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Theme II

Third Evaluation Round

Evaluation Report on Monaco Transparency of Party Funding

(Theme II)

Adopted by GRECO
at its 54th Plenary Meeting
(Strasbourg, 20-23 March 2012)

I. INTRODUCTION

1. Monaco joined GRECO in 2007. GRECO adopted the Joint First and Second Evaluation report on Monaco (Greco Eval I/II Rep (2008) 1E) at its 39th Plenary Meeting (10 October 2008). The aforementioned evaluation report and the corresponding compliance report 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 Corruption (EST 173), Articles 1-6 of its Additional Protocol (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 (hereafter referred to as the "GET") carried out an on-site visit to Monaco from 12 to 16 September 2011. The GET for Theme II (14-16 September) was composed of Mr Tiziano BALMELLI, Embassy Counsellor, Federal Ministry of Foreign Affairs (Switzerland) and Mr Guido HOSTYN, *Premier Conseiller de direction*, Secretariat of the Electoral Expenses Supervisory Committee, Senate (Belgium). The GET was assisted by Ms Sophie MEUDAL-LEENDERS and Ms Liubov SAMOKHINA of the GRECO secretariat. Prior to the visit the GET experts were provided with replies to the evaluation questionnaire (document Greco Eval III (2011) 7F, Theme II) and the relevant legislation.
4. The GET met representatives of the Financial Information and Monitoring Department (SICCFIN), the Interior Department (responsible for the monitoring of associations), judges of the Court of First Instance and the Court of Appeal and members of the prosecution service, as well as the President of the National Council and the Mayor (who also presides over the Electoral Register Review Committee). It also met representatives of political parties, the Union of Monegasques, the Union for the Principality, *Rassemblement et Enjeux* and the National Union for the Future of Monaco. Finally, the GET met an academic and representatives of the press.
5. The present report on Theme II of GRECO's Third Evaluation Round on transparency of party 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 effectiveness of measures adopted by the Monegasque 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 Monaco 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 (2011) 5E, Theme I.

II. TRANSPARENCY OF PARTY FUNDING – GENERAL PART

7. The Principality of Monaco, which has been a member of the Council of Europe since 2004, is a hereditary and constitutional monarchy whose principles are enshrined in the Constitution of 17 December 1962, as revised in 2002. According to the Constitution, executive power is vested in the supreme authority of the Prince. Government is exercised by a Minister of State, appointed by and representing the Prince, and the former is assisted by a Council of Government. The Minister of State and the government are answerable solely to the Prince and not to parliament. On the other hand, the government cannot dissolve the National Council (the unicameral parliament) or influence parliamentary debates. Legislative power is exercised jointly by the Prince, who is Head of State and can initiate legislation, and the National Council, which alone has the power to pass laws.
8. From an electoral standpoint, the effect of the 2002 constitutional reform was to increase the range of representation in the National Council by raising the number of seats from 18 to 24 and introducing a mixed system of majority voting and proportional representation. It also increased the number of electors by reducing the age of civic majority to 18, authorising proxy voting and granting the right to vote as soon as Monegasque nationality was acquired. This system is described in paragraphs 16 ff.
9. Monaco has a surface area of only 2 square kilometres and a total population of 35 881, of whom only about 8 300 are Monegasque nationals. The electorate is therefore very small: 6 328 voters at the last national elections with 4 854 votes cast, a turnout of 76.7%. These factors, namely the small number of voters and the size of the country, explain the absence in Monaco of parliamentary constituencies and, to a certain extent, political parties in the proper sense. Over and above their role in political debate, political parties traditionally act as permanent links between a broad body of electors and their parliamentary representation. The Monegasque authorities do not consider such links necessary in the context of Monaco. Nevertheless, the various political tendencies are expressed through political associations, set up inter alia at the time of specific elections. In the case of national elections, this form of political expression ensures that the diverse opinions of a small body of electors are heard, within the context of a lawmaking system in which power is shared between the Prince and the National Council.

Legal framework, definitions

10. The legal basis for Monegasque political activities and their funding is laid down in the following: a) the revised 1962 Constitution, b) Act 839 of 23 February 1968 on the organisation of national and local elections, as amended by Act 1250 of 9 April 2002 (hereafter the Elections Act); c) Act 1355 of 23 December 2008 on associations and federations of associations (hereafter the Associations Act); d) Decree 2007-499 of 11 October 2007 specifying the maximum amount of and arrangements for apportioning the grant paid as reimbursement of election campaign expenses for the National Council election of 3 February 2008; e) Ministerial Decree 2011-37 of 25 January 2011 laying down the flat-rate sum for reimbursement of election campaign expenses for the municipal council election of 13 and 20 March 2011.
11. Monegasque law does not include a specific definition of political parties. Political activities are essentially based on political associations, made up of persons who share the same values. These associations are formed in accordance with the Associations Act, whose first section states that an association is an agreement under which several persons decide to share their activities or their knowledge on a permanent basis for a purpose other than sharing profits.

Registration

12. Freedom of association is enshrined in Article 30 of the Constitution and in the Associations Act, which specifies that associations may be freely formed, with no requirement for prior authorisation or declaration, on condition that their purpose is not unlawful, does not pose a threat to the independence or institutions of the Principality, to recognised fundamental freedoms and rights or to public order or public morals, and that they are not of a sectarian nature. Associations have legal personality and legal capacity, once they have been declared and their existence has been made public. Such declarations must be made to the Minister of State in a registered letter with recorded delivery. They must include the name and purpose of the association, its registered address and the names, occupations, addresses and nationalities of those who, in whatever capacity, are responsible for its administration or management. Associations are made public by a notice in the Official Journal and they acquire legal personality and capacity the day after publication.
13. There are currently nine declared associations of a political nature in Monaco:

R et E	Rassemblement et Enjeux, registered in 1994 (link to the party site)
UDM	Union of Monegasques
UNAM (1)	National Union for the Future of Monaco, registered in 2002
UP (1)	Union for the Principality, registered in 2001 (link to the party site)
DDM	Duties and Rights of Monegasques, registered in 2002
PM	Monegasque Party (link to the party site)
PEP	Principality, Ethics and Progress
PFM (2)	Promotion of the Monegasque family, registered in 1992
SM	Monegasque synergy, registered in 2007 (link to the site)
(1) The elected members of these two associations (UNAM/UP) are allied under the name Union for Monaco (UPM)	
(2) According to the register of associations, this formation is in abeyance (its governing body is no longer in existence)	

Participation in elections

14. Seven political associations presented candidate lists at the 2008 national elections. These were: a) grouped under the title “Monaco Ensemble” (Monaco together): NIM (Non-registered Monegasques); PFM (Promotion of the Monegasque family); SM (Monegasque Synergy); b) grouped under the title “Rassemblement et Enjeux”: RPM (Rally for Monaco); V&E (Values and Challenges); c) grouped under the title Union for Monaco: UNAM (National Union for the Future of Monaco); UP (Union for the Principality). These lists are *de facto* associations, since they have no legal personality.
15. Four political groups are currently represented in the National Council, which comprises 24 seats, three of which are currently vacant: a) UDM Union of Monegasques (10 seats); b) UP Union for the Principality (2 seats); c) R&E *Rassemblement et Enjeux* (which emerged from the merger of the RPM and V&E, 3 seats); d) UNAM National Union for the Future of Monaco (3 seats); e) SE Sans Etiquette (unaligned - 3 seats).
16. The 24 members of the National Council are elected for five years in a single round by direct universal suffrage using a list system with the option of choosing from several lists and with no preferential vote. Each list must include as a minimum a number of candidates equal to an absolute majority in the assembly, which is thirteen (section 20 of the Elections Act). Two thirds

of the seats are filled by majority vote and the remaining third by proportional representation.¹ Within each list, seats are allocated according to the number of votes cast for each candidate. In the event of an equal number of votes cast, the older candidate is elected. In principle, the entire National Council is elected. If, as a result of vacancies, it has lost four members, by-elections are held within three months of the most recent vacancy for the remaining period of that parliament.

17. Those eligible to stand are men and women aged 25 or over who have been Monegasque nationals for at least five years and are not ineligible because of incompatibility of function or other reasons.² Sections 25 to 29 of the legislation also lay down the conditions governing notices of candidacy. Candidates must specify which list they are standing on. The list may, but need not, be that of a political association. Notices of candidacy are lodged at the town hall and are recorded, in chronological order, in a special register, with notification being given of receipt of the candidacy and any refusal to register. Any challenges are heard by the court of first instance. Candidates' names are posted outside the town hall.
18. A municipal decree specifies where election campaign posters may be displayed. The specified date for displaying posters, which is eight days before the date of the election, corresponds to the start of the official campaign. Candidates are allotted equal space and unauthorised bill posting is forbidden. Election meetings are subject to the rules on freedom of assembly laid down in the Constitution and are banned in the 24 hours preceding voting. The municipality provides lists and individual candidates with meeting rooms, which are chosen by lot in the event of a clash. Candidates are responsible for the conduct of election meetings.
19. The other elections in Monaco are for the municipal council. This has 15 members, elected directly by Monegasque citizens for four years using a two round list system, with the option of choosing from more than one list. The most recent local elections took place on 13 March 2011. These elections are rather unpolitical and mainly involve well-known members of Monegasque society who usually have few links with political associations.

Overview of the political financing system

20. There are no specific provisions on party funding in Monaco but election campaign expenses are reimbursable on a flat-rate basis. The Government is currently considering certain changes to the current arrangements, which will be considered in the analytical part of the report (paragraphs 44 ff).

Political parties

21. Like any other association, political associations are governed by the Associations Act of 23 December 2008, which lays down certain requirements to be met by their articles of association. The latter must specify the rules relating to the appointment, composition, functioning and powers of the governing body. Each association sets the memberships fees for its members, either at its

¹ Before the 2002 constitutional reform, the legislation provided for a two round bloc voting system with the option of choosing from more than one list. The result was that minority representation was possible but not automatically guaranteed.

² Section 14 of Act 839 of 23 February 1968 lays down the grounds for ineligibility. These concern Crown counsellors, members of the Supreme Court, members of the Council of State and voters who, by virtue of another nationality, hold public or elective office in another country. Section 15 of the act specifies those who are barred from the position of national councillor (member of parliament). These cover members of the royal household, government advisers, diplomatic or consular officials, judges and prosecutors and members of the Court of Auditors. It also includes certain administrative posts specified in the second paragraph of the section.

annual general meeting or at a meeting of its governing body, according to the procedure specified in its articles of association.

22. Under section 16 of the Act, only recognised associations are entitled to public financial support. Such recognition is confined to ones that are deemed to be in the public interest or whose activities constitute a public service or contribute to the good name of the Principality. The GET was informed during the visit that no political associations had been granted such recognition and, accordingly, none received any public funding.
23. Political associations are a relatively recent phenomenon in Monaco and therefore have fairly straightforward organisational structures. According to information supplied to the GET, there appears to be no entities related to, or in any way under the control of, political parties. There are therefore no regulations governing the financing of such entities.

Election campaigns

24. As noted earlier, flat-rate compensation is available to meet national and local election expenses. This is provided for in section 33 of amended Act 839 of 23 February 1968 on the organisation of national and local elections. The precise amounts for each election are specified in ministerial decrees. For example, in national elections lists that obtained at least 5% of the eligible – in accordance with section 20-1 – votes cast or at least one of whose candidates received the support of at least a quarter of the number of persons voting are entitled, following submission of supporting documentary evidence, to reimbursement of their election campaign expenses. At the 2008 national elections, compensation was set in ministerial decree 2007-499 of 11 October 2007 at € 25 000 without, and € 27 500 with, room hire.
25. The flat-rate payment is designed to cover expenses incurred during the pre-election period, defined as the period between the 90th day and the Friday evening preceding election day (article 2 of the ministerial decree of 11 October 2007). This period has to be distinguished from the official campaign, which lasts eight days.
26. Moreover, under section 33.1 of Act 839 of 23 February 1968, the municipal authorities provide each candidate or candidate list, free of charge, on deposit of the written notification of candidacy and irrespective of the application of section 27, with a) a copy of the electoral register and, b) three pre-addressed envelopes to each registered voter, indicating the election concerned and the date of the election.
27. The rules governing reimbursement of local election expenses are more or less the same. Under ministerial decree 2011-37 of 25 January 2011, in connection with the municipal elections of 13 March 2011, compensation is paid to candidate lists one of whose candidates has received at least 5% of the votes cast. The sums allocated for the March 2011 elections were similar to those pertaining to the national elections: € 22 000 without, and € 26 000 with, the hire of an election meeting hall. The decree provides for slightly lower amounts – respectively € 14 500 and € 18 000 - in the event of a second round of voting.

Sources of financing and expenditure

28. The financing of political parties and election campaigns is entirely free and unregulated, apart from the rules on: a) the flat-rate reimbursement of campaign expenses (see above), and b) more generally, section 9 of the Associations Act, under which associations may only acquire premises for use in their activities and may only accept inter vivos donations or inheritances with the

authorisation of the crown, which is issued by sovereign order, following an opinion of the Council of State.

29. As already noted, Monegasque political associations are fairly small bodies that have few financial requirements aside from election campaigns. They do not normally own their own premises or employ salaried staff. They therefore have very limited operating costs. Nevertheless, National Council election campaigns have been characterised by a significant rise in costs and budgets. Thus, according to information supplied to the GET, at the last elections the two main lists spent more than half a million Euros, which given the size of the Principality and the limited number of voters is a considerable sum. Several of the persons with whom the GET spoke referred to “American-style election campaigns” and said that candidates had called on the services of paid professionals and communications specialists. There had been numerous formal and informal meetings and other gatherings with voters, sometimes held in up-market hotels and restaurants and attended by stage and media personalities. Over and above the aforementioned flat-rate payment by the state, the GET was informed that these campaigns were mainly financed by elected members, who hand over part of the parliamentary allowance to their party or list, and by candidates, as a fee for inclusion on their list. The political association representatives whom the GET met stated that they accepted only small donations from individual contributors and none from corporations. However, in the absence of public financial documentation on the financing of parties and lists, the GET was unable to verify these claims.
30. Most observers were of the opinion that local election campaigns were conducted on a much smaller scale – in the order of € 50 000 to 120 000 according to the candidate list concerned. Based on information gathered by the GET they were financed by the candidates themselves, with the support of private donors.

III. TRANSPARENCY OF PARTY FUNDING – SPECIFIC PART

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

Books and accounts

31. There are no specific rules governing the accounts of political associations or candidates or candidate lists for election. Nor is there any standard accounting format or plan.

Reporting obligations

32. There are no rules on this subject concerning political parties or election campaigns, other than those governing the presentation of documentary evidence to accompany applications for reimbursement of campaign expenses. In connection with the most recent parliamentary elections, in February 2008, ministerial decree 2007-499 of 11 October 2007 required the official agent nominated by each list, within three months of the publication of the final election results, to submit to the Secretary General of the Ministry of State, on behalf either of the list or of the association or associations supporting that list, a statement summarising expenses incurred, accompanied by all the vouchers constituting proof of payment, made out in the name of the list or the name of the association(s) that supported it. These vouchers had to be linked directly to the election campaign and could not involve the purchase of any capital items. In practice, the vouchers produced concerned expenditure in an amount equivalent to the legally-defined flat-rate payment (€ 25 000 to 27 500), which, as already mentioned, represents only a small proportion of actual campaign expenses. There is no obligation to report any expenditure over and above this amount.

33. For the last municipal elections, in March 2011, ministerial decree 2011-37 of 25 January 2011 laid down, in less detailed terms than the decree referred to above, that requests for reimbursement of campaign expenses should be lodged with the Secretary General of the Ministry of State within three months of the publication of the final election results. There was no requirement for supporting documentation.

Access to accounting records

34. There are no rules on this subject concerning either political associations or election campaigns, apart from the need to present invoices in support of requests for public assistance in the form of the fixed-rate reimbursement of campaign costs. Nor are there any rules on the minimum length of time accounting records must be retained.

Publication of accounts and donations

35. There are no rules on this subject, in connection with either the annual accounts of parties or campaign accounts.

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

Private auditing; public supervision of accounts

36. There are currently no auditing requirements binding on parties or candidates for election.
37. With regard to external supervision, according to the answers to the questionnaire, recognised associations receiving public funding are subject to the provisions of Act 885 of 29 May 1970 on the financial control of private law bodies receiving state subsidies, whereby the state may not disburse any subsidies, in whole or in part, until the general controller of expenditure has issued a reasoned opinion, on the basis of the balance sheet and annual accounts of the body concerned, from which the general controller may seek to obtain any necessary explanations or supporting documentation. This official has the necessary powers of investigation to carry out documentary and other on-the-spot checks on any accounting or other financial documents relevant to the use of the public funding or to the management and use of the grant to ensure that it is consistent with the purpose for which the grant was made. These provisions apply in full to political associations and to election candidates for any expenses submitted up to the maximum reimbursement level (see paragraph 32).

(iii) Sanctions

Sanctions

38. In the absence of rules on the transparency and supervision of political association and election campaign financing, there is no specific system of sanctions.

Immunities

39. As the regulations currently stand, there is no system of immunities that would impede the application of any sanctions for breach of the political financing rules. Such sanctions do not in fact exist. The general system of immunities, applicable in particular to members of parliament,

was described and analysed, together with proposed improvements, in GRECO's last evaluation report on Monaco.³

IV. ANALYSIS

General considerations

40. Political parties have only recently emerged in Monaco, particularly following the 2002 constitutional reform, which increased the level of pluralism and offered a degree of representation to the opposition within the unicameral parliament, the National Council. The representatives of these bodies met during the visit also often objected to the use of the term "party", preferring that of "political association". Monegasque political associations are in fact small, non-professionalised and fairly unstructured bodies based more on individuals than on ideology. Their recent emergence also reflects the size of the Principality and its electorate (about 6 000 persons), leading to close proximity of voters to the political establishment and making the intermediation of parties less necessary than elsewhere. Another distinctive feature is that political parties and elected members are not involved in exercising executive power, which under the Constitution is the exclusive responsibility of the Prince. The role of the elected members of the National Council is confined to participating, jointly with the Prince, in the preparation of legislation within that assembly.
41. These limitations on Monegasque political parties are not however reflected in a lack of public interest in the political process. Indeed, the Principality is characterised by an animated political scene and a flourishing corps of associations. Turnout at elections is high (76.7% at the most recent national elections) and while the membership of parties represented in the National Council ranges between 200 and 400, this constitutes a higher proportion of the electorate than in many other larger countries. This dynamism can also probably be attributed to the proximity between voters and elected members resulting from the small size of the country and its electorate, as mentioned above. This means that the outcome of elections may have a more direct and visible impact on citizens' lives than in larger countries.
42. The dynamism of the political scene is particularly marked during elections to the National Council and political parties' budgets and activities are devoted in the main to the relevant election campaigns. It is a reflection of the importance of these elections that the only rules on political financing in Monaco concern the fixed-rate reimbursement – about € 25 000 – of parties' campaign expenses for National Council and municipal council elections. Since the national elections of 2003 and, even more, 2008, the budgets for National Council campaigns are generally considered to have become exorbitant, placing considerable financial strain on the organisers of lists and candidates. The GET was told of sums of up to € 800 000 for certain lists. Elections to the municipal council, in contrast, even though they involve the same electorate and single electoral constituency, are accompanied by much more modest campaigns, with budgets ranging from € 50 000 to 120 000. Such campaigns are less expensive because there is less political competition and parties are not involved in these elections, which focus on local leading figures.
43. The GET considers that one reason for this escalation in electoral expenses in National Council elections undoubtedly lies in the Principality's electoral system (see paragraph 16), in which despite the introduction of a certain measure of proportionality the list that comes first obtains a very strong parliamentary majority. The election therefore becomes crucial for the lists, hence the

³ See [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/reports\(round2\)_en.asp](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/reports(round2)_en.asp)

explosion in election expenditure, with certain accompanying risks to which the GET wishes to draw attention, namely a "censitary" tendency in the system, with only those having sufficient financial resources being able to stand - together with the danger that elected members will become dependent on donors and sponsors, leading to a qualitative decline in the standard of campaigns, as the content of the debates becomes subordinated to marketing factors and promises of non-financial benefits.

44. The Monegasque government and those involved in the political process are aware of these risks and agree on the need to modify and extend the campaign financing rules. In late 2010, the government therefore initiated discussions on political financing and related areas, such as the amount of air time available to candidates at elections. A report on election campaign financing and audiovisual pluralism (hereafter the Cotteret report after the French academic who produced it) was published in February 2011. Another report commissioned by the National Council (the Carcassonne report, after its author, a French constitutional lawyer) considers the organisation and functioning of the National Council⁴. A joint working group of members of the government and of majority and opposition members of the National Council was set up in summer 2011 to discuss the proposals made in the Cotteret report and the resulting changes that would be required to Monegasque legislation. The authorities have also voiced their wish to include the findings of the present analysis in the group's work. The GET welcomes these initiatives and the broad consensus that appears to be emerging among politicians regarding the report's proposals, which will be considered in more detail below. However, it must emphasise the need for reforms to extend beyond election campaigns alone to include the financing of political parties, even though these are still at the embryonic stage. This is because the negative side of a system based purely on the reimbursement of campaign expenses with no general regulation of the problem of party funding is that, outside election campaigns, such funding is largely occult, and therefore evades any form of oversight. The GET therefore encourages the Monegasque authorities to adopt a comprehensive approach to the forthcoming reforms and hopes that this report will contribute to the current discussion on the need to regulate these matters, drawing on Recommendation Rec(2003)4 of the Committee of Ministers on common rules against corruption in the funding of political parties and electoral campaigns.

Transparency

45. Monegasque political parties are not subject to any special accounting rules. As associations, they simply have to prepare a financial report on the previous year's accounts. There are no rules governing the form of these reports, the types of income and expenditure they should include or the required level of detail. Reports have to be presented to the relevant association's annual general meeting but are not subject to any external or public scrutiny, since political parties are not associations recognised by the state and, as such, recipients of public funding (see paragraph 22). Nor are these reports made public.
46. There are however certain rules on the financing of election campaigns to both the National Council and the municipal council. These rules apply not to the parties but to the candidate lists,⁵ which must, in order to receive the fixed-rate reimbursement of campaign expenses, submit to the Secretary General of the Ministry of State a statement of campaign expenses incurred by the

⁴ The content of this report falls outside the scope of this analysis. It should, however, be noted that it proposes the creation of parliamentary groups – which do not yet exist – in the National Council. At least three members would be required to form such a group and each group would be allocated one parliamentary official, financed from the National Council's budget, for every three members.

⁵ Candidates for election to the National Council and the municipal council are required to appear on a list. They may not stand as individuals. The lists are *de facto* associations, with no legal personality.

list or the political associations supporting it, together with relevant supporting documentation (ministerial decree 2007-499 of 11 October 2007). However, since the information presented only concerns amounts corresponding to the pre-determined fixed-rate reimbursement, currently about € 25 000, and since, as already mentioned, this sum only corresponds to a small proportion of each candidate list's real campaign expenditure, this information is not sufficient to dispel the opacity surrounding election campaign budgets, particularly as it is not published or made accessible to the public in any other way. Nor is there any reporting obligation concerning expenditure over and above this sum or the income side.

47. To take more account of the reality of election campaigns, the Cotteret report proposes that the pre-campaign period be extended from 90 to 120 days and that all expenditure during this period, both direct and indirect, be taken into account. The GET supports this proposal, but wishes to stress that it has to be supplemented by other measures to establish greater transparency concerning, not just campaign expenses but also sources of income, as well as political association accounts outside election periods, in accordance with articles 11 to 13 of Recommendation Rec(2003)4. These provisions require political parties and election campaign organisers to keep proper books and accounts, and to publish, regularly and at least annually, sufficiently detailed information concerning these accounts. For this purpose, a standardised accounting format should make it possible to take account of the various forms of expenditure and income – loans and repayment of loans, income from assets, contributions in various forms, including in kind, sponsorship and so on – and allow easy comparisons. Steps should also be taken to ensure that the future accounting rules are not bypassed, for instance by arranging for certain expenditure to be effected before the start of the pre-campaign period. However all these requirements should be designed in a sufficiently flexible manner to ensure that they do not place an excessive burden on small, relatively unprofessional, parties. In the light of the foregoing, the GET recommends **(i) to introduce full and adequate rules concerning political party and election campaign accounts; (ii) to ensure that income, expenditure and the various assets and liabilities are presented in the accounts in adequate detail, in full and in a coherent form and (iii) to ensure that political party and election campaign accounts are made accessible by the public in an easy and timely way.** Finally, although at present there do not appear to be any entities in the Principality that are linked directly or indirectly to political parties or are otherwise under their control, it may be necessary, if such entities emerge in the future, to consider ways of consolidating party accounts to include the assets and liabilities of such entities.
48. Monegasque legislation currently imposes no restrictions on contributions – in cash or in kind – to political parties and election campaigns. Individuals and legal persons may make unlimited contributions, anonymously if they so choose. The GET has also learnt that electoral lists sometimes receive support in kind or services free of charge or at preferential rates, such as the hire of halls at below market rates, which is not recorded and declared in campaign accounts. It also sometimes happens that some campaign expenses are borne by third parties, again without going through campaign accounts. The party representatives met during the visit denied receiving significant donations, particularly from businesses and other legal persons, and said that most of their income came from the pocket of election candidates, who have to pay a fee of up to € 4 000 for inclusion on candidate lists, from the transfer by National Council members of part of their parliamentary allowance and from bank loans. However, other sources seemed to suggest that certain business interests, particularly property developers, made a significant contribution to election campaign financing. This uncertainty offers a clear illustration of the negative effects of the absence of rules governing the transparency of political funding, entailing complete opacity as to the sources of funding of considerable campaign budgets, and raises suspicion that public decisions could be influenced by donors' private interests.

49. During the visit, members of the political community expressed considerable reservations about the idea of publishing donations and donors' identities, fearing that such a step would lead to a considerable decline in this source of finance. It was also suggested that in the absence of income tax and tax allowances for donations in Monaco it would be impossible to check the accuracy of information supplied by parties and candidates regarding their funds and donations received. Concerning the fears of a drop in donations, the example of other countries where there is much greater transparency of political funding suggests that they are unfounded. The factors that might induce individuals and legal persons to offer political parties financial support – agreement with their political ideas and programmes, a wish to support the democratic process, economic or financial interests – do not disappear with the development of transparency. The GET also considers that the argument that the Monegasque tax system makes it impossible to monitor parties' and candidates' resources cannot be allowed to prevent the introduction of rules on the publication of donations, in accordance with articles 12 and 13 of Recommendation Rec(2003)4. Finally, while the GET recognises the need to respect persons' legitimate right to confidentiality concerning their political affiliation, it believes that a proper balance must be struck between this right and the right of voters to be aware of the sources of parties' and candidates' finances. A reasonable threshold should therefore be set that takes account of Monaco's specific circumstances. With a view to establishing greater transparency and effective enforcement of the rules governing political financing, the GET therefore recommends **(i) to provide a regulatory framework for political party and campaign finances which will *inter alia* address donations – including donations in kind, which must be assessed at their real market value – loans and contributions from elected members and candidates; (ii) in this connection, to introduce a ban on donations from individuals or institutions that fail to disclose their identity to the political party or candidate, and (iii) to make provision for publication in due course of donations above a certain level and the donor's identity.**
50. The recent explosion in the cost of election campaigns for the National Council referred to above has led to a discussion in the Principality's political community about the possible need for a cap on election spending, which the Cotteret report proposes should be set at € 450 000 or 500 000. This would be matched by a very significant increase, to between € 100 000 and 150 000, in the payment made by the state to reimburse campaign expenses, so as to bring it more into line with expenditure actually incurred by electoral lists. These figures appeared to have broad support among the persons with whom the GET spoke, who considered them reasonable. The introduction of such a limit would be consistent with Article 9 of Recommendation Rec(2003)4, even though it does not fall strictly within the scope of this evaluation. The GET therefore supports such a measure, to enable election candidates to promote their ideas and get them across to the electorate as effectively as possible, without infringing the principle of equality of arms in the political process. It is therefore important for the agreed limits to represent a reasonable balance that takes account of the situation in Monaco, established democratic principles and the will to limit spending and ensure that candidate lists benefit from equality of arms.

Supervision

51. There is currently no obligation to verify Monegasque political parties' accounts. In the case of campaign accounts, the only outlays that are checked are those disclosed by candidate lists to claim the fixed-rate reimbursement of campaign expenses, which is about € 25 000. These expenses, accompanied by supporting documentation, are scrutinised by the general controller of expenses, who checks the reality of each item of expenditure and its date and has the

necessary powers of investigation to carry out this duty. Campaign expenses in excess of the state fixed-rate reimbursement are not subject to any scrutiny.

52. The Cotteret report proposes the establishment of an independent commission to scrutinise campaign accounts, which would be composed of the president of the public accounts committee, the general controller of expenses and the inspector general of administration. This commission would check that campaign expenses did not exceed the authorised maximum. It would also examine the relationship between each list's declared expenses during the campaign and the public financial support it receives. The politicians also appear to agree with the Cotteret report's recommendations concerning oversight. The GET welcomes these proposals, which are consistent with Recommendation Rec(2003)4. However, it emphasises that the Recommendation advocates the supervision not only of election campaign accounts but also of political party accounts, and in that connection the monitoring not only of expenditure but also of income. For this purpose, even though, as already noted, Monegasque political parties are presently not very structured and do not have significant resources, the GET considers that a properly conducted audit of their accounts by an independent auditor could offer a not insignificant means of scrutiny whose value has been demonstrated in other countries. The GET also notes that it is essential above all for any form of external supervision or monitoring to enjoy an appropriate degree of independence. It should have sufficient resources to carry out substantive and proactive checks, including the material verification of information received, and powers of investigation, and in addition be empowered to impose sanctions for breach of the rules on political financing. The GET therefore recommends **to ensure the effective and independent public monitoring of political party and campaign financing, in accordance with Article 14 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns.**

Sanctions

53. With regard to sanctions, the Cotteret report considers that the future campaign accounts commission should be able to propose the non-payment, in whole or in part, of the public grant to reimburse campaign expenses and/or the issuing of a public warning to the list concerned. Some of the persons with whom the GET spoke expressed doubts about the effectiveness of the latter sanction and thought that it should be accompanied by the possibility of criminal prosecution. These proposals, which seek to fill the current gap in the legislation in this regard, are also consistent with Article 16 of Recommendation Rec(2003)4. The GET welcomes the idea that certain of these sanctions could be imposed directly by the campaign accounts commission. Such powers could be an effective means of helping the commission to carry out its responsibilities. Although criminal penalties might be an appropriate response to the most serious breaches of the financing rules, they could be difficult to apply in practice. They should therefore be accompanied by more flexible sanctions, not necessarily involving criminal proceedings before the courts, in the event of less serious breaches. The GET therefore encourages the authorities to continue the work in progress with a view to establishing a full range of sanctions and recommends **that the future rules on political party and election campaign financing be accompanied by effective, proportionate and dissuasive sanctions for breaches of the various requirements of these rules.**

V. CONCLUSIONS

54. Political parties in the Principality of Monaco are a recent phenomenon and are still just at the embryonic stage. They do not receive any public funding and are not subject to any binding rules on transparency or any form of monitoring of income and expenditure. The legislation on the financing of election campaigns is hardly any more developed, as it simply provides for a flat-rate payment to reimburse campaign expenses incurred for elections to the National Council and the municipal council and the checking of expenses presented by the candidate lists to obtain this payment. The Monegasque political scene is nevertheless active and the last two elections to the unicameral parliament, the National Council, were accompanied by a steep rise in campaign costs, which was particularly impressive given the small size of the country and the Monegasque electorate and the fact that elections to the local authority, the municipal council, which has the same electoral boundaries and the same electorate, did not replicate this trend. In order to contain this growth and exercise more control over political financing, the Monegasque authorities and the political parties agree on the need to reform the current rules on election campaign financing, and discussions on the subject are currently under way, which is to be welcomed. The envisaged reforms would introduce a ceiling on election expenses and require candidate lists to submit properly drawn up campaign accounts, which would be scrutinised by an independent commission with powers to investigate and impose sanctions. These proposals are a step in the right direction but do not appear sufficient to satisfy the requirements of Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and electoral campaigns. They therefore need to be supplemented by provisions on the transparency of the financing not only of election campaigns but also of political parties to include in particular the publication of accounts and of donations received above a certain value, whatever form these contributions take. There is also a need to extend the planned reforms to make the verification of accounts and sanctions for breaches of the future rules applicable to political parties as well as to election campaigns.
55. In the light of the foregoing, GRECO addresses the following recommendations to Monaco:
- i. **(i) to introduce full and adequate rules concerning political party and election campaign accounts; (ii) to ensure that income, expenditure and the various assets and liabilities are presented in the accounts in adequate detail, in full and in a coherent form and (iii) to ensure that political party and election campaign accounts are made accessible by the public in an easy and timely way (paragraph 47);**
 - ii. **(i) to provide a regulatory framework for political party and campaign finances which will *inter alia* address donations – including donations in kind, which must be assessed at their real market value – loans and contributions from elected members and candidates; (ii) in this connection, to introduce a ban on donations from individuals or institutions that fail to disclose their identity to the political party or candidate, and (iii) to make provision for publication in due course of donations above a certain level and the donor's identity (paragraph 49);**
 - iii. **to ensure the effective and independent public monitoring of political party and campaign financing, in accordance with Article 14 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns (paragraph 52);**

- iv. **that the future rules on political party and election campaign financing be accompanied by effective, proportionate and dissuasive sanctions for breaches of the various requirements of these rules** (paragraph 53).
56. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the Monegasque authorities to present a report on the implementation of the above-mentioned recommendations by 30 September 2013.
57. Finally, GRECO invites the authorities of the Principality to authorise, as soon as possible, publication of this report.