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## **Political Party Funding in Romania - One Step Forward, Two Steps Back?**

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**Abstract:** Within political life, the determining role is given to political parties in their capacity as actors in the electoral campaign and in the race for political power. This is the reason for which we believe that the means of financing political parties and the electoral campaigns in which they partake is an important aspect within the electoral reform, as without an adequate funding their chances of winning the electoral race are drastically reduced. On the other hand, funding of political parties is of great interest as the lack of transparency which usually encircles this process can lead to a dangerous phenomenon, namely corruption. Throughout this article we present the current situation and critically analyze the changes which the Romanian legislature plans to apply to the political party financing law.

**Keywords:** political party; funding; Romanian Constitution; freedom of association

### **1 Introduction**

Throughout time, myriad of definitions were issued on the term "political party". Currently as we try to define this concept we must start from the idea stipulated in the doctrine (Muraru & Tănăsescu 2013, p.24), namely that "the party is an association, thereby expressing the means of formation (through the exercising of the citizens' right of association) and its composition (it is a grouping of citizens, a collective)". This expression of the citizens' free will to associate themselves in order to form a political party also results from the provisions of the Romanian Constitution<sup>2</sup> that in the art. nr. 40, paragraph 1 states that citizens may freely associate in political parties, trade unions, employers' associations and other forms of association.

In regards the concept of political party we should note that, in a broad sense, the specialized literature (Ionescu, 2008, p.403) believes that the political party is "a permanent group or association of individuals freely inter-united through ideological affinities and common political beliefs, created at

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<sup>2</sup> Romanian Constitution published in the Romania's Official Monitor, Part I, no. 233 from November 21, 1991, came into effect after its approval through the national referendum of December 8, 1991. Subsequently, it was amended and supplemented by the Law for the revision of the Romanian Constitution, namely Law no. 429/2003, published in the Romania's Official Monitor, Part I, no. 758 from November 29, 2003, republished by the Legislative Council, pursuant to the art. 152 from the Constitution, the terms being updated and the texts renumbered (art. 152 became, in its revised form, art. 156).

the local level based on strict principles of organization and discipline, designed, the stipulations being listed in a program or status, to promote and participate in electoral and parliamentary campaigns with other parties of a particular doctrine or with political views on the development and management of a given society."

In our case we will concur to the view (Dănișor, 2003, p.304) according to which the political party is defined as "a form of structure, initially based on an ideology, which links the state and the civil society, aimed to order and to participate or at least to direct the public power, in the public interest and using constitutional means." The same author states that if the means provided by the constitution are not followed in order to accede to power, we are no longer talking of a political party but of a group which wants to stage a coup.

The legal definition of the political party is given by art. 1 from Law no. 14/2003 of political parties<sup>1</sup>. Thus political parties are considered to be associations of a political nature of Romanian voting citizens, freely participating in the materializing and in the exercising of their free political will, fulfilling a public mission guaranteed by Constitution. We believe that this definition should be supplemented with the provisions of art. 2 of the same law which stipulates that by their activity, political parties promote national interests and values, political pluralism, contribute to the shaping of public opinion, participate with its candidates in elections and to the establishment of public authorities and stimulate the participation of citizens in the polls, according to the effecting legislature.

The main purpose of political parties is totally different from that of other associations and consists in the conquest of power, and the manner in which they can achieve this goal is represented by the electoral process. Following the unfolding of the electoral campaign some parties will come to power, others will find themselves in the opposition. The role of the opposition parties in the political arena should not be minimized because they continue their struggle for power by means of constructive criticism to the parties that hold the majority in the parliament.

Based on the role that the Constitution<sup>2</sup> assigns to political parties or their contribution to the definition and expression of the political will of the citizens we conclude that their presence in the political arena is vital. However, in order to be able to "play" their role in this competition, the political parties need funding.

In the present study we will try to present the changes<sup>3</sup> that the legislator wishes to bring to the political party funding law, amendments explained by the fact that the effective regulations are too permissive, giving political parties the opportunity to obtain funding outside the legal framework.

## **2 A New Source of Funding**

The topic of political party funding is of utmost interest in our country given that, in recent years, the political scene has been afflicted by scandals that had as a starting point the corruption revealed within the process of funding various political parties. Moreover, in the explanatory memorandum to the

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<sup>1</sup> Political parties Law no. 14 published in the Official Monitor no. 25 from 17.1.2003, republished on Official Monitor no. 347 from 12.05.2014.

<sup>2</sup> Art.8 paragraph 2 from the Constitution of Romania.

<sup>3</sup> The legislative proposal entitled Law for the amendment and the completion of Law no. 334/2006 on the financing of political parties and electoral campaigns was adopted by the Chamber of Deputies on 18.03.2015 and on 25.03.2015 the law was sent for promulgation to the President of Romania - [http://www.cdep.ro/pls/proiecte/upl\\_pck.proiect?idp=13537](http://www.cdep.ro/pls/proiecte/upl_pck.proiect?idp=13537) accessed on 27.03.2015.

legislative proposal the initiators argued the implementations of the recommendations of the Group for Fighting Corruption (GRECO).

Currently the funding of political parties is regulated by the Law on financing of political parties and electoral campaigns<sup>1</sup> that mention from its beginning (Article 1, paragraph 1) that its purpose is to ensure equal opportunities in political competition and transparency in funding. Likewise, the law states that according to the source, we can talk about two types of funding:

- a) public funding - is accomplished by subsidies from the state budget;
- b) private funding - its sources of funding are: party membership quotas, donations, legacies and other liberties, income from their own activities (editing, writing publications, organizing meetings and political seminars, economic activities, sports activities, entertainment, domestic service, renting their owned premises for conferences, parliamentary offices, sublease, etc.)

The new proposed amendments provide, among others, a new source of funding for political parties namely borrowing money from natural and legal persons. The loans can be contracted by political parties only through authentic notarial papers, under the penalty of nullity, accompanied by the delivery-receipt documents, in the agreement being provided the manner and due date of their refund. The loans that have a value greater than 100 minimum gross basic salaries per country are subject to the terms of publicity set out in the law. Likewise, lending by political parties, political or electoral alliances and by independent candidates to natural or legal persons is prohibited.

The matter which needs clarifying is whether in this new source of political parties funding - the loan in cash – there will be the possibility to "hide" certain "suspicious" transactions, especially in the absence of a maximum term of loan repayment. Natural or legal persons<sup>2</sup> can lend to a political party stipulating a small interest rate or less than that of the banks as to subsequently acquire certain advantages from that political party. The persons who do not want to give their support for certain parties public can lend them sums of money that have lesser value than 100 minimum gross salaries without having to disclose their name, thus maintaining the lack of transparency. What will happen if a party cannot repay the loan and the related interest given when not all political parties have valuable real estate? What kind of "services" will that party provide in exchange for that debt? The legislator's proposal to amend the legal provisions is seen as beneficial in what concerns the support given to political parties, which require funding, but it is thought that the law's text should be rephrased in order for political parties to be able to receive loans only from Romania's lending institutions<sup>3</sup>, with responsibilities in the field and with the condition that the granting of loans should not be made following preferential conditions. Thus the political parties will solve the issue of funding and the suspicions that may arise with crediting of a loan will vanish.

### **3 Financing the Electoral Campaign from the State's Budget**

Another amendment that is intended to be brought to the law of political parties funding refers to the refunding of sums of money spent by the political parties during the electoral campaign. Thus, within 90 days from the date of the elections for the Chamber of Deputies and the Senate, the Permanent

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<sup>1</sup> Law no 334 from the 17th of July 2006 concerning funding of the political parties' activities and electoral campaigns, republished in the Official Monitor, Part I, no. 510 from 22.07.2010.

<sup>2</sup> The proposed amendments provide that the amounts of money related to the received loans by a political party from a natural person in a year can be up to 200 minimum gross salaries per country and from one judiciary person up to 500 minimum gross salaries per country.

<sup>3</sup> Banks, lending companies, etc.

Electoral Authority must reimburse to political parties, political alliances and national minorities organizations (in accordance with the principle of non-discrimination - see extensively Maftai 2010), based on the documentary evidence provided by the financial agent within 30 days of the election date, the amounts of expenditure incurred in all electoral constituencies, as well as those carried out at the central level in the case that the political party, political alliance, electoral alliance or organization of national minorities obtained at least 3% of the valid votes, cast nationally, for each of the two chambers of Parliament. If at least 3% of the valid votes, cast on a national level, were not obtained, the Permanent Electoral Authority must reimburse those parties, on the basis of the documentary evidence provided by the financial agent, only the amounts of expenditure incurred at the level of the constituency in which at least 3% of the votes cast was obtained.

Currently, political parties are subsidized by the state budget (public financing), according to the law, the amount received by the parties having a limit of 0.04% of the income provided in the state budget. The criteria for granting the subsidy from the state budget are the number of votes received in the parliamentary elections (75% of the annual budget) and the number of votes received in local elections (25% of the annual budget). As seen in the table below the amounts that political parties that are currently subsidized is quite high, the growth not being justified.

**Table 1. Total subsidy from the state budget for each political party –March 2015<sup>1</sup>**

Criteria no.	Political party	Amount(lei)
1.	Social Democrat Party	164.731,56 164,731.56
2.	National Liberal Party	197,282.80
3.	Conservator Party	16,011.36
4.	National Union for the Progress of Romania	7,532.39
5.	Christian Democrat National Peasants' Party	1,387.34
6.	The People's Party - Dan Diaconescu	69,221.55
<b>TOTAL</b>		<b>456,167.00</b>

Based on the above stated we adhere to the opinion (Gilia 2012, p.68) according to which "an exclusive funding from the state budget is extremely costly, especially for a country like Romania that faces multiple financial problems and has trouble in allocating amounts of money in critical areas to the development and the evolution of a nation (e.g. education, health, development, etc.)". Professor Claudia Gilia also notes that there can be stated myriad of tools in electoral laws in order to determine a more rigorous selection of candidates, to prevent electoral bribery, to establish clear rules on principles which should govern any choice, like the eligibility conditions, the organization and development of elections, the electoral disputes, funding and control of electoral campaign accounts all these eventually leading to a clean political class.

Proving that an exclusive funding of electoral campaigns is not necessary we will to show the fundamental role of other sources of funding in the election campaign of the President of Romania, namely the donation.

<sup>1</sup>[http://www.roaep.ro/finantare/wp-content/uploads/2015/03/PAGINA-TOTAL-SUBVENTIE-LUNA-MARTIE-2015\\_SITE1-EX.pdf](http://www.roaep.ro/finantare/wp-content/uploads/2015/03/PAGINA-TOTAL-SUBVENTIE-LUNA-MARTIE-2015_SITE1-EX.pdf), accessed on 7.04.2015.

**Centralizer for the received and declared donation by political parties, electoral alliances and independent candidates for the presidential election campaign in 2014<sup>1</sup>**

**ELECTION CAMPAIGN - TOTAL**

I.	Political party	Total donations		
		Legal persons	Natural persons	Total
1.	Electoral Alliance PSD-UNPR-PC	768,794	2,961,175	<b>3,729,969</b>
2.	Christian Liberal National Liberal Party - Liberal Democratic Party Alliance	622,140	3,035,099	<b>3,657,239</b>
3.	Popular Movement Party	96,000	721,510	<b>817,510</b>
4.	Democratic Union of Hungarians in Romania	0	67,302	<b>67,302</b>
5.	The People's Party - Dan Diaconescu`	1,000	17,714	<b>18,714</b>
6.	The Socialist Alternative Party	0	0	<b>0</b>
7.	Hungarian People's Party of Transylvania	100	19,800	<b>19,900</b>
8.	Romanian Green Party	0	0	<b>0</b>
9.	PRODEMO Party	0	0	<b>0</b>
10.	Great Romania Party	0	4,393	<b>4,393</b>
<b>Total donations for political parties</b>		<b>1,488,034</b>	<b>6,826,992</b>	<b>8,315,026</b>

II.	Independent candidate	Total donations		
		Legal persons	Natural persons	Total
1.	Teodor - Viorel - Meleşcanu	0	164,960	<b>164,960</b>
2.	Călin - Constantin - Anton Popescu Tăriceanu	50,300	785,968	<b>836,268</b>
3.	Monica - Luisa Macovei	78,892	218,028	<b>296,920</b>
4.	Gheorghe Funar	4,400	4,200	<b>8,600</b>
<b>Total donations for independent candidates</b>		<b>133,592</b>	<b>1,173,156</b>	<b>1,306,748</b>

As shown in the table above the amounts received as donations by political parties, independent candidates, political and electoral alliances for the presidential electoral campaign in Romania are quite consistent and can relieve the state budget from additional subsidies for political parties. In our case we believe that the exclusive financing of electoral campaigns from the state budget is not the solution, the real solution means creating a set of clear and stable rules and procedures that prevent the apparition of "black money" in election campaigns. For example, maintaining the confidentiality of donations (amounts below 10 minimum gross salaries per country) continues to raise suspicions and leads to criticism about the lack of transparency etc.

#### 4. The Danger of External Funding

Another important aspect of the legislative proposal that must be debated is the amendment of provisions regarding the possibility of funding the electoral campaign from external sources. The current provisions<sup>2</sup> prohibiting funding by natural or legal persons from abroad are still kept, but an

<sup>1</sup> <http://www.roaep.ro/finantare/wp-content/uploads/2014/11/21-noiembrie-2014-FINAL.pdf>, accessed on 7.04.2015.

<sup>2</sup> Currently the law states that campaign funding by foreign natural or legal persons, be it direct or indirect, is illegal (art. 24 paragraph1). Likewise, accepting donations from other states or foreign organizations as well as from foreign natural or legal persons is prohibited (Article 11 paragraph 1) - Law no 334 / 2006 concerning funding of the political parties' activities and electoral campaigns.

exception is introduced namely that funding from Member States of the European Union citizens, residing in Romania, who hold political party membership to whose electoral campaign they financially contribute, is accepted.

Funds from external sources of the electoral campaigns is a vulnerability of the entire electoral process because if that party wins the elections or is in a position to influence the government the possibility that it will be "constrained" to make some "concessions" (contrary to the national interest ) by and to the external sponsors.

We understand the desire of the legislator to amend the law in the spirit of the European Union, but we believe that there are several aspects that remained unclear. According to the proposed amendments donations from citizens of the European Union Member States which meet the conditions relating to residence and party membership are accepted but their mere membership in a European Union Member State is not a sufficient guarantee, they still being citizens of a foreign state.

Likewise, the proposed amendment being unclear, there is a possibility that political parties will be externally funded through donations or through the new source of funding - the loan. Romanian companies can finance electoral campaigns even if foreigners or stateless persons or other foreign firms are amongst their shareholders. In these circumstances we believe that it is necessary that the text of the law should provide in the case of these companies a limitation of foreign participation to 20-30% or a more radical solution, eliminating legal entities with foreign or mixed capital from the list of potential donors or from those who can lend money to political parties. In order to endorse this idea, we mention the recent suspicions aroused by a loan given by a Russian bank to the National Front Party (FN) in France given the fact that the Marine Le Pen (the party's leader) constantly praised Russia's actions in Ukraine and blamed the West for the crisis, the FN Members of the European Parliament voting against an European Parliament resolution condemning Russia<sup>1</sup>.

## **5. Conclusion**

The present realities have shown that it is no longer possible to fund political parties solely from quotas paid by party members, multiple sources of funding being required for their activities to function normally. Under these circumstances it is imperative to diversify the sources of funding (public and private) and also to ensure transparency thereof in order to avoid any further suspicions.

The proposed amendments to the law on funding of political parties solves some of the current problems (the so-called "electoral charity" etc. being eliminated), but as was shown throughout this article, it does not eliminate them completely, there still being the possibility that the funding will convert itself into corruption. Funding of election campaigns exclusively from the state budget will not solve the problem of corruption, on the contrary there being the possibility that the subsidies managers will not behave like "good managers" which will lead to corruption and create discontent among the population. Keeping the confidentiality of donations and loans, maintaining law vulnerabilities throughout its content by permitting external funding, allows us to conclude by saying that although the modernization of the law was wanted through the proposed amendments, it was not accomplished. We still need clear provisions that cannot be subjected to interpretations and more transparency in the process of funding of political parties.

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<sup>1</sup> <http://www.hotnews.ro/stiri-international-18652783-frontul-national-partidul-extremist-din-franta-imprumutat-9-milioane-euro-banca-apropiata-kremlin.htm>, accessed on 7.04.2015.

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### **Legislation**

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