing rules. Small violations should not be punishable by prohibition from standing in elections; likewise, major violations such as failing to submit a financial report should lead to serious sanctions such as the withdrawal of state contributions (including for elections), for example.