Chapter 10

Korea

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This case study presents the system of funding for political parties and elections in Korea. It also discusses the role of the National Election Commission in overseeing, monitoring and enforcing election regulations.
Definition and basic principle of political funds

Since being enacted in 1965, the Political Fund Act in Korea has undergone 24 revisions for the purpose of guaranteeing the fair provision, and transparency, of political funds. In the Political Fund Act, the term “political funds” is defined as money, securities or goods that are provided to persons who are engaged in political activities, including political parties, in addition to expenses that they need to undertake political activities, including elections.

With the aim to guarantee the proper provision of political funds, secure the transparency of political funds, and contribute to the sound development of democratic politics by preventing illegal political funding, the Political Fund Act lays out the following basic principles:

- No one shall contribute or receive any political funds that are not prescribed in this Act.
- Political funds shall be fairly and justifiably managed in order to keep them free of suspicion. Their accounting materials shall be open to public.
- Political funds shall be disbursed only to reimburse expenses required for political activities and shall not be disbursed for private expenses or illegal purposes.
- Anyone who makes a one-time contribution of political funds in excess of USD 1,200 or pays a one-time expense for political activities in excess of USD 500 (for election expenses, USD 200) shall make such contributions or pay such expenses by means of cheque, credit card, account transfer or by other means that ascertain the identity of those who donate and spend.
- Everyone shall be prohibited from contributing political funds in the name of another person or in a false name.

Also, pursuant to Article 31 of the Political Funds Act, foreign nationals are banned from making political contributions in Korea. Any corporations or groups at home and abroad are prohibited from contributing political funds or donating funds in connection with any corporate entities or groups. This ban stemmed from a large amount of illegal funds that political parties received from companies to cover their campaign expenses for the 2002 presidential election. In August 2005, the National Assembly of the Republic of Korea revised the Political Funds Act so that any corporations or groups were fundamentally prohibited from making political contributions with the aim of initiating political reforms and addressing problems with illegal political funds.

Although the Political Funds Act does not directly prohibit public officials from making political contributions, the Political Parties Act stipulates that public officials (except in certain cases) are not allowed to join a political party. In addition, since the State Public Officials Act bans any civil servants, not allowed to join a political party, from engaging in political activities, it is interpreted that public officials are not allowed to pay political party membership fees or donate political contributions to a fundraising association.
Restrictions on political fundraising and contributions

Under the Political Fund Act, any political party may collect party membership fees. However, the Act does not set an upper limit on the amount of fees which may be paid by an individual political party member. When a fundraising association that raises political funds for a National Assembly member or a candidate to run in an election for public offices submits a financial report, it is required to disclose the personal information of a donor who makes contributions exceeding a set amount. In comparison, political parties are only required to disclose the total amount of membership fees collected, therefore the general public has no way of accessing the information on party members who paid a large amount of membership fees.

According to financial reports submitted by political parties in 2015, the total amount of membership fees collected from party members was USD 52 million, 25.8% of their total income of USD 201.3 million. South Korea’s ruling Saenuri Party collected USD 26.4 million in membership fees, which made up 27.0% of their total USD 97.6 million income. The New Politics Alliance for Democracy party collected USD 21.2 million, making up 23.1% of its USD 91.7 million total income.

Previously, political parties were allowed to raise political funds through fundraising associations. However the revision to the Political Fund Act in 2008 prohibited political parties from raising campaign funds from the public. Political parties that hold seats in the National Assembly or obtained a certain percentage of votes in previous elections are entitled to receive national subsidies for the operation of parties and campaigning for presidential, National Assembly member and local elections.

For political activities and for election campaigning, a National Assembly member or a candidate who runs for public office uses his/her private assets, including bank loans. A candidate nominated by his/her political party is allowed to receive funds from his/her own party and use them. A National Assembly member or a candidate in public office elections (except candidates running for local council member elections) can designate an association for fundraising. The designated association is allowed to collect political contributions when registered with the Election Commission.

A fundraising association is permitted to raise funds within the limit of contributions set forth in the Political Fund Act. A fundraising association for a presidential candidate is allowed to raise an amount up to the equivalent of 5% of the ceiling amount of election expenses. For a fundraising association of a National Assembly member, up to USD 150 000 (the amount will double in the year when nationwide public office elections take place), and for a fundraising association for a candidate running in an election to elect the head of local governments, up to 50% of the ceiling amount of election expense. When a fundraising association raises contributions, it is required to promptly forward those funds to the National Assembly member or the candidate who has designated the association, after deducting expenses directly incurred in the course of fundraising.

The limit on contributions an individual can make to a fundraising association in a year is USD 20 000: USD 10 000 a year to a fundraising association for a presidential candidate, and USD 5 000 a year to a fundraising association for every National Assembly member or fundraising group of a candidate running for the National Assembly election. Donors are required to reveal their names, dates of birth, addresses, occupations and telephone numbers. However, donors may anonymously make a one-time contribution of not more than USD 100, and not more than USD 1 200 a year.
Restrictions and reimbursements of campaign fund expenses

Beside what is stipulated in the Political Funds Act, new means to raise election funds from voters that do not violate the Act were first introduced in 2010. In the same year, a potential candidate running for the election for Gyeonggi-do governor set a goal of raising USD 4 million for election expenses, and within a matter of days had raised more than USD 4 million. Even though the method employed by the candidate to raise funds was not included in the Political Funds Act, it was accepted because the method was interpreted as the candidate borrowing funds under an open agreement between a candidate and a multiple number of individuals. One of the elements that encouraged voters to participate in the fundraising scheme was due to the following campaign expenses reimbursement. When candidates submit the financial report of their campaign spending to the Election Commission, the Commission is required to reimburse 50% of disbursed campaign spending to candidates who won 10% or more of the total votes cast in the election. If a candidate wins 15% or more of the total votes cast in the election, he/she is eligible to get reimbursed the total disbursed campaign spending by the Commission no later than 60 days after election day. With these reimbursed funds, the candidate was able to pay back the donors with interest, which was calculated based on the average interest rate at the time. Consequently, in this way of fundraising, the borrowed funds for campaign spending from donors are paid back from either the national budget for presidential and National Assembly elections, or from the budget of local governments for local elections, depending on the result of election. This method of fundraising is often utilised by candidates who are high profile but do not have sufficient funds.

According to the Public Official Election Act, “election expenses” are defined as money, goods, debt or other things of economic value used for election campaign in the election concerned and borne by a candidate. Expenses disbursed by a third party for the election campaign of the relevant candidate also fall under election expenses.

Vote-buying practices are strictly prohibited, and candidates who buy votes are subject to stern punishment, so as to promote fair elections. In order to reduce the inequality of opportunity in election campaigning caused by the difference in financial resources available to candidates, a limit has been set on the total amount of election expenses that can be disbursed for campaigning purposes by political parties or candidates running in official public elections.

The Election Commission is required to publicly notify political parties and candidates prior to each election of the ceiling amount of election expenses that have been calculated for each election. The ceiling amount is set by considering population and the number of Eup/Myeon/Dong (administrative districts) in each constituency as well as reflecting the fluctuation rate of national consumer prices. Different calculations of the ceiling amount of election expenses are applied depending on the type of elections, as follows:

- Presidential election: Population × USD 0.95
- National Assembly member election in district: USD 100 000 + (population × USD 0.20) + (the number of Eup/Myeon/Dong × USD 2 000)

The Election Commission is required to calculate those campaign expenses that are accepted as legitimate spending from the financial report submitted by a candidate or political party. The Election Commission is required to reimburse those legitimate...
campaign expenses from the national budget or the budget of the relevant local
governments (for local elections), as follows:

- Candidates who obtain 15% or more of the total votes are reimbursed the entire
  amount of election expenses calculated above, while candidates who obtain
  between 10% and 15% of the total votes are reimbursed half of their election
  expenses.
- Political parties are reimbursed for the entire amount of election expenses when
  any candidates from the party list are elected for proportional representatives.

**Contributions of political funds through the National Election Commission**

Individuals (including public officials who are prohibited from donating political
funds to fundraising associations) may deposit their contributions to the Commission for
the purpose of supporting the activities of political parties. The amount each individual
can contribute each year is between USD 100 000 and less than 5% of his/her income of
the previous year, whichever is larger. Every quarter, the National Election Commission
distributes the deposited political funds to the headquarters of each political party, based
on the distribution ratio of subsidies provided from the national budget.

Before the Political Funds Act was revised in 1997, corporations or individuals were
able to designate a political party to which they wanted to donate and entrust their
contribution with the Election Commission, which resulted in almost all political fund
deposits being distributed to the ruling party. Upon the strong request from the opposition
party, the Political Fund Act was revised, and thus, the deposit is now distributed to
parties according to the number of seats at the National Assembly that each party has and
the proportion of votes gained by each party in public official elections, similar to the
distribution ratio of subsidies from the national budget. Nevertheless, this political fund
deposit system became meaningless since people rarely entrusted their contribution with
the Election Commission, as they were no longer able to designate the political party they
wanted to donate to. Therefore, the Political Funds Act was revised again in 2004 to give
contributors a tax rebate of up to USD 100. Such a revision encouraged the public to
again entrust political funds to the Election Commission. In 2014, the National Election
Commission distributed and paid more than USD 4.45 million to political parties, funded
by 48 186 citizens.

**Public subsidies to political parties**

Article 8 of the Constitution stipulates that political parties shall enjoy the protection
of the State and may be provided with operational funds by the State under the conditions
as prescribed by this Act. Thus, the State shall appropriate subsidies for political parties
to the national budget under the Political Fund Act. The amount of annual subsidies
provided to political parties is calculated by multiplying the total number of eligible
voters in the most recent National Assembly election by the amount that the National
Election Commission determined considering the fluctuation rate in nationwide consumer
prices (USD 0.97 in 2014). In 2014, approximately USD 38.9 million in subsidies were
evenly divided in each quarter and provided to eligible political parties. In a year during
which a presidential election, a nationwide National Assembly election or local elections
are held, the National Election Commission shall, prior to the election, additionally
distribute and provide election subsidies equivalent to the calculated amount stated above
to each political party that nominated candidates. Four parties among those that
participated in the local elections held in June 2014 were subsidised with approximately USD 38.9 million for election expenses.

The public subsidy is distributed based on the following principles: 50% of the total subsidy shall be evenly distributed and provided to political parties that form negotiating groups in the National Assembly as they have 20 or more seats in the National Assembly. Political parties that hold 5-19 seats in the National Assembly are provided 5% of the subsidies, while political parties that hold less than 5 seats in the National Assembly and obtained 2% or more in the most recent National Assembly election or obtained 0.5% or more in the nationwide local elections are given 2% of the subsidies. Of the remaining subsidies, 50% shall be distributed to political parties according to the ratio of seats against the total seats in the National Assembly at the time of distribution of the subsidies, and the other 50% shall be provided according to the ratio of votes obtained in the previous National Assembly election.

Meanwhile, in order to promote women’s political participation, the state provides subsidies to political parties that nominated female candidates to run for district National Assembly elections and local council members. The amount of the subsidy, calculated by multiplying the total number of eligible voters in the most recent National Assembly election by USD 0.10, is provided to political parties according to each party’s ratio of the number of nominated female candidates, the number of seats in the National Assembly and the proportion of the votes won in the most recent National Assembly election. In 2010, in order to support the political participation of persons with disabilities, a system to provide subsidies to political parties that nominate persons with disabilities to run for public official elections was introduced. Such subsidies for nominating females and persons with disabilities shall be disbursed for the election expenses of female and disabled candidates only. While the State paid subsidies for nominating female candidates to two political parties that recommended 5% or more female candidates to run for district National Assembly elections held in 2012, the State did not give subsidies for nominating persons with disabilities to any political party as there were no parties that met the requirement for the subsidies, which is to nominate 1% or more candidates with disabilities. In local elections in 2014, USD 2.06 million of subsidies was distributed to political parties that nominated female candidates to run for City/Do council members, and the elections for autonomous Gu/Si/Gun council members. Also, approximately USD 520 000 in subsidies was distributed to two political parties for nominating candidates with disabilities.

Taking a look at the proportion of the national subsidy in the total income of each political party, in 2014, the Saenuri party’s income from the national subsidy accounted for approximately USD 36.3 million, making up around 37.2% of the USD 97.6 million in total income. New Politics Alliance for Democracy, the leading opposition party, received nearly USD 33.8 million, which was 36.9% of USD 91.7 million in total income. This shows that the national subsidy makes up the largest portion of the total income of political parties.

Tax benefits for political funds

In order to encourage political contributions, political parties and fundraising groups that raise campaign funds are exempt from income tax and donation tax. As part of an effort to promote political donations, those who contributed up to USD 100 are eligible to claim a tax deduction for the entire amount of their donation.
Contributions over USD 100 are entitled to a deduction from the taxable income by the exceeding amount of the donation.

Income and expenditure of political funds available to the public through financial reports

Political parties and fundraising groups that raise political funds, and all politicians who receive political donations, are required to appoint a treasurer and report his/her personal information to the Election Commission. The income and expenditure of the all political funds are required to be managed by the treasurer alone, through a bank account previously identified to the Commission.

The treasurer is required to provide the financial report on the income and expenditure of the political funds to the Commission. A treasurer for a candidate running for a public official position needs to submit the financial report on income and expenditure within 30 days after election day (or within 40 days for presidential elections). In addition, political parties are required to present a financial report showing income and expenditure every year by 15 February of the following year. If the parties were involved in nationwide public official elections, their financial report must be submitted within 30 days after election day (within 40 days for presidential elections).

The financial report is required to include the detailed statement of income and revenue of political funds, together with proof of expenditure, such as a receipt, in addition to a copy of a record of transactions shown in the bank book. The treasurer of fundraising groups is obliged to report personal information and the amounts contributed by those who donated more than USD 300 in one donation or more than USD 3,000 in a year (USD 5,000 for presidential elections).

The Commission that receives the financial report is required to keep it on file, make it available to the public, and open it to public inspection for three months by posting it on its website. Anyone can request a copy of a financial report on income and expenditure of political funds from the Commission.

The Commission reviews each financial report on income and expenditure of campaign funds submitted by a candidate for public official elections, and investigates whether there is a false statement, illegal spending or if they have exceeded the campaign expenditure ceiling.

Investigation and enforcement of control over political funds

In cases where the Commission suspects there have been violations of the Political Fund Act, the Commission and its staff can have access to the scene or summon the suspect before the Commission for inquiry and investigation. The Commission and its staff may also request the submission of additional documents necessary for the investigation, and ask heads of financial institutions for the submission of bank transaction records.

After investigating suspected violations of the Political Fund Act, when it turns out to be a serious violation, the Election Commission brings the case for prosecution. Those who are found to have violated the Political Fund Act may be punished with a fine or imprisonment following a court ruling. Depending on the extent of punishment, those punished are forbidden to be hired or serve as public officials for between five and ten years. If already sworn in or hired, they can be forced to resign. In the case that the
winner of an election is subject to a punishment of imprisonment or a fine of USD 1 000 or more, the election will be invalidated. The Election Commission can also impose administrative fines on minor violations against the Political Fund Act, such as a delay in issuing receipts or reporting by treasurers.

Since illegal political funds tend to be provided secretly, it is often revealed through a report or information brought by those concerned or related in the case. Therefore, the Political Fund Act has a provision to protect and reward informants. For instance, the driver for a company executive reported an illegal political contribution of USD 50 000 made by the executive to a former National Assembly member. The National Election Commission confirmed the charge and brought it for prosecution, resulting in a court ruling that punished the former National Assembly member for violation of the Political Fund Act. The driver was awarded USD 200 000 by the National Election Commission.