

## TOWARD BETTER ELECTORAL CYCLES: PROPOSALS FOR THE QUALITY IMPROVEMENT OF ELECTORAL LEGISLATION

In less than a year and a half, the citizens of North Macedonia elected their representatives three times: President, members of Parliament, and local authorities. What represented a democratic privilege for the electorate posed new challenges and legal battles for institutions and independent participants in the elections. For international observers, these elections again highlighted shortcomings and sent a clear signal regarding the need to improve electoral legislation.

Over the past two decades, the Electoral Code has been amended more than thirty times. This issue was recently highlighted by the former Chair of the State Election Commission, Boris Kondarko, who, shortly before the local elections, **pointed to the need for a completely new Electoral Code**, emphasizing that the current law contains ambiguities and imprecisions that are opening numerous legal questions and challenges.

Although international recommendations for electoral reform suggest that changes should be initiated **immediately after elections** and finalized **at least one year before the next electoral cycle**, Macedonian practice shows that amendments are most often made reactively and immediately before elections.

This approach to intervening in electoral legislation is problematic because it leaves room for numerous legal gaps, which later create challenges for both electoral institutions and **independent candidates participating** in the process. Reactive and non-inclusive legislative changes limit the ability of institutions to adapt in a timely manner and to identify potential shortcomings or inconsistencies, creating a risk of errors during the conduct of elections. As a result, public trust and the legitimacy of the electoral process are undermined, and amendments are perceived as imprudent and driven by current political interests.

Following the conclusion of the local elections, the Speaker of Parliament, Afrim Gashi, announced **the formation of a working group for a new Electoral Law**, including representatives from all parliamentary groups. **Parties have already nominated their representatives**, but it remains unclear who, besides the MPs, will participate in the working group. Furthermore, it is unclear whether they will continue the work of the **previous working group at the Ministry of Justice**, or whether the process will result in amendments to the existing law or drafting a completely new legislative solution. If, once again, political actors negotiate among themselves, ignoring the need for broader debate and social consensus, we will continue to repeat the same mistakes and remain trapped in a cycle of unresolved problems that will inevitably reemerge in the next electoral cycle.

The outcome of the most recent local elections once again illustrates citizens' lack of trust in the political system and electoral processes, as reflected in the record-low turnout and the increased number of invalid ballots. Therefore, to restore public confidence and strengthen the democratic order, changes to electoral legislation must be thoroughly analyzed, widely debated, consensus-driven, and aligned with international practice and the recommendations of the OSCE and ODIHR.

**The announcement of a new law and the timely implementation of comprehensive electoral reforms are certainly welcome.** However, there are several aspects that Members of Parliament, regardless of party affiliation or interests, must take into account.

### **1. Without broader debate, the Electoral Code will once again acquire numerous inconsistencies**

In addition to the relevant electoral and oversight institutions, the dialogue on electoral amendments must include experts from the OSCE and ODIHR, the media, civil society organizations, and representatives of independent citizen movements, as they are the most affected by the most recent controversial changes to the Electoral Code.

### **2. Independent movements and candidates must be part of the process**

The precedent of uncertainty regarding the participation of independent candidates in previous elections is a risk that one democratic society cannot afford. Therefore, Members of Parliament, together with other stakeholders, and representatives from the independent movements, must find a consensus-based solution regarding the number of signatures required for independent candidacies, in line with international practice and in the spirit of facilitating easy access to elections for candidates not supported by political parties.

### **3. Unequal access to advertising space and funding**

The local elections once again demonstrated that the mechanism for allocating advertising space and funds does not ensure an equal platform for competition for all participants. Smaller parties with parliamentary groups (ZNAM and Levica) were not included in any category, but parties with one or two MPs received 7% of the advertising space and state funding, while non-parliamentary parties and independent candidates shared only 3%. In all its observation reports, the OSCE has noted that this formula favors the largest parties and highlighted the need to revise the allocation criteria to ensure equal and fair conditions for all election participants.

Calls are growing, **including from state institutions**, for a complete elimination of state-funded advertising due to **corruption risks and the potential influence of political parties on media editorial policies**. If the model of public campaign financing stays, the share of funds and advertising space for smaller parties and independent candidates (who currently receive only 3%) should be revised and increased. Independent candidates and movements, lacking regular

state funding, can rely only on donations to support their operations and electoral participation, further enhancing the inequality in the electoral process.

#### **4. State funds for advertising on online portals without clear criteria**

In the local elections, paid political advertising was approved for 246 online portals, while only 60 are registered in the Online Media Registry. Clear criteria must be established for the conditions that portals need to meet in order to apply for paid political advertising through the State Election Commission, to prevent abuse and the diversion of state funds to “phantom media”.

#### **5. Online portals face no consequences for failing to submit financial reports**

Although all media outlets (TV, newspaper and radio) are required to report purchased advertising space and payments for electoral advertising, online portals are exempt from penalties for failing to meet this obligation, undermining principles of transparency and accountability. Therefore, the new law must provide equal penalties for all promoters of electoral participants.

#### **6. Tracing party expenditures on social media**

Although reporting these costs is included as an obligation in the electoral campaign financial report forms, political parties rarely declare their spending in the online space. A small number report expenses for promotion on online portals, but no party reports how much it spends on social media advertising. Therefore, it is necessary for the Ministry of Finance, as the institution that creates the guidelines and forms for electoral financial reporting, and for DKSK and DZR, as the competent bodies for monitoring electoral financing, to clearly inform all election participants of their obligation to report social media advertising expenses in their financial reports, and to impose appropriate sanctions if participants fail to comply.

#### **7. Recent amendments have reduced campaign financial transparency**

With the amendments to Article 84 in 2024, the obligation to submit financial reports specifying income and expenditures on the 11th day of the election campaign and one day after its conclusion was removed. The new rules require only the preliminary reporting of received donations, which, unlike the previous system, prevents ongoing monitoring and early detection of potential abuses. Therefore, it is necessary to restore the previous obligation for continuous and detailed financial reporting during the campaign in order to strengthen the transparency of the electoral process.

#### **8. Parties do not comply with deadlines for submitting reports to oversight bodies**

Even under this simplified reporting framework, some election participants regularly fail to meet the prescribed deadlines for submitting reports on campaign expenditures. Accordingly, we remind the oversight bodies that, under the applicable penal provisions of Article 189 (a fine of €9,000), **noncompliance with the legal deadlines is subject to sanctions** and must be consistently enforced.

## 8. Electronic Submission of Financial Reports

In order to accelerate the reporting process and increase the efficiency of oversight by institutions and the public, it is necessary to require that financial reports be submitted in digital format. In fact, this is also a commitment (4.1.) for the digitalization of political party financial reporting in the **Open Government Partnership Action Plan (2024–2026)**.

The general acceptance and consistency of electoral rules, as well as the timely implementation of reform recommendations, are vital for the electoral process. Unfortunately, in North Macedonia, the Electoral Code, as the foundation of the democratic order, has almost traditionally undergone major changes through a rapid, non-transparent, and non-inclusive process, a recurring criticism in all election observation reports by the OSCE and other international institutions.

To strengthen trust in the electoral process and ensure equal participation for all actors, upcoming amendments, or the adoption of a completely new Electoral Code, must be subject to broad and comprehensive debate involving all stakeholders, including political parties, independent candidates, civil society organizations, and, importantly, international experts from the OSCE and ODIHR, whose recommendations are a key reference before every electoral cycle. Only in this way can institutions restore citizens' confidence in the electoral process, provide candidates with a level playing field, and equip institutions with effective tools for monitoring and summarizing electoral outcomes.

This public policy document is part of the project "**Promoting the Debate on Accountability and AntiCorruption**", which aims to contribute to the reform processes in North Macedonia by strengthening the role of the Assembly in the fight against corruption and in establishing reforms in the rule of law. In doing so, it facilitates dialogue between political parties and youth, as well as between parliamentarians and civil society. The project is supported by the National Endowment for Democracy.