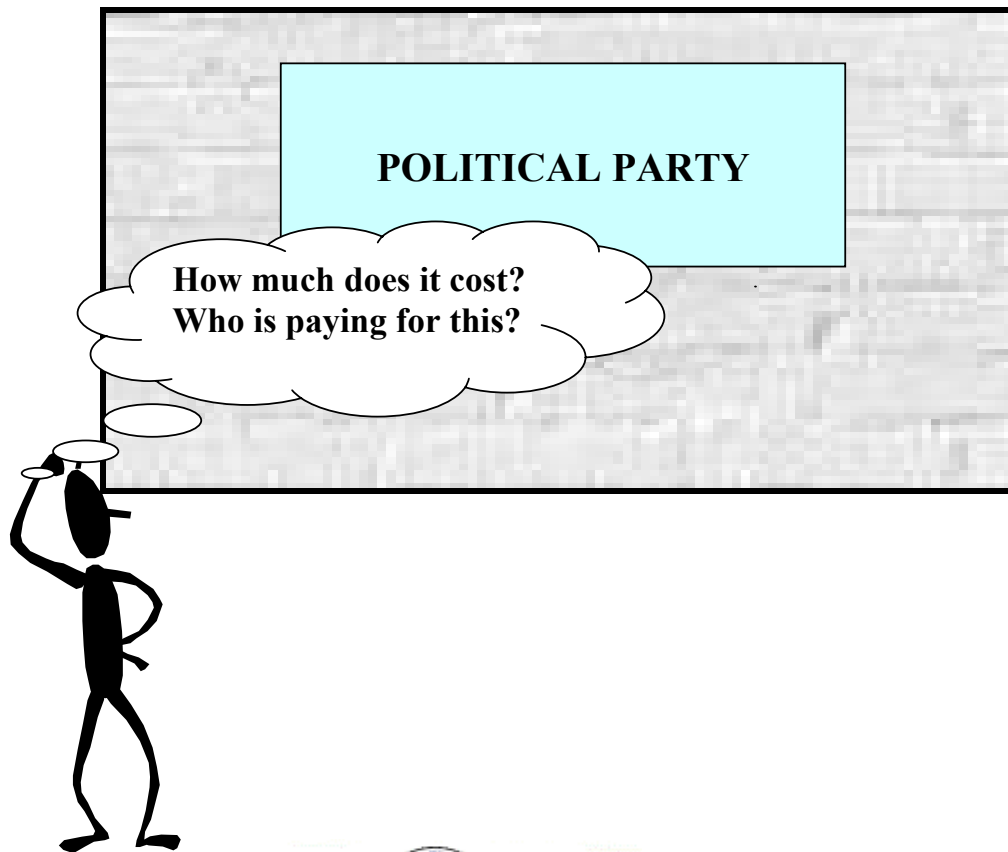


“Money and Politics” project (MAP) USERS’ GUIDE



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PREFACE

Election Commission of Bosnia and Herzegovina and IFES Washington are implementing Money and Politics project in Bosnia and Herzegovina.

This Guide for NGOs is created as a part of the project and it's main goal is to provide all users with relevant information about the project.

We wish this Guide to reach as many users as possible. Additional copies of this Guide can be downloaded from the web page of the Election Commission of Bosnia and Herzegovina www.izbori.ba/map

If you have any remarks or suggestions on this Guide, please do not hesitate to send them to the Election Commission of Bosnia and Herzegovina. This will help us to produce further issues even better and more useful for political parties.

We are also encouraging you to double check all your findings related to any misbehavior in financing of political parties, and to inform Auditing Department of the Election Commission of Bosnia and Herzegovina about your findings. This is how you will serve the role that NGOs have in any democratic society.

1. INTRODUCTION

Issues surrounding political finance emerge as a problem in many democracies. Scandals related to party and election campaign funds have gained widespread negative publicity even in the countries with long established democracies. Emerging democracies seem to confront the same challenge but the stakes are higher as political democracy is only taking the roots in these countries. .

Given the salience of the issue, the Election Commission of Bosnia and Herzegovina together with International Foundation for Election Systems (IFES) is working on implementation of the project “Money and Politics” (MAP) in Bosnia and Herzegovina.

“Money and Politics” Project is a global initiative by IFES with the aim to follow political parties financing and promotion of transparency of election process around the world. The Project grew of the discussions at the 2001 ACEEEO Conference of election officials in Brijuni, Croatia, where the need for further openness of electoral process was emphasized by election officials representing 18 countries. Prior to the meeting in Brijuni, the ACEEEO and IFES developed a study of legislative framework regulating campaign finance in each of the ACEEEO member countries of the region, and also highlighted some of the differences and problems. The report was presented to the election officials and has been published on the website of IFES at www.ifes.org and the ACEEEO website at www.aceeeo.com, as well as in hard copy.

At the center of the “Money and Politics” Project is a database of political funding information, which could be found at website of the Election Commission of Bosnia and Herzegovina at www.izbori.ba. MAP database will serve a number of purposes. It will provide free and immediate access to information on political finance in Bosnia and Herzegovina. The Database will also function as a rich source of information for media and analysts following the trends in financing of election campaigns. It will also inform voters about incomes and spendings of different candidates/parties and make better-informed decisions at the polls. Consolidated information on political financing will also represent-starting point for implementation of the Law on Political Party Financing as well as important contribution in implementation of transparency of election process.

1.1 IMPORTANCE OF DISCLOSURE OF FINANCIAL REPORTS

The spread of electronic mass media, particularly television, after World War II created new opportunities for political communication. Television turned out to be the most powerful tool of communication that effectively compensated for the weakening party organization, addressing voters directly and giving an impression of presence and participation. It was soon discovered, however, that an effective use of the new technologies required the erudition of communication experts. The latter swiftly took over campaign organization and professionalized it.

The advent of new means of political communication as well as professionalization of election campaigns dramatically increased the cost of politics.

A number of strategies were employed to counter this trend of dramatically increased costs. Some countries introduced direct state subsidies to help major parties meet their expenses related to democratic competition. Others opted for overall campaign spending limits. Yet others restricted paid-for advertising in mass media. Although, none of these strategies have proven superior to others to assure a perfectly even playing field of competitive politics it is necessary to disclose financial information.

In addition, information on expenses of political parties/candidates allows voters to make better-educated decisions at the polls and this can help hold candidates and parties accountable to the electorate.

Disclosure of information about income and spending by political parties and candidates is nowadays seen as a critically important component of a democratic campaign and party finance regime. Disclosure may help accomplish a number of tasks:

- 1) It contributes to an overall transparency of the electoral process. By means of disclosure, voters are offered an opportunity to learn more about political contenders in order to make an informed decision at the polls.
- 2) Requirements to disclose their sources of funding are likely to stimulate parties/candidates to raise and also spend their financial resources in ways that are acceptable to a majority of voters and do not provoke public disappointment.
- 3) Disclosure emerges as an obstacle to corruption.
- 4) Publicly available information about the flow of money of parties and/or candidates serves as a deterrent to a risk-free use of funds from illegal or criminal sources. Therefore, disclosure can serve the purpose of dignifying the politics.
- 5) Disclosure of financial records contributes to making politicians accountable to voters and/or donors for the former's choices of spending the amounts raised. Public disclosure can serve as a barrier to excessive campaign spending.

The most typical mechanism of disclosure is employed *inter alia* in many European countries - political parties or candidates are required to submit declarations containing their income, spending or both. These declarations are offered for public scrutiny by publishing them in official media or making them available to commercial media. However, financial information about political parties or candidates can also be disclosed indirectly - as a consequence of political competition.

Despite the number of positive effects, disclosure may have its downside, particularly in fragile democracies or for contenders not belonging to political mainstream of the respective

country. In societies where democracy is not deeply rooted, momentary winners may feel tempted to sanction supporters or financial backers of opposing political groups, which may lead to imbalanced, disenfranchising policies. Also, financial supporters of politically unusual groups may want to retain their privacy as backing controversial issues that may seem unacceptable to a majority of a society. Here, disclosure of financial supporters would dramatically discourage the willingness to sponsor some of political groups.

Other problems with disclosure concern the extent and accuracy of reports. While it may seem obvious that parties and candidates are required to disclose full information about their financial transactions, the reality lags behind this optimistic assumption. There are countries where only campaign income and spending has to be reported while routine expenses of political organizations remain hidden from the public eye. Other countries require reports about the finances of party headquarters while financial activities of local organizations are left unreported. In yet other countries, parties have to report about their local and central levels but transactions of affiliated units (women's organizations, youth organizations, political foundations etc.) remain unknown to the general public. In case of Bosnia and Herzegovina it was defined by a law that budget allocations for youth political organizations are not to be a subject of limitation in regard to the amount of incomes. These allocations of funds for youth political organizations are shown on the forms that parties use for disclosure of their finances, separate from other party's incomes.

Due to the all what was mentioned above, one needs to have a clear understanding of what kind of financial information is required to disclose before making generalizations about party and campaign finance in a particular country.

But even if one knows legal framework of disclosure, it does not guarantee that conclusions about relationship between money and politics in a given country are accurate. Political parties and/or individual candidates may be tempted to report a distorted picture of their finances to appropriate official bodies for a number of reasons.

One of the reasons for misreporting is receipt of larger donations in cash. In some cases, these may be so-called kickbacks from contracts with public institutions or other contributions of illegal character. Alternatively, some donors may be excessively concerned with preserving their privacy and require no reporting as a precondition for a contribution.

Another reason for misreporting stems from the requirement (introduced in some countries) to reveal not only finances of a party/candidate but also resources spent on their behalf. At times, the imprecision and incomplete reports may be intentional to hide financial supporters or to decrease the overall amount of money spent on election campaign.

One more reason is related to different "ceilings" set in the legislation. For example, a candidate may report lower than actual income in order to comply with the maximum amount of donations allowed by the legislation.

While disclosure is an important element of fair democratic process, its significance is reduced in the absence of effective enforcement mechanisms. Many scholars have admitted that an excellent legislative framework for political and/or campaign finance is not sufficient to provide a meaningful control over money in politics. Another highly important component is impartial and timely enforcement of the existing regulations that brings at least some kind of sanctions against violators.

The role of state agencies in the process of enforcement cannot be overestimated. It is these agencies that can apply administrative, financial or even criminal sanctions against those who have violated political finance legislation. As such, enforcement serves as a deterrent to illegal actions on behalf of political parties. Unfortunately, state agencies are frequently under the influence of the same parties or politicians whom they are supposed to control. That may render the enforcement useless as control may be carried out in a formal, superficial or belated manner.

However, an effective tool against this weakness would be a highly competitive party system where parties carefully monitor the activities of other contenders and state agencies and appeal to the public in the case of any irregularities or inadequate enforcement. Unfortunately, this seems to be unattainable in many democracies due to what is called by a number of scholars cartelization of party system.

This phenomenon refers to a growing sense among political parties that it is in their best interest to restrict mutual political competition in the name of their long-term survival. Therefore, only non-governmental organizations and independent media emerge as most reliable watchdogs of party and campaign finance in many of the contemporary democracies. It is these groups that can best act in the interests of the society generally by monitoring election campaigns and scrutinizing financial records of parties/candidates. It is these actors that, in many cases, have sufficient public credibility to appeal to voters should any violations be discovered and achieve certain results (initiation of official investigation, loss of voter support by a political party /candidate, etc.). In many cases they possess enough public credibility to appeal to voters, if some violations of rules are discovered and could achieve certain results such as initiating of official investigation.

1.2 HISTORICAL OVERVIEW OF FINANCIAL REPORTS DISCLOSURE IN BOSNIA AND HERZEGOVINA

The first rules related to the disclosure of financial information of the candidates in Bosnia and Herzegovina have been included into the Rules and Regulations of the Provisional Election Commission of Bosnia and Herzegovina, for the elections held in 1998. At that time each candidate was requested to submit a candidate's form together with a Financial Disclosure Form, to the Provisional Election Commission (PEC). The Financial Disclosure Form should have included property information of the candidate and close members of his/her family: spouse, children and members of the family household whom it is the candidate's legal obligation to sustain.

Financial Disclosure Form asked for the following information:

- Incomes and sources of income realized within Bosnia and Herzegovina for a period of the past twelve (12) months;
- Property, including money, bank accounts, business documentation, shares, securities, bonds, real property, personal property, occupancy right and other property and possessions which exceed five thousand (5.000) KM in country and abroad; and
- Disbursements and other liabilities including all debts, liabilities, promissory notes, loans and guarantees of such liabilities in country and abroad.

The candidates, who won the mandate at the elections, were obliged to submit supplementary financial disclosure form to the PEC, upon expiration of their mandate.

PEC was not obliged to conduct control of the accuracy of information provided. Instead of that, the forms, as the complement, were published in the daily newspapers and placed on the website of the OSCE Mission to Bosnia and Herzegovina and became accessible to the broad public.

At its session held on August 18, 2000 the Parliamentary Assembly of Bosnia and Herzegovina has adopted the Law on Political Party Financing. According to this Law, the Election Commission of Bosnia and Herzegovina is obliged to establish an Auditing Office, which shall review and audit financial reports submitted by political parties. The law prescribes limits related to the way of collection of funds as well as political party expenditures for pre-election campaign. According to this Law, political party may obtain funds for its operations from the following:

1. Membership fee;
2. Contributions from legal entities and natural persons;
3. Incomes generated by property owned by political party;
4. Incomes from the budget of Bosnia and Herzegovina, Entities, Cantons, Municipalities and District Brcko if political parties are represented in appropriate legislative bodies; and
5. Profit from the income of the enterprises owned by political party.

This law reads that enterprises owned by political party may only carry out culture-related or publishing activities.

Annual incomes of political party referred to in Items 3 and 5 may not exceed 20% of the amount of all annual incomes of political party. Within 30 days of submitting its financial statement, party shall donate such income in excess of 20% to charitable organizations.

The law also introduced the limitation to the amount of contribution that a legal entity and natural persons may donate to political party. Such contributions may not be cumulated more than once a year in a calendar year and the total amount may not exceed eight (8) average worker's salaries according to the official information by the Bosnia and Herzegovina Agency for Statistics. Contributions are not only monetary donations, but they also include contributions in goods or free services for which political party is not obliged to pay. There is also limitation as to which legal entities are forbidden to make contributions to the political parties. These are:

1. State, entity and cantonal bodies, municipal and local communities bodies, public institutions, public companies, humanitarian organizations, businesses, which by virtue of their activity are exclusively intended and directed for non-profit, religious communities as well as economic association in which public capital has been invested in the amount of minimum of 25%, and
2. Private enterprises, which perform public services through government contracts.

Given that at the time of adoption of this Law, the Election Law of Bosnia and Herzegovina was not adopted nor Election Commission of Bosnia and Herzegovina was appointed which would in its structure contain the Auditing Office, the Provisional Election Commission has incorporated the most of these provisions into its Rules and Regulations for the elections 2000.

During the elections conducted by PEC, auditing of financial reports was done by the Auditing Team, which was established within the office of the Head of the OSCE Mission to Bosnia and Herzegovina and sanctions for irregularities were imposed by the Election Appeal Sub-Commission (EASC). The EASC has imposed eight (8) sanctions that range from a warning to the party to the removal of some candidates from the candidates' lists.

Finally, the BiH Election Law was adopted in 2001 and the Election Commission of Bosnia and Herzegovina was appointed.

The Election Law of Bosnia and Herzegovina contains provisions, which limit expenditures for the political campaign. The Law determines that the Election Commission of Bosnia and Herzegovina, shall announce ninety (90) days before the Election Day, the number of voters entered on the Central Voters Register for each electoral race. No political party shall spend more than one (1) Convertible Mark per registered voter in each electoral race for the purpose of the election campaign.

2. *LEGAL OBLIGATIONS RELATED TO DISCLOSURE OF FINANCIAL RECORDS*

Political parties in Bosnia and Herzegovina are obliged to file with the Election Commission of Bosnia and Herzegovina three types of financial reports as follows:

1. Regular (annual) financial report for each calendar year. This report shall be submitted no later than March 31st of the following year, for the previous calendar year;
2. Financial report for the period preceding the period of pre-election campaign. These reports shall be submitted on the day of submission of an Application for Certification of Participation in Elections and cover the period of three months prior to the submission of the Application for Certification; and
3. Supplementary financial report, which covers the period from the day of submission of the Application for Certification to the day of certification of election results. This report shall be submitted no later than 30 days after certification of elections results.

In addition, the Election Commission of BiH is authorized to request from political parties to submit additional financial report.

All financial reports shall be submitted in the format approved by the BiH Election Commission and in accordance with the Book of Rules on Political Party Financial Reporting. The forms and the full text of the Book of Rules on Political Party Financial Reporting shall be available at the www.izbori.ba/map.

Financial reports shall be filled for each organizational unit of political party, which holds at least one bank account as well as consolidated report for political party in summary. Here, it is important to emphasize that even **youth political organizations** are obliged to submit separate financial reports.

Financial report shall contain:

1. All cash at hand;
2. All incomes and disbursement based on the memberships, contributions from abroad, contributions from natural persons and legal entities, contributions in the form of goods and services, returns on its own assets or entrepreneurial activity, credits, loans, donations, rebates, refunds and other sources of income for the Reporting period;
3. Identification of the person or source of any payment and in-kind-contributions as well as identification of a person who received that payment, in excess of (one) 100 KM, together with the date and amount of any such payment;
4. The total amount of all accounts payable and the total amount of disbursements in categories: direct costs for political campaign, operating expenses, costs associated with entrepreneurial activity and other costs, and
5. The amount and nature of outstanding debts and obligations owed by or to the person who files a report and, where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished.

The Election Commission of Bosnia and Herzegovina is obliged to make all reports available to the public and to take appropriate actions to ensure that all citizens have easy access to the information contained within the reports. Apart from traditional method required by the Freedom of Access to Information Act in Bosnia and Herzegovina, BiH Election Commission has produced a user friendly, a web-based database. In that way, information on political parties financing shall be accessible to everybody. By ensuring an easy access to information for everybody, the Election Commission hopes to increase transparency and credibility of election process.

3. WHERE DO I FIND THE INFORMATION?

The political finance disclosure provisions require that the information is made available to the public. In addition to traditional methods as required by law, Election Commission of Bosnia and Herzegovina in co-operation with IFES has introduced user-friendly, web-based vehicle through which this information will be made available. By making this information more easily accessible, the Election Commission hopes to increase the transparency and credibility of the electoral process.

The MAP Database provides you with a searchable mechanism to obtain political finance information about party finances, campaign finances of parties and candidates, information about the assets and liabilities of elected officials, where the money came from, and how it was spent. Access to the MAP Database is easy. User information is provided at the back of this manual. Searching the Database and finding information can be as basic or as detailed as you choose. You even have the option to download the MS Access Database directly to your computer to conduct more sophisticated cross-tabulations and develop graphs and charts.

4. *HOW DO I ANALYZE THE INFORMATION?*

Public disclosure of financial records of political parties and individual candidates enables a meaningful analysis of political and campaign finance. Information can be obtained relatively easily, and it should be structured identically for all parties in a given country.

However, one should not overestimate the reliability of the disclosed data for the reasons mentioned above. It can be assumed that the available data illustrate general trends but experience of several countries tells that in a number of cases the data do not reflect the actual situation perfectly.

While all parties strive for political power, they may employ different strategies and tools. If so, that is likely to be reflected in **diverging spending patterns** among different parties. Therefore, an inquiry into spending patterns during the same election campaign or even whole election cycle may shed some light on how different parties compete for power.

As information on political finance accumulates, one can draw conclusions about changes and **trends of spending over time**. For example, one may discover that some parties have switched from labor intensive door-to-door campaigning to capital-intensive campaign in the media between two elections.

Experience of advanced democracies indicates that there may be differences in **income structure** of different political parties. For example, leftist parties tend to obtain large donations from trade unions while right-wing parties tend to rely on sizeable private contributions. However, it is not clear what patterns are characteristic of democracies of Eastern Europe. Moreover, the income structure may change as a reaction to the political and economic environment or other factors, and it, then, needs to be monitored.

Some financial supporters may display a strong loyalty to a particular political organization. This can be explored by tracing **contributions of particular donors over** a number of **years**. One may also want to explore whether a particular donor constantly supports the same political parties over time

Some political parties may have established close links to certain interest groups and may act as their lobbyists on the national political arena. Concentrated and sizeable **contributions of a particular branch** of the national economy to certain parties may provide a good clue to further exploring of relationship between parties and organized interests in the country.

Many countries have prohibited **foreign and/or anonymous donations** as a source of funding for political parties. It is believed that such donations may undermine the sovereignty of the respective country or they may notably reduce the transparency of electoral process and politics in general. However, this prohibition is not universal and some countries do permit the aforementioned contributions. In that case, a notable share of foreign or anonymous donations in the budget of a party may cast a shadow of doubt over the recipient and its ability to act in the best interest of the people. In the case of Bosnia and Herzegovina, donations from abroad

are not prohibited, but they need to be disclosed separately. The auditing of these donations is almost impossible.

Another highly sensitive direction of inquiry concerns **relationship between donors and kinds of decisions taken** or supported by recipients of donations. It is exactly this kind of analysis that allows to make informed and substantiated conclusions about undue political influence of certain individuals or corporations.

Undue political influence can also be reflected in a **correlation between donors and awards of public works' contracts**. In that case, however, this influence may have grown into corrupt actions as it can be seen from not so ancient examples provided by democracy in Italy.

In some countries, governing parties tend to obtain considerably more financial resources than their counterparts in opposition. Therefore, **differences in funding between governing and opposition parties** deserve a particular attention as they would give additional information about the character of political competition in the respective country. This could also be compared to **how concentrated is the flow of financial resources** to political contenders. If, for example, a handful of parties collect 80-90% of all reported funding then it may be difficult to speak of an even playing field for all parties/candidates. Last not least, one may want to assess the **impact of funds spent on election results**, i.e. whether there is any correlation between the spending of political parties and the number of seats obtained. This would not only characterize the effectiveness of campaign but also address one of the central issues - does money buy votes/election?

5. *WHAT I CAN DO WITH THIS INFORMATION?*

Monitoring of political and campaign finance is an important activity to ensure free and fair elections and transparent and accountable democratic process in general. In many countries, NGOs and other actors of civil societies assume this complicated task. However, their efforts are likely to be less effective if they do not closely cooperate with media.

It is extremely important to increase public awareness of the issue of political finance and to communicate the results of monitoring campaigns and/or studies of publicly available information. It is an energetic appeal to voters via mass media that can give more weight to discovered irregularities or conclusions about trends in political funding.

NGOs can effectively detect and highlight funding patterns or suspicious correlations but these findings have to be communicated effectively to wider audiences to provoke public discussions or condemnation by voters that are likely to affect political fortune of parties/candidates involved. Frequently, it is the threat of loss of public support that precludes politicians from entering into dubious political or financial transactions.

NGOs in some countries where campaign expense monitoring projects have been carried out have faced a criticism of being biased because they have been vague on methodology of the project. It is of utmost importance for the success of the endeavor that indicators and criteria of evaluation are clearly defined and also made public prior to the launch of the project. A consistent application of these criteria throughout the project will only add to the seriousness of the effort even if the conclusions reached do not conform with political sympathies of funders and authors of the endeavor.

Better publicity for the monitoring efforts can be achieved by presenting the project results to media in an effective manner. It may be useful to split all information into two parts: main report and executive summary. The latter ought to be concise, analytical and easily readable. Visualization of the main trends and major problems/issues as reflected by the inquiry will help communicate the results of the research. A convenient way of disseminating the main report is publishing it on the internet, creating additional publicity for the institution, homepage of which is used for this purpose. A different approach to publicizing the findings is a series of commentaries/analytical articles describing the problems detected, analyzing their likely causes and outlining possible solutions. These articles are perfectly suited for incorporating and drawing on the experience of other countries in the sphere of political and/or campaign finance. This approach would help maintain a steady interest of the general public in issues surrounding money in politics.

6. TRANSPARENCY OF FINANCIAL REPORTS AND FINANCIAL DISCLOSURE FORMS

Information contained in political parties financial reports shall be available to the public at the website of the BiH Election Commission at www.izbori.ba/map . An exception shall be data marked for internal use such as an identification number of a person who provided contribution in excess of 100 KM, the identification number of the legal entity which provided contribution in excess of 100 KM, and name and surname of donor who explicitly requested that his/her name should not be publicly disclosed, based on the Law on Protection of Personal Data («Official Gazzetess of BiH» No 32/01). In such cases donation shall be presented as an «anonymous» with general indication that the information on donors who provided anonimous contributions are know to the BiH Election Commission.

Data provided on the webpage are organised according to the reporting periods. Thus, it would be possible to request review of annual financial reports for particular calendar year, pre-election financial report for particular elelctions or additional financial report which shall be submitted upon certification of election results.

The database may be searched per different cathegories such as:

- Data for particular political party or for all parties,
- Summary data on total incomes,
- Data on incomes from budget
- Data on incomes from donations of legal entities
- Data on incomes from donations of natural persons
- Data on income generated from the property
- Data on profit from the income of the enterprises owned by political party
- Summary data on total expenditures of one political party or all political parties
- Data on utility-administrative expenditures
- Data on promotional expenditures
- Data on other expenditures
- Data on credits, loans and obligations.

In case that certain user would need non-standard (other than usual) reports, database could be downloaded from the website directly to the personal computer in order to conduct more sophisticated queries and reports according to needs.

Apart from data provided in financial reports, website www.izbori.ba/map contains links though which one can obtain financial disclosure forms of the candidates and elected or appointed officials. Please note that Election Commission of Bosnia nd Herzegovina does not have authority to conduct audit of information provided in these forms. The only obligation of the BiH Election Commission is to make these statments available to the public what may be achieved though this project too.

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