

# POLITICAL PARTIES VS CAMPAIGN TRANSPARENCY

**STANDARDS ON CAMPAIGN TRANSPARENCY OF POLITICAL  
ENTITIES, LEGAL REGULATION AND BEST PRACTICES**

**2018**





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# ABBREVIATIONS

|                 |   |
|-----------------|---|
| <b>KDI</b>      | Kosovo Democratic Institute                               |
| <b>TI</b>       | Transparency International                                |
| <b>CEC</b>      | Central Election Commission                               |
| <b>Office</b>   | Office for Political Party Registration and Certification |
| <b>EU</b>       | European Union  |
| <b>LGE</b>      | Law on General Elections                                  |
| <b>LLE</b>      | Law on Local Election                                     |
| <b>TI CZ</b>    | Transparency International Czech Republic                 |
| <b>AAK</b>      | Alliance for the Future of Kosovo                         |
| <b>AKR</b>      | New Kosovo Alliance                                       |
| <b>LVV</b>      | Vetëvendosje! Movement for Self-Determination             |
| <b>NISMA SD</b> | Social Democratic Initiative                              |
| <b>PDK</b>      | Democratic Party of Kosovo                                |



# INTRODUCTION

In the first two decades after the war, Kosovo has organized seven local elections and six general elections. In addition, Kosovo has organized early parliamentary elections, which resulted from the inability of the Kosovo Assembly to conclude its 4-year constitutional mandate.

Elections and election campaigns in Kosovo are regulated by the Constitution, the Law on General Elections and the Law on Local Elections, as well as by secondary legislation issued by the Central Election Commission over the years with the aim to facilitate and better implement the law. This legal framework, including the related bylaws, regulates the aspects of elections successful progress, while their amendment based on shortcomings identified by local and international election observers and by the political parties themselves has stalled. This is also confirmed by the 2017 Parliamentary Election Report of the European Union Election Observation Mission. This report highlights that since 2011, there have been several unsuccessful attempts for a comprehensive reform of the election system and for addressing the identified shortcomings, including the announcement of early elections within an extremely short timeframe, and as a result, the shortened deadlines in the election calendar that invalidate a number of election rights.<sup>1</sup>

This legal analysis has been prepared in the frame of the joint project of the Kosovo Democratic Institute (KDI) and Transparency International from the Czech Republic (TI-CZ) aimed at enhancing the transparency of Kosovo political entities in Kosovo during election campaigns, respectively in terms of election campaign expenditures and financing and the funding of political entities in general. Referring to the best practices in Europe, such as those of the Czech Republic, the KDI aims to promote standards for enhancing transparency in terms of election campaign management, election campaign expenditures, election campaign financing, and financing of political entities in general, which have been applied and proved successful. Among those, noteworthy is the online access to the bank accounts of political entities, which enables the public to see who finances a political entity and

how much money does it spend for the election campaign; the publication of plans for meetings and visits to be organized throughout the campaign; the obligation for candidates to declare all campaign expenditures, etc.

Laws in Kosovo do not regulate a very important segment of elections, i.e. the individual funding of candidates' campaign for members of the assembly as well as for mayor. The financial reports of political entities continue to only include the expenses of the entity, but not those of the individual candidates.

During the last parliamentary and municipal elections of 2017, the KDI conducted a survey with competing political entities on campaign financing and campaign expenditure, as well as on their willingness to maintain transparency in relation to the public. The questionnaire was sent to over 40 political entities registered and certified for the elections<sup>2</sup>. Only a small number of political entities responded positively to this questionnaire during the parliamentary elections. On the other hand, during the municipal elections, greater willingness was shown by a number of political entities to provide information. These changes in the behaviour of larger political entities are encouraging with regards to their willingness to ensure transparency and accountability to the public, with is also aimed by the KDI.

<sup>1</sup> European Union Election Observation Mission Kosovo, Report on Parliamentary Election 2017, p. 9

<sup>2</sup> Kosovo Democratic Institute "Campaign for Money" Report, November 2017

# LEGAL FRAMEWORK ON ELECTION CAMPAIGN

The legal framework regulating the organization of election campaigns in Kosovo consists of the Law on General Elections, the Law on Local Elections, the Law on the Financing of Political Parties, the Criminal Code of Kosovo, as well as bylaws that regulate issues regarding election campaign in Kosovo.<sup>3</sup> Bylaws are rules issued and approved by the Central Election Commission for managing the election process, which play an important role in the entire election process.

Some of the international principles related to the financing of political entities and election campaigns are: 1. Established rules for income and contributions; 2. Campaign expenditure ceiling; 3. Public funding and subsidies; 4. Disclosure and transparency; and 5. Enforcement and sanctions.<sup>4</sup>

All the above mentioned principles can be found in the following international instruments: 1. Venice Commission, Code of Good Practice in Electoral Matters (2002); 2. Venice Commission, Guidelines on Political Party Regulation (2010); 3. Council of Europe, Parliamentary Assembly Resolution 1516 (2001); 4. Council of Europe, Committee of Ministers Recommendation Rec (2003) 4; 5. United Nations Commission on Human Rights, General Comment no. 25; 6. Organization for Security and Cooperation in Europe (OSCE), Copenhagen Document 1990.<sup>5</sup>

The Law on General Elections is a very important law to the election process, including the election campaign. This Law also contains the Code of Conduct of Political Entities, their Supporters and Candidates, which regulates how political entities, their members and supporters should act during the election period, including the time period of the election campaign.<sup>6</sup> The purpose of the Code of Conduct in the LGE is to establish the conditions under which the people of Kosovo would feel free to choose their representatives in free and

fair elections and, above all, be well-informed about what is offered by political entities/candidates, guaranteeing a climate of democratic tolerance, peace and respect for the rule of law.<sup>7</sup> Through this chapter, the lawmaker shows Kosovo's commitment to provide as much opportunities as possible for citizens to be informed and to participate in the presentation of political programs, assuring them that the campaign will be conducted in a spirit of tolerance towards other political entities/candidates, in peace, without hate speech or calls for attack against other political entities/candidates and respecting each other, while complying with the LGE and other regulations in force.

The Law on General Elections in Kosovo contains a specific chapter on campaign spending limits and financial disclosure, which aims at regulating the maximum expenditure ceiling of a political entity/candidate during the election campaign period. The LGE also regulates the issue regarding financial disclosure upon completion of the election process, the deadlines and manner of such disclosure, the auditing of reports, public information, as well as sanctions for all cases when a political entity or candidate fails to comply.

Furthermore, the LGE also regulates the manner of notification of political events, including the definition of what events may be organized by political entities during a campaign and sanctions applicable to cases when a political entity does not meet the legal criteria or steps outside the law.

Media during the election campaign constitutes a special chapter in the LGE, which provides the Code of Conduct for Broadcast Media and the Code of Conduct for Print Media. The LGE obliges the media to ensure a fair and impartial approach during the election campaign and the media coverage thereof. One of the main provisions of this chapter relates to political

<sup>3</sup> Summarized legal framework on the website of the [Central Election Commission](#)

<sup>4</sup> [Kosovo Democratic Institute](#), "Money in Politic", June 2017, Prishtina, p. 9

<sup>5</sup> Ibid

<sup>6</sup> [Official Gazette – Law on General Elections in the Republic of Kosovo](#): (Accessed on 15.08.2018)

<sup>7</sup> [Official Gazette – Law on General Elections in the Republic of Kosovo](#): Article 31 of the Law. (Accessed on 15.08.2018)



advertising on radio and television, limiting the duration of advertisements. It also regulates the media presence and political advertising in print media.

Another equally important law on the issue of the election campaign is the Law on Local Elections in Kosovo<sup>8</sup>. As regards to the election campaign, financing and code of conduct, this law refers to the LGE, which also applies to local elections concerning such matters. According to Article 15 of the LLE in Kosovo, the rules of Chapter V of the LGE apply *mutatis mutandis*.<sup>9</sup>

One of the most important laws concerning election campaigns and the financing of election campaigns and political entities is the Law on the Financing of Political Parties.<sup>10</sup> With this Law, the Republic of Kosovo regulates the manner and conditions of financing, administration, observation, transparency and reporting on the expenditure of assets and revenues of political entities. Specifically, the Law regulates important issues regarding the finances and expenditures of political entities during elections, including the election campaign.

Article 10 sets limits on the amount of budget that may be allocated by the state for purposes of financing the election campaign in local and general elections both for regular or extraordinary elections. Upon the proposal of the Government of Kosovo, the Kosovo Assembly allocates funds to political entities participating in elections from the Fund for political entities, which shall not exceed the amount of 0.05% of the Kosovo budget. The majority of these funds are allocated to political entities holding seats in the Assembly, which divide it based on the number of seats, while the remaining 10% is allocated proportionally to the political entities participating in the elections, which are preliminarily certified for those elections by the CEC. In the 10% share, funds are also allocated to newly registered political entities with the best intention to enable them to present their program to voters.

In the last early general and local elections, the 10% fund was not allocated to other political entities registered and certified by the CEC to run for election. This was also criticized in the report of the European Union Monitoring Mission, which highlighted the limitations this brought to the possibility of smaller entities for conducting a proper campaign.<sup>11</sup>

Bylaws play a significant role in the election process in the Republic of Kosovo. Specifically, the CEC has adopted a considerable number of "Election Rules" regulating certain aspects of the election process. Some of the main rules adopted by the CEC are: [Rule No. 01/2013](#) on registration and operation of political parties; [Rule No. 08/2013](#) on certification of political entities and their candidates; [Rule No. 12/2013](#) on campaign expenditure limitation and financial disclosure; [Rule No. 13/2013](#) on election campaign and notification of political events; [Rule No. 14/2015](#) on financing of political entities and sanctions, and other rules not related to the financing of political entities or election campaigns.

Preventing misuse and manipulation of the election process has pushed state authorities to foresee criminal offenses, which can only be committed during the election period. The Criminal Code of Kosovo<sup>12</sup> contains a special chapter on criminal offenses against voting rights. This chapter of the Code contains a total of 11 articles that sanction and describe prohibited actions during an election process, including an election campaign. Particularly, Article 211 of the Criminal Code sanctions the obstruction of any candidate from conducting any activity during an election campaign. Perpetrators of this criminal offence are punished with a fine or imprisonment of up to one year. In cases where candidates are threatened or are used force against, perpetrators are punished with imprisonment of 6 months to 3 years.

<sup>8</sup> Official Gazette – Law on Local Elections (accessed on 15.08.2018)

<sup>9</sup> As appropriate - applied in cases where an issue is regulated by a special law and it is not necessary to regulate it by another law, but the law refers to the special law in cases when it is necessary to apply such norms.

<sup>10</sup> Official Gazette – Law on Financing Political Parties (Accessed on 15.08.2018)

<sup>11</sup> European Union Election Observation Mission Kosovo, [Report on Parliamentary Election 2017](#), f. 21

<sup>12</sup> [Official Gazette – Criminal Code of the Republic of Kosovo](#), Chapter XVIII, Articles 210 – 220. See: (accessed on 15.08.2018)

# CAMPAIGN SPENDING LIMITS AND FINANCIAL DISCLOSURE

For conducting an election campaign, political entities must have funds and support from the state budget, membership fees, contributions and revenues from their own activities as determined by law. Funding of the election campaign of political entities is supported at 0.05% of the state's annual budget, while the LGE in Kosovo has left it at the discretion of the Central Election Commission to determine the rule on the maximum expenditure of political entities in each election. The rule is published 5 days after the announcement of the election day. Importantly, no political entity has the right to exceed the spending limits for the election campaign set by the CEC rule.<sup>13</sup> The last time the CEC intervened in this regulation was July 2013. This regulation has not been amended since and has not specified any other value of expenditure ceiling or increase of spending per voter.

The maximum campaign expenditure is based on the total number of voters registered in the voters list, which is 0.50 Euro per voter.<sup>14</sup>

In the last election, the limit or the maximum amount that could be spent by a political entity during the election campaign was 942,753.00 Euros (nine hundred and forty-two thousand seven hundred and fifty-three Euros). However, the Rule on Campaign Spending Limit and Financial Disclosure foresees enhanced competencies for the CEC in cases of municipalities with less than 5000 inhabitants. In these cases, the CEC may set a specific rule regarding campaign expenses.<sup>15</sup> Expenditures, under the LGE, are all campaign expenditures regardless of whether it consists of goods or services spent on the campaign. A political entity cannot ac-

cept any contribution other than as regulated by the Law on the Financing of Political Parties.

Rule 12/2013 on Campaign Spending Limit and Financial Disclosure foresees that political entities may start collecting funds from other persons for election campaign expenditures 6 months before the beginning of the election campaign.<sup>16</sup>

It is also envisaged that all expenditures or services for the election campaign and intended for campaign purposes, regardless of whether they were made during or before the campaign, should be counted as campaign expenditures and reported as such.<sup>17</sup>

Rregullimi i tillë ligjor është masë parandaluese për subjektet politike që aktivitetin e tyre të blerjes së shërbimeve apo shpenzimeve për fushatë zgjedhore ta bëjnë paraprakisht dhe të krijojnë avantazh me subjektet e tjera politike. Po ashtu koha prej 6 muajsh para fillimit të fushatës zgjedhore, sipas rregullit është kohë e mjaftueshme për mbledhjen e fondeve për fushatë zgjedhore.

Such legal regulation is a precautionary measure to prevent political entities from purchasing services or executing expenses for election campaigns in advance, thus creating an advantage compared to other political entities. In addition, according to the Rule, a period of 6 months prior to the beginning of the election campaign suffices for raising funds for the election campaign.

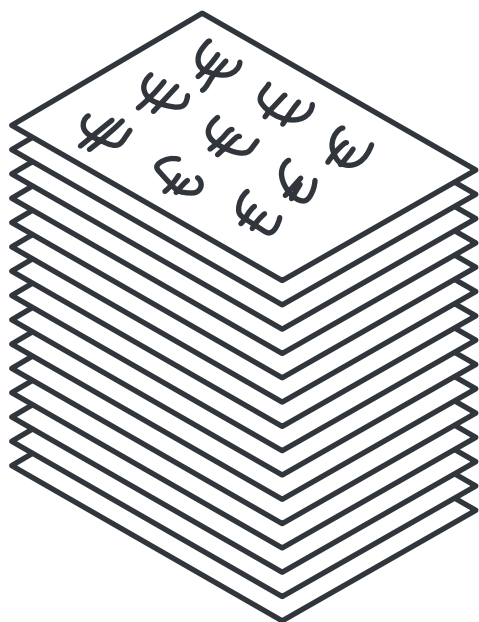
13 [Rule No.12/2013](#) on Campaign Expenditure Limitation and Financial Disclosure, Article 1 paragraph 1.1

14 [Rule No.12/2013](#) on Campaign Expenditure Limitation and Financial Disclosure, Article 3 paragraph 3.1

15 [Rule No.12/2013](#) on Campaign Expenditure Limitation and Financial Disclosure, Article 3 paragraph 3.1 and 3.2

16 [Rule No.12/2013](#) on Campaign Expenditure Limitation and Financial Disclosure, Article 1 paragraph 1.3

17 [Rule No.12/2013](#) on Campaign Expenditure Limitation and Financial Disclosure, Article 3 paragraph 1.4



**It is also envisaged that all expenditures or services for the election campaign and intended for campaign purposes, regardless of whether they were made during or before the campaign, should be counted as campaign expenditures and reported as such.**

On the other hand, political entities bear legal obligations for each of the expenses incurred during the campaign. Each entity shall keep accurate records of where and how the funds have been spent and then compile a financial report. The compilation of the financial report is mandatory for all political entities that are certified to participate in the elections. Under Article 40 of the LGE, even political entities which participate in the elections and do not conduct any campaign activity are obliged to report. The Campaign Financial Disclosure Report covers a period from 90 days prior to the beginning of the election until the election day. The report should include all the costs of the political entity (branches and other parts of the entity). Days are counted as calendar days, and the report must be submitted no later than forty-five (45) calendar days after the election day.<sup>18</sup>

The European post-election financial reporting standards set out a shorter legal deadline, i.e. 30 days after the end of the election. Reporting is mandatory not only for political entities, but also for individual candidates and the entire list of candidates.<sup>19</sup>

This point is also one of the standards recommended by the KDI in terms of amending election legislation related to the

election campaign funding and expenditures so that the expenditures of candidates during the campaign (complete list of candidates) and of individual candidates are also included in financial reporting.

A very important aspect of the expenditure limits of political entities is the financial reporting of candidates. Currently in Kosovo political entities report only the expenditures they incur as political entities, but not those incurred by the individual candidates of political entities for campaign purposes. The lack of such data or lack of the legal requirement for this has resulted in political entities not including the expenditures of their individual candidates in campaign expenditure reporting. This legal deficiency has resulted in political entities using the maximum expenditures allowed for election campaigns, while candidates, in addition, have an unlimited amount of material assets or services that can be used by activists to carry out activities on behalf of the candidate.

<sup>18</sup> [Official Gazette – Law on General Elections in the Republic of Kosovo](#) Article 40 paragraph 40.1

<sup>19</sup> OSCE/ODIHR-Venice Commission, Guidelines on Political Party Regulation, 2010

# CONTENT OF FINANCIAL REPORTS

The political entities' financial report on campaign should contain accurate data as required by the LGE. For the report to be accepted by the CEC Office for Registration and Certification of Political Entities, it should contain the following information<sup>20</sup>:

- 1 The income of the political entity during the reporting period, including the source and date of all cash contributions;
- 2 All expenditures, including campaign expenditures, made by the entity during the reporting period; and
- 3 A balance sheet showing the assets, liabilities and Equity of the entity as of the first day of the reporting period.

For all the expenditures of the political entity during the reporting period, the entity must submit receipts (invoices) for each administrative fee paid. Receipts (invoices) for every paid expenditure by the political entity must be attached to the Financial Report. However, in cases where a political entity fails to submit to the Office for Registration and Certification of Political Entities the financial report of the campaign or if the submitted report is incomplete, the Office may, ex officio, file a complaint with the ECAP against the political entity for violation of Article 40 paragraph 40.1 of the LGE. We have accessed the official website of CEC at different dates<sup>21</sup> to check if the financial expenditure reports have been published for the two last elections. This page does not provide any information on the financial expenses of political entities for the two last elections: the early central elections and local elections.<sup>22</sup> On the other hand, we have also accessed at different dates the official website of ECAP<sup>23</sup>, to check if there has been any complaint filed by the Office regarding the non-disclosure of financial

reports by political entities, but the ECAP has not registered any new case since March 2018.<sup>24</sup>

The public has no knowledge of whether political entities have submitted the financial reports on the expenditures of the last two campaigns on time, and it is not known whether any of them has failed to submit the financial report or if the reporting was not adequate.

The obligation for financial reporting on campaign expenditures does not end upon submitting the report to the Office. The political entity has other legal obligations in financial terms, e.g. for any payment exceeding 100 Euros, the invoice must be kept for up to 7 years along with the financial report and all other details including account keeping books, banking services for all accounts, documents of property, ownership or possession, contracts relating to the lease or purchase of movable or immovable property, and all contributions to the entity regardless of when they occurred.<sup>25</sup>

Such legal provision aims to prevent political entities from destroying evidence of campaign expenditure for a long period of time. Throughout this period, the state prosecution may request an investigation of the financing manner and check the audited and non-audited reports of the political entity. Where evidence is found, the prosecutor will be able to file an indictment against political entity officials for financial misuse of funds received from the citizens' taxes. To date, there is no public data as to whether any investigation has been conducted regarding the expenditure of political entities during election campaigns. No one from the State Prosecutor's Office has dealt with the issue of campaign financing and the legal limitation established by the LGE. Investigating the funding of political entities and the amounts received for the campaign or even the services rendered by individuals or companies

20 [Official Gazette – Law on General Elections in the Republic of Kosovo](#) Article 40 paragraph 40.2

21 On 15.08.2018; 02.11.2018; 29.11.2018 and 04.12.2018

22 [CEC website](#)

23 On 15.08.2018; 02.11.2018; 29.11.2018 and 04.12.2018

24 [ECAP website](#)

25 [Official Gazette – Law on General Elections in the Republic of Kosovo](#) Article 40 paragraph 40.6

for the benefit of the political entity and then presenting the revenues and expenditures in the final campaign report could be a good starting point for combating money laundering, corruption and vote buying.

Contributions made should be recorded and kept in accordance with the legal procedure. Contribution registration involves taking of personal data such as the full name, address, ID or passport number of each contributor, the value of the contribution, the date of each contribution, and the name of the person who has received the contribution.<sup>26</sup>

Political entities are obliged to have a financial officer, and the state is obliged by law to provide accounting and auditing training to such officers upon their appointment. Officials may refrain from training if they prove that they have sufficient experience and expertise and that such training is not necessary for them.<sup>27</sup>

One thing that has been noted and criticized for a very long time by both civil society and international missions in Kosovo regarding the financing of political entities is the failure of political entities to publish campaign financial reports on their websites. The same applies to the annual financial reports of the entity. The LGE does not require political entities to submit their financial reports on the website, but transparency standards require financial reports to be accessible to the public. Each political entity, beyond the legal requirement and in the interests of transparency and accountability, should immediately publish the financial report on the revenues and expenditures made during the campaign on the official website following the end of the election process. Similarly, it would be good if candidates for Assembly members and mayors published all their funding and expenditures made during the elections on the website of the political entity they belong to. By funding and expenditures of the candidates, we refer to the personal funding and expenditures, outside the budget of the political entity, made by the candidate during

the campaign. The other standard in this regard, according to the KDI, is the transparency of finances of political entities, meaning the publication of financial reports on the political entity's website.

The EU Report on Kosovo Snap Parliamentary Election 2017 highlights the lack of transparency in the finances of political entities, saying that: Most do not disclose comprehensive campaign reports on their websites, claiming a legal provision that requires public disclosure only after the audit has been conducted. Moreover, the lack of scrutiny raises questions about spending above the limits set by the law, as well as accepting unrecorded donations, especially those directed at individual candidates<sup>28</sup>.

<sup>26</sup> [Official Gazette – Law on General Elections in the Republic of Kosovo](#) Article 40 paragraph 40.6

<sup>27</sup> [Official Gazette – Law on General Elections in the Republic of Kosovo](#) Article 40 paragraph 40.7

<sup>28</sup> European Union Election Observation Mission Kosovo, [Report on Parliamentary Election 2017](#), p. 21



# BEST PRACTICES AND STANDARDS FOR ELECTION CAMPAIGN FINANCING AND EXPENDITURES

Despite the fact that Kosovo has consolidated legislation regulating the election campaign and the way financial reporting should be conducted, world trends indicate further advancement of transparency related to campaigning and election campaign financing.

In order to avoid unregistered donations for the political entity and individual candidates, KDI recommends that the transparency of political entities be advanced and supported through legal amendments and their effective implementation. More specifically, political entities should have only one online bank account, and have a separate sub-account, also online, that is used only during the election campaign.

The sub-account that can only be used during campaigns would be open to all individuals and legal entities for financial contributions to the political entity. On the other hand, the political entity would make all purchases and expenditures through this bank sub-account, which would make it much easier for auditors to conduct the entity's financial audit, while it would be easier for the public to know who the donor of the political entity is and how much money has the entity collected.

The sub-account would also serve to the increase of transparency and accountability initially inside the political entity, then membership, candidates and sympathizers, and in the end

the public itself. Members of the political subject, including the candidates, would know where the entities' financial means were spent and where the services of the political entity were destined. The general public would be very interested on the part related to spending of the public money, but the public always wants to know who the persons which have offered money or services to the political entity are.

KDI recommends that the entity's main account and sub-account be public in real time (online) on the website of the Office for Registration and Certification of Political Entities (within the CEC). Publishing bank accounts on websites in countries like the Czech Republic helped increase the transparency and accountability of political entities, a practice that is being embraced by other European Union countries.

Transparency in funding and campaign expenditures as a basic principle of good governance would help the public understand how and by whom election campaigns of political entities are supported, and furthermore how the latter spend and report these funds.

In the case of the Czech Republic, a special commission (state body) is established, which is independent, and which receives financial reports from political entities and controls them. The law has obliged political entities to make their bank accounts transparent in real time on the banks' websites,





If the law is amended it would affect CEC as the only institution in the country dealing with organization and management of elections. Additional powers would be added to the Office for Registration and Certification of Political Parties, as well as to the staff that would cover the financial control of political entities in real time. Normally this involves a financial cost as it will be a new institution. On the other hand, an additional implication would be the definition of the body to which this institution would report, as well as its independence from politics.

The best option would be for the institution or office to be independent and report to the Assembly of Kosovo on all issues. Office staff should be professional and work towards increasing the level of transparency and accountability of political entities, at the same time helping at increasing standards for free and democratic elections.

Given the need of Kosovo to implement good practices that are not stipulated by law, the only solution remains the establishment of European standards in the Law on General Elections after the electoral reform, or even without electoral reform, only with new amendments.

The Kosovo Democratic Institute together with Transparency International of Czech Republic proposes **5 Standards** that would increase the transparency and accountability of political entities to the public, beyond the foreseen legal obligations.

- 1 **Publication of the names of all members of the electoral headquarters** of the political entity, and appointment and publication of the name of the campaign financial manager. Publication of names of members of the electoral headquarters (including headquarters at regional branches) of the political entity and the name of the financier appointed specifically for the campaign would increase the transparency of the political entity toward the public.
- 2 **Legal liability obliging political entities to open financial accounts** for election campaign expenditures. Opening accounts implies making it publicly available and accessible in real time through the Central Election Commission portal, any other portal or the own portal of the political entity/candidate.

- 3 **Publication of the finances of each candidate in the campaign.** Each political entity must publish and oblige all candidates to report to the entity they belong to. Their financial contribution to the political entity's campaign should be known including data on how did the candidate financed his/her personal campaign. Candidates may be obliged under the LGEs to submit financial reports of their individual campaign expenditures to the political entity, and then the political entity incorporates them into the central account as revenue and expenditure. The financial participation of candidates in the campaign must also be recorded in the campaign financial report.
- 4 **Publication of data on legal entities (companies)** that donate to the political entities, and not only the owners. With this legal amendment, the public would know who the ultimate owner that donated to the political entity is, especially in cases of companies with many owners that are kept secret. In addition, political entities should present in their financial report the services that companies have provided for the entity and which can be converted into monetary values.
- 5 **Publication of the schedule of all events that the political entity will** organize during the campaign. It should also include events that are organized or to be organized by the candidates without the support of the political entity.





# MEETING WITH POLITICAL ENTITIES AND SURVEY RESULTS

Kosovo Democratic Institute, during July and August 2018 had separate meetings with political entities: Democratic League of Kosovo, Democratic Party of Kosovo, Movement for Self-Determination, Alliance for the Future of Kosovo, Social Democratic Initiative, New Kosovo Alliance and Alternative on the issue of election reform including campaign expenditure and opening of the respective bank accounts. KDI has communicated and requested meetings with other parliamentary entities including those belonging to Serbian minority community but they refused to meet, declaring that they have no opinions concerning this issue.





















In addition, KDI has prepared a questionnaire with of 21 questions related to electoral reform, in general, to measure the tendency of political entities whether they are ready to make the reform and what would be the amendments that they would push forward to make them part of the law on elections. Questions of the questionnaire were also asked in the individual meetings with political entities. Entities have given their opinions on the issue of electoral reform in general. KDI set a deadline of over 15 days for the political entities to respond to the questionnaire, but not all political entities responded.

The questionnaire was sent to 8 political entities, while KDI received answers from only 5 of them. Political entities such as Democratic League of Kosovo, Social Democratic Party and Alternative did not respond to the KDI questionnaire. From the answers received it is noted that, regarding some issues, there are differences between the answers given in the meeting and written answers sent by the political entities. There are also cases when entities did not answer in some questions.

For the purposes of this analysis, we will analyze only the answers to questions related to the expenditures of political entities that affect electoral reform. The table below presents an overview of the answers/survey results.

**From the answers received it is noted that, regarding some issues, there are differences between the answers given in the meeting and written answers sent by the political entities.**



|   | Online account  | Names of headquarter members  | Donor names (natural persons and legal persons)  |
|---|---|---|--|
|    |                          |    |   |
|    | <br>Llogari online       |    |   |
|    | <br>Llogari online       |    | <br>together with the budget                                      |
|  | <br>Llogari online     |  | <br>If the law requires it and depending on the donation amount |
|  | <br>if required by law |  | <br>If required by law  |

### Table of Survey Results<sup>32</sup>


























Each of the political entities has expressed their opinions on the given questions, and their answers are similar in almost all questions. But what is more important is that most of these political entities have not published their financial reports on official websites, excluding the Movement for Self-Determination, which has published an unaudited report of the early

parliamentary elections of 2017.<sup>33</sup> On the other hand, on the website of the Democratic League of Kosovo there are financial reports from 2014 and 2016, but there is no new financial report from the last election campaign.<sup>34</sup>

<sup>32</sup> Survey with Political Subjects

<sup>33</sup> [LVV Financial Report](#) last accessed on 05.12.2018

<sup>34</sup> [LDK website](#) last accessed on 05.12.2018

| Publication of the Schaedule  | Publication of the budget included the source of funding   | Candidates declaring their funding   | Audit  | Do PEs have the will to apply any of the above questions even if not required by law                          |
|---|--|--|--|---|
| Yes<br>                  | Yes<br>                           | Yes<br>                         | <br>Independent auditors                                   |                            |
| Yes<br>                  | Yes<br>                           | Yes<br>if required by law<br>   | <br>Independent Institution / National Audit Office        | <br>unless required by law |
| Yes<br>                 | Yes<br>                           | Yes<br>if required by law<br>   | <br>National Audit Office or the Anti-Corruption Agency    | <br>Not responded          |
| Yes<br>                | Yes<br>                         | Yes<br>if required by law<br> | <br>National Audit Office                                | <br>Open for changes     |
| If required by law<br> | Yes<br>according to the law<br> | Yes<br>if required by law<br> | <br>Independent auditor under the supervision of the CEC |                          |

The Democratic Party of Kosovo<sup>35</sup> and the New Kosovo Alliance<sup>36</sup> have no financial reports on their websites. While the Alliance for the Future of Kosovo<sup>37</sup> and the Social Democratic Initiative<sup>38</sup> are two political entities whose websites are not active.

Despite the fact that, in their responses our political entities expressed in favor of greater transparency, in reality, they do not even publish their financial expenditures reports on their websites.

35 [PDK website](#) last accessed on 05.12.2018

36 [AKR website](#) last accessed on 05.12.2018

37 [AAK website](#) last accessed on 05.12.2018

38 [NISMA Social Democratic Initiative website](#) last accessed on 05.12.2018





# CAMPAIGN AUDITOR

The campaign auditor implies an organization that will audit the election campaign expenditures of political entities. The Office for Political Entities Certification has the right to audit any campaign finance disclosure report or candidate financial disclosure form.<sup>39</sup>

Political entities are obliged to cooperate with the Campaign Auditor and provide the auditor with full access in the financial records of the entity.<sup>40</sup> Furthermore, the auditor, upon completion of the audit, shall present the preliminary results of the audit, including a list of any apparent errors and omissions. These preliminary results are sent to the highest body of the political entity within a period of 45 days of commencing the audit and no later than 4 months after the elections.<sup>41</sup> Upon receipt of this report, the political entity is obliged within 15 days to address the errors and give explanations on the errors or omissions identified by the campaign auditor.<sup>42</sup>

Once the campaign auditor receives the changes and explanations from the political entity, prepares a final audit report and submits it to the CEC, and then to the highest executive body of the political entity. The deadline for submitting the final report is 15 days from the receipt of responses from the political subject. The Campaign Auditor's Final Report identifies any error or omission in the financial report, taking into account explanations of the political subject.<sup>43</sup>

If the political entity fails to submit a campaign financial report under the LGE, then CEC has the right to charge the political entity with administrative fees, which then are remitted to the Kosovo Budget.<sup>44</sup> The political entity may appeal the decision of the CEC within 5 working days of being notified of the decision. The appeal can be sent to the Basic Court in the Department for Administrative Matters.<sup>45</sup> The Basic Court as first instance in this case, cannot impose sanctions in respect of a matter that is subject to administrative fees. In case that, after the challenges made to the CEC decision in all court instances, the CEC decision remains unchanged by the Courts, then the CEC decision remains in force and becomes final, and the political subject must make the payment and submit the payment slip to the office for Registration and Certification of Political Entities.<sup>46</sup>

39 [Official Gazette - Law on General Elections in the Republic of Kosovo](#) Article 41, paragraphs 41.1 and 41.2  
 40 [Official Gazette - Law on General Elections in the Republic of Kosovo](#) Article 41, paragraph 41.4  
 41 [Official Gazette - Law on General Elections in the Republic of Kosovo](#) Article 41, paragraph 41.5  
 42 [Official Gazette - Law on General Elections in the Republic of Kosovo](#) Article 41, paragraph 41.6  
 43 [Official Gazette - Law on General Elections in the Republic of Kosovo](#) Article 41, paragraph 41.7  
 44 [Official Gazette - Law on General Elections in the Republic of Kosovo](#) Article 42, paragraph 42.1  
 45 [Official Gazette - Law on General Elections in the Republic of Kosovo](#) Article 42, paragraphs 42.3 and 42.4  
 46 [Official Gazette - Law on General Elections in the Republic of Kosovo](#) Article 42, paragraphs 42.5



# CONCLUSION

Financial reporting and the transparency of revenues and expenditures during the election campaign are essential issues and should, therefore, be a priority for political entities. Transparency in financial issues is an additional commitment of the political entity towards the public interest in relation to its activity.

For many years in Kosovo the implementation of a genuine electoral reform has been part of discussions, but everything has remained at the level of political statements. Usually, the topic of reform has been opened for discussion a few days before the elections and has ended during election campaigns. The electoral reform should also include the increased financial transparency of political entities, including financial transparency standards that are applied in European Union countries.

The accessible bank accounts on the CEC website that would enable the public to see in real time all political entity's banking transactions, is a crucial step in increasing the level of transparency of political entities vis-à-vis voters and the public. Regarding this proposal, KDI proposes to take into consideration the Czech Republic model. Likewise, the above-mentioned standards would help the public and the media to have more information regarding the political entity's internal structures, donors, service providers on behalf of political entity, budget, as well as on the expenditures of the entity during the campaign.

Another very important issue which should be included in the electoral reform is the financial disclosure of every candidate. The reform should precisely define the legal norm that would oblige each candidate of a political entity, regardless of the position he/she is running for, to present a financial report on personal revenues and expenditures during the election campaign. This would be another transparency standard for political entities, which would then be obliged to calculate the revenue and expenditure reports into their final report. Consequently, the political entity together with the candidates would not be allowed to exceed the maximum limit of expenditures set by the CEC.

The information and media research would provide data on the donations of the political entities. Then the connections between politics and business would become obvious, especially in regards to awarding public tenders to campaign donors. In addition, it would make it easier for the prosecution to investigate cases of political corruption and bring them to justice.

The area of financing of political entities needs additional studies that elaborate more in-depth the transparency of political entities financing and expenditures. Our recommendations on transparency standards are positive steps that lawmakers can incorporate in the process of the electoral reform, so that these standards, through the law, turn into obligations binding for all political entities and candidates participating in elections.

# ANNEX 1

## STATEMENTS OF PARTICIPANTS IN THE DISCUSSION MEETING ON ANALYSIS

At the meeting held on 20.12.2018, the participants were introduced with an analysis of the current law on the financing of political entities and recommendations or standards that KDI / ICT advocates aiming at increasing the transparency and accountability of political entities related to their financing.

The MP from Self-Determination Movement, Mr. Ali Lajçi, stated that the presented standards are indispensable and they should be applied implemented at state level. Normally, according to him, such a change cannot be done without accompanying it with implementing laws, as well as measures or sanctions to be imposed in case of failure to comply. Concerning opening of bank accounts or online accounts, he added that it is difficult to apply as such requirements are usually not respected. In the end, he added that we should not allow ambiguity in our laws, because it then remains a matter of individual interpretation. The MP from the Democratic League of Kosovo, Mr. Naser Osmani, stated that the draft law on financing political entities is coming in a right time and is a good opportunity to resolve all issues related to political entities financing. According to him, it should be insisted on increasing transparency so that all economic activities become transparent on the websites of political entities. On the other hand, he said that CEC should be further strengthened in terms of financial oversight, which is also linked to auditors' reports. According to MP Osmani, auditors are not investigators but they only ascertain the situation. Another proposition he made was that, in case of violations, political entities should be blamed and not the individuals. Regarding the accounts transparency, he added that this issue has to do more with the level of our society, and that the laws, according to him, should be written for this society, thus taking the best practices from developed countries but make sure that those practices are applicable for us.

The MP from the Democratic Party of Kosovo Ms. Safete Hadërgjonaj, stated that she values the presented recom-

mendations and that the transparency of the political entities is linked to the way how Kosovo institutions govern and how transparent they are. She added that the financial reports on the budget allocated by the state for political entities come to the Assembly and the expenditures are transparent, but the problem, according to her, is the donations they receive and which are not related to the institutions. In the end, she added that the best practices should be taken and become part of the law, because this is the reason why the law is being amended.

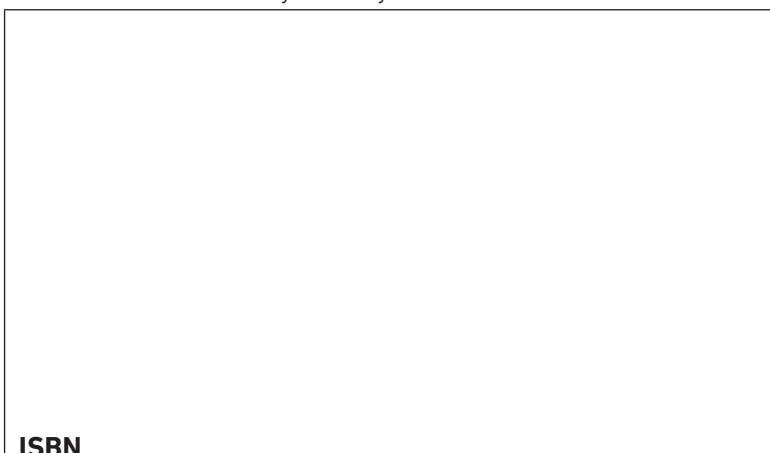
The MP from the Social Democratic Initiative, Mr. Enver Hoti, stated that the analysis is at the right time and that the transparency of political entities determines many issues, not only on the competition between political entities but also within the political entities themselves. The MP criticized the absence of audit of political entities financial reports for 3 years.

Isuf Zejna, from the Democracy plus (D+) organization, stated that it would be good not to interfere in the present draft, because whenever interventions are made in laws they usually cause problems in implementation. According to him, transparency is not a difficult thing, but even when political parties are transparent and publish their financial reports they are not understandable. He added that it would be ideal if the auditing was conducted by the National Audit Office.

Adnan Rrustemi from Self-Determination Movement, a former member of the CEC, stated that the present legislation is solid as regards to political entities financing, but the implementation of the law is a problem. He added that even the auditor does not reveal the truth of political entities financing, and that the unknown is not presented in financial reports. He stated that he is in favor of returning the competences of the financial audit of political entities back to the CEC, in order that the CEC selects the auditor and the process is concluded faster, but he added that the best option would be for the financing from the public budget to be audited by the NAO, while the rest by the private auditor.

Valmira Selmani from CEC stated that the new law should include an article stating that the political entities that are registered in the CEC shall be audited and that the audit shall not be conducted in parts. According to her this would increase the transparency.

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