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# FIGHTING CORRUPTION

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## Political Funding

by Mr Yves-Marie DOUBLET  
Deputy Director at the National Assembly, France

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Thematic Review  
of GRECO's  
Third Evaluation Round



Groupe d'Etats contre la corruption  
Group of States against Corruption



COUNCIL OF EUROPE  
CONSEIL DE L'EUROPE

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# 1. Introduction

1. By 1 November 2011, in its third evaluation round focusing on the transparency of political party funding, the Group of States against Corruption (GRECO), established by the Council of Europe, had examined the legislation of 39 of the Group's 49 member states.<sup>1</sup> The data collected by the GRECO evaluation teams (hereafter GET), which had hitherto been the preserve of academics, are first of all a unique source of information on what is a fairly recent body of regulations in the history of European democracies. These evaluations look at all aspects of the funding of political activities, including the transparency of the resources of parties and candidates, how the regulations are enforced and what penalties may be imposed. They use a common analytical approach, based on the answers to written questionnaires and detailed on-the-spot talks, and reveal a wide variety of policies and practices in the different member states, in response to which GRECO makes a number of recommendations.

2. It now seemed appropriate to move beyond this country-by-country approach and try to draw some more general lessons. This study does not attempt to rank member states or award them good and bad marks, according to how well they comply with Committee of Ministers' Recommendation (2003) 4 on common rules against corruption in the funding of political parties and electoral campaigns<sup>2</sup> (hereafter "the Recommendation"). This would be a pointless exercise. By no means can all the mature democracies claim to have had such rules for a long

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1. This study updates the study issued on 19 May 2010. The following countries are covered: Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey and the United Kingdom. For more information, see [www.coe.int/greco](http://www.coe.int/greco) under "Evaluations" in the left-hand column.

2. Link to the French version: <https://wcd.coe.int/ViewDoc.jsp?Ref=Rec%282003%294&Language=lanFrench>

Link to the English version: <https://wcd.coe.int/ViewDoc.jsp?Ref=Rec%282003%294&Language=lanEnglish>

time. Some, such as France and the United Kingdom, have only recently taken this path. The more recent democracies generally enacted legislation on political funding at the same time as their new institutions were established.

3. This summary report is much more concerned with identifying weaknesses that are common to several political systems and problems that arise in numerous member states. This then makes it possible to suggest – implicitly – the transposition of positive practices that can help to improve countries' systems. Although political systems, including their historical, social and cultural contexts and their voting arrangements, can differ significantly from one member state to another, the principles set out in the Recommendation are common to all these countries and are required to be applied by them, whatever the form of their institutions, because they share the same democratic values. Nevertheless, the evaluation reports of the 39 countries concerned merit further attention, as a contribution to a debate that is far from over, to enable the Council of Europe to develop further the content of its Recommendation and to inform discussion in the countries that are trying to implement it. One should, however, bear in mind that in certain respects national regulations may have already changed since the GRECO examination.<sup>3</sup>

4. While the regulations examined occasionally fall short of the principles laid down in the Recommendation, these evaluations also serve to highlight the differences that may exist between the letter of the law and how it is applied in practice.

5. Any examination of these evaluation reports must focus on three key aspects of this topic, namely the transparency of

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3. By the end of the third evaluation round, a total of 49 member states will have been evaluated. As at 1 November 2011, 18 of the 39 countries covered by this study (Albania, Belgium, Denmark, Estonia, Finland, France, Iceland, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Slovakia, Slovenia, Spain, Sweden and the United Kingdom) had already been the subject of a "compliance report", that is an assessment – after 18 months – of action taken on the recommendations of the evaluation report. See the GRECO site (footnotes 1 and 2) for the most up-to-date information. A synopsis of these compliance reports is planned for 2012.

political funding, monitoring compliance with existing regulations and the penalties for those who breach the latter.

## **2. The transparency of political funding**

6. The status of those involved in political activities, and the rules governing donations and political party accounts, are all aspects of the transparency of political funding that the Council of Europe seeks to ensure.

### **2.1. The status of those involved in political activities**

7. The legislation on political financing is directed towards political parties and candidates for election. To be fully comprehensive, therefore, the legislation must apply to both groups and establish a legal status for political parties that applies to all their component parts. However, these two conditions are not always met.

#### **2.1.1. Similar obligations for political parties and candidates for election**

8. Some countries have legislation on political party funding but no equivalent regulations on the financing of election campaigns. To ignore the latter is to open up the possibility of direct and totally legal donations to candidates, which carries a dual risk. Firstly, it undermines the principle of equal opportunities between parties, since donations to candidates can be a source of additional income for certain parties. Secondly, it breaches the principle of the transparency of political funding. This is not just a theoretical point. It can apply just as much to countries like Germany that pioneered the regulation of political funding (§ 105 of the evaluation report and recommendation iv) as to ones such as Croatia where this is a more recent development (§ 65 of the evaluation report and recommendation i). In Germany, party candidates and elected members of parliament may receive donations. However donations to candidates are

not covered by the German legislation on parties and donations to members are the subject of an appendix to the Rules of Procedure of the *Bundestag*, breach of which is subject to a sanction mechanism drafted in much more general terms than the mechanism relating to unlawful donations to parties. In Croatia, the law governing donations to political parties and independent lists and candidates makes no reference to individual donations to party candidates. Turkish legislation on the keeping and auditing of party accounts makes no reference to income received and expenditure incurred by individual members of a political party in respect of their party-related political activities (§ 65 of the evaluation report and recommendation i). But this legal separation between candidates and parties, which in certain cases may encourage donors to make their donations exclusively to political parties, may prove less watertight in practice than in the texts, with individual candidates benefiting from these donations (§ 89 of the evaluation report on Portugal and recommendation iv).

9. Article 8 of the Council of Europe Recommendation extends the rules on the funding of political parties to candidates at elections. In the interests of equal opportunities and transparency, which should underlie the relevant legislation, it would be desirable for candidates to hand over donations that they receive to the party, or for such donations to be completely proscribed and given only to parties.

### **2.1.2. Applying the legal status of political parties to bodies performing the same functions**

10. Most of the member states that have been evaluated have opted to define political parties in their legislation. There are a few rare exceptions such as Andorra, Greece, Slovakia, Spain and the United Kingdom that do not have such a definition. Sometimes, as in France, the definition comes from case-law. However, defining political parties in law does not necessarily end the discussion since the definition may be inadequate if local sections or branches of parties are excluded from its scope. In Belgium, for example, the definition of political

parties does not include local branches, even though the latter may be fairly large in the major cities and take part in election campaigns, finance candidates' individual campaigns and collect funds, a portion of which in certain parties is paid directly or indirectly into the central coffers (§ 71 of the evaluation report and recommendation ii).

11. Similarly, in Germany recent political developments have highlighted the growing role played by associations of voters in public affairs, even though these do not have the status of political parties, which brings with it obligations of transparency and properly audited accounts in order to claim tax concessions on donations they receive (§ 102 of the evaluation report and recommendation i).

## **2.2. Donations**

12. The questions raised by anonymous donations, threshold effects, in-kind donations, sponsorship, loans, rewards for public contracts, subscriptions and the disparities in rules from one election to another show just how much the problem of donations varies.

### **2.2.1. Anonymous donations**

13. Article 12 of the Council of Europe Recommendation requires donations to political parties to be registered. The nature and value of donations must be specified and for donations over a certain value, donors should be identified. Having a definition of donations in the legislation removes all ambiguity in this regard (§ 85 of the Azerbaijan evaluation report and recommendation ii; § 67 of the Georgia evaluation report and recommendation iv; § 58 of the Czech Republic evaluation report and recommendation i.)

14. A few rare states allow anonymous donations; these include Albania (§ 71 of the evaluation report and recommendation iii); Denmark (§ 58 of the evaluation report and recommendation i) and Malta (§§ 31 and 66 of the evaluation report and recommendation i); Greece, where the use of coupons

for donations, without the need for disclosure of the donor's identity, is allowed for amounts up to 600 Euros donated to political parties and coalitions, and up to 200 Euros for donations to candidates in regional and local elections (§ 113 of the evaluation report and recommendation ii); Malta (§ 31 and § 66 of the evaluation report and recommendation i); Romania, for donations up to 0.006% of the total amount of the state subsidy provided for in the state budget (§ 116 of the evaluation report and recommendation v).

15. There are two factors which may encourage anonymous donations: the absence of any requirement to disclose donations and the allowing of cash payments. The fact that there is no requirement to disclose the identity of the donor or the amount of the donation outside the election campaign in effect legitimises anonymous donations in Cyprus, which sets an upper amount of € 8 000 for natural persons, € 20 000 for limited liability companies and € 30 000 for donations from companies listed in the stock exchange (§ 66 of the evaluation report and recommendation ii). The Republic of Moldova requires no information to be disclosed on the identity of the donor, the amount of the donation or the recipient (§ 66 of the evaluation report and recommendation ii).

16. The fact that there is no obligation to make donations via the banking system may also be an incentive to make anonymous donations (§ 75 of the Bosnia and Herzegovina evaluation report and recommendation ii; § 102 of the Bulgaria evaluation report and recommendation iii; § 113 of the Greece evaluation report and recommendation ii; § 70 of the evaluation report on the Republic of Moldova (where traceability is required only for payments by legal entities) and recommendation v; § 116 of the evaluation report on Romania, where only donations of a specified amount are required to be made via a bank account, and recommendation v; § 72 of the evaluation report on Serbia and recommendation iv).

17. However, bans on anonymous donations may be thwarted by other provisions. They are prohibited, for example, in Estonia but this does not apply to membership fees and parties

themselves may define which contributions are to be regarded as donations and which as membership fees (§ 66 of the evaluation report and recommendation ii).

### **2.2.2. Threshold effects**

18. The identity of donors and the amount of donations above a certain level are published in Bulgaria, Germany, Hungary, Ireland, Luxembourg, Norway, Poland, Spain and the United Kingdom. The identity of the donor, regardless of the amount of the donation, must be declared in the party's annual financial statements in the Czech Republic, which de facto prohibits anonymous donations.

19. The amount of this threshold can have considerable significance. Setting too high a threshold creates the risk of encouraging donations below this legal level to avoid publication. The GRECO evaluation teams have drawn attention to this on a number of occasions. For example, they found the threshold in Germany to be too high. Parties must report the identity of donors in their published accounts if their total donations over a year exceed € 10,000. Individual donations of over € 50,000 must be reported immediately to the President of the Bundestag. GRECO recommended a reduction in the € 50,000 minimum for immediate reporting and disclosure and a significant reduction in the threshold for the disclosure of donations and donors (§ 104 of the evaluation report and recommendation iii).

20. GRECO adopted the same approach with Finland, by asking it to consider lowering the threshold of donations above which the identity of the donor was to be disclosed (§ 70 of the evaluation report and recommendation iv). Irish legislation has also been criticised on this point, since GRECO considered that the current disclosure threshold of € 5,078.95 for donations received by political parties from a single individual was too high (§ 105 of the evaluation report and recommendation iii).

21. The protection of privacy argument is often cited to justify domestic legislation that does not fully comply with the principle in the Recommendation according to which donations

above a certain level should be made public. For example, this has been put forward by Belgium (§ 77 of the evaluation report and recommendation vii) and Iceland (§ 73 of the evaluation report and recommendation ii). On the other hand it can also be argued, as GRECO does in its evaluation reports on these two countries, that one of the main purposes of transparency is to highlight undesirable influences on political funding.

22. Protection of privacy may also be used as an argument to justify certain qualified solutions opted for in the legislation on the disclosure of donations. In Denmark, for example, political party accounts must include the names and addresses of individuals and legal persons having made donations in excess of € 2,700, but not the amounts each contributor has given (§ 59 of the evaluation report and recommendation ii). In Romania, if the donor has so requested in writing, his or her identity may remain confidential, provided that the amount is not in excess of 10 minimum gross salaries (§ 33 of the evaluation report).

23. Because it may be subject to interpretation, the effectiveness of the legislation on publication will depend on how precisely it is worded. GRECO has concluded that simply requiring Albanian parties to publish the list of persons making donations above a certain level was not sufficient. The relevant legislation did not specify the form and timeframe in which this information should be published (§ 70 of the evaluation report and recommendation ii).

### **2.2.3. Donations in kind**

24. Article 2 of the Council of Europe Recommendation defines donations in fairly broad terms as “any deliberate act to bestow advantage, economic or otherwise, on a political party”. This therefore includes financial donations and donations in kind. UK regulations, for example, consider that the free supply of office space or equipment to a party and the sponsorship of events amount to contributions in kind. In Romania, discounts above 20% of the value of products or services provided to parties or independent candidates are deemed to be donations.

When donations to parties from companies are authorised, they are primarily in the form of contributions in kind. The Latvian legislation on the funding of political organisations defines donations as “any property or other benefit gained without remuneration, including services, transfer of rights, exempting a political party from certain obligations, giving up rights to a certain benefit in favour of the party or other actions through which some benefit is given to a political party”. The evaluation of Slovenia refers in this context to the employment of people who then go to work for a party or the direct payment of its bills (§ 117 of the evaluation report).

25. The impact of a regulatory framework for donations in kind is not a theoretical issue. For example, the GET was informed that some broadcasters in “the former Yugoslav Republic of Macedonia” gave political parties discounts of up to 97% of the normal cost. This serves to circumvent the legal provisions on donation ceilings and turns these commercial gestures into virtually unlimited donations (§§ 90 and 91 of the evaluation report and recommendation ii). In the Republic of Moldova, the practice of donations in kind in the form of office premises, staff, means of transport or telecommunications facilities appears to be common practice (§ 68 of the evaluation report and recommendation iv). It was suspected in the Czech Republic that many advertisements were provided free of charge or at reduced rates by companies (§ 59 of the evaluation report and recommendation ii).

26. These donations in kind may also come from public sources. Bulgarian legislation does not clearly address the use of public facilities during election periods (§ 108 of the evaluation report and recommendation viii). In Georgia, the GET has expressed concern at the participation in election campaigns of certain individuals occupying official public positions (§ 69 of the evaluation report and recommendation vi). In Greece, GRECO noted in its evaluation that no fewer than 857 public servants remunerated by the administration were seconded to members of the national parliament or the European parliament, to the benefit of the political parties to which these

elected representatives belonged (§ 116 of the evaluation report and recommendation v). There are no specific regulations in Montenegro on public donations in kind – technical means, vehicles, use of facilities – during election campaigns (§ 67 of the evaluation report and recommendation iv). In Serbia, candidates who are already elected in practice use the public resources at their disposal (official cars, communication equipment, secretariat services, etc.) (§ 71 of the evaluation report and recommendation iii).

27. However, the issue of in-kind donations is dealt with in various ways in member states' legislation. Such donations are often obscured by the regulations. They are implicitly authorised in cases where a definition of donations refers exclusively to financial payments (§ 83 of the evaluation report on Andorra and recommendation iv). In Armenia, in-kind donations must be recorded in party accounts, but the Electoral Code contains no rule on donations in kind made during election campaigns or on goods and services offered at reduced rates (§ 64 of the evaluation report and recommendation ii). In Greece, in-kind donations are not included as sources of electoral income for parties and candidates, nor in the operational activities of candidates and parties outside election campaigns (§ 115 of the evaluation report and recommendation iv). Legislation in Montenegro also overlooks this issue (§ 66 of the evaluation report and recommendation iii). Serbian regulations do not specify how in-kind donations to political parties should be declared (§ 71 of the evaluation report and recommendation iii). In contrast, some member states regard the provision of services, goods, property or non-property rights to a political party as concealed donations prohibited under their domestic legislation (§ 30 of the Estonia evaluation report).

28. In the absence of clear guidelines in the legislation, there can also be doubts about whether declarations of such donations in kind reflect their real value. Such guidelines are lacking in Albania (§ 70 of the evaluation report and recommendation iii) and Denmark (§ 60 of the evaluation report and recommendation iii). GRECO invited Finland to ensure that

contributions in kind to political parties, other than voluntary work by non-professionals, were assessed and valued at market rates (§ 69 of the evaluation report and recommendation iii).

29. In France, there is a ban on donations in kind to parties at prices below the market rate (§ 109 of the evaluation report) and candidates must take them into account for the financing of election campaigns in the campaign accounts. The regulations in Georgia take no account of goods or services which are not free of charge but which are provided at below the market value (§ 67 of the evaluation report and recommendation iv).

30. Legislation may also be strict, but only applied in a very limited fashion. For example, Section 2 of the Lithuanian law on political parties defines donations to parties in very broad terms. It includes cash, shares and other securities, moveable and immovable property, property rights, intellectual activities, goods and services provided free of charge, voluntary work and activities and the products of these activities. In practice, however, such forms of donation appear not to have been declared in order to avoid exceeding the thresholds (§ 101 of the evaluation report and recommendation iv). The same scepticism was noted among those with whom the GET spoke in Norway, who were asked about the actual declaration of donations in kind received by political parties (§ 82 of the evaluation report and recommendation ii).

31. It must be admitted, however, that it can be difficult to reconcile compliance with the Council of Europe Recommendation and at the same time not discourage voluntary work. Moreover, GRECO's recommendations exclude this form of unpaid work from the scope of in-kind donations (recommendation ii in respect of the Czech Republic; recommendations iii in respect of Armenia and Serbia; recommendations iv in respect of Georgia, Greece and Romania).

#### **2.2.4. Sponsorship**

32. The problems associated with the sponsorship of political parties are quite similar to those of donations in kind. There are a number of possible examples.

33. Sponsorship may be seen as an alternative to the ban on donations from legal persons, which then renders this prohibition ineffective. In Belgium, for example, the ban on donations from businesses to political parties does not prevent sponsorship, a practice that is moreover accepted by the federal control commission (§ 74 of the evaluation report and recommendation iv).

34. In countries such as Germany where donations from legal persons are allowed, sponsorship constitutes an additional form of assistance from businesses to political parties, though the legal arrangements are not very clear, since sponsorship cannot be treated as a donation, and is therefore not subject to the requirements on donation disclosure (§ 109 of the evaluation report and recommendation vi). Although such assistance does not offer any tax benefits for the donor company, it does offer it publicity if the details are made public.

### **2.2.5. Loans**

35. This problem is not properly dealt with in legislation, even though this may be a considerable source of political party funding (Spain, Poland) and be seen as a means of avoiding the thresholds on donations to political parties (§ 74 of the evaluation report on Spain and recommendation i).

36. UK legislation might be considered to be the most highly developed in this respect. British parties are required to make a quarterly declaration of their loans to the Electoral Commission, and in election periods this obligation becomes weekly. However the rule does not apply to candidates, or above all to third parties authorised to intervene in election campaigns (§ 126 of the evaluation report and recommendation ii).

37. Sometimes loans are not mentioned in the legislation. This is true of the legislation in Georgia (§ 67 of the evaluation report and recommendation iv); the Republic of the Republic of Moldova (§ 69 of the evaluation report and recommendation iv) and Serbia (§ 71 of the evaluation report and recommendation iii). In Slovenia while loans are covered by the law

on election campaigns, they are not covered by the legislation on political parties (§ 107 of the evaluation report and recommendation i). However, simply mentioning this form of funding in political parties' financial reports is no guarantee, by itself, of transparency. For example, Spain's Institutional Law 8/2007 on the financing of political parties requires the conditions of contracted loans to be specified in parties' financial reports. However the law does not specify the terms and conditions for granting loans, including their maximum value, permissible lenders, terms of repayment and so on (§ 74 of the evaluation report and recommendation i).

38. The gaps in the regulations can be easily exploited by the political stakeholders. In Greece, while loans appear in the financial accounts both as a source of income and as an expense, they do not have to be declared in the financial statements that are subject to supervision when they have been written off by the lender (§ 114 of the evaluation report and recommendation iii). The GET noted that various factors, such as the maximum value of loans, permissible lenders, registration of loans, last date for contracting loans before an election, the terms of repayment and so on were not clearly regulated in Poland (§ 80 of the evaluation report and recommendation iii). In the Czech Republic, while the total amount of debt must appear in the financial report, this is not done in any great detail (§ 59 of the evaluation report and recommendation ii). In Romania, there is a clear lack of obligation for all debts and liabilities to be sorted out by the time the statements are forwarded to the Permanent Electoral Authority, whose representatives said that in some cases the debtors had no means to repay their debts (§ 119 of the evaluation report and recommendation vii).

39. It may happen that loans are not among the permissible sources of funding, but this prohibition may not cover other types of funding which are very similar to loans, such as credit lines and cash advances (§ 115 of the evaluation report and recommendation iv).

### **2.2.6. Rewards for public contracts**

40. In states that allow business donations, such generosity may be rewarded with public contracts, unless donor companies are prohibited from bidding for such contracts (§ 111 of the evaluation report on Slovenia and recommendation v). Some countries' legislation prevents business donors from bidding for public contracts. However, although it is possible to prohibit donations from businesses that have entered into public contracts and to prevent undertakings that have previously made donations to parties from bidding for such contracts, the relevant legislation is sometimes incomplete. For example, in Spain the ban on receiving donations from firms involved in public contracts applies only to current contracts. It no longer applies once the contract is terminated. Nor does it apply to donations from firms that are bidding for public contracts to bodies such as political associations and foundations that are linked to parties (§ 71 of the evaluation report). With regard to donations made after the contract has been terminated, Serbian legislation shows the same shortcomings as those found in Spain (§ 73 of the evaluation report).

### **2.2.7. Rules on donations which differ from one election to another**

41. Having different rules on donations depending on the type of election or which differ between election campaigns and political parties weakens the overall consistent nature of political funding legislation, not least when several elections with different rules are taking place at the same time (§ 104 of the evaluation report on Bulgaria and recommendation v).

### **2.2.8. Membership fees**

42. When a party member pays a higher membership fee than the statutory amount, the difference may be registered as a membership fee and not as a donation, even in cases where it exceeds the donation ceiling (§ 85 of the evaluation report on Azerbaijan and recommendation ii; § 67 of the evaluation report on Georgia and recommendation iv; § 67 of the

evaluation report on the Republic of Moldova and recommendation iii). Donations may also be classified as membership fees, by splitting them in order to remain below the disclosure threshold (§ 58 of the evaluation report on the Czech Republic and recommendation i).

## **2.3. Party accounts**

43. Several points require particular attention: maintaining accounts, their standardised presentation, their content, their scope, their presentation and their publication.

### **2.3.1. Maintaining accounts**

44. UK legislation is doubtless the most detailed in this regard. The registered party treasurer must ensure that accounting records are kept in a way that is sufficient to show and explain the party's transactions – at any time – with reasonable accuracy (§ 125 of the evaluation report). The same applies in Spain, where once again records of income and expenditure must be maintained in sufficient detail to show and explain the party's transactions – at any time – with reasonable accuracy (§ 73 of the evaluation report). The Spanish legislation also requires political parties to establish a system of internal auditing of their accounts (§ 77 of the evaluation report).

45. However, the maintaining of accounts presupposes knowledge of the exact period they must cover. In the absence of any precise definition of the election campaign in law, it is then a matter of what takes place in practice (§ 66 of the evaluation report on Serbia and recommendation i). A total absence of provisions in national legislation on maintaining political party accounts places the member state in a difficult position vis-à-vis Article 11 of the Recommendation, which requires member states to ensure that political parties keep proper books and accounts. Hungary fails to comply with this requirement (§ 87 of the evaluation report and recommendation iii).

46. Defining a minimum duration of the election campaign has three consequences. Having too short an election campaign

means accepting that this minimum period may be exceeded and therefore that the election campaign receipts and expenditure may not be properly accounted for. This has led GRECO to call for an extension or at least a revision of the election period in the states concerned: in Azerbaijan (§ 84 of the evaluation report and recommendation i); and in Hungary, given the absence of a precise duration of election campaigns (§ 91 of the evaluation report and recommendation vi). The GET believes that in “the former Yugoslav Republic of Macedonia”, the election campaign accounts are opened too late and closed too early to meet all the financial needs of the campaigns (§ 89 of the evaluation report and recommendation i).

47. It also raises the question of how expenditure prior to the election campaign is accounted for. In Bulgaria, the fact that there are no regulations governing the accounting of pre-election campaign activities may benefit independent candidates not supported by initiative committees (§ 105 of the evaluation report and recommendation vi). In Greece, the main bulk of expenditure which occurs in the pre-electoral period is a strong incentive to circumvent the caps placed on private donations and expenses (§ 112 of the evaluation report and recommendation i).

48. Thirdly, it weakens the impact of caps on election expenses. Indeed, it is easy to circumvent the caps on election campaign expenditure by assigning those expenses outside the campaign reporting period (§ 76 of the evaluation report on Bosnia and Herzegovina and recommendation iii).

### **2.3.2. Standardised presentation of accounts**

49. A standardised presentation of accounts makes it possible to compare them over time and between different entities. However, such a tool is not always available. In Spain, in the absence of a uniform reporting format, the financial reports of political parties vary considerably in their content (§ 76 of the evaluation report and recommendation iii). GRECO has urged the establishment of a single computerised format for the accounts of Luxembourg parties, on which the court of auditors

can exercise its oversight functions (§ 56 of the evaluation report and recommendation ix). The same concern has been expressed with regard to Andorra (§ 82 of the evaluation report and recommendation iii); Azerbaijan (§ 87 of the evaluation report and recommendation iii); Ireland (§ 104 of the evaluation report and recommendation ii); the Netherlands (§ 78 of the evaluation report and recommendation ii); Norway (§ 79 of the evaluation report and recommendation i); Portugal (§ 86 of the evaluation report and recommendation i); Slovakia (§ 89 of the evaluation report and recommendation iv); Turkey (§ 66 of the evaluation report and recommendation ii) and the United Kingdom (§ 125 of the evaluation report). This shortcoming has also been noted in respect of pre-election funds of candidates, parties and coalitions in Armenia (§ 67 of the evaluation report and recommendation v)

### **2.3.3. Content of accounts**

50. Countries also vary in the amount of detail parties provide. For example, in Bulgaria, there are few provisions on the transparency of campaign funding and these vary from one election to another (§ 103 of the evaluation report and recommendation iv). Because the financial reports of Moldovan parties contain neither a statement of financial position nor a statement of financial performance, the GET called for more detailed documents providing a full overview of the party's assets and its incomes and expenditure (§ 65 of the evaluation report and recommendation i). The financial reports of Czech political parties provide a large amount of information on donations, but information on expenditure is less detailed (§ 62 of the evaluation report and recommendation v). In Slovenia, this information is limited to the total amount of donations received by the party or for an election campaign, with no details as to their nature or the value of cash donations (§ 107 of the evaluation report and recommendation i).

51. In its evaluation of the Finnish system, the GET found that level of detail required for election financing reporting was too low to provide for the production of meaningful information. The

new legislation and accompanying disclosure forms, adopted as a result of the evaluation and appraised in the context of the compliance report, appear to remedy this shortcoming in respect of election candidates. Furthermore, the Government has proposed new regulations with similar effect in respect of political parties (§ 49 of the compliance report).

#### **2.3.4. Scope of accounts**

52. GRECO has criticised the failure to consolidate political party accounts on a number of occasions. Article 11 of the Council of Europe Recommendation, it will be recalled, calls on member states to ensure that the accounts of political parties are consolidated and include, as appropriate, the accounts of their directly or indirectly related entities.

53. Several countries fail, in whole or in part, to comply with this provision, with regard to entities coming within parties' sphere of activity, local party bodies or third parties. This also raises questions about the distinction between ongoing expenditure on political activities and electoral expenditure and about parties' links with foundations with which they have close connections.

##### *2.3.4.1. Entities directly or indirectly related to parties' sphere of activity*

54. Spanish law says nothing about the consolidation in political parties' financial records of the accounts of entities related directly or indirectly to those parties or otherwise under their control (§ 75 of the evaluation report and recommendation ii).

55. In Estonia, political parties are not obliged to include the accounts of related entities in their own accounts and records, the only exception being the election funding reports which must include expenses incurred and funds used by not-for-profit associations of which the political party is a member (§ 65 of the evaluation report and recommendation i).

56. With regard to the requirement for publicly available information, the GET has on several occasions criticised the lack

of accessible accounting information regarding the expenditure of entities directly or indirectly related to political parties (§ 77 of the evaluation report on Bosnia and Herzegovina and recommendation iv; § 63 of the evaluation report on Montenegro and recommendation i; § 75 of the evaluation report on Serbia and recommendation v; § 92 of the evaluation report on “the former Yugoslav Republic of Macedonia” and recommendation iii; and § 65 of the evaluation report on Turkey and recommendation i).

57. In Norway, neither the Accounting Act nor the Political Parties Act require political parties to present consolidated accounts. So when a party comprises some 300 different entities it is impossible to secure an overview of its finances (§ 85 of the evaluation report).

58. While Czech political parties can derive income from business activities, the GRECO felt that there would be greater transparency regarding their funding if, at the very least, the accounts of the companies (or as a minimum a summary of those accounts) set up by a political party or in which a party had a share, were published together with the report of the party itself (§ 60 of the evaluation report and recommendation iii).

59. The financial reports supplied by Slovenian political parties contain no information on the various entities associated with those parties, be they organisations within the party structure, such as youth, women’s, labour and agricultural organisations, or societies and associations that actively participate in election campaigning and funding. Moreover, campaigning or fundraising by associations and societies set up separately from parties is not regulated (§ 108 of the evaluation report and recommendation ii).

60. The fact that political parties and bodies directly or indirectly linked to them are organisationally quite distinct is quoted in Slovakia as justification for the lack of financial information from political parties about these entities, even though

some of them appear to be deeply involved in party activities (§ 88 of the evaluation report and recommendation iii).

61. However, what has persuaded GRECO in some cases that such entities need not be included in the scope of political party accounts is less their organisational separation than the fact that there is no financial relationship between them. In the case of Poland, it considered that since the party financing system was largely based on public funding and contributions by legal persons were prohibited, no reference to entities related, directly or indirectly, to political parties was necessary in the latter's accounts (§ 82 of the evaluation report).

62. On the other hand, there are more grounds for scepticism about the relationship between parties and other bodies in their sphere of activity when the criteria for determining which bodies should be included in this sphere are not objective but are for the parties themselves and for them alone to decide. This is the case in France. Under French law, parties' financial records must not only set out the accounts of the party itself, but should also include the accounts of all the organisations, companies or businesses in which the party or group holds half of the share capital or half of the seats on the management board or exercises predominant decision-making or managerial authority. But as the GET notes, apart from the objective criterion of holding half the capital, the margin of appreciation is significant and it is for the political parties themselves to determine how much influence they have over such entities (§ 109 of the evaluation report and recommendation ii).

#### *2.3.4.2. Local party bodies*

63. Many countries' legislation either ignores local parties or considers that they are in some ways self-governing in practice, although they may well be more exposed to corruption than their central counterparts.

64. The first category includes countries such as Ireland and the Netherlands. Irish parties are not required to include financial data of local branches in their accounts (§ 107 of the evaluation report and recommendation v). Similarly, in the

Netherlands, neither the 1999 Political Parties Subsidisation Act nor its planned successor, the Financing of Political Parties Act, apply the requirements of transparency to the regional or local levels (§§ 23 and 83 of the evaluation report and recommendation vii). Slovakian Law No. 85/2005 makes no distinction between the central party organisation and local and regional branches. Accordingly, the party's annual accounts should include all income and expenditure of such branches. In practice, however, the local and regional branches use and administer their own funds independently and not all information on income and expenditure in the context of local elections would be disclosed by parties (§ 87 of the evaluation report and recommendation ii).

65. There are several examples of the second category of member states. The GET visit to Lithuania showed that parties are largely free to decide whether or not to incorporate their regional or local branches and the legislation has nothing to say about movements of funds between parties' components (§ 97 of the evaluation report and recommendation ii). The Spanish Institutional Law 8/2007 requires political parties to consolidate in their accounts the finances of federations, coalitions and voter groups, but they do not include the financial data of local branches of political parties and parties themselves decide how to organise the accounts of their respective local units. This is not insignificant when local branches of parties are in highly populated areas and when over 25% of public funding goes to political parties at local level (§ 75 of the evaluation report and recommendation ii). In Romania, local branches have occasionally opted to keep their accounts in a simplified form (§ 112 of the evaluation report and recommendation ii).

#### *2.3.4.3. Third parties*

66. Article 10 of the Council of Europe Recommendation covers the situation of third parties. Member states are required to ensure that records are kept of all expenditure, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate.

67. It seems likely that there will be a correlation between the maximum laid down for election expenses and the existence of third parties. Setting a ceiling for party spending on election campaigns is not likely to be effective if, at the same time, other groups such as interest groups, trade unions and associations can spend unlimited amounts of money on behalf of or to oppose a particular political cause. The fact of having very low electoral expenditure limits encourages a situation in which this expenditure is borne by third parties (§§ 65 and 66 of the evaluation report on Armenia and recommendation iii).

68. UK legislation undoubtedly takes this approach to transparency and limits on third party expenses further than any other. Under UK law, individuals or organisations that campaign for or against one or more registered political parties or for a certain category of candidates are considered to be third parties. The law limits the amount these third parties can spend on promoting candidates or parties during periods when there is a maximum limit on election expenditure. Third parties spending more than £10,000 in England or £5,000 in Wales, Scotland or Northern Ireland are required to register with the Electoral Commission.

69. There are no such rules in Ireland. There is a ceiling on expenditure on the election of members of parliament and Irish MEPs but third parties are not required to disclose donations or expenditure (§ 107 of the evaluation report and recommendation v).

70. The evaluation of Latvian legislation offers a good illustration of the perverse effect of the absence of a ceiling on electoral expenditure by third parties. Campaigns organised by third party organisations on behalf of certain parties have apparently enabled them to get round the ceiling on election expenditure (§ 73 of the evaluation report and recommendation i). The same applies to Denmark (§ 62 of the evaluation report and recommendation v), France (§ 109 of the evaluation report and recommendation ii) and Lithuania (§ § 98 and 99 of the evaluation report and recommendation ii).

71. Although there is a particular risk of abuse when the law sets maximum levels of election expenditure, even in the absence of such a ceiling third parties can still play a significant role, which is problematic for transparency. In a country like Finland, which sets no limit on election expenditure, the GET's attention was drawn to the threat to the transparency principle posed by the funnelling of "interested" money from associations and foundations linked to political parties (§ 73 of the evaluation report and recommendation vii).

#### *2.3.4.4. Distinction between ongoing party expenditure and electoral expenditure*

72. This is an area where it becomes particularly difficult to ensure that political expenditure is accounted for accurately and transparently. Drawing a distinction between a party's current, or ongoing, activities and its electoral activities, as the German federal constitutional court did in its famous decision of 19 July 1966, can be a very artificial process. In practice, it may be very difficult to distinguish campaign spending from other political party expenditure. Election campaigning really starts immediately after the previous campaign ends. This in turn raises the question of how to define election or campaign periods. If they are too short, it becomes possible to attribute election expenditure outside this period. In Latvia the period of four months is considered to be reasonable (§ 40 of the evaluation report). The requirement to account for candidates' income probably lasts longest in France, where candidates' agents have to include the campaign funds over the year preceding the first day of the month in which the election takes place and up to the date of filing of the candidate's campaign accounts (§ 45 of the evaluation report). The same period applies to election expenditure.

73. Nevertheless, neither the relevant supervisory bodies nor the public always have a clear picture of what constitutes electoral expenditure when this is buried in political parties' accounts. This is why GRECO has asked France to ensure that political parties that have funded a candidate's election

campaign or have supported him or her via the media be required to submit to the competent supervisory body details of their involvement, financial or otherwise, during the campaign, and that this statement be verified and made public (§ 110 of the evaluation report and recommendation iii). Similar recommendations have been made to Germany (§ 103 of the evaluation report and recommendation ii) and Denmark (§ 61 of the evaluation report and recommendation iv). In contrast, there are some regulations which relate solely to donations made during the election campaigns and say nothing about funding outside those periods (§ 80 of the evaluation report on Andorra and recommendation i).

#### *2.3.4.5. Foundations linked to parties*

74. The issue of foundations with close links to political parties concerns only a limited number of member states, above all Germany. In 1986, the federal constitutional court ruled that foundations were to be considered as organisations independent from the political parties. However the GET thought that this still raised certain questions (§ 106 of the evaluation report) that had to be resolved (§ 108 and recommendation v. ii). At all events, in the interests of a more comprehensive approach to party financing in Germany there should be an official document setting out the various forms of state support effectively granted or available (recommendation v. i).

75. In the course of its evaluation of Romanian legislation, it was acknowledged to GRECO by the people with whom it spoke that local foundations of political parties were involved in the latter's activities during campaign periods, but that any financial or fiscal control of those foundations depended solely on their financial turnover (§ 111 of the evaluation report and recommendation i). It can be assumed that foundations are involved in the activities of political parties when they have their headquarters at the same address as the party to which they are related (§ 71 of the evaluation report and recommendation vi).

76. While Hungary has established foundations of political parties regulated by a special law, which are obliged to publish a summary report on their finances, other types of foundations may receive donations, including anonymous donations or foreign donations, without being subject to the same disclosure rules as parties or party foundations. Such practices offer a means of funding which circumvents the rules on political party funding (§ 89 of the evaluation report and recommendation iv).

### **2.3.5. Presentation of accounts**

77. This obligation, as embodied in Article 13 of the Council of Europe Recommendation, is essential for ensuring the transparency of party and election campaign financing. However, the evaluation reports show that this requirement is not yet systematically fulfilled. For example, the Irish election laws do not require political parties to keep proper books and accounts, to specify all donations received in these accounts, or to make the accounts public (§ 104 of the evaluation report and recommendation ii). The same applies to Malta, where political parties and organisations affiliated to political parties or involved in electoral campaigns are not required to maintain accounts (§ 67 of the evaluation report and recommendation ii).

78. Moreover to meet the objective set in Article 13 of the Recommendation, accounts must be presented within sufficient time to be of use. There are countries where the law does not specify any deadline for such presentation (§ 74 of the evaluation report on Iceland and recommendation iii; § 70 of the evaluation report on Serbia and recommendation ii). However, once the GET had drawn this to the Icelandic authorities' attention, a deadline was set at 31 May of the year following the accounting year concerned. Too tight a deadline for submission of campaign accounts in relation to polling day – ten days – is unrealistic in view of the requirement to maintain proper accounts (§ 68 of the evaluation report on Serbia and recommendation i).

### 2.3.6. Publishing accounts

79. Countries cannot lay claim to transparency of party accounts, if these are not published and are therefore inaccessible. Article 13 of the Recommendation therefore calls on member states to “require political parties regularly, and at least annually, to make public [their] accounts”.

80. Practice varies however, as an examination of the relevant legislation shows. Certain countries do not require publication at all. This applies to:

- Azerbaijan, where the accounts are submitted solely to their executive boards (§ 89 of the evaluation report and recommendation iv);
- Belgium, where there is no statutory obligation for parties to publish their accounts annually (§ 77 of the evaluation report);
- Bosnia and Herzegovina, where parties and candidates are required to report to the Central Electoral Commission (CEC) on their accounts, donations above an amount of approximately 50 Euros and the identity of the donors, although they are under no obligation to make this public; the onus of publication lies with the CEC, which it does in summary form (§ 78 of the evaluation report and recommendation v);
- Cyprus, where the legislation lays down neither the deadline nor precise rules regarding the minimum type of information to be made public (§ 65 of the evaluation report and recommendation i);
- the Czech Republic, where publication is limited to the deposit of a single copy of the annual financial report of each party in the library of the Chamber of Deputies (§ 61 of the evaluation report and recommendation iv);
- Georgia, where political parties publish only a summary of their declarations, containing only the main categories of income and expenditure, amounting to

no more than half a page of information (§ 65 of the evaluation report and recommendation ii);

- Greece, where the publication of reports on electoral income and expenditure applies only to local and regional elections (§ 119 of the evaluation report and recommendation vii);
- Malta, other than the returns submitted by election candidates, which can be made public upon request (§ 68 of the evaluation report and recommendation iii);
- Norway (§ 83 of the evaluation report), though information on political party funding is available on an official site;
- Poland (§ 83 of the evaluation report and recommendation v);
- Portugal, where political parties are under no obligation to publish their accounts (§ 87 of the evaluation report and recommendation ii)
- Romania. Although the financial statements on campaign funding, comprising all income and expenditure, must be provided to the permanent electoral authority, parties are not explicitly required to submit their overall consolidated accounts to this authority (§ 114 of the evaluation report and recommendation iii);
- Serbia, where the deadline for publishing political party accounts is not specified, and the general public is not made aware of the exact date and the number of the Official Gazette containing this information (§ 76 of the evaluation report and recommendation vi);
- Turkey, where the main parties have themselves taken this initiative, although publication is not very detailed (§ 67 of the evaluation report and recommendation iii);
- United Kingdom. Although some parties publish on a voluntary basis, political parties' statutory returns are

published by the Electoral Commission (§ 125 of the evaluation report and recommendation i).

81. Legislation may contain different rules applying to different political players. For example, in Armenia, political parties, candidates in presidential elections and the lists of candidates for election by proportional vote to the National Assembly are required to publish their financial declaration. However, candidates for election by majority vote to the National Assembly and candidates in local elections are not subject to this requirement (§ 68 of the evaluation report and recommendation vi). In Bulgaria, independent candidates presented by their initiative committee and candidates for the presidential elections in their own name are not subject to the requirement to publish their financial statements (§ 107 of the evaluation report and recommendation vii).

82. It has also emerged that the principle of access to parties' financial reports is not always translated into practice.

83. GRECO has welcomed the fact that in Slovakia the annual party reports are published on the website of the National Council, or parliament, and the reports on election campaign finances on the finance ministry site. It expressed regret, however, that the reports published on the website of the National Council were very hard to find (§ 89 of the evaluation report and recommendation iv). It may also happen that the supervisory authority may not have the resources to publish the political parties' financial statements on its website (§ 70 of the evaluation report on Montenegro).

84. In Slovenia, only very rudimentary information is available for public scrutiny, in the form of abridged versions of the annual party reports, and ordinary citizens are unable to obtain the required information on party financing because the relevant reports do not contain sufficient detail (§ 108 of the evaluation report and recommendation iii). In Sweden, the joint agreement between the parties in the *Rigstag*, or parliament, states that it is reasonable that voters know how the parties finance their activities and how single candidates

finance their personal campaigns. However, these principles are not binding on individual candidates, even when they are members of one of the contracting parties (§ 71 of the evaluation report and recommendation ii).

### **3. Monitoring application of the legislation**

85. One of the great lessons to emerge from these evaluation exercises is that in this field, perhaps more than in others, legislation and regulations can only be judged in terms of their application and their associated monitoring machinery. In Denmark, such machinery does not exist. Party accounts to parliament only need to be signed by the leadership of the party. Declarations to the interior ministry of party accounts and prospective expenditure, in order to receive the annual public funding, must simply be audited by a state authorised or registered accountant (§ 64 of the evaluation report and recommendation vii). There is a similar lack of mandatory audit in Malta (§ 69 of the evaluation report and recommendation iv) and Sweden, where only parties seeking state funding are required to have their accounts audited (§ 74 and § 75 of the evaluation report and recommendations v and vi). Greece does not require accounts to be certified by independent auditors but leaves it to an external oversight body (§ 121 of the evaluation report and recommendation x). A similar situation is found in the regulations in Bosnia and Herzegovina (§ 79 of the evaluation report and recommendation vi) and Hungary (§ 93 of the evaluation report and recommendation vii).

86. However, most of the countries considered require party or candidate accounts to be certified by auditors, who may operate under a variety of names. However, in some cases there may be no obligation for the accounts of political parties or affiliated organisations to be certified by an independent auditor. This is the case with Malta (§ 69 of the evaluation report and recommendation iv). It is understandable then that GRECO should call for proper auditing of political financing accounts by independent auditors if no other means of supervision exists.

87. Nonetheless it needs to be borne in mind that Article 14 of the Recommendation calls for a system of independent monitoring in respect of the funding of political parties and electoral campaigns. This should include scrutiny of the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.

88. The effectiveness of this monitoring may be judged with reference to the status of the competent body, the content and scope of its oversight and the means at its disposal.

### **3.1. The status of the supervisory body**

89. While there is probably agreement on the need for a – preferably single – supervisory body, this will only be able to carry out its duties to the full if it is independent.

#### **3.1.1. Independence of the supervisory body**

90. This independence must apply both to auditors and to public supervisory bodies, whether they be one or several.

##### *3.1.1.1. Independence of auditors*

91. There are some countries where membership of a party is not automatically incompatible with the role of auditor (§ 64 of the evaluation report on the Czech Republic and recommendation vii; § 111 of the evaluation report on Germany; § 78 of the evaluation report on Iceland and recommendation vi; § 72 of the evaluation report on the Republic of Moldova and recommendation vii; § 77 of the evaluation report on Montenegro and recommendation vii; § 86 of the evaluation report on Norway and recommendation iv); § 77 of the evaluation report on Serbia and recommendation vii; § 70 of the evaluation report on Turkey and recommendation vi). This same problem with independence was raised more generally in Azerbaijan (§ 90 of the evaluation report and recommendation v), in Georgia (§ 71 of the evaluation report and recommendation vii) and in Romania (§ 120 of the evaluation report and recommendation viii). There was one case where two major parties shared

the same auditor (§ 64 of the evaluation report on the Czech Republic and recommendation vii).

### *3.1.1.2. Independence of the public supervisory bodies*

92. GRECO has concluded that the public supervisory bodies meet the criteria of independence in France (§ 122 of the evaluation report), Ireland (§ 108 of the evaluation report), Poland (§ 85 of the evaluation report) and the United Kingdom (§ 129 of the evaluation report). Whatever legal form such supervisory bodies take, their independence is open to question when they have an exclusively political membership and when they are very unwilling to exercise their authority.

93. Belgium provides one example. The federal control commission is a commission of the federal parliament with ten members each from the Chamber of Representatives and the Senate, and is chaired by the Speakers of the two chambers. The equivalent regional commissions have a similar composition. The GET concluded that the existing system gave political parties a predominant, or indeed exclusive, role. It called for a supervisory body that would be as independent as possible from the political parties (§ 79 and § 82 of the evaluation report and recommendation viii);

94. The same applies to various countries: Albania, where the members of the electoral commission are elected by members of parliament (§ 55 of the evaluation report); Azerbaijan where the election commissions responsible for monitoring campaign funding are composed of an identical number of persons nominated by the majority party, the minority parties and by independent members of parliament (§ 93 of the evaluation report and recommendation vi); the Czech Republic, which relies on the Supervisory Committee of the Chamber of Deputies (§ 65 of the evaluation report and recommendation viii); Estonia, where a parliamentary select committee is responsible for monitoring election campaign financing (§ 75 of the evaluation report and recommendation vi); Greece, where the majority of members of the Control Committee are members of parliament as opposed to judges (6 to 3) (§§ 122

and 123 of the evaluation report and recommendation xi); and Serbia prior to the 2010 reform, when this role was transferred to the Anti-Corruption Agency (§ 78 of the evaluation report). Lithuania provides a similar example. The members of the central electoral commission are answerable to parliament and can be individually dismissed by a vote of non-confidence initiated by the member's political party or coalition (§ 109 of the evaluation report and recommendation vii).

95. Supervisory bodies' independence may be open to doubt when they are parliamentary bodies, but nor is the independence requirement satisfied when the supervisory body is controlled by the executive, whatever the possible variations in its status.

96. In Finland, for example, the GET found during its visit that the election unit of the Ministry of Justice was responsible both for drawing up legislation on political financing and for exercising control and imposing any sanctions. The unit's hierarchical relationship with the executive posed a problem, since by definition the executive was composed of members of the party in power, but in addition there was always a risk of a conflict of interests (§ 79 and § 81 of the evaluation report and recommendation ix).

97. In the Netherlands, under draft legislation supervision of the legislation on party financing would become the responsibility of a body independent of the government, the electoral council, but for the time being the Ministry of the Interior and Kingdom Relations was the main institution responsible for monitoring party funding. It was responsible for determining the subsidies to be provided to each of the political parties on the basis of their annual financial and activity reports and checks on whether state subsidies had been properly used (§ 89 of the evaluation report and recommendation viii).

98. In Latvia, the Corruption Prevention and Combating Bureau is responsible for monitoring compliance with party finance regulations, but it is answerable to the cabinet, which as the GET comments, places it in the awkward position of

having to supervise its supervisors (§§ 76, 77 and 79 of the evaluation report and recommendation ii).

99. When assessing the supervision of Irish political party funding at the local level, the GET expressed concerns that this task was carried out by local government officials, who might be subject to the influence of local elected councillors/politicians (§ 109 of the evaluation report and recommendation vi).

### **3.1.2. The effectiveness of a single public supervisory body**

100. In certain countries, such as Albania, Armenia, Belgium, Greece, Lithuania, the Republic of Moldova, Romania, Slovakia and “the former Yugoslav Republic of Macedonia”, oversight is the responsibility of several bodies, in response to which GRECO has called for a single supervisory body.

101. The GET was told that in Albania there were several supervisory bodies: The supreme state audit body for party finances in general, the central electoral commission for the campaign financing of political parties, coalitions and independent candidates, and the tax authorities for parties’ and candidates’ tax declarations (§§ 50 and 73 of the evaluation report and recommendation vi).

102. In Armenia, monitoring is shared between the Ministry of Justice which receives the political parties’ annual financial reports, the Central Electoral Commission, responsible for the oversight of election campaign funding, composed of a majority of representatives of political parties, and its Oversight and Audit Service, a temporary body which has competence only for election campaigns (§§ 70 and 71 of the evaluation report and recommendation viii).

103. Belgium’s institutional arrangements explain why there are a federal and four regional control commissions, but GRECO did not consider this situation entirely satisfactory and argued for the establishment of a unified supervisory body (§§ 81 and 82 of the evaluation report and recommendation viii).

104. The fact that there is a single supervisory authority at national level in Greece should not hide the fact that there are various bodies which play a role at sub-national level, and which are competent for all electoral matters. There are 54 of these bodies for elections at prefectural level and 67 for elections at local level. This entails the risk of closeness to candidates and political parties (§ 127 of the evaluation report and recommendation xv).

105. In Lithuania as well, supervisory responsibilities are shared, between the central electoral commission and the state tax inspectorate. The GET thought that this diluted responsibilities and that neither institution had taken the lead in the control process (§ 108 of the evaluation report and recommendation vii).

106. In “the former Yugoslav Republic of Macedonia”, there are no less than seven supervisory authorities which have been assigned the role of monitoring application of political financing legislation: the State Audit Office, the State Commission for Preventing Corruption, the Public Revenue Office, the State Election Commission, Parliament, the Ministry of Justice and the Broadcasting Council (§§ 94 to 97 of the evaluation report and recommendation v).

107. The same fragmentation is to be found in the Republic of Moldova, where oversight responsibility has been assigned to five supervisory bodies: the Ministry of Justice, the Central Election Commission, the Tax Inspectorate at the Ministry of Finance, the Court of Auditors and the prosecution service (§ 73 of the evaluation report and recommendation viii).

108. Although seemingly more logical, a sharing of roles between public and private funding can nevertheless prevent having a general overview of political party financing. This is the case, for example, in Romania, where monitoring of public funds is assigned to the Court of Accounts, whereas monitoring of private funds falls to the Permanent Electoral Authority, with no exchange of information between the two institutions (§ 121 of the evaluation report).

109. In Slovakia these functions are carried out by the Committee on Finance, Budget and Currency of the National Council and the Finance Ministry (§§ 92, 93 and 94 of the evaluation report and recommendation v).

### **3.2. Focus of the supervision**

110. There are very few member states where there is no external control in respect of party and campaign financing (§ 72 of the evaluation report on Georgia and recommendation viii). Nonetheless, the mere fact of having a supervisory body is not in itself a guarantee of effectiveness. Many of the evaluation reports show that the oversight exercised by the relevant public body to ensure compliance with political financing legislation often fails to extend beyond the information supplied by the political institutions, parties and candidates themselves. This applies to:

- Andorra: the roles of the Electoral Commission and the Court of Auditors are very marginal (§ 90 of the evaluation report and recommendation ix);
- Armenia: the supervisory role of the CEC and the Oversight and Audit Service is restricted to the financial movements on the pre-election accounts and it is not possible for these bodies to assess the extent to which election campaigns could have been financed by non-declared funding. The supervision of the political parties' annual reports is also limited to verifying that the requested documents have been submitted within the prescribed deadlines (§ 71 of the evaluation report and recommendation viii);
- Azerbaijan: the auditing of the parties' accounts is limited to tax control, with most parties sending a blank form as they do not have any taxable income to declare (§ 94 of the evaluation report and recommendation vii);
- Bulgaria: the auditors accept a margin of tolerance between the political parties' statements

and the actual situation, which can be as high as 70%. This puts into question the usefulness of the certification (§ 111 of the evaluation report and recommendation x);

- Croatia: the state audit office does not, for example, check whether an election campaign might have been financed by non-declared funding (§ 75 of the evaluation report and recommendation v);
- Cyprus: there are no deadlines laid down for political parties to submit their regular accounts and monitoring by the Auditor General is limited to income and expenditure of the parties' regular accounts (§ 70 of the evaluation report and recommendation v);
- Czech Republic: the Supervisory Committee, a parliamentary body, checks that the financial reports are complete, and are presented in time and in the required format. If it comes across any irregularities, it may inform the tax authorities. However, this cannot be seen as proper supervision of the finances of political parties (§§ 65 and 67 of the evaluation report and recommendation viii);
- Estonia, where there is no comprehensive legislation providing the select committee with a precise mandate and the authority to carry out substantial monitoring (§ 72 of the evaluation report and recommendation vii);
- Finland: GRECO states in its report that the existing system of public financial control is purely formalistic. There is no requirement to ensure that financial statements accurately reflect political parties' financial situation and checks are only carried out on information provided by the parties themselves (§ 80 of the evaluation report and recommendation ix). Handing over responsibility to the national audit office may change the situation (§ 78 of the compliance report).

- France: it appeared that supervision carried out by the national commission for campaign accounts and political funding primarily concerned compliance with formal requirements and enabled it to detect only the most flagrant breaches of the law, since it relied heavily on the prior work of auditors. It cannot demand certain documents and has no authority to verify supporting documents or conduct on-site checks, the auditors' duty of confidentiality cannot be waived, and it cannot call on the assistance of the judicial investigation services (§ 123 of the evaluation report and recommendation ix);
- Greece: the Control Committee relies considerably on the reports of chartered auditors, working for private auditing companies; this makes the control one of a pro-forma nature (§ 124 of the evaluation report and recommendation xii);
- Montenegro: the Ministry of Finance, either because it does not believe that this falls under its remit, or because of a lack of resources, does not engage in proactive oversight of the filing and publication of reports required by law, nor does it play a zealous role in reviewing the financial reports submitted by candidates and parties (§ 73 of the evaluation report and recommendation vi);
- Norway: neither "Statistics Norway" nor the Political Parties Act committee, the two main bodies for monitoring party financing, are legally authorised to check the accuracy of political parties' reports, accounts or accounting practices. GRECO considered that exclusive reliance on the media and party members to ensure that the rules were applied was not compatible with Article 14 of the Council of Europe Recommendation (§ 87 of the evaluation report and recommendation v);

- Poland: auditing is outsourced to private accountancy firms, which lack the requisite skills to investigate possible breaches in respect of donations and expenditure (§ 86 of the evaluation report and recommendation viii);
- Romania: the Permanent Electoral Authority is not empowered to request information from structures related to political parties but external to them (§ 122 of the evaluation report and recommendation ix);
- Slovakia, where there is no supervisory body able to investigate whether the auditors' financial statements accurately reflect the money raised and spent (§ 93 of the evaluation report and recommendation v);
- Slovenia: the court of auditor's role is confined to checking whether political parties' annual reports are complete and submitted on time (§ 115 of the evaluation report and recommendation vi);
- Spain: the Court of Audit may, in cases of doubt about the accuracy of financial reports, ask parties to submit further explanations but in practice reports are rarely scrutinised beyond the information that parties themselves provide (§ 78 of the evaluation report and recommendation v);
- Turkey: for example, the Constitutional Court does not verify whether an election campaign could have been financed by non-declared funding. Nor does it carry out a detailed control of the use of public funds and of donations exceeding the legal thresholds (§ 73 of the evaluation report and recommendation viii).

111. Examples of effective supervisory bodies which have significant investigation resources are much rarer. GRECO has found that the Irish Standards Commission, which monitors payments to political parties, political donations and election expenditure, has real supervisory powers. The law authorises it to carry out inquiries *ex officio* or following an individual complaint, and cases may then be referred to the Director of

Public Prosecutions or the police for further action (§ 108 of the evaluation report).

### **3.3. Scope of the supervision**

112. The scope of the supervisory body's oversight will of course vary according to whether it covers all or just part of the political funding process. A more limited scope will fail to meet the requirements of Article 14 of the Council of Europe Recommendation.

113. In Belgium, for example, only political parties' accounts need to be verified by a company auditor. Reports on electoral expenditure and individual candidates' reports are not subject to audit (§ 83 of the evaluation report and recommendation ix). In contrast, in Azerbaijan, political party accounts, unlike the reports on the election funds of parties and candidates, are not submitted to any form of control (§§ 94 and 95 of the evaluation report and recommendation vii). In Estonia, supervision extends only to reports on election campaign funding submitted by political parties and independent candidates (§ 70 of the evaluation report and recommendation vi). In the Netherlands the interior ministry's audit service covers political parties' financial reports, but in practice mainly checks whether state subsidies have been properly used and relies heavily on the work of the party-appointed auditors (§ 89 of the evaluation report and recommendation viii).

114. Sometimes, the financing of certain campaigns is not subject to any controls. This includes the presidential elections in Croatia (§§ 73 and 75 of the evaluation report and recommendation iv), Iceland (§ 69 of the evaluation report and recommendation i) and Turkey (§ 71 of the evaluation report and recommendation vii). The same applies in Turkey regarding the campaigns of individual candidates (§ 68 of the evaluation report and recommendation iv). It may also happen that only election expenses and not income are subject to audit (§ 70 of the evaluation report on Cyprus and recommendation v). Differences in the texts on the competences of the supervisory authorities and on the scope of supervision

between the financing of election campaigns and that of political parties may raise questions about the overall consistency of the supervision arrangements (§§ 116 and 117 of the evaluation report on Bulgaria and recommendation xiii).

115. This supervision issue goes beyond political parties' alone. GRECO has called for the monitoring of the financing of Hungarian political parties to be extended to the entities which are directly or indirectly linked to a political party (§ 96 of the evaluation report and recommendation viii).

### **3.4. Resources of the supervisory body**

116. GRECO has expressed concern on a number of occasions about the resources allocated to supervisory bodies. The concept of supervision resources covers several things. It refers to the statutory framework governing supervision and the human and financial resources required. There may, for example, be no indications as to how the procedure for verifying parties' financial reports is to be carried out (§ 79 of the evaluation report on Serbia and recommendation viii).

117. The evaluation reports frequently refer to an insufficient number of staff to carry out this monitoring. This concern has been expressed with regard to the Armenian, Belgian, Bosnian, Bulgarian, Estonian, German, Moldovan, Polish, Portuguese, Romanian, Serbian, Spanish and Turkish systems. For example, monitoring compliance with the relevant German legislation is the responsibility of a unit of the Bundestag composed of just eight persons (§§ 112-114 of the evaluation report and recommendation viii). The shortage of human and financial resources in the Armenian Oversight and Audit Office explains why this body is unable to carry out any more than a formalistic supervision (§ 71 of the evaluation report and recommendation viii). There is a shortage of auditors in both the federal and regional control commissions in Belgium (§ 80 of the evaluation report and recommendation viii). An insufficient level of human resources has been noted on many occasions: in Bosnia and Herzegovina, where responsibility for certifying the accounts of 100 political parties lies with just 7 employees

in the audit department of the Central Election Commission (§ 80 of the evaluation report and recommendation vii); in Bulgaria, in respect of the National Audit Office (§ 114 of the evaluation report and recommendation xi). This also applies to Spain, where the court of audit's monitoring team comprises just 18 persons (§ 79 of the evaluation report and recommendation v) and in Estonia the select committee is supported by just two officials (§ 73 of the evaluation report and recommendation vii). The staffing of Poland's national election committee – eight persons – was considered by representatives of the Commission itself to be inadequate, bearing in mind the number of parties, election committees and elections (§ 85 of the evaluation report and recommendation vii). Portugal is in a similar situation, since the Entity for Accounts and Political Financing, even though it subcontracts to private auditing companies, has only three executive staff and two assistants (§ 91 of the evaluation report and recommendation v). In Romania, half of the positions in the Permanent Electoral Authority had not been filled (§ 122 of the evaluation report and recommendation ix). Four people were assigned to supervision tasks in the Anti-Corruption Agency in Serbia (§ 80 of the evaluation report and recommendation viii). It was felt that six auditors and three administrative staff were insufficient to audit the financing of political parties in Turkey (§ 73 of the evaluation report and recommendation viii), where, moreover, there was no specially allocated budget for this task.

118. Where there is a large number of supervisory bodies, they are not always allocated sufficient resources (§ 74 of the evaluation report on the Republic of Moldova and recommendation viii).

119. This problem of supervisory bodies' resources can have an effect on the monitoring process. For example, the report on political party funding issued by the Spanish court of audit in 2008 refers to the 2005 financial year (§ 76 of the evaluation report). A similar comment was made with regard to Bosnia and Herzegovina (§ 80 of the evaluation report and recommendation vii); Hungary (§ 97 of the evaluation report

and recommendation ix), where, moreover, the State Audit Office monitors the parties represented in parliament only once every two years; and Portugal (§ 91 of the evaluation report and recommendation v).

### **3.5. Publication of the supervisory body's reports**

120. Since publication of the supervisory body's reports lends it credibility, failure to publish is detrimental to its reputation. In Cyprus, the supervisory body's conclusions on the campaign expenditure of candidates for national and European elections are not made public (§ 70 of the evaluation report). In Greece, the auditors' reports, on the basis of which the Control Committee reaches its conclusions, are not published nor are the minutes of its meetings, and its report is submitted solely to the Speaker of parliament and the Ministry of the Interior (§ 125 of the evaluation report and recommendation xiii).

## **4. Sanctions**

121. Article 16 of the Council of Europe Recommendation calls on states to require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions, three terms that traditionally appear in the wording of international documents. Consideration of the sanctions adopted by member states shows that these generally display at least one of two characteristics, namely that they are inappropriate or not applied. GRECO does not interfere in member states' choice of sanctions, which may be financial, administrative, criminal or electoral. It merely has to ensure that the three criteria set out in the Recommendation are satisfied in domestic law.

### **4.1. Inappropriate sanctions**

122. Some countries' legislation may not provide for sanctions, as in the case of Albania with regard to political party funding (§ 75 of the evaluation report and recommendation vii)

and Malta (§§ 53 and 71 of the evaluation report and recommendation vi).

123. There were few examples of a significant range of sanctions, exceptions being Andorra (§ 91 of the evaluation report and recommendation x); France (§ 126 of the evaluation report), Lithuania (§ 113 of the evaluation report) and Poland (§ 87 of the evaluation report). In contrast, the legislation in Bosnia and Herzegovina does not contain a specific sanction for failure to submit a financial report, nor for other violations of the law, such as the obligation to declare contributions and the identity of donors, the fact that political parties may own only enterprises carrying out culture-related or publishing activities, and the failure to provide invoices for in-kind services (§§ 83 and 84 of the evaluation report and recommendation ix). Identical violations may be given different sanctions in application of different laws (§ 76 of the evaluation report on Georgia and recommendation ix). The range of sanctions in the Czech Republic is incomplete in that not all potential infringements of the law on political parties can be adequately dealt with (§ 68 of the evaluation report and recommendation ix). However, as GRECO noted in connection with Lithuania, a wide range of sanctions does not necessarily equate with clarity.

124. Several factors may serve to make sanctions inappropriate, namely their weakness, their lack of flexibility, their limited scope, the absence of any procedure to apply them and the short statute of limitation for imposing sanctions.

#### **4.1.1. Weak sanctions**

125. The GETs' attention has been drawn to this problem on a number of occasions.

126. According to GRECO, many observers of Belgian politics believe that the current system of sanctions is not always sufficiently dissuasive or proportionate. In particular, deprivation of state financial aid, which is limited to four months, may be a very light penalty for a serious violation, particularly if the party can continue to receive other forms of direct or

indirect public assistance (§ 89 of the evaluation report and recommendation xi).

127. The same fear has been expressed concerning France, where GRECO considers that the maximum fine of € 3 750 may be of little effect in penalising a significant benefit (§ 126 of the evaluation report).

128. Limiting sanctions to situations where the financing regulations have been violated falls short of the requirements of Article 16 of the Council of Europe Recommendation (§ 100 of the evaluation report on Hungary and recommendation x).

129. Mere confiscation of illicit funds or the imposition of modest fines could fail to have the desired dissuasive effect (§ 76 of the evaluation report on the Republic of Moldova and recommendation ix).

130. This is also the case in Montenegro, where the maximum fine (€11,000 for a political party) may be of little effect in penalising a significant benefit derived from the infringement if, for example, it concerned a donation of a large amount (§ 78 of the evaluation report); Romania, where the failure to submit a financial statement or refusal to provide documents attracts a maximum fine of €6,000 (§ 125 of the evaluation report and recommendation xii); Serbia, where the fines applicable to the official responsible for a party's accounts range from €100 to €500 (§ 86 of the evaluation report and recommendation ix); and Slovenia, where the fine is potentially less than the illegal contribution received (§ 121 of the evaluation report and recommendation viii).

#### **4.1.2. Sanctions that are insufficiently flexible**

131. While some countries apply very weak penalties, too narrow a range of or excessively severe sanctions may also be inappropriate to deal with relatively minor breaches of the law. This shortcoming has often been identified, as has the fact that where both are applied administrative sanctions are used more frequently than criminal ones (§ 87 of the evaluation

report on Poland). Several examples illustrate the inflexibility of the sanctions laid down.

132. The range of sanctions in Armenia comprises fines of a moderate amount or drastic measures (cancellation of the registration for elections of a candidate or list), resulting in the cessation of activity for the party or candidate concerned (§ 73 of the evaluation report and recommendation x).

133. Occasionally, as in Azerbaijan, the lack of a clear and precise definition of infringements is accompanied by a very limited range of penalties available (§§ 97 and 98 of the evaluation report and recommendation viii).

134. The correct balance would not appear to have been struck in Bosnia and Herzegovina either, where sanctions imposed on political parties fluctuate between fines which have very little deterrent effect and drastic measures, such as disqualification from participation in elections, whereas donors who have violated the law are not liable to sanctions (§ 84 of the evaluation report and recommendation ix).

135. In Bulgaria, systematic violations of the law or the failure to submit financial statements for two years may be sanctioned by dissolution of the party (§ 120 of the evaluation report and recommendation xiv).

136. Croatia, for example, provides for several criminal penalties, but there are no administrative or civil ones (§ 77 and § 78 of the evaluation report and recommendation vi). The same applies in Estonia (§ 77 of the evaluation report and recommendation viii). Iceland provides for criminal penalties of up to six years' imprisonment, which leads the GET to fear that such a sentence would never in fact be handed down (§ 84 of the evaluation report and recommendation ix).

137. Under Norwegian law, the only type of sanction is withdrawal of state aid. There are no mild penalties for minor breaches of the law, in particular the incorrect disclosure of party income (§§ 88 and 89 of the evaluation report

and recommendation vi). This absence of flexible penalties is also a feature of UK (§ 131 of the evaluation report and recommendation v) and Swedish (§ 77 of the evaluation report and recommendation vii) legislation.

138. Political parties are unhappy at the fact that sanctions are not proportional to the size of the party, since they can be extremely severe for small parties and insignificant for large ones (§ 95 of the evaluation report and recommendation vii).

139. Taking the view that the suspension of a party's activities or its dissolution was too severe, GRECO suggested that the Czech Republic introduce more incremental sanctions to cover the range and gravity of possible violations of political financing rules (§ 68 of the evaluation report and recommendation ix).

140. The strictness with which sanctions are applied may be a function of the types of penalties available, but another factor may be the type of body chosen to impose them. For example, by opting solely for what is inevitably a more cumbersome criminal procedure, Denmark, which punishes breaches of the law with fines or imprisonment, has no form of administrative sanction (§ 67 of the evaluation report and recommendation ix). In the United Kingdom, penalties, whether criminal or civil, can be handed down only by the courts. This could hinder proceedings and might justify devolving powers to impose sanctions to the Electoral Commission (§ 131 of the evaluation report and recommendation v).

#### **4.1.3. Sanctions with a limited scope**

141. Sanctions may be imposed when political parties are in breach of their obligations, but not, however, in respect of campaign financing (§§ 83 and 84 of the evaluation report on Bosnia and Herzegovina and recommendation ix; § 78 of the evaluation report on Croatia and recommendation vi; § 78 of the evaluation report on Estonia and recommendation ix; § 75 of the evaluation report on Turkey and recommendation ix). On occasion, this is also true in respect of individual candidates

(§ 68 of the evaluation report on the Czech Republic and recommendation ix).

142. In Finland, the previous legislation did not provide for sanctions for non- or incorrect disclosure of candidates' election accounts (§ 83 of the evaluation report and recommendation x).

143. Although Irish law authorises a wide range of flexible sanctions, penalties are not applicable to every possible breach of the law. This applies, for example, to failure to comply with a request by the Standards Commission to provide information or documentation, failure to open a political donation account or the ban on using public funds for electoral purposes (§ 110 of the evaluation report and recommendation vii).

144. The criminal sanctions in the Latvian legislation on political party funding only apply to a limited number of offences (§ 82 of the evaluation report and recommendation iv).

145. Not all breaches of election campaign financing rules are subject to sanctions. Some countries make no provision for penalties for breaches committed by donors (§ 91 of the evaluation report on Andorra and recommendation x; § 84 of the evaluation report on Bosnia and Herzegovina and recommendation ix). In the Republic of Moldova, there are no sanctions for failure by political parties to observe the requirement to publish financial information (§ 77 of the evaluation report and recommendation ix). In Montenegro, sanctions applicable to donors relate solely to exceeding the ceiling on donations, and not to other irregularities set out in the legislation, such as cash or anonymous donations (§ 79 of the evaluation report and recommendation viii). It was noted that the penalties provided for in Norwegian law did not cover all types of offence (§ 89 of the evaluation report and recommendation vi), and the same criticism is made about the sanctions applicable to parties in the Netherlands (§ 94 of the evaluation report and recommendation xi).

146. Slovakia provides for fines and suspension of public funding for errors in parties' annual reports but they cannot be

held to be criminally liable, so GRECO considered that the legislation was incomplete (§ 95 of the evaluation report and recommendation vi).

147. In Slovenia, the Elections and Referendums Campaigns Act does not specify penalties for all of the infringements listed in the act. For example, it does not appear to be possible to fine election campaign organisers for accepting funds from non-permitted sources or for accepting individual donations in excess of 10 average monthly salaries (§ 122 of the evaluation report and recommendation ix). The same criticism is levelled at Spain, where Institutional Law 8/2007 does not specify penalties for all the possible infringements included in its provisions (§ 83 of the evaluation report and recommendation vi).

#### **4.1.4. Unclear procedures for the application of sanctions**

148. The absence of procedures for imposing sanctions fails to satisfy the criterion of effectiveness required by the Recommendation (§ 76 of the evaluation report on Georgia and recommendation ix; § 86 of the evaluation report on Serbia and recommendation ix).

#### **4.1.5. Sanctions having too short a statute of limitation**

149. The statute of limitation for imposing an administrative sanction is very short in Armenia and Georgia, namely two months from the date of commission of the offence or, in the case of a continuous offence, two months from the date of disclosure of the offence (§ 74 of the evaluation report on Armenia and recommendation xi; § 77 of the evaluation report on Georgia and recommendation x). The statute of limitation is 3 months in Bulgaria (§ 124 of the evaluation report and recommendation xvi) and the Republic of Moldova (§ 78 of the evaluation report and recommendation ix); six months in Romania (§ 127 of the evaluation report and recommendation xiii).

It is one year in Latvia (§ 83 of the evaluation report and recommendation v) and Serbia (§ 87 of the evaluation report and recommendation x).

## **4.2. Sanctions not applied**

150. Some might consider that the fact that no sanctions have been applied means that they are sufficiently dissuasive, as specified in the Council of Europe Recommendation. Others, in contrast, will believe that it merely reflects their ineffectiveness. Be that as it may, reference has often been made to the failure to apply sanctions, even though their application should serve to strengthen public confidence in elected members and political parties.

151. Criminal penalties are rarely applied in practice in Belgium (§ 89 of the evaluation report), Cyprus (§ 72 of the evaluation report), Estonia (§ 77 of the evaluation report), Finland (§ 84 of the evaluation report), France (§ 130 of the evaluation report), Greece (§ 129 of the evaluation report and recommendation xvi), Montenegro (§ 79 of the evaluation report), Serbia (§ 86 of the evaluation report), Slovakia (§ 96 of the evaluation report and recommendation vii), "the former Yugoslav Republic of Macedonia" (§ 99 of the evaluation report and recommendation vi) and the United Kingdom (§ 130 of the evaluation report, which notes that the same applies to civil penalties). The failure to apply sanctions has also been noted in cases where there are both administrative and criminal sanctions (§§ 97 and 98 of the evaluation report on Azerbaijan and recommendation vi) and in cases where there are only administrative and financial sanctions (§ 76 of the evaluation report on Georgia and recommendation ix). Excessively severe criminal penalties may be a disincentive to their application. Thus, opting for six years' imprisonment creates the risk that this sentence, because of its severity, will never be handed down (§ 84 of the evaluation report on Iceland and recommendation ix).

## 5. Conclusions

152. A number of lessons emerge from this analysis:

153. First, member states still have much to do to come into line with the Council of Europe Recommendation, though there has certainly been considerable progress in numerous areas, particularly in defining what exactly constitutes parties' sphere of activity, the presentation and publication of their accounts, the independence of the relevant supervisory bodies, the focus of that supervision and the flexibility of the available sanctions; the wording of recommendations relating to the above issues is often the same from one country to another.

154. Second, the hoped-for improvements to legislation following these recommendations (see footnote 3) are naturally the responsibility of individual governments, but not only governments. They require an input from all those involved in political activity, including parties and candidates. Moreover, this is also a practical issue so any follow up to these recommendations requires states to do more than simply ensure that their domestic legislation has been brought into line.

155. Finally, the problems identified are clearly highly interdependent.

156. It is possible, as we have done here, to analyse individually the approaches adopted in legislation in terms of the transparency of sources of funding, the supervisory arrangements and the available sanctions, in the light of the Council of Europe Recommendation. Such an exercise helps to identify gaps and weaknesses in existing provisions. For example, giving priority to comprehensive central party accounts while ignoring local branches is likely to offer only a partial view of these accounts. Granting the body responsible for applying the legislation full independence, but without real investigative powers, is not the most effective way of proceeding. Opting for severe criminal penalties to punish breaches of the legislation could in certain cases be disproportionate.

157. Interesting and instructive as it is, this analytical approach also calls for a more general discussion that highlights the interdependence of these different problems, which are so closely linked. A system that fails to ensure that sources of income and accounts are properly disclosed makes it much harder to monitor the application of the law and impose any necessary sanctions.

158. A full range of legal sanctions serves little purpose if the supervisory body is not empowered to apply them. At the same time, that body's authority may be totally illusory if it is unable to penetrate the fog surrounding the financing of a particular party or electoral campaign, if the sources of this income are not sufficiently publicised. Full disclosure of accounts is therefore the precondition for the effective application of the law by any supervisory body.

159. The Council of Europe Recommendation is the only international document setting down these key elements of a smoothly running democracy. This is why a comprehensive and overall approach to these problems is so important.

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