



# **PROBLEMS OF POLITICAL PARTY FINANCE IN THE REPUBLIC OF ARMENIA**

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Akanates was founded in August 2018. The mission’s goal is to promote free and fair elections, the integrity of electoral processes, and public oversight thereof.

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## Preface

Political parties are vital for building a democratic society. According to the definition by the European Commission for Democracy through Law (the Venice Commission) of the Council of Europe and the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE), “political parties are critical means by which citizens participate in their government and representative democracy is realized.”<sup>1</sup> Given this role in building a democratic society, it becomes essential to safeguard the effective and lawful functioning of political parties, as well as citizens’ trust in them.

Financial resources and access thereto are crucial for political parties; without them, political parties cannot grow or develop or gain a sufficient electorate for winning elections. The Venice Commission and the OSCE/ODIHR state that “transparency in party and campaign finance ... is important to protect the rights of voters and to prevent corruption. Transparency is also important because the public has the right to be informed. Voters must have relevant information as to the financial support given to political parties in order to hold parties accountable.”<sup>2</sup> Sociology and political science doctor Anthony Butler believes that competitors who cannot raise equivalent funds, risk losing the political race before it has even begun.<sup>3</sup> He then follows that, in a representative and pluralistic democracy, finance is the “blood that runs through the veins.” Despite the extreme importance of party finance for an effective democracy, many countries fail, due to a variety of reasons, to focus sufficiently on this problem.

To gain public trust in a democratic society, it is essential to have transparent financing and political party accountability before the public. Interestingly, back in the 1910s, the transparency of political party financing interested the political scientists. Max Weber, the sociologist, political scientist, and philosopher, noted that political party financing is one of the least transparent aspects of political party activities.<sup>4</sup> Therefore, democratic states should not only provide favorable conditions for the creation and development of new parties, but also secure an environment for their lawful and responsible conduct. The flow of unlawful finance into political parties must be prevented through appropriate state oversight and public control.

The goal of this Paper is to identify and analyze the problems related to political party finance and the transparency and accountability of their activities in the Republic of Armenia, and to present recommendations aimed at changing policies.

The Paper contains the findings of an overview of the legal framework and practice of the Republic of Armenia, as well as the relevant international experience.

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<sup>1</sup> Venice Commission and OSCE/ODIHR, *Guidelines on Political Party Regulation* (Warsaw/Strasbourg, 2011), p. 17, <https://www.osce.org/odihr/77812?download=true>

<sup>2</sup> Ibid, p. 76.

<sup>3</sup> Anthony Butler, *Paying for politics. Party funding and political change in South Africa and global south* (Cape Town, 2010), p. 1.

<sup>4</sup> Kristina Weissenbach and Karul Rudolf-Korte, *Paying for politics. Party funding and political change in South Africa and global south* (Cape Town, 2010), p. 138.

This study has covered, in particular, the following:

- Domestic legal acts regulating the activities of political parties, including legal provisions and oversight tools;
- Documents of international or regional organizations;
- Materials of leading organizations that internationally specialize in this topic;
- Academic literature sources; and
- Reports of international and local observation missions on elections that have taken place in Armenia.

The problems raised through this study were presented and discussed in a workshop with stakeholders organized by “Akanates” observation mission on 25 June 2019.

## General Overview

The creation of the first Armenian political parties began at the end of the 19<sup>th</sup> century. At first, in 1885, the Armenakian Party was established in the town of Van in Western Armenia, followed by the Hunchakian Party (in 1887) and the Armenian Revolutionary Federation (in 1890).<sup>5</sup> All three operated during the Turkish dictatorship era, mostly underground, surviving as organizations due to financial donations of benefactors and sometimes also membership fees.

During 1918-1920, four political parties were represented in the Parliament of the First Armenian Republic, two of which were the aforementioned Armenian Revolutionary Federation and the Hunchakian Party, while the other two were the Social-Democratic Party and the People’s Party of Armenia. In those years, to meet the basic needs of a people that had just experienced a genocide and were living in a newly-emerging state that had to face foreign aggression, in light also of the realities of the times, the regulation of political party activities and financing was not a priority.

In the 70 years that followed, the second Armenian Republic, which was a part of the Soviet Union, had a monopartisan system like the rest of the Soviet Union, where the communist party, in a symbiosis with the state, had a monopoly, which meant that the regulation of political party financing could not even be pursued.

In Armenian reality, political party financing was for the first time regulated by the Law on Social-Political Organizations adopted on 26 February 1991. The law contained only eight articles. Article 6 was fully dedicated to the assets and resources of a social-political organization. It provided as follows: “*The resources of a social-political organization shall emanate from membership fees, publication activities, donations from non-state sources, assets received from inheritance, and cultural activities.*” The law provided that those revenues were subject to taxation, and the revenues, their sources, expenditures, and the lawfulness of property were subject to state

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<sup>5</sup> Yerevan State University, Institute for Armenian Studies, *The Formation of Armenian National Parties*, p. 1, [http://www.armin.am/content\\_images/4\\_%20.pdf](http://www.armin.am/content_images/4_%20.pdf)

financial oversight. Moreover, the said law required an annual statement on financial performance to be presented to the financial authorities. The lawfulness of political party activities would be overseen by the Ministry of Justice of the Republic of Armenia. The Law on Social-Political Organizations remained in effect for over 10 years.

On 15 November 2002, the Republic of Armenia Law on Political Parties was adopted. It remained in effect for 15 years, up to 1 April 2017. On 12 December 2016, the Constitutional Law on Political Parties was adopted, which was largely the same as the 2002 Law on Political Parties. The law was amended because of the December 2015 referendum that had resulted in constitutional amendments that necessitated the adoption of a new law having the status of a constitutional law.

The general and current financing of political parties is regulated by the Constitutional Law on Political Parties, while political party finance in the pre-election period is regulated by the Republic of Armenia Constitutional Law on the Electoral Code adopted on 25 May 2016. The current Electoral Code is Armenia's fourth electoral law adopted in the post-Soviet period. It was preceded by two codes adopted in 2011 and earlier in 1999, prior to which electoral processes had been regulated by the 4 April 1995 Law of the Republic of Armenia on the Election of Deputies of the National Assembly of the Republic of Armenia.

In Armenia, political parties have traditionally been among the institutions perceived as having the lowest credibility. The 2015 Armenia Caucasus Barometer survey conducted by the Caucasus Research Resource Centers – Armenia found that political parties enjoyed the least public trust (just 8 percent) among 17 Armenian institutions.<sup>6</sup> A 2018 public opinion survey conducted by the International Republican Institute found that only 5 percent of the respondents considered the activities of political parties to be completely transparent and open.<sup>7</sup> It is among the worst-performing five, next to the courts, regional governors (*marzpets*), local governments, and tax agencies.

Enhancing the role and significance of political parties in the Republic of Armenia is an urgent imperative, considering that after the 2015 constitutional amendments, the country has transitioned to a parliamentary form of government. The importance of parties has become even more evident in the context of the public expectations formed as a result of the revolution that took place in Armenia in April and May of 2018. The 2018 December parliamentary elections were the first free, competitive, and credible elections since 1996: they inspire hope that the current government has genuine political will to restore democratic order in Armenia, as a result of which each political party will stand a realistic chance of becoming elected through free and fair elections and implementing their program.

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<sup>6</sup> Caucasus Research Resource Centers - Armenia, *Caucasus Barometer 2015 Armenia* (Yerevan, 2015), p. 11, [http://www.crrc.am/hosting/file/\\_static\\_content/barometer/2015/CRRC-Armenia\\_CB2015\\_Presentation.pdf](http://www.crrc.am/hosting/file/_static_content/barometer/2015/CRRC-Armenia_CB2015_Presentation.pdf)

<sup>7</sup> Center for Insights in Survey Research, *Public Opinion Survey: Residents of Armenia* (Yerevan, 2018), p. 29, [https://www.iri.org/sites/default/files/2018.11.23\\_armenia\\_poll.pdf](https://www.iri.org/sites/default/files/2018.11.23_armenia_poll.pdf)

## The Findings

Party finance is typically regulated in two areas in terms of time periods and actors:

- Current funding, which applies permanently to all registered political parties; and
- Pre-election campaign finance, which applies during the pre-election campaign period to political parties that are participating in elections on their own or in an alliance jointly with other political units.

### A. Current Funding of Political Parties

Current funding of political parties may be seen as having five crucial elements, the analysis of which could enable determining whether the political parties' current funding system is effective or not. They are as follows:

1. The revenue sources of political parties;
2. State assistance to political parties;
3. Transparency and accountability;
4. Sanctions for breaches; and
5. The work of the regulatory body.

#### *Revenue Sources of Political Parties*

The Venice Commission and the OSCE/ODIHR Guidelines on Political Party Regulation state the following as revenue sources for political parties:

1. Membership fees;
2. Loans, borrowings, and their payments;
3. Private contributions; and
4. The sale of political party materials and merchandise.<sup>8</sup>

According to Article 23 of the Republic of Armenia Constitutional Law on Political Parties, the assets of a political party in Armenia shall be derived from the following sources:

1. Political party membership accession fees;
2. Membership fees;
3. State budget financing; and
4. Revenue from activities provided by the said Law.

#### *Membership Fees*

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<sup>8</sup> Venice Commission and OSCE/ODIHR, *Guidelines on Political Party Regulation* (Warsaw/Strasbourg, 2011), p. 66-68, <https://www.osce.org/odihr/77812?download=true>

The Venice Commission and the OSCE/ODIHR state three key conditions that legal regulations concerning membership fees must fulfill:

1. Membership fees should not be so high as to unduly restrict membership;
2. Membership fees should not be used as means to circumvent contribution limits; and
3. Any membership fee should be of a reasonable amount, and a waiver of the fee requirement should be applicable in cases of certain members.<sup>9</sup>

With respect to membership fees, Paragraph 2 of Article 23 of the Republic of Armenia Constitutional Law on Political Parties provides that political parties may have membership fees, and Paragraph 3 prescribes the maximum amount of membership fees, which annually may not exceed 1,000-fold the minimum salary (i.e. one million Armenian drams). Such a high threshold (83,000 Armenian drams per month) on the one hand allows political parties to have flexibility and to safeguard considerable financing from their wealthy members, and on the other hand may restrict the freedom of association of citizens to only the wealthy, unless a political party combines it with waivers or discounts. Another concern is that a high threshold creates favorable conditions for channeling to parties financial resources of questionable origin.

The political parties currently represented in the Parliament reported the following membership fees for 2018: the Civil Contract party (My Step alliance) declared 11,585,000 drams, and the Mission Party (same alliance) declared zero drams. The second-place Bright Armenia party declared 7,536,100 drams, and the third-place Prosperous Armenia party declared 5,457,100 drams.<sup>10</sup>

Political Party	Membership Fees for 2018
<b>Civil Contract</b>	11,585,000
<b>Mission</b>	0
<b>Bright Armenia</b>	7,536,100
<b>Prosperous Armenia</b>	5,457,100

The political party reporting form must contain, in addition to the membership fees amount, the number of payers, but this is not always done. For Prosperous Armenia, for example, while the collected membership fees are 5,457,100 drams, the number of payers is 15 (i.e. a total of only 15 members paid membership fees, so each member paid on average 363,806 drams), which is unreasonable at a minimum. Bright Armenia and Civil Contract parties did not specify the number of payers altogether. As to the Mission party, its existence is in general questionable given the absence of financial and other resources.

### *Loans and Borrowings*

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<sup>9</sup> Ibid.

<sup>10</sup> The reports of the all the political parties are taken from [www.azdarar.am](http://www.azdarar.am).



The 2016 Constitutional Law on Political Parties for the first time prescribed loans and borrowings as a source of revenue for political parties,<sup>11</sup> while their repayment by third parties is viewed as a contribution.<sup>12</sup>

Nonetheless, whilst legally allowing funding through loans and borrowings, the state practically does not ensure that the sources of such funding are disclosed. Republic of Armenia Government Decree 403-N dated 20 April 2017, in particular, which approves the Political Party Funding Sources and Expenditures and Assets Report Publication and Presentation Procedure and Reporting Form, does not clearly provide a separate line for loans/borrowings, which actually limits the possibility for reporting and subsequent oversight.

### *Donations*

The Council of Europe, Recommendation (2003) 4 on the Common Rules against Corruption in the Field of Political Parties and Electoral Campaigns rather comprehensively defines a donation as “any deliberate act to bestow advantage, economic or otherwise, on a political party.”<sup>13</sup>

In Armenia, donations to political parties are regulated by Article 24 of the Republic of Armenia Constitutional Law on Political Parties, which prescribes the limits on donations, the acceptable sources, and prohibited donations. Paragraph 1 of Article 24 provides: “Political parties shall have the right to receive donations from natural persons and legal entities in the form of property, including cash, including loans, borrowings, and third parties’ repayment of the political party’s debt...” It essentially does not clarify the definition of a donation.

Article 24 prescribes what may be donated and by whom. As noted above, donations may include property, cash, borrowings, loans, third parties’ repayment of the political party’s debt, as well as works and services.<sup>14</sup> There is currently a legal loophole with respect to in-kind contribution of works and services performed. Paragraph 2 of Article 27 of the Republic of Armenia Constitutional Law on Political Parties provides that political parties shall present in their annual report only the funding sources and expenditures, as well as property, but the law contains no requirements on in-kind contributions. International experts in the field have stated in this connection that “political parties and political candidates ought to keep records of all their revenues and expenditures, including loans and in-kind donations.”<sup>15</sup>

Special rules and limits are prescribed for real estate: donation of real estate by a single person may not exceed 200,000-fold the minimum salary, i.e. 200 million Armenian drams. However, there is no rule on how to appraise the real estate, which allows discretionary appraisal of real estate below the market value, avoiding a situation of exceeding the limits prescribed by law. For

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<sup>11</sup> Republic of Armenia Constitutional Law on Political Parties, Article 24, para. 1.

<sup>12</sup> Ibid.

<sup>13</sup> Council of Europe, Recommendation (2003) 4, *Common Rules against Corruption in the Field of Political Parties and Electoral Campaigns* (Strasbourg, 2003), article 2

<sup>14</sup> Republic of Armenia Constitutional Law on Political Parties, Article 24, para. 2.

<sup>15</sup> UNODC, IFES, OSCE/ODIHR, *Report. Expert Group Meeting. Transparency in Political Finance* (Prague, 2019), p. 10,

[https://www.unodc.org/documents/corruption/PragueEGM2019/Report\\_EGM\\_Transparency\\_in\\_Political\\_Finance\\_Prague.pdf](https://www.unodc.org/documents/corruption/PragueEGM2019/Report_EGM_Transparency_in_Political_Finance_Prague.pdf)

example, real estate worth 400 million drams can be presented as a donation the value of which does not exceed 200 million drams. An overview of the 2018 reports of the political parties represented in the Armenian Parliament shows that, during 2018, none of the political parties reported donation of real estate or possession of own real estate, which is hardly realistic. The Civil Contract and Bright Armenia political parties each declared lease of one office, which is questionable in both cases. The Prosperous Armenia political party declared lease of “offices,” but provided the address of only one such office. The Mission party did not have office lease expenditures, which once again justifies the suspicion that the party in effect does not operate.

Article 24 of the Republic of Armenia Constitutional Law on Political Parties provides that donations may be made by commercial and non-commercial organizations and natural persons. During one year, a commercial organization may donate the equivalent of no more than 10,000-fold the minimum salary (i.e. 10 million drams), while a non-commercial organization may donate not more than 1,000-fold the minimum salary (i.e. one million drams). The sum of all donations made by a natural person during a year may not exceed one million-fold the minimum salary (i.e. one billion drams).

	Donations by Natural Persons, 2018	Donations by Legal Entities, 2018
<b>Civil Contract</b>	81,420,000	9,650,000
<b>Mission</b>	0	0
<b>Bright Armenia</b>	21,243,100	500,000
<b>Prosperous Armenia</b>	47,160,000	0

The table above clearly indicates that the ruling party receives the largest amount of donations from both natural persons and legal entities. This phenomenon may be in part due to the public enthusiasm in the post-revolutionary situation and the strong urge to contribute to the success of the revolutionary government. However, the donations made to the Prosperous Armenia party, which apparently does not need much funding, as it is led by one of the richest men in Armenia, raise certain doubt, as they could have been made by the party’s leader through proxy natural persons.

Whilst enabling donations to political parties, states apply certain restrictions in order to protect the political landscape from suspicious sponsorship and influences. The most common restriction is the prohibition of donations by state structures, which is aimed at preventing the abuse of state resources.<sup>16</sup> Many countries also prohibit foreign and anonymous donations.<sup>17</sup>

<sup>16</sup> International IDEA, p. 20, <http://www.eods.eu/library/IDEA.Funding%20of%20Political%20Parties%20and%20Election%20Campaigns.pdf>

<sup>17</sup> Ibid.

The Republic of Armenia Constitutional Law on Political Parties defines the following seven groups of entities that are prohibited from making donations to political parties:<sup>18</sup>

1. Charitable or religious organizations, as well as organizations in which they participate;
2. State and municipal budgets and/or extra-budgetary funds;
3. State and municipal non-commercial organizations, and commercial organizations with state and municipal participation;
4. Foreign states, foreign citizens and legal entities, as well as legal entities with foreign participation, if the share or shares or stock held by the foreign entity accounts for over 30 percent of such legal entity's statutory capital (stock, equity);
5. International organizations;
6. Stateless persons; and
7. Anonymous persons.

Illicit funding generally enters into politics mostly in two ways—donations through proxy citizens or proxy organizations. Lithuania has been successful in regulating donations through proxy citizens: in Lithuania, a citizen who transfers money exceeding the prescribed limit must present a declaration of assets and income.<sup>19</sup> As to proxy organizations, the rules in the 2011 law, which were abandoned in the 2016 law, used to be rather effective, as they prescribed restrictions on legal entities registered in the six months preceding the donation date.

Potential private sector funding of political parties is generally problematic, because it makes political parties dependent on private interests, which will most probably have to be compensated in the future by means of adopting legal acts or performing other actions favorable for the relevant private entity. While international organizations propose certain rules to avoid dependency on private companies caused in this manner and to rule out the possibility of granting them future advantages,<sup>20</sup> the possibility of properly enforcing such rules is extremely small, and as a consequence, elected bodies may end up feeling accountable before the donating companies, rather than constituents.

Council of Europe Recommendations 1516 (2001) and 2003 (4) outline the following four main types of prohibited sources:

1. State organizations and organizations that provide services to the public sector;
2. Organizations registered in offshore zones;
3. Religious organizations; and
4. Foreign donations.

As for the latter two sources, the Armenian legislation is clear. As to second source—offshore organizations, Armenia's restriction is rather broad and covers any type of foreign legal entity,

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<sup>18</sup> Republic of Armenia Constitutional Law on Political Parties, Article 24, para. 4.

<sup>19</sup> Konrad-Adenauer-Stiftung and Transparency International Anticorruption Center, *Assessment of Legislation and Practice of Private Donations to Political Parties in Armenia* (Yerevan, 2016), p. 60, <https://transparency.am/files/publications/kas.pdf>

<sup>20</sup> Council of Europe, Recommendations 1516 (2001) , *Financing of political parties* (Strasbourg, 2001), <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16907&lang=en>

and legal entities with foreign participation may donate if the share/stock of the foreign participant in such entity's statutory capital does not exceed 30 percent.<sup>21</sup> As to the first source, Armenia's legislation does not prescribe a prohibition for organizations delivering public services. It enables private companies that bid in and won public procurement tenders to compensate, by means of making a donation, the ruling party or the power that helped it to win the tender.

Furthermore, stakeholder discussions have revealed certain concerns related to the prohibition of donations by representatives of the Armenian Diaspora: some participants believe that they should have the right to make donations and thereby participate in Armenia's political processes, while others are convinced that it would pose risks of other states intervening in Armenia's domestic government.

### *Sale of Materials and Merchandise related to the Political Party*

Some countries (Singapore, Japan, and Malaysia) consider entrepreneurial activities by a political party, including the sale of materials and merchandise related to the political party, an important source of revenues for political parties. Magnus Ohman, a leading expert in political party financing, states that "Given the lack of funding available to many political parties, the unwillingness of many private interests to support them and the limited public resources available, it may be advisable to consider allowing political parties to engage in limited commercial activities related to their normal activities, such as printing and publishing."<sup>22</sup>

Moreover, he recommends putting in place several conditions so that:

1. Political parties do not have the right to participate in state transactions;
2. The income derived from entrepreneurial activities accounts for a limited share of the party's total assets; and
3. Any commercial transaction is mentioned in the political party's report.<sup>23</sup>

This issue is not clearly regulated in the Republic of Armenia, and there are ambiguous rules: Paragraph 2 of Article 23 of the Republic of Armenia Constitutional Law on Political Parties specifies the following five possible sources of property for a political party: accession fees, membership fees, state budget financing, donations, and "income derived from activities prescribed by this Law." The Law prescribes that a political party may create a mass news outlet and printing houses,<sup>24</sup> and carry out activities not prohibited by law.<sup>25</sup> Moreover, the same Article provides that "a political party may not be the founder or participant of a commercial legal entity, with the exception of the cases provided by this Article."<sup>26</sup> The analysis of these provisions indicates that a political party may engage in publishing activities and create a mass news outlet

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<sup>21</sup> Ibid.

<sup>22</sup> International IDEA, p. 48.

<sup>23</sup> Ibid.

<sup>24</sup> Republic of Armenia Constitutional Law on Political Parties, Article 21, para. 1, point 3.

<sup>25</sup> Ibid, Article 21, para. 1, point 8.

<sup>26</sup> Ibid, Article 21, para. 3

and engage in whatever the mass media typically do for a profit, but a political party may not engage in other entrepreneurial activities, such as selling clothes carrying the party's insignia.

Republic of Armenia Government Decree 403-N dated 20 April 2017, which approves the Political Party Finance Sources and Expenditures and Assets Report Publication and Presentation Procedure and Reporting Form, prescribes a dedicated line called "income from other civil law transactions and other sources not prohibited by the legislation."<sup>27</sup> However, while political parties have the right to establish news media or printing houses, the law is silent with respect to their financial accountability. Therefore, Government Decree 403-N does not contain any requirement on declaring the profit generated by the news media or printing houses created by political parties. Moreover, there are no legal rules on oversight of the activities of such news media or printing houses, and they are not viewed as entities related with the political party that created them.

Importantly, none of the political parties represented in the current convocation of the Parliament has declared anything in the dedicated line called "income from other civil law transactions and other sources not prohibited by the legislation."

### *State Assistance to Political Parties*

The choice of the format for giving state financial assistance to political parties should be primarily driven by the goal pursued thereby. The International IDEA (the International Institute for Democracy and Electoral Assistance) highlights the following three key purposes:

1. Helping all relevant political forces to reach the electorate effectively;
2. Limiting the impact of financial differences between rich and poor parties and candidates; and
3. Encouraging good behavior by those that receive funding.<sup>28</sup>

Depending on the level of democracy in a country, another key goal can be the creation of opportunities for the development of political parties.

Public funding for political parties can be of two types: providing money or providing free or subsidized goods or services.<sup>29</sup> According to a survey conducted by the reputable international IDEA, 64 out of 173 countries (37 percent) have public financial assistance to political parties,<sup>30</sup> and in a large number of those (21 percent), the criterion for providing funding is the number of votes received, the threshold of which is 3.5 percent.<sup>31</sup>

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<sup>27</sup> Republic of Armenia Government Decree 403-N of 20 April 2017, approving the Political Party Funding Sources and Expenditures and Assets Report Publication and Presentation Procedure and Reporting Form.

<sup>28</sup> International IDEA, International IDEA, *Funding of Political Parties and Election Campaigns. A handbook on Political Finance* (Stromborg, 2014), p. 25,

<http://www.eods.eu/library/IDEA.Funding%20of%20Political%20Parties%20and%20Election%20Campaigns.pdf>

<sup>29</sup> International IDEA, p. 23.

<sup>30</sup> <https://www.idea.int/data-tools/question-view/548>

<sup>31</sup> International IDEA, p. 24.

The public assistance given to political parties in the Republic of Armenia mostly takes the form of financing from the state budget, but only to the political parties the electoral list of which received at least three percent of the sum of the total number of votes cast for the electoral lists of all parties taking part in the most recent National Assembly election and the error margin.<sup>32</sup> In other words, one can conclude that Armenia has a three percent threshold, which is quite close to the international one.

Nine political parties and two alliances took part in the parliamentary election held in Armenia on 9 December 2018. Only 2 party and one alliance were able to overcome the passing thresholds of 5 and 7 percent, respectively.<sup>33</sup> Five of the other political forces were able to receive three percent or more of the votes. As a result, of the nine political parties and two alliances, four political parties (Bright Armenia, Prosperous Armenia, Republican Party of Armenia, and Armenian Revolutionary Federation) and one alliance of political parties (My Step alliance of political parties) became eligible for public funding. Parties that do not cross the threshold for public funding may have still received a rather large number of votes, but cannot develop as they are deprived of state assistance. For example, the We alliance of parties, which received two percent of the votes, did not pass the threshold and will not receive public assistance, even though 25,176 voters—rather many, cast their votes for this alliance.

The current formula for political party financing is prescribed by Paragraph 2 of Article 26 of the Republic of Armenia Constitutional Law on Political Parties as follows: “The total amount of funding for political parties as per the State Budget of the Republic of Armenia may not be less than the product of 0.04-fold the minimum salary prescribed by law and the total number of citizens included in the voter lists in the most recent National Assembly election.” The assistance provided by the state is a rather small amount, which should be increased, although it depends also on the financial resources of the state.

The following other types of public assistance are made available to political parties in Armenia:<sup>34</sup>

1. Political parties are granted access to the mass media created with the participation of state and local government bodies; and
2. State and local government bodies make available to political parties their own buildings and communication means, and primacy in using them shall be safeguarded to the political parties that took part in the distribution of mandates in the National Assembly election.

There are no legal rules that would prescribe in detail the formats for implementing these possibilities in practice. As a consequence, the prescribed possibilities become declarative.

Participants in the stakeholder discussion expressed a number of opinions on increasing public assistance to political parties. Some suggested a transition to total public funding of political parties, with a reduced threshold of only one percent of the total votes, or a regressive system for political party financing, whereby the winning party will receive relatively less assistance than the

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<sup>32</sup> Republic of Armenia Constitutional Law on Political Parties, Article 26, para. 3.

<sup>33</sup> Republic of Armenia Constitutional Law on the Electoral Code, Article 95, para 4.

<sup>34</sup> Republic of Armenia Constitutional Law on Political Parties, Article 25, para. 1.

losing one (for instance, if party A receives 40 percent of the votes, and party B receives 15 percent, the latter will receive more financial assistance from the state than the former).

Another proposal was to implement the co-financing model used in some states of the German Federation, whereby for any private donation not exceeding EUR 3,300, the state provides to the party a supplement in the amount of 38 percent of the donation received from private citizens, thereby encouraging ties with citizens and citizens' assistance to political parties.<sup>35</sup> This approach may force the political parties to work more actively with citizens, to stay in touch with them, and to be accountable before them. Contrary to this, total state funding may lead to a situation in which political parties will no longer feel accountable before the citizens, and creating a political party may become simply a means of receiving funding.

### *Transparency and Accountability*

With respect to the transparency and accountability of political party funding, Paragraph 3 of Article 7 of the UN Convention against Corruption provides: "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties."<sup>36</sup> It is generally considered that the transparency and accountability of political party funding serve two goals: firstly, helping citizens to make informed decisions before going to the polling stations, and secondly, making it easier for the oversight authorities to perform their oversight functions.<sup>37</sup>

Paragraph 3 of Article 46 of the Republic of Armenia Constitution provides: "Political parties shall publish annual reports on the sources of their financing and their expenditures, as well as their property." This provision is detailed out in Article 22 of the Republic of Armenia Constitutional Law on Political Parties, which provides in sub-paragraph 2 of Paragraph 1 that the state shall require political parties to publish a report on the use of property each year on the <http://www.azdarar.am> official website for public notices of the Republic of Armenia, which shall contain information on the sources of such property. This provision in turn is detailed out further in Paragraph 2 of Article 27 of the same Law, providing that "a political party shall be obliged to publish in the mass media, for each year, prior to 25 March of the year following the reported year, a report on the party's financing sources and expenditures, as well as property during the reported year (hereinafter "Report") and, in cases provided by law, an audit opinion thereon, and in accordance with the established procedure, to post it on the official website for public notices of the Republic of Armenia." Thereafter, no later than by 1 April of the year following the reported year, the political party shall be obliged to present the report and evidence of having published it to the Oversight and Audit Service (OAS) of the Central Electoral Commission (CEC). The report shall contain data on the sources and volume of proceeds credited to the political party's account, the spending

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<sup>35</sup> Konrad-Adenauer-Stiftung and Transparency International Anticorruption Center, p. 54.

<sup>36</sup> UN Convention against Corruption, Article 7, para. 3, <https://www.arlis.am/DocumentView.aspx?DocID=48021>

<sup>37</sup> International IDEA, p. 28.

thereof, and the property owned, including its value.<sup>38</sup> Any donation, irrespective of the size, shall be mentioned in the annual report.<sup>39</sup>

Political parties must undergo an audit and must publish their annual report only after being audited, if they receive public funding or if the value of their assets exceeded 10,000-fold the minimum salary (10 million Armenian drams).<sup>40</sup> If the assets of a political party exceeded 10,000-fold the minimum salary because of the value of immovable and movable property contained in such party's current year's balance sheet, provided that the party has once already presented an audit opinion thereon to the Oversight and Audit Service, the party shall in subsequent reported years be exempted of the obligation to present an audit opinion, unless the immovable and movable property contained in such party's balance sheet have changed relative to the preceding year.<sup>41</sup> If the immovable and movable property contained in a party's balance sheet have changed, the party shall be obliged to present a report together with the audit opinion under the procedure prescribed by this Law, if the sum of all transactions performed during the reported year exceeded 10,000-fold the minimum salary.

The analysis of the 2018 annual reports of the four parties currently represented in Armenia's Parliament has shown that none of them has declared transportation expenses, which may simply mean that the parties' members or supporters either do not transport people in vehicles or the political parties do not view it as a donation, despite the requirement of the law.

There is a legal issue here. Although the Republic of Armenia Constitutional Law on Political Parties provides that works and services performed must be viewed as in-kind donations, Government Decree 403-N, which regulates the Political Party Funding Sources and Expenditures and Assets Report Publication and Presentation Procedure and Reporting Form, does not contain a separate line for calculating and declaring such donations. Even though the reporting form contains item 7, which provides for declaring donations such as income from civil law transactions and other sources not prohibited by the legislation, it is very incomplete and implies specifying an amount without prescribing a mechanism for calculating it.

The second problem identified by the analysis of the 2018 annual reports of the four parties currently represented in Armenia's Parliament is that only one party (Prosperous Armenia) reported expenditures on lease of more than one office. Two of the others (Civil Contract and Bright Armenia) reported lease of only one office each. The Mission party did not report any. For Civil Contract and Bright Armenia, this is simply impossible, which means that the offices leased by them in fact either are donated free of charge by their members or supporters or are not contained in the report, of their members or supporters or others pay for such offices, but they are not contained in the report.

The third problem discovered by the aforementioned analysis of the 2018 annual reports of the four parties currently represented in Armenia's Parliament is that only the Prosperous Armenia

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<sup>38</sup> Republic of Armenia Constitutional Law on Political Parties, Article 27, para. 4.

<sup>39</sup> Ibid, Article 27, para. 5.

<sup>40</sup> Ibid, Article 28, para. 1.

<sup>41</sup> Ibid, Article 28, para. 2.



party declared the existence of any movable property, while the other four declared absolutely nothing, which obviously cannot be the reality.

Presently, online donations can be made in virtual currencies such as the Bitcoin. This is a new reality that is still not subject to a clear position in the form of recommendations by the international organizations. However, the problem is already being discussed, as mentioned during the UNODC Expert Group Meeting on Transparency in Political Finance in May 2019.<sup>42</sup> Citizens have the right to expect transparency and accountability from the political parties; hence, states must prescribe legal rules for incorporating online and virtual currency donations in the party reports, as well.

Another problem is that, although the legislation allows political parties to receive loans and to borrow debt, the standard reporting form approved under Government Decree 403-N fails to contain a relevant line.

The transparency of income and expenditures of political parties and activities performed for the party by third parties must be seen as a whole.

One of the key problems is that mass media connected with the political party are not included in the reports, which is due to a legislative gap. For example, the “Multimedia Center” closed joint-stock company found by Gagik Tsarukyan, the leader of the Prosperous Armenia party, which broadcasts the Kentron television channel that regularly engages in positive propaganda for the Prosperous Armenia party, is not in any way presented in its report. This is fully consistent with the current legal rules, hence the rules on related entities need to be clarified so as to cover such third parties. This concerns also charitable organizations and foundations, which very often carry out hidden propaganda for their parties.

To an extent, the Republic of Armenia Constitutional Law on Political Parties views the mass media and printing houses created by a political party as related entities. However, the Law does not clearly regulate either their status as entities related with the political party, or any legal rules on their reporting requirements. Such rules need to be prescribed. Moreover, the types of potential entities (mass media, NGOs, foundations, and companies) need to be added.

In addition to related entities, there are also unrelated third parties that carry out propaganda for a certain party, acting in support of its ideology. A number of countries (Canada, New Zealand, and the United Kingdom) have rather advanced legislation regulating these issues.<sup>43</sup>

During the stakeholder discussion, all participants agreed that any transaction in which political parties are involved must be in non-cash form.

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<sup>42</sup> UNODC, IFES, OSCE/ODIHR, *Report. Expert Group Meeting. Transparency in Political Finance* (Prague, 2019), p. 4, [https://www.unodc.org/documents/corruption/PragueEGM2019/Report\\_EGM\\_Transparency\\_in\\_Political\\_Finance\\_Prague.pdf](https://www.unodc.org/documents/corruption/PragueEGM2019/Report_EGM_Transparency_in_Political_Finance_Prague.pdf)

<sup>43</sup> International IDEA, p. 260.

*Sanctions for Breaches*

Effective procedures of liability are essential for ensuring integrity of funding and oversight, which should include meaningful sanctions, as emphasized in Paragraph 8(e) of the Council of Europe Recommendation 1516 (2001).

The legislation on sanctions is not proportionate, leaving the impression that party funding had not been considered sufficiently important. As to the existing sanctions, an overview of public sources indicated that they have never been imposed in recent years with respect to any political party.

Sanctions related to political party funding are prescribed by Articles 189.13 to 189.16 of the Republic of Armenia Code on Administrative Offences. These offences are investigated by the CEC.<sup>44</sup>

Act	Sanction	Aggravating Circumstance	Sanction
<b>Article 189.13. Failure to present to the authorized state body or to publish a report on resources received and spent by the political party during the reported year</b>	A fine on the political party’s officials in the amount of 40-50-fold the minimum salary (40,000 to 50,000 Armenian drams)	The same offence, committed again within a month of imposing the administrative sanction	A fine in the amount of 400-500-fold the minimum salary (400,000 to 500,000 Armenian drams)
<b>Article 189.14. Failure to provide in a timely manner the documents provided by law when demanded by the authorized body for checking the credibility of a report published by the political party and presented to the authorized body</b>	A fine on the political party’s officials in the amount of 80-100-fold the minimum salary (80,000 to 100,000 Armenian drams)	The same offence, committed again within a month of imposing the administrative sanction	A fine on the political party’s officials in the amount of 150-200-fold the minimum salary (150,000 to 200,000 Armenian drams)
<b>Article 189.15. Failure to make in non-cash form the monetary donations</b>	A fine on the donating organization’s officials in the amount of 200-	The same offence, committed	A fine on the donating organization’s officials in the amount of 350-

<sup>44</sup> Republic of Armenia Code on Administrative Offences, Article 223.2.

<p><b>to the political party in excess of 100-fold the minimum salary</b></p>	<p>250-fold the minimum salary (200,000 to 250,000 Armenian drams)</p> <p>A fine on the donating citizen in the amount of 100-150-fold the minimum salary (100,000 to 150,000 Armenian drams)</p> <p>A fine on the political party's officials in the amount of 250-300-fold the minimum salary (250,000 to 300,000 Armenian drams)</p>	<p>again within a year</p>	<p>400-fold the minimum salary (350,000 to 400,000 Armenian drams)</p> <p>A fine on the donating citizen in the amount of 200-250-fold the minimum salary (200,000 to 250,000 Armenian drams)</p> <p>A fine on the political party's officials in the amount of 500-600-fold the minimum salary (500,000 to 600,000 Armenian drams)</p>
<p><b><u>Article 189.16.</u> Failure of a party to transfer to the state budget or to the donor any donation exceeding the amount set by law or any unauthorized donation within the time period set by law</b></p>	<p>A fine on the political party's officials in the amount of 100-150-fold the minimum salary (100,000 to 150,000 Armenian drams)</p>	<p>The same offence, committed again within a month of imposing the administrative sanction</p>	<p>A fine on the political party's officials in the amount of 200-250-fold the minimum salary (200,000 to 250,000 Armenian drams)</p>

Many of these sanctions are such that they cannot be preventive, which runs contrary to the purpose of prescribing them. For example, the sanction for failure to present a report is 40,000 to 50,000 Armenian drams. If the same offence is committed again within a month of imposing the administrative sanction, the sanction is 400,000 to 500,000 Armenian drams. A party that receives public funding and must, together with the report, publish the auditor's opinion, may simply pay this amount and avoid the audit, especially because the cost of paying for financial audit would be much higher than the aforementioned fine.

The liability prescribed with respect to the current funding of parties is generally inadequate. For certain offences, no liability is prescribed, and for others, the prescribed sanctions are weak and ineffective. The sanctions need a fundamental review and increasing in view of the systemic changes undertaken in this field. Moreover, the body overseeing the activities of parties should have sufficient political will and a toolkit for effectively and impartially enforcing the respective sanctions.

## *The Work of the Regulatory Body*

The international secretariat of Transparency International has stated that, in order to be effective, the oversight body should have a proper mandate and resources, as well as the power to investigate corruption cases in its field, which should not be a mere formality.<sup>45</sup>

The state body authorized to oversee political party funding in the Republic of Armenia is the Oversight and Audit Service (OAS), which, although it operates under the CEC, should be independent of the CEC by law.<sup>46</sup> The status of this entity and the legislation on its activities are very contradictory, as a result of which its effectiveness is extremely low.

On the one hand, the CEC has the power to investigate such breaches, and on the other, the Paragraph 1 of Article 20 of the Republic of Armenia Constitutional Law on the Electoral Code provides: “The Oversight and Audit Service shall carry out ... oversight of the current financial activities of political parties.”<sup>47</sup>

It is also prescribed that the Oversight and Audit Service shall operate independently of the electoral commissions and shall not report to them. However, according to sub-paragraph 4 of Paragraph 11 of its operating procedure adopted by Decree 39 of the CEC of Armenia,<sup>48</sup> the Oversight and Audit Service shall prepare draft decisions on matters pertaining to its work and shall present them to the CEC for review. In other words, the Oversight and Audit Service has no legal power to impose sanctions at all.

The Oversight and Audit Service consists of the Head of the Service and two employees. The Head of the service is appointed by the CEC for a seven-year term and may not be a political party member or engage in political activities.<sup>49</sup>

Back in 2014, the report of the Round Three Monitoring of the Istanbul Anti-Corruption Action Plan under the Istanbul Anti-Corruption Action Plan of the Organisation for Economic Co-operation and Development (OECD) stated the following with respect to the Control and Oversight Service: “Ensure substantial and independent monitoring of election campaign funding and monitoring of political parties finance by an independent authority, with adequate staff, material resources and powers to proactively supervise such funding, investigate alleged infringements of political financing regulations and impose sanctions. At a minimum, the Oversight and Audit Service should be given the power and corresponding tools to assess and verify the validity of

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<sup>45</sup> Transparency International, *Policy Position No. 01/2009: Standards On Political Funding And Favours* (Berlin, 2009), [https://www.transparency.org/whatwedo/publication/policy\\_position\\_no\\_01\\_2009\\_standards\\_on\\_political\\_funding\\_and\\_favours](https://www.transparency.org/whatwedo/publication/policy_position_no_01_2009_standards_on_political_funding_and_favours)

<sup>46</sup> Republic of Armenia Constitutional Law on the Electoral Code, Article 29, para. 1.

<sup>47</sup> Republic of Armenia Central Electoral Commission, decision 39-N on the Operating Procedure of the Control and Oversight Service, 17.06.2016, [http://res.elections.am/images/dec/16.39\\_N.pdf](http://res.elections.am/images/dec/16.39_N.pdf)

<sup>48</sup> Ibid.

<sup>49</sup> Republic of Armenia Central Electoral Commission, decision 39-N, paragraphs 6, 8, and 9.

declarations.”<sup>50</sup> In addition, a number of problems related to the work of the Oversight and Audit Service were identified by the Transparency International Anticorruption Center in an assessment carried out in 2016.<sup>51</sup> Nonetheless, the legislation and practice related to the Oversight and Audit Service have not been improved: it continues to operate with limited resources and powers, performing purely mechanical and formal work without going into the details of the documents presented by political parties.

Interestingly, during the stakeholder discussion, participants, including the representative of the Oversight and Audit Service, stated that the Oversight and Audit Service can properly perform its functions only if the country requires universal declarations, so as to identify and preclude corruption risks and unlawful transactions.

## **B. Political Party Financing during Pre-Election Campaigns**

Political party finance during pre-election campaigns is regulated by the Republic of Armenia Constitutional Law on the Electoral Code.

### *Declarations of Political Parties*

According to Paragraph 5 of Article 8 of the Republic of Armenia Constitutional Law on the Electoral Code, within five days of the deadline to become registered for participating in elections, parties (party alliances) shall present to the CEC a declaration on the property and income of the party (of the parties included in the party alliance). The declaration shall contain the composition of the property as of the first day of the month in which the documents are presented to the CEC for registration, as well as the income received during the 12 calendar months preceding the month of the deadline for presenting the registration documents. Within a three-day period of presenting them, the declarations shall be posted on the CEC’s website.

As per the CEC’s decision 24-N, declarations shall contain information on:

1. The party’s immovable and movable property;
2. High-value property, cash, shares, stocks, and income exceeding eight million drams or its equivalent in foreign currency, which is not specified in the “immovable and movable property” tables; and
3. The “incomes” section shall also contain the name and address (in case of a natural person—surname, name, and patronymic, and place of residence) of the income payer.<sup>52</sup>

The Republic of Armenia Constitutional Law on the Electoral Code does not permit donations by legal entities, unless they are made by the very same party or, in case of an alliance, a party that is a member of the alliance. It must be noted here that the Code contains no clear requirements

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<sup>50</sup> OECD, Istanbul Anti-Corruption Action Plan, *3<sup>rd</sup> round of monitoring. Anti-corruption reforms in Armenia* (Paris, 2014), New Recommendation 21- p. 92, <https://www.oecd.org/daf/anti-bribery/Armenia-Round-3-Monitoring-Report-ENG.pdf>

<sup>51</sup> Konrad-Adenauer-Stiftung and Transparency International Anticorruption Center.

<sup>52</sup> Republic of Armenia Central Electoral Commission, decision 24-N, 17 June 2016, [https://res.elections.am/images/dec/16.24\\_N.pdf](https://res.elections.am/images/dec/16.24_N.pdf)

on declaring data on the donor, and although the CEC incorporated such a requirement in the asset declaration form, it is not lawful. “Akanates” observation mission found that in the 2018 snap elections of the National assembly, only the Mission party declared a donation providing the donor’s name. The Republican Party of Armenia and the Armenian Revolutionary Party presented other sources of their income.<sup>53</sup> On the other hand, the prohibition of donations by legal entities during the actual pre-election campaign period actually does not prohibit their contributions to parties and party dependency on them. Donations may be made prior to the pre-election campaign period, become the party’s own resources, and be used for the pre-election campaigning.

### *Pre-Election Funds*

For the National assembly elections and for city council elections in Yerevan, Gyumri, and Vanadzor, parties (party alliances) participating in the elections are required to open a pre-election fund<sup>54</sup> within seven days of the adoption of the decision to register the electoral list of the party (party alliance) participating in the election.

In case of repeated failure to open a pre-election fund within three working days of the imposition of an administrative sanction for the failure to open a pre-election fund, the competent electoral commission shall apply to court demanding invalidation of the registration of the candidate or of the electoral list of the party participating in the election.<sup>55</sup> In case of a party alliance, the parties that are in the alliance and the candidates nominated in the electoral list of a party participating in the election shall not have the right to create separate pre-election funds.<sup>56</sup>

The pre-election fund of a party (party alliance) participating in the election shall be formed from:<sup>57</sup>

1. The resources of the party (the parties that are in the alliance);
2. The personal resources of a candidate who is in the electoral list of a party (party alliance) that participates in the election; and
3. Voluntary contributions by persons that have the right to vote.

Resources in the pre-election fund may be the only source of funding for the expenses of pre-election campaigning in the mass media, expenses of lease of space and halls (except for campaign headquarters) for organizing meetings with voters and pre-election assemblies, expenses of producing (posting) and purchasing campaign posters and printed and other campaign materials, and expenses of preparing all types of campaign materials (including printed materials) given to the voters.<sup>58</sup> This list does include the majority of the campaign expenses, but not all of them, such as the lease of offices for campaign headquarters, the remuneration of the

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<sup>53</sup> Akanates observation mission, *Report on the Long-Term and Short-Term Observation Mission of the 9 December 2018 Extraordinary Election of the National Assembly of the Republic of Armenia* (Yerevan, 2019), p. 35  
<https://transparency.am/files/publications/1554816519-0-788440.pdf>

<sup>54</sup> Republic of Armenia Constitutional Law on the Electoral Code, Article 26, para. 1.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Republic of Armenia Constitutional Law on the Electoral Code, Article 26, para. 3.

<sup>58</sup> Ibid, Article 27, para. 1.

staff of campaign headquarters, advertisement in the social media, transportation and hospitality expenses, and so on. In other words, the expenses that are rather significant are covered not from the pre-election fund, which leaves them outside of oversight by either the Oversight and Audit Service or the general public.

The law does not provide for the opening of a pre-election fund by candidates who are in the territorial lists of parties participating in the National Assembly election, although the candidates who are in the territorial lists sometimes carry out an extensive campaign.

Similar to the rules on general funding, the rules on pre-election campaign funding, too, do not cover funding by third parties.

According to Article 28 of the Republic of Armenia Constitutional Law on the Electoral Code, parties participating in elections shall present a declaration on payments to their pre-election fund and their use to the Oversight and Audit Service on the 10th day after the start of the pre-election campaign, also on the 20th day in case of regular elections to the National Assembly and to the city councils of Yerevan, Gyumri, and Vanadzor, and also no later than three days prior to the deadline set for tabulating the election results. The declaration shall be presented together with the contracts signed by the candidate or the party participating in the election for pre-election campaign in the mass media, for lease of space and halls (except for campaign headquarters) for organizing meetings with voters and pre-election assemblies, for producing (posting) and purchasing campaign posters and printed and other campaign materials, and for preparing all types of campaign materials (including printed materials) given to the voters, as well as documents confirming the payments made. The declaration shall, as per a decision of the CEC, contain the chronology of payments made to the pre-election fund, the amount paid, the expenses incurred for purchasing each service, property, and goods stipulated by the Electoral Code, the time of incurring them, information on the documents confirming the expenses, and the balance of the fund.

“Akanates” observation mission found that in the 2018 snap elections of the National assembly, the declarations presented by parties (party alliances) on pre-election funds did not contain a clear classification of the purchased goods and services. For example, many of the political parties had payments for “political advertisement” or “advertisement services,” and it is hard to clearly tell which of the respective services provided by the Electoral Code it pertains to—paid air time or printed materials. Along the same lines, in the declarations of some political parties, the “goods and services” section contained only the names of the organizations/private entrepreneurs providing the services, and it was not always possible to understand what services it referred to.<sup>59</sup>

The provisions of the Electoral Code in this area are inadequate: Paragraph 3 of Article 28 of the Electoral Code provides that the declaration on payments made to the pre-election fund and their use must contain the expenses made for purchasing any of the specified services, assets, and

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<sup>59</sup> Akanates observation mission, *Report on the Long-Term and Short-Term Observation Mission of the 9 December 2018 Extraordinary Election of the National Assembly of the Republic of Armenia* (Yerevan, 2019), p. 39 <https://transparency.am/files/publications/1554816519-0-788440.pdf>

goods, the time of incurring such expenses, and information on the documents confirming the expenses, but no clear requirement on non-cash transactions.

### *The Work of the Regulatory Body*

During the pre-election campaign period, the powers of the Oversight and Audit Service are rather narrow, technical, and confined mostly to audit work, namely the comparison of expenses stated in the declaration and their contractual bases, as well as the checking whether payments to and from the fund meet the requirements of the Electoral Code. Its oversight currently does not address the main problems related to election financing, the links between politics and business, conflicts of interest, failures in safeguarding finance transparency, misinformation, and so on.

### **Conclusion and Recommendations**

In the present political situation in Armenia, political party finance is clearly confronted with the following imperatives and priorities:

1. Increasing public trust in the political parties and strengthening their links with and accountability before the citizens;
2. Increasing the possibilities for political party funding and mitigating the differences;
3. Complete transparency, accountability, and oversight of financial revenues and expenses of political parties; and
4. Prohibition of the entry into politics of finance obtained through illicit and dishonest means.

The recommendations below are aimed at solving the existing problems and addressing the legislative and practical shortcomings identified during the research.

### **The Revenue Sources of Political Parties**

1. Restrict membership fees of political parties by prescribing reasonable amounts, as well as discounts/waivers for members that do not have sufficient ability to pay the fees.
2. Define the term “donation” in line with the Council of Europe Recommendation (2003) 4, as follows: “A donation is any deliberate act to bestow advantage, economic or otherwise, on a political party, which is made by a person who under the Armenian legislation has the right to make a donation.”
3. Define a prohibition of donations made to parties by legal entities, so as to preclude as much as possible situations of conflicts of interest and to ensure that political parties serve public, rather than private interests.
4. For evaluating movable and immovable property that is a donation or own property included in reports, as well as for evaluating other in-kind contributions (such as volunteer work), prescribe evaluation methods in order to ensure universal and proportionate application.
5. To add to the list of entities prohibited from making donations the organizations delivering public services, as well as legal entities that have taken part in public procurements in the last year, when one year has not passed after the end of their contract term.



6. To add to the list of donation prohibitions that donations may not be made from accounts registered in foreign banks or other financial institutions, or using electronic currencies, or in foreign currency from any bank or financial institution.
7. To define the status of related persons for the mass media, companies, foundations, charitable organizations, and non-governmental organizations created by political parties or with the participation of representatives of their governing body/bodies, and to require that income and expenses related to entrepreneurial activities shall be fully incorporated in the reports of the political party (including the pre-election fund).
8. To define unequivocally the possibility for political parties to engage in entrepreneurial activities related to their statutory objectives by imposing certain restrictions so that companies related to them may not participate in public procurements or other transactions, as well as setting a permissible profit threshold or percentage (for example, the profit from such activity may not exceed one third of the total annual finance of the political party).

### State Assistance to Political Parties

9. To reduce the eligibility threshold prescribed for state assistance granted to political parties from three percent to one or at most two percent.
10. To increase the state assistance to political parties by revising the existing formula and/or coefficient, considering to the extent possible a regressive financing model.
11. To implement a system of state co-financing/bonuses for political parties as a means of supplementing at a certain rate the amounts raised by political parties through private donations, so as to encourage ties with citizens and accountability before them.
12. To develop the procedure by which political parties may use state and municipal property (buildings, communication means), as well as mass media created with the participation of the state and municipalities, ensuring non-discrimination in rights and/or primary use conditions for political parties not in the power.

### Transparency and Accountability

13. To ensure the full conformity of political party report forms with the requirements of the law, making it mandatory to fill out the details (including the number of those paying membership fees, and the amount of loans and borrowings).
14. To incorporate in political party reports in-kind contributions such as work and services or other donations, online and virtual donations, the donors' names (for donations above a certain threshold, such as 20,000 Armenian drams), income from own entrepreneurial activities and related party entrepreneurial activities, and the place of the work.
15. To incorporate all expenses in pre-election fund reports, including the costs of campaign headquarters, the remuneration of campaign headquarters staff, activities, online advertisement, transportation and utilities, and volunteer work. To require clear classification of goods and services in the report forms.
16. To require that all membership fee payments and political party transactions above a certain threshold (such as 20,000 Armenian drams) be made in non-cash form, using payment and settlement systems that operate in Armenia's financial system, and be made in Armenian drams.

17. To make an incremental transition to a system of universal declarations by all citizens, and to introduce, as a transitional step, a mandatory requirement to declare assets and income for citizens that have made donations above 500,000 Armenian drams.
18. In the “holder of information” definition in Article 3 of the Republic of Armenia Law on the Freedom of Information, add political parties registered and operating in the Republic of Armenia among the list of “organizations funded from the state budget.”
19. To publish all the documents related to party activities, which are subject to publication, in open source data form, making them accessible to stakeholders' for their own oversight and analysis.

### Sanctions for Breaches

20. To review the liability for breaches of the law and to introduce more severe sanctions. To define sanctions for incomplete filling of the declarations, including the possibility of terminating the activities of a political party.

### The Work of the Regulatory Body

21. To review the status of the Oversight and Audit Service, considering the possibility of transferring the regulatory body's power of political party oversight to the Corruption Prevention Authority.
22. To review the structure, resources, powers, and toolkit of the Oversight and Audit Service in order to ensure independent, complete, and substantive oversight of current and pre-election period financing of political parties.

### Epilogue

After the 2018 April Revolution, Armenia has seen a drastic change in the ability of political parties to come to the power by lawful means, as well as the challenges for their activities. While in the past, citizens did not trust the political parties and/or were afraid of contributing especially to the financing of opposition political parties, as they had fears of potential pressure (for instance, by tax and other authorities) in abuse of administrative resources, this problem no longer exists.

Today's challenges are considerably different from those of the past. It is now necessary to create possibilities for making finance accessible for political parties, whilst preventing the impact of illicit finance and grand capital on politics. It is thus essential to implement systemic and comprehensive change in the system, with a view to creating a new independent authority equipped with an adequate toolkit and resources to carry out proper oversight of finance in politics and to operate in such a way as to restore public trust in political parties and the state.

The international secretariat of Transparency International has stated that when political parties do not undertake to have clean policies and electoral competition, legal regulations alone will hardly succeed.<sup>60</sup> It is important to achieve political consensus between the political parties in

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<sup>60</sup> Transparency International, *Policy Position No. 01/2009: Standards On Political Funding And Favours* (Berlin, 2009), p. 4,

Armenia on having a clean political field that will enable all actors to compete honestly around ideas.

As was noted already, finance in politics is like the “blood that runs through the veins,” and its natural circulation is vital for building a genuinely democratic state. The top challenge currently faced by political parties in Armenia is to forge and restore public trust.

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