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Third Evaluation Round

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

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

1. Slovenia joined GRECO in 1999. GRECO adopted the First Round Evaluation Report (Greco Eval I Rep (2000) 3E) in respect of Slovenia at its 4th Plenary Meeting (12-15 December 2000) and the Second Round Evaluation Report (Greco Eval II Rep (2003) 1E) at its 16th Plenary Meeting (Strasbourg, 8-12 December 2003). The aforementioned 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 Corruption (ETS 173)¹, Articles 1-6 of its Additional Protocol² (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
 - **Theme II – Transparency of party funding:** Articles 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)⁴ on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).
3. The GRECO Evaluation Team for Theme II (hereafter referred to as the "GET"), which carried out an on-site visit to Slovenia from 4 to 6 July 2007, was composed of Mr Jussi AALTONEN, Senior Adviser, Ministry of Justice (Finland), Mr Hubert SICKINGER, Research fellow of the Institute of Conflict Research, Lecturer (political science) at the Vienna University (Austria) and, the scientific expert, Ms Patricia PENA, Former Director of Regulatory Services of the UK Electoral Commission. The GET was supported by Ms Tania VAN DIJK and Ms Laura SANZ-LEVIA from GRECO's Secretariat. Prior to the visit the GET was provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2007) 5E, Theme II) as well as copies of relevant legislation.
4. The GET met with officials from the following governmental organisations: Commission for the Prevention of Corruption, Ministry of the Interior (Division for Traffic, Public Assembly and Weapons, the Inspectorate for Internal Affairs and the General Police Directorate), Ministry of Finance (Office for Budget Control and Division for Corporate Income Taxation) and Court of Audit. In addition, the GET met with representatives of the following political parties: Nova Slovenija (New Slovenia), Socialni Demokrati (Social Democrats) and Strank mladih Slovenije (Youth Party of Slovenia). The GET also met with the former president of the parliamentary Public Accounts Committee and with representatives of media, academia and the business community.
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 Slovenian 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

¹ Slovenia ratified the Criminal Law Convention on Corruption (ETS 173) on 12 May 2000. The Convention entered into force in respect of Slovenia on 1 July 2002.

² Slovenia ratified the Additional Protocol to the Criminal Law Convention (ETS 191) on 11 October 2004. It entered into force in respect of Slovenia on 1 February 2005.

adopted by GRECO and addressed to Slovenia in order to improve its level of compliance with the provisions under consideration.

6. The report on Theme I – Incriminations, is set out in Greco Eval III Rep (2007) 1E-Theme I.

II. TRANSPARENCY OF PARTY FUNDING – GENERAL PART

Definition of political party

7. Pursuant to Article 1 of the Political Parties Act (*ZPo/S*), a political party is “an association of citizens who pursue their political goals as adopted in the party’s programme through the democratic formulation of the political will of the citizens and by proposing candidates for election to the National Assembly, for election as president of the republic and for election to local community bodies”.

Founding and registration

8. The Political Parties Act (*ZPo/S*) provides that a party may be founded by at least 200 adult citizens of the Republic of Slovenia, who have full legal capacity. Each of the founders of the party has to sign³ a founding declaration which is to include their name, date of birth, nationality and address, the full name, shortened name and abbreviation of the party, a declaration accepting the statute of the party and its programme.
9. In order to be registered, an application is to be made to the register of parties, at the Ministry of the Interior. Pursuant to Article 10, Political Parties Act (*ZPo/S*), this application is to include:
- a minimum of 200 founding declarations;
 - the party statute⁴ and programme;
 - the minutes of the founding assembly, meeting or congress, stating the elected bodies of the party and the office-holder who in accordance with the statute represents the party (i.e. the representative of the party);
 - an illustration of the symbol of the party.
10. The Ministry of the Interior checks the statute and the founding declaration – if it suspects that either the statute or the programme is unconstitutional, it can apply to the Constitutional Court to have the party declared unconstitutional.

³ Signature to be certified by a notary.

⁴ Pursuant to Article 19 of the Political Parties Act, the statute of the party must determine:

- (1) the name, shortened name, abbreviation, symbol and head office of the party;
- (2) the internal and territorial organisation of the party;
- (3) the rights and duties of a member of the party;
- (4) the procedure and the body, which determines candidates for election to the National Assembly and for election as president of the republic and candidates for election to local community bodies;
- (5) the method for ensuring equal opportunities for both sexes in determining candidates for election;
- (6) the procedure for deciding on the dissolution of the party and the procedure for deciding on a merger, to join or be joined by another party or to split the party, and on succession of the party;
- (7) the procedure and the body which regulates the financial affairs of the party in the event of the party being removed from the register;
- (8) the responsibility for the material and financial operations of the party (usually the Secretary-General of the party, who is also the person on whom sanctions can be imposed);
- (9) the term of office of the members of the bodies of the party;
- (10) the procedure for adopting and amending the statute and programme of the party.

The statute may provide for the founding of other bodies of the party.

11. The name of the party, its representative, information on its head office, its statute and programme is entered in the register of parties and this information is accessible by the public. Pursuant to a recent amendment to the Political Parties Act⁵, information on the personal identification number or date of birth, gender, nationality, and address of the representative of the party is also public information. In addition, the name of the party, the decision to enter the party in the register and the illustration of the symbol of the party (Article 12, Political Parties Act / ZPo/S), is published in the Official Gazette of Slovenia (and on the web-site of the Ministry of the Interior). All aforementioned data can be accessed directly at the Ministry itself or through an oral or written request. Information on the founders of the political party falls under data protection laws and is thus not made public.
12. From the moment of registration the political party has legal personality and can acquire rights and obligations. From that moment on the party is liable for its obligations with all its assets. Members, founders and/or representatives of the party are not liable for the obligations of the party.
13. In March 2007 there were 55 registered political parties in Slovenia, of which 2 were in the process of being removed from the register.⁶

Participation in elections

14. Slovenia is a parliamentary republic, with a multi-party system. Its legislature is the bi-cameral Parliament, composed of the 90-seat National Assembly and the 40-seat National Council⁷. Its head of state is the president⁸, who is elected by direct popular vote for a five-year term (with a maximum of two consecutive terms in office).
15. All citizens of the Republic of Slovenia who have reached the age of 18 years and have full legal capacity have the right to vote and be elected, as stipulated in Article 43 of the Constitution (and Article 7 of the National Assembly Elections Act).
16. Candidates for the National Assembly can be nominated by political parties and voters (Article 42, National Assembly Elections Act). Each political party determines candidates by secret ballot via the procedure determined in its own regulations (Article 43, National Assembly Elections Act). A political party may submit a list of candidates in every electoral unit⁹, if its lists are supported by signatures of at least 3 members of the National Assembly. In an electoral unit the list will have to be supported by the signatures of at least 50 voters residing in the electoral unit in question if the candidate list has been chosen by the members of the party, or at least 100 voters residing in the electoral unit in question if they have not been nominated by members of the party. Two or more political parties may submit a joint list of candidates. Candidates may also be unaffiliated to a

⁵ These amendments were adopted on 29 October 2007 and enter into force on 28 November 2007.

⁶ Pursuant to Article 17 of the Political Parties Act (ZPo/S), parties can be removed from the register, upon request of a party, if it has been established that the entry of the party in the register has been carried out on the basis of false information or if it has been established that the party has not participated in elections to the National Assembly or in local elections twice in a row. The registration body is furthermore obliged to remove parties from the register pursuant to a decision of the Constitutional Court or if a court annuls the decision to enter a party in the register.

⁷ The National Council performs an advisory role. Its 40 members are elected for 5-year terms by the National Assembly and are employers, employees, farmers, tradesmen and self-employed persons; there are also representatives of the non-economic sector and local interest groups.

⁸ Although the Constitution entrusts the president with some powers, the president's position is mainly of a ceremonial nature. The most recent presidential elections took place in December 2002, when Janez Drnovsek was elected as head of state.

⁹ There are 8 electoral units in Slovenia, in addition to 2 separate electoral units for the Hungarian and Italian communities.

political party, in which case they are to be nominated by a group of no less than 100 voters within the electoral unit in question¹⁰ (Article 44, National Assembly Elections Act). Candidates may stand for election in only one electoral unit and may only appear on one list.

17. Elections for 88 out of the 90 seats in the National Assembly are held in the 8 electoral units, each of which are further divided into 11 districts with an approximately equal number of inhabitants (Article 20, National Assembly Elections Act). The National Assembly seats are distributed at two levels: at the level of the electoral unit and at national level. Votes which are not allocated to candidates in the electoral units are redistributed to the lists at the national level using the D'Hondt formula¹¹ (Article 92, National Assembly Elections Act). The remaining two members of the National Assembly are elected separately, by ethnic Hungarian and Italian minorities using the Borda count¹².
18. The threshold for entering parliament is 4 percent of the total number of votes cast on the territory of Slovenia.

Party representation in Parliament

19. In the last elections for the National Assembly, which were held on 3 October 2004, 20 political parties participated¹³, of which 7 acquired seats (in addition to the two seats reserved for the Hungarian and Italian communities):

- Slovenian Democratic Party* (SDS)	- 29 seats
- Liberal Democracy of Slovenia (LDS)	- 23 seats ¹⁴
- United List of Social Democrats (ZLSD)/ Social Democrats ¹⁵	- 10 seats ¹⁶
- New Slovenia-Christian People's Party* (NSi)	- 9 seats
- Slovenian People's Party* (SLS)	- 7 seats
- Slovenian National Party (SNS)	- 6 seats

¹⁰ Candidates for two seats in the National Assembly representing respectively ethnic Hungarian and Italian minorities can be nominated by at least 30 voters who are members of the Hungarian and Italian national communities.

¹¹ The D'Hondt method in party-list proportional representation systems makes use of a so-called quotient for allocating seats. After all the votes have been tallied, seats are allocated to parties which secure the highest quotient up to the total number of seats available. The quotient is calculated by dividing the total number of votes a party has received by the number of seats which have already been allocated to the party (initially 0) plus 1. The formula is thus: $Votes / (Seats + 1)$. The party list which has the highest quotient is allocated the next seat and the quotient is subsequently recalculated. This process is repeated until all seats have been allocated.

¹² The Borda count is a single winner election method in which voters rank candidates in order of preference. The Borda count determines the winner of an election by giving each candidate a certain number of points corresponding to the position in which s/he is ranked by each voter. Once all votes have been counted the candidate with the most points is the winner. Because it sometimes elects broadly acceptable candidates, rather than those preferred by the majority, the Borda count is often described as a consensus-based electoral system, rather than a majoritarian one.

¹³ These political parties were: Slovenian National Party, Democratic Party of Slovenian Pensioners, Greens of Slovenia, Slovenian Democratic Party, Party of Slovenian Nation, Democratic Party of Slovenia, United List of Social Democrats (today: Social Democrats), Association for Primorska, Liberal Democracy of Slovenia, Social and Liberal Party, New Democracy of Slovenia, Advance Slovenia, Union of Independent Candidates of Slovenia, Slovenia People's Party, New Slovenia – Christian People's Party, Youth Party of Slovenia, Women's Voice of Slovenia, Party of Ecological Movements, Slovenia Is Ours and Active Slovenia.

¹⁴ On 25 January 2007, one person resigned from the LDS parliamentary group, followed by three more on 22 February, and two on 2 March. They now work in a parliamentary group as unaffiliated members of parliament. On 19 March 2007 four persons resigned from the LDS parliamentary group. They joined the Social Democrats parliamentary group. On 28 March 2007 one person resigned from the LDS parliamentary group, followed by one more on 30 March 2007. The LDS parliamentary group now consists of 11 persons.

¹⁵ In 2005, the United List of Social Democrats (ZLSD) shortened its name to Social Democrats.

¹⁶ Four persons resigned from the LDS parliamentary group. They joined the Social Democrats parliamentary group. The Social Democrats parliamentary group now consists of 14 persons.

- Democratic Party of Slovenian Pensioners* (DeSUS) - 4 seats
- Representative of the Hungarian community - 1 seat
- Representative of the Italian community - 1 seat

20. Four parties (indicated above with *), namely the Slovenian Democratic Party (SDS), New Slovenia – Christian People's Party (NSi), the Slovenian People's Party (SLS) and the Democratic Party of Pensioners of Slovenia (DeSUS), went on to form the current coalition government.

Overview of the political funding system

Legal framework

21. The rules governing the funding of political parties and election campaigns are contained in the Political Parties Act (ZPo/S) – as regards the funding of the routine activities of political parties -, the recently adopted Elections and Referenda Campaigns Act (ZVRK) – as regards the funding of election campaigns for the National Assembly, the presidency, municipal councils, mayors, Slovenian members of the European Parliament and campaigns for referenda – and the “Regulation on the contents and form of the annual reports and the abbreviated annual reports of political parties” (Ministry of Finance Regulation No. 2/01). In addition, after the visit the GET was informed that on 20 November 2007 the “Regulations on the content and form of the reports on the funds collected and used for election and referendum campaigns” entered into force.¹⁷
22. The Political Parties Act (ZPo/S) dates back to 1994. It was revised in 2000 following a ruling of the Constitutional Court which held that limiting the provision of public funds to parties with representation in parliament was unconstitutional. In October 2007, after the visit of the GET, certain amendments were adopted to this act. Apart from small technical changes and a slight adjustment of the level of fines which can be imposed under this act, the amendments extend the list of legal persons not permitted to donate to political parties. The amendments on the level of fines and the technical changes entered into force on 28 November 2007; the amendments of article 25 of this act – on non-permitted sources of donations - and sanctions for infringements of this article will enter into force on 1 January 2008.
23. The Elections and Referenda Campaigns Act (ZVRK) only entered into force as recently as May 2007. The first elections held under the new law were the presidential elections in October 2007. The Elections and Referenda Campaigns Act (ZVRK) replaces the Election Campaign Act (ZVo/K). Under the provisions of this old act two presidential elections, four local elections and three National Assembly elections had been held since its entry into force in 1994. The new Elections and Referenda Campaigns Act includes referenda¹⁸ within the scope of its provisions and implements changes proposed by the Court of Audit (as endorsed by the parliamentary Public Accounts Committee). The new act broadens the definition of campaign expenses, lengthens the term for closing the campaign bank account, submission of the report and carrying out the audit, introduces an obligation on election campaign organisers to be registered and includes more detailed provisions on sanctions. In addition, the new law removes the obligation to submit an interim financial report before the day of elections. Moreover, the new Elections and Referenda Campaigns Act gives the Inspectorate for Internal Affairs of the Ministry of the Interior

¹⁷ They were published in the Official Gazette No. 105/07.

¹⁸ The Election Campaign Act (ZVo/K) did not explicitly refer to elections to the European Parliament. However, article 8 of the Act on Elections of Slovenian Members of the European Parliament made the provisions of the Election Campaign Act (ZVo/K) also applicable to campaigns for the election of Slovenian members of the European Parliament. Under the new Elections and Referenda Campaigns Act (ZVRK) these elections have been explicitly included within the scope of the act.

the responsibility for imposing sanctions under this act. Previously this responsibility had been entrusted to the Court of Misdemeanours. After the abolishment of this Court in 2004, there was no body to sanction infringements of the old Election Campaign Act (*ZVoIK*)

Direct public funding

Political parties

24. Direct public funding is provided annually, pursuant to Article 23 of the Political Parties Act (*ZPoS*), to political parties which have received at least 1 percent¹⁹ of the votes cast at the last elections of the National Assembly. This means that a party does not necessarily have to hold a seat in the National Assembly to receive public funding. Ten percent of the funds allocated in the state budget for the financing of political parties is divided among these political parties (or coalitions of parties with a joint list) in equal shares; the remaining 90 percent is provided in proportion to the number of votes the parties (or joint lists of parties) received in all the electoral units. The funds allocated to political parties (and coalitions) are determined by the National Assembly in its first session following the adoption of the budget and may not exceed 0.017 percent of the gross domestic budget as calculated in the year prior to adoption of the budget.

25. In the period 2003-2006 the following funds have been allocated to political parties:

Political Party	2003 (€)	2004 (€)	2005 (€)	2006 (€)
LDS	843,874.43	795,287.08	572,219.68	585,381.07
SDS	385,193.88	471,511.06	722,869.75	739,496.19
SD (formerly ZLSD)	301,325.83	299,279.23	259,441.81	275,639.16
SLS	244,159.44	235,611.63	189,007.81	193,355.13
NSi	227,174.66	235,132.58	243,565.30	249,167.50
DeSUS	146,030.50	143,132.53	122,467.55	125,284.38
SNS	128,443.88	141,925.64	175,933.40	179,980.02
AS	0	22,740.54	96,766.75	98,992.49
SJN	0	20,748.81	88,291.44	90,322.23
SMS	127,336.01	117,455.12	75,496.75	77,233.25
TOTAL	2,403,538.53	2,482,824.24	2,546,060.24	2,614,651.43

26. Political parties participating in elections of the municipal council may receive direct public funding from the budget of local communities, although municipalities are not obliged to provide funding to political parties. This is subject to a decision by the competent body of a municipality and is to be determined by the budget of the local community for the particular budget year. To be eligible for this funding the party has to have obtained at least 50 percent of the votes required for the election of one member of the municipal council (Article 26, Political Parties Act / *ZPoS*). The amount of funds allocated to the financing of political parties may not exceed 0.6 percent of the funds the local community has set aside in accordance with the regulations governing the financing of municipalities. Public funding provided by municipalities to local or regional branches of the party will be regarded as funding of the political party as a whole: the internal distribution of these funds is a matter for the party itself²⁰.

¹⁹ In case of joint lists of 2 parties this is 1.2 percent of the votes cast and 1.5 percent of the votes cast for joint lists of three or more parties.

²⁰ The GET was informed, in this connection, that some municipalities objected to having the funding they provided to political parties at local level used for elections or activities of the party at national level.

Election campaigns

27. The Elections and Referenda Campaigns Act (ZVRK) provides for direct public funding of election campaigns, through reimbursement of election campaign expenses. Eligible for this reimbursement are so-called election campaign organisers, whether a political party, a candidate or another entity.²¹ As regards campaigns for the National Assembly (and European Parliament), election campaign organisers, whose candidates have managed to obtain seats in the National Assembly (or European Parliament), are entitled to the reimbursement of election campaign expenses in the amount of €0.33 per vote cast for their list, on the understanding that the total amount of reimbursed expenses does not exceed the amount of funds used (Article 24, Elections and Referenda Campaigns Act / ZVRK). Furthermore, election campaign organisers whose lists of candidates have obtained at least 6 percent of the total number of votes cast in a particular electoral unit or at least 2 percent of the total number of votes cast in the country are also entitled to partial reimbursement of €0.17 per vote for their list in the electoral unit or the country.
28. Direct public funding is also provided in respect of presidential election campaigns. Election campaign organisers are entitled to partial reimbursement of the expenses of their election campaign, in an amount of €0.12 for each vote cast in their favour, if they receive at least 10 percent of the total number of valid votes cast (Article 26, Elections and Referenda Campaigns Act / ZVRK).
29. Municipalities may furthermore decide on the partial reimbursement of expenses for mayoral and/or municipal council campaigns. The decision on the partial reimbursement of these expenses must be adopted by the municipality before the beginning of the election campaign. Municipalities may limit the partial reimbursement of expenses to only those election campaign organisers whose lists have obtained seats in the municipal council or whose candidates for the position of mayor have obtained a certain percentage of the total votes cast (this percentage may not be more than 10%). The partial reimbursement of expenses for the (municipal council) campaign shall not exceed the reimbursed amount per vote cast in the elections for the National Assembly (i.e. €0.33); the partial reimbursement of expenses for a mayoral campaign shall not exceed the reimbursed amount per vote cast in the presidential election campaign (i.e. €0.12). (Article 28, Elections and Referenda Campaigns Act / ZVRK).
30. Organisers of referenda campaigns are not entitled to reimbursement of their campaign expenditures (Articles 25 and 28 of the Elections and Referenda Campaigns Act / ZVRK)

Indirect public funding

31. Some form of indirect public funding of election campaigns is also provided for (for all the aforementioned elections as well as referenda): comprising free broadcasting time on the state-owned television channel *Radiotelevizija Slovenija* for the presentation of candidates and opinions on a particular issue for which a referendum is organised (Article 6, Elections and

²¹ Pursuant to Article 3 of the Elections and Referenda Campaigns Act (ZVRK), election campaigns may be organised by the candidates themselves, by those who/which propose candidates or lists of candidates, by political parties or by other election campaign organisers (In the case of a referendum this can also be the person/entity who/which proposed the referendum and other subjects interested in the result of the referendum).

Referenda Campaigns Act / ZVRK). In addition, campaign hoarding²² (billboards) is provided free of charge by municipalities (Article 8, Elections and Referenda Campaigns Act / ZVRK).²³

32. The authorities of Slovenia indicate that no other form of indirect public funding of either political parties or election campaigns is foreseen in Slovenian legislation. Nevertheless, during the visit the GET was informed that parliamentary groups in the National Assembly also received indirect public funds in the form of payment of the salaries of certain staff (secretaries, assistants etc.) of these parliamentary groups.²⁴

Private funding

Political parties

33. Pursuant to Article 21 of the Political Parties Act (ZPo/S), political parties may receive private funding in the form of:
- membership fees;
 - contributions from private persons²⁵, legal persons and natural persons (including services provided free of charge or at reduced price)²⁶;
 - income from property and income of a company owned by a party;
 - gifts;
 - bequests.
34. As regards the amount/size/periodicity of private contributions, Article 22 of the Political Parties Act provides that contributions from any individual donor, whether a natural or legal person, may in a given year not exceed 10 times the previous year's average monthly wage (which amounted to €1,212.80²⁷ in 2006; donations in 2007 could thus not exceed the limit of €12,128).
35. A number of restrictions apply to the sources of private funding. At the time of the visit of the GET, Article 25 of the Political Parties Act (ZPo/S) provided that state bodies, public institutes, public companies, local community bodies, humanitarian organisations, religious associations or commercial companies in which the invested public capital (i.e. money, shares, stakes etc.) amounts to 50% or more, may not finance political parties. Since the visit, an amendment to this article has been adopted, which provides that state bodies, public companies, local community bodies, legal persons governed by public law, humanitarian organisations, religious communities

²² Article 8 of the Election Campaign Act specifies that the number and total area of this campaign hoarding must enable basic information on the list of candidates or an individual candidate to be communicated to voters.

²³ In addition, but only exceptionally, premises of religious communities, governmental and municipal authorities, public institutes or other public entities may be used for pre-election meetings - but only if there is no other building with a hall in the municipality which would be able to accommodate a large number of people (Article 4 (3), Elections and Referenda Campaigns Act / ZVRK).

²⁴ After the visit, the GET received further information on the financial support provided to parliamentary groups, which is determined by the National Assembly. Pursuant to the Ordinance on the Internal Organisation, Positions and Titles in the Services of the National Assembly, the National Assembly provides to a parliamentary group: a secretary, two specialised staff members and an assistant, as well as one additional assistant per every eight parliamentarians; parliamentary groups of more than eight parliamentarians get one additional specialised staff member per every six parliamentarians. Moreover, the National Assembly provides funding of the equivalent to a monthly salary of an adviser to the National Assembly (approximately €2,100) to parliamentary groups per parliamentarian, to enable them to contract additional expert assistance.

²⁵ A private person is a sole proprietor.

²⁶ Pursuant to Article 22 of the Political Parties Act (ZPo/S), contributions include "any service performed for the party free of charge, or the performance of services for the party or the sale of products to the party under conditions that place the party in a more favourable position than other beneficiaries of the services of legal, natural and private persons or other than the buyers of the products of such persons".

²⁷ Statistical Office of the Republic of Slovenia, http://www.stat.si/eng/novica_prikazi.aspx?id=718.

or commercial companies in which over 25% of the capital shares is held by the state or a local community body, and companies in which those companies have a majority share, may not finance political parties. This particular amendment is set to enter into force on 1 January 2008.

36. In addition, pursuant to Article 21 of the Political Parties Act (*ZPo/S*), political parties are prohibited from receiving contributions from foreign private, natural or legal persons, from the income derived from the assets of a party abroad, foreign bequests, gifts from abroad or from obtaining any other funds from abroad or having services performed for the party abroad, with the exception of membership fees or contributions a party obtains from its members abroad.
37. As already indicated above, political parties may also receive funding in the form of income from property and profits from the income of a company owned by a political party. Companies owned by a political party may however only carry out cultural and publishing activities (Article 21, Political Parties Act / *ZPo/S*); the same rules apply to these companies as apply to companies not set up by political parties. The income from property and from a company owned by a party may together not exceed 20 percent of the party's total annual income. Any income in excess of this would have to be donated to a charitable cause. The GET was informed that very few political parties owned commercial companies: none of the three parties interviewed by the GET owned a company and only one example was given in the course of the visit of a publishing company owned by a political party. The GET was not made aware of any restrictions on involvement of these companies in tenders of which the procurer is a public entity: the companies owned by political parties are subject to the same procurement rules as other companies. Parties receiving substantial income from property was said to be slightly more common than those receiving income from party-owned companies, in particular as regards successors of the former Slovenian Communist Party, whose assets were never nationalised.²⁸
38. There is no express prohibition on anonymous contributions, but parties are implicitly required to record the names and addresses of their donors to comply with the requirements of the Political Parties Act (to report donations which exceed 3 times the average monthly salary in their annual report, to disallow donations exceeding 10 times the average monthly salary and to disallow foreign donations). The 3 political parties interviewed by the GET indicated that anonymous donations were in their opinion not possible as almost all donations would be made by bank transfer; on rare occasions when a donation would be made in cash the name and address of the donor would be recorded.
39. There are no restrictions or limits on membership fees, other than those applicable to private donations (see above). Membership fees tend to range from €5 to €20, exceptions however include the Youth Party which charges a fee of a symbolic amount and the Social Democrats which expect members to pay 1 percent of their net salary to the party (although less is also allowed)²⁹. As mentioned above, although foreign donations, income from the party's assets held abroad and foreign funding are prohibited, this does not apply to membership fees from members who live abroad (paragraph 21, Political Parties Act/*ZPo/S*).
40. Contributions - whether monetary or in-kind - to political parties by legal and natural persons are tax deductible up to 3 times the average monthly wage annually (Article 59 of the Corporate Income Tax Act and Article 52 of the Personal Income Tax Act respectively). A contribution by a

²⁸ See in this regard: J. Toplak, "Party funding in Slovenia", in: D. Smilov and J. Toplak (eds.), *Political Finance and corruption in Eastern Europe: The Transition Period* (Ashgate Publishing, 2007), pp. 176-177.

²⁹ *Id.*, pp. 174-175.

company to a political party is tax deductible up to 3 times the average monthly wage per employee of the company (approximately € 3,638.40 per employee of the company in 2007).³⁰

41. As regards organisations affiliated to political parties, the Slovenian authorities indicate that Slovenian legislation does not specifically regulate organisations of this sort and political parties would be able to establish foundations, research institutes and other non-commercial entities, which would be able to obtain their own funding and would not be bound by the provisions on funding of the Political Parties. The GET was informed that the setting-up of entities of this sort by a party is quite rare, although the participation of party members in closed societies which have formally not been set up by the party is more common.
42. One type of organisation which can be affiliated to a political party is a youth organisation. Youth organisations of a political party have a special status in the context of funding and their own sources of income. Article 21 of the Political Parties Act (*ZPoIS*) provides that youth organisations which have obtained the status of so-called “national youth organisation programme providers”³¹, may obtain funds for co-financing programmes and for the functioning of the youth organisation.

Election campaigns

43. Pursuant to Article 2 of the Elections and Referenda Campaigns Act (*ZVRK*) the election campaign starts at the earliest 30 days before voting day and ends 24 hours before the voting starts. Private funds for the election campaign are to be collected on a campaign bank account which is to be opened by the campaign organiser at least 45 days before the day of elections (or 25 days in case of a referendum), from which all expenses relating to the election campaign are to be paid (see also further below under ‘Expenditure’) or – if this is earlier than 45 days before the elections - prior to performing the first financial operation linked to the election campaign (Article 16, Election and Referenda Campaign Act).
44. As regards limits or restrictions on private funding in the context of an election campaign, Article 14 of the Elections and Referenda Campaigns Act (*ZVRK*) specifies that the provisions of the Political Parties Act (*ZPoIS*) also apply to the financing of election campaigns, unless otherwise provided³². The prohibitions on foreign donations³³ and donations by natural or legal persons exceeding 10 times the previous year’s average monthly wage as defined in the Political Parties Act (*ZPoIS*) thus also apply to election campaign organisers which are not political parties. The only restriction on private funding that is otherwise provided for is that election campaigns may not be financed by funds of companies whose invested public capital exceeds 25% and companies in which these companies in turn have a majority holding. The recently adopted amendments to article 25 of the Political Parties Act (*ZPoIS*), prohibiting donations by state bodies, public companies, local community bodies, legal persons governed by public law, humanitarian organisations, religious communities and commercial companies in which over 25%

³⁰ The GET was informed that, in 2006, donations to trade unions and political parties amounting to a total of €1,430,000 were reported by legal persons as eligible for tax deductions. As of the beginning of 2007 there are no more tax incentives for donations to trade unions; the tax deductibility of donations to political parties remains in place.

³¹ Certain youth organisations are given the status of “national youth organisation programme providers”, which get funding from the Ministry for Education for and from certain concrete projects.

³² Notwithstanding the prohibition on foreign donations in the Political Parties Act (*ZPoIS*), the Elections and Referenda Campaigns Act (*ZVRK*) provides that for elections for the European Parliament donations from natural and non-public legal persons of other European Union Member States may be accepted.

³³ It is however explicitly provided that the prohibition on foreign donations does not apply to donations from citizens and legal persons (of private law) of other EU member states in the context of elections for the European Parliament (Article 14, Elections and Referenda Campaigns Act / *ZVRK*)

of the capital shares is held by the state or a local community body (as well as companies in which those companies have a majority share), will reportedly also apply to election campaigns, upon its entry into force on 1 January 2008.

45. Although no limit on the total amount of private funding is explicitly provided for, Article 22 of the Elections and Referenda Campaigns Act (ZVRK) provides that any funding received by election campaign organisers - other than political parties - in excess of what is spent on the campaign must be "earmarked for humanitarian purposes", which was explained to the GET as not just being earmarked but actually given to a charitable cause. Surplus funding received by political parties for their campaign does not have to be given to a charity but can be used for the party's routine activities (on condition that individual donations do not exceed 10 times the previous year's average monthly wage).

Expenditure

Political parties

46. Limits and restrictions on the expenditure of political parties only exist in the context of an election campaign, in so far as the political parties themselves are the election campaign organisers.

Election campaigns

47. The Elections and Referenda Campaigns Act (ZVRK) provides for campaign expense ceilings. Pursuant to Article 23 of this act, the expenses of election campaigns for members of the National Assembly (and Slovene members of the European Parliament) may not exceed €0.40 per eligible voter³⁴ of the electoral district or electoral unit, where the lists of candidates has been deposited or where an individual stands as a candidate. The GET was informed that according to their official reports most political parties would not come very close to the spending limits.
48. As regards presidential elections, the ceiling on campaign expenditure is €0.25 per eligible voter in the country. This amount may be increased with a further €0.15 per eligible voter in the country for candidates in a possible second round of elections. The campaign expenditure ceiling for elections of members of the municipal council and elections of mayors is respectively €0.40 and €0.25 per eligible voter in the municipality concerned. In case of a second round of voting for elections of mayors the campaign ceiling may be increased with a further €0.15 per eligible voter. For elections to the European Parliament the ceiling is €0.40 per eligible voter in the country; for referenda this stands at €0,25 per eligible voter in the country or in the local community.
49. Election campaign expenses are all the expenses required for carrying out an election campaign for a list of candidates or for an individual candidate or for conducting a referendum (Article 15, Elections and Referendum Campaign Act)³⁵. If services or goods are provided free of charge or at reduced prices, the price which would normally be charged to other customers for these

³⁴ On the day determined for the beginning of electoral tasks, the Ministry of the Interior publishes on its web-site the number of eligible voters in the country, a particular electoral unit and electoral district or, in the case of local elections or referenda, also the number of eligible voters in the local community.

³⁵ They explicitly include expenses for designing, printing, placing and removing posters; for designing and publishing pre-election campaign communications in public media; for organising and conducting pre-election meetings, advertisements and communications in public media; for designing, printing, reproducing and distributing pre-election documents (pamphlets etc.); costs of opening, keeping and closing the campaign bank account and other related expenses "incurred exclusively by the election campaign actions", which presumably also includes overhead, staff and office expenses.

services or goods is considered as the real election campaign expense.³⁶ These requirements do however not apply to natural persons who provide services free of charge without issuing invoices (i.e. volunteers). The GET was told that professionals who provide their services free of charge (such as free legal representation) would not be considered as volunteers: this service would require an invoice and its normal price would have to be recorded as a campaign expense. Furthermore, all expenses relating to the election campaign period (the period of 30 days to 24 hours before the start of voting) are to be considered as election campaign expenses, regardless of the date of the transaction or when the costs were incurred or paid.

50. All election campaign expenses are to be paid by the election campaign organiser from the aforementioned campaign bank account, which must be closed within 4 months of the day of elections.

III. TRANSPARENCY OF PARTY FUNDING – SPECIFIC PART

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

Books and accounts

51. Pursuant to Article 24 of the Political Parties Act (*ZPolS*), political parties must submit to the National Assembly by 31 March of each year “an annual report on the operations of the party for the previous year, which must show all the income and expenditures of the party, and in particular the sources of the party’s income, in accordance with accounting regulations” (i.e. the Accounting Act and Slovenian Accounting Standard 36). Political parties are to keep their documentation for the same period as other legal persons, which is at least 10 years from the end of the tax year, pursuant to the Tax Procedures Act, or permanently, pursuant to the Accounting Act³⁷.
52. The party statute is to specify which body/person is responsible for the material and financial operations of the party as well as the internal or territorial organisation of the party (Article 19, Political Parties Act / *ZPolS*). The statute of the political party thus provides information on what is to be considered as part of the structure of the party for accounting purposes. The GET was informed that any separate income or funding of local and regional branches, including public funding from municipalities, was to be regarded as funding of the political party as a whole and would thus be reflected in the accounts of the party. Income from companies owned by the party (for cultural and publishing activities) would also be included in the accounts of the party. As indicated before, youth organisations can have their own sources of income, but the GET was told that these funds would be reflected in the accounts of the central party organisation. Societies are regulated by the Act on Societies: the income and expenses of societies affiliated to political parties (but not formally associated to them) would not feature in the parties’ accounts and/or financial reports.
53. The GET was informed that to facilitate the reporting on the financial operations of the party, most political parties would carry out their financial activities via a single bank account, with several sub-accounts for local and regional branches, youth organisations and other party structures as appropriate.

³⁶ The provider of this service or good is to indicate on his/her invoice the amount by which the price was reduced.

³⁷ The Accounting Act regulates book-keeping and the preparation of annual reports for entities which do not fall under the provisions of the Companies Act, the Public Utilities Act and the Act on Societies.

54. With regard to account offences, Article 240 of the Criminal Code (“Forgery or Destruction of Business documents”), which is applicable to both natural and legal persons, provides that “whoever enters false information or fails to enter any relevant information into business books (...)” or uses a false business book, document or file or destroys or hides those documents “shall be sentenced to imprisonment for not more than two years”, or in case of a legal person a fine of up to €318,000. No sanction has ever been imposed on a political party or on natural persons involved with the accounting of the party, for failure to keep proper accounts.
55. There are no obligations upon political parties (or election campaign organisers) to carry out (internal) audits. The GET was informed that some form of financial oversight would be exercised according to the statutes of the party, for example by a supervisory committee nominated by the party. Use of certified independent auditors is not required.

Reporting obligations

Political parties

56. As indicated above, pursuant to Article 24 of the Political Parties Act, political parties are to submit to the National Assembly by 31 March every year an annual report on the operations of the party for the previous year, which must show all the income and expenditure of the party, and in particular the sources of the party’s income, in accordance with accounting regulations. The report is, furthermore, to explicitly include the names and addresses of donors (and the amount of their donation) whose donations have exceeded 3 times the previous year’s average monthly wage (i.e. € 3,638.40 in 2007) as well as election campaign expenses. Furthermore, all assets of the party and changes in these assets, including “a statement of the sources of funds for an increase in assets if such increase exceeds the sum total of 5 times the previous year’s average monthly wage” must be stated in the report (i.e. an increase of more than €6,064 in 2007).
57. The Ministry of Finance has issued a regulation³⁸ which sets out in slightly more detail the content of the annual report of political parties, including the accountancy report and business report of the party, the balance sheet and statements on the income and expenditure of the whole party organisation (including territorial units and companies of the party). The regulation provides standardised tables for (1) the statements on income³⁹ and expenses⁴⁰, (2) the contributions/donations – including membership fees - of legal, natural and so-called “private” persons, which exceed 3 times the previous year’s average monthly wage⁴¹, (3) the assets, sources of assets, liabilities to assets and the difference in value of the assets as compared to the previous year, (4) intangible assets and tangible fixed assets, and (5) election campaign costs⁴². The interpretation of this regulation falls within the competence of the Ministry of Finance.

³⁸ The Regulation on the contents and form of the annual reports and the abridged annual reports of political parties, Official Gazette of the Republic of Slovenia, no. 2/01.

³⁹ This income is to be broken down according to its source: membership fees, contributions by natural, legal and “private” persons, income from property/assets, gifts, bequests, state budget, local budget, profit from the income of the company in the ownership of the party, extra-ordinary income and transfer of surplus income.

⁴⁰ To be broken down into: expenses, material costs, service costs, adjustments (correction of assets), depreciations, provisions, labour costs, other costs, expenses for financing, extraordinary expenses and surplus of expenses, transferred from previous years.

⁴¹ This is to include the total annual contributions/donations and the name and seat of the legal person, the name, first name and address of the natural persons, or the name, first name and name of the company of the “private” person.

⁴² This is to include information on the types of costs, to be broken down into the costs of printing and distribution of posters, advertisements and commercials in the media, organisation of pre-election meetings and printing, reproducing and sending of materials.

58. Before it is submitted to the National Assembly, the report must have been sent for review to the Court of Audit. Notwithstanding the provision in the Political Parties Act (*ZPoS*), which provides that the report is to be sent for review to the Court of Audit by 31 March at the latest (which is the date at which the report is to be submitted to the National Assembly), the GET was informed that the deadline was 28 February. The Court of Audit “reviews and evaluates” the report and a record of this review is to be attached to the report submitted to the National Assembly as a supplement (Article 24, Political Parties Act / *ZPoS*).

Election campaigns

59. Pursuant to Article 18 of the Elections and Referenda Campaigns Act, organisers of campaigns for elections to the National Assembly, the European Parliament and the President and for national referenda are to submit - within 15 days of closing the campaign bank account⁴³ - a financial report to the National Assembly and to the Court of Audit, including:
- the total amount of funds raised and used for the election campaign;
 - data on donations of more than 3 times the average monthly salary (€3,638.40 in 2007), with the exception of donations provided to political parties in compliance with the provision of the Political Parties Act;
 - information on loans which amount to more than 3 times the previous year’s average monthly wage, including the name of the lender;
 - information on deferred payments⁴⁴ which exceed 3 times the previous year’s average monthly wage, including the name of the natural or legal person who has approved the deferred payment.
60. Campaign organisers for mayoral and municipal council elections or for local referenda are required (Article 19, Elections and Referenda Campaigns Act / *ZVRK*) to submit a report within 15 days of closing the campaign bank account to the municipal council and the Court of Audit on the total amount of funds raised and used for the election campaign, including data on the sources of the funds and the activities for which these funds have been used, as well as complete data on contributions, loans and deferred payments.
61. Pursuant to Articles 20 and 41 of the Elections and Referenda Campaigns Act (*ZVRK*), the Minister of Finance was to determine in more detail the content and forms of the financial reports of election campaign organisers within 3 months of entry into force of this act (i.e. by the end of August 2007 at the latest). At the time of the GET’s visit the regulation by which this was to be done had not yet been drafted, nor did it seem possible to identify the entity at the Ministry of Finance responsible for elaborating such a regulation. After the visit, the GET was informed that the “Regulations on the content and form of the reports on the funds collected and used for election and referendum campaigns” were adopted on 23 October 2007 and entered into force on 20 November 2007 (Official Gazette No 105/07).

Third parties

62. There are no requirements placed on contributors, whether natural or legal persons, to report contributions made to political parties or election campaigns.

⁴³ This account is - pursuant to Article 16 of the Elections and Referenda Campaigns Act - to be closed within 4 months after voting day. The financial report on election/referendum campaign finances is thus to be submitted within 4 and a half months of the day of election/referendum.

⁴⁴ All payments made after 30 days of the performance of the service or supply of the goods are deemed deferred payments. Payments are not allowed to be deferred for more than 90 days (Article 18, paragraph 2)

Access to accounting records

Political parties

63. If the Court of Audit were to carry out an audit of a political party it would have full access to all the financial information and accounting records of the party, as would law enforcement authorities in the context of a criminal investigation.
64. In addition, Article 2 of the Political Parties Act (*ZPoIS*) provides that all financial and material operations of a party must be public. Nevertheless, the GET was informed that accounting or other detailed financial information of political parties would not fall under the Access to Public Information Act.

Election campaigns

65. The financial records of election campaign organisers are accessible by the Court of Audit (and, if necessary, to law enforcement authorities in the context of a criminal investigation). As regards access by the Court of Audit, Article 29 (4) of the Elections and Referenda Campaigns Act (*ZVRK*) provides that - at the request of the Court of Audit - the election campaign organiser, the Bank of Slovenia and commercial banks with which the election campaign organiser has opened a campaign bank account, are obliged to present documents required for the audit and to enable access to their books and accounting records. It is furthermore provided that "in compliance with its competences, the Court of Audit may also perform other investigations required for the performance of an audit".

Publication requirements

Political parties

66. Article 24 of the Political Parties Act (*ZPoIS*) requires political parties which, in the previous year, have received funds from the national budget or a local community or have received contributions in excess of 3 times the previous year's average monthly wage, to publish an abridged version of the annual report they submit to the National Assembly in the Official Gazette by 31 May at the latest. In practice, only very small parties would not fall under the requirement to publish an abridged version of their annual report in the Official Gazette. The aforementioned regulation of the Ministry of Finance on the content of the annual report outlines which information should be included in the abridged version. This includes aggregate information on income⁴⁵, expenditure⁴⁶, surplus of income over expenses (or of expenditures over income), assets⁴⁷ and liabilities⁴⁸.
67. There is no obligation on the political parties or the National Assembly to publish the unabridged version of annual reports or to make these publicly available. The GET was told that political

⁴⁵ This is broken-down into income from the (1) state budget, (2) local budgets, (3) total amount of contributions/donations of legal, natural and 'private' persons, (4) total amount of contributions/donations exceeding the threshold of 3 average monthly salaries and (5) other income.

⁴⁶ This is broken-down into (1) election costs and (2) other costs and extraordinary expenses.

⁴⁷ This is broken-down into (1) tangible fixed assets, (2) long-term investments, (3) short-term investments, (4) cash on accounts and (5) other assets.

⁴⁸ This is broken-down into (1) founding investments, (2) long-term liabilities from financing, (3) short-term liabilities from financing and (3) other liabilities.

parties would not, as standard practice, place financial information and/or the annual report on their web-site, but that these could be accessed upon request to the Court of Audit. The Court of Audit however received only one request for access to annual political party reports in the period 2004 to 2007. In addition, it would appear that the reports are available from the National Assembly and the political parties upon request.

Election campaigns

68. Article 21 of the Elections and Referenda Campaigns Act (ZVRK) provides that the reports which election campaign organisers are to submit to the National Assembly and Court of Audit - for elections to the National Assembly and the European Parliament, presidential elections and national referenda – or to the municipal council and Court of Audit - for elections to the municipal council, mayoral elections and local referenda - become available to the public after submission to the National Assembly, the municipal council and/or Court of Audit. To this end, the reports are published on the website of the Court of Audit and can also be accessed via the National Assembly or municipal council, as appropriate, upon request.

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

69. The main actor in monitoring compliance with political finance regulations is the Court of Audit for both political parties' routine financial activities and for election campaigns. Article 1 of the Court of Audit Act provides that the Court of Audit is the Supreme Audit institution for the supervision of state accounts, the state budget and all public spending, that it is an autonomous and independent state authority and that the acts under which it exercises its auditing powers may not be challenged before courts or other state authorities.
70. The Court of Audit Act specifies several incompatibilities and includes provisions on the prevention of conflicts of interest, providing *inter alia* that the position of supreme state auditor, member or secretary of the Court of Audit is incompatible with a function in a political party.
71. The Court of Audit is accountable directly to the National Assembly, to which it submits a report on its work at least once a year. The budget of the Court of Audit is determined by the National Assembly, on the proposal of the Court of Audit.

Political parties

72. As indicated above, pursuant to Article 24 of the Political Parties Act (ZPoIS), the Court of Audit reviews the annual reports the political parties are required to submit to the National Assembly. It should be emphasised however, that a review is less wide in scope than an audit and is confined to a check on whether the annual report is *prima facie* in compliance with the legal requirements; it does not extend to control of or cross-referencing the content of the financial statements and would also not extend to a check of the accounting records of the party. By law the Court of Audit is given the right to carry out regularity⁴⁹ and performance⁵⁰ audits of the business operations of users of public funds and may carry out audits of “any past operations as well as any planned business operations of a user of public funds”. In theory, the Court of Audit could thus carry out regularity and/or performance audits of political parties who receive funds from the state (and

⁴⁹ Regularity audits have the purpose of obtaining appropriate and sufficient data to enable the Court of Audit to express an opinion on compliance of the activities with the regulations and guidelines which any user of public funds is required to observe in carrying out its activities. (Article 20 (3), Court of Audit Act)

⁵⁰ Performance audits have the purpose of obtaining appropriate and sufficient data to enable the Court of Audit to express an opinion on the economy, efficiency and effectiveness of the activities of the subject of the audit.

sometimes local) budget, but to date the Court has never done so. The reasons provided to the GET for this were that (1) the Court of Audit takes a risk-based approach and perceives the main risks as being outside the party and (2) it does not have the resources to audit all political parties in one year, but it would be too politically sensitive to audit only one or a few parties. The monitoring of the Court of Audit in the context of the parties' routine operations remains thus limited to a review of the parties' annual reports.

73. In its review of the parties' annual reports, the Slovenian authorities indicate that the Court of Audit assesses:
- if the report was submitted on time;
 - if the report was prepared in line with the regulation of the Ministry of Finance on the content and form of the annual report and abridged annual report;
 - if the financial statements define each funding source;
 - if the report presents the surplus of the income;
 - if the surplus was given to charity;
 - if the reports includes information on legal, natural or private persons whose contribution exceeds 3 times the previous year's average monthly wage;
 - if individual contributions have not exceeded 10 times the previous year's average monthly wage;
 - if the report includes information on the party's assets and changes in these assets;
 - if the balance sheet was prepared on the basis of the Accounting Act and Slovenian Accounting Standard 36, and;
 - if all expenses of the election campaign were presented – in cases where the political party has organised the campaign.
74. After the review, the Court of Audit sends its report to the political party concerned, which must submit it together with its annual report to the National Assembly. If the review reveals that the annual report is not in compliance with the legal requirements, the president of the National Assembly can ask the party to correct the report (Article 24, Political Parties Act / ZPoIS). If the party fails to submit the report, submits an incomplete report or does not publish the abridged version of the annual report, the public funding of the party can be suspended until it has complied with the legal requirements.
75. The GET was told that the Court of Audit would spend on average less than 30 auditor days a year on the review of annual political party reports and would not use sources of information other than those provided for by the party itself.
76. The reports on the review of annual political party reports are not published - neither on the website of the Court of Audit nor elsewhere -, but (as also indicated above) can be accessed upon request to the Court of Audit.
77. If in its review of annual political party reports, the Court of Audit has a justified suspicion that a criminal offence has been committed, it can propose the commencement of criminal proceedings or file a motion for prosecution, as appropriate. The Court of Audit may also carry out audits on a proposal submitted by a natural or legal person, in accordance with its annual programme. It independently decides whether or not to carry out such an audit. Since 1994, when the Political Parties Act was enacted, the Court of Audit has never carried out an audit of a political party on the basis of a proposal submitted by a natural or legal person, although it has received at least one request to do so. In deciding on this request, it found that in carrying out the audit of the

political party it would not be able to substantiate or refute the complaint on the perceived irregularities, as it concerned third parties.

78. Another body which could be involved with the supervision of parties' compliance with the regulations of the Political Parties Act is the Ministry of Finance. Article 27 of the Political Parties Act provides that the Ministry of Finance supervises the implementation of the provisions of the Political Parties Act regarding the funding of political parties. This refers more in particular to provisions in the Political Parties Act on ending public funding in case of removal from the register, the sources of funding of the party, the conditions on donations/contributions, the annual report of a party and the prohibition on funding by public entities.
79. Finally, as indicated above, the annual reports of the political parties, including the record of the review by the Court of Audit, are submitted to (the President of) the National Assembly. The role of the National Assembly in monitoring compliance with party finance regulations is however limited (if it exists at all): the GET was not made aware of any activities (debate, hearing or otherwise) having taken place on the basis of parties' annual reports.

Election campaigns

80. Pursuant to Article 29 of the Elections and Referenda Campaigns Act (ZVRK), the Court of Audit will carry out an audit of the organisers of election campaigns (National Assembly, European Parliament, presidential, as well as organisers of referenda campaigns at national level) which are entitled to partial reimbursement of their election campaign expenses, within 6 months of closure of the campaign bank account (i.e. a maximum of 10 months after the day of the election/referendum). The Court of Audit may also audit organisers of municipal and mayoral election campaigns (Article 29 (3), Elections and Referenda Campaigns Act / ZRVK).
81. In carrying out its audits of election campaigns, the Court of Audit examines the total amount of funds raised and used for the election campaign, whether the election campaign organiser has raised and used funds in conformity with legislation (i.e. Elections and Referenda Campaigns Act / ZVRK and Political Parties Act / ZPoIS), whether the information reported by the election campaign organiser in the report to the Court of Audit is correct and the amount of (partial) reimbursement of election campaign expenses to which the campaign organiser is entitled.
82. The Slovenian authorities indicate that in carrying out its audit, the Court of Audit may also use information from other sources, such as media reports and banks. At the request of the Court of Audit, an election campaign organiser, the Bank of Slovenia and commercial banks with whom the election campaign organiser has opened the campaign bank account are obliged to submit documents required for the performance of the audit and enable access to accounting records. Article 29 (4) of the Elections and Referenda Campaigns Act (ZVRK) provides that the Court of Audit may also perform other investigations necessary for the performance of an audit, thus enabling it access to records held by third parties. If in auditing an election campaign organiser, the Court of Audit suspects a criminal offence has been committed, it can propose the commencement of criminal proceedings or file a motion for prosecution, as appropriate.
83. No auditors are permanently assigned to auditing election campaigns. Election campaign audits are carried out in addition to regular audit activities. The GET was informed that two auditors would be assigned to carry out an audit of an election campaign organiser (for the National Assembly elections in 2004 there were 27 election campaign organisers).

84. The audit reports of the Court of Audit are published on the website of the Court of Audit and, pursuant to Article 30 of the Elections and Referenda Campaigns Act (ZVRK), are also published in the bulletin of the National Assembly.
85. As indicated above, campaign organisers (for election campaigns of the National Assembly, the European Parliament and the President and for national referenda) are to submit their report to the National Assembly within 15 days of closing the campaign bank account. The reports of election campaign organisers are dealt with by the Public Accounts Committee of the National Assembly, a partisan committee in which each political party represented in the National Assembly has one member. The GET was told that in October 2005, the Public Accounts Committee of the National Assembly held a hearing on the reports of the campaigns for the 2004 National Assembly and European Parliament elections. Following this hearing the Committee proposed that the government amend the old Election Campaigns Act, on the basis of recommendations made by the Court of Audit, which ultimately led to the adoption of the new Elections and Referenda Campaigns Act.
86. Campaign organisers for mayoral and municipal council elections or for local referenda are required to submit their report to the municipal council. The GET was unable to gain a clear picture of the scope of the supervision carried out by municipal councils, and believes this may vary widely.

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

Political parties

87. Political parties (and other entities referred to in the Political Parties Act) are subject to administrative liability if they do not comply with the obligations laid down in the Political Parties Act, and to criminal liability for criminal offences, such as accounting offences (see above), committed in the context of campaign or party funding, according to the Criminal Liability of Legal Entities Act.
88. The Slovenian authorities indicate that the Ministry of Finance controls the implementation of the provisions of the Political Parties Act regarding the funding of political parties, which would include the possibility of imposing sanctions for violations of the provisions. However, as mentioned before, the GET did not ascertain that the Ministry of Finance had ever carried out this task and had enforced any of the provisions of the Political Parties Act. Nevertheless, pursuant to Article 28 of the Political Parties Act (ZPo/S), the Ministry of Finance may impose a fine of between €4,150 and €20,850 on political parties for the following infringements of the Political Parties Act:
- if the party fails to assign its surplus income (i.e. income from property and profit of a company owned by it which exceeds 20 percent of the party's annual income) to a charity within 30 days of the adoption of the financial report on the operations of the party for the previous year (or fails to inform the National Assembly that it has done so);
 - if the party obtains funds from prohibited sources;
 - if the party does not submit its annual report to the Court of Audit and the National Assembly by 31 March;

- if the report does not include all the required information⁵¹ or if a party which received funds from the national budget, local communities or contributions exceeding 3 times the previous year's average monthly wage (€3,638.40 in 2007), fails to publish an abridged version of the annual report in the Official Gazette by 31 May of that year;
 - if the party obtains from the same legal, natural or private person funds in excess of 10 previous year's average monthly wages (which would amount to €12,128 in 2007).
89. Furthermore, a fine of €350 to €850 can be imposed by the Ministry of Finance on the responsible person of a political party, who has committed any of the abovementioned violations of the provisions of the Political Parties Act.⁵²
90. In addition, pursuant to Article 29 of the Political Parties Act (*ZPoS*), a fine of €4,150 to €20,850 can be imposed by the Ministry of Finance on a public institute, public company, local community body, humanitarian organisation, religious association or commercial company of which at least 50% of the capital is public capital, if this entity finances a political party. A fine of €417 to €2,086 can also be imposed by the Ministry of Finance on the responsible person in the aforementioned legal person for such a violation of Article 25 of the Political Parties Act (*ZPoS*). As previously indicated, after the visit of the GET amendments were adopted to Article 25 of the Political Parties Act, prohibiting donations by state bodies, public companies, local community bodies, legal persons governed by public law, humanitarian organisations, religious communities and commercial companies in which over 25% of the capital shares is held by the state or a local community body (as well as companies in which those companies have a majority share). The sanctions which can be imposed upon the legal person and responsible person in the aforementioned legal person are €4,150 to €20,850 and €400 to €600 respectively. These particular amendments will enter into force on 1 January 2008.
91. Finally, pursuant to Article 24 of the Political Parties Act (*ZPoS*), the competent working body of the National Assembly or a mayor may decide to suspend the funding from the state or municipal budget to a party which has not submitted its annual report to the Court of Audit and the National Assembly by 31 March or to a party required to publish an abridged version of the annual report in the Official Gazette by 31 May which fails to do so, until these obligations are met.

Election campaigns

92. Elections and referenda campaign organisers, which may include political parties, are subject to administrative liability for violation of the Elections and Referenda Campaigns Act (*ZVRK*) (and may also be subject to criminal liability for criminal offences committed in the context of election campaign financing).
93. Articles 32 to 39 of the Elections and Referenda Campaigns Act provide for various fines for violation of the provisions of the Elections and Referenda Campaigns Act. These fines are set out in Appendix 1.

⁵¹ The report must include all income and expenditure and sources of funds in accordance with accounting rules. The report must contain information (name and address of legal or natural persons and the amount of the total annual contribution) on contributions which exceed 3 times the previous year's average wage and on the assets of the party and changes in these assets (including a statement on the sources of the funds for an increase in assets if this increase exceeds 5 times the previous year's average monthly wage).

⁵² As indicated before, the statute of a political party is to determine the person responsible for the material and financial operations of the party (Article 19, Political Parties Act / *ZPoS*). This responsibility entails personal responsibility and, reportedly, sanctions can also be imposed on this person for infringements of the Political Parties Act.

94. These fines can be imposed by the Inspectorate of the Ministry of the Interior, except for offences related to putting up posters in which case the inspection service of a local community or the local community traffic warden service can impose the relevant fines (Article 40, Elections and Referenda Campaigns Act / ZVRK).
95. Finally, if an election campaign organiser has exceeded the campaign expense ceiling by more than 10 percent, the partial reimbursement of the election campaign expenses can be reduced by half; if this campaign expense ceiling has been exceeded by more than 30 percent the election campaign organiser loses the right to partial reimbursement of its election campaign expenses. Furthermore, the political party whose election campaign organiser exceeds the campaign expense ceiling by more than 10 percent can have their public funding (from either the national budget or the municipal budget, depending on the elections in question) provided on the basis of the Political Parties Act reduced by half for a period of 1 year. If the campaign expense ceiling is exceeded by more than 30 percent, a political party may lose the right to public funding on the basis of the Political Parties Act completely for up to 1 year. As soon as the audit report is final, the Court of Audit may adopt a decision on such a restriction or loss of the right to public funds. An administrative appeal may be lodged against this decision.

Statistics

96. In the period 1998-2004, the Court of Audit filed proposals with the Court of Misdemeanours for commencing proceedings, as regards violations of the Election Campaign Act (ZVo/K) - which was in force until May 2007 - in 4 cases in 1998 (as regards presidential elections), 5 in 2001 (as regards elections for the National Assembly), one case in 2003 (as regards presidential elections) and 4 in 2004 (as regards elections for the European Parliament). The cases concerned the following violations:
- the election campaign organiser did not collect and use funds via the bank account for the election campaign;
 - the election campaign organiser obtained funds from prohibited sources;
 - the election campaign organiser did not submit the report in time;
 - the election campaign organiser did not open a bank account for the election campaign in time;
 - legal entities financed political parties illegally.
- However, in all but one case (in which the election campaign organiser paid a penalty), the proceedings failed, either because the case was filed too late and/or statute of limitations had expired. The Court of Misdemeanours was abolished in 2004 and until the adoption of the new Elections and Referenda Campaigns Act there was no body to impose penalties in the context of election campaigns.
97. No sanctions have ever been imposed for violation of funding regulations in the context of political parties' routine operations (i.e. outside an election campaign, on the basis of the Political Parties Act / ZPo/S).

Immunities

98. Slovenian legislation does not provide for immunities for administrative offences committed in connection with funding of political parties and/or election campaigns. Members of parliament (i.e. the National Assembly and National Council) do however enjoy immunity for possible

criminal offences committed in the context of party funding or election campaign finances.⁵³ The president of Slovenia does not enjoy immunity.

Statute of limitation

99. The offences in both the Political Parties Act (*ZPoIS*) and the Elections and Referenda Campaigns Act (*ZVRK*) are misdemeanours. Pursuant to article 42 of the Minor Offences Act (*ZP-1 UPB4*, Official Gazette 3/2007), the statute of limitations is two years from the day the misdemeanour was committed (relative statute of limitation). The statute of limitations may be interrupted, but is at any rate not to continue beyond 4 years from the day of commission of the misdemeanour (absolute statute of limitation). Furthermore, pursuant to article 44 of this act, enforcement of the sanctions for misdemeanours is to commence within two years of the day on which the decision on the imposition of a sanction became final.

IV. ANALYSIS

100. Slovenia has taken a number of steps in the recent decade to pass legislation to improve the transparency and control of political finance. The financing of political parties and the financing of election (and referendum) campaigns are subject to two different sets of rules, i.e. chapter IV of the Political Parties Act (*ZPoIS*)⁵⁴ and the Elections and Referenda Campaigns Act (*ZVRK*). This latter act had only entered into force in May 2007, and, consequently, there had been no experience of its application at the time of the GET's visit. The first elections held under the 2007 Elections and Referenda Campaigns Act were the presidential elections in October 2007.
101. The two acts provide for a mixed-model of funding, providing for public funding and allowing private donations for political parties and election campaigns with prescribed limits. Public funding for election campaigns consists of partial reimbursement of campaign expenses (up to €0.33 per vote cast for a list of candidates for National Assembly elections), whereas political parties having received one percent of the votes cast in National Assembly elections are also eligible to receive public money under the Political Parties Act. Public funding appears to be the main source of income for most political parties, at least according to the parties' own reports. From the statements on revenues and expenses of the 7 parties represented in parliament during 2006, as provided to the GET by the Agency for Public Legal Records and Related Services, only two parties – the SDS and the SLS, both of which did not list any income from public funds although according to information provided by the authorities (see paragraph 25 above) they did receive such funding in 2006 – received more private donations (which include membership fees) than public funding; according to their official reports, other parties relied for at least half and in some cases for as much as 90 percent of their income on public funds.⁵⁵ Party membership has

⁵³ A member of parliament cannot be held in detention nor can criminal proceedings be commenced against him/her, without the approval of the National Assembly, or the National Council – as appropriate -, unless s/he has been caught *in flagrante delicto* as regards an offence for which a sanction of at least 5 years' imprisonment is foreseen. However even if a member of the National Assembly or National Council has been caught *in flagrante delicto* and the sanction for this offence is at least 5 years' imprisonment (or if s/he has not claimed immunity), the National Council or National Assembly can grant immunity to the member of parliament in question.

⁵⁴ This act was adopted in 1994 and revised in 2000 following a ruling of the Constitutional Court declaring the provision of public funds only to parties with representation in parliament unconstitutional. Further amendments were adopted in October 2007, which enter into force in November 2007 and January 2008.

⁵⁵ This corresponds with data from other sources, which indicate that according to the parties' reports in 2000 the income of LDS, the SDS, DeSUS and the SNS consisted of more than 70% of public funding. Only in the case of the ZLSD did public funding amount to only 40% of their income, but it was indicated that as a successor of the former communist party (whose assets have never been nationalised), it was relatively rich compared to other parties. See Toplak (2007), p. 184.

been declining over recent years⁵⁶ and membership fees do not represent a big part of the party income.

102. On paper, Slovenian legislation on political funding fulfils many of the requirements of Recommendation (2003)4 of the Committee of Ministers. There are however a number of lacunae in the regulations, as well as shortcomings in practice (at least under the old Election Campaign Law) that need to be addressed. As regards the practice of party and campaign finance, the GET was informed of various instances of parties (suspected of) having received donations from impermissible sources and/or failing to disclose donations. These instances include (but are not limited to) the 2000 parliamentary elections, when no parliamentary party fully complied with the Election Campaign Act, two political parties made use of over 30 accounts (when only one account per election campaign organiser was permitted) and a foreign donation to a society/association of party officials was used to fund the campaign of one of the political parties (in a successful attempt to circumvent the prohibition of foreign donations to political parties or election campaign organisers); instances of state-owned companies financing campaigns of political parties in the 2006 municipal elections⁵⁷, in contravention of the prohibition on donations by companies which are owned by the state for more than 50%; loans from abroad, accounts held in foreign countries and technical advice and training courses provided by a foreign political party to a society/association linked to a political party in 2007.
103. The examples given appear to confirm statements by various interlocutors and the GET's overall impression, that political parties and election campaign organisers can circumvent the existing legal provisions without great difficulty. It should be noted that some interlocutors expected an improvement of current practices with the entry into force of the Elections and Referenda Campaigns Act. The GET was slightly less optimistic, although it readily stands to be corrected. Therefore, after carefully examining legislation, policies and practice in the area, the GET is of the strong opinion that further measures need to be taken to address the shortcomings identified.

Transparency

104. As regards transparency of political funding, both the Political Parties Act and the Elections and Referenda Campaigns Act require parties and other election campaign organisers to report on their income and their expenditure. The Political Parties Act requires registered parties to submit an annual report on their income and expenditure to the Court of Audit and the National Assembly, in the format prescribed by Ministry of Finance Regulation no. 2/01. An abridged version of the report is to be published by parties in the Official Gazette of Slovenia. Similarly, the Elections and Referenda Campaigns Act includes the requirement to report on campaign spending by political parties (and other entities) within a reasonable period after the day of elections.
105. The GET found the comprehensive definitions of the sources of party and campaign income a particularly strong feature of both the Political Parties Act and the Elections and Referenda Campaigns Act. Both laws address the challenging issue of in-kind and non-cash donations and require such donations to be included in the reports on income and expenditures. If fully implemented, these measures will clearly help to ensure that information is available on the full range of sources of party funding.

⁵⁶ The GET was told that some parties even have difficulties finding enough members to fill the seats they won in the local elections.

⁵⁷ One of the donations was eventually returned after questions were raised.

106. However, the GET also found that the regulations on transparency in both aforementioned acts suffer from a number of deficiencies. First of all, the reporting requirements on parties (and other election campaign organisers) as established by the current legislation are very basic. Annual reports with aggregated figures do not provide sufficient information to understand the sources of party funding and the forms of political party expenditure. This applies in particular to campaign spending, as political parties and other election campaign organisers are only required to provide highly aggregated amounts for each reporting category. Although the regulation on the precise content of the financial reports under the Elections and Referenda Campaigns Act – which was still to be drafted by the Ministry of Finance⁵⁸ at the time of the GET’s visit, but has since entered into force – may require election campaign organisers to report on their income and expenditure in more detail, the GET was not in a position to assess this regulation. It is however clear that, on the basis of the Elections and Referenda Campaigns Act, only the total amount of funds raised and used for the election campaign, donations, loans and deferred payments exceeding three average monthly salaries are to be reported. In light of information the GET received from various interlocutors, that the officially reported campaign expenditure do not correspond to the actual costs of advertising (billboards, advertising in print media, and commercials on radio and television etc.), the GET considers the absence of an obligation to provide more details on campaign expenditure a particular deficiency of the new Elections and Referenda Campaigns Act.⁵⁹
107. Moreover, under the Political Parties Act, no further details (for example, the nature and value of cash and in-kind donations and details on the donor) have to be provided on donations (including membership fees), which do not exceed three average salaries (€3,638,40 in 2007). From the information gathered by the GET it would seem that hardly any donation (whether made in the context of an election campaign or the financing of parties’ routine activities) exceeds this threshold and therefore the only information available is the total sum of collected donations (whether to a political party or an election campaign). Another deficiency in this regard is that the Political Parties Act does not address the issue of loans (although this has been included in the Elections and Referenda Campaigns Act if these loans exceed three average monthly salaries). The lack of precise information (combined with the absence of an effective supervisory mechanism, which will be discussed further below) makes any kind of oversight difficult, in particular to assess whether parties and election campaign organisers are disclosing the full details of donations received (including any non-cash donations or in-kind support from the state). To ensure full transparency and to improve oversight of political finance, more detailed reports with a breakdown of figures within each reporting category (possibly by requiring parties and election campaign organisers to also submit further supporting evidence to the supervisory body, which will be discussed further below) is necessary. Consequently, the GET recommends **to require parties and election campaign organisers to disclose their income and expenditure in greater detail, including the nature and value of individual (cash and in-kind) donations and loans.**
108. Secondly, in the opinion of the GET the existing legislation does not adequately address the issue of various entities associated with a party: both organisations within the party structure, such as youth, women's, labour and agricultural organisations, which have no separate legal personality, and societies and associations outside the party structure which actively participate in election campaigning and/or the funding of campaign activities. As regards the first category

⁵⁸ In this regard, the GET takes the view that it would be a good idea to provide the Court of Audit with the authority to elaborate regulations stipulating the content of annual party reports and election campaign reports, making clear which information they need to optimise effective supervision over party and election campaign financing.

⁵⁹ Article 18 of the Elections and Referenda Campaigns Act only requires election campaign organisers to provide information on the total amount of funds used for the election campaign.

(i.e. organisations within the party structure), the GET was informed by the political parties it met that any income and expenditure by organisations set up by the party (and forming part of the party structure) would be reflected in the accounts of the parties. However, the financial information provided by the parties on an annual basis makes no mention of these organisations. Furthermore, campaigning or fundraising by associations and societies set up separately from parties (and acting outside the formal party structure), is currently not regulated. The failure to address this issue is a significant shortcoming, which can give rise to abuse. Consequently, the GET recommends **to (i) require parties to provide separate details on the finances of organisations within the party structure as part of their annual and campaign reports, and; (ii) to adequately regulate the involvement of entities outside the party structure, related directly or indirectly to the party, in election campaigns.**

109. Thirdly, although Article 2 of the Political Parties Act implies that the financial operations of a party are public⁶⁰, the GET was informed that detailed financial information on political parties would not fall within the scope of the Access to Public Information Act. Therefore only very rudimentary information would be available for public scrutiny, in the form of abridged versions of the annual party reports. Although it would appear that the unabridged annual reports of political parties would be available upon request to the National Assembly or the parties themselves, the GET was also informed that “as a normal citizen you would not be able to get the necessary information on party funding”. The GET was pleased to note that, at least as regards election campaigns, the financial reports are published on the website of the Court of Audit, but as has already been indicated above, these reports lack sufficiently detailed information to allow for any form of effective external oversight (by the media or the public). The GET is of the opinion that it would be useful if public access to reports is made easier. This is particularly important in light of the fact that various interlocutors questioned the reliability of the reports (one of which asserted that the official reports reflected only half the actual income and expenditure of parties). This is a key element in ensuring transparency of party funding. The GET therefore recommends **to facilitate public access to the unabridged annual reports of political parties.**
110. Apart from these three deficiencies, the GET is of the opinion that further measures could be considered to increase transparency both as regards the party and campaign finances. As regards campaign finances, the GET found that the current campaign expenditure ceilings (which depend on the type of elections and the number of eligible voters) could encourage underreporting of income and expenditure. Various interlocutors of the GET, including political parties, have argued that spending limits during election campaigns – particularly for local elections - are too low. Parties do not want to be seen to exceed their spending limit, but on the other hand they require significant resources to run an effective election campaign. The GET therefore recommends **to assess whether there is a need to adjust the current spending limits for election campaigns, in order to promote transparency of the actual costs of campaigns.**
111. Furthermore, the alleged infringements of the regulations (as publicised in the media, see above) all affect the fairness of political competition in Slovenia. However, of an equally perturbing nature is information the GET received about major political donors receiving substantial public contracts, licenses⁶¹ or managerial/supervisory positions in state-owned companies. Naturally, most donors will only contribute to campaigns or parties which would - in their opinion – have the most favourable policy towards their activities. However, the GET found the relationship between

⁶⁰ Article 2 of the Political Parties Act reads: “The functioning of a party shall be public. The public nature of the functioning of a party shall, as a rule, be ensured by the party informing the public about its functioning. The financial and material operations of a party must be public.” [emphasis added]

⁶¹ The example given involved a license for opening a gambling venue.

large donations and favourable policies to be more direct in Slovenia: it appeared to have a quid-pro-quo character. This raises concerns about undue influence over public procurement, privatisation and appointment procedures. The GET was informed of legislation on procurement and appointments in state-owned companies, but is nevertheless of the opinion that transparency in this area could be enhanced (for example by obliging participants in public tenders and privatisation processes, companies gaining considerable advantage from recently approved government licenses or regulations and recipients of certain public appointments, to disclose donations they may have made to political parties and election campaigns). The GET thus recommends **to seek ways to increase transparency as regards substantial corporate donations to political parties, and acts and decisions which could be beneficial to these donors.**

Supervision

112. As regards internal control, the GET noted with satisfaction that the Political Parties Act promotes internal supervision of party accounts by requiring political parties to specify in their statute the body “responsible for material and financial operations” of the party. The Elections and Referenda Campaigns Act regulates this matter slightly differently, but provides for accountability in spending by requiring the appointment of a campaign organiser.
113. As regards external control, the GET noted that there appeared to be four entities involved with supervision over party and campaign finances; the Court of Audit, the Ministry of Finance, (the Inspectorate of) the Ministry of the Interior and - to a certain extent – the National Assembly (via the Public Accounts Committee).
114. The Court of Audit is responsible for reviewing political parties’ annual reports and for carrying out audits of election campaign organisers entitled to partial reimbursement of their campaign expenses. The GET was pleased to note that the independence, integrity, commitment and professional skills of the Court of Audit appeared to be beyond any doubt. Nevertheless, the effectiveness of the supervision it exercises over political finances (both as regards parties’ routine activities and election campaigns) leaves much to be desired. In this context, there are three issues that need to be addressed.
115. First of all, the GET found the review of the annual reports of political parties rather formalistic: it consists of a mere check on whether the report is complete and submitted on time. As one interlocutor said, the review by the Court of Audit was “art for the sake of art”, something that the Court of Audit seemed to agree with, adding that not much time and resources would be spent on these reviews. Even though the Political Parties Act only provides that the annual report of political parties must be “reviewed and evaluated” by the Court of Audit, which is indeed a very limited form of supervision, the Court of Audit Act explicitly provides that the Court is to carry out audits of users of public funds (which should at least enable it to carry out audits of parties represented in parliament). While the Court undertakes comprehensive audits in other areas, it has never done so as regards a political party, making it completely reliant on the information the parties themselves submit. One reason for the fact that no audit of a political party has ever been carried out may also be that the principle of equality is considered to require a simultaneous audit of the account of all political parties (and this would require substantial resources).
116. Secondly, the GET takes the view that the resources of the Court of Audit are insufficient to carry out even a fraction of the financial audits of election campaigns the law provides for, let alone to conduct audits of parties’ routine financial activities. For example, as regards local elections, in 210 municipalities there may be altogether several hundreds campaign organisers who have

received public subsidies. Although municipalities are also required to control such subsidies, independent oversight in this area (as can be carried out by the Court of Audit) is very weak.

117. Thirdly, a specific weakness of the system –lies with the Court of Audit’s investigative capacity. As regards parties’ routine financial activities, the Court has only limited investigative powers restricted to the use of public funds by parties. In the area of campaign finance, the Court has more powers: the Elections and Referenda Campaigns Act allows it to access books of commercial banks and “to perform other investigations required for the performance of an audit”. The Slovenian authorities claim that this allows the Court -to - for example - scrutinise campaigns to verify whether they could have been paid by the officially declared expenses without any side-payments by companies or societies, to make comparisons between the number of advertisements in the media or posters published and the reported campaign costs or to conduct any other investigation it deems appropriate. Although the scope of the Court’s investigative powers in the area of campaign finance would thus be broader than the GET was led to believe during the on-site visit, the fact remains that the Court itself takes a more limited view and does not use these powers to the extent it would appear to be permitted under the current law. In this regard, it should however also be noted that the Court of Audit can only audit election campaigns, which means that it is confined to income and expenditure during the official election campaign period (30 days to 24 hours before the day of elections) and cannot examine any campaign activities before this period. In the context of routine party finance, it would certainly go beyond its mandate to – for example - access financial information of the aforementioned societies and associations outside the party structure. Moreover, the claims made to the GET that companies would mostly donate to political parties in-kind, for example by employing people who then go to work for the party or by directly paying the bills of the party, would not necessarily come to light in an audit (and certainly not in a review of the financial report of a political party). These shortcomings also mean that, in most cases, the Court of Audit would not be in a position to take appropriate action on individual complaints it may receive as regards perceived irregularities in party or campaign finances. In view of this situation and also in light of the frequently expressed doubts about the accuracy of the official reports submitted by parties and other campaign organisers, the GET is of the opinion that the effectiveness of the current supervisory mechanism would be greatly improved by giving the Court of Audit (or another independent supervisory body) investigative capacities in the area of parties’ routine financial activities (not just limited to the use of public funds) and to enhance its investigative powers in the area of campaign funding. This would also improve possibilities for external scrutiny of compliance with political funding regulations (i.e. by having an appropriate mechanism to investigate complaints, oversight by external stakeholders would be encouraged).
118. In light of paragraphs 115, 116 and 117 above, the GET recommends **(i) to undertake a comprehensive audit of the finances of political parties represented in parliament, both as regards public and private funding, in accordance with international audit standards; (ii) to provide more resources to the Court of Audit to carry out these audits, as well as those of election campaign organisers; and (iii) to give the Court of Audit a mandate and resources to investigate routine party finances and to enhance its capacity to investigate campaign finances.**
119. Other bodies entrusted with supervisory tasks as regards party and campaign finance are the Ministry of Finance, the Inspectorate of the Ministry of the Interior and the Public Accounts Committee (PAC) of the Slovenian parliament. Although the supervision exercised by the latter is still in a developing stage, the PAC has played a role in drawing attention to political finance issues. It has highlighted weaknesses in the reporting functions and was instrumental in addressing certain deficiencies of the old Election Campaign Act (on the basis of information on

these deficiencies reported to it by the Court of Audit). As regards the supervision exercised by the Ministry of Finance and (the Inspectorate of) the Ministry of the Interior, the GET found the jurisdiction and the scope of competences of these bodies as regards party and campaign finances vague. The GET noted that, pursuant to article 27 of the Political Parties Act, the Ministry of Finance is responsible for the supervision of certain provisions of the Political Parties Act (including the provisions on the financing of political parties). It became clear, however, that supervision as foreseen in article 27 has never been exercised by the Ministry of Finance. A similar provision is included in the Elections and Referenda Campaigns Act (article 40), which provides that the Inspectorate of the Ministry of the Interior “shall be competent for the implementation and supervision over the implementation of the provisions of this Act”. The Inspectorate – which informed the GET that it was surprised to have been given this competence under the new law – took a limited view of the form this supervision might take: it understood it to mean that the offence would be identified and classified by the Court of Audit, after which the Inspectorate would inform the offender and impose the sanctions. After the visit, the GET was provided with additional information on the powers of the Inspectorate. These powers appear to be quite comprehensive and include the right to inspect accounting documents, to hear witnesses in an administrative procedure, to seize objects and documents and to perform other actions in line with the aim of the inspection. However, in light of the information gathered during the visit, the GET retains some doubts whether the Inspectorate will take steps to actually use these powers in the area of election campaign finances. Consequently, the GET recommends **to clarify the jurisdiction and scope of competences of all authorities entrusted with supervisory tasks as regards party and campaign finances.**

Sanctions

120. The Elections and Referenda Campaigns Act and the Political Parties Act provide for different sanctions to be applied: the temporary suspension of public funding for not submitting the annual report on time, the reduction or cancellation of the partial reimbursement of election campaign expenses for exceeding election campaign ceilings and fines which can be imposed on political parties, election campaign organisers, responsible persons and/or individuals for various infringements of the Elections and Referenda Campaigns Act and the Political Parties Act. However, during the visit it became clear to the GET that the provisions on sanctions in both acts are “dead letter”: in practice they are never enforced. The main reasons for this are the lack of an independent investigative mechanism (cf. above) and - under the old Election Campaign Act – absence of a clear authority to impose sanctions with the abolishment of the Court of Misdemeanours in 2004. This latter deficiency has recently been remedied through the entry into force of the Elections and Referenda Campaigns Act which gives the Inspectorate of the Ministry of the Interior the power to impose sanctions for infringements of this act. However, lack of enforcement aside, the current problems of the sanction system are threefold.
121. First of all, the GET has misgivings about the level of some of the sanctions available under both the Political Parties Act and the Elections and Referenda Campaigns Act. According to the abridged financial reports of the parties, the annual income and expenditure of the bigger parties represented in the national assembly varied between one to two million euros in 2006; the annual income and expenditure of smaller parties amounts to €200,000 to a million. For most of the parties, significantly more than half of the (official) income is provided by public money. Compared to these data, the only sanction which can be labelled as “dissuasive” is the loss of the right to partial reimbursement of election campaign expenses for exceeding the campaign expense ceiling. In this regard, it should also be noted that if a party – for example – obtains funds from a non-permitted source or receives donations in excess of 10 average monthly salaries, the fine which can be imposed for such offences is €4,150 to €20,850, which may

actually be lower than the received donation. The GET was advised, after the visit, that pursuant to Article 28 of the Minor Offences Act, it would be possible to confiscate funds obtained in violation of the Political Parties Act or Elections and Referenda Campaigns Act. However, it appeared to the GET that the authorities entrusted with oversight of party and campaign finances were not sufficiently aware of this possibility. Therefore, the GET recommends **to (i) increase the maximum level of sanctions included in the Political Parties Act and the Elections and Referenda Campaigns Act to ensure that these can be effective, proportionate and dissuasive in practice and (ii) ensure that donations received in violation of the Elections and Referenda Campaigns Act and/or Political Parties Act are not kept by the party.**

122. Secondly, the GET found that the Elections and Referenda Campaigns Act did not specify penalties for all of the infringements included in this act. For example, it does not appear to be possible on the basis of the Elections and Referenda Campaigns Act to fine election campaign organisers for accepting funds from non-permitted sources or for accepting individual donations in excess of 10 average monthly salaries (although on the basis of the Political Parties Act it would be possible to impose a fine for these offences on political parties). Furthermore, in light of observations by various interlocutors that election campaigns in Slovenia have become almost continuous - and certainly start earlier than the 30 days before the day of elections -, the GET was surprised to note that the new Elections and Referenda Campaigns Act did not contain any sanctions for starting a campaign too early. Such sanctions would, in view of the GET, be appropriate in particular as regards activities started before the prescribed campaign period but 'spilling over' into the campaign (for example, posters put up before the start of the campaign period – and thus not reflected in the financial reports of the campaign - but not taken down once the official campaign period has started). Finally, although late submission or failing to submit the report on election campaign finances to the Court of Audit is subject to a fine, no sanctions are provided for situations in which the report is incomplete or contains false or incorrect data. Consequently, the GET recommends **to provide sanctions for all infringements of the Elections and Referenda Campaigns Act, in particular for accepting funds from non-permitted sources and of non-permitted amounts, for intentionally submitting a false, incorrect or incomplete report and for undertaking campaign activities outside the campaign period which extend into the prescribed election campaign period.**
123. Thirdly, the limited "shelf life" of the election campaign organisers appeared to be an obstacle for imposing sanctions in practice: the status of a natural person or association as election campaign organiser ends after the election campaign (and the association may in fact be abolished immediately after the campaign) which seemed to make it difficult, if not impossible, to impose sanctions on him/her/it. Nevertheless, after the visit, the Slovenian authorities emphasised that in practice this would not be a problem, as it would always be possible to identify the natural person designated as the "responsible person", on whom sanctions can be imposed. In light of the lack of knowledge of this possibility encountered during the visit, the GET recommends **to raise awareness on the possibility to impose sanctions for violations of the campaign finance provisions even after an election campaign organiser ceases to exist in this capacity.**
124. In addition to these three problems, it should be noted that the GET also had some doubts as to whether the Ministry of Finance and the Inspectorate of the Ministry of the Interior are sufficiently institutionally independent to impose sanctions for political finance offences, in particular as concerns political associates of the persons leading the respective ministry. The GET could envisage that imposing sanctions might be made subject to directives by the political leadership of the entity concerned, which in practice has no interest in such sanctions being effectively enforced. The GET would therefore find it advisable to provide the authority to impose sanctions for political finance offences to a body sufficiently independent from political persons and

structures. Consequently, the GET recommends **to consider providing an institutionally independent entity with the responsibility for imposing sanctions for political finance offences.**

Other issues

125. The GET noted with satisfaction the key role the media plays in ensuring that the public is aware of political financing issues. It is the main source of “undisclosed” information, particularly regarding campaign donations and election spending. Their role is made all the more important in light of the absence of any NGO raising public awareness of the importance of political financing, combined with an apparent consensus among parties not to address issues regarding donations or spending by their adversaries and, consequently, a lack of political debate on this issue. The GET was informed that even if the media report on irregularities in the political party and/or campaign spending, this would not necessarily have consequences at the ballot box and would not decrease support for the party, candidate or list of candidates in question. The fact that citizens do not regard this as an important issue is a problem. In this light, the GET recommends **to raise public awareness on the importance of political funding and the damage caused by questionable political finance practices.**
126. Finally, in the GET’s view the most important deficiency in the current system relates to supervision over party and campaign finances and adequate enforcement of sanctions for infringements. In this regard, the GET should perhaps stress that such a supervision function does not necessarily need to be exercised by the Court of Audit: this function could also be entrusted to another body. In fact, given the great diversity of actors and the complexity involved with political finance regulation, it would perhaps be preferable to entrust this supervision together with enforcement powers to a single body, which would also serve as a means of enhancing transparency. If another (single) body – whether this is an existing body or a new one - is to monitor compliance with party and campaign finance regulations and given the authority to investigate alleged infringements of these regulations and to impose sanctions, it is to be ensured that this body enjoys an appropriate level of independence and is given sufficient resources to carry out its tasks. In light of the above, and bearing in mind paragraphs 118, 119 and 124, the GET recommends **to examine the advisability of entrusting a single, independent body (whether existing or yet to be created) with the mandate and resources to effectively supervise, investigate and enforce political finance regulations.**

V. CONCLUSIONS

127. On paper, Slovenian political finance legislation fulfils many of the requirements of Recommendation (2003)4 of the Committee of Ministers. Nevertheless, in practice the picture is less convincing: political parties and other election campaign organisers seem to find a way around existing legal provisions without great difficulty and are not penalised in any way – whether by the electorate or by a supervisory body. Although the media report on alleged instances of violations of the political finance regulations on a regular basis, this does not appear to be regarded as an important issue by the public. What is, however, more problematic is that infringements of political finance regulations are not being penalised (or even investigated) by the state: the political finance system in Slovenia suffers from ineffective supervision and a lack of enforcement of the rules. Although parties receive public funding, the decline in membership and increase in campaign costs makes them more reliant on private funding, which may in turn increase the risk of political influence being bought. Ensuring effective (independent) supervision and adequate enforcement of party and campaign finance rules should therefore be a matter of priority.

128. In view of the above, GRECO addresses the following recommendations to Slovenia:
- i. **to require parties and election campaign organisers to disclose their income and expenditure in greater detail, including the nature and value of individual (cash and in-kind) donations and loans (paragraph 107);**
 - ii. **to (i) require parties to provide separate details on the finances of organisations within the party structure as part of their annual and campaign reports, and; (ii) to adequately regulate the involvement of entities outside the party structure, related directly or indirectly to the party, in election campaigns (paragraph 108);**
 - iii. **to facilitate public access to the unabridged annual reports of political parties (paragraph 109);**
 - iv. **to assess whether there is a need to adjust the current spending limits for election campaigns, in order to promote transparency of the actual costs of campaigns (paragraph 110);**
 - v. **to seek ways to increase transparency as regards substantial corporate donations to political parties, and acts and decisions which could be beneficial to these donors (paragraph 111);**
 - vi. **(i) to undertake a comprehensive audit of the finances of political parties represented in parliament, both as regards public and private funding, in accordance with international audit standards; (ii) to provide more resources to the Court of Audit to carry out these audits, as well as those of election campaign organisers; and (iii) to give the Court of Audit a mandate and resources to investigate routine party finances and to enhance its capacity to investigate campaign finances (paragraph 118);**
 - vii. **to clarify the jurisdiction and scope of competences of all authorities entrusted with supervisory tasks as regards party and campaign finances (paragraph 119);**
 - viii. **to (i) increase the maximum level of sanctions included in the Political Parties Act and the Elections and Referenda Campaigns Act to ensure that these can be effective, proportionate and dissuasive in practice and (ii) ensure that donations received in violation of the Elections and Referenda Campaigns Act and/or Political Parties Act are not kept by the party (paragraph 121);**
 - ix. **to provide sanctions for all infringements of the Elections and Referenda Campaigns Act, in particular for accepting funds from non-permitted sources and of non-permitted amounts, for intentionally submitting a false, incorrect or incomplete report and for undertaking campaign activities outside the campaign period which extend into the prescribed election campaign period (paragraph 122);**
 - x. **to raise awareness on the possibility to impose sanctions for violations of the campaign finance provisions even after an election campaign organiser ceases to exist in this capacity (paragraph 123);**

- xi. to consider providing an institutionally independent entity with the responsibility for imposing sanctions for political finance offences (paragraph 124);**
 - xii. to raise public awareness on the importance of political funding and the damage caused by questionable political finance practices (paragraph 125);**
 - xiii. to examine the advisability of entrusting a single, independent body (whether existing or yet to be created) with the mandate and resources to effectively supervise, investigate and enforce political finance regulations (paragraph 126).**
129. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Slovenian authorities to present a report on the implementation of the above-mentioned recommendations by 30 June 2009.
130. Finally, GRECO invites the authorities of Slovenia 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.

Appendix 1: Sanctions in the context of an election or referendum campaign

Offence	Legislative reference (ZVRK)	Potential penalty	On whom
Failure to finish the election campaign on time (24 hours before voting)	Article 2	€800 - 1,200	Election campaign organisers
Id.	Id.	€150 - 300	Responsible person
Id.	Id.	€120 - 200	Individual
Posting or not removing posters in violation of the Elections and Referenda Campaigns Act, sticking over or destroying posters of other election campaign organisers or posting posters during the 'pre-election silence'	Articles 8, 9, 10 and 11	€700 - 1000	Election campaign organisers
Id.	Id.	€150 - 200	Responsible person
Destroying posters or posting posters during the 'pre-election silence'	Articles 8, 9 and 10	€150 - 200	Individual
Failing to provide equal treatment to election campaign organisers in putting up posters	Article 8	€1,000 - 2,000	Responsible person of the local community
Publishing public opinion data without referring to the author, methodology used and/or commissioner of the poll, publishing public opinion polls in a period of 7 days before the election or publishing political campaign communication without indicating the commissioner	Articles 5 and 7	€350 - 650	Responsible public media editor in chief
Failing to adopt or publish in due time the rules for the use of broadcasting time and newspaper space, publishing opinion polls in a period of 7 days before the election or failing to indicate the commissioner	Articles 5 and 7	€1,500 - 2000	Publisher of public media
Printing/providing political campaign communications without indicating the commissioner	Article 7	€1,500 - 2000	Legal person or 'private person' (sole proprietor)
Failing to adopt or publish in due time the rules for the use of broadcasting time and newspaper space, publishing opinion polls in a period of 7 days before the election, failing to indicate the commissioner, or printing/providing political campaign communications without indicating the	Articles 5 and 7	€150 - 200	Responsible person of the legal person

commissioner			
Conducting an election campaign for elections in another state	Article 3	€7,000 – 10,000	Election campaign organiser: legal or 'private person' (sole proprietor)
Id.	Article 3	€ 700 – 1,000	Responsible person of election campaign organiser or an individual
Failing to inform the police 48 hours in advance of a pre-election meeting or 3 days in advance of a pre-election meeting in a public transport area	Articles 12 and 13	€700 – 1,000	Election campaign organiser
Failing to inform the police 48 hours in advance of a pre-election meeting or 3 days in advance of a pre-election meeting in a public transport area	Articles 12 and 13	€150-200	Responsible person of the election campaign organiser
Allowing a pre-election meeting in the premises of public institutions and other entities of public law and religious communities	Article 4	€ 2,000 – 4,000	Public institution, entity of public law or religious community
Allowing a pre-election meeting in the premises of state authorities, authorities of local self-governing communities, public institutions and other entities of public law and religious communities	Article 4	€ 1,000 – 2,000	Responsible person of a state authority, local self-governing authority, public institution or other entity of public law
Failing to submit ⁶² the report on the election campaign finances, to open the campaign bank account on time, to collect all funds for funding the election campaign on this account, to settle all expenses from this account or to earmark the surplus of collected funds for humanitarian purposes	Articles 16,18, 19, and 22	€10,000 - €15,000	Election campaign organiser: legal or 'private person' (sole proprietor)
Id.	Articles 16,18, 19, and 22	€1,500 – 2,000	Responsible person of the election campaign organiser
Id.	Articles 16,18, 19, and 22	€400 – 1,200	Individual
Failing to observe the campaign expense ceiling for the elections for the National Assembly, the European Parliament and presidential elections	Article 23	€7,000 – 12,500	Election campaign organiser: legal or 'private person' (sole proprietor)
Failing to observe the campaign	Article 23	€ 3,500 –	Election campaign

⁶² According to the Slovenian authorities, late submission of a report would also be regarded as failing to submit the report.

expense ceiling for the elections of the municipal council or mayoral elections		10,000	organiser: legal or 'private person' (sole proprietor)
Failing to observe the campaign expense ceiling for a referendum	Article 23	€ 3,500 – 10,000	Referendum campaign organiser: legal or 'private person' (sole proprietor)
Failure to observe campaign expense ceiling for elections or referenda	Article 23	€ 700 – 1,000	Responsible person of the campaign organiser or individual
Exceeding the campaign expense ceiling by more than 10 percent	Article 23	50% reduction of the partial reimbursement of election campaign expenses	Election campaign organiser
Id.	Article 23	50% reduction of public funding for a period of 1 year	Political party
Exceeding the campaign expense ceiling by more than 30 percent	Article 23	Loss of right to partial reimbursement of election campaign expenses	Election campaign organiser
Id.	Article 23	Loss of public funding for a period of 1 year	Political party