



# MONEY IN POLITICS

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### **Political Party/Campaign Finances and Use of Administrative Resources in Ukraine**

**Country Report**

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<sup>1</sup> Disclaimer: The views and opinions expressed in this report are those of the author and do not necessarily reflect the official policy or position of SAOG, Council of Europe, International IDEA, IFES, NIMD, OSCE-ODIHR, or TI Georgia.

## **ABSTRACT**

The law on prevention of political corruption adopted in October 2015 significantly changed regulation of political finance in Ukraine. The new legislation brought Ukraine closer to the international standards by limiting donation size, introducing comprehensive reporting requirement, establishing state oversight of party and candidate finance, and tightening sanctions for violating rules on party financing. That said, several recommendations presented by GRECO and OSCE/ODIHR, including proper regulation of third party spending, harmonizing rules of campaign finance for all election types, and ensuring proportionate and coherent sanction regime, remained unaddressed.

Functioning of the new regulation model has increased transparency of major parties to some extent and allowed the state to scrutinize party reports and impose sanctions against several parties. At the same time, party reports have remained incomplete and sometimes pointed to significant financial irregularities. Ability of the National Agency on Prevention of Corruption (NAPC) to effectively monitor reports of political parties and hold them accountable has been limited due to several legal gaps and shortage of resources, while its impartiality has already been questioned. Public awareness and support of the political finance reform has remained low.

## BACKGROUND INFORMATION

Ukraine has long been characterized by weak parties and volatile party system. 2013–2014 Euromaidan revolution led to collapse of virtually all parliamentary parties, including once-dominant Party of Regions. Notably, among six parties that successfully passed the electoral threshold on 2014 pre-term parliamentary elections, only one had representation in previous parliaments. Meanwhile, most of the new parties were created by representatives of old political elites and showcased old features, such as high dependence on popularity of their leaders, lack of clear ideology, and shallow organizational structure.

Opaque funding and lack of public accountability have been noted by many observers as inherent feature of Ukrainian parties (Kuzio, 2014). Until recently, the state showed little interest in regulating finance of parties or candidates. Parties could raise fund in unlimited amounts and spend it as they saw fit. The law formally obliged parties to publish their financial reports annually, but provided no standardized format. No state body was responsible for monitoring party reports, and no sanctions for inability to present such reports were in place. Campaign funding was regulated more comprehensively, but incoherent and, sometimes, conflicting nature and frequent changes of relevant provisions prevented their effective enforcement (Kovryzhenko, 2010).

As a result, most parties and candidates easily exploited available legal loopholes and circumvented existing restrictions. Only handful of parties published their annual reports, and these reports usually reflected tiny share of party funds and lacked any valuable information. During elections, prominent parties and candidates channeled most of their funds outside of legally established bank accounts and could easily avoid responsibility for not publishing electoral reports. The Central Election Commission (CEC), responsible for both administering electoral process and monitoring electoral spending, lacked mandate to thoroughly check party and candidate reports or impose meaningful sanctions.

Exaggerated role of money in politics coupled with absence of effective state regulation of political finance resulted in significant distortion of playing field, preventing new and small parties from challenging established political forces with close ties to big, oligarchic business. Moreover, most parties and candidates heavily depended on contributions from large private donors and, thus, lacked incentives to represent interest of their voters. Finally, opaque ties between oligarchs and parties resulted in proliferation of corruption, as elected officials rewarded their sponsors with privileged access to public contracts, insider privatization deals, or direct budget support (Sydoruk, 2017, p. 36).

Lack of effective legal regulation of political finance in Ukraine has been long noted by several international organizations. 2011 Evaluation Report on Ukraine by GRECO pointed out that “the system of transparency in political financing falls short of the standards established by Recommendation Rec(2003)4 of the Committee of Ministers of the Council of Europe on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns” (GRECO, 2011). Similarly, OSCE/ODIHR Needs Assessment Mission Report on the eve of 2015 local election stated that “absence of public financing for political parties or election campaigns, insufficient measures to enhance transparency, as well as a lack of enforcement mechanisms remain reasons why wealthy donor and business interests continue to wield disproportionate influence over the campaign process” (OSCE/ODIHR, 2015).

In order to address the above-mentioned issues and bring Ukrainian legislation of political finance in line with international standards, in 2015, a group of non-governmental experts and civic activists together with a number of pro-reform MPs developed the draft law “On Amending Certain Legislative Acts of Ukraine as regards Prevention and Countering Political Corruption” (hereinafter – the law on political finance). Although initially the law was bitterly opposed by many parliamentary factions, its authors were able to include its adoption into the list of Ukraine’s commitments under the EU-Ukraine Visa Liberalisation Dialogue. As a result, Verkhovna Rada (Ukraine’s unicameral parliament) passed the law on October 8, 2015, and it entered into force on January 1, 2016 (with the exception of the public funding and some other provisions, which started to function on July 1, 2016).

## LEGISLATION AND POLICY ANALYSIS

The law on political finance established new, comprehensive model of regulation of party and candidate finance in Ukraine by introducing changes to several legal acts, including the law on political parties, the electoral laws, the law on prevention of corruption and criminal and administrative offence codes. In line with recommendations of international organizations, the legal changes touched upon all significant areas related to the role of money in politics. The law introduced changes in the following areas: 1) sources of party and candidates income; 2) party and campaign expenses; 3) disclosure requirements; 4) state monitoring of political finance; 5) sanctions for non-compliance. The law received overall positive assessment from GRECO (2015) and OSCE/ODIHR and the Venice Commission (2015)<sup>2</sup>, although both organizations pointed to several areas in need of further improvement. In the following subsections, analysis of legal changes in the above-mentioned spheres and their implementation will be presented.

### *Sources of income*

*Private funding.* According to the new law, parties could raise funds from both private and public sources. The law established ban on contributions to parties and candidates from numerous sources: public administration bodies (except in case of direct and indirect public funding, as envisaged by the law); public enterprises where state possesses at least 10 per cent of shares; foreign states, individuals and companies; charitable or religious organizations; anonymous persons; other political parties; and individuals and companies having government contracts or in debt.

More importantly, the law for the first time established caps for contributions individuals and companies could give to parties and candidates during a given year. These caps were aimed at limiting excessive party dependence on oligarchic money, but before the adoption of the law in the final reading, the upper limits were raised fourfold upon the initiative of MPs from the parliamentary coalition – to 400 minimal salaries for individuals and 800 minimal salaries for companies. This move drew criticism from non-governmental experts who pointed that such high contribution limits would fail to curb undue influence of large private donors. Moreover, after the increase of minimal salary in Ukraine in January 2017, the actual contribution limits further increased twofold – to UAH 1,280,000 (EUR 43,600) for individuals and UAH 2,560,000 for companies (EUR 87,200).

The new law also clearly defined and significantly broadened the meaning of donation, addressing one of the key GRECO recommendations. Donations to party now includes not only monetary or material contributions, but also services and works, including those provided free of charge or at a price lower than market price of similar product. Furthermore, in-kind contributions should also fall under newly established donation limits and their price should be calculated on the basis of market value of similar services, goods, and works according to the methodology to be developed by the NAPC. At the same time, donations in cash are explicitly forbidden.

Similar rules for making donations were established for electoral funds of parties and candidates on parliamentary and presidential elections, but not for local elections, which continue to be regulated by different provisions. The law also allowed parties and candidates to fill their electoral funds with their 'own funds'. According to GRECO opinion, own funds could allow parties and candidates to circumvent exiting contribution limits, as sources of own funds are not reported and they are not subject to contribution caps. In case of parties, this may not be immediately problematic, as parties are now obliged to report every single donation they receive. Yet, candidates' own funds could indeed allow them to hide their true donors, since candidates' should disclose their sponsors only during electoral campaign period; therefore, they could present contributions of large donors made before the start of elections as their own funds.

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<sup>2</sup> OSCE/ODIHR and the Venice Commission evaluated the preliminary draft of the law, and some of its recommendations were incorporated into the final version of the bill.

*Public funding.* The law on political finance also introduced direct public subsidies to selected parties.<sup>3</sup> All parties that gained at least 5 per cent on the latest 2014 parliamentary elections are entitled to receiving budget subsidies, while after the next elections, the threshold will be lowered to 2 per cent. Decision of the parliament to limit the number of parties receiving public funds until the next elections drew criticism from some experts and smaller political forces who argued that this would not help levelling the playing field and could instead distort it in favor of the parliamentary parties (Sydoruk, 2017, p. 40). Budget subsidies to parties are paid each quarter and are conditional on regular submission of party reports and absence of violations of party finance rules. So far, five out of six parliamentary parties receive funds from the state<sup>4</sup>. In 2017, parties are entitled to receive UAH 442,400,000 (EUR 15,070,000), which includes UAH 44,240,000 (EUR 1,507,000) allocated for parties that has met gender quota of one third of representatives of different gender in their parliamentary factions. Only one party, *Samopomich*, has qualified to obtain these funds.<sup>5</sup>

Apart from regular public funding, all parties that have crossed 5 per cent threshold on parliamentary elections, should get reimbursement of their electoral expenses in amount not exceeding the maximum electoral spending limit. This provision will enter into force only after the next general elections. The lawmakers, however, did not address one problematic aspect of the electoral reimbursement pointed out by OSCE/ODIHR. Specifically, tying the state reimbursement to the maximum amount of money allowed to be spent during elections could prompt parties to inflate their electoral expenses and put excessive burden on the state budget. If election were held this year, each party could claim for reimbursement of up to UAH 288,000,000 (EUR 9,800,000).

The law did not introduce significant changes to indirect forms of public funding. As before, the state provides several types of indirect support to parties and candidates, such as tax deductibility of donations made by individuals and provision of free airtime for parties and candidates. On the other hand, use of administrative resource for party or electoral purposes is explicitly prohibited and is subject to criminal sanctions. Enforceability of the latter provisions, however, remains weak, as law enforcement bodies usually ignore serious electoral violations (OPORA, 2015). As recent elections have shown, use of administrative resource in Ukraine depends much more on the nature of political regime and willingness of ruling elites to abuse state resources than on existing legal regulations. For instance, while the 2012 parliamentary elections were characterized by heavy abuse of administrative resource by then-dominant Party of Regions (OSCE, 2013), similar practices were almost absent during the 2014 parliamentary elections held after the fall of Viktor Yanukovich regime (OSCE, 2014).

### ***Party and candidate spending***

The new law did not bring significant changes to regulation of party spending. As before, limits on campaign expenses exist only on parliamentary election: parties and candidates are obliged to channel all of their electoral expenses through electoral funds that cannot exceed 90,000 minimal salaries (EUR 9,800,000) for parties and 4,000 minimal salaries for individual candidates (EUR 436,000). No such limits exist for candidates and parties during presidential or local elections. Unwillingness of Ukrainian lawmakers to establish campaign spending limits for all election types was motivated by their skepticism towards existing limits that are frequently violated. Yet, lack of limits on presidential and subnational elections runs contrary to the recommendations of OSCE/ODIHR.

Circumvention of spending limits during parliamentary elections have been made possible by widespread use of third parties for financing electoral campaigns. Although the Ukrainian law allows to finance electoral campaigns only from electoral funds, possibility of third party financing of campaigns are not explicitly mentioned in the law and no sanctions for using third parties for this purpose are in place. Lack of regulation of third party expenses was explicitly mentioned as a downside of the Ukrainian law on political finance in 2015 GRECO report. As a result, parties and candidates have frequently financed their campaigns through related NGOs and charitable organizations, thus de facto exceeding spending caps. For

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<sup>3</sup> Direct public funding was first established in the Ukrainian law in 2003, but the relevant provisions had been never implemented before they were repelled by the parliament in 2007 (Riaboshapka, Taran, Skliarov, & Balaban, 2015).

<sup>4</sup> Opposition Bloc declined to receive budget subsidies citing dire economic situation in the country.

<sup>5</sup> *Samopomich* does not currently have one third of women in its parliamentary faction after excluding several of its members, but since the gender quota is calculated at the beginning of the work of the parliament, it retains the right to receive additional money from the state budget.

instance, according to different expert estimates, during 2012 elections, all parties and candidates spent from USD 850 million to USD 2.5 billion (IDEA, 2014, p. 188).

Absence of limits on purposes for which electoral funds can be spend is also sometimes raised as an important issue. Specifically, many experts and some party representatives point to damaging consequences of unlimited political advertisement in electoral periods: according to independent monitoring estimates, during 2014 parliamentary elections, parties spend more than 90% of their electoral funds on advertisement in media, predominantly on TV (OPORA, 2014). Abundance of political advertisement, according to assessment of many observers, gives undue advantage to rich parties<sup>6</sup> and prevent voters from making conscious electoral choice ([Shevchenko, 2013](#)). Yet, attempts to limit or ban electoral spending on political advertisement in Verkhovna Rada have repeatedly failed due to strong resistance from big parties.

Concerning regular party spending, the new law puts some limits on use of public funds. Specifically, it envisages that parties could not spend regular budget subsidies on electoral-related need and are allowed to use it on their 'statutory activities', but does not specifically define what falls under the scope of statutory activities. In its preliminary assessment of the law on political finance, OSCE/ODIHR noted that distinction between campaign and statutory activities "is very abstract and seems somewhat artificial" (OSCE/ODIHR, 2015), but this concern was not addressed in the final draft of the law. Exploiting this ambiguity, several parliamentary parties, including Popular Front (PF), *Samopomich*, and Radical Party of Oleh Liashko spent considerable share of public subsidies on political advertisement, which was characterized by number of non-governmental organizations as self-serving waste of taxpayers' money ([Committee of Voters of Ukraine, 2017](#)). Faced with such criticism, these parties significantly limited their advertisement expenses in the first quarter of 2017.

On the other hand, parties are constrained in the use of public funds by existing budget classification, which allows parties to spend them only on current, but not on capital expenses, meaning they could rent space or equipment, but not buy them. While some party members support such limitations as legitimate restrictions on use of public money, others see them as artificial obstacle to efficient utilization of state funds. Attempts to relax existing regulations have so far been unsuccessful, as the Ministry of Finance, which sets the relevant limitations, refrains from regulating party matters.

### ***Disclosure requirements***

Introduction of comprehensive reporting requirements for both parties and candidates is widely seen as one of the most significant improvements brought by the new law. Parties are now obliged to prepare financial reports every quarter and submit them to the NAPC, as well as publish them on their websites. Reports should disclose all donations, including in-kind donations, made to parties and its local organizations and related bodies. Each donation should be itemized and followed by disclosure of information about individual and company that made it. In this regard, Ukrainian legislation goes beyond requirements existing in many countries that oblige parties and candidates to reveal identity of their donors only if a donation exceeds a certain amount (IDEA, 2014, p. 29). In the case of Ukraine, this requirement is aimed at ensuring maximum transparency of party funds and preventing parties from hiding their income under the category of undisclosed donations.

Similarly, parties are obliged to itemize each expense unit, notwithstanding its amount. All property and assets owned by party, as well as its debts, should also be reflected in its report. Importantly, quarterly reports should also include financial information of all party local branches, as well as donations to and expenses from electoral funds of party and its candidates during all elections. Separately, parties and candidates on parliamentary and presidential elections should submit interim and final electoral reports, disclosing the same information, both to the CEC and to the NAPC. Regular and electoral reports should be submitted both in paper and electronic format and made available to the public.

On the surface, Ukraine has complied with important requirements of both GRECO and OSCE/ODIHR on introduction of standardized and comprehensive reporting mechanism. Ukrainian observers also agree

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<sup>6</sup> According to the final report of the OSCE/ODIHR Election Observation Mission on 2014 Ukrainian parliamentary elections, three parties – PF, PPB, and *Batkivshchyna* – purchased 54 per cent of all political advertisement on national TV channels (OSCE/ODIHR, 2014).

that new reporting format constitutes a huge step forward in terms of transparency of party coffers allowing citizens to gain insights into financial standings of parties and candidates. Yet, there are also several problematic moments.

First, reporting format developed by NAPC, according to many party representatives and non-governmental observers, seem to be too cumbersome and unnecessarily detailed and puts enormous burden on parties that are willing to fully comply with its requirements. The situation was complicated by the decision of NAPC to oblige parties to present information on all of their local organizations as separate reports, further increasing excessive workload of party accountants. This is especially true for small parties, and many of them have opted for submitting blank reports of their local branches or not submitting them at all. Moreover, reporting template lacks internal coherency and is quite difficult to comprehend by an interested citizen. For example, it lacks clear classification of donation types and party expenses; the latter is especially surprising given that the CEC has already developed such classification for its own needs.

Related problem is unavailability of party reports in accessible electronic format. All reports are published on the NAPC website as scanned .pdf files in non-machine-readable format, although the law prescribes that they should also be presented in open data format. This complicates both the work of NAPC and monitoring of party reports by civil society and media. This problem has already been identified by NAPC, and it is currently working with IFES Ukraine on developing electronic reporting platform, expecting to finish it by the end of 2017. Yet, the working group on the new reporting system as of now excludes party members and lacks representation of civil society actors, which risks compromising the quality of the new platform and undermining trust in it by those who will be using it in the future.

To further increase transparency of party funds, the law on political finance obliged all parties that have received state subsidies or have participated in elections during the most recent year to undergo external audit. Parties are free to choose auditors, but cannot use services of the same auditor for more than three years in a row, which should prevent collusion of parties and auditors. This is also in line with recommendations by GRECO and OSCE/ODIHR. However, the first annual audits held at the start of 2017 also pointed to several challenges.

First, the law set very demanding requirements for companies to qualify for auditing party reports. Only around 20 audit companies are currently have the right to provide audit services to parties, while the Big Four accounting firms refused to be engaged in party matters altogether. As a result, cost of audit services for parties are quite high, and many small parties simply lack funds to cover them. In addition, parties have very limited time to conduct external audit, as they are obliged to submit audit reports together with their annual reports only 40 days after the end of the years. As parties first prepare their annual reports and only then submit them to external audit, auditors often lack time necessary to conduct in-depth review of party finance, which puts undue pressure on both them and parties and compromises quality of audit conclusion. Finally, it is questionable whether parties that have participated in any local elections at any level should be obliged to undergo external audit.

### ***State monitoring and oversight***

According to the new political finance regulation model, newly created anticorruption agency, the NAPC, is responsible for monitoring party reports and providing general oversight of compliance of parties and candidates with the new provisions. According to the recommendations by GRECO, it was given special status as an independent body created through open competition procedure. Furthermore, the law guarantees the NAPC members relatively high salaries and protection from interference of political actors and institutions. In addition, the CEC remained responsible for monitoring electoral report; however, its mandate covers only technical analysis of reports, while the NAPC became responsible for their in-depth analysis.

While the law defined rather broad mandate of the NAPC regarding control over political finance, it also put some obstacles to its effective performance in this area. First, as anti-corruption body, the NAPC is also responsible for reviewing electronic declarations of incomes and assets of civil servants, as well as developing state anti-corruption policy, monitoring instances of conflict of interest, and protecting whistleblowers. Therefore, political finance is only a part of the NAPC mandate that is significantly less visible than electronic declaration review, which risks decreasing overall NAPC attention to the issues of party and candidate finance.

In addition, while the largest bulk of work on political finance is managed by the NAPC department on prevention of political corruption, final decision on results of its work is made by four NAPC members<sup>7</sup>, only one of which is directly responsible for political finance issues. Problematic nature of such arrangement has been already showcased by personal conflicts among the NAPC members who often split in two during important votes. For instance, this was the reason behind inability of the NAPC to initiate criminal proceeding against *Batkivshchyna* party for reporting false donations in its report.

On the other hand, the NAPC lacks several important legal instruments to realize its powers in the area of political finance. First, it has no effective means to access several important state registers owned by other government bodies, such as the Ministry of Justice or the State Fiscal Service. Similarly, and unlike the CEC, it has no ability to access bank accounts of parties and candidates, further complicating proper analysis of their reports. As a result, much depends on ability of the NAPC to establish working relations with other state bodies. So far, NAPC has been only party successful in this task by engaging in fruitful cooperation with the CEC. At the same time, the Ministry of Justice has recently blamed the NAPC for failing to properly analyze electronic declarations of civil servants and developed a bill that would dismiss all NAPC members and recruit new ones, putting the future of the NAPC at risk.

Human resources available for the NAPC department on prevention of political corruption are also rather limited. As of June 2017, the department had only 16 out of 23 employees, as the recruitment process has taken much longer than expected. Furthermore, even when the department is fully stuffed, number of its workers, most likely, will be not enough to perform proper and timely analysis of reports of more than 300 parties officially registered in Ukraine.

Finally, while the NAPC has the right to investigate violations of political finance rules and initiate administrative and criminal proceedings, it lacks the authority to impose sanctions, which can be done only by courts. According to the intentions of the law on political finance authors, such choice was motivated by fears of giving the NAPC too many powers that it could exploit for political purposes. However, lack of the NAPC mandate to impose sanctions could frustrate its activities and significantly protract the process of bringing violators of political finance rules to justice.

### ***Sanctions***

Tightening sanctions for non-compliance with the new rules of political finance was one of the most hotly contested aspects of the new law. Before the final vote in Verkhovna Rada, the parliamentary committee relaxed sanctions for some offences related to financial transparency and rules on donations. Still, the new law provides both administrative and criminal liability for non-compliance with the new provisions, which in general follows the recommendations by GRECO and OSCE/ODIHR.

Although international guidelines on political finance generally prefer administrative sanctions as more appropriate means of punishment, they are currently rather weak in Ukraine. For instance, non-submission of quarterly report could result in fine ranging from UAH 5,100 (EUR 174) to UAH 6,800 (EUR 232), which will hardly serve as effective deterrent against unwillingness of parties to submit reports. Not surprisingly, around 100 parties have not submitted any reports since the new reporting system entered into force. Similarly, infringement of rules on donations to political party could be penalized by fine only up to UAH 2,210 (EUR 75).

In addition, correlation between different types of violations and respective sanctions sometimes seems problematic. For instance, presenting false or incomplete information in party reports could result in criminal liability, while non-submission of report – only in administrative. This could lead to situation when parties chose not to submit reports and pay small fines than risk facing criminal prosecution if NAPC finds any irregularities in their reports. The law also lacks clarity in differentiating between violating rules on donation, for which administrative liability is set, and intentional contribution or reception of illegal donation that leads to criminal punishment. Another open question, which was raised in GRECO report, is subjects of sanctions, which the law regulates with some ambiguity. Some Ukrainian experts warned that sanctions could be targeted against ordinary party members (i.e., party accountants), while party leaders would avoid them.

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<sup>7</sup> The law envisages that NAPC should consist of five members, but the fifth member has not been elected yet.

Finally, decision of the lawmakers to allow application of sanction only by courts could also distort its uniform application, since Ukrainian courts remain politically dependent and prone to corruption. Vulnerability of courts to political pressure could result in selective application of sanctions against opposition parties and ignoring similar violations made by pro-government political forces. So far, several dozen court decisions on administrative sanctions against parties for violating rules on political finance have been made, mostly targeting tiny parties. Two most prominent court decisions were adopted against non-parliamentary opposition parties, *UKROP* and Agrarian Party (AP), which were sanctioned for receiving cash donations and funds from foreign companies, respectively. Only in the first case, sanction in form of confiscation of illegally obtained funds and small fine has been applied.<sup>8</sup>

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<sup>8</sup> In the case of AP, the court refused to apply sanctions due to exceeding of period for administrative liability.

## FINDINGS

The first year of functioning of the new political finance regulation has revealed both its strengths and weaknesses. Increased transparency of Ukrainian parties is seen by many domestic experts as the most visible result of the reform. All prominent parties started to disclose information about their employees, regional and local offices and gave some insights into sources of their income and their expenditures. Notably, the improvements in party reporting have been made possible not only due to stringent disclosure requirements. First, introduction of public financing led many parliamentary parties to start officially paying salaries to their activists and renting offices and produce more detailed and realistic reports (Taran, 2016). Second, close scrutiny of reports by civil society actors also facilitated parties to open their financial standings to a higher degree.

Yet, according to estimates of both the NAPC and non-governmental monitoring organizations, many parties continue to conceal sensitive financial information, especially on the nature of their donors. Even with liberal contribution caps in place, some parties have reportedly tried to circumvent them by splitting large donations. Analysis of the *CHESNO* Civil Movement revealed that many of the small donations to *Batkivshchyna* party reflected in its financial reports had never been actually made (Feshchenko, Dumanska, & Fedoriv, 2017). Joint investigation of the NAPC and *CHESNO* corroborated these accusations. Similar trends have been noticed in the reports of several local organizations of Petro Poroshenko Bloc (PPB), but no hard evidence has been presented in this case. Journalists also raised doubts about authenticity of donors reported in the reports of Opposition Bloc (OB): according to their investigation, these companies hid party ties to two prominent Ukrainian oligarchs (Motrunych, 2017). Most parties also do not disclose received donations in kind due to their unwillingness to do so and lack of clear guidelines from the NAPC on this matter.

Performance of the NAPC in the area of party finance analysis also has not yet reached initial expectations. On the one hand, it has adopted almost all regulatory acts necessary for introduction of the new reporting system and monitoring of party reports allowing it to start its functioning in full capacity. The NAPC has also demonstrated openness to cooperation with various governmental and non-governmental actors, including political parties, Ukrainian NGOs, and international organizations, including IFES, the Council of Europe, and the OSCE. Representatives of the NAPC department on prevention of political corruption have assessed their cooperation with these organizations in a positive way stating that they helped the NAPC to significantly increase its capacities.

However, the results of the NAPC analysis of party reports was questioned by several NGOs working in this area. So far, the NAPC has mostly paid attention to minor or most obvious offences, such as late or non-submission of reports, failure to disclose information about party local branches, and some violations of donation rules. Moreover, in some cases – like in those of *Batkivshchyna* false donations or foreign funding of AP – the NAPC started investigations only after direct appeals from NGOs. According to some observers, the NAPC intentionally limits itself to scrutiny of data available in party reports and do not tries to analyze information that could be purposely omitted by parties, thus lowering quality of its analysis.

Even more importantly, some observers have already raised doubts about impartiality of the NAPC analysis. Up to now, the NAPC has initiated serious investigations only against opposition parties, including *Batkivshchyna*, *UKROP*, and *Svoboda*, while no similar actions targeted ruling PPB or PF. While there is strong evidence of irregularities in reports of the mentioned opposition parties, suspicions of similar violations by ruling parties raised by some NGOs has been ignored. For instance, *CHESHNO* investigation implied that PF had concealed over UAH 1 mn of expenses on hidden advertisement (*dzhyntsa*) in media (Kuchma, Kelm, Feshchenko, 2016). However, after brief efforts by the NAPC to investigate this case, it found no violations, raising suspicion about political motives in its actions.

Experts also raised doubts about effectiveness of communication efforts of the NAPC. Although it generally obeys the law by timely publishing party reports and brief results of their analysis on its website, it refuses to publish detailed investigation reports, which prevents interested actors from knowing exactly what violations have been found in what party reports. With some exceptions, the NAPC also has refrained from summarizing results of their analysis in a manner that is accessible to the public. This discourages media

from expressing interest in results of monitoring of party reports and complicates efforts by ordinary citizens to raise their awareness in the area of political finance and develop informed electoral choice.

Meanwhile, public visibility of the political finance reform remains rather low. In August 2016, only 21 per cent of Ukrainians heard about start of public funding of parties, the most well-communicated novelty, and clear majority (65 per cent) opposed this initiative. Attention of media to the issues of political finance has also been very limited, as journalists have displayed considerably more interest in another area of the NAPC responsibility – analysis of electronic declarations of public officials. While several NGOs have tried to raise awareness of the reform, the NAPC and parties offered little support to their initiatives.

## RECOMMENDATIONS

Relying on the analysis presented above, the reports of GRECO and OSCE/ODIHR, and guidelines of other international organizations, the following recommendations aimed at improving current regulation of political finance in Ukraine could be made.

### ***1. For the Ukrainian parliament.***

1) *To harmonize rules on donations to electoral funds for all types of elections.* This would include amending the law on local elections in order to bring it in line the law on political finance.

2) *To introduce campaign spending limits for presidential and local elections.* Ukrainian lawmakers should consider establishing caps on electoral spending for presidential and local elections similar to those envisaged in the law on parliamentary elections.

3) *To consider abolishing party and candidate 'own funds' as a source of their electoral funds.* The parliament could prescribe that electoral funds could be formed only through contributions from natural and legal persons.

4) *To regulate third party electoral spending.* This could be done either by explicitly forbidding third parties to finance electoral expenses of parties and candidates and establishing related sanctions or by obliging third parties willing to engage in campaign spending to file their financial reports.

5) *To clearly determine for which purposes parties could use public funds.* To do so, the parliament should explicitly define the scope of statutory activities and clearly differentiate them from electoral-related expenses.

6) *To relax regulation on external audit of party reports.* Verkhovna Rada could extend the deadlines for submission of external audit results to the NAPC and allow parties that have not participated in parliamentary and presidential elections and have not received budget subsidies not to undergo external audit.

7) *To tighten sanctions and make them internally coherent.* Administrative fines for non-submission of reports could be significantly increased and made stronger than those for presenting incomplete information in reports. Possibility to impose different types of sanctions for similar violations is better be abolished.

8) *To provide the NAPC with access to necessary state registers and databases.* The parliament could assist the NAPC by granting it possibility to directly access registers owned by other government bodies and bank accounts of parties and candidates.

### ***2. For the NAPC department o prevention of corruption.***

1) *To simplify and consolidate reporting form.* The NAPC is advised to clear the reporting template from all unnecessary information and introduce clear classification of donations and expenses. The NAPC could also consider integrating reports of all party branches into single document.

2) *To extend representation of the working group on development of electronic reporting platform.* The NAPC could make the working group more inclusive and ensure higher quality of its product by engaging party and NGO representatives in its activities.

3) *To provide clear guidance for parties on disclosing in-kind donations.* NAPC should harmonize its different definitions of in-kind donations and clearly explain to parties how to reflect them in their reports.

4) *To improve communication with the public.* The NAPC is recommended to provide information on results of its analysis of party reports in more accessible manner and pay more attention to raising public awareness about the reform.

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