

YAKOV SOLDATOV

Candidate of Historical Sciences, Associate Professor of the Department of Civil Law of the “TISBI” University of Management

VIKTORIYA GALKINA

First-year Master’s student of the Department of Civil and Business Law of the “TISBI” University of Management

THE ACTUAL PROBLEMS OF REGULATING ELECTION CAMPAIGN FINANCING

DOI: 10.30729/2541-8823-2023-8-3-154-157

Abstract. *The article reviews the analysis of law enforcement practice of the procedure for financing election funds in order to identify defects in the legislative regulation of these legal relations and to develop possible solutions to eliminate emerging problems. The issue of election financing in Russia and its interrelation with the increasing role of money in politics is considered. The authors of the article argue on the topic of the dispute about the necessity of public financial reporting of political parties: about the approach of public financial reporting requirements and access to mandatory open detailed reporting. The issues of distortion and inconsistency of official reporting of funds are raised. The issue of ineffective control over the sources of receipt of financial resources to the funds of parties and candidates is considered. A number of recommendations were made to solve the current problems in the area under consideration.*

Keywords: *campaign finance, election campaign, election funds, election finance problems, fund*

In modern Russia, the process of campaign activities related to the implementation by candidates for elected office and their parties in the electoral struggle, the purpose of which is to ensure maximum support of voters in the upcoming elections, is significantly regulated by legislation and financially supported in accordance with separate chapters of legal acts. Thus, for example, these include:

1) Federal Law of 26.11.1996 No. 138-FZ (ed. of 04.06.2014) “On ensuring the constitutional rights of citizens of the Russian Federation to elect and be elected to local self-government bodies”;

2) Federal Law of 12.06.2002 No. 67-FZ (ed. of 12.06.2022) “On basic guarantees of electoral rights and the right to participate in the referendum of citizens of the Russian Federation”;

3) Federal Law of 10.01.2003 No. 19-FZ (ed. of 05.12.2022) “On the election of the President of the Russian Federation”;

4) Federal Law of 22.02.2014 No. 20-FZ (ed. of 05.12.2022) “On the election of deputies to the State Duma of the Federal Assembly of the Russian Federation” and others.

Special attention in this sphere of regulation is paid to the issues of formation of the election fund of candidates and its expenditure. Thus, for example, in accordance with Paragraphs 3 and 4 of Article 58 of the Federal Law “On the election of the President of the Russian Federation” the maximum amount of all expenses of a candidate from his election fund may not exceed 400 million rubles, and the maximum amount of all expenses of a candidate for whom the election of the President of the Russian Federation is scheduled may not exceed 400 million rubles, and the maximum amount of all expenditures of a candidate for whom a second vote has been scheduled cannot exceed 500 million rubles¹.

Such an instrument can be considered a public-law entity with a strict purpose and temporary character. The triad of legal powers in this case cannot be regulated by civil law, they are the subject of special legal regulation by means of electoral and financial law. But, in this case, the candidate is not the owner of such a fund, he acts as a manager independently or through a representative.

The process of creating an election fund cannot be a lever for non-compliance with the norms directly prescribed in the legislation, while the reporting procedure often becomes a stumbling block in analyzing the legality of candidates' work².

¹ Federalnyy zakon ot 10.01.2003 No. 19-FZ (red. ot 05.12.2022) “O vyborakh Prezidenta Rossiyskoy Federatsii” [Federal Law of 10.01.2003 No. 19-FZ (ed. of 05.12.2022) “On the election of the President of the Russian Federation”] // *Sobranie zakonodatelstva RF* [Collection of legislation of the Russian Federation], 13.01.2003, No. 2, st. 171.

² See, e.g. *Grigoryev M.S., Sadovnikova G.D.* Analiticheskiy doklad “Rossiyskiy i mezhdunarodnyy opyt primeneniya zakonodatelstva o finansovoy prozrachnosti deyatelnosti politicheskikh partiy” (2014 g.), podgotovlennyy po zakazu Rossiyskogo tsentra obucheniya izbiratelnym tekhnologiyam pri Tsentralnoy izbiratelnoy komissii Rossiyskoy Federatsii [Analytical report “Russian and international experience in the application of legislation on financial transparency of political parties' activities” (2014), commissioned by the Russian Center for Training in Electoral Technologies at the Central Election Commission of the Russian Federation] // [Electronic resource]: URL: <https://www.rcoit.ru/news/18121/> (date of address: 11.08. 2023); *Evdokimov V.B.* Pravovoe regulirovanie politicheskikh partiy v burzhuaznykh stranakh: dis. ... dokt. yurid. nauk [Legal regulation of political parties in bourgeois countries: dissertation

Currently, the focus of control is on the expenditures of political parties and candidates, while in the interests of voters it should be shifted to the receipt of these funds.

The situation is complicated by the fact that the reports submitted by a candidate or political party may be distorted and may not correspond to reality. Therefore, a large part of such funds raised for financing political campaigns may not be reflected, and the sources of even official receipts of financial resources to the funds are indeed not always identifiable. At the same time, the bodies organizing elections do not have the authority to effectively control such receipts.

One of the significant problems today may be the use of administrative resources and indirect support of the state by specific political forces. Such support is made at the expense of public funds. Thus, the formation of false information through the mass media, which are in one way or another controlled by the state or certain officials, or the purchase of political and sociological consulting services at the expense of the budget or other use of official position, including direct participation of officials in campaign events, or putting pressure on commission members, candidates or voters, leads to the violation of the principle of political non-interference of public officials, which is an obvious manifestation of political and socio-political activity.

Formation of an election fund through donations is a financial array that forms a significant part of such trust fund. The law also defines the circle of persons who are not entitled to make donations, but it is with the use of these provisions that the will of the legislator can be violated.

Furthermore, if a person or organization that does not have the legal right to directly finance the activities of a candidate or a political party running for election wishes to provide such funding, there is nothing to prevent them from doing so through non-profit organizations, which are not obliged to disclose information about their benefactors to the public. To avoid this, organizations that are involved in providing financial support through financial donations to political parties or candidates should be obliged to disclose information about the size and senders of such donations (company name or name of an individual, individual taxpayer number, region, amount of donation).

Another basis for political corruption could be funding from recipients of government contracts and various forms of state support¹. A ban on such donors

of the Doctor of Legal Sciences]: Sverdlovsk: 1990. — 325 p.; Konstitutsionnoe pravo zarubezhnykh stran: uchebnik [The constitutional law of foreign countries: textbook] / Vinogradov V.A., Luchin V.O., Vasilevich G.A., Prudnikov A.S. YUNITI-DANA. — M.: 2011. — 727 p.

¹ See, e.g., *Marku Zh. Borba protiv korruptsii vo Frantsii* [A counteraction against corruption in France] // *Zhurnal rossiyskogo prava* [The Journal of Russian Law]. — 2012. — No. 7. — Pp. 34–40.

seems inappropriate, as grantees have their own reporting forms that should be examined by the relevant authorities, but additional control by the Central Election Commission over the formation of the election fund could prevent such incidents.

In order to avoid situations where shadow funding is possible, a single publicly accessible database of candidate and political party benefactors should be created according to uniform standards, including the publication of the individual taxpayer number of donor legal entities during the period of operation of the election fund. The formation of such a database of financial reporting would allow for the identification of the true sender and provide an opportunity for oversight bodies to thoroughly investigate political financing.

References

Evdokimov V. B. Pravovoe regulirovanie politicheskikh partiy v burzhuaznykh stranakh: dis. ... dokt. yurid. nauk [Legal regulation of political parties in bourgeois countries: dissertation of the Doctor of Legal Sciences]: Sverdlovsk: 1990. — 325 p. (In Russian)

Konstitutsionnoe pravo zarubezhnykh stran: uchebnik [The constitutional law of foreign countries: textbook] / Vinogradov V. A., Luchin V. O., Vasilevich G. A., Prudnikov A. S. YuNITI-DANA. — M.: 2011. — 727 p. (In Russian)

Marku Zh. Borba protiv korruptsii vo Frantsii [A counteraction against corruption in France] // Zhurnal rossiyskogo prava [The Journal of Russian Law]. — 2012. — No. 7. — Pp. 34–40. (In Russian)

Information about the authors

Yakov Soldatov (Kazan, Russia) — Candidate of Historical Sciences, Associate Professor of the Department of Civil Law of the “TISBI” University of Management (13, Mushtari St., Kazan, 420012, Russia; e-mail: yacovsoldatov@yandex.ru)

Viktoriya Galkina (Kazan, Russia) — First-year Master’s student of the Department of Civil and Business Law of the “TISBI” University of Management (13, Mushtari St., Kazan, 420012, Russia; e-mail: galckinavika@yandex.ru)

Recommended citation

Soldatov Ya. V., Galkina V. A. The actual problems of regulating election campaign financing. *Kazan University Law Review*. 2023; 3 (8): 154–157. DOI: 10.30729/2541-8823-2023-8-3-154-157.