

Act of 5 January, 2011

Election Code

(Journal of Laws 31 January, 2011) (excerpts)

(...)

**Chapter 15
Financing of election campaigns**

Article 125

Financing of election campaigns is public (transparent).

Article 126

Expenses incurred by the election committees in connection with called elections are covered from their own resources.

Article 127

§ 1 The financial management of the election committee is the responsibility of and carried out by the financial representative.

§ 2 The financial representative shall not be:

- 1) a candidate for MP, a candidate for senator, candidate for Member of the European Parliament or a candidate for President of the Republic;
- 2) the legal representative, subject to Art. 403 § 5, paragraph 1;
- 3) a public official within the meaning of art. 115 § 13 of the Criminal Code.

§ 3 A person may be a financial representative of only one election committee.

Article 128

Election committees to carry out their accounting on the principles defined in the Act of 29 September 1994 on Accounting (Journal of Laws of 2009 No. 152, item. 1223, No. 157, item. 1241 and No. 165, item. 1316 and of 2010, No. 47, pos. 278) for non-commercial entities.

Article 129

§ 1 Election committees may raise and disburse funds only for purposes related to the election.

§ 2 It is forbidden for the election committee to raise any funds:

- 1) before acceptance by the competent authority of a notice on the establishment of the electoral committee;
- 2) after the election.

§ 3 It is prohibited for the election committee to disburse any funds:

- 1) before acceptance by the competent authority of a notice of establishment of the electoral committee;
- 2) after the date of the financial statements referred to in art. 142 § 1

Article 130

§ 1 Responsibility for the financial obligations of the election committee shall be borne by the financial representative.

§ 2 Without the written consent of the financial representative financial obligations may not be incurred on behalf of and for the election committee.

§ 3 In the case where the assets and property of the financial representative can not cover claims against the election committee, the responsibility for financial commitments shall rest with:

- 1) in relation to the financial obligation of the election – by the committee of a political party or organization or the political party which formed an election committee, and; in the case of the election committee established by an ordinary association – by the members of the association jointly;
- 2) in relation to the financial obligation of a coalition election committee - by the political parties included in the electoral coalition jointly;
- 3) in relation to the financial obligations of a voters election committee - by the person of voters included in the committee jointly.

§ 4 Responsibility for the financial obligations referred to in § 1-3, also includes the obligations related to the settlement of financial benefits taken by the committee or arising as a result of violation of the Code, excluding benefits referred to in art. 149 § 4

Article 131

§ 1 It is prohibited to transfer funds and in-kind benefits from one election committee to the benefit of another committee.

§ 2 It is prohibited for the election committee to carry out public collections.

Article 132

§ 1 The financial resources of the election committee of a political party can only come from the fund the election of the party, created pursuant to the provisions of the Act of 27 June 1997 on Political Parties (Journal of Laws of 2001 No. 79, item. 857, with further . d...)

§ 2 The funding coalition election committee shall only come from election funds of political parties comprising the coalition election.

§ 3 Financial resources of:

- 1) the election committee of an organization,
- 2) the voters election committee

- shall only come from the contributions of Polish citizens with their permanent domicile in the Polish Republic, and bank loans taken out solely for purposes related to elections.

§ 4 The financial resources of the election committee for the candidate for President of the Republic can only come from the contributions of Polish citizens with permanent domicile in the Polish Republic, and the election funds of political parties and bank loans taken out for purposes related to elections.

§ 5 Electoral committees may not accept in-kind benefits, with the exception of free dissemination of posters, slogans and leaflets by individuals.

§ 6 A guarantor of the loan referred to in § 3 and 4 may only be a Polish citizen having permanent domicile in the Republic of Poland, and the commitment of the guarantor may not exceed an amount equal to the sum of payment referred to in Article. 134 § 2. Security established on the loan is not transferable.

Article 133

§ 1 The election committee of a political party and coalition election committee, have free access during the election campaign to the premises of political party, as well as their office supplies.

§ 2 The voters election committee can enjoy free access to the premises and office supplies of a member of the committee, during the election campaign.

§ 3 The election committee of an organization can enjoy free access to the organization's premises and office supplies during the election campaign.

Article 134

§ 1 The financial resources of the election committee shall be collected on only one bank account. The notice referred to in art. 97, provides the basis for opening a bank account, an entry in the Register of National Economy (REGON) and give a tax identification number (NIP) on the terms specified in the regulations on registration and identification of taxpayers.

§ 2 The sum of contributions from a Polish citizen for the election committee may not exceed 15 times the minimum wage, defined under the Act of 10 October 2002 on the minimum wage (Journal of Laws No. 200, item. 1679 , 2004, No. 240, item. 2407 and of 2005 No. 157, item. 1314), in force on the day preceding the date of announcement of elections.

§ 3 A candidate for MP, a candidate for senator, candidate for President of the Republic, and candidate for MEP who is a Polish citizen can contribute to the election committee a sum of not more than 45 times the minimum salary for the work defined under separate regulations, in force on the day following the date of announcement of elections.

§ 4 If the sum of the contributions of a Polish national to an election committee exceeds the amount set out respectively in § 2 or 3, then the excess amount above the allowable limit shall be forfeited to the State under the terms of art. 149

§ 5 The funds may be contributed to the electoral committee by bank check, bank transfer or bank (debit/credit) card.

§ 6 The agreement on establishment of a bank account agreement concluded on behalf of the electoral committee must include a provision form of payment required by the Code as, the acceptable sources of funds that may be received by a election committee, as well as the time within which it is permissible to make payments.

Article 135

§ 1 Electoral committees shall disburse only the amount of funds set by the limits established by the specific provisions of the Code, for the purposes of the election campaign.

§ 2 Expenditures of the election committee, who has submitted candidates for more than one elected body, is calculated as a cumulative amount deriving from the sum of all limits set by the specific provisions of the Code, disbursed for the purpose of the election campaign.

Article 136

Expenditure of the election committee for election propaganda conducted in the forms and based on the principles of advertising, including in the press within the meaning of the Act of 26 January 1984 - Law baler-in, can not exceed 80% of the limit referred to in Article 135.

Article 137 (Deleted)

Article 138

§ 1 In the event of surplus of funds raised for the purposes of the election campaign the electoral committee shall deposit the funds into the election fund of the political party.

§ 2 In the event of surplus funds raised for purposes of the election campaign, a coalition electoral committee deposit the surplus funds to the election funds of the political parties in the proportion set out in the coalition agreement, and in the absence of relevant provisions thereon, the funds shall be transferred to an organization of public benefit. The financial representative shall inform the competent electoral authority of the transfer of the surplus funds within 7 days from the date of transfer.

§ 3 In the case of acquired surplus funds for the campaign by electoral committees referred to in art. 88-90, these committees will transfer the surplus funds to an organization of public benefit. The financial representative shall inform the competent electoral authority of the transfer of the surplus.

§ 4 The amount of the surplus shall be determined following final affirmation (acceptance or rejection) by the competent authority of the financial statements, subject to the obligation undertaken referred to in art. 130 § 2

§ 5 Transfer of surplus occurs within 14 days from the day:

- 1) service of the order of the adoption of the financial statements or
- 2) ineffective expiry of the deadline for lodging a complaint or an appeal referred to in art. 145, or

- 3) validation of a decision of the court - in the event of a complaint or appeal referred to in art. 145, or
- 4) the coming into force of a court ruling on the forfeiture to the state budget, financial benefits taken by the election committee in violation of the Code - in the case referred to in art. 149 § 5

Article 139

All calls and written information provided by the election committee and election committee of electors of organizations to raise funds for the election must include information about the content of art. 132 § 3-5, Art. 134 § 3, Art. 149 § 1 and art. 506

Article 140

§ 1 The Committee is obliged to keep records of:

- 1) loans, including the name of the bank granting the loan and all the essential conditions for its recovery, in particular: the date of the loan, its amount, interest and other costs of its acquiring, guarantors, and the commitment to be repaid;
- 2) payment from one individual of a value exceeding the amount of the minimum wage, defined under the Act of 10 October 2002 on the minimum wage, as applicable on the day preceding the announcement of the date of elections, indicating the name, surname and place of residence of such person.

§ 2 The committee is obliged to publish the records referred to in § 1, on its website, and keep it updated in order to ensure information on loans and deposits are made public within 7 days of such loan or deposit being made.

§ 3 The records referred to in § 1, should be placed on the website of the committee at least until the day of:

- 1) providing financial statements by the National Electoral Commission to the public or
- 2) submission of financial statements by the electoral commissioner.

§ 4 The minister responsible for public finance, after consultation with the National Elections Commission will determine, by regulation the templates applicable to the records referred to in § 1, the manner of their conduct, and the manner of their transfer to electoral authorities, in particular:

- 1) the scope of data contained in the records
- 2) methods of updating registers,
- 3) presentation of the information contained in the registers on the website of the committee

- Having regard to the importance of the clarity and legibility of the data contained in the records.

§ 5 The obligation referred to in § 1 does not apply to election committees, who submitted a candidate or candidates only to municipal council or district council elections.

Article 141

§ 1 Financing of electoral committees of political parties in matters not governed by this Code, is governed by the provisions of the Act of 27 June 1997 on Political Parties.

§ 2 Since the adoption by the competent electoral body of the notice referred to respectively in Articles. 86 § 2, or Article. 87 § 5, until the election day, a political party, which established an election committee on its own or as part of the electoral coalition, can not campaign to promote the objectives of programmatic political party policy.

Article 142

§ 1 Within 3 months from the date of the election, the financial representative shall submit to the competent electoral body, to which the elections committee submitted its notification of establishment, a report on revenues, expenditures and financial commitments of the committee, including bank loans and the basis on which they were obtained hereinafter referred to as "financial report."

§ 2 If the financial report shall be submitted to the National Electoral Commission to reporting statements shall be accompanied by an auditor's report.

§ 3 An auditor's opinion and report, is not required in the cases where the financial representatives submits a declaration within 30 days of election day, notifying the competent authority that the election committee had no income, no expenses were incurred and no financial obligations were undertaken.

§ 4 The auditor referred to in § 2, the National Electoral Commission is selected from among candidates nominated by the National Council of Chartered Accountants in the number agreed with the National Electoral Commission.

§ 5 The election commissioner, examining the financial reports, may order analysis, expert opinion and reports.

§ 6 The costs of an opinion and the reports referred to in § 2 and 5, are charged to the state budget in the Budget, in the section on public finances and financial institutions.

§ 7 The minister responsible for public finance, after consultation with the State Electoral Commission, shall, by regulation, establish the form of financial reports and the detailed scope of information required to be contained therein as well as a list of the types of documents that must accompany the financial report, so to enable verification of the reports and information provided.

Article 143

§ 1 In elections to the Sejm and the Senate, the European Parliament elections and election of the President of the Republic, the National Electoral Commission publishes the financial reports of the election committees within 30 days from the date of their submission, in the Public Information Bulletin.

§ 2 The financial reports referred to in § 1, shall be published by the National Electoral Commission in the Official Journal of the Polish Republic, "Polish Monitor" after the expiry of the period mentioned in § 1

§ 3 The financial reports are submitted to the electoral commissioner and may be made available by him on request of stakeholders. The election commissioner shall publish, in

the form of a communication in the printed media with coverage of at least the extent of a region (“*vovoidship*”) about the place, time and manner in which the financial reports may be open for inspection.

§ 4 The record of deposits made by polish citizens to the elections commissions of organisations and election commissions of voters shall be made available by the National Electoral Commission upon request, in the mode and manner prescribed by the Act of August 29, 1997 on the protection of personal data (Journal of Laws 2002, No. 101, pos. 926, as amended.)

§ 5 Other types of documents annexed to the financial reports are made available for inspection by entities listed in Article. 144 § 7 in the period provided for raising objection to the financial report, and to all other entities, they are made available after this period pursuant to the provisions of the Act of 6 September 2001 on Access to Public Information.

Article 144

§ 1 Within 6 months from the date of submission of the financial report the electoral body, which has received the financial report shall:

- 1) adopt the report without reservations;
- 2) adopt the report, pointing to any irregularities, or
- 3) reject the report if it finds:
 - a) the raising or spending of funds by the election committee is in violation of the provisions of Article 29, or the limits, referred to in art. 135,
 - b) that public collections were carried out in spite of the prohibition referred to in art. 131 § 2,
 - c) acceptance by the election committee of a political party or coalition election committee, funds from a source other than the Election Fund,
 - d) the adoption by a voters election committee or an election committee of an organization of financial benefits, or in-kind benefit in violation of the provisions of Article. 132 § 3-6,
 - e) acceptance by the election committee of a political party or coalition election committee of in-kind benefits in violation of Article. 132 § 5

§ 2 Rejection of the financial report may also occur in the case that security for loans was issued in breach of Article. 132 § 6, as well as actions undertake which resulted in a reduction of the liabilities of the committee by a person other than that mentioned in art. 132 § 6, or made in violation of the limit of the payments referred to in art. 134 § 2

§ 3 In case of doubt as to the accuracy of financial reports, the relevant electoral body may call upon an election committee to report defects or to provide additional clarifications within a specified period.

§ 4 The electoral body, examining financial reports, may commission expert reports or opinions.

§ 5 Public administration bodies shall provide the State Election Commission, at its request, assistance necessary to study the financial reports.

§ 6 Supervisory authorities, auditing and inspection, functioning within government administration and territorial self-government bodies cooperate with the National

Electoral Commission and are required to provide the State Election Commission, at its request, the results of the audit carried out by these authorities.

§ 7 Within 30 days from the announcement of financial reports:

- 1) political parties,
 - 2) electoral committees, which participated in any election,
 - 3) associations and foundations, which in their statutes declare activities related to analysis of financing of election campaigns
- May submit to the National Electoral Commission, written substantiated objections to the financial reports of electoral committees.

§ 8 An electoral body, within 60 days from the date of filing objections referred to in § 7, shall provide a written response thereto.

Article 145

§ 1 In case of rejection of the financial reports of the election committee by the State Election Commission the financial representative, within 14 days of service of the decision to reject the report, has the right appeal to the Supreme Court against the order of the National Electoral Commission's decision to reject the report.

§ 2 The Supreme Court examines the complaint and issues a decision on the matter within 60 days of receipt of the complaint. The judgment shall be served on the financial representative and the State Election Commission.

§ 3 The Supreme Court bench which considers complaints is composed of seven judges, in non-litigious proceedings.

§ 4 A judgment of the Supreme Court is not subject to any further remedies.

§ 5 In case the financial reports of an election committee are rejected by the election commissioner the financial representative of the committee is entitled to submit an appeal to the regional court within 14 day of service of the decision of rejection. The appeal the district court take place in non- litigious proceedings followed the proceedings which must take place within 30 days of receipt of the appeal. The decision of the district court is not entitled to any further remedy.

§ 6 If the Supreme Court or the district court finds the complaint referred to in § 1, or an appeal referred to in § 5, of the financial representative to be justified, the National Electoral Com-mission or election commissioner, as appropriate, shall adopt the financial report immediately.

§ 7 After the expiry of the time limit for bringing the appeal referred to in § 1, or in cases referred to in § 5, or after the issuance of the decision referred to in § 2 or 5 any the appeal or complaint of the financial representative shall be considered unfounded, and the body, which to whom the financial report was submitted shall communicate its decision of rejection of the reports to the chief of the competent local tax office appropriate for the registered office of the election committee.

Article 146

The electoral body, to whom the financial report was submitted, shall publish in the Bulletin of Public Information, in the form of a communication, information about the acceptance or rejection of the financial reports of electoral committees.

Article 147

§ 1 In the event of failure to submit the financial report by:

- 1) The election committee of a political party - a political party is not entitled to subsidies referred to in art. 150 or art. 151, and the right to subsidies referred to in art. 28 of the Act of 27 June 1997 on Political Parties;
- 2) The election committee of a coalition - a political party forming part of the electoral coalition is not entitled to subsidies referred to in art. 150 or art. 151, and the right to subsidies referred to in art. 28 of the Act of 27 June 1997 on Political Parties;
- 3) The election committee of voters – is not entitled to subsidies referred to in art. 150 or art. 151

§ 2 Financial reports submitted after the specified time limit shall be subject to the provisions of art. 142-145.

Article 148

§ 1 In case of rejection by the National Electoral Commission of the financial report or the denial of a complaint referred to in art. 145 § 1, the subsidy granted to the political party or voters election committee referred to in art. 150 or art. 151, is reduced by an amount equal to three times the amount of funds raised or expenditure made in violation of the provisions referred to in art. 144 § 1 point 3

§ 2 In case of rejection by the National Electoral Commission, of the financial report or the denial of a complaint referred to in art. 145 § 1, the subsidy granted to the political party referred to in art. 28 of the Act of 27 June 1997 on Political Parties, is reduced by an amount equal to three times the amount of funds acquired or expenditure made in violation of the provisions referred to in art. 144 § 1 point 3

§ 3 Deduction of grants or subsidies referred to in § 1 and 2 may not exceed 75% of the grant referred to in art. 150 § 1 and art. 151 § 1, or 75% of the amount of the subsidy referred to in art. 28 of the Act of 27 June 1997 on political parties.

Article 149

§ 1 Financial benefits acquired by the election committee in violation of the Code, shall be forfeited to the State Treasury. If the acquired amount has been expended or lost, its equivalent shall be forfeited.

§ 2 The pecuniary benefit forfeited to the State Treasury, is also the value of activities carried out resulting in a reduction value of the liabilities of the committee by a person other than that mentioned in Article. 132 § 6, or made in violation of the principles referred to in art. 132 § 6, or Article. 134 § 2

§ 3 § 1 does not apply to financial benefits given to an election committee in breach of the provisions of the Code, which the election committee returned within 30 days of their transfer.

§ 4 § 1 does not apply to financial benefits given to an election committee in breach of the provisions of the Code, which benefits or their equivalent are within 14 days from the date of delivery of election committee decision on acceptance or rejection of its financial

reports, and in case of complaint or appeal referred to in art. 145 § 1 and 5 - within 14 days from the date the decision becomes final issued by a competent court, that have been voluntarily deposited into the bank account of the tax office competent for the registered office of the committee. In kind benefits received by the election committee shall be transferred to such tax office. Confirmation of payment of the transferred material benefit or its equivalent by the election committee shall be communicated to the competent election authority by the election committee.

§ 5 The acceptance of financial gain in violation of the Code is decided upon by the competent election authority in the decision on acceptance or rejection of the financial reports.

§ 6 In the event of failure to undertake the actions referred to in § 4 of the first and second sentence, or one of those activities, the head of the tax office competent for the registered office of the election committee, at the request of the National Electoral Commission and electoral commissioner, shall file a motion to the court against the entities referred to in art. 130 § 1, for a ruling on the forfeiture of the benefits or their equivalent or otherwise the transfer or material benefit or its equivalent.

§ 7 The district court appropriate for the registered office of the tax authority referred to in § 6 has the jurisdiction to adjudicate in matters referred to in § 1.

§ 8 The District Court hears cases referred to in § 6, in non-litigious proceedings.

§ 9 Execution of a benefit or its equivalent shall be conducted pursuant to the provisions of administrative proceedings for execution of monetary claims. The body executing the order shall be the head of office of tax office referred to in § 6

§ 10 Seized movable property, debts and other property rights are converted into monetary assets by the head of the tax office in accordance with the provisions of the Act of 17 June 1966 on the execution of orders in administration (Journal of Laws of 2005 No. 229, item. 1954, as amended) regarding the execution monetary claims.

Article 150

§ 1 The political party, whose election committee participated in the elections, the political party comprising an election coalition committee, and the election committee of voters participating in elections to the Sejm and the Senate is entitled to a grant from the state budget, hereinafter referred to as an “entity subsidy”, for each mandate for deputy and senator obtained. Expenses incurred as a result of the entity subsidy shall be covered by the state budget from the section on Budget for public finance and financial institutions.

§ 2 The amount of subsidy is calculated as follows:

$$D_p = \frac{W}{560} \times M,$$

560
where the symbols are defined as:

Dp - the amount of subsidy afforded,

W - total campaign expenses of election committees (up to the amount of spending limits allocated to electoral committees in elections to the Sejm and the Senate), which received at least one mandate,

M - the number of mandates of deputies and senators received by the election committee.

§ 3 The entity subsidy applies only to expenditures revealed in financial reports.

§ 4 The entity subsidy shall be granted in the Operators in the amount referred to in § 2 and 3, and for each mandate for Deputy or Senator, obtained re-election to the Sejm and the Senate, and supplementary elections to the Senate.

§ 5 The amount of subsidy enjoyed by the political party forming part of the electoral coalition is determined by dividing the amount calculated in accordance with § 2, between the parties forming the coalition in the proportions specified in the agreement establishing the electoral coalition. Proportions specified in this agreement can not be changed. If the political parties forming the coalition in the election did not indicate the proportion in an agreement the subsidy shall be paid to them in equal parts.

§ 6 The transfer of the subsidy to the designated entities referred to in § 1, shall be made to their bank account by the minister responsible for public finances on the basis of the information provided by the National Electoral Commission on those entitled to receive the subsidy as well as the number of mandates received by the electoral committee. The subsidy is paid within 9 months from the date of the election.

§ 7 In the case of division, merger or liquidation of political parties, their entitlement to subsidies shall be governed by the provisions of art. 37 of the Act of 27 June 1997 on Political Parties.

Article 151

§ 1 The political party whose election committee participated in the elections, the political party that is part of the election coalition, and the election committee of voters participating in European Parliament elections are entitled to a subsidy hereinafter referred to as the “entity subsidy” from the state budget, for each mandate for each MEP, obtained. Expenses related to the entity subsidy shall be covered by the state budget in the section on Budget for public finances and financial institutions.

§ 2 The amount of subsidy is calculated as follows:

$$Dp = \frac{W}{L} \times M,$$

where the symbols are defined as:

Dp - the amount of subsidy afforded,

In - the amount of zloty equal to the number of voters who voted,

L - the number of elected deputies in the Polish Republic to the European Parliament

M - number of seats won by the electoral committee.

§ 3 The grant applies only to expenditure revealed the financial reports adopted by the National Electoral Commission.

§ 4 The amount of subsidy enjoyed by the political party forming part of the electoral coalition is determined by dividing the amount calculated in accordance with § 2, between the parties forming the coalition in the proportions specified in the agreement establishing the electoral coalition. Proportions specified in this agreement can not be changed. If the political parties forming the coalition in the election did not indicate the proportion in the coalition agreement , the subsidy is payable to each of them in equal parts.

§ 5. The transfer of the subsidy to the designated entities referred to in § 1, shall be made to their bank account by the minister responsible for public finances on the basis of the information provided by the National Electoral Commission on those entitled to receive the subsidy as well as the number of mandates received by the electoral committee. The subsidy is paid within 9 months from the date of the election.

§ 6 In the case of division, merger or liquidation of political parties, their entitlement to subsidies shall be governed by the provisions of art. 37 of the Act of 27 June 1997 on political parties.

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