

PUBLIC CALL regarding the unacceptability of pardoning possible administrative violations related to the use of undeclared or noncompliant funds for financing political parties during the first half of 2019



coaliția civică pentru alegeri libere și corecte

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PUBLIC CALL

regarding the unacceptability of pardoning possible administrative violations related to the use of undeclared or noncompliant funds for financing political parties during the first half of 2019

The signatory member organizations of the Civic Coalition for Free and Fair Elections

Draw attention to the fact that, contrary to its own Regulation on the financing of political parties, the CEC has not verified or analyzed the content of the political parties' financial reports for the first half of 2019 in reasonable time;

Stress that it was the first time that the CEC failed to examine the content of the biannual reports in reasonable time, confining itself to only checking the fact of their submission; and

Emphasize that this way the election authority has already pardoned possible violations of the administrative law and continues pardoning political parties' possible violations committed by using undeclared or noncompliant funds gained illegally during the first half of 2019.

We draw attention to the fact that, pursuant to Article 29 of the Law on Political Parties, political parties must submit their financial reports to the CEC biannually by the 15th of the last month of the reporting period, and annually by March 31. Furthermore, para. 70 of the CEC Regulation on the financing of political parties states that the Commission must

verify and analyze the financial reports and adopt a decision in this regard.

At its meeting of August 9, 2019, the election authority adopted Decision No. 2559 of August 9, 2019, on the *submission* of the political parties' financial reports for the first half of 2019. By that decision, the CEC presented a quantitative analysis of the extent to which the 46 political parties registered in the Republic of Moldova had submitted their reports for the first half of 2019 and found that: 32 political parties had submitted their reports in due time; 10 political parties had submitted them out of time; and 4 had not submitted their reports at all. In addition, pursuant to Article 48¹ (3) of the Administrative Code, it was decided that the chairperson of the CEC would summon the executives of the political parties that had failed to submit the reports to have them sign the records of administrative violation.

We stress that the CEC did not perform the *verification and analysis* proper of the submitted reports as required by law. Despite the fact that this subject was on the agenda of the August 30 2019 meeting, the CEC members decided to put off the examination of the political parties' financial reports for the first half of 2019 and to revisit this subject after the local general election of October 20, 2019.

As of the publication of this public call (February 27, 2020), the decision on the examination of the political parties' financial reports for the first half of 2019 was still unapproved. Even worse, the CEC had announced Promo-LEX Association that the political parties' financial reports for the first half of 2019 would be verified and analyzed along with the annual reports for 2019, due by March 31, 2020. Judging by the Commission's practice, the decision on the political parties' financial reports for 2019 could be approved in approximately two months after March 31.

We stress that this is the first time since the CEC started

approving decisions on political parties' biannual financial reports in 2016^[1] that the election authority fails to give an opinion about the content of the biannual financial reports submitted by political parties.

Back on August 18, 2016, the CEC had approved Decision No. 111 on the political parties' financial reports for the first half of 2016, where it had laid out its opinion about both the extent of submission and the content of the submitted reports. Further on, on September 19, 2017, the CEC had approved Decision No. 1118 on the political parties' financial reports for the first half of 2017, where, once again, it included the analysis of both the compliance with the submission deadline and the completeness of the presented information. When it came to the analysis of the reports for the first half of 2018, the CEC chose to approve two distinct decisions: No. 1792 of August 21, 2018, on the *submission* of the political parties' financial reports, and No. 1845 of October 23, 2018, on the *examination* of the financial reports.

Apparently, the analysis of the reports submitted for the first half of 2019 was to follow the model of 2018, involving two separate decisions: one on the submission, and one on the content of the reports after the verification by the CEC. But while the decision on the submission of the reports for the first half of the year was approved on August 9, 2019, the decision on the content of the reports based on the verification by the CEC has not been approved to this day.

We emphasize the wrongness of procrastinating the examination of the reports for the first half of 2019, all the more so that the time limit for imposing administrative liability for the possible use of undeclared or illegally gained funds is drawing to a close.

We remind that pursuant to Article 30 (2) of the Administrative Code, the general time limit for administrative liability is one year. This means that any possible violation

political parties may have committed by using undeclared, noncompliant, or foreign funds during the reporting period (that is, the first half of 2019)—which should have been detected at the CEC’s analysis of the reports and which fall within the scope of Article 48 of the Administrative Code—will be covered by the presumption of pardoning/forgetting the offence upon the expiry of the time limit. Worse still, this can feed the perception of impunity among those who commit such violations, encouraging the deviant behavior of some political parties. In addition, the CEC’s attitude can lead to the loss of potential revenue for the state budget because the undeclared or noncompliant funds used by political parties are subject to forfeiture and become revenue in the state budget (Article 48 of the Administrative Code).

Given the above, the signatory organizations consider that, by this deliberate attitude, the election authority has already pardoned possible violations committed from January 1, 2019 through February 27, 2019 (the publication date of this public call) and continues pardoning possible violations related to the use of undeclared or noncompliant funds for financing political parties until the initiation of possible administrative actions. Again, such actions are possible only upon the approval of the CEC decision that enables the verification and analysis of the content of the political parties’ financial reports.

We stress that civil society’s monitoring reports on the financing of political parties, including those for the first half of 2019, [\[2\]](#) testify to multiple issues in the political parties’ financial reporting, such as: the receipt of cash donations without the use of cash registering equipment by political parties; the suspicious reporting of office rental expenses, where the offices were indicated without specifying the expenses; reasonable grounds for verifying the situations where political parties paid their staff monthly wages that were smaller than the official minimum wage for 2019 or where

political parties have registered staff but did not report staff expenses; etc. In this context, one can also remind numerous journalistic investigations that had highlighted issues with the political parties' fundraising mechanisms, which can also be examined from the perspective of undeclared or noncompliant funds.[\[3\]](#)

Furthermore, we reiterate Promo-LEX Association's earlier finding that, in 2019, just like in 2016, 2017, and 2018, the CEC did not request political parties to submit their income statements for the second half of the year. We stress that the wording of Article 29 (1) of the Law on Political Parties is "biannually, by the 15th of the last month of the reporting period." However, the CEC requested only two reports: the report for the first half of the year and the annual report, which "effectively shortens the time limit for punishing a political party"[\[4\]](#) if it had deviated from the administrative law, especially from Articles 48 and 48¹ of the Administrative Code.

Given the above arguments and the signatory organizations' experience of monitoring the financing of political parties, we recommend the Central Election Commission:

- *To approve the CEC decision on the examination of the political parties' financial reports for the first half of 2019 as soon as possible based on the comprehensive analysis of the reports, the funding sources, and the compliance with the existing regulatory framework;*
- *To inform competent entities about the initiation of administrative actions for the violation of Articles 48 and 48¹ of the Administrative Code, as applicable;*
- *To complement para. 70 of the CEC Regulation on the financing of political parties with provisions that would set reasonable time limits—which should not exceed "three months"—for the Commission's verification and analysis of the reports submitted by political parties;*

- *To make inquiries with the State Tax Service and the political parties with regard to the use of cash registration equipment by political parties, the amount of such equipment owned by each party, and its use for the parties' fundraising activities (donations, membership fees, income from business operations); and to publish the obtained information of public interest.*

[1] Law No. 36 of April 9, 2015, for the Amendment of Certain Legislative Acts. In: Official Gazette No. 93 of April 14, 2015.

[2] Report. Financing of political parties in the Republic of Moldova. 1st semester 2019. pp. 21 – 34. https://promolex.md/wp-content/uploads/2019/08/Raport_Finante_Partide_sem.I_-2019.pdf

[3] For example, the journalistic investigations of the rise.md team: *Donatorii partidelor (I): „Am donat și Dumnezeu cu dânsii”* (Party donors (I): I donated and hell with them). <https://www.rise.md/articol/donatorii-partidelor-i-am-donat-si-dumnezeu-cu-dansii/>; *Donatorii partidelor (II): „Sunt permanent monitorizat”* (Party donors (II): I am constantly monitored) <https://www.rise.md/articol/donatorii-partidelor-ii-sunt-permanent-monitorizat/>; *Donatorii partidelor (III): interese pecuniare* (Party donors (III): Pecuniary interests). <https://www.rise.md/articol/donatorii-partidelor-iii-interese-pecuniare/>

[4] Report. Financing of political parties in the Republic of Moldova. 1st semester 2018. pp. 22 – 23. https://promolex.md/wp-content/uploads/2019/06/raport_finantare_partidelor_2019_R0_web.pdf