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**Legal Regime for the financing of political parties**

Political and party interaction is recent and it has been greatly hampered by the fact that Timor-Leste is emerging from the effects of a brutal military occupation, which left consequences whose extent and depth are yet to be understood.

Absence of democratic culture, marks of violence, and social fragmentation have made institutionalisation of political parties very difficult. Everything is further compounded by financial poverty political parties are faced with, which makes it almost impossible for institutionalisation to be a reality and democracy to be exercised within parties.

Political parties have survived with limitations and constraints, mostly on the strength of contributions by members, which is a reflection of the country's reality.

It is therefore important that the State, in compliance with the Constitution of the Republic, assists in creating minimum conditions for the regular functioning of those political parties that have already showed at the polls that they enjoy some popular representation, at a time when the country has achieved some financial capability, which it did not have before.

Under the terms of Section 95 (2) (i) of the Constitution of the Republic, the National Parliament enacts the following instrument with the force of law:

**Chapter I**

**Financing for Political Parties**

**Section 1**

**Scope**

This law defines the legal regime for the financing and financial accountability of political parties with parliamentary representation.

## **Section 2**

### **General Principles**

The financing of political parties and electoral campaigns shall be governed by the following general principles:

- a) Legality;
- b) Transparency in relation to sources and use of funds;
- c) Submission, auditing and publication of financial reports.

## **Section 3**

### **Accounting system**

1. A political party shall be required to have an organised accounting system, making it possible to know its financial situation and ascertain compliance with obligations provided for by law.
2. The accounting system of a political party shall comply with general accounting rules and shall especially provide for the following:
  - a) An annual inventory of the political party's property in terms of immovable and movable assets subject to registration;
  - b) A breakdown of revenue by category;
  - c) A breakdown of expenditure on the basis of the following categories:
    - i) Staff costs;
    - ii) Expenditure for procurement of goods and services;
    - iii) Financial charges related to loans;
    - iv) Other expenses arising out of activities by the political party.
  - d) A breakdown of capital operations related to:
    - i. Investment;
    - ii. Borrowers and lenders.

## **Section 4**

### **Revenue**

1. Revenue of a political party shall include own revenue, revenue from private financing and public grants, as provided for in this law.
2. The following shall be deemed as own revenue:
  - a) Fees and other contributions by members of a political party;
  - b) Revenue collected from fund-raising activities carried out by a political party;
  - c) Revenue generated by property owned by a political party;
  - d) Loans taken with credit institutions established in the country.
3. The following shall be deemed as private financing:
  - a) Contributions by national individuals;
  - b) The product of an inheritance or legacy;
4. Public grants are budgetary appropriations provided as part of financing for political parties with parliamentary representation under the terms of this law.
5. The raising of revenue not provided for in this law shall be prohibited, and contributions by national corporate bodies and foreign individuals and corporate bodies shall also be strictly prohibited.

## **Section 5**

### **Fees and other contributions from members of a political party**

1. Fees and other contributions from members of a political party shall be certified by a receipt, whose original shall be handed over to the taxpayer and a copy of which shall be filed in the accounting records of the political party.
2. Where a political party holds a specific bank account for depositing fees and other contributions, such fees and contributions may also be made by bank transfer or deposit, and they shall not require any other form of certification, apart from an account statement or deposit slip.

## **Section 6**

## **Revenue from fund-raising activities**

Revenue generated by fund-raising activities carried out by a political party shall be disaggregated into type of activity, location and date or period of such activity.

### **Section 7**

#### **Revenue from property owned by a political party**

Revenue generated by property owned by a political party shall be certified by documental proof as to its amount and source.

### **Section 8**

#### **Loans**

Loans taken when credit institutions established in the country shall be certified by a document issued by the institution concerned.

### **Section 9**

#### **Contributions by national individuals**

It shall be mandatory for contributions made by national individuals to be certified by a bank cheque where such contributions exceed US\$ 1,000 (one thousand US dollars), and any other contribution shall be certified by a written document signed by the taxpayer and by the party official who receives the contribution, indicating its amount.

### **Section 10**

#### **Product of an inheritance or legacy**

The product of an inheritance or legacy shall be certified by documental proof as to its amount and source.

### **Section 11**

#### **Public grant**

1. The National Parliament shall annually set the overall amount of public grants for political parties with parliamentary representation and such amount shall be provided for in the general budget of the State as a specific item to be included in the appropriation for the National Electoral Commission, hereinafter referred to as the CNE.

2. Out of the overall amount of the grant, 50% shall be equally divided among all the political parties with parliamentary representation, and the remaining 50% shall be allocated according to proportional representation, as achieved by political parties.

## **Section 12**

### **Expenses**

Payment for any expenses by a political party shall be certified by a document showing the amount involved and the payee.

## **Section 13**

### **Deadline for submission of financial reports**

1. Submission of detailed financial reports by political parties, as provided for in Section 3, shall be made on a regular basis 45 days before the end of the financial year, and such reports shall be accompanied by comments from the statutory competent body.
2. Competence to consider and validate financial reports submitted by political parties shall rest with the CNE, which shall be assisted by its own or external auditors for such consideration and validation.

## **Section 14**

### **Responsibility for the submission of financial reports**

Responsibility for the preparation and submission of political parties' financial reports shall rest with statutory competent bodies.

## **Section 15**

### **Duty of collaboration**

Political parties shall collaborate with the CNE and its auditors in the performance of their task to consider financial reports.

## **Section 16**

### **Consideration of financial reports**

1. The CNE shall request technical comments from its auditors on the legality of financial reports within five days once the deadline for the submission of such reports has expired, and the CNE shall publicize

through the media the names of those political parties that have failed to submit their reports.

2. The CNE's auditors may request from political parties all necessary details for the production of comments provided for in Paragraph 1 of this Section, and such comments shall include individual consideration of financial reports submitted by each political party within 30 days from the date the comments have been requested.
3. Once comments provided for in Paragraph 1 of this Section have been received and should there be signs of irregularities in any financial reports, the CNE shall notify the political party concerned to submit duly revised reports within 10 days.
4. The CNE shall consider financial reports on the basis of the technical comments referred to in the preceding paragraphs and any other elements contained in relevant documents.

## **Section 17**

### **Final decision**

1. The CNE shall consider financial reports submitted to it within 20 days after it has received comments from its auditors.
2. The final decision, besides containing an individual breakdown of financial reports submitted by each political party, shall also include an indication on those parties that have not submitted their reports and those that after submitting them have not revised them following a notification to do so.
3. Financial reports and related final decisions shall be made public by the CNE immediately afterwards.
4. Financial reports and related final decisions shall be made public in the *Official Gazette* on a free-of-charge basis and shall be posted on the CNE's website.
5. Where consideration by the CNE proves that obligations provided for in this law and carrying a fine penalty or an imprisonment sentence have not been complied with, transcripts of the financial reports concerned shall be requested and sent to the General Prosecution Service for appropriate legal action.

## **Section 18**

## **Exemption from taxes, initial fees and legal charges**

1. Political parties shall be exempt from taxes, initial fees and legal charges.
2. Exemptions referred to in Paragraph 1 of this Section shall not cover business activities of a corporate nature.
3. Exemptions shall be suspended if a political party does not apply to contest in a election for the National Parliament or if it does not submit its annual financial reports, however such benefits shall be reinstated once the annual financial reports of the political party have been submitted or it has applied to contest in a election for the National Parliament.
4. Suspension shall take effect from the day of the election concerned or on the day following announcement by the CNE of political parties that have not submitted their financial reports.

## **Chapter II**

### **Offences**

#### **Section 19**

##### **Competent court**

It shall be incumbent upon the district judge with jurisdiction over the area where an offence has been committed to try those offences provided for in this law, in a case to be investigated by the Prosecution Service and to be appealed against with the Supreme Court of Justice.

#### **Section 20**

##### **Penalties**

Offenders who breach the rules governing financing for political parties and submission of their financial reports shall be liable to penalties provided for in this chapter, without prejudice to civil or criminal liability, as provided for by law.

#### **Section 21**

##### **Non-compliance with rules governing organized accounting systems**

1. A political party with no organized accounting system shall be made to pay a penalty from US\$ 1,500 (one thousand five hundred US dollars) to US\$15,000 (fifteen thousand US dollars).
2. A political party with an organized accounting system but which does not comply with the formalities set out by Section 3(2), Sections 5-10, and Section 12 shall be made to pay a penalty from US\$1,500 (one thousand five hundred US dollars) to US\$5,000 (five thousand US dollars).

## **Section 22**

### **Failure to submit financial reports**

A political party that does not submit its financial reports or that, after having been notified to revise such reports, does not comply within the established deadline shall be made to pay a penalty up to US\$2,000 (two thousand US dollars) and shall cumulatively forfeit its right to future grants from the State.

## **Section 23**

### **Illegal revenue-raising**

Leaders of political parties, individuals and managers of corporations who get personally involved in raising revenue for the benefit of a political party in contravention of the provisions of this law shall be sentenced to imprisonment from 6 months to 2 years or made to pay a penalty from US\$500 (five hundred US dollars) to US\$5,000 (five thousand US dollars).

## **Section 24**

### **Failure to comply with other obligations**

A person who does not comply with any other obligation provided for in this law shall, in the absence of applicable legal provisions, be sentenced to up to 1-year imprisonment or be made to pay a penalty up to US\$500 (five hundred US dollars).

## **Chapter III**

### **Final and transitional provisions**

## **Section 25**

### **Competent court**



Until such a time as the Supreme Court of Justice becomes operational, the competences vested in it by this law shall be exercised by the Court of Appeal.

## **Section 26**

### **Entry into force**

This law shall enter into force 30 days after its publication in the *Official Gazette*.

Passed on 5 January 2008.

The Acting Speaker of the National Parliament,

Vicente da Silva Guterres

Promulgated on 19 March 2008.

To be published.

The Acting President of the Republic,

Fernando La Sama de Araújo