Chapter 11

Mexico

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This case study presents the legislation and compliance framework for the Mexican political system. It also includes information on public and private funding of political parties, candidates and campaigns. This chapter includes information taken from documents elaborated by the International Affairs Unit of the National Electoral Institute of Mexico.
Introduction

Enforcing regulation of finance and oversight procedures for political parties has been a permanent issue in all Mexican electoral reforms since the last century.

In 1986, political parties achieved the constitutional right to receive public funding for activities aimed at fulfilling their duties.

Since then, electoral legislation has established, developed and perfected provisions aimed at regulating, controlling and supervising the funding system for political parties and electoral campaigns in a clear, accurate and comprehensive way.

Political parties in Mexico are entitled to receive permanent public financing both directly and indirectly. They also have the right to obtain private financing, although there are some limitations. By law, public funding must prevail over private sources of funding.

There are also specific rules for transparency and accountability for political parties’ money including filing temporary reports. Political parties are subject to fines if they do not observe applicable regulations.

According to the Mexican constitution and electoral law, the National Electoral Institute (INE), formerly the Federal Electoral Institute, is in charge of allocating and distributing both direct and indirect public finance to political parties at the federal level. The INE is also charged with managing free radio and television airtime for electoral matters, including political parties at the federal and local level, but also for electoral authorities around the country.

The INE has a special unit to receive and review political parties’ reports on financing. The electoral management body is legally entitled to fine political parties in the event of a proven violation. Political parties have the right to appeal to the Electoral Tribunal of the Federal Judicial Branch, which is responsible for deciding these issues in a final and irrefutable manner.

In June of 2015, Mexico elected 500 deputies of the Lower Chamber of the Federal Congress. This chapter aims to share main aspects of financing procedures for political parties and candidates as part of our current federal election.

Finance for political parties and candidates

Political parties in Mexico are permanently entitled to receive direct and indirect public financing for their ordinary activities and campaign expenses. They receive money on three different concepts, and they also receive permanent and free access to radio and television, exemption from payment of postage and telegraphic fees, and a special fiscal regime.

Political parties also have the right to obtain private financing, both for permanent activities and for campaign purposes. The law establishes those sources who are eligible to give money to political parties, as well as those who are forbidden to contribute.

Direct public funding

Direct public funding is granted to political parties for three different purposes: permanent ordinary activities, specific activities as entities of public interest and campaign expenses.
It is important to state that the Mexican Constitution establishes a formula to determine the amount of public funding for political parties. This formula is based on the number of citizens registered in the Electoral Roll in July every year and 65% of the minimum wage established for the Federal District.\(^1\)

The INE is in charge of determining the amounts based on procedures provided by the law. Public financing for permanent ordinary activities and for specific activities as entities of public interest are delivered proportionally each month. Campaign expenses during specific periods are delivered proportionally each month before election day.

The main characteristics of direct public funding are:

1. Political parties receive funding to support their daily operation activities. Of this, 30% of the total amount is allocated in equal parts to all political parties with parliamentary representation, and the other 70% is distributed according to the percentage of votes gained of the total sum cast for each political party with representation in Congress in the preceding election for Lower Chamber members at the national level.

   Additionally, each political party that has obtained their legal registration after the last election receives 2% of total amount.

   It is important to state that each political party must spend at least 3% of its funding for the training, promotion and development of political leadership of women.

2. Regarding specific activities as entities of public interest, political parties receive specific funding to finance activities that concern political training and education, socio-economic and political research, as well as editorial tasks. The subsidy granted for these activities aims at supporting political parties in activities. With this purpose, an additional amount that equals 3% of the amount for ordinary activities.

3. For campaign expenses, political parties receive specific funding. This funding is intended to finance activities to obtain votes; therefore, it is only granted in election years.

   In years of general federal elections (President, Lower and Upper Chamber), each party is granted an additional amount equal to 50% of the funding for ordinary activities corresponding to that year.

   During the years when only the 500 seats of the Lower Chamber are renewed, each political party receives an amount equal to 30% of the amount received for ordinary activities for campaign expenses.

   These provisions are considered for all political parties legally recognised at the Federal level, no matter if they have parliamentary representation.

Table 11.1 sets out a breakdown of public finance at the federal level for the Mexican political parties in 2015.
Table 11.1. Public finance at federal level for Mexican political parties in 2015

<table>
<thead>
<tr>
<th>Political party</th>
<th>Ordinary activities</th>
<th>Specific activities</th>
<th>Campaign expenses</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Action Party (PAN)</td>
<td>$57 249 659.02</td>
<td>$17 174 897.71</td>
<td>$1 717 489.77</td>
<td>$76 142 046.50</td>
</tr>
<tr>
<td>Institutional Revolutionary Party (PRI)</td>
<td>$68 161 440.59</td>
<td>$20 448 432.18</td>
<td>$2 044 843.22</td>
<td>$90 654 715.99</td>
</tr>
<tr>
<td>Democratic Revolution Party (PRD)</td>
<td>$43 643 274.41</td>
<td>$13 092 982.32</td>
<td>$1 309 298.23</td>
<td>$58 045 554.97</td>
</tr>
<tr>
<td>Labour Party (PT)</td>
<td>$18 797 028.88</td>
<td>$5 639 108.66</td>
<td>$563 910.87</td>
<td>$25 000 048.40</td>
</tr>
<tr>
<td>Green Ecological Party of Mexico (PVEM)</td>
<td>$21 548 923.44</td>
<td>$6 464 677.03</td>
<td>$646 467.70</td>
<td>$28 660 068.18</td>
</tr>
<tr>
<td>Citizen Movement (MC)</td>
<td>$17 727 493.86</td>
<td>$5 318 248.16</td>
<td>$531 824.82</td>
<td>$23 577 566.84</td>
</tr>
<tr>
<td>New Alliance Party (PNA)</td>
<td>$17 870 383.46</td>
<td>$5 361 115.04</td>
<td>$536 111.50</td>
<td>$23 767 610.00</td>
</tr>
<tr>
<td>National Regeneration Movement (MORENA)</td>
<td>$5 212 727.74</td>
<td>$1 563 818.32</td>
<td>$156 381.83</td>
<td>$6 932 927.89</td>
</tr>
<tr>
<td>Humanist Party (PH)</td>
<td>$5 212 727.74</td>
<td>$1 563 818.32</td>
<td>$156 381.83</td>
<td>$6 932 927.89</td>
</tr>
<tr>
<td>Social Encounter (ES)</td>
<td>$5 212 727.74</td>
<td>$1 563 818.32</td>
<td>$156 381.83</td>
<td>$6 932 927.89</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$260 636 386.88</strong></td>
<td><strong>$78 190 916.06</strong></td>
<td><strong>$7 819 091.61</strong></td>
<td><strong>$346 646 394.55</strong></td>
</tr>
</tbody>
</table>

Source: National Electoral Institute of Mexico (MXN 15 = USD 1).

Law also establishes that independent candidates have the right to receive public direct finance for campaign expenses.

As a sole entity, all independent candidates receive the same amount as a political party that has obtained their legal registry after the last election. For general elections, this amount is divided into three equal amounts and distributed to each group of independent candidates: presidential, Senate and Deputies. At the midterm election, the total amount is delivered to independent candidates for the Chamber of Deputies.

Once public funding is allocated in the proper groups, the amount is equally distributed among all candidates. According to the law, no independent candidate can receive more than 50% of the total amount allocated to his/her group or the amount established as the limit of campaign expenditures. Money is delivered in two parts, and candidates must return unspent funding.

For the 2015 election, 22 independent candidates have successfully registered. Considering the legal rules, each one of them would receive USD 71 082.65.

**Indirect public funding**

Regarding indirect public funding, there are three main areas:

1. Permanent and free access to all radio stations and the TV free channels that operate in the country. The INE has the power, as the only authority that can administer the State’s airtime on radio and TV times, to guarantee both the political parties’ access rights in all the elections conducted in the country, and ensure that federal and local electoral authorities comply with their obligations.

   It is important to state that radio and television time used for electoral purposes is part of the taxation paid by broadcasting enterprises. The INE is the only authority with constitutional powers to buy additional time, should it be necessary. Any other use of radio or television airtime for electoral purposes, other than that provided and regulated by the INE, is a violation of the law.
The law establishes allocation time as:

- During non-electoral periods, the time available for electoral purposes is 5 minutes 45 seconds on television, and 7 minutes 48 seconds on radio. Of this, 50% is equally distributed between all political parties. This means about 3 minutes on TV and about 4 minutes on radio, divided into 20-second slots; and a 5-minute monthly programme to each political party. The other 50% is used by the INE for its own purposes or for other electoral authorities.

- During electoral periods, the distribution of time clearly distinguishes between the ones of pre-campaigns, amounting to 30 minutes per day per radio station or television channel, and the ones of campaign, which are increased to 41 minutes to each media, although not equally distributed but under the same proportionality formula used for direct public funding: 30% equally and 70% according to the number of votes obtained in the previous Lower Chamber election.

- Independent candidates have the right to receive free time on the radio and television. For these purposes, they are considered as a sole political party, and proper time is allocated equally among all of them.

- During electoral periods (pre-campaigns and campaigns) the time is divided into 30-, 60- and 120-second slots, assorted to be broadcasted between 6:00 a.m. and 11:59 p.m.

It is important to state that all parties (including pre-candidates and candidates) may only access the media by means of the slots in radio and television allotted to the State. The use of those slots is exclusive of the political parties and entirely free. The INE is the only authority responsible for managing these slots.

2. Exemption from postal and telegraph payment, whenever necessary to achieve their functions. For 2015, each political party has a postal and telegraph exemption of USD 1 042 545.55. Independent candidates also receive support on postal and telegraph exemptions in the amount of USD 78 980.72 each.

3. Political parties also benefit from a special taxation system that includes a 25% tax exemption in members’ fees and rent incomes, among others.

**Private funding**

Political parties have the right to receive private funding as permanent income and to cover campaign expenses.

The law specifies and regulates four sources of private funding for political parties, and limitations on these incomes:

1. From members, comprising the ordinary and extraordinary fees of members and the contributions of their social organisations, whose amounts and frequency are freely determined by each political party. It also includes the voluntary and personal fees that the candidates of each party contribute to their own campaigns.

2. From supporters, including all donations and contributions, in money or goods, freely and voluntarily made by Mexican individuals or corporations that reside in the country, provided they are not comprised among the categories specifically prohibited by law.
3. Self-financing, referring to all the income obtained from promotional activities, such as conferences, shows, games, draws, cultural events, sales of publications or similar that are carried out in order to collect funds and the internal party body in charge of its finances establishes the ceilings.

4. From financial yields, comprising the yields generated through the funds that the political parties may create with their own patrimony in Mexican banks.

**Limits and restrictions**

**Limits on private funding and ceilings on campaign expenditures**

The law entitles the INE to set ceilings for expenses that the political parties and candidates may incur during the electoral campaigns for president and members of Federal Congress.

The formulas used by the General Council of the INE to determine the ceilings are:

1. For presidential elections, the ceilings must be equal to 20% of the public funding for campaign expenses established for all parties in the year of presidential elections.

2. For relative majority Lower Chamber members, the amount is that resulting from dividing the ceilings for the presidential election campaign into 300, that is, into the number of districts into which the national territory is divided for the Lower Chamber representatives.

3. For each one of the Upper Chamber members elected by the majority principle (by state), the ceiling amounts from the result from multiplying the ceilings for the Lower Chamber representatives by the number of districts comprised by the entity, but without considering a number of districts more than 20.

For the 2015 election, the ceiling for campaign expenditure is set at USD 84 002.56.

**Restrictions to party funding**

The electoral legislation points out the different private and public agencies, both domestic and foreign, that may not make contributions or donations to the political parties, whether in money or goods, either by themselves or through third parties. Among them are:

- the federal executive, legislative and judicial branches; the state and town halls
- autonomous entities at federal, state and municipal level
- labour unions
- religious ministers, and associations, churches or groups of any religion or sect
- foreign political parties, individuals or corporations
- international organisations of any nature
- people who live or work abroad
- Mexican mercantile corporations.
Likewise, it sets forth that political parties and groups may not request credits from the Mexican Development Bank to finance their activities, nor receive contributions from unidentified individuals, except for those obtained through collections in rallies or on the street.

Accountability and transparency

Reports of political parties

Political parties must appoint an internal agency in charge of receiving and administering resources, as well as of filing annual, pre-campaign and campaign reports on the origin, amount, destination and use of the income received through any kind of funding. The agent must file four different reports, according to the following terms:

1. An annual report within 60 days after the last day of December of the fiscal year being reported. In this report, political parties must list all income and ordinary expenses that must be clearly accounted for, including a combined report of its patrimony, the expenses assigned to their internal selection processes and pre-campaigns, and the income obtained for their funding. This report must be authorised and signed by an external auditor appointed by the party itself.

2. Quarterly reports: during non-electoral years, within the first 30 days after the end of every quarter for informative purposes. Political parties must report the advance of ordinary income and expenses.

3. Pre-campaign reports: within the first 30 days after the end of the pre-campaigns, political parties must file a report for each one of the registered pre-candidates, specifying the origin, amount, and expenses made, as well as a list of the pre-candidates who failed to file their information according to the law.

4. Campaign reports: political parties must file a report for each candidate every 30 days from the beginning of the campaign, and present it within three days after each 30-day period concludes. Independent candidates must present these reports as well.

Control and oversight procedures

Control and oversight of the resources of the political parties and their campaigns is the responsibility of a specialised unit of the INE, the Oversight Unit for the Resources of the Political Parties (UTF).

The UTF reviews all reports presented by political parties and candidates, focusing on whether they have received financial support from legal sources. In order to accomplish this task, it has important powers; especially not being limited by bank, fiscal or fiduciary secrecy for the performance of its activities, among other tools and procedures.

Additionally, the INE has recently created the National Registry of Providers as an instrument that allows the UTF to verify the individuals and entities who are executing contracts for goods and services with political parties, candidates and independent candidates according to the provisions of the law, which states that registered suppliers may only provide goods and services to political parties, candidates and independent candidates.

If errors or omissions are detected, the UTF asks to the political party or candidate to submit the correct information, during a specific period of time.
Once the UTF has reviewed the reports, it presents to the Audit Commission of the General Council of the INE a draft resolution that contains the results and conclusions of the review of the reports, the mention of errors or irregularities found in them, and clarifications or corrections submitted by the parties after having notified this purpose.

The Audit Commission analyses the results presented by UTF and determines a resolution project to be presented at the General Council.

The General Council receives the resolution project and it can be approved, or the Council can ask for some additional information.

If the political parties disagree with the resolution approved by the General Council, they can appeal it to the Electoral Tribunal of the Federal Judicial Branch, which is tasked with requesting a new review, or to settle the appeal in a final and irrefutable manner.

**Transparency**

The procedures and mechanisms for transparency of financial resources collected and handled by political parties have developed simultaneously with the widening and strengthening of the provisions regarding the political parties funding system.

Every interested person has the right to access political parties’ information. Thus, the INE is committed to ensure maximum publicity of the accounting records and transactions of parties and candidates, in order to involve citizens in accountability and oversight and promote the scrutiny of public bodies.

**Fines and penalties**

The INE has the legal power to impose penalties on political parties or independent candidates who violate the laws regarding financing procedures, both in campaign periods or in ordinary reports.

Common violations of political parties and candidate finances in Mexico are:

- untimely accountability
- exceeding expense limits
- illegal funding sources or amounts.

A graded scale of penalties is applied, ranging from public reprimand to a reduction in public subsidy, but the penalty must be proportional to the violation: the greater the violation, the stricter the penalty. For serious and repeated violations of financial obligations, there is the possibility that a party could lose its legal status.

The recent electoral reform in Mexico established a system of annulment of federal and local elections for serious, intentional and decisive violations in the following cases regarding financing matters:

- exceeding the ceilings of campaign expenditures by 5% or more
- receiving or using resources of illicit or public origin.

To this effect, it is stated that the violations must be accredited objectively and materially, and they will be assumed to be decisive when the difference in votes between the first and second place is less than 5%.
In the 2012 general elections, political parties were fined USD 22 791 803.80 for violation of finance rules.

Challenges

As a result of a recent electoral reform in Mexico, the INE has more duties regarding the preparation and management of elections, both at the federal and local level.

Regarding political party finance, there are two main challenges for the 2015 election:

1. Due to its new duties as sole authority in charge of reviewing the financial reports of political parties both at federal and local level, the INE will have to analyse approximately 25 000 campaign reports. The deadline for this activity is no later than 37 days after election day, or before the election is declared valid.

2. Looking for more efficient procedures on reviewing financial reports of political parties, the law requires that the INE implement an online accountability system.

As a result of this duty, the INE has developed an accountability system in collaboration with the National Autonomous University of Mexico (UNAM). Since 6 April, the system is operational and can receive information from political parties and candidates.

Once the current election has finished, INE will be able to receive feedback concerning this new tool.

Note

1. In July 2014, there were 85 801 510 citizens in the Electoral Roll, and the minimum wage for the Federal District in 2015 was MXN 70.10 (approximately USD 4.67).
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