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Third Evaluation Round

Evaluation Report on Finland on Transparency of Party Funding (Theme II)

Adopted by GRECO
at its 35th Plenary Meeting
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I. INTRODUCTION

1. Finland joined GRECO in 1999. GRECO adopted the First Round Evaluation Report (Greco Eval I Rep (2000) 4E) in respect of Finland at its 5th Plenary Meeting (11-15 June 2001) and the Second Round Evaluation Report (Greco Eval II Rep (2003) 3E) at its 19th Plenary Meeting (28 June - 2 July 2004). The afore-mentioned Evaluation Reports, as well as their corresponding Compliance Reports, are available on GRECO's homepage (<http://www.coe.int/greco>).
2. GRECO's current Third Evaluation Round (launched on 1 January 2007) deals with the following themes:
 - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption¹, Articles 1-6 of its Additional Protocol² (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
 - **Theme II – Transparency of party funding:** Articles 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).
3. The GRECO Evaluation Team for Theme II (hereafter referred to as the "GET"), which carried out an on-site visit to Finland from 13 to 15 June 2007, was composed of Mr Stefan SINNER, Deputy Head of Division, German Bundestag, Administration, Secretariat of the legal affairs committee (Germany); Mr Jens-Oscar NERGÅRD, Senior Adviser, Ministry of Government Administration and Reform (Norway); and the scientific expert, Mr Yves Marie DOUBLET, Deputy Director, National Assembly, Legal Department, Unit of Legal Studies, (France). The GET was supported by Mr Björn JANSON, Deputy to the Executive Secretary, and Ms Laura SANZ-LEVIA from GRECO's Secretariat. Prior to the visit the GET was provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2007) 4E, Theme II), as well as copies of relevant legislation.
4. The GET met with officials from the following governmental organisations: Ministry of Justice (Election Unit), Ministry of Transport and Communications, Office of the Prosecutor General, National Bureau of Investigation (NBI), National Audit Office, Prime Minister's Office, Constitutional Law Committee of the Parliament, Central Election Committee of Helsinki. In addition, the GET met with all political parties represented in Parliament (National Coalition, Finnish Social Democratic Party, Centre Party of Finland, Left-Wing Alliance, Green League, Swedish People's Party in Finland, Christian Democrats in Finland and True Finns), as well as political parties without any seat in Parliament (Independence Party, For the Poor, Communist Party of Finland, Party for Senior Citizens, Finnish Worker's Party, The Uncommitted Association, For Peace and Socialism, Patriotic People's Movement). Moreover, the GET met with civil society representatives, including the national chapter of Transparency International, the Association of Finnish Local and Regional Authorities, the Auditing Board of the Central Chamber of Commerce, the Central Organisation of Finnish Trade Unions (SAK), academics and media representatives.
5. The present report on Theme II of GRECO's 3rd Evaluation Round on Transparency of party funding was prepared on the basis of the replies to the questionnaire and the information

¹ The Criminal Law Convention on Corruption (ETS 173) entered into force in respect of Finland on 1 February 2003.

² Finland has neither signed nor ratified the Additional Protocol to the Criminal Law Convention (ETS 191).

provided during the on-site visit. The main objective of the report is to evaluate the measures adopted by the Finnish authorities in order to comply with the requirements deriving from the provisions indicated in paragraph 2. The report contains a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to Finland in order to improve its level of compliance with the provisions under consideration.

6. The report on Theme I – Incriminations, is set out in Greco Eval III Rep (2007) 2E, Theme I.

II. TRANSPARENCY OF PARTY FUNDING - GENERAL PART

Definitions

7. In Finland, political parties have existed for over a century; they were legally recognised in the 1969 Act on Political Parties, which gave them a privileged status in elections and in the allocation of public funds.
8. A political party is defined as a registered association recorded in the Party Register; it has a non-profitable character and its main purpose is to influence state matters (Sections 1 and 2, Act on Political Parties).
9. Political parties acquire legal personality following their registration as an association in the Register of Associations. They may obtain rights, make commitments and appear as a party before courts and in relation to other authorities. In principle, the members of a registered association are not personally liable for the association's obligations (Section 6, Association Act). However, pursuant to Section 39 of the Association Act, a member of the executive board, as well as the agent of the association is liable for any intentional or negligent damage that s/he may have caused to the association, a member of the association or a third-party when such damage was caused by an act against the Association Act or the internal rules of the association.

Registration of political parties

10. The registration of political parties in the Party Register is the responsibility of the Ministry of Justice. A political party seeking registration has to fulfil several conditions: (1) demonstrate that its main objective is to influence state matters; (2) show signed support cards from at least 5,000 eligible voters; (3) its internal rules are to guarantee that democratic principles are abided by in its decision-making and activities; and (4) it must have a draft party programme, including goals and principles for future action (Section 2, Act on Political Parties).
11. The Party Register contains the following information: an extract from the Register of Associations (including *inter alia*: name, registration number and domicile of the association; full name, address, residence of the chairperson and any person authorised to sign for the association), a certified copy of the internal rules and regulations of the association, the party programme and a list of citizens supporting the party³ (Section 3, Act on Political Parties). The information contained in the Party Register is publicly accessible in accordance with the Act on the Openness of Government Activities (621/1999).

³ The list of citizens supporting a party is filed only for a period of one year from the day the party is registered or its application is rejected.

12. Changes in party rules and political programmes are not enforced before their formal acceptance and registration in the Party Register. A political party, which fails to gain seats in two consecutive parliamentary elections is de-registered, but may apply anew. A political party may also apply for its deletion from the Party Register.
13. Only the central organisation of a party is registered in the Party Register; party branches, municipal organisations, and sub-national organisations are registered in the Register of Associations, which is held by the National Board of Patents and Registration, which is under the authority of the Ministry of Trade and Industry.
14. At present, there are 11 registered political parties in Finland: The Finnish Social Democratic Party, Centre Party of Finland, National Coalition Party, Swedish People's Party in Finland, Christian Democrats in Finland, Green League, Left-Wing Alliance, True Finns, Communist Party of Finland, Party for Senior Citizens, and For Peace and Socialism.

Party representation in Parliament

15. Finland has a unicameral Parliament with 200 seats. Following the 2007 parliamentary elections, 8 out of the total number of registered parties are represented in Parliament as follows⁴:
 - Centre Party (KESK): 51 seats
 - National Coalition Party (KOK): 50 seats
 - Finnish Social Democratic Party (SDP): 45 seats
 - Left-Wing Alliance (VAS): 17 seats
 - Green League (VIHR): 15 seats
 - Swedish People's Party in Finland (SFP): 9 seats
 - Christian Democrats in Finland (KD): 7 seats
 - True Finns (PS): 5 seats
16. In addition, one seat in Parliament is always held by a representative from the Åland Islands (Section 25 of the Constitution).

Participation in elections

17. The right to candidacy is granted to eligible voters⁵, except for individuals under guardianship and professional soldiers. The positions of the Chancellor of Justice, the Parliamentary Ombudsman, the judges of the Supreme Court or Supreme Administrative Court, and the Prosecutor General are incompatible with candidacy.
18. According to the Constitution (731/1999), candidates may be nominated by (a) political parties entered in the Party Register; and (b) "constituency associations"⁶. For parliamentary (national

⁴ 199 representatives are elected from fourteen multi-seat electoral districts for a four year term. One Member of Parliament is always elected from the electoral district of the province of the Åland Islands.

⁵ According to the Electoral Act, every citizen who is at least 18 years old has the right to vote in general elections. For municipal elections, the right to vote is granted to adult citizens of Finland, other European Union Member States, Iceland and Norway who are domiciled in the municipality concerned. Other adult foreigners have suffrage in municipal elections if they have been domiciled in Finland for at least two years. For European Parliament elections the right to vote is granted to adult citizens of Finland and other European Union Member States.

⁶ For elections to the European Parliament at least 2,000 eligible voters may establish a constituency association; for presidential elections the number of eligible voters who may form a constituency association is raised to 20,000. For parliamentary elections, constituency associations may be established by at least 100 eligible voters registered in the constituency, in which a candidate will be running. For municipal elections, constituency associations may be established by

and European) and presidential elections, candidates are almost invariably nominated by a political party, with the sole exception of the province of Åland where candidates are always nominated by constituency associations. For municipal elections, constituency associations continue to play a role.

19. In parliamentary elections, a party or constituency association is to submit its list of candidates (candidate application) to the District Election Committee (DEC) of the area where the candidates are to be nominated no later than 40 days before the day of the elections. The same deadline applies to notices of electoral alliances or joint lists. The relevant DEC checks whether the list of candidates fulfils the legal requirements, in particular those referred to eligibility, and confirms the nomination of candidates no later than 31 days before the day of the elections. Additionally, DECs compile combined lists of candidates including data concerning name, municipality of residence and title, profession or position. The combined lists of candidates are displayed in the polling booths.
20. Elections are direct, secret and proportional (d'Hondt system). Electoral lists are open (the election of candidates from the party list is not predetermined, but depends entirely on the number of individual votes cast for each candidate), and electors cast a ballot for a particular candidate in a list rather than for a party. As a result, the Finnish system is strongly candidate centred.
21. There is no election threshold. However, as many electoral districts have lost population in recent decades, some now elect as few as six representatives, which in turn creates a "hidden election threshold" in those districts⁷, favouring major parties. Moreover, as the d'Hondt formula of allocating seats favours large parties, small parties may form electoral alliances and constituency associations may form joint lists to accrue their chances of being elected.
22. The Ministry of Justice acts as the supreme electoral authority. At local level it is supported by 15 District Election Committees and 416 Municipal Election Committees.

Overview of the party funding system

Public funding

23. The rules governing public funding of political parties are contained in the Act on Political Parties (10/1969, as amended) and the Decree on Subsidies to Support the Activities of Political Parties (27/1973, amended by Decree 985/1973). Public funding is granted to support operational activities, electoral campaigns, newspapers and parliamentary group work of those parties which are represented in Parliament. Public funding may not be used for any commercial or private purpose.
24. Direct public funding is distributed annually on the basis of a decision by the Government within the limits of the budget assigned to subsidies for public activities, which are previously agreed by Parliament. Party subsidies are provided to political parties, as well as their corresponding women's and district organisations (8% fixed allocation), for supporting the funding of their

at least ten persons who are entitled to vote in the municipality. In a number of small municipalities, which are determined by the Ministry of Justice, constituency associations may be established by at least three persons entitled to vote.

⁷ The so-called "hidden vote threshold" refers to the share of votes cast in the district that a party must gain in order to have at least one candidate elected; the smaller the electoral district, the higher the hidden vote threshold. In the 2007 parliamentary elections, the lowest hidden vote threshold was recorded in the Uusima electoral district (2.85%) and the highest one in the Northern Karelia and South Savo electoral districts (14.28%).

operational activities. In addition, a separate allowance is provided to political parties for election campaign purposes; no state subsidy is given directly to a candidate.

25. Funding is granted in proportion to the share of seats won in the most recent parliamentary election; therefore, parties without parliamentary representation do not get public funds. In 2006, the following funding was provided: 12,260,000 EUR for party subsidies and 2,450,000 EUR for presidential elections. In 2007, party subsidies amounted to 12,444,000 EUR; additionally, political parties were granted a separate 2,489,000 EUR allowance to cover the costs of parliamentary elections.
26. Pursuant to the Government Decree on Press Subsidies (1481/2001), such subsidies are categorised in two different types: (i) *parliamentary subsidies*, which are granted to party newspapers for information and communication purposes in proportion to the number of seats won by each party in the most recent parliamentary election. Parliamentary subsidies for party newspapers amounted to 8,050,000 EUR in 2007; and (ii) *selective subsidies*, which are granted to newspapers which, according to their financial statements are not profitable, to reduce delivery, distribution and other related costs. If the newspaper receiving a selective subsidy also receives a parliamentary subsidy, the total amount of both subsidies should not amount to more than 70 per cent of the total costs of the newspaper. Selective subsidies amounted to 6,064,000 EUR in 2007.
27. In addition, parliamentary groups are supported through the so-called “office allowance”: payments for office expenses, secretarial/clerical assistance and any other expenditure required to carry out parliamentary activity. The allowance is provided directly to the parliamentary group and is thus not included in the parties’ financial accounts. This type of allowance comes as a lump sum, giving each group an equal amount of money, in addition to a fixed sum for every parliamentary seat. In 2007, office allowances for parliamentary groups amounted to approximately 3,700,000 EUR.
28. Local authorities may support the internal activities of council groups⁸, which are aimed at promoting the opportunities of local residents to participate and exert influence in political life; in order to receive a grant, the purpose of the support must be specified (Section 15b, Local Government Act). The support may be financial or in kind (e.g., use of premises, secretarial assistance, use of computers, training seminars, etc). According to a research study carried out by the Association of Finnish Local and Regional Authorities, the most frequently used type of support has been the free use of premises, computers and network connections. Financial support was provided in 24% of the municipalities reporting to the research study and varied between 1,000 and 50,000 EUR.
29. In principle, political parties are not entitled to any indirect public funding, the sole exception being the above-mentioned in kind support to council groups. In addition, according to Section 10 of the Act on Political Parties, the Finnish Broadcasting Company (Oy Yleisradio Ab) may allocate free time for public service purposes; in such cases, all political parties must be treated equally on the basis of uniform criteria, but the Finnish Broadcasting Company may take into account aspects relating to public service programming (Section 10, Subsection 2, Act on Political Parties).

⁸ Section 15b, Local Government Act (which entered into force on 1 August 2006): Councillors may form council groups for the work of the council. A council group may also be formed by a single councillor. In order to improve the operational conditions of council groups, local authorities may support their internal activities and measures aimed at promoting the opportunities of local residents to participate and exert influence. To be granted, the purpose of the support shall be specified.

30. The 2007 Government Programme includes a number of reforms concerning the allocation of public subsidies to political parties. In particular, an increase in the funds to support the activities of political parties is proposed as of 1 July 2007 to a level of 90,000 EUR per Member of Parliament. At the same time, the special election subsidies are to be abolished. In addition, 12% (instead of 8%) of the party subsidies are to be allocated to the activities of women's and party district organisations. Furthermore, press subsidies are to be revised at the beginning of 2008 so that they will be mainly granted on the basis of parliamentary criteria (i.e., number of seats held in Parliament by political parties); the total budget for selective press subsidies will be reduced to 500,000 EUR.

Private funding

31. No restrictions apply to the sources of private funding, the sole exception being that fundraising activities (so-called collections) can only be organised for activities benefiting the public good, including *inter alia* "activities for a general ideological purpose or other general civic activity" (Section 4, Fundraising Act (255/2005)). Fundraising can only take place if a collection permit has been granted by the competent authorities.
32. In this respect, private support to political parties may be provided through membership fees, lotteries, income from property, collections, sales of newspapers/party publications, and "contributions"⁹, i.e. donations (including from corporate entities, foreign persons, trade unions and non-profit organisations).
33. There are no limits with regard to the amount/size/periodicity of private donations. There are no restrictions on membership fees from party members.
34. There is no general ban on anonymous donations (where the identity of the donor is unknown to the party) to *political parties*. In the context of *election financing*, candidates are to disclose the value of each donation and the name of the donor if the value of the donation exceeded the amount of 3,400 EUR in presidential elections and 1,700 EUR in parliamentary and municipal elections (Section 3, Act on the Disclosure of Election Financing). When the identity of the donor is known, it must not be revealed without his/her express consent if the contribution is below the disclosure thresholds.

Taxation regime

Political parties and individual candidates

35. According to Instruction No. 1721/38/2004 concerning the tax treatment of campaign donations and election expenditure, the donations received by political parties, constituency associations, and support groups of a given candidate are exempt from tax. Donations to an individual candidate are considered as gifts liable to taxation if the amount received from the same donor over a period of three years comes to or exceeds 3,400 EUR.
36. Campaign expenses incurred by an individual candidate are non-deductible from his/her income tax.

⁹ Contributions are defined as money, goods, services or other similar remittance given free of charge, with the exclusion of ordinary volunteer work and ordinary gratuitous services.

Donors

37. Donations to political parties by individual donors are not tax deductible. However, corporate donations for promotional purposes (e.g. advertisements published in a party publication) may be considered deductible, if the company obtained any publicity for itself. Such expenditure may not exceed ordinary advertising expenditure. Should a company support political activities by donating labour and services at a reduced rate, its taxable income may be adjusted due to under pricing.

Expenditures

38. No restrictions on the total amount of expenditure which a political party may incur are imposed.

III. TRANSPARENCY OF PARTY FUNDING - SPECIFIC PART

(i) Transparency (Articles 11, 12 and 13b of Recommendation Rec(2003)4)

Books and accounts

39. Pursuant to Section 8 of the Act on Political Parties, the provisions of the Accounting Act (655/73, as amended) apply to political parties and their district organisations. In this context, all legal persons are obliged to keep their accounting records for a period of 6-10 years (Accounting Act, Chapters 1 and 2(10)). Where a party ceases to exist, the obligation to ensure that accounting records are preserved remains applicable; the Ministry of Justice is to be informed of the person to which the safekeeping of the material has been entrusted.
40. Provisions on account offences (intentionally or through negligence) are contained in the Criminal Code (Chapter 30, Sections 9 and 10)¹⁰. These cover non- or false recording of transactions and destruction of documentation. The sanctions available are either a fine or imprisonment of up to

¹⁰ Section 9 - Accounting offence (61/2003)

If a person with a legal duty to keep accounts, his/her representative, a person exercising actual decision-making authority in a corporation with a legal duty to keep books, or the person entrusted with the keeping of accounts

(1) in violation of the requirements of legislation on accounting neglects the recording of business transactions or the balancing of the accounts,

(2) enters false or misleading data into the accounts, or

(3) destroys, conceals or damages account documentation and in this way impedes the obtaining of a true and sufficient picture of the financial result of the business of the said person or of his/her financial standing, he/she shall be sentenced for an *accounting offence* to a fine or to imprisonment for at most two years.

Section 9 a - Aggravated accounting offence (61/2003)

If in the accounting offence

(1) the recording of business transactions or the closing of the books is neglected in full or to an essential degree,

(2) there is a considerable amount of false or misleading information, these pertain to large amounts or they are based on falsified certificates, or

(3) the accounts are destroyed or hidden in full or to an essential degree or they are damaged to an essential degree

and the accounting offence is aggravated also when assessed as a whole, the offender shall be sentenced for an *aggravated accounting offence* to imprisonment for at least four months and at most four years.

Section 10 - Negligent accounting offence (61/2003)

If a person with a legal duty to keep accounts, his/her representative, a person exercising actual decision-making authority in a corporation with a legal duty to keep books, or a person commissioned to keep the accounts, through gross negligence

(1) neglects in full or in part the recording of business transactions or the closing of the books, or

(2) destroys, misplaces or damages account documentation and in this way essentially impedes the obtaining of a true and sufficient picture of the financial result or financial position of the activity of the person with a legal duty to keep books, he/she shall be sentenced for a *negligent accounting offence* to a fine or to imprisonment for at most two years.

four years. Additionally, some minor accounting offences (e.g. failure to record book-keeping entries within the statutory deadlines) are contained in the Accounting Act (Chapter 8, Section 4), which are punished by fines.

41. The statutory auditing of political parties and district organisations is governed by the recently adopted Auditing Act (459/2007)¹¹. At least one of the party's auditors and his/her deputy must be an auditor or an auditing company approved by the Central Chamber or another chamber of commerce. Audit reports are to indicate whether the relevant financial statements have been prepared in accordance with the obligations of the Auditing Act, and whether they provide correct and adequate information concerning the outcome of the activities and financial standing of the organisation.

Reporting obligations

Operational activities of political parties

42. According to Section 8 of the Act on Political Parties, political parties and their corresponding district organisations are to submit to the Ministry of Justice, within three months of the approval of their financial statement and on an annual basis, certified copies of the income statement and balance sheet, including their supplements, as well as the audit report. If a portion of the party public subsidy was allocated to another association (parties' women's organisations and district organisations), the party must also send certified copies of the income statement and balance sheet, including their supplements, and the auditors' report on this association to the Ministry of Justice.

Election campaigns

43. Pursuant to Section 8 of the Act on Political Parties, the income and expenses relating to election activities of political parties and their district organisations as well as women's organisations, which benefit from party subsidies, are to be presented separately in the income statement sheets. The Ministry of Justice Decree of 21 November 1990 on Regulations on the Supervision of Political Parties' Use of Funds provides guidance concerning the specification of the income and expenses of election campaigns.
44. In addition, the Act on the Disclosure of Election Financing (414/2000) requires that elected Members of Parliament and appointed Deputy Members, elected Members of the European Parliament and appointed Deputy Members, parties which have nominated candidates in presidential elections or representatives of constituency associations or their substitutes, and those elected Members and Deputy Members of the Council in municipal elections submit an *ex-post* notification of the financing of their election campaign to the election authorities. In municipal elections the notification is to be submitted to the Central Election Committee of the municipality and in other elections to the Ministry of Justice within two months of confirmation of the election results. The notification must include the total costs of the election campaign of the candidate. The revenues are to be itemised under the candidate's own funds and outside support – private persons, enterprises, party organisations, other (Section 3, Act on the Disclosure of Election Financing).
45. The Ministry of Justice has issued a standardised form for reporting election financing of a registered political party. Campaign revenues are to be itemised as follows:

¹¹ The Auditing Act No. 459/2007, entered into force after the evaluation visit, on 1 July 2007.

- party subsidies;
- subsidies from own organisation (monetary aid from the party, member organisations or members);
- other subsidies for election activities (granted by other than the party's own members);
- sales proceeds (e.g., lotteries);
- proceeds from publishing activities (e.g., advertisements);
- other election financing (reserves and funds, loans, other financing).

Campaign expenditure is to be recorded as follows:

- newspaper advertising;
- radio and television advertising;
- direct marketing;
- other election advertising (e.g., posters, videos, brochures which are not included in the expenditure items above);
- subsidies for election activities;
- election events;
- other expenses of election activities (e.g., loan instalments, financing costs, training costs, acquisition of material, salaries and fees, etc.).

Donors

46. Donors are not subject to any reporting obligation.

Access to accounting records

47. Financial reports of political parties as well as notifications of electoral funding are held by the Ministry of Justice or the corresponding municipal election committee. Records are to be kept for an indefinite period in respect of party annual activity reports, and during three electoral periods in the case of election financing. In accordance with Section 5 of the Act on the Disclosure of Election Financing, the Ministry of Justice has established a register for notifications of election campaigns.
48. Financial reports of political parties as well as notifications of electoral funding are public documents, which can be accessed upon request.

Publication requirements

49. The Ministry of Justice is not subject to a formal obligation to publicise the aforementioned reports. However, it always releases on its website (www.vaalit.fi/38746.htm) candidates' notifications concerning the financing of their electoral campaigns. Following the 2007 parliamentary elections, summary charts of the notifications received have been published on the elections website of the Ministry of Justice. In addition, the Ministry of Justice issues an annual report on party expenditure, which includes findings and remarks in connection with the monitoring of political finance performed. An abridged version of the aforementioned report is sent to all registered political parties, the Åland Government and the Prime Minister's Office. Both the full report and its abridged version are of a public nature.
50. In municipal elections, the relevant municipal election committees may publish candidates' notifications on their respective websites.

(ii) Supervision (Article 14 of Recommendation Rec(2003)4)

Monitoring

51. The Ministry of Justice is also responsible for controlling public funds accounting and the proper use of such funds. The Ministry of Justice may decide to appoint an auditor approved by the Central Chamber of Commerce to carry out such controls (Section 9a, paragraph 1, Act on Political Parties). In relation to campaign expenditure, the Ministry of Justice (national elections) and the Central Election Committees of the different municipalities (municipal elections) are responsible for keeping the notifications of the candidates' election financing.
52. The Ministry of Transport and Communication is entrusted with the supervision of the use of press subsidies.
53. In addition, the State Audit Office has the right to verify the use of public funds in order to determine whether a party, its district organisations and other associations benefiting from the state budget (e.g. women's/youth organisations) have used the relevant funds in accordance with the law in the way for which the subsidy was intended (Section 9a, paragraph 3, Act on Political Parties).
54. It was indicated to the GET that there are no statutory procedures or specific obligations for the controlling authorities to report suspected infringements to law enforcement bodies; up until now there has been no party financing investigation/prosecution by the relevant law enforcement authorities.

(iii) Enforcement

Sanctions

55. Public subsidies may be withheld by the Government if a political party does not comply with the obligations laid down in the Act on Political Parties (Section 11, Act on Political Parties). The decision to withhold public funds, may be appealed to an administrative court (ultimately the Supreme Administrative Court).
56. There are no legal sanctions in place for failures to file notifications of election financing or for filing incorrect notifications, other than those consequences derived from the principle of political accountability (i.e. a party or a candidate who has broken the law may lose votes)
57. Finally, registered parties are legal persons, which, pursuant to Chapter 9 of the Criminal Code, are subject to criminal liability when infringements occur, e.g. in the area of book-keeping and accounting (Chapter 30, Sections 9 and 10 of the Criminal Code).

Immunities

58. Finnish law and practice do not provide for immunities for individuals (elected representatives or candidates for election) or entities (political parties or related entities), which would allow them to avoid proceedings or sanctions for violating laws and regulations, including in respect of political funding.

Statutes of limitation

59. General statutes of limitation are applicable in respect of procedure and sanctions for violations of laws and regulations on political financing. The period of limitation is, as a main rule, determined by the length of imprisonment which can be imposed for the offence in question (Chapter 8, Section 1, Criminal Code). The period of limitation is 20 years for offences with a penalty of over 8 years' imprisonment and 10 years for offences which may lead to between 2 and 8 years' imprisonment. The period of limitation is 5 years if the most severe penalty is between 1 and 2 years' imprisonment.
60. On this basis, a limitation period of 5 years is provided for accounting offences (Chapter 30, Sections 9 and 10, Criminal Code). In the case of aggravated accounting offences, the limitation period is 10 years (Chapter 30, Section 9a, Criminal Code).

IV. ANALYSIS

61. Finland has an entrenched tradition of transparency and accountability in the general conduct of public affairs. In the context of the 2007 parliamentary elections, the issue of party and candidate finances has triggered considerable public interest with media reporting on several loopholes of the current legislative framework¹². Transparency International has warned on several occasions that, despite the strong record of the country in matters of openness and public access to information, a certain obscurity persists in political financing¹³. The recently appointed Government appears to acknowledge that there is a need for reform in this particular area and has specifically included in its work programme the foreseeable necessity to introduce legal and procedural amendments with regard to electoral and party funding in the light of GRECO's recommendations¹⁴; the establishment of a multidisciplinary working group is planned in the first semester of 2008 to this effect.
62. There is well-established legislation imposing rules in matters of financing on political players (candidates standing for election and political parties). Although there is no one single, specific law on party financing, the 1969 Act on Political Parties, as amended in 1992, contains several provisions relevant to party financing, i.e. allocation of public subsidies to political parties, disclosure, reporting, monitoring and enforcement. Further regulations providing guidance to political parties in fulfilling their reporting obligations were introduced through a Ministry of Justice Decree of 21 November 1990 on the Supervision of Political Parties' Use of Funds. In addition, in 2000 the Act on the Disclosure of Election Financing was adopted, which is specifically aimed at enhancing transparency of election financing of candidates.
63. There are no restrictions on the sources and amounts of political donations (cash donations and donations from abroad are permitted without limit); however, public funds received by parties or candidates cannot be spent for commercial or private purposes. Similarly, no limitations on the total amount of expenditure which a political party may incur (including in respect of election campaigns) are imposed. The main sources of party financing are public funding, membership fees, profits from party-owned property, revenue from party activities (e.g. sales of

¹² "Sources of political party financing remain hidden in Finland", Helsingin Sanomat, International Edition, 29 January 2007.
"MP's statements on campaign financing reveal little on origin of contributors", Helsingin Sanomat, International Edition 22 May 2007.

"Political donations: It's clean – trust me", Helsingin Sanomat, International Edition, 27 May 2007.

¹³ The 2004 Transparency International Global Corruption Report on Political Corruption, pointed at Finland as one of the most secretive countries in Europe as far as political funding is concerned.

¹⁴ Government Programme of Prime Minister Matti Vanhanen's second Cabinet, 19 April 2007, page 17.

newspapers/party publications, lotteries, public collections), and donations. Tax deductibility of donations to political parties is not generally provided for, the only exception being corporate donations for promotional purposes (e.g. advertisements published in a party publication) when the company obtains publicity for itself.

64. As membership subscriptions have been steadily declining in recent years, the dependence of political parties on both private donations and public money has increased. At the time of the GET's visit, public funding of political parties with representation in Parliament reportedly constituted some 70% to 80% of their revenue. The smaller parties without seats in Parliament do not receive public funds. Although the issue of fairness concerning the criteria for the distribution of state support is outside the scope of the present evaluation, the GET wishes to draw the attention of the Finnish authorities to Recommendation 1516 (2001) of the Parliamentary Assembly of the Council of Europe on Financing of Political Parties according to which state financial contributions should, on the one hand, be calculated in ratio to the political support which the parties enjoy, evaluated on objective criteria such as the number of votes cast or the number of parliamentary seats won, and on the other hand enable new parties to enter the political arena and to compete under fair conditions with the more well-established parties. The issue of equality of opportunities in the field of public funding of parties or campaigns has also been repeatedly recognised by the Venice Commission, e.g. Guidelines for Financing of Political Parties (CDL-PP (2000) 6), Code of Good Practice in Electoral Matters (CDL-AD (2002) 23), which stress that public financing cannot only be limited to those parties represented in Parliament, but must rather be extended to political bodies representing a significant section of the electoral body and presenting candidates for election.

Transparency

Disclosure

65. The Act on Political Parties subjects political parties to the obligation to keep proper books and accounts of their routine finances according to the general rules contained in the Accounting Act, and to carry out subsequent audits pursuant to the provisions of the Auditing Act. Political parties, their district organisations and any other association benefiting from public subsidies (namely parties' women's organisations) are subjected to further control and reporting requirements as they are under the obligation to submit to the Ministry of Justice, on an annual basis, certified copies of their income statement, balance sheet, and audit report. In the light of information gathered by the GET, it would appear, in principle, that the Accounting Act requires the provision of pertinent and comprehensive information on income and expenditure related to the routine activity of political parties. However, it is not possible to identify in the annual financial reports either the identity and size of single donations, or the identity of the person or entity to whom the payment was made. In this connection, it is worth noting that the main concern of the Act on Political Parties is the proper use of state subsidies rather than transparency in the funding of political parties. This was confirmed by the officials met during the on-site visit.
66. The income and expenses of election activities of political parties are to be reported separately according to the Decree of 21 November 1990 on the Supervision of Political Parties' Use of Funds. In addition, the Act on the Disclosure of Election Financing requires that elected Members of Parliament and appointed Deputy Members, elected Members of the European Parliament and appointed Deputy Members, parties which have nominated candidates in presidential elections or representatives of constituency associations or their substitutes, and those elected Members and Deputy Members of the Council in municipal elections submit an *ex-post* notification (within a period of two months following confirmation of the election results) of the financing of their

election campaign. The GET notes that neither the Electoral Act nor the Act on the Disclosure of Election Financing define the duration of the pre-electoral campaign. In the absence of specific provisions in this regard, it could be inferred that a campaign ends on the election day, and the next campaign starts thereafter. However, the GET is doubtful whether candidates in general bear this interpretation in mind and carefully report donations received, for instance, in the months following the election day as a contribution to the next election campaign. The absence of distinct provisions on what constitutes an electoral campaign makes it impossible to ascertain the full extent of candidates' campaign expenditure and introduces uncertainty in the distinction between the general operational expenditures and campaign finances of political parties. Moreover, the GET believes that transparency in election financing would benefit significantly from more frequent reporting on election activities, including income received and expenses incurred, during the election campaign. Frequent reporting, which is used in other GRECO member States, has the benefit of increasing the openness of political financing during the crucial period of campaigns as it allows the public and the authorities to uncover potential irregularities in the funding of elections at an early stage. Consequently, the GET recommends **to consider introducing a more frequent reporting on election activities, including income received and expenses incurred, during election campaigns.**

67. The Ministry of Justice has issued a standardised form for reporting election financing, accompanied by guidelines for its completion. The GET welcomes the development of such a reporting tool which should allow for comparability over the years across parties and candidates for election. However, the general character of the standard form restricts the level of detail that is provided to the public. Disclosure forms distinguish between income and expenditure, but the level of itemisation is low. The GET was provided with several reporting forms, filled out by individual candidates following the 2007 parliamentary election. They include information, of a very general nature, on the total amounts received per category of donor and the total amounts disbursed per category of expenditure, and do not reveal the identity of the donor and the size of the corresponding donation(s) nor the identity of the person or entity to whom the payment was made (including in the case of loans where no information is provided on their commercial/non commercial terms and the identity of the legal entities or individuals having extended them). The GET strongly takes the view that credible reporting cannot be limited to producing aggregate figures concerning income and expenses. In Finland, the low level of detail required for election financing reporting significantly impoverishes the actual meaning of the information available to the public, and therefore, hampers effective monitoring of political financing.
68. In the light of the above (in particular, paragraphs 65 and 67 which describe the degree of detail of the reports to be submitted by both political parties and election candidates) and with a view to enhancing transparency and accountability of political financing, the GET recommends **to strengthen the reporting obligations in respect of the required level of itemisation of income and expenditure, including the nature and value of individual donations and expenditure.**
69. Donations in kind to political parties, notably by legal entities, are not prohibited and are treated as donations. However, no express provision is made for such donations to be recorded at their commercial value in political parties' accounts. This situation provides opportunities and almost certainly incentives for covert donations to political parties. Consequently, the GET recommends **to ensure that donations in kind to political parties (other than voluntary work from non-professionals) are evaluated and accounted for at their commercial value.**

70. The Act on the Disclosure of Election Financing does not prohibit the receipt of anonymous donations and bans the disclosure of donors' identities without their consent for donations not exceeding 1,700 EUR in parliamentary and municipal elections and 3,400 EUR in presidential and European elections. The officials met during the on-site visit indicated that the aforementioned disclosure threshold is geared towards balancing individual rights (freedom of expression and privacy) and public interests (transparency concerns aimed at detecting and unveiling instances of improper private influence in political financing). The GET acknowledges the need to protect the right to privacy of individual donors; it would appear, however, that the disclosure thresholds are rather high (especially in connection with municipal elections). Moreover, the GET wishes to emphasise that the transparency of political funding would be further enhanced if Finland put a general ban on anonymous donations, which is different from non-disclosure of the identity of known donors unless they provide their express consent. Therefore, the GET recommends **to introduce a general ban on donations from donors whose identity is not known to the political party/candidate and to consider lowering the threshold of donations above which the identity of the donor is to be disclosed.**
71. The GET is concerned that the Act on the Disclosure of Election Financing does not explicitly provide that several donations from the same donor should be totalised annually to prevent circumvention of the legal disclosure thresholds. Although the explanatory notes attached to the Bill of the aforementioned Act indicate that various donations from the same donor should be added up, the GET wishes to stress that such an important requirement should follow from the regulation itself in order to avoid that single donors evade disclosure rules by splitting their total donation into several instalments throughout the calendar year, each being below the amount that triggers disclosure requirements, but when totalled exceeds the limit. The GET recommends **to introduce provisions specifying that the disclosure thresholds, as established under the Act on the Disclosure of Election Financing, also apply to the total sum of all donations received from the same donor in each calendar year.**
72. Moreover, whereas the Act on the Disclosure of Election Financing requires candidates to disclose donors' identities above the aforementioned thresholds, political parties are not under such an obligation. Although the amounts involved would be accounted as donations from the party in the candidate's income statement, the real identity of the donor would remain undisclosed to the public. This situation allows, for example, a donor who does not want his/her details to be disclosed to donate amounts over the threshold by channelling the donation through the party. In this connection, the GET recommends **to bring the rules on disclosure of donors' identities of the political parties in line with those applicable to election candidates.**
73. Entities connected to a political party (e.g. interest groups, political education foundations, trade unions, research institutions which are closely related to or come under the influence of a party) are under an obligation to keep accountancy records, but as their books are not in the public domain, it would prove difficult for the public to monitor the flow of private money from such entities into party coffers and to ascertain a donor's financial influence over the political party at stake. At the time of the GET's visit, political parties were reporting donations from connected entities under the general category "support from interest groups, foundations, associations or other similar groups"; information was reported in an aggregate manner and did not show either the identity of or the amount received from each individual entity. Furthermore, pursuant to the Finnish Taxation Act, donations received by non-profit organisations are tax-exempted, and therefore, would not appear in tax records either. The GET is concerned that the current reporting requirements are not broad enough to provide a full picture of the entities connected with political parties. This concern was also shared by a number of interlocutors met during the on-site visit, in particular the media, who stressed the risk of circumvention of transparency rules

governing political party funding by funnelling “interested money” through associations/foundations connected with political parties. Therefore, the GET recommends **to find ways to increase the transparency of contributions by third parties (e.g. interest groups, political education foundations) to political parties.**

Auditing

74. The requirement for political parties to have their accounts audited by certified auditors is an important feature of the system. Finnish auditors can request any additional information or evidence which may be of use to bring light to party accounts. Through efficient auditing, suspicious transactions may be identified and further investigated. Moreover, the GET strongly believes that it is essential that auditors remain independent – and are seen to be independent – from the political parties they audit. In this connection, it is crucial that auditors are not faced with a conflict of interest due to a direct or indirect relationship with the party. At the time of the GET’s visit, Finnish legislation did not contain any provision to this effect. Similarly, at the time of the GET’s visit there were no provisions preventing auditors from working indefinitely for the same political party; the GET was made aware of one case where the same auditor had audited the same party for over 16 years. After the evaluation visit, a new Auditing Act 459/2007 was adopted which entered into force on 1 July 2007. It contains *inter alia* specific provisions dealing with the independence of auditors (Section 24) and subjects the oversight performed to international auditing standards in conformity with the EU *acquis* in this area (Section 13). Moreover, under the recently adopted Auditing Act, the obligation of confidentiality by which auditors are traditionally bound, does not prevent them from submitting information to an oversight body, to a pre-trial investigation authority, or to a prosecutor for the purpose of carrying out their duties (Sections 26 and 46). The GET was informed that these rules also apply to the auditing of political parties and strengthen the necessary independence of auditors called upon to audit political parties.
75. The GET further notes that election candidates are not subject to the same accounting and auditing requirements as parties; only political parties’ accounts are subject to auditing under the Act on Political Parties. Although the sums involved in election campaigns of individual candidates are not comparable with those spent by political parties and vary according to the type of election concerned, the GET is convinced that the credibility of the system of political financing would be enhanced if candidates’ campaign accounts were also audited by chartered auditors, in particular, in constituencies exceeding a certain population level. In light of the above, the GET recommends **to consider making candidates’ election financing subject to proper auditing procedures taking into account the different needs of the existing constituencies and municipalities.**

Public access to records and publicity

76. Access to the financial reports submitted by parties and election candidates is possible upon request pursuant to the general transparency rules relating to public information, which is enshrined in the Act on the Openness of Government Activities (621/1999). Although the Ministry of Justice is not required to publish financial reports of parties/candidates, it is in practice doing so through its website. At local level, the situation varies widely depending on the Municipal Central Election Committee concerned, but in general, the latter bodies restrict their scope of activity to the mere gathering of information on campaign finances: financial reports are received in paper format and stored for possible public examination. The officials interviewed indicated that the vast majority of information requests came from media representatives. The GET is of the opinion that easy access to information is essential for its effective disclosure. In this

connection, there is still room for improvement concerning the material possibilities for the public to accede to information by, for example, making full use of new information technologies in the recording/display of financial reports (e.g. development of central databases providing information on-line, electronic filing of disclosure reports, etc.) and implementing a more proactive policy concerning publication and publicity of political finance.

Monitoring

77. The Ministry of Justice - through its Election Unit - is the main institution responsible for monitoring party funding. It basically controls that state subsidies have been properly used. The Ministry has the authority to appoint an auditor approved by the Central Chamber of Commerce to carry out such controls, however this possibility has never been used in practice. In addition, the Ministry of Justice is entrusted with the gathering of financial reports concerning election campaigns. The Election Unit is the department of the Ministry of Justice which performs monitoring of financial reports. The main responsibility of the Election Unit is the organisation of general elections in Finland and updating of the Party Register. It is also responsible, in co-operation with the Ministry's Legal Drafting Department, for drafting legislation concerning elections and parties. It is staffed by a total of three officials; additional staff are supplied by the Data Centre of Justice Administration to perform data processing tasks. It is to be noted that the supervision of political finance is a secondary function of the Election Unit.
78. In municipal elections, the filing of financial reports is the responsibility of the corresponding Municipal Central Election Committee. In addition, the State Audit is empowered to verify whether recipients of public subsidies have indeed used them in accordance with the purpose for which the subsidies were intended; it has so far exercised this power only on one occasion in 2005 in the context of activities performed by youth organisations. None of the officials of the afore-mentioned bodies has received any specialised training on the fight against illegal funding of political parties and election campaigns.
79. As indicated above, the Ministry of Justice, i.e. the Election Unit, plays the key role in monitoring political funding: it is responsible for drawing up relevant rules and regulations, exercising control and imposing sanctions. In the GET's view, there is a risk of conflicting interests and political interference in the performance of the aforementioned functions since the Ministry of Justice is part of the Government and the Government is composed by members of the ruling party (ies). Likewise, the GET notes that the same Unit of the Ministry –in cooperation with the Ministry's Legal Drafting Department, is also responsible for preparing the legislation on political financing which it is subsequently required to apply and monitor. Regarding the local level, the GET has specific concerns with respect to the independence of the Municipal Central Election Committees as their composition is largely based on political membership¹⁵. When discussing this particular issue during the on-site visit, the GET learned that in certain smaller municipalities with a very homogeneous structure of voters, election committees mainly consisted of members belonging to one party (e.g. in northern Finland). The GET has no reason to doubt the honesty of the work of the officials involved in the monitoring of political financing in the Ministry of Justice and at local

¹⁵ Section 13, Election Act (714/1998, as amended): For the duration of its term of office, the council shall appoint a municipal central election committee for the municipality. The municipal central election committee consists of a chairperson, deputy chairperson and three other members and the necessary number of deputy members, of which there shall be at least five. The deputy members shall be listed in the order in which they replace the members. Both the members and deputy members shall, if possible, represent the voter groups which in the previous municipal elections nominated candidates in the municipality. The member or deputy member who, according to the candidate application received by the central election committee, has been nominated as a candidate by a party or a constituency association cannot participate in the work of the central election committee in the elections in question.

level, but it considers that the very nature of the current system does not provide sufficient safeguards to ensure, to the extent possible, that the monitoring system is free, and seen to be free, of improper external influence which, ultimately, can undermine public trust in the political funding system.

80. Furthermore, the existing system of public financial control is purely formalistic; there is no requirement to ensure that financial statements are accurate reflections of the money raised and spent. The books and accounts of political parties are not investigated beyond the information that parties themselves provide; there is no effective cross check of financial information (e.g. through random verifications of receipts and invoices of the income and expenditure disclosed). Generally, the scrutiny performed by the Ministry of Justice mainly relies on the auditing reports. Controls focus on the proper use of public funds, rather than on the origin and background of donations. Moreover, it is only possible to check state subsidies, not those received as member's subscriptions or donations. As far as the checking of campaign reports is concerned, both the Ministry of Justice and the relevant Municipal Central Election Committees – which have no consistent practice on this matter – appear to fulfil a mere depositary task, rather than a fully-fledged oversight function.
81. In the light of the preceding paragraphs, the GET recommends **to strengthen considerably the independence of the monitoring of political funding at central and local level; and to ensure proper substantial supervision - in addition to the existing formal control - of the accounts of political parties and the expenses linked to electoral campaigns.**

Sanctions

82. The Act on Political Parties provides for one single type of penalty with a financial character, i.e. the possible loss of the public subsidy; the decision to withhold public funds may be appealed before an administrative court. Sanctions under the Criminal Code are also available, in particular, in cases of non- or false recording of transactions and destruction of documentation; sanctions range from a fine or imprisonment of up to four years (Chapter 30, Sections 9 and 10 of the Criminal Code).
83. The Act on the Disclosure of Election Financing does not provide for sanctions for non- or incorrect disclosure of candidates' election reports. Although its Section 6 envisages the development of more specific provisions concerning enforcement, no such provisions existed at the time of the GET's visit. The authorities of Finland added that a *de facto* sanction for a party/election candidate who has broken the law is the citizens' response at the time of future elections in that the infringer may lose votes.
84. As far as the practical use of sanctions is concerned, only one penalty has ever been imposed in the context of infringements of party funding rules when the public subsidy granted to the Young Finnish Party (which existed from 1994 to 1999) was withheld in 1995. The effective use of sanctions is important in reinforcing public confidence in the political process. In this connection, the GET is not convinced that the current sanctioning system provides for adequate deterrents in order to dissuade political parties and election candidates from breaching the rules regarding political funding. For this reason, the GET recommends **to review the sanctions available for the infringement of rules concerning the funding of political parties and election campaigns and to ensure that these sanctions are effective, proportionate and dissuasive.**

V. CONCLUSIONS

85. In Finland, the political system has a strong component of consensus between the largest political parties and the issue of political financing is sparsely regulated, as opposed to other areas of public administration. Another important component of the system is Finland's traditionally acknowledged strong record of transparency - in particular a comprehensive right for the public to accede to official public information and documents. The transparency of such a system obviously depends much on that information is being brought into the public domain. The loopholes identified in the existing legislative framework and practice (e.g. the lack of independence of the existing monitoring mechanism, the purely formalistic supervision of the accounts of political parties/candidates, the low level of reporting requirements concerning political finance and inadequate sanctions for breaches of the rules) may open up possibilities for abuse and do not provide sufficient tools to effectively detect and unveil potential instances of improper influence in political financing. Improvements to the present regime aimed at enhancing transparency and accountability of political financing and ultimately strengthening public trust in the political process should be considered. It is crucial that political financing is not only free, but also seen to be free, from improper external influence. In this connection, the Finnish media has reported extensively on the issue of party and candidate finances and has expressed significant criticism. The Government acknowledges that there is room for reform in this particular area and has included in its programme of action the need for legal and procedural amendments regarding electoral and party funding in the light of GRECO's recommendations. The planned establishment, in the first half of 2008, of a multidisciplinary working group to this effect is a step in the right direction.
86. In view of the above, GRECO addresses the following recommendations to Finland:
- i. **to consider introducing a more frequent reporting on election activities, including income received and expenses incurred, during election campaigns** (paragraph 66);
 - ii. **to strengthen the reporting obligations in respect of the required level of itemisation of income and expenditure, including the nature and value of individual donations and expenditure** (paragraph 68);
 - iii. **to ensure that donations in kind to political parties (other than voluntary work from non-professionals) are evaluated and accounted for at their commercial value** (paragraph 69);
 - iv. **to introduce a general ban on donations from donors whose identity is not known to the political party/candidate and to consider lowering the threshold of donations above which the identity of the donor is to be disclosed** (paragraph 70);
 - v. **to introduce provisions specifying that the disclosure thresholds, as established under the Act on the Disclosure of Election Financing, also apply to the total sum of all donations received from the same donor in each calendar year** (paragraph 71);
 - vi. **to bring the rules on disclosure of donors' identities of the political parties in line with those applicable to election candidates** (paragraph 72);
 - vii. **to find ways to increase the transparency of contributions by third parties (e.g. interest groups, political education foundations) to political parties** (paragraph 73);

- viii. **to consider making candidates' election financing subject to proper auditing procedures taking into account the different needs of the existing constituencies and municipalities** (paragraph 75);
 - ix. **to strengthen considerably the independence of the monitoring of political funding at central and local level; and to ensure proper substantial supervision - in addition to the existing formal control - of the accounts of political parties and the expenses linked to electoral campaigns** (paragraph 81);
 - x. **to review the sanctions available for the infringement of rules concerning the funding of political parties and election campaigns and to ensure that these sanctions are effective, proportionate and dissuasive** (paragraph 84).
87. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Finnish authorities to present a report on the implementation of the above-mentioned recommendations by 30 June 2009.
88. Finally, GRECO invites the authorities of Finland to translate the report into the national language and to make this translation public.