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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

KOSOVO

DRAFT LAW ON AMENDING AND SUPPLEMENTING

**THE LAW NO. 03/L-174 ON THE FINANCING OF POLITICAL ENTITIES
(AMENDED AND SUPPLEMENTED BY THE LAW NO. 04/L-058 AND
THE LAW NO. 04/L-122)**

**AND THE LAW NO. 003/L-073 ON GENERAL ELECTIONS
(AMENDED AND SUPPLEMENTED BY THE LAW NO. 03/L-256)**

The Assembly of the Republic of Kosovo,
Pursuant to Article 65 (1) of the Constitution of the Republic of Kosovo,
Adopts

**LAW ON AMENDING AND SUPPLEMENTING THE LAW NO. 03/L-174 ON THE
FINANCING OF POLITICAL ENTITIES, AMENDED AND SUPPLEMENTED BY THE LAW
NO. 04/L-058, LAW NO. 04/L-122 AND LAW NO. 003/L-073 ON GENERAL ELECTIONS IN
THE REPUBLIC OF KOSOVO, AMENDED AND SUPPLEMENTED BY THE
LAW NO. 03/L-256**

**Article 1
Purpose**

The purpose of the Law is to amend and supplement the Law no. 03/L-174 on the Financing of Political Entities, as amended and supplemented by the Law no. 04/L-058, Law no. 04/L-122 and Law no. 003/L-073 on General Elections in the Republic of Kosovo, amended and supplemented by the Law no. 03/L-256.

Article 2

**Amending and Supplementing of Law no. 03/L-174 on the Financing of Political Entities,
amended and supplemented by the Law no. 04/L-058 and Law no. 04/L-122**

1. Paragraph 1.5 of Article 2 of the basic Law shall be reworded as follows::

1.5 Contribution - shall mean a gift, subsidy, donations or any kind of benefit granted to a political entity, either in cash or in kind, including payment of debts of the political entity, and the profit through, the property, the loan, the loan generated by the entrepreneurial activities, services and facilities for use of the political entity. A contribution shall also be considered the acceptance of a service or monetary or material value by political entities below the real market value. Anonymous contributions are strictly forbidden. Also, contributions that are made in cash amounting to fifty (50) Euros or more are strictly forbidden.

2. Article 19 of the basic law shall be reworded as follows:

**Article 19
Financial Control**

1. Annual Financial Reports and Financial Declaration Reports of Campaign which are submitted by political entities to the Office for registration, certification and financial control of political entities (hereinafter referred to as the 'Office'), shall be audited in accordance with accounting standards applicable in Kosovo by auditors to be elected by the Office through an open public invitation for application.

2. The Office shall, through the open public invitation, select at least ten (10) licensed auditors, either as natural or legal persons, who will audit the Annual Financial Reports and the Financial Declaration Reports of Campaign of the Political Entities, and shall undertake actions on behalf of the Office. To be selected, the auditors must meet *inter alia*, the following criteria:

2.1. are licensed auditors according to the criteria of the legislation in force in the Republic of Kosovo;

- 2.2. have at least three (3) years working experience in the field of audit;
 - 2.3. the natural or legal persons selected should not have had any contractual relations with some of the political entities during the last three (3) years;
 - 2.4. have not been donors to any of the political entities or have benefited in any way from political entities during the last three (3) years;
 - 2.5. are not under investigations or convicted of any criminal offense;
 - 2.6. present a list of all the audits that have conducted during the last three (3) years.
3. In case the legal persons apply to be selected for auditors under paragraph 2 of this Article, such legal and natural person who are an integral part of the legal or natural person who apply individually, have to meet all the criteria according to paragraph 2 of this Article. Such legal person must also submit a list of all auditors.
 4. Following the selection of the list of auditors who will carry out the audit under paragraph 2 of this Article, from this list, the Office will define by draw the auditors who will be responsible for the audit of the reports of the political entities. An auditor cannot audit the financial reports twice consecutively to a political entity.
 5. The registered political entity will cooperate closely with auditors selected by the Office and will provide them complete and unhindered access to financial data of the party, including here all the data without limitation.
 6. Political entities, upon request of the auditor, shall provide all requested documents immediately and without delays. Political entities that do not provide full cooperation with the selected auditors will be deprived to benefit from the Fund for Support of Political Parties that is allocated from the Kosovo Budget for the following year. The decision concluding non-cooperation with the auditor shall be taken by the Office Director, based on the findings in the auditor's report and the same shall be submitted without delay to the CEC and the Assembly.
 7. The Office shall present the preliminary results of the annual financial report by auditors to the highest executive body of the political entity, including a list of errors or omissions within ninety (90) days of the beginning of the audit.
 8. The registered political entity may, within a period of fifteen (15) days from the receipt of the preliminary audit results, submit a revised financial report and the explanation of any evident error or omission identified by the auditors. Failure to comply with this deadline would entail reconciliation with the auditor's findings.
 9. In case of objections by the political entity on the findings of the preliminary report, the auditor shall issue the final report with the auditor's opinion on the financing of the political entity.
 10. In case the political entity objects the findings of the preliminary report, the auditor will examine all such objections and if found as grounded, the auditor, based on the evidence, will correct the findings recorded in the preliminary report.
 11. Political entities provide unlimited access to the offices and the books (records) where data are kept, if the auditor finds it necessary to enable the audit. If access to offices or books is limited or impeded, it shall be considered that the political entity has

not cooperated with the auditor and that paragraph 6 of this Article shall be implemented.

12. Upon receipt of the revised financial report by the Political Entity and the explanations of errors and omissions identified, the Auditor submits the Final Audit Report to the Office within ten (10) days.

13. The audit process of the Annual Financial Reports of Political Entities should be completed no later than 15th of June of the following year.

14. The Office is obliged to submit the Annual Financial Reports of Political Entities and the Final Audit Report of Political Entities by the 30th of June of the following year and the Financial Report of the election campaign of Political Entities no later than forty-five (45) days after the Election Day.

15. The Final Audit Report of Political Entities shall be published on the official website of the Office within five (5) days from the day of report submission.

16. The Office of the State Prosecutor, the Anti-Corruption Agency, the Financial Intelligence Unit or the Tax Administration of Kosovo, in accordance to their mandate, may review these reports if they have identified violations of legal provisions that are in the mandate of these institutions.

17. The Office shall draft an Annual Report for CEC and the same, un-amended, shall be forwarded by CEC to the Assembly of the Republic of Kosovo for allocation and spending of the means from the Fund, including findings deriving from the audit process and the recommendations that the Office issues in order to advance the mechanisms for financing of political parties, especially with regards to increasing the transparency and accountability. This report must be submitted no later than 31st July of each year.

3. After Article 19 of the basic law, Article 19A is added with the following text:

Article 19/A Publication

1. The Political Entity represented in the Assembly of the Republic of Kosovo is obliged:

1.1 to have an operational official website;

1.2 to publish the costs for carrying out an activity exceeding the amount of one hundred (100) Euros in the official website within fifteen (15) days regarding the activity in question;

1.3 to publish and update every three (3) months or, in case of a campaign, at least every two (2) weeks, in case of any change, the list of contributors that includes the name and surname, in case of a natural person, or the name of the legal entity and the type and the amount of contribution;

1.4 to submit the summary report of costs to the Office fifteen (15) days after the end of each quarter, and to publish the same on the official website.

- 1.5 to keep published, the Annual Financial Report of the previous year Financial Declaration Reports of Campaign of previous elections, for at least three (3) years in its official website.
2. Political Entities that are not represented in the Assembly of the Republic of Kosovo are obliged to submit an annual report to Office, listing all contributions and expenses within the reporting year. The reporting template shall be determined by the Office.

Article 3

Amending and supplementing of the Law No. 003/L-073 on General Elections in the Republic of Kosovo, amended and supplemented by Law No. 03/L-256

1. Article 3 of the basic law, last paragraph, shall be reworded as follows:

"Office" shall mean the Office for registration, certification and financial control of political entities, acting as specified in the applicable legislation.

2. Paragraph 11.1 of Article 11 shall be reworded as follows and paragraphs 11.1/A, 11.1/B, 11.1/C, 11.1/D and 11.1/E shall be added after this paragraph, as follows:

11.1 CEC shall establish the Office for registration, certification and financial control of political entities. The Office shall be responsible for maintaining the registry of political parties, certification of all political entities to be included on a ballot, and the campaign spending limit and financial disclosure articles of this law, as well as monitoring and financial control of political entities.

11.1/A The Office shall enjoy operational independence in exercising the functions defined by this law.

11.1/B The Office shall have its own budget, which will be administered by the CEC Secretariat. CEC and its Secretariat cannot limit or otherwise direct the expenses of the Office, also, the Secretariat of CEC cannot reallocate the budget of the Office or to use the budget allocated to the Office for any other purpose. The Office will be provided with all the necessary professional and administrative capacities by the CEC Secretariat, for the purpose of carrying out its duties and responsibilities, in accordance with the provisions of this Law.

11.1/C The organizational structure of the Office shall be determined by the Regulation on Jobs Systematization from CEC, by ensuring that the Office is provided with the necessary human resources for accomplishing the competences provided for by the legislation in force.

11.1/D The Office may carry out oversight on any occasion, if deemed that a political entity has violated the legal provisions and may request, by persons as envisaged under Article 14 of the Basic Law, the provision of written answers with the aim of ensuring evidence and other documents to carry out the oversight.

11.1/E The Office shall request, from the political entity found to be in violation of legal provisions, the elimination or redress of the findings and deficiencies on a voluntary basis, if they can be eliminated or redressed, before sanctions are imposed by the Office. This voluntary addressing of findings must be done within the deadline set by the decision of the office.

3. Paragraph 11.2 of Article 11 shall be reworded as follows, and the paragraphs 11.2/A and 11.2/B shall be added after this paragraph, as follows:

11.2 The Director of the Office shall be elected by CEC through a public vacancy, in compliance with the applicable legislation for senior appointments and reports directly to CEC.

11.2/A The Director of the Office must meet the following criteria:

- 1.1. be a citizen of the Republic of Kosovo;
- 1.2. have a valid diploma in social sciences;
- 1.3. have at least eight (8) years of relevant professional experience, of which five (5) years in leadership positions;
- 1.4. have a professional reputation and moral integrity;
- 1.5. have not been convicted of a crime by a final court decision.

4. Paragraphs 11.6 and 11.7 shall be added after paragraph 11.5 of Article 11, as follows:

11.6 The Office shall be obliged:

- a. to publish and keep published all financial reports of political entities on its official website, every quarter.
- b. to publish and keep published the final audit report of political entities on its official website no later than 30th of June of the following year.
- c. to submit the final audit report to the political entity, in accordance with Article 1 of this Law, by 30th of June of the following year;

11.7 The format of the short version for publication, under paragraph 1.4 of this Article, shall be determined by the special rule proposed by the Office and approved by CEC.

5. Article 11/A shall be added after Article 11 with the following text:

6. Article 13 of the basic law shall be reworded as follows:

Financial statements of a registered Political Entities shall be audited annually in accordance with provisions of the legislation in force.

7. Article 41 of the basic law [*Audit*] shall be repealed.

8. Article 42 of the Law shall be reworded as follows:

9. Point (d) of paragraph 64.2 of Article 64 shall be reworded as follows:

d) Ensures that the Office for Registration, Certification and Financial Control of Political Entities is provided with resources to meet the obligations set forth in this Law;

11. The first sentence of paragraph 65.2 of Article 65 shall be deleted.

12. The word "Office" shall be added to paragraph 126.1 of Article 126 after the word "CEC" at the beginning of Article

**Article 4
Repeal**

With the entry into force of this Law all legal provisions stipulated in the Law no. 03/L-174 on the Financing of Political Entities, as amended and supplemented by the Law no. 04/L-058, Law no. 04/L-122 and Law no. 003/L-073 on General Elections in the Republic of Kosovo, amended and supplemented by the Law no. 03/L-256 that conflict with provisions of this Law are superseded.

**Article 5
Entry into force**

The present Law shall enter into force fifteen (15) days after the publication in the Official Gazette of the Republic of Kosovo.

Kadri Veseli

President of the Assembly of the Republic of Kosovo