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## TRANSPARENCY AND ACCOUNTABILITY IN THE FUNDING OF POLITICAL PARTIES AND ELECTION CAMPAIGNS

THIRD STANDING COMMITTEE ON  
DEMOCRACY AND HUMAN RIGHTS

### DRAFT REPORTS

Members will find attached the two reports presented by Mr. Patrick Moriau (Belgium) and Ms. Mmamoloko Kubayi (South Africa), co-Rapporteurs.

At this stage, the co-Rapporteurs have preferred to submit separate reports in order to provide the broadest possible view on the topic at hand, thereby placing at the disposal of Members extensive information for the panel discussion to be held during the 123<sup>rd</sup> Assembly.

The co-Rapporteurs intend to provide a unified report following the Assembly.

## TRANSPARENCY AND ACCOUNTABILITY IN THE FUNDING OF POLITICAL PARTIES AND ELECTION CAMPAIGNS

### Draft Report submitted by Ms. Mmamoloko Kubayi (South Africa)

#### BACKGROUND

1. While codes of conduct for members of parliament and the executive have done much to address accountability issues as they apply to elected representatives individually, there has been growing concern over the funding of political parties and the associated accountability of political parties, as a whole, to the people who elect them.
2. A representative and participatory democracy functions largely within the political party system. Political parties need to generate funds to finance not just their election campaigns, but also their running costs as political organizations in between elections.
3. There are two types of party finance, public and private, a combination of which usually exists. Direct public funding comprises funding allocated on an annual basis or during an election period by the State. This type of funding is often based on the level of voter support or on the number of elected seats. Indirect forms of support include free political broadcasts, tax subsidies and the use of public buildings for political meetings. Private funding of political parties comes from individuals and corporations directly to the political party, although it may be subject to rules of disclosure and campaign spending limits.
4. Public funding seeks to provide parties and candidates with essential resources to perform their functions and promote equality in their access to resources.
5. The issue of private funding of political parties is often viewed as a "question of political equality".<sup>1</sup> If private funding of political parties is not transparent, it could undermine the gains of a representative democracy, where each vote is of equal value and representatives remain accountable to the people who elected them.
6. Two global comparative studies, one by the International Institute for Democracy and Electoral Assistance (International IDEA) and the other by the National Democratic Institute for International Affairs (NDI) have highlighted three areas of concern.<sup>2</sup> First, inadequate resources result in political parties and candidates pursuing relationships with donors who may expect certain gains should the political party or candidate come into power. Second, unequal resources result in some political parties being better resourced than others; more often this is the case of governing parties. Third, where campaign financing comes from donors who have an expectation of a legislative or other benefit that may undermine the democratic process or undermine public confidence in this process, the political party would be accessing compromised resources.

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<sup>1</sup> February, J. and Calland, R.: "*The funding of political parties, democracy and the right to know*", 30 April 2004, [www.idasa.org.za](http://www.idasa.org.za)

<sup>2</sup> Austin, A. and Tjernstrom, M. (ed): "*Funding of Political Parties and Election Campaigns*", International Institute for Democracy and Electoral Assistance (IDEA) Handbook, 2002 and Baer, D and Bryan, S: "*Money in Politics*", National Democratic Institute for International Affairs (NDI) study of party financing in 22 developing countries, 2005.

## **SOME PERSPECTIVES ON POLITICAL FUNDING IN AFRICA AND ASIA**

7. In many parts of Africa, the current ruling parties have emerged from liberation movements. The effect of this has, in many instances, been decades of a one-party dominant system, even in instances where other parties exist and function.
8. There has been a significant expansion of electoral democracy in Africa. The need to consolidate the hard-fought-for democratic gains of a vibrant multi-party system and a strong civil society, however, remains.
9. The funding of political parties in Africa is affected by post-colonial history, the cultural practices of gift-giving and patronage, political constituencies based on ethnic and regional interests and weak political organizations. The imposition of disclosure and reporting laws and laws on the public funding of political parties has not succeeded, largely as a result of the inability of government to enforce these measures and the incapacity of political parties to comply with them.<sup>3</sup>
10. Low levels of income, literacy and access to technology and vast disparities between urban and rural areas all serve to increase the costs to political parties not only of running an election campaign, but also of maintaining links with their constituents in between elections.
11. In many instances, ruling parties have an advantage over opposition parties through the use of public funds and assets for political activities, in particular campaign expenses.
12. The funding of political parties is also often marred by claims of unequal access to State-owned media and accusations of a lack of a "level playing field" by opposition parties.
13. The African Union Convention on Preventing and Combating Corruption calls on Member States to adopt legislative and other measures to incorporate the principle of transparency into the funding of political parties.
14. However, fewer than one in five African States have legislation which governs the funding of political parties or the disclosure of sources of party funding.<sup>4</sup>
15. In most African States, there is no direct public funding of political parties. In fact, only 15 African States subscribe to this practice, namely: Benin, Burkina Faso, Cameroon, Chad, Egypt, Equatorial Guinea, Gabon, Malawi, Morocco, Mozambique, Namibia, Seychelles, South Africa, Tanzania and Zimbabwe.<sup>5</sup>
16. The difference between the amounts of money available to governing and opposition parties also tends to be far greater in Africa than in other parts of the world. Opposition parties also have difficulty accessing private funding and there is therefore a great disparity between the resources available to ruling parties and those available to opposition parties.

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<sup>3</sup> Baer, D. and Bryan, S.: "Money in Politics", National Democratic Institute for International Affairs (NDI) study of party financing in 22 developing countries, 2005.

<sup>4</sup> Saffu, Y. in Austin, A. and Tjernstrom, M. (ed): "Funding of Political Parties and Election Campaigns", International Institute for Democracy and Electoral Assistance (IDEA) Handbook, 2002.

<sup>5</sup> Ibid.

17. In Asia, political corruption has had a devastating impact on the public's confidence in political parties. The rising costs of election campaigns have been cited as being partly responsible for the corruption that has occurred in Indonesia, Pakistan, the Philippines and Thailand.

18. Research conducted by the NDI and the Council of Asian Liberals and Democrats (CALD) in eight Asian countries (Cambodia, Indonesia, Malaysia, Nepal, Philippines, Republic of Korea, Taiwan and Thailand) found that electoral competition in Asia required political parties, as is the case elsewhere in the world, to raise large sums of money. Asian political parties often build support through patronage networks, rather than through issue-based platforms rooted in the interests of the broad electorate. A common observation was that parties and politicians promised their donors rewards, which in turn resulted in the diversion of State resources to their supporters. This was the reason given by many smaller Asian parties for their being less attractive to financial contributions.<sup>6</sup>

19. The 2002 IDEA survey also found that a substantial number of countries in Asia do not have laws regulating party funding. Where regulations do exist, they focus on individuals rather than political parties.

20. Some States in the Asia-Pacific region, for example Indonesia, Japan, Malaysia, Sri Lanka, Taiwan and Thailand, have direct public funding of political parties. In Australia, India, Japan, Papua New Guinea and Singapore, the financing of political parties is specifically regulated. Political parties are required to disclose their income and all of them, except Singapore, makes this information publically available. Japan also draws a distinction between "participating financially" and "buying access or influence". Australia, Papua New Guinea and Singapore also require donors to disclose donations if they are above a certain amount. In Bangladesh, China, India, Indonesia, Malaysia, Pakistan and the Philippines, to name a few, legislation imposes limitations for campaign expenditures and requires that a record of sources of funds and their expenditure be kept.<sup>7</sup>

21. In many Asian countries, political parties ask their elected representatives to donate a portion of their income to the political party. In Cambodia, for example, members of parliament, ministers and provincial leaders are required to submit portions of their monthly salaries to the political party. In Bangladesh, a faith-based party requires all members of parliament and local elected officials to pay a tithe to the political party.<sup>8</sup>

22. One of the greatest threats to developing countries in both Asia and Africa is for the business sector to undermine the economy and transform the nature of government. Where business interests control the financing of political parties or individual candidates, the payoff is often the award of government contracts or preferential treatment regarding the privatization of government contracts. The study conducted by NDI found that 26 per cent of respondents in Asia viewed politics as a vehicle for personal gain compared with 29 per cent of respondents in Africa.<sup>9</sup>

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<sup>6</sup> Manikas, P. and Thornton, L.: "Political Parties in Asia - Promoting Reform and Combating Corruption in Eight Countries", research conducted by the National Democratic Institute for International Affairs (NDI) and the Council of Asian Liberals and Democrats (CALD), 2003.

<sup>7</sup> "Anti-Corruption Policies in Asia and the Pacific – The Legal and Institutional Framework for Fighting Corruption in Twenty-one Asian and Pacific countries", published by the Secretariat of the ABD/OECD Anti-Corruption Initiative for Asia and the Pacific.

<sup>8</sup> Baer, D. and Bryan, S.: "Money in Politics", in National Democratic Institute for International Affairs (NDI) study of party financing in 22 developing countries, 2005.

<sup>9</sup> Ibid.

## **ENSURING TRANSPARENCY AND ACCOUNTABILITY IN THE FUNDING OF POLITICAL PARTIES – BEST PRACTICE GUIDELINES**

23. It is to the benefit of the public and democracy as a whole that political parties are adequately funded in order for them to carry out their work. However, corruption in the funding of political parties must be addressed in order to prevent the "capture" of political parties by commercial or criminal interests.

24. The reality is that money and politics are entwined and it is necessary to establish realistic mechanisms that will mitigate the negative influence of money in political life. One factor that has impacted on this reality has been the rising costs of election campaigns.

25. In many countries, the funding of political parties has been identified as a serious problem and steps have been taken to deal with this. These steps include bans or limits on private political contributions, public funding of political parties or candidates and controls over political expenditures.

26. Limits on private political contributions are based on the principle of reducing the disparity in political influence between large donors, small donors and non-donors. Limits on party and candidate expenditures are aimed at levelling the playing field by enforcing a ceiling on total expenditures, normally only for the period of the election campaign. A negative outcome of imposing limits has been that fundraising or the acceptance of donations continues "under the table".<sup>10</sup>

27. There has also been a call for the reduction in spending on elections and election campaigns. As has been noted by the comparative perspective above, this is difficult given the low levels of income, literacy, access to technology and vast disparities between urban and rural areas in Asia and Africa.

28. Mandatory disclosure of political party finances contributes to greater transparency and gives the public an opportunity to understand what may inform the actions of a political party. Individual disclosures in the form of codes of ethics are also important in ensuring that funding is not channelled through individuals, but in actual fact meant for the political party.

29. Disclosure of donors also presents problems for political parties. Many donors do not wish their identity to be revealed and disclosure laws could discourage these donors from contributing to the political party. Donors may also wish to fund more than one political party, but would not wish this information or the amount they funded to be known by the political parties.

30. Disclosure laws and other forms of regulation seek to limit or restrict the negative impact of anonymous, foreign or business sources of funds to political parties. However, as has been seen, these laws have been difficult to enforce and donors and political parties have found loopholes to circumvent them.

31. Public funding of political parties aims to level the playing field for parties by ensuring equal access to funding. This is particularly beneficial to smaller parties, for whom State funding is their main source of financing. This can serve to broaden the democratic spectrum and offer citizens a greater choice in whom they would prefer to represent them. A disadvantage of public funding is that it may result in the establishment of bogus political

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<sup>10</sup> Manikas, P. and Thornton, L.: "Political Parties in Asia - Promoting Reform and Combating Corruption in Eight Countries", research conducted by the National Democratic Institute for International Affairs (NDI) and the Council of Asian Liberals and Democrats (CALD), 2003.

parties in order to obtain political funding. A further disadvantage is that complicated methods or formulas for allocating resources to political parties can benefit large political parties to the detriment of smaller ones. Lastly, public funding rarely diminishes the need for political parties to access private funding.<sup>11</sup>

32. The idea of a global benchmark for funding of political parties has also been mooted. However, the challenges to this include that democratic systems and constitutional structures are different and an international standard would have to take into account the fact that political parties themselves are all different.<sup>12</sup>

33. Legislation has also been enacted, which requires political parties to have certain internal and financial controls in place in order to give effect to good governance. In some instances, the finances of political parties are externally audited and results also made public.

34. Whereas the accountability and transparency mechanisms outlined above have sought to limit corruption and ensure that the electorate gains insight into the financial practices and internal processes of political parties, these mechanisms alone are not sufficient.

35. The fear that public confidence in the democratic process is being undermined by political funding mechanisms is a cause for concern not only for States, but also for international organizations and between States. The decision of the IPU Third Standing Committee to request the development of this report and a future resolution may be cited as a case in point.

36. The starting point for a global accountability framework should be transparency and a regulatory framework that requires political parties and candidates to account for their funds.

37. Funding by foreign donors should not be permitted for the purpose of election campaigns as political parties should represent the interests of the people in their own countries. An exception may be made for foreign sources such as political foundations. Funding of political parties by foreign donors outside of the election campaign process requires consideration, as some political parties would not be able to survive without such funding.

38. Political parties themselves should be part of the solution and become agents of change and function in a transparent and accountable manner.

39. In this regard, there may be a need for the provision of technical assistance and training in, for example, the establishment of financial accounting systems or the development of codes of conduct for the political party and its members.

40. Civil society organizations and the media should serve as watchdogs to educate citizens about the funding of political parties and to continuously monitor the exercise of power.

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<sup>11</sup> Manikas, P. and Thornton, L.: *"Political Parties in Asia - Promoting Reform and Combating Corruption in Eight Countries"*, research conducted by the National Democratic Institute for International Affairs (NDI) and the Council of Asian Liberals and Democrats (CALD), 2003.

<sup>12</sup> Ewing, K.: *"Corruption in party financing: the case for global standards"* in Global Corruption Report, 2001.

## TRANSPARENCY AND ACCOUNTABILITY IN THE FUNDING OF POLITICAL PARTIES AND ELECTION CAMPAIGNS

*Draft report submitted by Mr Patrick Moriau (Belgium), co-Rapporteur*

### I. INTRODUCTION

1. The 19<sup>th</sup> and 20<sup>th</sup> centuries witnessed political parties rising to the pinnacle of political power and becoming a mainstay of contemporary parliamentary democracy.

2. Political parties are power brokers. But, first and foremost, they are ideological organizations with a clear view, set forth in their manifesto, on how society should be organized. This philosophical framework which, in their opinion, should guide citizens in their interpretation and understanding of political, social, economical and cultural life, constitutes the basis for their endeavours to get their candidates elected and steer society in the direction they prefer.

3. Consequently, they aspire to dominate the political debate, in and outside parliament, by their agenda-setting power and access to the media, which they hope will enable them to exert and enhance their influence at elections.

4. Many countries have acknowledged the importance of political parties by including relevant provisions in their constitution (e.g. France and Germany, but not Belgium and the United States of America) or by providing a legal definition of them. In Greece, for example, constitutional law doctrine agrees on a definition derived from Aristotle's *Athenaion Politeia*, where political parties in their original form are described. According to this definition, a political party is a political organization that is general in nature, with a specific political programme regarding the main areas of state activity and with the intention, through peaceful means, to take on the authority so as to realize its programme.

5. As political parties in search of government power are expected to formulate a policy programme encompassing all aspects of modern life and face increasing election campaign spending to get their message across, they are compelled to become well-structured organizations forming a fine-mazed network not only on a horizontal plane, but also on a vertical one. Situated on the horizontal plane is the central policy unit or party government, which constitutes the nerve centre of the party, the research and study centre, the youth movement, the women's wing and other groups, such as the parliamentary groups. Other organizations linked to a political party by conviction, but not necessarily part of it, are for example labour unions, health insurance organizations and newspapers. On the vertical plane, political parties have the national party headquarters at the top, followed by the local and regional branches, with varying degrees of autonomy, which coincide with the boundaries of the constituencies for national, local or regional elections. This structure enables them to stay in touch with their electorate.

6. It is hardly surprising then that this kind of organization and its activities require extensive funding. With a waning membership, parties turn to donors - physical or legal persons - in order to deal with ever-growing election campaign costs and the day-to-day management of their organization. However, this quest for money carries some risks and can give rise to big money politics. The influence gained by donors and the risks of bribery and corruption could endanger the democratic process.

7. Several countries have therefore introduced, under public pressure, legislation regulating the financing of political parties and their election campaigns. This process was initiated as a result of corruption scandals or as part of the democratic transition process in new democracies.

## **II. LEGISLATION REGULATING THE FINANCING OF POLITICAL PARTIES AND ELECTION CAMPAIGNS**

8. In most cases, such legislation covers three distinct areas: (i) the financing of political parties and election campaigns, (ii) the regulation of election campaigns and campaign expenditure and (iii) monitoring and accountability. A fourth area which is also inspired by the objective to achieve transparency in politics, but is mostly the subject of separate legislation or a code of conduct, concerns the obligation of elected officials and high-ranking civil servants to disclose their interests (offices, functions and occupations) and assets.

### **A. Financing of political parties and election campaigns**

9. In order to maintain a vibrant parliamentary democracy, there has been a general tendency to provide political parties with public funding combined with a regulation of their private sources of income. The nature of public funding and the methods used to determine its size vary from country to country depending on factors such as the constitutional framework, the political history and the electoral system (majority or proportional representation).

#### **(1) Public funding**

10. Public funding can be either direct or indirect.

11. Generally speaking, direct funding implies that the State provides subsidies to political parties on the basis of their election results, number of seats in parliament and/or number of contributing members. In some countries (e.g. France), the State will reimburse part of the campaign expenditure to candidates who have obtained a set percentage of the votes cast.

12. The importance of the public subsidies varies according to the sources of authorized private funding. For example, if donations and campaign contributions from legal persons are forbidden and individuals are allowed to make capped donations only, public funding will be comparatively more important and represent perhaps up to 90 per cent of the party's income. One of the methods used for calculating (part of) the public subsidy is the match technique: every Euro or dollar a party receives as a contribution or private donation will be matched by a State subsidy (e.g. Germany). A liberal policy regarding private funding of political parties and candidates often goes hand in hand with a rather limited public funding system and vice versa (theory of communicating vessels).

13. It is important to emphasize that public funding should not only benefit political parties which are represented in parliament, but also parties not represented in parliament which have obtained a set percentage of the votes and therefore represent a socially relevant current of ideas. The public financing system may therefore not serve as an "incumbent protection racket".

14. Indirect public funding of political parties is mostly provided in the form of free broadcasting time on television and radio during the election campaign and tax deductibility of donations.



(2) Private funding

15. With regard to private sources of income, a comparison drawn only on the European level reveals already quite substantial differences. There are of course great similarities, but in the matter of donations, for example, differentiation is the rule. For example, donations by corporations are strictly forbidden in some countries (e.g. Belgium and France), authorized without any limits in other countries (e.g. Denmark, Germany and the United Kingdom) or capped (e.g. Spain). Donations by individuals (natural persons) are always allowed, but again, sometimes legislation imposes a ceiling which can be rather low (e.g. Belgium: 2,000 Euros/year) or rather high (e.g. Spain: 100,000 Euros/year). In the United States, the distinction is made between hard and soft money: "hard money" comes from political donations that are regulated by law through the Federal Election Commission (FEC), while "soft money" is donated to political parties in a way that leaves the contribution unregulated (see the FEC website: <http://www.fec.gov/>).

16. Private and/or corporate donations to political parties and candidates are sometimes stimulated by tax deductions. This incentive benefits the donor, of course, but can also be qualified as a form of public funding. However, this method raises questions regarding respect for the principle of the neutrality of the State and the relative advantage it grants to parties and candidates appealing to a more affluent electorate.

**B. Regulation of election campaigns and campaign expenditure**

17. "Free elections and freedom of expression, particularly freedom of political debate, together form the bedrock of any democratic system" (European Court of Human Rights, *Bowman v. United Kingdom*, 19 February 1998, consideration 42). Elections are the moment of truth for political parties and candidates.

18. With regard to campaign spending, there undeniably exists a watershed between Europe and the United States. In Europe, there is a general tendency to restrict campaign spending by imposing statutory limits on the expenditure of parties and candidates during the election campaign as defined by law. In the United States, these limitations are held to be unconstitutional because they violate the First Amendment, which guarantees and protects free speech. Therefore, the Supreme Court has repeatedly struck down legislation introducing these limits (e.g. *Buckley v. Valeo*, 424 U.S. 1 (1976), *Federal Election Commission v. Wisconsin Right to Life, Inc.*, 551 U.S. 449 (2007) and *Citizens United v. Federal Election Commission*, 558 U.S. 50 (2010)). Does this imply that other countries do not cherish free speech as much? Of course not. In Europe, for example, free speech is protected as a basic human right, not only by the constitutions of the national States, but also at the supranational level by Article 11 of the Charter of Fundamental Rights of the European Union and by Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, while Article 3 of the First Protocol to this Convention provides for the right to regular, free and fair elections. Not only the Constitutional or Supreme Courts of these countries, but also at the supranational level the European Court of Human Rights and the Court of Justice of the European Communities guarantee that the fundamental rights and freedoms are not violated by national legislation. Regarding the regulation of the election campaigns and campaign expenditure, the European Court of Human Rights has already condemned several Member States for violating these fundamental rights (e.g. *Bowman v. United Kingdom*, February 19, 1998, *Verein gegen Tierfabriken (VgT) v. Switzerland*, June 28, 2001 and June 30, 2009, *Murphy v. Ireland*, July 10, 2003 and *TV Vest AS & Rogaland Pensjonistparti v. Norway*, December 11, 2008).

19. Several reasons are advanced to justify campaign spending limits, such as efforts to fight bribery and corruption, the principle of "equality of arms" in order to ensure a level playing field in the electoral competition and the integrity of the election process. These limitations were, at least in Europe, never considered to be an impediment to free speech as long as they are considered necessary in a democratic society and, pursuant to the principle of proportionality, are high enough to guarantee the quality of the political debate and enable parties and candidates to effectively advocate their programme and candidature. In fact, people take more offense at the financial inequality between parties and candidates, which permits some of them to bombard the electors with all kinds of electioneering communications, which sometimes amount to sleaze campaigns.

20. Any legislation regulating campaign methods and campaign financing must also take into account the role played by third parties during the election campaign. Imposing spending limits on parties and candidates while permitting single-issue organizations or interest groups which do not present candidates for election to intervene without restraint in the election campaign guarantees almost certainly that campaign regulations will be circumvented (see the above-mentioned Bowman case).

### **C. Monitoring and accountability**

21. Accountability and transparency must permeate the entire process of political financing. Consequently, a monitoring mechanism has to be established as well as a wide range of penalties by which parties, candidates and other persons or groups involved (e.g. third parties) can be held accountable for any violations of the applicable legislation.

22. The monitoring mechanism implies first of all the obligation for parties, candidates and other persons or groups involved, such as third parties, to submit detailed and comprehensive financial reports. Regarding political parties, this report should be established on an annual basis along the lines of the scheme approved by the competent authorities and similar to the schemes used by companies (balance sheet, income statement and notes). The report should consolidate the accounts of all the entities in the party's sphere of activity, including the local branches (consolidation perimeter), and identify the ongoing party expenditure as well as the electoral expenditure. Concerning elections, political parties and candidates should, if possible during the campaign, and definitely within a reasonable time after the elections, submit detailed accounts of their campaign expenditures and sources.

23. As a general rule, independent auditors (external audit) should certify these reports. Exemptions could, however, be made for candidates, for example, whose campaign spending does not exceed a certain threshold or who do not benefit from a refund of their campaign expenditure.

24. The reports, which should be made public, are to be submitted to an independent supervisory body with the necessary human and material resources as well as investigative powers to carry out a thorough, effective, efficient and impartial verification. This body should therefore have the authority to impose administrative sanctions and submit alleged criminal and tax law violations to police, judicial and tax authorities for further investigation.

25. Lastly, an array of sanctions should be available to enforce compliance with the law. These sanctions ought to be effective, proportionate and dissuasive and may be criminal (e.g. imprisonment, fines and temporary deprivation of the right to vote and to be elected), administrative or electoral (e.g. annulment of an election and ineligibility with loss of seat) and financial (e.g. temporary withdrawal of public funding, refusal to refund campaign expenditure and loss of the tax deduction benefits).

### **III. INTERNATIONAL COOPERATION**

26. In 1999, the Council of Europe established the Group of States against Corruption (GRECO) to monitor States' compliance with the organization's anti-corruption standards.

27. GRECO's objective is to improve the capacity of its members to fight corruption by monitoring their compliance with Council of Europe anti-corruption standards through a dynamic process of mutual evaluation and peer pressure. It helps to identify deficiencies in national anti-corruption policies, prompting the necessary legislative, institutional and practical reforms. GRECO also provides a platform for the sharing of best practices in the prevention and detection of corruption.

28. Currently, GRECO comprises 47 Member States (46 European States and the United States of America).

29. In 2007, GRECO launched its third evaluation round dealing with the transparency of party funding. The legislation of each member state is examined in the light of Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and electoral campaigns (annexed to this report).

30. To date, the legislation of 26 countries has been examined (see the GRECO website: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/ReportsRound3\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/ReportsRound3_en.asp)).

**COUNCIL OF EUROPE  
COMMITTEE OF MINISTERS**

**Recommendation Rec(2003)4  
of the Committee of Ministers to Member States  
on common rules against corruption in the funding of political parties and electoral  
campaigns**

*(Adopted by the Committee of Ministers on 8 April 2003  
at the 835<sup>th</sup> meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that political parties are a fundamental element of the democratic systems of states and are an essential tool of expression of the political will of citizens;

Considering that political parties and electoral campaigns funding in all states should be subject to standards in order to prevent and fight against the phenomenon of corruption;

Convinced that corruption represents a serious threat to the rule of law, democracy, human rights, equity and social justice, that it hinders economic development, endangers the stability of democratic institutions and undermines the moral foundations of society;

Having regard to the recommendations adopted at the 19<sup>th</sup> and 21<sup>st</sup> Conferences of European Ministers of Justice (Valetta, 1994 and Prague, 1997 respectively);

Having regard to the Programme of Action against Corruption adopted by the Committee of Ministers in 1996;

In accordance with the Final Declaration and the Plan of Action adopted by the Heads of State and Government of the Council of Europe at their Second Summit, held in Strasbourg on 10 and 11 October 1997;

Having regard to Resolution (97) 24 on the twenty guiding principles for the fight against corruption, adopted by the Committee of Ministers on 6 November 1997 and in particular Principle 15, which promotes rules for the financing of political parties and election campaigns which deter corruption;

Having regard to Recommendation 1516 (2001) on the financing of political parties, adopted on 22 May 2001 by the Council of Europe's Parliamentary Assembly;

In the light of the conclusions of the 3<sup>rd</sup> European Conference of Specialised Services in the Fight against Corruption on the subject of Trading in Influence and Illegal Financing of Political Parties held in Madrid from 28 to 30 October 1998;

Recalling in this respect the importance of the participation of non-member states in the Council of Europe's activities against corruption and welcoming their valuable contribution to the implementation of the Programme of Action against Corruption;

Having regard to Resolution (98) 7 authorising the Partial and Enlarged Agreement establishing the Group of States against Corruption (GRECO) and Resolution (99) 5 establishing the Group of States against Corruption (GRECO), which aims at improving the capacity of its members to fight corruption by following up compliance with their undertakings in this field;

Convinced that raising public awareness on the issues of prevention and fight against corruption in the field of funding of political parties is essential to the good functioning of democratic institutions,

Recommends that the governments of member states adopt, in their national legal systems, rules against corruption in the funding of political parties and electoral campaigns which are inspired by the common rules reproduced in the appendix to this recommendation, – in so far as states do not already have particular laws, procedures or systems that provide effective and well-functioning alternatives, and instructs the "Group of States against Corruption – GRECO" to monitor the implementation of this recommendation.

#### *Appendix*

### **Common rules against corruption in the funding of political parties and electoral campaigns**

#### **I. External sources of funding of political parties**

##### **Article 1 Public and private support to political parties**

The State and its citizens are both entitled to support political parties.

The State should provide support to political parties. State support should be limited to reasonable contributions. State support may be financial.

Objective, fair and reasonable criteria should be applied regarding the distribution of state support.

States should ensure that any support from the state and/or citizens does not interfere with the independence of political parties.

##### **Article 2 Definition of donation to a political party**

Donation means any deliberate act to bestow advantage, economic or otherwise, on a political party.

### **Article 3 General principles on donations**

- a. Measures taken by states governing donations to political parties should provide specific rules to:
  - avoid conflicts of interests;
  - ensure transparency of donations and avoid secret donations;
  - avoid prejudice to the activities of political parties;
  - ensure the independence of political parties.
- b. States should:
  - i. provide that donations to political parties are made public, in particular, donations exceeding a fixed ceiling;
  - ii. consider the possibility of introducing rules limiting the value of donations to political parties;
  - iii. adopt measures to prevent established ceilings from being circumvented.

### **Article 4 Tax deductibility of donations**

Fiscal legislation may allow tax deductibility of donations to political parties. Such tax deductibility should be limited.

### **Article 5 Donations by legal entities**

- a. In addition to the general principles on donations, states should provide:
  - i. that donations from legal entities to political parties are registered in the books and accounts of the legal entities; and
  - ii. that shareholders or any other individual member of the legal entity be informed of donations.
- b. States should take measures aimed at limiting, prohibiting or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration.
- c. States should prohibit legal entities under the control of the state or of other public authorities from making donations to political parties.

### **Article 6 Donations to entities connected with a political party**

Rules concerning donations to political parties, with the exception of those concerning tax deductibility referred to in Article 4, should also apply, as appropriate, to all entities which are related, directly or indirectly, to a political party or are otherwise under the control of a political party.

### **Article 7 Donations from foreign donors**

States should specifically limit, prohibit or otherwise regulate donations from foreign donors.

## **II. Sources of funding of candidates for elections and elected officials**

### **Article 8 Application of funding rules to candidates for elections and elected representatives**

The rules regarding funding of political parties should apply *mutatis mutandis* to:

- the funding of electoral campaigns of candidates for elections;
- the funding of political activities of elected representatives.

## **III. Electoral campaign expenditure**

### **Article 9 Limits on expenditure**

States should consider adopting measures to prevent excessive funding needs of political parties, such as, establishing limits on expenditure on electoral campaigns.

### **Article 10 Records of expenditure**

States should require particular records to be kept of all expenditure, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate.

## **IV. Transparency**

### **Article 11 Accounts**

States should require political parties and the entities connected with political parties mentioned in Article 6 to keep proper books and accounts. The accounts of political parties should be consolidated to include, as appropriate, the accounts of the entities mentioned in Article 6.

### **Article 12 Records of donations**

- a. States should require the accounts of a political party to specify all donations received by the party, including the nature and value of each donation.
- b. In case of donations over a certain value, donors should be identified in the records.

### **Article 13 Obligation to present and make public accounts**

- a. States should require political parties to present the accounts referred to in Article 11 regularly, and at least annually, to the independent authority referred to in Article 14.
- b. States should require political parties regularly, and at least annually, to make public the accounts referred to in Article 11 or as a minimum a summary of those accounts, including the information required in Article 10, as appropriate, and in Article 12.

## **V. Supervision**

### **Article 14 Independent monitoring**

- a. States should provide for independent monitoring in respect of the funding of political parties and electoral campaigns.
- b. The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.

### **Article 15 Specialised personnel**

States should promote the specialisation of the judiciary, police or other personnel in the fight against illegal funding of political parties and electoral campaigns.

## **VI. Sanctions**

### **Article 16 Sanctions**

States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions.