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Third Evaluation Round

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

Adopted by GRECO
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I. INTRODUCTION

1. Hungary joined GRECO in 1999. GRECO adopted the First Round Evaluation Report (Greco Eval I Rep (2002) 5E) in respect of Hungary at its 13th Plenary Meeting (24-28 March 2001) and the Second Round Evaluation Report (Greco Eval II Rep (2005) 5E) at its 27th Plenary Meeting (6-10 March 2006). 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 8, 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 Hungary from 18 to 20 November 2009, was composed of Mr Ömer GENCKAYA, Professor, Local Government Programme, Marmara University (Turkey) and Mr Jens-Oscar NERGÅRD, Senior Adviser, Ministry of Government Administration and Reform (Norway). The GET was supported by Mr Björn JANSON, Deputy to the Executive Secretary and Ms Aleksandra KURNIK from GRECO's Secretariat. Prior to the visit, the GET was provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2009) 4E, Theme II), as well as relevant legislation.
4. The GET met with officials representing the Ministry of Justice, the Ministry of Finance, the State Audit Office, the National Election Committee, the Prosecutor General, the National Council of Justice, municipal and county courts. The GET also met with representatives of the following political parties: Alliance of Free Democrats, Christian Democratic People's Party (KDNP), Hungarian Civic Union (Fidesz) and the Hungarian Socialist Party (MSZP). Moreover, the GET met with representatives of the Eötvös Károly Institute and Transparency International.
5. The present report on Theme II of GRECO's Third Evaluation Round on Transparency of political funding was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the report is to evaluate the measures adopted by the Hungarian 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 Hungary 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 (2009) 8E, Theme I.

¹ The Criminal Law Convention on Corruption (ETS 173) entered into force in respect of Hungary on 1 July 2002.

² Hungary has not signed or ratified the Additional Protocol to the Criminal Law Convention (ETS 191).

II. TRANSPARENCY OF PARTY FUNDING - GENERAL PART

Introduction

Political parties

7. The Constitution, which provides the basic legal framework for *political parties* in Hungary, rules that political parties may be formed and function freely, provided they respect the Constitution and the laws established in accordance with the Constitution. Political parties are to participate in the development and the expression of the public opinion; however, they may not exercise public power directly and no single party may exercise exclusive control of a government agency (Article 3). In addition, there are two major laws which provide the legal framework within which political parties function in Hungary, namely the Act on the Right of Association (1989) (hereafter "ARA") and the Act on the Operation and Financial Management of Political Parties (hereafter "Party Act").
8. Political parties are non-governmental organisations (NGOs) and the rules for establishing and running a political party are basically the same as for any NGO, according to the ARA. This Act does not contain a legal definition of political parties but it regulates that political parties are a special form of NGO, with a self-governing organisation established on a voluntary basis for the purpose defined in its rules and regulations. Furthermore, political parties must be registered and organise their members' activity in order to achieve their purpose. The purpose of political parties, according to the Constitution, is to provide an organisational framework for public manifestations and participation of citizens in the political life. Furthermore, the Party Act contains, *inter alia*, rules on the assets and financial management of parties, control over them and termination of parties.
9. Only natural persons can be members of political parties and these must be registered by the party. In order to ensure the separation of political parties from direct public power, the Constitution and the legislation regulate which official functions and public offices cannot be held by party members or party officers. This concerns for example, judges and prosecutors, as regulated in the Constitution; however, similar restrictions appear in relation to civil servants, regulated in law.
10. Political parties, as well as alliances of political parties, hold legal personality. Even a unit of a political party may have legal personality provided the internal statutes and regulations allow for that and it has an independent administrative and representative body, as well as an independent budget for its operation (Article 2 (4) ARA).

Party foundations

11. A special feature of the Hungarian political system is the possibility for political parties to establish *party foundations*. The foundations are regulated in the Act on the Foundations Engaged in Scientific, Educational, Research and Training Activities to Promote the Operations of Political Parties (hereafter "Party Foundation Act"). The Party Foundation Act and Civil Code regulate the running of party foundations. A special provision of the Party Act (section 9/A) provides the legal requirements of the relations between political parties and foundations as well as the conditions for foundations to obtain state funding. The purpose of these foundations are, according to the law, to engage in scientific, academic research and educational activities in support of political parties with the overall aim of developing political culture. Party foundations may not be established for the purpose of performing business/entrepreneurial activities.

Registration of political parties and foundations

12. According to the ARA, all NGOs in Hungary, including political parties, must be officially registered in order to be established and carry out their tasks. Application for registration shall be submitted once the party is founded by the person authorised to represent the party at the competent county court of the party's registered office or at the Metropolitan Court of Budapest. The deeds and documents defined in a decree of the Minister of Justice shall be attached to the application. The court rules on the application in an extrajudicial procedure. If an incomplete application is submitted, the applicant must arrange for completion within a maximum of 45 days. This time-frame may be extended upon request for another 15 days in justified cases. No application for justification due to late or incomplete fulfilment of completion is accepted. If the time-frame set for completion has not been met, or the application remains incomplete, the court is to dismiss the application. The court is obliged to decide whether to allow registration or to dismiss the application within sixty days. If the court fails to fulfil this obligation, the head of the court shall take the necessary measures within 8 days of the termination of the time-limit to adjudge the application and in case the application is not dealt with pursuant to the provisions, the registration is deemed to be completed on the 9th day after the deadline. The court shall deliver its decision on the registration to the applicant as well as to the public prosecutor's office. The public prosecutor checks whether the party has submitted all necessary documents and whether its charter is in conformity with the law. In case the prosecutor finds a violation of the law, s/he may appeal against the decision of a court. A similar procedure is provided for the registration of changes in respect of political parties. The political party may start its activity on the day the decision on the registration enters into force.
13. The parties are registered in the general registries of non-governmental organisations which are kept by the 19 county courts throughout Hungary and the Municipal Court of Budapest, depending on where the application was made. The party registry contains data, defined in a decree of the Minister of Justice, and includes the name and address of the representatives of the party, the data concerning the registration process and the documents submitted to the court, except for the information of the attendance at the constituent meeting of a political party and the registry of the members of the party. This information, as well as applications pending before the court, are public and may be requested by anyone. In addition to these separate registries, containing all information concerning NGOs, including parties, the Office of the National Justice Council publishes on its website summarised information about the regional registries of non-governmental organisations, including political parties. However, this publication has no legal effect, its purpose being limited to centralising the information. The full documentation submitted by the parties can only be observed at the respective courts responsible for the registration (Articles 1, 15, and 16 Parties Act; Articles 3, 4, 6, and 15 Freedom of Association Act).
14. Until May 2009, 243 political parties had been established in Hungary, 102 of them had been dissolved and 141 of them were still operational, according to data of the county registries. Political parties can operate in the whole country irrespective of where they have been registered.
15. Party foundations are registered in the same way as non governmental organisations and the registration procedure is equivalent to that of parties. However, party foundations are included into the separate registry of foundations.

Elections

16. (The President of the Republic of Hungary is elected indirectly every 5 years by Parliament; this process is not covered by the current Report.)
17. Direct general elections to Parliament in Hungary are held every 4 years in April or May (Constitution, Article 20). The total number of electors is approximately 8 million. Elections at all levels in Hungary are governed by the Act on Electoral Procedure. According to this law elections are to be called at the latest 72 days before the polling day (section 4) and the election campaign period lasts from the call of the election to 00h00 of the day prior to voting (section 40). The National Election Committee and the election committees are independent bodies of electors, subject only to the law and whose prime responsibility is to ensure the results and fairness of the elections.
18. Prior to any form of election in Hungary, political parties or any other nominating organisation have to apply for registration (notify) at the competent election committee before they can nominate candidates or establish candidate lists, according to the Act on Electoral Procedure, Chapter VII. A registry of nominating organisations is made in respect of each election by the competent election committee, which is to register each political party that has complied with the statutory conditions within three days. The National Election Office maintains records of the nominating organisations, notified or registered. Candidates or lists of candidates may be presented only by nominating organisations, notified and registered. The nominating organisations are free to establish lists and/or candidates only following registration.

Parliamentary elections

19. The parliamentary elections are not the same in respect of all 386 seats of the General Assembly. Firstly, the elections in respect of 176 of these seats are connected to single seat constituencies to which political parties can nominate candidates and where independent candidates may also stand for election. In a single-member constituency candidates of political parties as well as independent candidates must gather support from at least 750 voters (proposal coupons). Secondly, regarding 152 of the parliamentary seats, where there are proportional elections in the 20 multi-seat regional constituencies (the territories of which are the same as the territories of the 19 counties and the Capital), only parties (alone or jointly) may put forward lists of candidates. A regional list may be drawn up by a party that has nominated candidates in one quarter of the single seat constituencies of the regional constituency, but in at least two single-member constituencies. A national list may be established by a party that has set up lists in at least seven regional constituencies. Lastly, there are 58 compensatory seats in Parliament which are also part of the proportional elections (national list). In respect of all the proportional seats, there is also an election threshold of 5 per cent to be respected.
20. A candidate in a single-member constituency will become a member of Parliament in the first round of elections, if s/he obtains more than half of the votes cast. If no candidate meets this requirement, a second round must be held. Candidates who obtains most votes cast in the second round will be elected to Parliament. Candidates of the political parties' lists in regional constituencies will obtain mandates proportional to the number of votes cast, in the order in which they are included on the ballot. Mandates are allocated to lists according to the "Hagenbach-Bischoff" method. A party list shall not receive any seat if the regional lists put forward by that same party failed to receive more than five per cent of the national total of the votes cast for the regional party lists. Voters do not vote for national lists, candidates on national lists shall obtain seats in proportion to the national total of surplus votes. The votes to be counted

as surplus votes are the ones cast in a single-member constituency during the first valid electoral round for party candidates who did not obtain a seat during either electoral round, and the ones cast for lists in a regional constituency during a valid electoral round, in a number smaller than that required for a seat, or which exceeded the number of votes used to receive a seat. Mandates are distributed among lists with the “d’Hondt” method. A party list will not receive a seat if the regional lists put forward by that same party failed to receive more than five per cent of the national total of the votes cast for regional party lists of all parties.

Local and regional elections

21. Local and regional elections comprise elections of members and mayors of local governments, members of county assemblies, members and the mayor of the local government of districts of the capital and members of the capital assembly and the mayor of Budapest.
22. The system of elections to *local government* depends on the size of the municipality. In municipalities with 10 000 or less inhabitants the whole territory of the municipality is a multi-member constituency. Independent candidates as well as candidates of political parties or non-governmental organisations (NGOs) can stand for election if they manage to gather support from at least one per cent of the voters resident in that constituency. Members of local government are elected according to the “block vote” system, i.e. the name of every candidate is displayed on the ballot in alphabetical order, and voters can vote for a number of candidates corresponding to the number of seats available in the municipality. The candidates who obtain most votes are elected.
23. In municipalities with more than 10 000 inhabitants and in the districts of the capital, there is a mixed election system. The territory of the municipality is divided into single-member constituencies from which one candidate can be elected. The candidate can be put forward by a party, an NGO or can be independent if s/he manages to gather support from at least one per cent of the voters resident in the constituency. The candidate who obtains the most valid votes cast will be elected. Furthermore, compensational lists of candidates can be nominated by political parties or NGOs, if they have put up a candidate in one-quarter of the single-member constituencies. Such candidates will obtain seats in proportion to the total of surplus votes aggregated from single-member constituencies: approx. 60 per cent of the mandates are obtained in single-member constituencies, while the remaining 40 per cent come from compensational lists. Mandates are distributed according to a modified “Saint-Laguë” method.
24. Concerning elections of mayors of local government, the whole territory of the municipality is considered one constituency. Candidates must gather support from 1 to 3 per cent of the voters, depending on the size of the municipality. Candidates may be independent or nominated by a political party or an NGO. Mayors are elected in a relative majority system, i.e. candidates receiving most valid votes cast will be elected. The same principles are applicable in respect of the election of the mayor of the Capital, except that such candidates must gather support from at least 0,5 per cent of the voters in order to be admitted to stand for the election.
25. Regarding *elections to county assemblies and the capital assembly* only political parties and NGOs can put forward lists of candidates. In the counties, they shall obtain the proposition of the 0,3 percent of the voters in the constituency. To put up a list in the capital, a nominating organisation must put forward a compensational list in at least six districts of the capital. Mandates are allocated to the lists in proportion to the votes cast, according to a modified “Saint-Laguë” method. No mandates can be allocated to the list if it has not obtained at least 4 per cent of the total valid votes cast in the constituency.

Election to the European Parliament

26. Only political parties alone or together with other parties may set up a national list for elections to the European Parliament. In doing so, parties must have support from at least 20 000 voters. These mandates are allocated following the “d’Hondt” method, however, no mandate can be allocated to the list if the number of its votes has not exceeded at least 5 per cent of the valid votes cast (Act on the election of members of Parliament Article 5, 8-9; Act on the election of the members and mayors of local governments Article 26-27, 29-30, 42-47, 54/A; Act on the election of members of European Parliament Article 5-6, 8-9; Electoral Procedure Act Article 51-56).

Party representation in Parliament

27. Hungary has a unicameral Parliament with 386 seats. Prior to the parliamentary elections in 2006, 52 political parties applied for registration and 48 of them were registered by the election committees. As a result of the 2006 general elections, interim elections for vacant mandates and the changes in the membership of parliamentary groups, the political parties and independent candidates were represented at the time of GET’s visit as follows:

PARLIAMENTARY GROUP OF POLITICAL PARTIES	NUMBER OF MANDATES
MAGYAR SZOCIALISTA PÁRT (Hungarian Socialist Party)	189
FIDESZ-MAGYAR POLGÁRI SZÖVETSÉG (FIDESZ - Hungarian Civic Union)	139
KERESZTÉNYDEMOKRATA NÉPPÁRT (Christian-Democratic People's Party)	23
SZABAD DEMOKRATÁK SZÖVETSÉGE- A MAGYAR LIBERÁLIS PÁRT (Alliance of Free Democrats)	19
INDEPENDENT	14
VACANT MANDATE	2
TOTAL	386

28. Following the 2010 general elections (April), the political parties and independent candidates were represented as follows:

PARLIAMENTARY GROUP OF POLITICAL PARTIES	NUMBER OF MANDATES
FIDESZ – MAGYAR POLGÁRI SZÖVETSÉG (FIDESZ – HUNGARIAN CIVIC UNION)	227
MAGYAR SZOCIALISTA PÁRT (HUNGARIAN SOCIALIST PARTY)	59
JOBBIK	47
KERESZTÉNYDEMOKRATA NÉPPÁRT (CHRISTIAN-DEMOCRATIC PEOPLE’S PARTY)	36
LEHET MÁS A POLITIKA (POLITICS CAN BE DIFFERENT)	16
INDEPENDENT MP	1
TOTAL	386

Overview of the political funding system

Sources of founding

29. *Political parties* in Hungary are entitled to receive private and public funding, through direct financial contributions as well as indirectly (subsidies). In accordance with the Party Act, the sources of income to a political party are the following: membership fees, subsidies granted from the State budget, pecuniary contributions from legal entities, unincorporated economic

associations and private persons, estates of private persons inherited on the basis of their will and business activities of the party (Article 4(1)). Public funding is only provided at central level in Hungary.

30. The Party Act also lists the types of funding which the parties are not allowed to receive. These are contributions from state owned enterprises or economic associations operating with the participation of the state or foundations receiving state funding (such as the party foundations). Moreover, political parties are not allowed to accept financial contributions from another State, nor to accept anonymous donations (and such donations are to be transferred to the State (Articles 4 and 8)). By contrast, there are no restrictions in respect of contributions from entities that provide or seek to provide goods or services to the public sector. However, no organisation can receive state subsidy that has or has had an agreement with a political party, or has put up candidates with a party in the preceding five years.
31. Pursuant to Article 91 of the Electoral Procedure Act, state funding is also provided in respect of election candidates to parliamentary elections. Parties that nominate candidates receive this funding. Independent candidates receive public support directly. There are no restrictions as to the sources of private funding a candidate is allowed to obtain, there is only a campaign expenditure cap (see below).

Direct public funding

32. *Political parties* are entitled to direct funding from the State budget on certain conditions, contained in the Party Act (Article 5); 25 per cent of the total state support allocated to political parties is to be divided equally between the parties that have obtained mandates from the national list. The remaining 75 per cent is to be provided to all parties participating in the parliamentary election, in proportion to the votes cast in favour of them, provided they have received more than one per cent of the votes cast. Since 2007, the total amount of public funding has been 2,6 billion HUF (approx. 10,4 million €) annually, as defined by the Act on the State Budget. State subsidies are paid quarterly.
33. In addition, state funding in respect of election candidates, whether party or independent candidates, in parliamentary elections is provided in proportion to the putting forward of candidates. Parliament determines the budgetary support, to be distributed between the candidates before each parliamentary election (the budgetary support was 100 million HUF, approx. 400.000 € in 2006 as well as in 2010. After the nomination of candidates and lists, the National Election Committee determines the number of candidates among which the support is to be equally divided. (38.226 HUF, approx. 140 €, per candidate in 2006 and 48.804 HUF (180 €)). The independent candidates obtain the same amount of budgetary support as a political party receives for each candidate. The allocation of the budgetary support on the grounds of the decision of the National Election Committee is delivered by the Ministry of Finance. The budgetary support is to cover only material costs and nominating organisations and independent candidates are to account for the use of the support at the point of payment within 30 days of the elections.
34. *Party foundations*, which are commonly established by political parties represented in Parliament, are also entitled to funding from the central budget; however, only one such foundation of each party may be funded in such a way. In order to be eligible for state support, these foundations must have been established by a political party that itself is entitled to state funding and the foundation may only be engaged in educational and research work. Political parties may not

receive any funding from their foundations (Article 9/A, Party Act and Article 1,3(2) Party Foundation Act).

35. As an extraordinary measure in accordance with an amendment of the Party Act in 1991 (Articles 4 and 5) the State transferred real estate property to some political parties which were entitled to state funding after the first free elections in 1990. However, this method of state subsidy was only a one time measure in the particular circumstances at the time.
36. The GET was informed that among those parties that receive public funding such funding provides in average 58 per cent of their total annual income (the figure varied between 38 and 93 per cent). The authorities submitted the following information on the distribution of direct public funding to political parties and party foundations in 2009:

STATE SUBSIDIES POLITICAL PARTIES 2009	MILLION HUF
MAGYAR SZOCIALISTA PÁRT (MSZP - Hungarian Socialist Party)	953,7
FIDESZ-MAGYAR POLGÁRI SZÖVETSÉG (FIDESZ - Hungarian Civic Union)	833,2
SZABAD DEMOKRATÁK SZÖVETSÉGE- A MAGYAR LIBERÁLIS PÁRT (Alliance of Free Democrats)	261,1
MAGYARDEMOKRATAFORUM (MDF – HUNGARIAN DEMOCRATIC FORUM)	227,6
KERESZTÉNYDEMOKRATA NÉPPÁRT (Christian-Democratic People's Party)	235,4
MIEP – JOBBIK A HARMADIK UT	37,9
TOTAL	2548,9 (10.2 million €)

STATE SUBSIDIES POLITICAL FOUNDATIONS 2009	MILLION HUF
PARTYFOUNDATION OF MSZP(Hungarian Socialist Party)	545,0
PARTYFOUNDATION OF FIDESZ (Hungarian Civic Union)	465,5
PARTYFOUNDATION OF MDF (HUNGARIAN DEMOCRATIC FORUM)	66,0
PARTYFOUNDATION OF SZDSZ (Alliance of Free Democrats)	88,2
PARTYFOUNDATION OF KDNP (Christian-Democratic People's Party)	71,2
PARTYFOUNDATION OF MIEP – JOBBIK A HARMADIK UT	25
TOTAL	1273,8 (5.09 million €)

37. In addition to the public funding of political parties and their respective foundations, public funding is also provided to the various parliamentary groups of political parties that have been elected to parliament. This funding amounts to approximately, 780 000 000 HUF (3.12 million €)

Indirect public funding

38. During the election campaign in parliamentary elections, as from the 18th day until the 3rd day prior to the election as well as on the 2nd day before election day, national public broadcasting companies are to broadcast - at least once - free of charge advertisements of political parties with a national list. Regional public broadcasters have a similar obligation in respect of parties putting up a list in the regional constituency and local public broadcasters in respect of election candidates in the single-member constituency. Similar rules occur in respect of elections of mayors and members of local governments. In respect of elections to the European Parliament, national public broadcasters are to broadcast the political advertisements of the bodies nominating candidates at least three times free of charge. The GET was also told that local parties represented in local assemblies may rent offices at reduced prices from the local governments.

39. Furthermore, between 2000 and 2007 political parties represented in Parliament were given from State free use of several real estates. Since 2007, political parties which, following parliamentary elections are entitled to form a parliamentary group, may apply to the Magyar Fejlesztési Bank Zrt. (Hungarian Development Bank Zrt.) for a loan at special discount to finance the purchase of real estate property for their offices. This type of loan is available to each political party only once.

Private funding

40. Political parties may receive private funding only from clearly identifiable domestic or foreign, physical or legal persons, i.e. anonymous contributions are not allowed. There are no restrictions with regard to the size or periodicity of the contributions, but donations over a certain value are to be reported, see below. Likewise, no restrictions apply in respect of party membership subscription fees, loans, cash or no cash donations to parties, fund raising activities or in respect of contributions from entities relating to political parties.
41. Political parties may carry out only certain business activities which are permitted in the Parties Act. For example, parties are allowed to publish and distribute publications, sell badges and similar objects, and may organise party events for fund raising purposes. Parties may also let on lease and sell property owned by them. Furthermore, parties may establish their own limited liability companies; however they may not acquire stakes in other economic associations. Parties may invest in any assets except company shares. Moreover, political parties may not establish party foundations or any other foundation for business or funding purposes, but they may form other types of foundations for other goals, in accordance with the ARA.

Taxation

42. Contributions to political parties, entities affiliated with political parties, elected representatives or candidates for elections are not tax deductible in respect of the donor.
43. Donations received by parties/election candidates are not subject to taxation. Political parties need not pay any corporate taxes on their business activities as defined by law. Political parties do not pay local taxes but have to pay real estate taxes, company car tax and, if they have employees, they must pay all of the accompanying taxes and social security fees.
44. Political parties have a tax number and shall provide required data to the tax authorities in order to fulfil their tax obligations.

Expenditure

45. Political parties may not invest their assets in company shares. There are no other general restrictions regarding the use of funds by political parties nor in respect of the total amount of expenditure that a political party may incur, except in relation to elections.
46. According to the Election Procedure Act, there are spending caps in relation to elections; political parties may only spend up to one million HUF (approx. 4000 €) per candidate in national elections, in addition to the budgetary support to cover material costs in the elections that they receive from the state (which was, in respect of each candidate, some 38 000 HUF (140 €) in 2006). The same limit applies in respect of each individual candidate. Moreover, a political party may not spend more than 386 million HUF (1,5 million €) in total during the election to Parliament as the 386 Parliamentary seats count in this respect. However, only the largest political parties

have as many as 386 candidates or more in total. No rules on spending caps exist in local and regional elections, nor in the elections to the European Parliament.

III. TRANSPARENCY OF PARTY FUNDING - SPECIFIC PART

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

Accounts, books reports and access to such information

47. In connection with their application for registration, *political parties* must, in order to be able to function, submit an initial statement of property in a format determined by Schedule No. 2 to the Party Act (section 16). The initial statement is a public document together with the other documents relating to the registration of the party.
48. Pursuant to the Party Act (section 9), political parties are also obliged to keep annual accounts. This format is defined by the Parties Act (Schedule No. 1) which reads:

Statement of political parties		
<i>Revenues:</i>		
		<i>HUF</i>
1.	Membership fees	
2.	Subsidy from the state budget	
3.	Subsidy extended to the caucus	
4.	Other contributions, donations	
4.1.	From legal entities	
4.1.1.	From domestic persons (contributions above HUF 500 000 individually specified)	
4.1.2.	From foreigners (contributions above HUF 100 000 individually specified)	
4.2.	Unincorporated economic associations	
4.2.2.	From foreigners (contributions above HUF 100 000 individually specified)	
4.3.	From private persons	
4.3.1.	From domestic persons (contributions above HUF 500 000 individually specified)	
4.3.2.	From foreigners (contributions above HUF 100 000 individually specified)	
5.	Revenues from enterprises and limited liability companies established by the party	
6.	Other revenues	
Total revenues in the business year		
<i>Expenditures:</i>		
		<i>HUF</i>
1.	Support for the parliamentary group of the party in Parliament	
2.	Support for other organizations	
3.	Amounts used for the foundation of enterprises	
4.	Operating expenditures	
5.	Purchase of assets	
6.	Expenditures of political activities	
7.	Other expenditures	
Total expenditures in the business year		

49. Political parties are bound by schedule No. 1, but not by the regulations of the Act on Accounting; however, the GET was told that the large parties would follow them in practice. Moreover, political parties are obliged to publish their annual accounts (according to Schedule No. 1) in the

Official Hungarian Gazette by 30 April the year after the accounting year, and also on their own website, if they have one, according to the Party Act.

50. In accordance with the Party Act, contributions/donations to political parties exceeding five hundred thousand HUF (approx. 2000 €) or in case of foreign contributions, the equivalent of one hundred thousand HUF (approx. 400 €) provided in one calendar year, shall be shown separately in the financial statement and the name of the contributor as well as the value of the contribution are to be indicated. These regulations are also applicable to in-kind donations and are binding for every party, whether it receives public funding or not. The party foundations are not entitled to give donation to the parties.
51. *Party foundations* are obliged to maintain annual accounts and to make a report of its activities containing a financial statement, statements on the use of state subsidy, assets, target subsidies, sums of contributions and a short report on their activities. These reports are to be published by the foundation on 30 June at the latest in the Official Hungarian Gazette as well as on their own website (section 3/A Party Foundation Act). The foundations are covered by the regulations of the Accounting Act, in respect of their book keeping and accounts.

Reporting obligations in relation to elections

52. *Nominating organisations* (most often political parties) and *independent candidates* are obliged to publish the amount/resource and method of utilisation of state subsidies and other funds, financial support spent on the elections in the Official Hungarian Gazette, within 60 days following the second round of the elections (Electoral Procedure Act Article 92 (2)).

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

53. There is no general requirement under the law for political parties or election candidates to have their accounts/reports audited. Some form of internal control of the accounts of political parties is the task of the supervisory board of the party, which is elected in accordance with the internal rules and regulations of the party. Other forms of controls/audits are not compulsory and the GET was told that political parties do not employ external auditors.
54. There are two state bodies that have supervisory functions over the political entities in Hungary, namely the State Audit Office in respect of political financing (political parties and election candidates) and the Office of the Public Prosecutor in respect of the legality of NGOs, including political parties and party foundations. The National Election Committee controls the legality of elections.

State Audit Office

55. The State Audit Office (SAO), which is the financial and economic audit organisation of the National Assembly of Hungary and the supreme organ of state auditing, controls the financial management of political parties, parliamentary election campaigns and party foundations that obtain state subsidies.
56. The guarantees for the institutional independence of the SAO are provided for in the Constitution, the SAO Act, Act XXIII of 1992 on Civil Servants, rules and regulations of the SAO and a Code of Conduct published as part of the Audit Handbook, which is based on the standards of the International Organisation of Supreme Audit Institutions (INTOSAI).

57. The SAO is accountable only to Parliament and to the law. There is no institutional hierarchy between the SAO and Parliament and the latter does not direct or supervise the monitoring activities of the SAO. The budget of the SAO is contained as an independent chapter of the central budget. The SAO consists of a President, Vice-Presidents, a Secretary General, senior officials, auditors, and civil servants with at least secondary education, administrators and other employees, in total a staff of some 600 persons. The organisational structure of the SAO is approved by Parliament, which also elects the President and the Vice-Presidents for a term of 12 years (re-election is possible). These officials enjoy the same immunity as applies to members of Parliament. Persons who were members of the Government during the previous four years or held any elected senior position in the national (central) organisation of a political party may not be nominated as President or Vice-President of the SAO. The President, Vice-Presidents, Secretary General, senior officials and auditors of the SAO may not be close relatives of one another, nor of members of the Government. These officials are also subject to legal provisions aiming at preventing conflicts of interest; they may not engage actively in politics, their functions are incompatible with any assignments in entities enjoying public subsidies, they may not be members of Parliament and may not hold positions with business federations or receive remuneration except for certain purposes. Declarations of assets are obligatory in respect of the President and Vice-Presidents of the State Audit Office, in accordance with the regulations of members of Parliament, at the time of their election and annually. Such declarations are also to be made by the Secretary General, senior officials (at the time of appointment and then annually) and auditors (at the time of appointment and then biennially).
58. The SAO is empowered to control the legality of political parties' financial management. To this end, the SAO audits every two years the financial management of political parties that are entitled to obtain state subsidies. The SAO audits the financial management of other political parties (that have no public funding) once every four years. The controls of the SAO have been carried out, since 2003, in a uniform procedure in accordance with the general rules of financial audit. The aim of the audit of political parties is to establish whether the annual statement of a party complies with the regulations and if it contains information corresponding to the accounts and reality; whether the regulations of Act C of 2000 on accounting, other laws and internal regulations have been observed in the accounting and financial management and whether the party used only sources legally obtained; for example, that it has not profited from business activities that are prohibited or accepted contributions/donations which are not allowed, according to the Party Act. In this, the SAO monitors not only the use of public funding but also the use of private financing.
59. The SAO also audits, every two years, the financial management of party foundations that are entitled to obtain state subsidies,. These audits are also carried out following a uniform procedure in order to establish whether the financial management was legal; whether the annual statement complies with the law; whether regulations of the Accounting Act, other laws and internal regulations have been observed and whether the board of trustees has taken the necessary steps to redress incomplete reports uncovered by the SAO in previous audits.
60. The SAO carries out its audits principally *ex officio*, but during its audit it takes into consideration notices coming from private persons, legal entities and other public authorities. If the SAO notices that a political party or a party foundation has acted in an illegal manner in its financial management, it shall request the entity to re-establish a legal state of affairs, however, no sanctions are connected to such requests. In the case of serious infringements of the law or if the party/foundation fails to comply with the demand of the SAO, the Chairman of the SAO may request the public prosecutor to institute civil court proceedings. If the SAO, during the audit, establishes suspicions of a criminal offence, the competent investigative authorities are to be

notified without delay. Criminal investigations are conducted by the police, the finance guard or by the public prosecutor, depending on the type of crime and the offender.

61. The SAO is also mandated to monitor income and expenditure relating to public and private funds in relation to elections. This monitoring is also carried out *ex officio* by the SAO within one year of the second round of the elections in respect of political parties and independent candidates who have been successfully elected to Parliament, as well as at the request of candidates or political parties. The application for the latter examinations has to be submitted within 3 months of the second round of the elections and is to be justified together with possible evidence. The purpose of this monitoring is to establish whether the nominating organisation/party/candidate has followed the legal requirements to make information public or in respect of the source and use of the funds and contributions, spending limits and the like.
62. The reports of the SAO are public according to the SAO Act and the Audit Handbook issued by the President of SAO. Moreover, the annual report of the SAO and any other reports are to be published (except for information that is secret under the law) and sent to Parliament. The SAO informs the public through its own website, by holding "reception days" that are available via the Internet, by publishing studies and by press conferences.
63. The GET was informed by representatives of the SAO, which has carried out audits of political financing since 1996, that the big parties represented in Parliament follow "more or less" the current regulations, but that the situation is very different in respect of the large majority of the other parties (which do not receive public funding). These parties are difficult to identify from the registry which contains various NGOs in addition to the political parties. In 2009, out of 98 such parties the SAO managed to reach 35 whereas the remaining (63) parties could not be contacted. The latter were then subject to investigation by the public prosecutor. Another issue raised by the SAO representatives relates to the obligation to publish party accounts in the Gazette, which is not properly followed by 2/3 of those parties. The GET was also informed that according to estimations some 90 per cent of the election campaign money never appears in the official election campaign accounts. Only in a few cases, however, has the SAO established that campaign limits have been exceeded.
64. The GET was told that, currently, the SAO is provided with sufficient resources (staff, budget and specialists) to carry out its monitoring of the political financing in accordance with its given mandate. Should, however, the system change and the mandate of the SAO be expanded, there would be a need for more resources.
Public Prosecutor and others
65. The Office of the Public Prosecutor has direct judicial supervisory competence over all NGOs established under the ARA, except for the monitoring of parties. In respect of political parties the prosecutor has a gate-keeping role; the prosecution service is informed when a party is registered, it has the competence to bring an action against a political party that violates the law and it may request the termination of political parties. The public prosecutor is also entitled to request court action if the legitimacy of a party foundation's activities cannot be otherwise ensured. The court may order the foundation's management to restore the lawful operation of the foundation by a specific deadline. The court also has the power to terminate the foundation if the management fails to comply with the order within the aforementioned deadline.
66. It should be added that any party member is entitled, according to the ARA, to contest an unlawful resolution of any body of the political party at the court in case of infringement of ARA or

Party Act. Such a case may lead the court to suspend the implementation of a resolution of a body of the political party.

67. Pursuant to the Act on Electoral Procedure (sections 77-85), any person may bring complaints before the competent election committee concerning any infringement of the law applying to elections and these cases may ultimately be subject to judicial review.

(iii) Sanctions (Article 16 of Recommendation Rec(2003)4)

68. Pursuant to the Party Act (sections 4, 6 and 10) *political parties* that have accepted a pecuniary contribution by violating the financing rules (for example, from forbidden business activities or from anonymous donors) are obliged to pay the sum of that contribution – on demand of the SAO – to the state budget within fifteen days. In case of delay, the debt will be collected by the same procedure as taxes are collected. In addition, the budgetary subsidy of the party is to be reduced by the sum of the pecuniary contribution accepted, following a proposal of the SAO to the Ministry of Finance. The Ministry of Finance reports annually on the execution and the SAO controls it in a second audit.
69. In accordance with the Party Foundation Act (sections 3 and 4), a *party foundation* that has violated the rules by accepting a pecuniary contribution is also obliged to pay the sum of the said contribution – upon a call from the SAO – to the state budget within fifteen days. In case of delay, the debt is to be collected by the same procedure as taxes are collected. In addition, the budgetary subsidy of the party foundation shall be reduced by the sum of the pecuniary contribution accepted in the forthcoming quarter of a year. Moreover, a party foundation that has spent the state subsidy for goals other than those allowed by the law is obliged to pay the sum of the said contribution to the state budget within fifteen days. In case of delay, the debt will be collected by the same procedure as taxes are collected.
70. It follows from the Electoral Procedure Act (section 92) that a political party or an independent candidate that has exceeded the spending limit of one million HUF (approx. 4000 €) per candidate that applies in general elections in addition to the state subsidy, is obliged to pay double the amount by which it has exceeded the defined limit, within 15 days, to the central budget. In case of delay, the debt shall be collected as tax.
71. The SAO has no direct administrative sanctions at its disposal for infringement of certain rules, such as when a party has not publicised its accounts on time etc.
72. The SAO has to notify the public prosecutor if it finds the operation of party unlawful. On the grounds of a public prosecutor's claim, a court may nullify a party's unlawful resolution, and may, if necessary, order the adoption of another resolution; convene the supreme body of the political party concerned in order to restore the legality of the operation; suspend the operation of the political party, and may assign a supervisory commissioner to control it (only in financial matters). When the legality of the operation of the political party cannot be otherwise ensured, the political party may be dissolved. Moreover party may also be dissolved if its operation is directed at the forcible acquisition or exercise of public powers, at the exclusive possession of such powers, if the party implements crime or calls for the commission of crime, if it violates other's rights and freedoms; or if the political party has not operated for a minimum of one year or its membership is permanently below 10 persons.
73. If the SAO during audit comes across suspicion of a criminal offence, it has to notify the competent authorities and this may lead to action by the public prosecutor. Criminal sanctions

may be imposed if the Criminal Code so prescribes. Imprisonment and fines may be applied against natural persons; legal entities may face fines and other sanctions applied by a criminal court under Act CIV of 2001 on criminal measures applicable against legal entities. Moreover, violations of party financing laws may trigger criminal procedures for fraud, embezzlement, tax fraud, bribery, forgery of documents, misappropriation of funds etc. These crimes may be prosecuted *ex officio* or on the initiative of anyone (SAO Act, section 25; ARA, section 14 (2), 16 and the Civil Code, section 74/F (2)).

Practice

74. It has been reported by the SAO that since the 1990's some violations of the financing rules have been discovered on various occasions, such as the reception of contributions from anonymous persons and incomes from activities that parties are not entitled to carry out. The SAO has, for example, initiated criminal proceedings against the president of one political party because of violations of accounting regulations. In the course of its audits, since 1996, the SAO has established 17 cases of forbidden business activities and incomes and 3 cases where the limits of campaign costs have been exceeded. In the course of its audits in 2009, the SAO discovered 5 cases of violations of regulations of financial management and accountancy rules, where individual responsibility was established; one of these cases was transferred to the public prosecution service for criminal proceedings. In other cases, the SAO ordered the party to restore the legal operation within a defined deadline.
75. According to information provided by the Chief Prosecutor's Office, no criminal procedure has been initiated since 1996 for violation of regulations on political financing.

Immunities

76. The Hungarian Constitution and other acts provide for immunities in respect of a number of officials, among them the President, members of Parliament, election candidates to Parliament and the Parliamentary Commissioner (the Ombudsman). Furthermore, the Act on the Legal Status of Members of Parliament contains a detailed catalogue of preventive measures in order to prevent conflicts of interest in respect of MPs.
77. A Member of Parliament can only be arrested in cases of *flagrante delicto* (section 4, Legal Status of MPs). Criminal procedures or legal procedures for petty offences against MPs can only be started and pursued with prior permission given by Parliament (lifting the immunity). Prior permission by Parliament is also required for law enforcement actions against MPs in criminal procedures. Before the indictment is submitted, a request concerning the lifting of parliamentary immunity must be submitted to the Speaker of Parliament by the Chief Public Prosecutor. After submission of the indictment, and in criminal cases initiated by a private motion, such a request is submitted to the Speaker of Parliament by the competent court.
78. The Parliament decides in such matters without debate, but the MP concerned has the right to present his/her position. A two-thirds majority of votes by those MPs present is required in order to pass a resolution lifting parliamentary immunity.
79. Candidates participating in parliamentary elections are to be considered as MPs in this respect and therefore also enjoy immunity. However, a decision concerning the suspension of parliamentary immunity in respect of election candidates is to be considered by the National Election Committee and not by Parliament.

80. Moreover, the immunity in accordance with criminal procedures only covers the period of the mandate and the statute of limitation does not run during the mandate. (Act on the Legal Status of Members of Parliament Article 5-7)

Statutes of limitation

81. Neither the Party Act, nor other laws define any special limitation period for the case of violation of party financing regulations. In case of criminal procedure, the general limitation period is applicable, i.e. three years or longer, depending on the gravity of the offence.

IV. ANALYSIS

82. The Constitutional and legal framework in place in Hungary to govern the establishment and registration of political parties and party foundations, the management of elections and election campaigns is comprehensive and rather solid. The political process in Hungary is dominated by the political parties which, together with their nominated candidates, are the main stakeholders in the elections. The election system is also open to independent candidates and any non governmental organisation may in principle nominate candidates for local and regional election; however, the drawing-up of candidate lists for the majority of the parliamentary seats (regional and national lists) is the exclusive right of the political parties. Another feature of the Hungarian system is the substantial public funding provided to the larger political parties, in total, some 2,5 billion HUF (10 million €). In addition, public funding of 1 billion HUF (4 million €) is available to the so-called party foundations which are closely connected to the parties.
83. Direct state funding is provided to political parties which obtain more than 1 per cent of the votes at the parliamentary elections. There is no public funding at local level. State funding amounts in average to almost 60 per cent of the official³ budgets of the parties represented in Parliament (2009). The Hungarian system also provides for direct and indirect funding in respect of elections; to the parties in relation to the number of election candidates they register as well as to independent candidates. Indirect public funding takes the form of free media information during election campaigns under certain conditions. Furthermore, there are rules establishing the basis of private financing of political parties and providing for transparency in this area. The sources of party funding, which are defined in the Party Act, consist of membership fees, contributions from legal entities and private persons, from domestic sources or from abroad. However, contributions from state owned enterprises or entities receiving state support are not allowed, nor are contributions from the public institutions of another country allowed and anonymous donations are also banned. Political parties may not invest in company shares but there are no other spending limits, except for those in relation to elections. Hungary also has in place a monitoring mechanism of the legality of the financing of political parties and election campaigns/candidates and a few sanctions for violations of the financing rules.
84. Hungary should be commended for having established a comprehensive legal framework in this area and many of the principles contained in Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns are reflected in Hungarian law. Nevertheless, the GET has identified several deficiencies in the current legislation and its application in relation to the principles of Recommendation Rec (2003)4), selected for the current evaluation. Moreover, the GET cannot refrain from observing that the Hungarian legislation concerning political funding is subject to heavy criticism, domestically, by

³ Some unofficial sources indicate that the larger political parties in Hungary receive a much bigger proportion of private funding from, *inter alia*, unreported corporate contributions.

most of the significant political parties, various government institutions, non governmental organisations and – above all – by civil society groups and the media. The main criticism relates to the perception that the current legislation is not fully applied and implemented as intended and that it carries a number of shortcomings, which allow for regulations to be circumvented in practice. The lack of transparency in the financing of election campaigns is an area of particular concern, as indicated by most interlocutors met by the GET on site. Research carried out by Hungarian academic institutions and non governmental organisations goes as far as to state that political parties, particularly those represented in Parliament, are perceived by the Hungarian public, by and large, to be affected by corruption; parties emerge as among the least respected and trusted institutions in the country in several opinion surveys. The described situation, which was shared by a number of interlocutors met by the GET on site, is very serious and calls for firm action.

85. The basic rules on the formation and activities of political parties were adopted in 1989, following the establishment of the Third Hungarian Republic. Since then, there have been numerous calls, to, *inter alia*, increase the transparency of political financing and to enhance the accountability of political parties, party foundations and election candidates. Most, if not all, leading political parties have acknowledged the need to curb political corruption in Hungary but several attempts by them to reform and enhance the regulatory framework of, in particular, party financing have failed and the existing regulations largely remained unchanged. The most recent reform attempt was made in Bill No. T/4190 in 2009, following a previous bill submitted by the Government in 2006 and, currently, several parties are advocating for legal reform of the system. One of the difficulties in updating the legislation – as explained to the GET – has been owing to the Constitutional requirement of a qualified majority (2/3) in order to amend this kind of legislation (according to Article 63 of the Constitution). This requirement, which is in contrast to the simple majority requirement for adoption of most other legislation in Hungary, has consequently paralysed the reform process for almost two decades. The GET takes the view that the 2/3 majority rule – which may well have been necessary and important at the time of the adoption of the Constitution – appears to be a fundamental obstacle for Hungary to adapt and further develop its legislation on the financing of political parties and election campaigns to current needs. The GET believes that this kind of legislation must be subject to amendments and reform in most states as a continuing process linked to other changes in society and has strong doubts as to the necessity of maintaining the qualified majority rule for the adoption of legislation in the area of political financing. This constitutional requirement appears to be a key to necessary reforms as indicated below in the present report, the GET recommends **to review the need for the two thirds majority requirement in respect of adoption of legislation concerning financial management and operation of political parties contained in Article 63 of the Constitution, with a view to providing a simple majority requirement for passing such legislation.**

Transparency

86. Political parties in Hungary have to be registered following a detailed procedure pursuant to the Act on the Right of Association (ARA) which is largely the same as for any non governmental organisation (NGO). It is the competent court of the region that finally takes the decision to register a political party (as well as any other NGO). It is also for the 19 regional courts and the Municipal Court of Budapest to maintain the documents concerning the registered parties. The list of registered entities makes no difference between political parties and other forms of associations. The parties are obliged to have a distinct name but there are no other criteria to identify parties or to single them out as parties in the registry; no specific organisational number or the like is available. It is to be welcomed that all information contained in the registries is public and, in order to facilitate the access to this information, the Office of the National Justice Council

publishes centralised information from all the regional registries in a summary format. The centralised information also covers any association registered, whether it is a political party, a political foundation or any other form of NGO. The GET was told that more than 240 political parties had been established in Hungary but that almost half of them were no longer operational, that it was difficult to identify from the list(s) which NGOs were political parties and that it was often problematic to get in contact with some of these associations/parties or their representatives, which caused problems for, *inter alia*, the monitoring bodies, the State Audit Office as well as the Office of the Prosecutor General. The GET, which did not come across any misgivings with the registration procedure as such, takes the view that despite the fact that the information contained in the registries is public, the current format of the registries makes it rather difficult to identify the less significant political parties in Hungary, and it would appear that this is not only problematic from the point of view of the general public, but also for some of the authorities concerned. A reliable system to clearly identify political parties registered in Hungary is necessary in order to provide for more transparency of political parties and related issues, such as their funding; it would also facilitate more efficient monitoring and the use of sanctions for infringements of financing rules or procedures in this area. Consequently, the GET recommends **to ensure that political parties and connected foundations can be readily identified in the registries of associations and that contact details concerning their headquarters and key-representatives contained in these registries are regularly updated.**

87. The Party Act stipulates that political parties are subject to two obligations in terms of keeping books and accounts. Firstly, they have to submit an initial statement of their property together with their application for registration, following a defined format in accordance with section 16, Schedule No. 2, of the Party Act. Secondly, the Party Act (section 9) implicitly obliges all political parties to maintain annual accounts and explicitly stipulates that the accounts are to be published in the Official Hungarian Gazette by the end of April each year in a format established in Schedule No.1 of the Party Act. There is no other reference made to any accounting rules in this respect, for example, to the general Act on Accounting. Consequently, there is no legal obligation for parties to comply with the Act on Accounting, which was adopted some ten years later than the Party Act, although it appears that the larger parties do so, to some degree, in practice. As a result, the form set out in Schedule No.1 is the only standard that political parties are obliged to follow. The GET notes that the form, which is a short document indicating what is to be made public, is far from sufficient as a basis for proper accounting; the various headings enumerated under income and expenditure are summarised and without any further instruction. For example, the form does not contain any guidance in respect of the accounting of loans or in-kind donations and campaign costs are to be indicated under "political activities" with no further details, just to mention a few lacunae. GRECO recalls in this connection Article 11 of Recommendation Rec(2003)4, according to which states should require political parties to keep proper books and accounts. The lack of clear rules in Hungary on how political parties are to keep their annual accounts provides for a situation which is clearly not in line with the principle laid down in Article 11 of the Recommendation. It would appear to the GET that, for example, a reference to the general Accounting Act, could be an appropriate way to remedy this problem. Moreover, the GET came across criticism that the reports (based on the form), as submitted by the Parties, do not even provide enough detailed information to serve their immediate purpose, i.e. to provide some basic information to the public and the media. Interlocutors indicated to the GET that more comprehensive information than that which is provided through the forms needs to be made public. The GET agrees with this position and would add that such reporting needs to be done in an as coherent way as possible, in order to facilitate comparisons between different parties. The GET acknowledges the legitimate interest in obliging political parties to keep books and accounts in a proper way, but is at the same time of the opinion that such an obligation needs to be combined with flexibility to make it possible to take into account the different means and needs of

the various parties in Hungary, in particular, to avoid too cumbersome regulations in respect of small or insignificant parties with little or no administration and activities. In view of the above, the GET recommends **to introduce a legal requirement for political parties – bearing in mind factors such as the size of parties and their level of activity – (i) to keep proper books and accounts in accordance with accepted accounting standards and (ii) to ensure that appropriate information contained in the annual books and accounts is made public in a way which provides for easy and timely access by the public.**

88. Political parties have been entitled, since 2003, to establish so-called “party foundations”. These are regulated in the Party Foundation Act and may only be established for scientific, educational, research and training activities in order to promote the party and to develop the political culture. Party foundations are subject to public funding in case the “mother party” receives such funding. This funding, which can only be provided to one foundation per party at the same time, represents a substantial part (almost half) of the public funding provided to the political parties. Party foundations may not be established for the purpose of performing business/entrepreneurial activities, according to the law, and may not provide financial contributions to the party. However, parties are also free to set up general foundations which are under no particular restrictions vis-à-vis the party. Contrary to the situation described in respect of political parties, which are not legally obliged to follow the Act on Accounting, all forms of foundations (including the party foundations) are bound by the Accounting Act and, similar to what applies to parties, party foundations, but not other foundations, are obliged to publish summary reports on their finances and activities. However, this reporting is not consolidated with that of the respective “mother party”.
89. During the on-site visit, the GET was made aware of criticism relating to the use of foundations, other than party foundations, connected to political parties which are not subject to the same disclosure rules as the parties themselves; it was alleged that such foundations are being used as channels for funding of party activities and campaigns. These foundations – legally separated from the parties, but in reality closely connected to them and their activities – may receive donations including, for example, anonymous donations or foreign donations, without being subject to the same restrictions and disclosure rules as parties themselves or party foundations are subject to, in order to bypass the regulations. Although all foundations are subject to proper accounting requirements under the Accounting Act and the party foundations to similar monitoring by the State Audit Office as parties, the accounting of connected foundations is not necessarily coordinated with that of the parties. The GET considers it important to provide for similar transparency requirements in respect of all types of foundations and entities which are closely connected to parties and recalls Article 11 in conjunction with Article 6 of the Recommendation Rec(2003)4 which provides that the accounts of political parties should be consolidated to include, as appropriate, the accounts of entities which are related, directly or indirectly, to a political party or otherwise under the control of a political party. In this context, the GET is not unaware of the legal difficulties in introducing such an approach in respect of separate legal entities. Nevertheless, and in the light of GRECO’s previous pronouncements on this matter, the GET recommends **to seek ways to consolidate the books and accounts of political parties to include the accounts or other relevant information of entities which are related directly or indirectly to a political party or otherwise under its control (for example, party foundations proper and other foundations).**
90. As stated above, the Party Act (section 4) does not allow political parties to accept anonymous donations and the same Act (section 9) provides that domestic donations exceeding 500.000 HUF (2000 €) or foreign donations exceeding 100.000 HUF (400 €) to political parties are to be shown separately in a financial statement *“by indicating the name of the contributors and the*

sums". The GET notes that party foundations are also not allowed to accept anonymous donations, in accordance with the Party Foundation Act (section 3) and that such foundations have to make public the "data necessary for the identification of the person subsidising the foundation as well the amount granted...". The GET notes that while the wording in the Party Foundation Act (adopted in 2003) is in line with the requirement of Article 12b. of Recommendation Rec(2003)4, where it is stated that "donors should be identified in the records", the legislation concerning political parties provides a weaker regime. The GET is of the opinion that the disclosure of the name may most often not be sufficient to identify a donor, in particular when the donation comes from somebody with a common name or from abroad. Furthermore, the GET notes that the provisions do not expressly clarify how in-kind donations (e.g. goods or voluntary work) are to be evaluated. Finally, the GET did not come across any regulations in respect of the reporting of donations, including anonymous donations, which have been provided to election candidates, for example, as a way of circumventing the ban on such donations to parties. These shortcomings call for clear regulations and, consequently, the GET recommends **(i) to ensure that political parties and party foundations are subject to equivalent legal requirements in respect of donations over a certain value, in particular, that political parties are obliged to publish the identity of such donors; (ii) to establish precise rules for the evaluation of in-kind donations; and (iii) to take measures to prevent the ban on anonymous donations to political parties from being circumvented through such donations via other entities or election candidates.**

91. The lack of transparency of political financing (income and expenditure) during election campaigns makes this an area where reforms appear to be particularly necessary in Hungary. The campaign costs in Hungarian elections have increased considerably in recent years, according to civil society groups which monitor political adverts and commercials during the election campaigns. Information gathered by the GET – from state bodies as well as from civil society representatives – strongly suggests that the official figures on income and expenditure presented by parties and individual candidates represent only a fraction of the real spending. The GET notes that the Electoral Procedure Act, which is the primary legislation to govern the elections, regulates three distinct areas which appear to be central for the on-going debate on a possible enhancement of the level of transparency of political financing during election campaigns, namely the definition of the campaign period, the caps on expenditure and the reporting of income/expenditure during this period. Firstly, the Electoral Procedure Act does not provide for a fixed time frame for the campaign period. It starts from the call for the election which must be made at least 72 days prior to the polling day and ends at 00h00 of the day of voting. This means that the campaign period may be longer but not shorter than 72 days. The GET was told that in practice this period often lasts for some 3 months and that the "official" campaign period appears to melt into that of an "unofficial" pre election period. The lack of a fixed campaign period has been much criticised in Hungary as this makes it difficult to distinguish the campaign financing from the routine operations of the parties. Several interlocutors also indicated that the current minimum period of 72 days was too long; that a shorter period would counteract the growing costs of election campaigns and thus provide for more fair competition between small and big parties. Secondly, the current spending cap for election campaigns, 1 000 000 HUF (4000 €) per candidate and in total up to 386 million HUF (1,5 million €) which is the maximum a party is allowed to spend in the parliamentary elections (as no party may have more than one candidate per seat in Parliament), has remained the same since 1990 and was considered "ridiculously low" by most interlocutors met by the GET on-site as it was completely unrealistic, in particular, in respect of the larger parties, which were said to exceed that limit several times in reality. Only a few interlocutors indicated that the current caps were appropriate. Thirdly, as a consequence of discrepancy between the spending caps and the real spending, the reports on the income and expenditure during election campaigns, which are to be made public by the

parties/candidates within 60 days after the elections – and which are subject to scrutiny by the State Audit Office (approximately one year later) – do not reflect more than the income and expenditure that is allowed, while the large majority of the funds actually spent, in particular, by the larger parties was not properly reported and publicised.

92. The GET fully shares the common concern expressed in Hungary that the level of accurate transparency of general election campaign funding is critically low. The interlocutors met by the GET on-site, including a number of political parties, all agreed that the current legislation in this respect is outdated and that it is necessary to connect the legal requirements to the real situation, although the measures suggested differ between the political factions. Focusing on the technical shortcomings, the GET sees a clear need to clarify that all income and expenditure related to a well defined election period, whether shorter or longer than the current period, have to be properly accounted for and reported by the parties/candidates. Moreover, it is necessary to review the basis for establishing election spending caps to provide for a sufficiently dynamic approach and realistic spending caps over time, as opposed to the current model where an amount is simply fixed by law. The GET also notes that the current reporting and publication obligations take place after the elections (not later than 60 days); however, information from the State Audit Office indicated that some of these reports are made public much later than required by law. Recalling the preference for frequent reporting of election financing also during the campaign period as expressed in several GRECO evaluation reports, the GET takes the view that this would also be beneficial in Hungary as a means of providing more timely information to the voters before the election day to the extent possible. In view of the above, the GET recommends **(i) to review the length of the election campaign period and to ensure that the financial campaign income and expenditure during that period is properly accounted for and (ii) to consider the introduction of reporting of income and expenditure during election campaigns to the public at appropriate interval.**

Supervision

Auditing

93. As noted above, political parties are not subject to proper accounting rules and moreover, no regulations oblige parties to have their finances audited by independent auditors. The GET learned that political parties, in this respect, are limited to the internal supervisory boards of the party for such checks and that the parties, in practice, do not employ independent auditors at all. Representatives of the State Audit Office (SAO) confirmed to the GET that they have never come across any party accounts that had been independently audited and stressed that such audits would also be useful for the subsequent auditing by the Office. The GET is convinced that the possibilities for manipulating party accounts would decrease and that their credibility would be significantly strengthened if the accounts of political parties were audited by independent auditors. Such audits would also provide added value to the monitoring of party financing by the SAO. However, such an obligation needs to be combined with flexibility in relation to the different means and needs of the various parties, in particular, to avoid too cumbersome requirements in respect of small or insignificant parties with little or no administration or means, of which there are many in Hungary. Therefore, the GET recommends **to introduce, as a main rule, independent auditing of party accounts by certified experts.**

Monitoring

94. There are three main pillars of the supervision over political parties and elections by public authorities; namely the Office of the Public Prosecutor (ultimately the courts) for the

establishment and termination of parties/foundations, the National Election Committee for overseeing the election procedures and the SAO for monitoring the legality of political financing.

95. The SAO is the supreme institution of state auditing in Hungary. The SAO is accountable only to Parliament, however, it is not subordinated to Parliament and directs its own activities independently from other state bodies. The SAO and its staff are subject to numerous regulations in the Constitution, in the Act of the State Audit Office, other legislation and in a Code of Conduct contained in the Audit Handbook of the SAO, modelled on the requirements of the International Organisation of Supreme Audit Institutions (INTOSAI). There are a number of safeguards in place to provide for the independence of the SAO and its staff; the President is elected for 12 years by Parliament and enjoys the same immunity as members of Parliament; the President and top officials when taking up their functions, may not have been members of a government or have held senior positions in political parties during the previous four years, they may not engage actively in politics or have links to business federations and are obliged to file declarations of assets. There are also professional requirements to provide for pertinent qualifications of the staff at the SAO. The GET is of the opinion that the institutional framework of the SAO provides all the requirements necessary for an independent monitoring mechanism, in line with Article 14 of Recommendation Rec(2003)4.
96. On closer look at the scope of the SAO's monitoring in respect of political financing monitoring, it follows from the Party Act (section 10) that the SAO is empowered, as opposed to other state administration bodies, to control the legality of political parties' financial management and that this monitoring is to be performed every two years in respect of parties that receive state funding on a regular basis. However, the monitoring of political parties that do not receive state funding is to take place once every four years. Secondly, in accordance with the Party Foundation Act (section 4) the SAO is also mandated to supervise biannually the lawful financial management of party foundations that have been granted state subsidies. Thirdly, the SAO also monitors the general elections, according to the Act on Electoral Procedure (section 92). This monitoring, which is to take place within one year following the elections, concerns the use of public and private funds spent during the election campaign by organisations having nominated candidates (i.e. parties) and independent candidates who have won Parliamentary representation. The SAO may also monitor other nominating organisations and candidates at the request of any candidate. However, no such request was received in the 2006 elections. The GET is of the opinion that the SAO currently has a sufficiently broad mandate to monitor the appropriate stakeholders in relation to political financing, except for the foundations and other "third parties" which may have close financial links to parties. In this respect, the GET recalls its recommendation (paragraph 89) that party accounts should be consolidated to include entities which are related directly or indirectly to a political party, and is of the opinion that the mandate of the SAO needs to be extended accordingly in order to cover such entities. Consequently, the GET recommends **to ensure that the supervision of political parties be extended to cover the books and accounts of entities which are related directly or indirectly to a political party or are otherwise under the control of a political party.**
97. The GET welcomes that all audit reports of the SAO are made public. Apart from this, most interlocutors met by the GET stressed that the SAO monitoring of political financing needs to be considerably reinforced. The SAO has been criticised for having limited its audits of political financing to the legality of the books as submitted by the parties, without any further pro-active in depth investigations as to the real flows of money etc. The legislation has also been criticised for the fact that the SAO monitors the parties represented in Parliament only once every two years and the other parties even less frequently, only once every four years. Furthermore, the monitoring of election campaign financing may be carried out as late as one year after the

elections. The GET is seriously concerned by the fact that although there appears to be general agreement that financing and spending regulations are regularly violated on a broad scale, not many violations in this area have been discovered through the monitoring of the SAO. It is obvious that the regulations in place, or yet to be established, need to be accompanied by more robust monitoring. The SAO is the appropriate body; however, the effectiveness of the system calls for new regulations as well as enhanced working methods for the SAO. It is clear that the work of the SAO would be facilitated if parties were obliged to follow adequate accounting standards and to use independent auditors, as stated above. Moreover, the GET is of the firm opinion that the monitoring of the SAO needs to be performed more often than currently, in respect of all parties and that the election monitoring one year after the elections appears to be too late, in particular, from the point of view of the public interest. Moreover, it seems obvious that the SAO would need to adopt a more proactive approach to its work. The GET was informed that the SAO already has the powers to do so, to check bank accounts and to carry out on-site visits etc; however, such measures need to be applied more frequently and accompanied by coordination with law enforcement agencies, in order to enhance the efficiency of the SAO. Preventive measures, already applied to some extent by the SAO through consultation of parties, could well be further explored. Obviously, these measures would require more resources for the SAO. In view of the above, the GET recommends **(i) to ensure more frequent, pro-active and swift monitoring of political financing by the State Audit Office, including preventive measures as well as more in-depth investigations of financing irregularities; and (ii) to adjust the financial and personnel resources accordingly.**

Sanctions

98. There are some particular sanctions provided for in the specific legislation relating to violations of the financing rules by political parties (the Party Act), party foundations (the Party Foundation Act) and in relation to general election campaign financing (Electoral Procedure Act). These sanctions apply to parties and party foundations which receive anonymous donations (which are banned), income from unlawful business and the like. The SAO may, in such situations, oblige the entity to pay a sum equivalent to the contribution, to the State budget within 15 days, or it may be collected as tax revenue. Moreover, the state subsidy is to be reduced with an amount equivalent to the illegal contribution received. Similar sanctions are available in respect of financial irregularities in connection with the election campaigns; a party or a candidate that exceeds the spending cap may be sanctioned by the SAO to pay an amount to the State, equivalent to twice that of the overspending.
99. It goes without saying that, in addition to the above specific sanctions, the SAO must notify the law enforcement authorities, whenever it comes across a criminal offence under the Criminal Code, which may lead to the institution of a criminal procedure by the public prosecutor/police and ultimately criminal law sanctions. Some offences and other forms of illegalities (including financial) of a party may also lead to the decision by a competent court to dissolve a party or a party foundation.
100. The GET notes that the current sanctions available to the SAO as the primary monitoring mechanism over political financing, are critically soft. The few sanctions provided for are limited to situations where the financing regulations have been violated, and these appear to fall short of the standards contained in Article 16 of the Recommendation Rec(2003)4, which calls for effective, proportionate and dissuasive sanctions. The lack of specific sanctions of an administrative character, for example, measures to be used by the SAO directly in situations, such as when a reporting entity does not comply with its statutory obligations, for example, to submit a report or to publish a financial statement or when a party or candidate does not obey a

request from the SAO to submit information etc. The current situation weakens considerably the efficiency of the monitoring of the implementation of the political financing regulations currently in place. The future introduction of more comprehensive regulations in this area, would also require the development of sanctions, preferably of a flexible character at the disposal of the SAO. Consequently, the GET recommends **to review current sanctions relating to infringements of political financing rules and to ensure that existing and yet-to-be-established rules on financing of political parties and election campaigns are accompanied by appropriate (flexible) sanctions, which are effective, proportionate and dissuasive.**

V. CONCLUSIONS

101. The Constitutional and legal framework in place in Hungary to govern the establishment and registration of political parties and party foundations, the management of elections and election campaigns is rather developed. The political process in Hungary is dominated by the political parties and the direct state funding to the parties (having received more than 1 per cent of parliamentary votes), provides for a substantial part of the party funds. In addition there are rules establishing the basis for and limits of private financing of political parties, party foundations and election campaigns; contributions from state owned enterprises or entities receiving state support as well as contributions from foreign state institutions are not allowed; anonymous donations are banned as well. There are also strict limits for parties' involvement in business activities. Donations to parties above a certain threshold are to be reported and made public.
102. Hungary should be commended for having established a detailed legal framework in this area and many of the principles contained in Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns are reflected in Hungarian law. Notwithstanding this, the system of political funding is, and has been, subject to heavy and justified criticism in Hungary not only by civil society groups and the media, but also by various state institutions and political parties. The main criticism relates to the widely shared perception that current legislation is not fully applied and implemented as intended and that it carries a number of shortcomings, which allow regulations to be circumvented in practice. Research carried out by Hungarian academic institutions and non-governmental organisations suggests that political parties in Hungary, particularly those of significant importance, are largely seen as corrupt, thus emerging as among the least respected and trusted institutions in the country. This situation clearly calls for firm action. Although leading political parties, since the adoption of the legal framework in 1989, have acknowledged the need to curb political corruption in Hungary, and there have been several attempts to update the legislation and reform the system, only limited substantial improvements have been achieved, which appears to be linked to the constitutional requirement that the adoption of legislation in this specific area requires a particularly high degree of political consensus, i.e. a 2/3 majority in Parliament. As a result, this legislation remains largely unchanged and reforms have been difficult to carry through in this area.
103. The existing legislation to provide for transparency of political financing is in many aspects in line with the standards subject to the current evaluation; nevertheless, several deficiencies have been identified. The lack of clear rules obliging political parties to keep proper books and accounts is a fundamental lacuna of the system. Furthermore, a requirement to subject party accounts to independent audit would strengthen the credibility of such accounts. Moreover, the close connection between political parties and their affiliated foundations could well be more visible in terms of their respective accounting obligations. The general lack of transparency in the financing of election campaigns is an area of particular concern in the light of the credible evidence that a great majority of such funding is not accounted for or reported at all. Measures to be taken in this

area relate to the definition of campaign periods, caps on expenditure in the light of the increasing costs for election campaigns and the necessity of providing accurate information to the public and media. The monitoring of political financing by the State Audit Office, which offers guarantees for an independent monitoring mechanism, needs to be considerably strengthened through more frequent and swift audits and by adopting a genuinely pro-active approach. Finally, the regulations relating to violations of the financing regimes and procedures in place as well as future rules, need to be accompanied by effective sanctions.

104. In view of the above, GRECO addresses the following recommendations to Hungary:
- i. **to review the need for the two thirds majority requirement in respect of adoption of legislation concerning financial management and operation of political parties contained in Article 63 of the Constitution, with a view to providing a simple majority requirement for passing such legislation (paragraph 85);**
 - ii. **to ensure that political parties and connected foundations can be readily identified in the registries of associations and that contact details concerning their headquarters and key-representatives contained in these registries are regularly updated (paragraph 86);**
 - iii. **to introduce a legal requirement for political parties – bearing in mind factors such as the size of parties and their level of activity – (i) to keep proper books and accounts in accordance with accepted accounting standards and (ii) to ensure that appropriate information contained in the annual books and accounts is made public in a way which provides for easy and timely access by the public (paragraph 87);**
 - iv. **to seek ways to consolidate the books and accounts of political parties to include the accounts or other relevant information of entities which are related directly or indirectly to a political party or otherwise under its control (for example, party foundations proper and other foundations) (paragraph 89);**
 - v. **(i) to ensure that political parties and party foundations are subject to equivalent legal requirements in respect of donations over a certain value, in particular, that political parties are obliged to publish the identity of such donors; (ii) to establish precise rules for the evaluation of in-kind donations; and (iii) to take measures to prevent the ban on anonymous donations to political parties from being circumvented through such donations via other entities or election candidates (paragraph 90);**
 - vi. **(i) to review the length of the election campaign period and to ensure that the financial campaign income and expenditure during that period is properly accounted for and (ii) to consider the introduction of reporting of income and expenditure during election campaigns to the public at appropriate interval (paragraph 92);**
 - vii. **to introduce, as a main rule, independent auditing of party accounts by certified experts (paragraph 93);**
 - viii. **to ensure that the supervision of political parties be extended to cover the books and accounts of entities which are related directly or indirectly to a political party or are otherwise under the control of a political party (paragraph 96);**

- ix. **(i) to ensure more frequent, pro-active and swift monitoring of political financing by the State Audit Office, including preventive measures as well as more in-depth investigations of financing irregularities; and (ii) to adjust the financial and personnel resources accordingly (paragraph 97);**
 - x. **to review current sanctions relating to infringements of political financing rules and to ensure that existing and yet-to-be-established rules on financing of political parties and election campaigns are accompanied by appropriate (flexible) sanctions, which are effective, proportionate and dissuasive (paragraph 100).**
105. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Hungarian authorities to present a report on the implementation of the above-mentioned recommendations by 31 December 2011.
106. Finally, GRECO invites the authorities of Hungary to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.