



Strasbourg, 22 March 2012

Public
Greco Eval III Rep (2011) 6E
Theme II

Third Evaluation Round

Evaluation Report on the Russian Federation Transparency of Party Funding

(Theme II)

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

I. INTRODUCTION

1. The Russian Federation joined GRECO in 2007. GRECO adopted the Joint First and Second Round Evaluation Report (Greco Eval I/II Rep (2008) 2E) in respect of the Russian Federation at its 40th Plenary Meeting (5 December 2008). The aforementioned evaluation report as well as its corresponding compliance report are both available on GRECO's homepage (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 Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
 - **Theme II – Transparency of party funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and – more generally – Guiding Principle 15 (financing of political parties and election campaigns).
3. The GRECO Evaluation Team for Theme II (hereafter referred to as the “GET”), which carried out an on-site visit to the Russian Federation from 5 to 7 October 2011, was composed of Mr Dimitar KUMURDJIEV, Legal Adviser to the National Assembly (Bulgaria), Mr Remco NEHMELMAN, Associate professor on constitutional and administrative law, University of Utrecht (Netherlands) and Mr Hubert SICKINGER, Senior research fellow, Institute of Conflict Research (Austria). The GET was supported by Ms Liubov SAMOKHINA and Mr Michael JANSSEN from GRECO's Secretariat. Prior to the visit the GET was provided with a comprehensive reply to the Evaluation Questionnaire (document Greco Eval III (2011) 6E, Theme II) as well as copies of relevant legislation.
4. The GET met with officials from the Central Election Commission, the Prosecutor General's Office, the Ministry of Justice, the Federal Tax Service, the Academy under the Prosecutor General's Office and prosecutors, Judges of the Supreme Court, members of the Federal Council of the Federal Assembly of the Russian Federation and of political parties “United Russia”, “Patriots of Russia”, “Right Cause” and “Liberal Democratic Party of Russia”. The GET also met representatives of the Lawyers Association of Russia, the Open joint stock company “Savings Bank of Russia”, non-governmental organisations, academia and the media.
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 measures adopted by the Russian authorities in order to comply with the requirements deriving from the provisions indicated in paragraph 2. The report contains a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to the Russian Federation in order to improve its level of compliance with the provisions under consideration.
6. The report on Theme I – Incriminations, is set out in Greco Eval III Rep (2011) 6E - Theme I.

¹ The Russian Federation ratified the Criminal Law Convention on Corruption (ETS 173) on 4 October 2006. This instrument entered into force in respect of the Russian Federation on 1 February 2007. The Russian Federation signed the Additional Protocol to the Criminal Law Convention (ETS 191) on 7 May 2009.

II. TRANSPARENCY OF PARTY FUNDING – GENERAL PART

Legal framework

7. In the Russian Federation, political parties are governed by Federal Law No. 95-FZ of 11 July 2001 “On Political Parties” (LPP) and, to a certain extent, by Federal Law No. 82-FZ of 19 May 1995 “On public associations” (LPA). The LPP includes provisions on general funding of political parties, whereas specific rules on the financing of election campaigns are laid down in Federal Law No. 51-FZ of 18 May 2005 “On elections of deputies of the State Duma of the Federal Assembly of the Russian Federation” (LSDE), Federal Law No. 19-FZ of 10 January 2003 “On elections of the President of the Russian Federation (LPRE) and Federal Law No. 67-FZ of 12 June 2002 “On basic guarantees of electoral rights and the right to participate in referendums of citizens of the Russian Federation” (LBG).² Moreover, the election laws of the subjects of the Russian Federation regulate the campaign financing in elections to state government and bodies of the federal subjects and of local governments.
8. Since their adoption, the above laws have been subject to extensive amendments. Among the most notable changes pertaining specifically to the financing of political parties and election campaigns were the allocation and subsequent extension in the level of direct state support provided to parties depending on their performance in elections, the regulation of indirect state aid to parties represented in parliament (i.e. equal access to public premises and equal coverage by the public media), the increase in the legal maximum limits on donations by natural and legal persons to political parties and on expenditure from electoral funds.

Definition of political parties

9. A political party is defined by Section 3, paragraph 1 LPP as “a public association created for the participation of citizens of the Russian Federation in the political life of society through the creation and expression of their political will, participation in social and political actions, in elections and referendums as well as for representation of interests of citizens in bodies of state authorities and local governments.”
10. Political parties acquire legal personality pursuant to a decision by the Ministry of Justice and their recording in the Uniform state register of legal entities by the Federal Tax Service.³ The same applies to regional party branches.
11. Activities of political parties must be based on the principles of voluntariness, equality, autonomy, legitimacy and transparency. Parties are free in determining their internal structure, objectives, forms and methods of operation, except for restrictions established by the LPP. They have to operate openly and to make information on their statute and programme available to the public.⁴ The interference by public authorities and their officials in the activities of political parties, as well as the interference by political parties in the activities of public authorities and their officials are prohibited.⁵

² The financing of referendum campaigns is regulated more specifically in the Federal Law “On referendums of the Russian Federation”. The present report only examines regulations on election campaign financing.

³ Section 15, paragraph 1 LPP. The Register must be amended within five days from the date of the authorisation by the registration authority.

⁴ See Section 8, paragraph 1 LPP.

⁵ Section 10 LPP.

Founding and registration of political parties

12. A political party can be founded by decision of its constituent assembly, establishing regional branches in more than half of the subjects of the Russian Federation, adopting a statute and a programme and forming governing and audit bodies – or by the conversion of an “all-Russia public association” or an “all-Russia civic movement”⁶ into a political party by the respective assembly.⁷ As of January 2012, a political party must be composed of at least 40 000 members and include regional branches of at least 400 members in more than half of the federal subjects. Other regional branches must have at least 150 members.⁸ Membership is restricted to citizens of the Russian Federation of at least 18 years of age.⁹ Governing and other bodies of a party, its regional branches and other structural units must be located on the territory of the Russian Federation. The highest governing body of a party is its assembly.
13. Section 9 LPP sets forth restrictions on the formation and activity of political parties. *Inter alia*, the aims or actions of parties must not be directed toward carrying out extremist activities and parties may not be formed on the grounds of professional, racial, national or religious affiliation. Structural party units may be formed and operate only on territorial basis and they may not be formed within state government or local bodies, the armed forces, law enforcement and other government agencies, public and private organisations. The formation and activities of political parties of foreign states on the territory of the Russian Federation are prohibited.
14. A political party and its regional branches are registered by the Ministry of Justice and its territorial bodies after verification of the application, which must be submitted within six months of the date of the constituent assembly and include the signatures, names and addresses of authorised representatives, the statute and programme of the party, a certified copy of the decision by the constituent assembly to found the party, to form regional branches, etc., proof of payment of the registration fee, the address of the party’s permanent governing body, a copy of the information concerning the place and date of the constituent assembly published in the national press, as well as certified copies of minutes of the conferences or general meetings held by regional party branches in more than half of the subjects of the Russian Federation indicating the number of party members in the regional branches and the location of their governing bodies.¹⁰ Regional party branches are registered subsequently, within six months from the date of registration of the party. In case the party statute provides for the registration of other structural units, the rules prescribed for the registration of regional party branches apply. Registration may be denied if the provisions of the party statute are contrary to the Constitution or federal laws, if the party name or symbols do not comply with the law or if the documents required have not been provided in time or their content is deficient.¹¹
15. In accordance with Section 19 LPP, data on the formation and liquidation of political parties are to be published in national journals. The Ministry of Justice has to publish entries on the state registration of parties and regional branches on the Internet. Furthermore, it has to annually

⁶ “Public association” and “civic movement” are defined in the LPA. The concept of “conversion” corresponds to the provisions of Federal Law No. 7-FZ of 8 December 1995 “On non-profit organisations”, which stipulate that a non-profit organisation can be founded through the establishment or re-organisation of another non-profit organisation.

⁷ Section 11, paragraph 1 LPP.

⁸ Section 3, paragraph 2 LPP.

⁹ A Russian Federation citizen may hold membership of only one political party at once. A member of a political party may be registered only in one regional party branch, in the region of permanent or predominant residence (Section 23, paragraph 6 LLP).

¹⁰ See Sections 15-18 LPP.

¹¹ Section 20 LPP.

publish a list of political parties and regional branches in the national press and, together with the date of registration of each party and regional branch and with the texts of party statutes and programmes, on a special website. In January 2012, the Uniform state register of legal entities contained seven political parties.

Participation in elections

16. The Russian Federation is a federal semi-presidential republic with a multi-party system and with separate legislative, executive and judicial branches. It consists of 83 federal subjects, including republics, territories, regions, federal cities, autonomous regions and autonomous areas. The current Constitution dates from 1993. The republics within the Russian Federation have their own Constitutions, and the other subjects have their own statutes. Each federal subject has its own legislation. Local self-government is recognised in the Constitution, it operates independently and separately from the bodies of state power.¹² The President of the Russian Federation, members of the State Duma (the lower house of the federal parliament), members of parliaments of the federal subjects, members of local councils are elected by popular vote on the basis of equal and direct universal suffrage through secret ballot.¹³ A head of a municipal unit is elected either as above or by a representative body of the municipal unit from its members.¹⁴ All citizens of the Russian Federation of at least 18 years of age have the right to vote, except those recognised as legally incapable or held in custody pursuant to a court decision.
17. The head of state is the president, who is guarantor of the Constitution and of the rights and freedoms of man/woman and citizen, represents the Russian Federation at home and abroad and is also the supreme commander-in-chief of the armed forces. Under Articles 83 to 90 of the Constitution, the head of state has a broad range of powers, including the appointment of the prime minister (with the assent of the parliament) who heads the government. The president is elected for a term of six years. No more than two sets of consecutive terms may be served. A candidate for president must be a citizen of the Russian Federation, at least 35 years of age and a resident of the country for at least 10 years. Candidates may be either self-nominated or proposed by a political party. All candidates with the exception of those proposed by the parties represented in parliament are to collect at least two million signatures of voters, in support of their nomination.¹⁵
18. The Federal Assembly (the Parliament of the Russian Federation) consists of two chambers. The Federation Council is composed of two representatives from each subject of the Russian Federation and the State Duma is composed of 450 members who are elected by popular vote for a five-year term, by party-list proportional representation. In principle, seats are divided among the parties whose federal lists of candidates obtain nationally at least 7% of the vote, provided that there are at least two such lists and that these federal lists of candidates together receive more than 60% of the total vote.¹⁶ In addition, federal lists of candidates, which receive less than 7% but not less than 6% of votes and less than 6% but not less than 5% of votes, obtain two

¹² Article 12 of the Constitution.

¹³ Elections to local councils are regulated by Federal Law No. 131-FZ of 6 October 2003 "On basic principles of the organisation of local self-government in the Russian Federation".

¹⁴ Ibid., Section 36.

¹⁵ See Sections 34-36 LPRE.

¹⁶ In accordance with Federal Law No.287-FZ of 20 October 2011, "On amending selected legal acts of the Russian Federation in connection with decreasing the minimum percentage of votes granting access to the allocation of mandates in the State Duma of the Federal Assembly of the Russian Federation", the threshold was reduced from 7% to 5%. This provision is applicable as of 1st January 2013.

mandates and one mandate, respectively.¹⁷ Russian citizens of at least 21 years of age are eligible to be a deputy except in certain cases such as sentences for serious or particularly serious crimes which have not expired. Candidates are nominated via federal lists proposed by the party assembly. A political party not represented in parliament must submit 150 000 signatures of support, out of which not more than 5 000 signatures may emanate from one federal subject.¹⁸

19. In 73 subjects of the Russian Federation a mixed electoral system is used, where half of the deputies of the legislative body of the federal subject are elected following the majoritarian electoral system in single (multi-member) constituencies and the other half following the proportional election system for a single constituency. The laws of 73 federal subjects establish a 7% threshold, in nine others it is 5% and in one 6%. The order of formation of a representative body at local level is determined by the statute of a municipal unit depending on its type.¹⁹
20. Elections are prepared and conducted by the Central Election Commission (CEC), the election commissions of the federal subjects, the election commissions of municipal units, regional, territorial (rayon, city and other) and precinct election commissions. Both the CEC and the election commissions of the federal subjects are tasked, *inter alia*, with supervising the observance by participants in elections (hereafter “electoral subjects”) of the election campaign funding regulations.²⁰ The decisions of a higher-level election commission adopted within the scope of its competence are binding on a lower-level election commission.²¹ Decisions made by election commissions can be appealed in court or a higher-level election commission.²²
21. The election campaign starts on the day of the official publication of a decision by an authorised official, a state government or local body to hold the election and expires on the day when a relevant election commission presents a report on the disbursement of state funds allocated and used for preparing and holding the election.²³ In federal elections, within three months from the official publication of the election results, the CEC is to submit to both chambers of Parliament a report on the disbursement of state funds and on the receipts and expenditure from the electoral funds.²⁴ The campaigning period commences on the day of nomination of a candidate/a federal list of candidates and terminates one day before the election. The campaign in the media starts 28 days prior to election.²⁵

Party representation in Parliament

22. The last election to the State Duma was held on 4 December 2011 with the participation of 7 political parties. As of January 2012, the distribution of parliamentary seats was as follows:

¹⁷ Sections 82 and 82-1 LSDE.

¹⁸ See Section 39, paragraph 3 LSDE. Following the December 2011 elections, for all consecutive State Duma elections, the number of signatures decreases to 120 000.

¹⁹ Section 34, part 3, the Federal Law “On basic principles of the organisation of local self-government in the Russian Federation”.

²⁰ Cf. paragraphs 64 to 73 below.

²¹ The definitions of the terms “higher-level commission” and “lower-level commission” are contained in Section 2 LBG.

²² Section 20, paragraphs 10 and 11 LBG.

²³ Section 2, paragraph 19 LBG.

²⁴ Section 70, paragraph 7 LSDE and Section 64, paragraph 9 LPRE.

²⁵ Section 56 LSDE, Section 50 LPRE.

Party	Number of registered deputies
All-Russia Political Party "United Russia"	238
Communist party of the Russian Federation	92
Political Party "Fair Russia"	64
Liberal Democratic Party of Russia	56

The last presidential election took place on 4 March 2012.

Overview of the political funding system

Legal framework

23. As concerns general party finances, Section 28 LPP sets forth the principle that political parties have the right to own any property necessary for their activities as stipulated by the LPP and party statutes. The owner of party property, including the property of its regional branches and other structural units, is the party as a whole. Regional branches and other structural units with legal entity status (registered structural units) have the right to operative management of the property assigned to them, with their own balance sheet or projections.²⁶ Responsibility for the financial activity of the party, its regional branches and other registered structural units is borne by authorised persons assigned in accordance with its statute. Permitted and prohibited sources for the financing of political parties are regulated in Sections 29 and 30 LPP.
24. The financing of election campaigns is specifically regulated by the different election laws. Sections 57 to 59 LBG contain basic rules which apply to all types of elections, namely at federal level, at the level of the federal subjects and that of local self-government. According to these rules, electoral subjects – depending on the type of election, electoral associations²⁷ and election candidates (unless they are included in a list of candidates) – are generally obliged to establish an electoral fund and are prohibited from using any other funds for financing their election campaign.²⁸ In elections to the State Duma, regional party branches may form electoral funds subject to a decision by the leading party body, if the federal list of candidates contains a regional group of candidates corresponding to the given federal subject or to a part of its territory.²⁹ The laws of the federal subject may provide that, in elections to local governments, candidates may be discharged from the obligation to set up an electoral fund provided that they do not fund their campaign and the that constituency does not exceed 5 000 voters.³⁰ Also, a candidate competing in several elections conducted on the same territory or on the territories of which one is part of the other, may establish several electoral funds corresponding to each of the election campaigns. In this case, the maximum legal limit of expenditure from all electoral funds shall not exceed the highest legal limit established for the largest electoral fund.³¹ In federal elections, the order of

²⁶ Pursuant to Section 216, part 1 of the Civil Code, the right to operative management of property is a right *in rem* of persons who are not general owners. It reconstitutes the provisions of Section 48, part 1 of the Civil Code and of Section 3 of the Law "On non-profit organisations", which stipulate that a non-profit organisation shall have a balance sheet or projections. Meeting this requirement ensures the independence of property of a legal entity.

²⁷ That is political parties, their regional branches, other registered structural units authorised to participate in relevant elections in accordance with the federal law, as well as other public associations whose statute provides for participation in elections - Section 2, paragraph 25 LBG.

²⁸ See Section 59 LBG, Section 64, paragraph 13 LSDE, Section 58, paragraph 8 LPRE.

²⁹ Section 64, paragraph 1 LSDE.

³⁰ Such candidates are obliged to inform the election commission thereof. Section 58, paragraph 1 LBG.

³¹ Section 58, paragraph 10 LBG.

formation and expenditure from electoral funds is regulated by the CEC's resolutions.³² As a rule, such resolutions are adopted anew for each type of election.

25. The electoral fund is considered to be established from the day of the opening of a special election account by an electoral subject with the assent of the relevant election commission, in principle at a designated branch of the Savings Bank of the Russian Federation.³³ All sums of an electoral fund must be transferred to such an account, with the exception of elections to local self-governments in which expenditure by a candidate does not exceed 3 000 roubles/RUB (approximately 75 EUR).³⁴ Candidates, political parties, their regional branches and structural units may only hold one special election account.³⁵ The opening, maintenance and closure of the account is regulated by the CEC, in consultation with the Central Bank of the Russian Federation.³⁶ Electoral associations are obliged to appoint authorised representatives for financial matters registered with the relevant election commissions, in particular, for the management of electoral funds. Election candidates may and, in cases provided by law, are obliged to proceed with such appointments.³⁷
26. The financing of entities related, directly or indirectly, to political parties or otherwise under their control, as well as of organisations affiliated to political parties, is not specifically regulated by the LPP or the election laws. Party structures may include regional branches and other registered structural units and parties may perform business activity within the limits set by the LPP (see below). In accordance with Section 26, paragraph 1 LPP, parties may form associations and alliances with other political parties and other public associations without setting up a legal entity. The authorities indicate that this provision aims at ensuring the right of citizens to be elected within the proportional electoral system and is not applicable to the everyday activities of a political party, including the party financing.
27. Abusing public office in elections is forbidden.³⁸ Prohibition applies to candidates, registered candidates, other persons who occupy state or elected municipal posts, who are public officials, state or municipal servants, members of management boards of organisations regardless of the form of ownership, journalists, creative employees of mass media organisations. Abusing public office entails, *inter alia*, engaging persons who are subordinate to or otherwise dependent on a candidate, using premises occupied by state bodies or bodies of local self-government, using telephone, fax and other means of telecommunication, information services, office equipment of state and municipal bodies and institutions, using state or municipal transportation free of charge or at low cost, in order to promote a candidate or a list of candidates.

³² Pursuant to Section 58, paragraph 12 LBG, see e.g. Resolutions of 12 March 2011 No. 10/87-6 "On instructions regulating the formation and expenditure of electoral funds of political parties and of their regional branches in election of deputies of the State Duma of the Federal Assembly of the Russian Federation" and No. 10/88-6 "On instructions regulating the formation and expenditure of electoral funds of candidates in election of the President of the Russian Federation".

³³ The Savings Bank is an open joint stock company, of which the state is a major shareholder.

³⁴ Section 58, paragraph 11 LBG.

³⁵ See e.g. the CEC's Resolutions of 12 May 2011 No. 10/85-6 "On the procedure for opening, maintenance and closure of special election accounts for generating electoral funds of political parties and of their regional branches in election of deputies of the State Duma of the Federal Assembly of the Russian Federation" and No. 10/86-6 "On the procedure for opening, maintenance and closure of special election accounts for generating electoral funds of candidates in election of the President of the Russian Federation".

³⁶ *Ibid*, paragraphs 1.3 and 1.2, respectively. See also Section 65, paragraph 11 LSDE, Section 60, paragraph 11 LPRE.

³⁷ Section 58, paragraph 3 LBG. Under Section 59, paragraph 2 LPRE, an authorised representative has the right to open a special election account, to manage the electoral fund, to keep books of the electoral fund, to exercise control over receipts and expenditure from the electoral fund, to sign payment documents.

³⁸ Section 40 LBG.

Direct public funding

28. Political parties are entitled to state aid based on election results in order to compensate for the financial costs incurred by them during elections, to a total annual amount of at least 20 RUB/ approximately 0.5 EUR multiplied by the number of voters included in voter lists at the preceding elections to the State Duma or presidential elections.³⁹ Parties have the right to state aid (1) if they received at least 3% of the federal constituency vote during the preceding elections to the State Duma, to the annual amount of 20 RUB/approximately 0.5 EUR multiplied by the number of votes received by the list of candidates nominated by the party; or (2) if they received at least 3% of the vote during the preceding presidential elections, to the non-recurrent amount of 20 RUB/approximately 0.5 EUR multiplied by the number of votes received by the presidential candidate nominated by the party. The extent of state funding is subject to annual indexation taking into account the inflation rate. The funds are allocated (1) within three months after the official publication of parliamentary election results and annually in subsequent years during the term of the State Duma; or (2) within one year after the official publication of presidential election results. The state funding constitutes so-called “special purpose receipts”.

Between 2008 and 2010, a total amount of 3 235 065 365 RUB/ approximately 80 876 634 EUR was distributed among four political parties as direct state aid:

No.	Political party	2008	2009	2010
1.	All-Russia Political Party “United Russia”	486 224 765 RUB (ca. 12 155 619 EUR)	894 284 820 RUB (ca. 22 357 120 EUR)	894 284 820 RUB (ca. 22 357 120 EUR)
2.	Communist party of the Russian Federation	106 452 180 RUB (ca. 2 661 304 EUR)	160 937 720 RUB (ca. 4 023 443 EUR)	160 937 720 RUB (ca. 4 023 443 EUR)
3.	Liberal Democratic Party of Russia	63 246 665 RUB (ca. 1 581 166 EUR)	113 216 460 RUB (ca. 2 830 411 EUR)	113 216 460 RUB (ca. 2 830 411 EUR)
4.	Political Party “FAIR RUSSIA”	26 918 195 RUB (ca. 672 955 EUR)	107 672 780 RUB (ca. 2 691 819 EUR)	107 672 780 RUB (ca. 2 691 819 EUR)
	Total amount	682 841 805 RUB (ca. 17 071 045 EUR)	1 276 111 780 RUB (ca. 31 902 794 EUR)	1 276 111 780 RUB (ca. 31 902 794 EUR)

Indirect public funding

29. Non-profit organisations such as political parties are, in principle, subject to income tax⁴⁰ but special-purpose receipts – such as donations received by parties under the conditions set by Section 30 LPP, including their proper documentation – are not taken into account for determining the tax base.⁴¹
30. The LPP also obliges federal and regional state bodies, as well as organs of local self-government, to afford equal support to political parties by assuring equal access by parties to public media (state or municipal television, radio and press), for free or for a fee, and to premises and communications equipment on equal footing and on the same terms as for other public users.⁴² During elections⁴³, as a general rule, free airtime and free printing space is not provided

³⁹ Section 33 LPP.

⁴⁰ Articles 246 and 247 of the Tax Code.

⁴¹ Article 251, paragraph 2 of the Tax Code. Same principle applies to electoral fund donations – see Section 59, paragraph 12 LBG.

⁴² See Section 32, paragraph 1 LPP.

⁴³ Information support of elections is divided into campaigning per se and “information of voters”, which must be objective, truthful and not violating the principle of equality of election candidates – see Sections 44 and 45 LBG.

to an electoral association which received less than 3% of the vote in preceding election.⁴⁴ Free airtime and free printing space are not provided to a political party (or its successor) (1) whose federal list of candidates received less than 3% of the vote in preceding election to the State Duma and was not admitted to the distribution of seats⁴⁵; or (2) whose candidate received less than 2% of the vote in preceding presidential election.⁴⁶ In case of failure to attain the threshold, parties are obliged to repay the costs⁴⁷ and, in principle, lose free access to public media in the next relevant election.⁴⁸

State support to parliamentary parties and members of parliament

31. In the Russian Federation, state support is not directed at parliamentary party groups but at individual deputies. It covers the fully equipped working premises in the capital and in the territory corresponding to the regional group of the federal list of candidates, communication, postal and transportation expenses, and secretariat support consisting of five advisors. The deputies also receive a lump sum, the level of which is annually calculated by the State Duma.⁴⁹
32. In addition, pursuant to Federal Law No. 95-FZ of 12 May 2009 “On guarantees of equality of parliamentary parties in the coverage of their activities by publicly accessible state TV and radio channels”, the parties enjoy equal coverage by the aforementioned media. Monitoring compliance with the law is entrusted to the CEC and carried out in consultation with parliamentary parties, the Public Chamber and the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communication.

Private funding

33. Section 29 LPP stipulates that the funds of a political party may be set up from entrance and membership fees, federal budget sources, donations, proceeds from events organised by the party, its regional branches and other structural units, as well as income from specified business activities (see below), proceeds from civil law transactions⁵⁰ and other income not prohibited by the law. Party funds must be placed on accounts with credit institutions registered in the Russian Federation. The party, its regional branches and other registered structural units may only have one account.

⁴⁴ See Section 50, paragraph 1.1. LBG.

⁴⁵ Section 57, paragraph 2 LSDE.

⁴⁶ Section 51, paragraph 2.1 LPRE.

⁴⁷ In the course of the visit, the GET has learnt that debts to the public media represented the most important item in the general indebtedness of the Russian political parties. According to the CEC, as a result of the 2007 State Duma election, the following amounts had to be paid by parties not admitted to parliament: “Yabloko” – 170 million RUB/ approximately 4 250 000 EUR, the “Civil Power” – 168,5 million RUB/ approximately 4 212 500 EUR, the Agrarian party – 161,3 million RUB/ approximately 4 032 500 EUR, the Democratic Party – 161 million RUB/ approximately 4 025 000 EUR, the “Alliance of the Right Forces” – 159 million RUB/ approximately 3 975 000 EUR.

⁴⁸ In the 2011 parliamentary elections, the debts of “Yabloko” and of “Patriots of Russia” had apparently been forgiven as these were allowed access to public media.

⁴⁹ Federal Law No. 3-FZ of 8 May 1994 “On the status of a member of the Federation Council and on the status of a deputy of the State Duma of the Federal Assembly of the Russian Federation”, Sections 6, 27, 30-32, 35, 37.

⁵⁰ A civil law transaction is defined in Section 153 of Part 1 of the Civil Code. It includes proceeds from events organised by a political party, as well as income from rent, lease and sale of property – see e.g. Section 2.8, Appendix 2 of the CEC’s Resolution No. 163/1158-5 of 10 June 2009 “On recommendations for the reporting of income and expenditure by a political party, a regional branch or other structural unit, and on recommendations for preparing a consolidated financial report by a political party”.

34. Prohibited funding sources are listed in Section 30, paragraph 3 LPP.⁵¹ They include donations from foreign governments, entities or persons, stateless persons, Russian citizens aged below 18, legal entities with foreign participation exceeding 30%, international organisations or public movements, state government bodies, other government authorities or local governments, state and municipal institutions or unitary enterprises, legal entities with participation of the Russian Federation/a federal subject/municipalities exceeding 30%, organisations established by governmental bodies or local governments with foreign or government participation exceeding 30%, military units, military organisations or law enforcement agencies, charities, religious organisations or organisations established by them, anonymous donors, legal entities registered for less than one year and non-profit organisations having received during the preceding year funds from specified sources (such as foreign countries, governments, entities or persons, state government bodies, other government authorities or local governments, etc.).
35. The law does not contain any limits or restrictions on entrance and membership fees, which may be provided for by the party statutes.
36. Donations are regulated by Section 30 LPP. They may be granted to political parties by domestic natural and legal persons, with the exceptions mentioned above, and take the form of monetary donations or “other property”. The law establishes the following caps on donations that one person may pay during a calendar year to a political party, including its regional branches: (1) in the case of a legal person, 43 million 300 000 RUB/approximately 1 million 82 500 EUR; and (2) in the case of a natural person, 4 million 330 000 RUB/approximately 108 250 EUR. The total amount of annual donations received by a political party and its regional branches must not exceed 4 billion 330 million RUB/approximately 108 million 250 000 EUR, whereby the sum of annual donations received by one regional branch must not exceed 86 million 600 000 RUB/approximately 2 million 165 000 EUR. In the case of a non-monetary donation, the party concerned or its regional branch has to assess its monetary value in accordance with the law and record it in its financial statements.
37. Donations must in principle be made by bank transfer to the account of a political party or its regional branches stating in the payment order the following information on the donor: (1) in the case of a legal person, the taxpayer identification number, name, date of registration, bank details and an indication of the absence of restrictions stipulated by law; or (2) in the case of a natural person, his/her name, surname, patronymic, date of birth, citizenship, residence address, series and number of passport or equivalent document (with presentation of the passport or equivalent document). However, a natural person may pay donations in cash – without using the banking system – to an amount not exceeding annually 4 330 RUB/approximately 108 EUR to a political party and its regional branches. In such cases, the above-mentioned information on the donor must be indicated in the receipt voucher. Donations received by a party in violation of the above-mentioned legal requirements – donations from prohibited sources, donations exceeding the total annual threshold or non-respect of the transparency obligations – are to be returned to the donors or, if this is impossible – namely in the case of anonymous donations – to be transferred to the budget of the Russian Federation, within one month after their receipt.
38. Political parties have the right to own any property necessary for the performance of their activity stipulated by the LPP and their statutes.⁵² A party may also conduct the following types of

⁵¹ Income prohibited by law also includes sources of finance inadmissible in accordance with the Criminal Code and Federal Law No. 115-FZ of 7 August 2001 “On prevention of the legalisation of illegal earnings (money laundering), and the financing of terrorism”.

⁵² See Section 28 LPP.

business activity: a) information, advertising, publishing and printing activities to promote its beliefs, aims and objectives and to publicise the results of its activity; b) manufacture and sale of publishing and printing products as well as souvenirs with symbols or the name of the party; and c) sale and lease of the party's own movable and immovable property.⁵³ The law makes it clear that income from such business activity may only be used for the purposes stipulated by the party statute and that parties, including their regional branches and other structural units, may not engage in any other business activity. The authorities indicated that fundraising activities are allowed within these limits and within the restrictions applicable to donations.

39. Finally, Section 29 LPP allows parties to generate any "other income not prohibited by the law", such as inherited property and monetary funds and the taking out loans⁵⁴. The authorities indicate that the taking of loans is not specifically regulated and that general civil and banking legislation applies.
40. According to the tax legislation of the Russian Federation, donations to a political party are not tax-deductable.
41. As concerns the financing of election campaigns, electoral funds established by electoral subjects may be formed only from a limited number of sources, namely, in the case of elections to the State Duma, from the resources of the political party concerned (which nominated a federal list of candidates) and from voluntary donations by citizens and legal entities,⁵⁵ and in presidential elections, from the candidate's own resources, from funds allocated by the party which nominated the candidate and from voluntary donations by citizens and legal entities.⁵⁶ In addition, electoral associations having nominated lists of candidates are entitled – for the purpose of their campaign – to use, without payments from the electoral fund, real estate and other personal property (except for securities, printed materials and consumables) in their possession (including leasehold) on the day of the official publication of the decision to hold elections.⁵⁷ The authorities indicate that similar rules apply to elections to state bodies in the federal subjects and to local elections.
42. The above-mentioned sources for electoral funds are subject to different quantitative restrictions, depending on the type of election. (1) In the case of elections to the State Duma, the amount of the party's own resources must not exceed 50% of the legal maximum limit on expenditure from the electoral fund of a party, see further below. Moreover, the overall amount of donations by one citizen or legal entity to the electoral fund of a political party (regional party branch) must not exceed respectively 0.07% or 3.5% of the expenditure limit applicable to the electoral fund of a party (respectively 5% or 50% of the expenditure limit applicable to the electoral fund of a regional party branch).⁵⁸ (2) In the case of presidential elections, the legal maximum limit on expenditure from the electoral fund must not exceed for the candidate's own resources - 10% (15% for the repeat voting), for the party's own resources - 50%, and for natural and legal persons - 1,5% and 7%, respectively.⁵⁹
43. The election laws contain further regulations on donations to electoral funds which are similar to those applicable to donations to political parties under the LPP. In particular, they include

⁵³ Section 31 LPP.

⁵⁴ The authorities indicated that civil law is mostly applicable to regulation of other kinds of income of political parties.

⁵⁵ Section 64, paragraphs 2 and 4 LSDE.

⁵⁶ Section 58, paragraph 2 LPRE.

⁵⁷ Section 59, paragraph 6, LBG, Section 64, paragraph 12, LSDE.

⁵⁸ Section 64, paragraphs 2 and 4 LSDE.

⁵⁹ Section 58, part 2, LPRE

identical lists of prohibited funding sources, they require donors to indicate the same personal information in the payment document and they provide that donations received by an electoral subject in violation of the legal requirements are to be returned to the donors or, in the case of anonymous donations, to be transferred to the relevant (state) budget, within 10 days after their receipt.⁶⁰ Donations by legal persons must be made by bank transfer, donations by natural persons may also be made by direct payment to the credit institution where the electoral fund is established. The authorities indicate that similar rules apply to elections to state bodies in the subjects of the Russian Federation and to local elections.

44. In addition, the election laws provide that the performance of works, rendering of services and distribution of goods directly or indirectly related to the election campaign are prohibited if they are (1) not accompanied by the documented consent of the candidate/party or its authorised representative and paid from the relevant electoral fund; or (2) provided free of charge or at an unreasonably low or high price by legal entities, their branches, representative offices and other offices. Contracts with citizens and legal entities for the performance of certain works or rendering of services related to the election campaign are to be concluded personally by the candidate or by the authorised representative for financial matters of the electoral subject concerned. Payments are to be within the limits of the electoral fund and cannot be made in cash in respect of legal persons.⁶¹ Legal entities and individual entrepreneurs performing works or rendering services for the production of printing promotional materials must provide electoral subjects with equal terms of payment for the production of such material.⁶² The law allows for personal, voluntary and free of charge performance of works and rendering of services by the citizens.⁶³

Expenditure

45. There are no quantitative but only qualitative restrictions on the expenditure of political parties in general. Pursuant to Section 28 LPP, the property of a political party may be used only to implement the aims and objectives of its statute and programme. Similarly, Section 31 LPP makes it clear that income from the business activity of a party, its regional branches and other structural units – as far as permitted by law, see above – must not be distributed among party members and may only be used for the purposes stipulated by the statute.
46. Under Section 59 LBG, electoral funds, constituting special-purpose receipts, can only be used by electoral subjects to cover expenses related to election campaigns, namely for a) funding of organisational-technical arrangements for collection of voter signatures; b) election campaigning and payment for promotional and consultancy services; c) payment for other kinds of work (services) performed (rendered) by citizens and legal entities and payment of other expenses directly related to the conduct of the election campaign.⁶⁴
47. In addition to these qualitative restrictions on expenditure of electoral subjects from their electoral funds, the specific election laws set different quantitative limits. In the case of elections to the State Duma, the maximum limit of all expenditure from the electoral fund of a political party must not exceed 700 million RUB/approximately 17 500 million EUR.⁶⁵ This sum does not include the expenditure from the electoral funds of regional party branches which are limited to amounts

⁶⁰ See Section 58, paragraphs 6 to 9 LBG, Section 61, paragraph 4 LPRE and Section 67, paragraphs 4 and 5 LSDE.

⁶¹ Section 59, paragraphs 4 and 5 LBG.

⁶² Section 54, paragraph 1.1 LBG.

⁶³ Section 59, paragraph 5 LBG.

⁶⁴ Section 59, paragraph 2 and 3 LBG.

⁶⁵ Section 64, paragraph 3 LSDE.

ranging in principle from 15 million to 55 million RUB/approximately 375 000 to 1 375 000 EUR, depending on the number of voters registered on the corresponding territory.⁶⁶ In the case of presidential elections, the maximum limit of all expenditure from the electoral fund of a candidate must not exceed 400 million RUB/approximately 10 million EUR (500 million RUB for the repeated voting). The authorities indicate that similar rules (i.e. different quantitative limits) apply to elections to state bodies in the federal subjects and to local elections.

III. TRANSPARENCY OF PARTY FUNDING – SPECIFIC PART

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

Books and accounts

48. Section 34, paragraph 1 LPP provides that political parties, their regional branches and other registered structural units have to keep tax and accounting records in the manner and terms established by the pertinent laws applicable to legal entities.⁶⁷
49. Furthermore, paragraph 2 of the same section requires political parties, their regional branches and other registered structural units to maintain records of party fund income and expenditure and to submit them to the relevant election commissions, see more details further below.
50. The above-mentioned accounts and reports of political parties are not required to include information on the activity of organisations connected to them, except for regional and other party organisations which are integrated into the party structure. Organisations outside the party structure (legal entities) are obliged to keep separate tax and accounting records in accordance with the general rules.
51. Electoral subjects are obliged to keep accounting records for sums received and expenditure incurred from their electoral funds. Moreover, they have to present to the relevant election commissions financial reports indicating the size of their electoral fund, the sources from which it was formed and the expenses that have been paid from it,⁶⁸ see more details further below. The election laws provide that specific rules and forms for the accounts to be maintained and reports to be filed are to be approved by the CEC.⁶⁹

Preservation of records

52. The authorities indicate that the records on general party finances are stored in the archives of the election commission for at least 10 years, following which they are subject to value examination and either destroyed or selected for further storage in the Archive Fund of the Russian Federation. Also, in accordance with the CEC's regulations on keeping and processing internal documents, consolidated financial reports of political parties, being subject to mandatory disclosure (see below) are permanently stored by the CEC.

⁶⁶ See Section 64, paragraphs 5 and 6 LSDE which also contain regulations for cases where a federal list of candidates only corresponds to parts of the territory of the subject of the Russian Federation.

⁶⁷ In particular, Federal Law No. 129-FZ of 21 November 1996 "On accounting" and the Tax Code.

⁶⁸ See Section 59, paragraph 9 LBG, Section 68, paragraph 1 LSDE and Section 62, paragraph 1 LPRE.

⁶⁹ See, for example, Section 68, paragraph 1 LSDE.

53. The election laws require that final financial reports on electoral funds be stored for a period of at least five years from the day of official publication of the election results.⁷⁰ In case the election results are challenged in court, the period is extended until the court's decision enters into force or a criminal case is closed in accordance with the law. Moreover, subject to mandatory disclosure are: (1) information from consolidated financial reports of political parties that have registered a federal list of candidates, covering five years preceding the election to the State Duma, and (2) declarations of assets and interests of a candidate and of his/her spouse, covering respectively one and six years preceding the year of State Duma or presidential elections.⁷¹ In addition, media organisations, irrespective of their ownership, have to store records of free and paid airtime and printing space provided to electoral subjects for a period of at least three years after voting day.⁷²

Reporting obligations

54. Under Section 34 LPP, political parties, their regional branches and other registered structural units have to submit records of income and expenditure of party funds to the relevant election commissions. Firstly, such records must be presented by the parties to the CEC and by regional and other structural units to the election commission of the federal subject concerned on a quarterly basis, within 30 days after the end of the quarter. The quarterly records must contain information on sources and amounts of funds transferred to the accounts of the party, its regional branches and other registered structural units; on the value of property received in the form of donations by the party and its structural units; on the donors; and on expenditure of funds by the party and its structural units.
55. Secondly, parties are obliged to submit to the CEC annually, at the latest on 1 April of the year following the reporting period, a consolidated annual financial report on income and expenditure of the party and its regional and other structural units. The annual report must contain information on sources and amounts of funds transferred to the accounts of the party, its regional branches and other registered structural unit in the reporting year; on expenditure of such funds; on party assets, indicating the value and details of registration; and in respect of property received in the form of donations, information on the donors. The financial information is broken down on data concerning the party and its different regional and other structural units. Expenditure by the party, its regional branches and other registered structural units for the preparation and conduct of elections is to be accounted for separately and is also included in the annual party report.⁷³
56. Both the quarterly and the consolidated annual reports must specify income and expenses in the following manner and on the basis of forms established in print and in electronic form by the CEC.⁷⁴ Information on donations made by natural or legal persons in monetary form or in the form of other property has to be stated separately. In case of non-monetary donations, their monetary value is to be assessed in accordance with the law. Furthermore, information on

⁷⁰ See Section 88, paragraph 4 LSDE and Section 81, paragraph 4 LPRE. Also, see the CEC's Resolutions of 1 June 2011 No.13/148-6 "On the order of storage and transfer to archives of documents relating to the organisation/conduct of elections of deputies of the State Duma of the Federal Assembly of the sixth calling, and on the order of destruction of documents relating to the organisation and conduct of elections of deputies of the State Duma of the Federal Assembly of the Russian Federation of the sixth calling" and No.13/149-6 "On the order of storage and transfer to archives of documents relating to the organisation/conduct of election of the President of the Russian Federation in 2012, and on the order of destruction of documents relating to the organisation and conduct of election of the President of the Russian Federation in 2012".

⁷¹ Sections 68, paragraph 10 and 38, paragraph 4.2 LSDE and Section 34, paragraph 7 LPRE.

⁷² See Section 50, paragraphs 8 and 9 LBG, Section 57, paragraph 16 LSDE and Section 51, paragraph 14 LPRE.

⁷³ Section 34, paragraph 6 LPP.

⁷⁴ Section 34, paragraph 7 LPP.

donations made by natural persons in cash must be stated separately. Information on each donation is to be detailed in appendices to the financial reports, stating the contributed amounts and personal data on the donors (as in the payment documents, see above). Other sources of party income must also be recorded individually, namely income from entrance and membership fees, federal budget sources, proceeds from events organised by the party, its regional branches and other structural units, income from business activities, proceeds from civil law transactions and other income not prohibited by the law. As regards party expenses, the financial reports must indicate separately the general expenses of the party, its regional and other structural units by type of expense; expenses for the preparation and conduct of elections (separately for each electoral campaign); (illegal) donations returned to donors or transferred to the budget of the Russian Federation. A breakdown of each such transaction must be given in appendices to the financial reports of political parties, their regional branches and other structural units.

57. Section 59, paragraph 9 LBG states that electoral subjects have to present to the relevant election commission, not later than 30 days from the official publication of the election results, a final financial report on the size, sources and expenditure from their electoral fund. The specific election laws may require additional reports to be presented before the elections. Thus, in elections to the State Duma and in presidential elections, an initial financial report is to be presented alongside other registration documents.⁷⁵ Financial reports are to be submitted to the CEC, except for reports of regional party branches in elections to the State Duma, which are to be filed with the election commissions of the federal subjects.
58. The final financial report on the electoral fund must be presented together with primary financial documents evidencing the receipt of funds in the electoral fund and expenditure from it. The list of primary financial documents to be appended to the report is determined by the relevant election commission. In federal elections, it is specified that the report must be accompanied by records of income and expenditure specifying each financial transaction, including donations by natural and legal persons (stating the amounts donated and personal data on the donors as in the payment documents and in the annual party reports, see above); returns to the state budget of donations received in violation of the law; returns to the donors of funds received in excess of the legal limits; and expenditure of funds (stating the details of each receiver of funds, the transferred amount and type of expense).⁷⁶ In principle, all operations on the special election account terminate on voting day, and the account is to be closed before the final financial report is presented to the election commission.⁷⁷

Publication requirements

59. Pursuant to Section 35, paragraph 3 LPP, the CEC has to publish on its website the consolidated annual financial reports of political parties within two months of their delivery by the parties. Pursuant to the CEC's Resolutions, subject to publication are: (1) donations by legal entities exceeding 400 000 RUB/approximately 10 000 EUR; (2) donations by natural persons exceeding 20 000 RUB/approximately 500 EUR, (3) financial transactions between a political party and a legal entity/organisation above 400 000 RUB/ approximately 10 000 EUR; (4) financial transactions between a political party and a natural person/individual entrepreneur above 20 000 RUB/ approximately 500 EUR (for a regional party branch/other registered structural unit, the

⁷⁵ Section 68, paragraph 2 LSDE and Section 62 LPRE.

⁷⁶ See the aforementioned CEC's Resolutions No.10/87-6 No. and No. 10/88-6 of 12 May 2011.

⁷⁷ The law allows for the prolongation of operations on the special account after election, with the permission of the election commission, to compensate works performed/services rendered before the election and to return non-disbursed funds. Section 65, paragraphs 6 and 10 LSDE, Section 60, paragraph 6 and 10 LPRE.

thresholds are set at 200 000 RUB/approximately 5 000 EUR and 10 000 RUB/ approximately 250 EUR, for financial transactions with legal entities and natural persons, respectively).⁷⁸

60. As regards information on election campaign funding, Section 59, paragraph 8 LBG firstly provides that prior to elections, the relevant election commissions have to periodically (at least once every two weeks) send information on the receipt and use of electoral funds to the media for publication. Within three days of the submission of such data, it is to be published in state or municipal journals, depending on the type of election. The scope of information subject to publication is determined by the law.⁷⁹ In pursuance of the aforementioned provision, the specific election laws place an obligation on the periodic state printed media to publish information in the following manner. In election to the State Duma, subject to publication are: (1) financial transactions above 800 000 RUB/approximately 20 000 EUR for a political party and above 100 000 RUB/approximately 2 500 EUR for a regional party branch; (2) donations by legal persons to a political party above 400 000 RUB/approximately 10 000 EUR and to a regional branch - above 50 000 RUB/approximately 1 250 EUR; (3) the total number of citizens having donated above 40 000 RUB/approximately 1 000 EUR to a political party and above 20 000 RUB/approximately 500 EUR - to a regional branch. In presidential elections, subject to publication are: (1) financial transactions above 200 000 RUB/approximately 5 000 EUR; (2) donations by legal persons above 400 000 RUB/approximately 10 000 EUR; (3) the total number of citizens having donated above 40 000 RUB/approximately 1 000 EUR. For both types of elections, information on the returned donations, including the reasons for the return, on the total size of accumulated electoral funds and on the total expenditure thereof is also to be included.⁸⁰ All pertinent financial reports can be found on the CEC's official web site.
61. Secondly, Section 59, paragraph 9-1 LBG requires the relevant election commissions to issue copies of relevant reports on the receipt and use of electoral funds to the media within five days of their receipt. The specific election laws may oblige state or municipal journals (depending on the type of election) to publish the aforementioned financial reports or data contained in such reports provided to them by the election commissions. As concerns elections to the State Duma, the LSDE contains such an obligation on the media, requiring disclosure of initial and final financial reports within three days of their receipt, as well as an obligation on the relevant election commission to publish financial reports on its website within five days of their receipt.⁸¹
62. Thirdly, in federal elections, the CEC is to provide both chambers of parliament and the media with data on the receipt and expenditure from the electoral funds within three months of the official publication of the election results. Within one month of the submission of the aforementioned data to parliament, the CEC has to publish it in its official bulletin and – in

⁷⁸ See the CEC's Resolutions No. 153/1025-4 of 28 September 2005 "On the format of a consolidated financial report of a political party and on the information regarding receipt and expenditure of funds of a political party, regional branch, other registered structural unit of a political party" and No. 163/1158-5 of 10 June 2009 "On recommendations for generating information on receipt and expenditure of funds of a political party, regional branch or other structural unit of a political party, and on recommendations for generating a consolidated financial report of a political party".

⁷⁹ See also the CEC's Resolutions of 12 May 2011 No. 10/93-6 "On forms submitted to the periodic state printed media and subject to mandatory publication of information from consolidated financial reports of political parties having registered federal lists of candidates, and the auditing of such reports, as well as of information on receipts and expenditure from electoral funds of political parties, their regional branches in election of deputies of the State Duma of the Federal Assembly of the Russian Federation" and No. 10/94-6 "On forms submitted to the periodic state printed media and subject to mandatory publication of information from consolidated financial reports of political parties having registered candidates for the post of the President of the Russian Federation, and on the auditing of such reports, as well as of information on receipts and expenditure of electoral funds of candidates in election of the President of the Russian Federation".

⁸⁰ Section 68, paragraph 10 LSDE, Section 62, paragraph 8 LPRE.

⁸¹ Section 68, paragraph 6 LSDE.

elections to the State Duma - to make it available to other media for publication or – in presidential elections – to publish it on the Internet.⁸²

Access to accounting records

63. The authorities indicate that the different financial reports of political parties and of other electoral subjects are accessible to the competent auditing bodies for audit purpose (see further below). Other state bodies, namely law enforcement agencies, also have access to financial records of political parties and of other electoral subjects, in accordance with the scope of their authority and the legislation of the Russian Federation.⁸³

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

Auditing

64. In accordance with Section 21, paragraph 1 LPP, the statute of a political party must define: (1) the election procedure, tenure and competence of supervisory-auditing bodies of the party, its regional branch, other structural unit⁸⁴; (2) the rights of the party, its regional branch and other structural unit as regards the management of the party's funds and other property; (3) the order of reporting and the financial responsibility of the party, its regional branch, other structural unit. Neither the LPP, nor the election laws require political parties or other electoral subjects to ensure that professional independent auditing of their accounts and financial reports be performed.

Monitoring

65. Control over regular financial activities of political parties is carried out on the basis of the LPP and the LPA. Pursuant to Section 35 LPP, general accounting and tax records of political parties, their regional branches and other registered structural units are subject to audit by the Federal Tax Service and its territorial bodies. The (quarterly) reports on income and expenditure of political parties and their regional and other structural units are audited by the competent election commissions, namely the CEC and elections commissions of the federal subjects concerned. The consolidated annual reports of political parties are audited by the CEC.⁸⁵
66. Auditing the consolidated annual financial reports of political parties entails control by two agencies, namely the CEC - over sources and size of property received by political parties and their regional branches and other structural units in the form of entrance and membership fees, donations by natural and legal persons, and the Federal Tax Service - over other sources of income, amounts of cash received, party expenses and payment of taxes.⁸⁶ Within the CEC, the audit is carried out through the State automated system "Vybory (Elections)."⁸⁷ It consists of two

⁸² Section 70, paragraph 7 LSDE and Section 64, paragraph 9 LPRE. The non-submission, incomplete or late submission of information on the receipt and use of electoral funds and of the financial reports to the media by the Chair of an election commission is sanctioned by an administrative fine ranging between 1 000 and 2 000 RUB/ approximately 25 and 50 EUR – see Section 5.17, paragraph 2, Code of Administrative Offences of the Russian Federation.

⁸³ See e.g. Section 38, the Federal Law "On public associations".

⁸⁴ Identical obligation is contained in Section 20 LPA.

⁸⁵ See also corresponding provisions in Section 21, paragraph 12.1 and Section 23, paragraph L.1) LBG.

⁸⁶ Section 38, paragraph 1.1 and 2 LPP.

⁸⁷ Established pursuant to Federal Law No. 20-FZ of 10 January 2003 "On the State automated system of the Russian Federation "Elections" and covering the country's entire territory, the system implements information processes essential for preparing and holding elections and referenda. The system is managed by the CEC, which sets the requirements for its exploitation and development, in accordance with the federal laws. Its structure corresponds to the system of election commissions and includes 14 components, one of which is entitled "Automated control over the funding of political parties".

types of check: (1) the “internal” check, verifying the arithmetical correctness of the consolidated information on the transfer of monetary funds and of other property; and (2) the “chamber” check, establishing coherence between the consolidated information on the transfer of monetary funds, other property and information drawn from the report’s appendices. The system also allows for comparison of quarterly, annual and published consolidated financial reports. The election commissions may ask the authorities responsible for registration of Russian citizens (Federal Migration Service) and the executive bodies exercising state registration of legal entities or in charge of registering non-profit organisations (Federal Tax Service and Ministry of Justice) to carry out a background check of natural and legal persons having donated to a party account and to submit the audit results within 30 days on forms established by the CEC.⁸⁸

67. The CEC has to bring to the attention of political parties the audit results and to publish them on its website and in the press.⁸⁹ In case of failure by a party to submit financial reports on time in accordance with the rules, the CEC is to inform the authorised body (Ministry of Justice and its territorial bodies) which issues a substantiated warning specifying the violations and establishing a deadline of at least two months for rectification. In case of reporting failures by a regional party branch, the electoral commission of the federal subject is to inform the territorial body accordingly.⁹⁰
68. In addition, the LPA entrusts the Ministry of Justice with the overall responsibility of monitoring compliance by public associations, including political parties, with statutory goals and with the Constitution and legislation of the Russian Federation.⁹¹ Pursuant to Section 38 LPA, the Ministry of Justice (and its territorial bodies), as an authorised body in charge of registering public associations, may exercise control – not more than once per year – over the expenditure of funds and the use of other property by public associations, including political parties. To this end, it may request and receive information on financial and economic activities carried out by public associations from agencies of State statistics, the Federal Tax Service, other bodies of state control and supervision, credit and other financial institutions. In the case of violation by a public association of the Constitution and of the laws of the Russian Federation or the commission of acts contrary to the statute, it issues a motivated notice and establishes a deadline of at least one month for rectification.
69. Pursuant to Section 59, paragraph 13 LBG, the financial reports on the receipt and use of electoral funds are audited by the relevant election commissions, namely the CEC in federal elections, election commissions of the federal subjects in elections at the level of the subjects but also in elections to the State Duma with respect to electoral funds of regional party branches. The auditing includes control over sources of income/monetary contributions received by electoral funds (including checking the data on natural and legal persons having donated to the funds), over the correctness of accounting and of use of the funds (including checking the primary financial documents, attached to the report, which confirm expenditure) and control over the return of public funds allocated by the relevant election commissions to electoral funds (if public funding is provided for by the relevant law). Automated control is performed in the same manner as described above, using the State automated system “Elections”.

⁸⁸ Section 35, paragraph 4 LPP.

⁸⁹ Section 35, paragraph 3 LPP, Section 20, paragraph 12.1 LBG.

⁹⁰ The deadline for rectification set for the regional branch is at least one month. See Section 34, paragraph 8 and Section 39, paragraphs 1 and 2 LPP.

⁹¹ Overall supervision over compliance by public associations, including political parties, with laws is exercised by the General Prosecutor’s Office.

70. Other governmental bodies, bodies of local self-government, state and municipal institutions, as well as their officials, are obliged to provide the election commissions with assistance in implementing their powers. Governmental bodies, bodies of local self-government, public associations, organisations of all types of ownership, including TV and radio broadcasting organisations and journals, as well as officials of such bodies and organisations, have to provide commissions with the necessary data and materials. They are to answer requests by the commissions at no cost within five days (or, if such a request has been received five or fewer days prior to voting day, at the latest by the day preceding voting day or, if received on the voting day or the following day, immediately).⁹² More specifically, the election laws provide that the election commissions may ask the authorities responsible for registration of Russian citizens and the executive bodies exercising state registration of legal entities or in charge of registering non-profit organisations to carry out a background check of natural and legal persons having donated to an electoral fund and to submit the audit results within five days on forms established by the CEC.⁹³ To facilitate inter-agency co-operation and information exchange, the CEC has concluded partnership agreements with the Federal Tax Service and with the Ministry of the Interior; an agreement signed between the CEC and the Accounting Chamber providing mutual access to the respective agencies' databases.⁹⁴
71. Furthermore, Section 59, paragraph 7 LBG provides that the credit institution that is a holder of an electoral fund account has to periodically provide the relevant election commission – upon request – with information concerning the sums received and expenditure from the election account. This obligation is further regulated by the specific election laws. In federal elections, it is specified that such information is to be filed by the Savings Bank to the relevant commission – without being requested to do so – at least once a week or, when it is less than 10 days before voting day, at least once every three banking days, in accordance with forms established by the CEC and using the automated systems “Elections” and “Client – Savings Bank”.⁹⁵ In case of violation of the campaign funding rules by electoral subjects, the relevant election commission may issue a warning and make it public through the media or otherwise.⁹⁶ If the election commissions receive information about voluntary donations made to electoral funds from prohibited sources, they must promptly inform the political parties concerned and their regional branches (in elections to the State Duma) or the candidates concerned or their authorised representatives for financial matters (in presidential elections).⁹⁷
72. The election commissions are governed by the LBG and other relevant laws at federal level and at the level of the federal subjects. Section 20, paragraph 12 LBG declares the election commissions independent – within the limits of their competence – of other bodies of state power and bodies of local self-government. The CEC, the election commissions of the federal subjects are permanent collegial agencies with a five-year tenure. Their activity is financed from the federal budget – and the budgets of the federal subjects concerned – allocated for such purposes

⁹² Section 20, paragraphs 16-19 LBG.

⁹³ Section 68, paragraph 11 LSDE, Section 62, paragraph 9 LPRE, see also Section 59, paragraph 13 LBG and the CEC's Resolutions of 12 May 2011 No. 10/89-6 “On the format of presentation of data for the purpose of auditing information provided by natural and legal persons having voluntarily donated to the electoral funds of political parties, regional party branches, and on the submission of audit results in the election of the deputies of the State Duma of the Federal Assembly of the Russian Federation” and No.10/90-6 “On the format of presentation of data for the purpose of auditing information provided by natural and legal persons having voluntarily donated to the electoral funds of candidates in election of the President of the Russian Federation, and on the submission of audit results”.

⁹⁴ See respective agreements of 13 January 2011 (No. 08/137-2011/MMB-27-3/1), 21 February 2005 and 9 January 2002.

⁹⁵ Section 68, paragraph 7 LSDE, Section 62, paragraph 6 LPRE and the CEC's Resolutions No. 10/85-6, paragraph 2.4 and No. 10/86-6, paragraph 2.4.

⁹⁶ Section 20, paragraph 5.1 LBG.

⁹⁷ Section 62, paragraph 9 LPRE and Section 68, paragraph 11 LSDE.

for the next financial year in accordance with the relevant budget laws. The CEC consists of 15 university educated members. Five members are appointed by each of the following: (1) the President of the Russian Federation; (2) the State Duma, from a number of candidates proposed by factions, other deputy associations as well as by deputies; and (3) the Federation Council, from a number of candidates proposed by governmental bodies and senior officials of federal subjects (heads of supreme executive authorities). Election commissions of the federal subjects have between 10 and 14 members with voting rights and are formed on the basis of proposals by political parties, other public associations, representative bodies of municipalities, previous election commission. Half of the members are appointed by the legislative body and the other half by a senior public official of the federal subject concerned. No more than one representative from each political party, each electoral or other public association can be appointed. State and municipal servants may not represent more than half of the commission's total membership.⁹⁸ At least one member is to be appointed by each body pursuant to the CEC's proposal.⁹⁹ The exhaustive list of grounds for the release of a member of the election commission from his/her duties appears in Section 29 LBG. The meetings of the CEC are broadcasted on its official web-page on the Internet, while the materials are published on the official web-page and on the web-pages of the relevant electoral commissions.

73. During elections, within the scope of its mandate, the election commission is to examine applications regarding alleged violations of the LBG, to carry out checks and to provide written responses not later than within five days and no later than the day preceding voting day, and on applications received on voting day or the day following voting day – immediately. In case the alleged facts require additional checks, the decision is to be made not later than within ten days. In case an application refers to the violation of the law by a candidate or an electoral association, the latter or their authorised representatives shall be immediately notified thereof and may provide explanations.¹⁰⁰
74. Section 60 LBG foresees the establishment of supervisory-auditing services within the CEC and the election commissions of federal subjects during the election period.¹⁰¹ Supervisory-auditing services are formed of heads and experts of state and other bodies and institutions, including the Central Bank, the Savings Bank and general offices (national banks) of the Central Bank in the federal subjects,¹⁰² mandated upon request by the election commissions at the latest one month after the official publication of the decision to hold elections, for a term of at least five months (at least two months in the case of territorial and precinct election commissions). The supervisory-auditing services are in charge, *inter alia*, of monitoring the expenditure of funds allocated to the commissions for preparing and holding the elections, auditing financial reports of electoral subjects, overseeing the correctness of their accounts, monitoring the use of electoral funds. The services are to interact with law enforcement, tax and other competent authorities and organisations. The number of staff assigned to such services is not prescribed by law and varies between five and thirty members. The supervisory-auditing service of the CEC currently consists of 46 members (6 permanent and 40 temporary).

⁹⁸ Section 22, paragraph 5 LBG.

⁹⁹ Section 23, paragraph 9 LBG.

¹⁰⁰ Section 20, paragraphs 4 and 5 LBG.

¹⁰¹ The status of supervisory-auditing services is furthermore defined by resolutions of the relevant election commissions.

¹⁰² According to the authorities, supervisory-revision services cannot be formed from election candidates, their authorised representatives, election agents of political parties, party regional branches and other structural units eligible for the participation in elections, as well as their marital partners, close relatives and persons directly subordinated to them, members of election campaign initiative groups and of inferior election commissions.

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

75. The LPP, the Criminal Code (CC), the Code on Administrative Offences (CAO) and the LBG provide for several types of measures and sanctions on political parties, electoral subjects, authorised representatives for financial matters of electoral subjects and on contributors to electoral funds (natural or legal persons).¹⁰³

76. **Sections 39 to 45 LPP: Written notice, suspension and liquidation of a political party, its regional branches or other structural units**

In the case of violations by a political party (its regional branch or other structural unit) of provisions of the LPP or other federal laws, the Ministry of Justice (its relevant territorial body) issues a written notice specifying the violations and setting a deadline of two months or more (one month or more) for rectification. If within the prescribed period the party (the regional branch or other structural unit) has not rectified the situation and the notice has not been challenged in court, the activities of the party (the regional branch or other structural unit) may be suspended for up to six months by the Supreme Court of the Russian Federation (Supreme Court of the republic, territorial, regional court, city court with federal status, court of autonomous region and the autonomous county) upon request by the above-mentioned authority. Consequences of party suspension include the prohibition to use state and municipal media, to organise and hold meetings, to take part in elections, to use bank deposits except for the payment of taxes and fines etc. Section 32, paragraph 3 LPP provides that public funding of political parties is suspended in case of suspension of their activities.¹⁰⁴ Moreover, a political party (the regional branch or other structural unit) may be liquidated by decision of the Supreme Court of the Russian Federation, *inter alia*, in the case of failure within a term set out by court to address violations giving rise to suspension of the party (the regional branch or other structural unit), upon request by the above-mentioned authority. If liquidated pursuant to a court decision, the property of the party (the regional branch or other structural unit) is assigned to the budget of the Russian Federation and the party is excluded from the Uniform state register of legal entities.

77. **Article 141-1 CC: Criminal sanctions including fines and imprisonment**

Specified violations of the rules on financing election campaigns (such as transfers to candidates or electoral associations, in order to influence election results, of monetary funds *on a large scale*, bypassing the relevant electoral fund; or spending, in order to influence election results, funds *on a large scale* not transferred to the electoral fund) are punishable by a fine of 100 000 to 300 000 RUB/approximately 2 500 to 7 500 EUR or of a sum equivalent to the salary or other income of the offender for a period of one to two years, or by community service of up to 180 hours, or by corrective labour of up to one year, or by up to one year's imprisonment. More serious violations (such as expenditure *on a large scale* of donations prohibited by the election laws and transferred to the electoral fund account) are punishable by aggravated sanctions, including fines of 100 000 to 500 000 RUB/ approximately 2 500 to 12 500 EUR or of a sum equivalent to the salary or other income of the offender for a period of one to three years, and up to two years' imprisonment. Article 141-1 contains a note which defines the term "on a large scale" as monetary funds, the value of property or other advantage of a material value, which exceeds one tenth of the legal maximum limit on expenditure from the electoral fund of an electoral subject and is not less than 1 million RUB/ 25 000 EUR. This definition provides for the delimitation between criminal and

¹⁰³ As for the sanctions available under the LPA, pursuant to Section 12.2, political parties are withdrawn from its scope. That said, public associations, including political parties, may be sanctioned pursuant to Federal Law No. 113-FZ of 25 July 2002 "On countering extremist activities".

¹⁰⁴ Pursuant to Section 32, paragraph 4 LPP, state support of political parties (its regional branch or other structural unit) is terminated from the date of entry into force of court decision on their liquidation.

administrative offences (see below). Criminal sanctions can only be imposed on natural persons, in particular, on election candidates, authorised representatives for financial matters of electoral subject and individual donors.

78. Articles 5-17 to 5-20 CAO: Administrative fines

These Articles define administrative offences concerning failure to submit or publish financial reports on the electoral fund, illegal use of funds for the election campaign (such as funds not transferred to the electoral fund or funds exceeding the statutory limits), use of illegal material support for the election campaign and illegal financing of the election campaign/illegal provision of material support to the election campaign, provided that such acts do not constitute criminal offences. These administrative offences are subject to fines ranging from between 1 000 and 2 500 RUB/approximately between 25 and 62.5 EUR (in certain cases involving citizens) to between 10 000 and 100 000 RUB/approximately between 250 and 2 500 EUR (in certain cases involving legal entities), in some cases with confiscation of the subject of the offence. Such sanctions may be imposed, in particular, on election candidates, electoral associations, authorised representatives for financial matters of electoral subjects and on contributors to electoral funds (natural and legal persons).

79. Sections 20, paragraph 5.1, 76 and 77 LBG: Warning, cancellation of the registration of election candidates/lists of candidates and annulment of the decision on election results

The relevant election commission may issue a warning to electoral subjects violating the campaign funding rules and make it public through the media or otherwise. The registration of a candidate (list of candidates) may be cancelled by a court on the basis of an application by the election commission which registered the candidate (list of candidates) or by an electoral subject, *inter alia*, if new circumstances come to light which constitute a ground for refusal of registration (except for failure to establish an electoral fund), if electoral subjects/their authorised representatives exceed the legal maximum limit of expenditure from the electoral fund by more than 5% or if they use financial resources other than those of their own electoral fund in an amount exceeding the legal maximum limit of expenditure from the electoral fund by more than 5%. A court may annul decisions by an election commission as regards the election results or (in cases of elections based on lists of candidates) authorising the distribution of seats to electoral associations, *inter alia*, if expenditure incurred from the electoral fund of an electoral subject exceeds the legal maximum limit by more than 10%.

80. Written notices by the Ministry of Justice under the LPP can be appealed in district courts and decisions on suspension of activity or liquidation of a political party by the Supreme Court can be appealed before the Cassation Board of the Supreme Court. Warnings by election commissions under the LBG can be appealed either before specified courts or higher election commissions. The other sanctions mentioned above are imposed by judges of the peace¹⁰⁵ or general courts, whose decisions can be appealed before higher courts. On 31 March 2011, the Plenum of the Supreme Court of the Russian Federation issued Ruling No. 5 "On the practice of consideration by courts of cases pertaining to the protection of electoral rights and the right to participate in a referendum of citizens of the Russian Federation". This was the first time that such a Ruling summarised relevant judicial practices and gave recommendations aimed at promoting uniform interpretation and application of the electoral legislation by the courts.

¹⁰⁵ For administrative offences except those subject to an administrative investigation (Article 23, paragraph 3 and Article 21.1 CAO).

Immunities and time limits

81. According to the Constitution and other acts, several categories of high-ranking officials benefit from immunity in criminal proceedings, among them the President and members of Parliament (the Federation Council and the State Duma). The President can be impeached by the Federation Council only on the basis of charges of high treason or other grave offences brought by the State Duma and confirmed by a judicial opinion of the Supreme Court of the Russian Federation. The immunity of members of the State Duma can be lifted by the State Duma upon application by the Prosecutor General. Without the consent of the State Duma, its members cannot be subject to criminal or administrative liability imposed in a judicial procedure, taken into custody, arrested, searched (except for cases of *flagrante delicto*) or interrogated, or subjected to a body search except when necessary in order to ensure the safety of others, in accordance with federal law.
82. In addition, the Criminal Procedure Code of the Russian Federation provides for “special proceedings” and privileges in criminal cases in respect of a number of categories of officials, including deputies of and candidates for the State Duma, deputies of and candidates for legislative bodies of the subjects of the Russian Federation, as well as deputies, members or elected officials of local government bodies. “Special proceedings” imply the consent of a body/official – for example, the chairman of the Investigative Committee of the Russian Federation, in respect of registered candidates for the State Duma – for the use of coercive measures and for the initiation of criminal proceedings.¹⁰⁶
83. The general statutes of limitation provided by the CC¹⁰⁷ and the CAO¹⁰⁸ apply to the above-mentioned criminal and administrative offences and are as follows:
- violation of Article 141-1 CC: two years from the date of commitment;
 - violation of Articles 5-17 to 5-20 CAO: one year from the date of commitment.
84. Furthermore, the following time limits apply to the imposition of sanctions under the LBG. An application for cancellation of the registration of election candidates/lists of candidates may be submitted to court eight days before voting day at the latest and the court has to take a decision five days before voting day at the latest.¹⁰⁹ An application alleging the violation of electoral rights of citizens during the election campaign may be submitted to court within one year of the official publication of election results.¹¹⁰

Statistics

85. The authorities report that since the introduction of Article 141-1 CC on violations of the rules on financing election campaigns in 2003 until 2010, five persons have been convicted of such an offence. As concerns administrative offences relating to campaign financing regulations, they indicate that during the period 2007 to 2010, 6 legal persons and 59 natural persons were convicted of illegal use of funds (Article 5-18 CAO), 2 legal persons and 3 natural persons of use of illegal material support (Article 5-19 CAO) and 7 legal persons and 12 natural persons of illegal financing of election campaigns (Article 5-20 CAO).

¹⁰⁶ See sections 447 and 448 of the Criminal Procedure Code. See also GRECO's Joint First and Second Round Evaluation Report on the Russian Federation, document Greco Eval I-II (2008) 2E, paragraphs 167 to 172.

¹⁰⁷ Article 78 CC in conjunction with Article 15 CC.

¹⁰⁸ Article 4-5 CAO.

¹⁰⁹ Section 78, paragraph 5 LBG.

¹¹⁰ Section 78, paragraph 3 LBG.

86. Concerning sanctions under the LPP, the authorities state that, for example, violations of the party funding and transparency rules take the form of late submission of financial reports by regional party branches but that such irregularities are generally remedied by them after receipt of a written notice by the competent authorities. As concerns sanctions under the LBG, they refer to two examples of cases in which the registration of lists of candidates was cancelled due to illegal use of electoral funds.

IV. ANALYSIS

General considerations

87. In the course of the past two decades, the Russian legislation on political parties and election campaigns has undergone a significant transformation. For instance, in the sphere of elections, Federal Law “On basic guarantees of electoral rights of citizens of the Russian Federation” No. 56-FZ of 6 December 1994 contained just three very brief sections pertaining specifically to the financing of election campaigns. In comparison, the Federal Law “On elections of deputies of the State Duma of the Federal Assembly of the Russian Federation” (LSDE) of 18 May 2005 already incorporated seven very detailed sections. In 2001, Federal Law “On political parties” (LPP) No. 95-FZ – the first law of its kind in Russia’s contemporary history – was adopted. In comparison to the 1990s, when state funding of candidates’ election campaigns was habitual, the LPP introduced a new principle for the allocation of state aid based on the election results. Today, the Russian Federation disposes of a comprehensive regulatory framework, which covers both general party funding and election campaign financing, as well as relevant transparency rules. The legislation adopted at federal level – the LPP, the Law “On basic guarantees of electoral rights and the right to participate in referendums of citizens of the Russian Federation” (LBG), the Federal Law “On elections of the President of the Russian Federation” (LPRE), the LSDE – is rather complex, detailed and quite strict. The evolution of the legislation reflects a move towards a competitive multi-party system, which requires, *inter alia*, a satisfactory regulation of financial flows. An important feature of the Russian legislation has also been to ensure that parties are deeply rooted in Russian society and across the country’s vast territory, and that consistent and uniform principles apply to the organisation and holding of elections at all levels. In this respect, the GET notes that cumbersome requirements put in place for the registration of political parties, and thus affecting their right to participate in elections, have been subject to criticism, *inter alia*, by the European Court of Human Rights and by the Parliamentary Assembly of the Council of Europe.¹¹¹ In this context, the GET also notes the proposal to undertake a comprehensive reform of the Russian political system included in the Address of the President of the Russian Federation to the State Duma of the sixth calling delivered on 22 December 2011.¹¹² On 28 February 2012, the draft law “On introducing amendments in the Federal Law “On political parties” aimed at the liberalisation of requirements for the founding and activities of political parties was adopted at the first reading by the State Duma.
88. The Russian legislation provides for a mixed system of public and private funding of political parties and election campaigns. The role that the state plays in shaping the country’s political system, in particular, via direct and indirect financial support, is now significant and that was

¹¹¹ See e.g. *Case of Republican Party of Russia v. Russia*, 2011, application No. 12976/07; the PACE Report “Honouring obligations and commitments by the Russian Federation” of 3 June 2005, Doc. 10568, paragraph 37, (<http://assembly.coe.int/Mainf.asp?link=http://assembly.coe.int/Documents/WorkingDocs/Doc05/EDOC10568.htm>).

¹¹² The President of the Russian Federation suggested, *inter alia*, introducing a less demanding procedure for registering political parties, foreseeing the direct election of heads of the federal subjects and enhancing party control over the election commissions, see <http://www.garant.ru/hotlaw/federal/369899/>. On 23 December 2011 and 16 February 2012, relevant proposals were submitted to the State Duma.

recognised by all the four political parties met by the GET. Political parties that receive at least three percent of the votes in State Duma elections are entitled to state funding and to limited access to the public media free of charge during an election campaign. The direct financial support had risen from 50 kopeiks/ approximately 0,0125 EUR per vote in 2002, to 5 RUB/ approximately 0,125 EUR per vote in 2005, to 20 RUB/ approximately 0,5 EUR per vote in 2008. The most recent increase has substantially improved the parties' overall financial situation. According to the information gathered by the GET, the percentage of state funding in the parties' annual budgets had grown: for the Communist party – from approximately 40% to over 50%, for "Fair Russia" – from 7% to 25%, for the Liberal Democratic party – from below 40 % to over 83%, and for "United Russia" – from 23 % to 36%.

89. The legislation pertaining to the regulation of political finances in the Russian Federation is in many respects in line with Recommendation Rec(2003) 4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns (hereinafter, the Recommendation). There are separate legal regimes governing, on the one hand, the general party funding and, on the other hand, the election campaign financing, as well as relevant transparency rules. Nevertheless, similar principles and rules are often applied, notably in regard to the prohibited sources of funding and the sets of information submitted in respect of donors (natural and legal persons). As far as donations are concerned, the legislation requires that all donations received by a party or by an electoral subject¹¹³ be specified in the records. Relevant statements should not only identify the nature and value of each donation but also the donations that exceed the thresholds. A single set of information to be submitted in respect of a donor – natural and legal person – is also clearly defined. With regard to legal entities, a document where such information should be presented has been specifically designated (i.e. the payment order submitted by a legal entity to a bank). Provision of incomplete information automatically renders a donation illegal. Strict and identical bans are imposed on donations to parties and electoral funds by foreign entities (governments, enterprises, foundations and NGOs) as well as by national enterprises with a state or municipal share exceeding 30%. In essence, only Russian citizens above 18 years of age and Russian entities (registered for more than one year preceding the donation, with a maximum foreign share or a share by Russian state/federal subject/municipality not exceeding 30%), including non-profit associations not funded from abroad, are recognised as permissible donors. The amount of funding that may be received from a legal source and that may be spent in a given calendar year (for a political party) or in the course of an election campaign (for an electoral subject) is also defined. Depending on the level of elections and the size of population in a territory, different ceilings apply in respect of donations, electoral funds and expenditure limits. Electoral associations are generally obliged to set up an electoral fund that can only be used for the organisation and conduct of an election. Any financial and material support that bypasses the electoral fund is clearly prohibited. That includes performance of works and rendering of services by both natural and legal persons. Furthermore, candidates who are part of a federal or regional list of candidates are explicitly precluded from setting up their own electoral fund. The law entrusts the management of electoral funds and of the corresponding special election accounts to "authorised representatives for financial matters" of electoral associations and, in the cases provided for by the law, also of election candidates. Stringent reporting obligations on the expenditure incurred have been put in place, with only limited exceptions foreseen under the law, i.e. quarterly and annual reporting for political parties and, for elections at federal level, first and final financial reporting for electoral subjects. Annual financial reports of political parties consolidate financial data on the political

¹¹³ I.e. election candidates and electoral associations. Pursuant to Section 2, paragraph 25 LBG, electoral associations include political parties, their regional branches, other registered structural units authorised to participate in relevant election in accordance with the federal law, as well as other public associations whose statute provides for participation in elections.

party, its regional branches and other structural units. Supervision over consolidated financial reports and over financial reports of electoral subjects is exercised to a large extent by the election commissions, i.e. the Central Election Commission (CEC) and the election commissions of the federal subjects. Different laws furthermore provide for criminal, administrative and other types of liability for violations of political financing rules.

90. The GET wishes to stress that, while the regular funding of political parties is dealt with by the LPP, the regulation of the financing of election campaigns is currently scattered across numerous pieces of legislation and a great number of normative acts. Thus, at federal level, the legal framework comprises at least three different acts (the LBG, the LSDE and the LPRE). Although the present legislation does not contain a legal definition of “election financing,” there is broad agreement that such a notion includes: (1) financing and material support for the organisation and conduct of elections; (2) financial and material aid to electoral subjects, including political parties; (3) procedural norms; (4) relevant guarantees and (5) liabilities.¹¹⁴ At regional level, separate legislation regulates the campaign financing in elections to bodies of the federal subjects and of local self-government. In addition, many organisational and technical issues are governed by resolutions and decisions by election commissions and banking institutions, which are adopted anew for every upcoming election and whose prime objective is to provide instructions as regards the uniform application of the law. As the Russian Federation continues to optimise its political system, this has a strong bearing on the stability of its legislation. For instance, since its adoption in 2002, the LBG has been changed more than thirty times.¹¹⁵ Comparative analysis of the legislative acts indicates that not only most of the election laws repeat one another but also resolutions and regulations issued by the CEC extensively cite the laws as well as the CEC’s own preceding documentation. The GET did not specifically analyse legislation at regional and local level but it assumes that the situation is similar to that observed at federal level. Most of the interlocutors met by the GET agreed that the existing legislation was excessively detailed. Consecutive amendments substantially increased the volume of the electoral laws, transforming them, in effect, into a compilation of normative acts and instructions. That gave reason for many to claim that the existing legislation and regulations were overly complex, to the detriment of precision and clarity.¹¹⁶ The GET concurs with this assessment.
91. Not surprisingly, frequent changes in legislation have generated many outdated or archaic provisions and, generally, created inconsistencies among the existing legislative acts. This could be illustrated by several examples. Section 58, paragraph 5, letter d) LBG stipulates that electoral funds may be formed, *inter alia*, by contributions received from the election commissions, if that is provided for by law. Although the CEC’s representatives insisted that this provision was no longer in use (and, indeed, the GET was satisfied that such a source of financing was expressly forbidden in federal elections), it could not be confirmed that funding obtained from the election commissions was clearly prohibited in other types of elections. Also, various legal acts continue to refer to “electoral blocs” (i.e. blocs of political parties amongst themselves and with other public associations for competing in elections) despite their abolition in 2005. The GET understands that these are provisions of a transitional nature and preserved until the end of 2011 in order to allow for other legal acts, namely the Penal Code, to be amended accordingly.¹¹⁷ In addition, the GET

¹¹⁴ See e.g. Russia’s electoral law, ed. by V.O. Luchin, Moscow, 2010, p. 449; V. N. Belonovsky, Electoral law of the Russian Federation, Moscow, 2010, p. 813; I.V. Vydrin, Election law of the Russian Federation, 4th edition, Moscow, 2011, p. 220.

¹¹⁵ Since its adoption in 2001, the LPP has been changed more than twenty times.

¹¹⁶ See also the PACE report “Observation of the parliamentary elections in the Russian Federation (4 December 2011)”, Doc. 12833, 23 January 2012, paragraph 23 (<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc12/EDOC12833.htm>).

¹¹⁷ The authorities indicate that the last amendment in respect of electoral blocs, included in the Penal Code, became effective on 5 August 2011.

noted certain discrepancies between the requirements contained in the LBG and in the special election laws. For example, whereas the LBG places a dual obligation – on the election commissions to send to the public media information on the receipt and use of electoral funds, and on the public media – to publish such information within three days, the corresponding provisions of the special election laws do not reflect the obligation on the public media to publish this information within three days.¹¹⁸ Similarly, with regard to public disclosure requirements, the GET identified some inconsistencies between the corresponding provisions of the special election laws and between the rules governing the financing of political parties and of election campaigns (cf. paragraph 99 below). Incoherent provisions also appear within the same laws, for example, in regard to the campaigning period as provided for in the LBG (cf. paragraph 102 below). The GET is aware that some Russian experts are calling for the elaboration of a separate law on election financing.¹¹⁹ Without prejudice to the outcome of this important internal debate, the GET recommends, for the sake of greater legal certainty, **to examine the various laws and regulations pertaining to election campaign financing at federal level so as to eliminate duplications and inconsistencies and to provide for a clear and robust legal framework.** In the opinion of the GET, this would improve the general understanding and implementation of laws.

92. Although the legal framework appears to be comprehensive as such, the GET noted from a number of sources that there are strong doubts as to whether the law covers, in practice, the actual costs of political competition and campaigning, or even the bigger part of political finances in the Russian Federation. The GET was seriously concerned by what appeared to be a common belief expressed by many interlocutors that considerable financial flows in contemporary Russian politics, in particular, those pertaining to elections, fall outside of the regulated area. According to some estimates, in relation to elections, such shadow funding amounts to as much as 60% of an electoral fund and results from the misuse of private donations, donations by election candidates, as well as the apparently widespread abuse of public office.¹²⁰ Also, a significant proportion of works performed and services rendered by legal persons is allegedly paid in cash, contrary to the rules, and, therefore, evades official records. In their account of the penultimate State Duma elections, the Center for Anti-Corruption Research and Initiative – Transparency International Russia named several reasons for placing the majority of campaign financing in a grey area. These included the claim that cash financing facilitated corruption between donors and parties/candidates, the abuse of public authority and resources to harass and intimidate donors of unfavoured parties/candidates and the absence of a mechanism to detect spending outside the electoral funds.¹²¹ The GET believes that the alleged existence of widely spread shadow funding in respect of political financing is detrimental to the development of a multi-party system based on fair competition and provides an obvious breeding ground for political corruption. More clarity is urgently needed in this area. The GET, therefore, recommends **to carry out an independent inquiry into political financing (comprising both general party and election campaign financing) in respect of financial flows outside the regulated area and, based upon its conclusions, to design the necessary remedial action.**

¹¹⁸ Section 59, paragraph 8 LBG, Section 68, paragraph 10 LSDE and Section 62, paragraph 8 LPRE.

¹¹⁹ V. N. Belonovsky, *op.cit.*, p. 845; Russia's electoral law, *op.cit.*, pages 439, 599, 621. The GET has also learnt that one non-governmental organisation has developed a draft electoral code.

¹²⁰ Misuse of public office has been defined as the use of administrative powers and resources of the state public sector (including coercive capacities, personnel, financial, material and other resources) by incumbent politicians and political parties to further their own election prospects in violation of formal and/or informal norms and responsibilities governing the exercise of public office in a democracy - see *Monitoring the misuse of administrative resources during the campaigning for the December 2003 Russian Federal State Duma Elections*, Center for Anti-corruption Research and Initiative – Transparency International Russia, Moscow, 2004, p.18.

¹²¹ *Ibid.*, p. 52-53.

93. Furthermore, the GET has particular misgivings about the apparently widespread misuse of public office. Thus, the GET was made aware of the serious impediments precluding the receipt of funding from legal persons. Representatives of the four political parties met on site informed the GET that the major share of funding emanating from the legal entities currently goes to the ruling party. This appears to coincide with the information provided by the “United Russia” spokesperson who admitted that donations from legal persons constituted approximately 50 % of the party’s budget. In comparison, one political party belonging to the opposition generates less than 5% of its annual income from corporate donors. The analysis of the parties’ annual consolidated reports generally proves that the opposition parties are not successful in attracting financial contributions from the national business community. One of the principal reasons, as indicated to the GET, is the fear of the pressure from administrative and fiscal authorities. The GET strongly condemns the misuse of state power to intimidate political opponents and their supporters. Such a misappropriation of public authority and of public resources is clearly not acceptable in a democracy and, moreover, pushes political financing into the shadows. The above phenomenon is further supported by various legal and technical loopholes. For instance, in situations where domestic legal persons may be inclined to donate perfectly legally, the existing formalities may prevent them from doing so. The GET has learnt that the banking programme used for processing corporate donations does not have enough space to include all the symbols (i.e. all relevant data on a legal entity) as foreseen by law. That forces banking officials to place this information on the reverse side of the payment order, contrary to the rules. Moreover, since voluntary donations are not a regular banking operation, wire transfer forms are often filled in with mistakes by the banking officials (the same also occurs with donors who are natural persons). As a result, approximately 20% to 30% of all wire transfer forms pertaining specifically to donations by both natural and legal persons to electoral funds are said to contain incomplete or wrong information, rendering donations illegal and subject to return.¹²² The Russian authorities do not concur with this figure. Lastly, the GET noted that while the legal entities are obliged to indicate in the wire transfer form their compliance with the specific limitations prescribed by the law (cf. paragraph 43 above), the exact format in which this information should be provided is not sufficiently clear and is subject to diverse interpretation by the election commissions.¹²³
94. The GET’s attention was also drawn to the allegedly wide abuse of the public media and of public facilities. While equal and unbiased coverage of political parties and of parliamentarians by the state-owned media is guaranteed by the existing and, indeed, very detailed legislation, the rules are allegedly often disrespected in practice.¹²⁴ Similarly, despite the legal entitlement of electoral subjects to use certain public facilities free of charge for campaign purposes, as well as the prohibition to abuse the position of a public official or civil servant,¹²⁵ candidates who are elected officials seem to regularly abuse the public resources at their disposal (e.g. official cars, communication equipment, secretarial services, etc.) for their own campaigning activities. Overall, in light of the information gathered, including the relevant work carried out by the Parliamentary Assembly of the Council of Europe, the GET is alarmed by what appears to be the relative weakness of the political parties – and of federal and regional parliaments – who are not perceived to be independent actors, as opposed to substantial powers vested with the executive,

¹²² See e.g. S.V. Yusov, *Juridical framework for federal and regional elections*, Rostov-on-Don, 2011, p.190-191. The GET notes that the author of this publication is the President of the Election commission of the Rostov region and that it includes a foreword by the Secretary of the CEC.

¹²³ A. Buzin, *Administrative electoral technologies and the fight against them*, Moscow, 2007, p.158.

¹²⁴ See e.g. the PACE report “Observation of the parliamentary elections in the Russian Federation (4 December 2011)”, *op.cit.*, paragraphs 49-55; methods of abusing the public media were also described in “Monitoring the misuse of administrative resources...”, *op.cit.* According to this publication, in the 2003 State Duma elections, the media coverage of “United Russia” party *alone* exceeded the legal limit on campaign spending, p. 9.

¹²⁵ Section 40 LBG.

including the well-resourced public sector.¹²⁶ Being aware of the relevant guarantees against the misuse of public office (cf. paragraphs 11 and 27 above), the GET remains concerned by the lack of their adequate enforcement. The GET calls upon the Russian authorities to take a clear and determined commitment in favour of neutrality of the state apparatus and to fully adhere to the principles of equality and fair competition in politics. The GET, therefore, recommends **to take appropriate measures to ensure that the regulation of party and election campaign financing is not undermined by the misuse of public office.**

Transparency

95. According to Section 29, paragraph 1 LPP, “entrance and memberships fees” represent one of the permitted sources of financing a political party. Membership fees are distinct from donations, covered by Section 30 LPP, and can apparently be given without any upper limit, as opposed to specific caps established for monetary donations or donations “in other property”. Today, only two political parties provide for mandatory membership fees, whereas only one party has fixed the exact amount of an annual membership fee in its statute.¹²⁷ Compared to the level of available state financial support, membership fees represent a rather insignificant source of party income. Nonetheless, the GET was made aware of important sums of money being voluntarily given as membership fees to political parties by influential business persons and elected members of parliament. Deliberations held with the parties’ representatives indicated that, in practice, individual party members are free to determine how much they are willing to contribute to the party’s budget and whether to classify their contributions as membership fees or donations. The GET concludes that the existing legal framework creates ample opportunities for circumventing both disclosure rules on donations and rules concerning the upper ceiling for donations to political parties by natural persons (currently set at 4.33 million RUB/ circa 108 250 EUR per person per year). For this reason, the GET recommends **to take appropriate measures to ensure that membership fees are not used to circumvent the transparency rules applicable to donations.**
96. Pursuant to Section 30 LPP, along with monetary donations, a political party/its regional branch has the right to accept “other property” from individuals and legal entities, provided that such donations and the source thereof are duly recorded. The party/its regional branch has to valueate in-kind donations and to include relevant data, including donors’ details, in its annual consolidated and financial (accounting) reports. Since, in accordance with Section 15, paragraph 1 LPP, the political party and its regional branch carry out the activities of full legal entities, they fall under the legal provisions on the valuation of in-kind donations, which are as follows. Section 11 of Federal Law No. 129-FZ of 21 November 1996 “On accounting” stipulates that a legal entity carries out property valuation with the aim of reflecting it in the books and – in monetary form – in the accounting report. In accordance with the Regulation “On accounting record-keeping and accounting report in the Russian Federation”, approved by Order of the Ministry of Finance No. 34n on 29 July 1998, the current market value of property received free of charge is calculated on the basis of prices prevailing on the market for this or similar types of property on the date of entering the property into the books of a legal entity. Information on the property’s current value must be documented or confirmed by independent experts, the latter in accordance with Federal Law No.135-FZ of 16 July 1998 “On valuation activities in the Russian Federation”. The monetary

¹²⁶ See e.g. PACE Reports of 20 December 2007 “Observation of the parliamentary elections in the Russian Federation” (2 December 2007), Doc. 11473, paragraphs 28, 29 and 42; and of 17 March 2008 “Observation of the presidential elections in the Russian Federation (2 March 2008)”, Doc. 11536, paragraphs 17, 21 and 22.

¹²⁷ Out of the seven political parties, only “Yabloko” and the Communist party statutes provide for obligatory membership fees. In respect of the latter, the membership fee is fixed at 1% of a member’s annual income.

value of the in-kind donation and the type of property received is then reflected in the consolidated financial report, whereas only the donation's monetary value is included in the financial (accounting) report.

97. Despite these seemingly clear provisions, the GET did not obtain a clear answer from the political parties as to what constituted “documentation” of the property’s market value (as required by the aforementioned Regulation) and how the property valuation was conducted in practice. Also, it appeared obvious that the parties have not made much use of the option provided to them by Federal Law No.135-FZ (i.e. to solicit a professional independent valuation). Moreover, being aware that substantial variations existed in the valuation of similar in-kind donations by the different political parties, the GET could not identify a methodology or guidelines that would assist the parties in the valuation process. Lastly, the GET has learnt that it was not uncommon for certain types of property donations to be excluded from the parties’ records, particularly if these were facilities owned by the elected members of parliament who granted them to their party for the purpose of carrying out specific political activities. The GET cannot agree with the view expressed by the Russian authorities in their written submission that in-kind donations are of insignificant value (according to the consolidated financial reports of political parties for 2010, the monetary value of in-kind donations received by all seven parties constituted a total of 21.9 million RUB/ circa 547 500 EUR). The GET is of the opinion that more consistent valuation practices would prevent in-kind donations from being used to circumvent the regulations on donation thresholds and promote greater transparency of such funding. Therefore, for the sake of best possible transparency, the GET recommends **to elaborate practical guidelines to political parties on the valuation of in-kind donations.**
98. In addition to entrance and membership fees, federal budget sources, donations, proceeds from events organised by the party, income from specified business activities and proceeds from civil law transactions, Section 29 LPP allows political parties to generate any “other income not prohibited by the law”. The concept of “other income” is not defined but, according to the Russian authorities and the interlocutors met, it includes, *inter alia*, inherited property and monetary funds and the taking out of loans. Having acquainted itself with the parties’ annual financial reports, the GET concludes that loans, including those from public associations, represent an important source of financing of politics in the Russian Federation.¹²⁸ The authorities indicate that the terms and conditions for granting loans to parties, such as the maximum value of loans, permissible lenders, registration of loans, last date for contracting loans before an election, terms of repayment, etc., are not specifically regulated and that general civil and banking legislation applies. Also, it appears that no particular requirements have been set for the financial reports of political parties in order to reflect the conditions of contracted loans. During the visit, the GET was, nevertheless, made aware of situations where, for example, loans were written off by the lender or where parties were given loans under more favourable conditions than those available on the market. In this regard, the GET wishes to stress that such situations run counter to the key political funding principles, i.e. established thresholds on contributions from individual donors, and that loans granted under particularly advantageous or preferential terms, deviating from general market conditions, as well as written-off loans, are to be equated with donations. Bearing in mind that loans are granted to political parties on both commercial and non-commercial terms, the GET recommends **to ensure that loans granted to political parties are not used to circumvent**

¹²⁸ Pursuant to the aforementioned CEC’s Rulings, No. 153/1025-4 of 28 September 2005 and 163/1158-5 of 10 June 2009, information on loans appears in the parties’ annual consolidated reports under the heading “Other income not prohibited by law”. It includes other income of which the total amount in a given year is equal to or exceeds 400 000 RUB/ circa 10 000 EUR.

political financing regulations, in particular when their terms deviate from customary market conditions and when they are fully or partially written off.

99. As far as donations to political parties are concerned, the GET noted that, pursuant to Section 35, paragraph 3 LPP, subject to public disclosure are donations by legal persons exceeding 400 000 RUB/circa 10 000 EUR and donations by natural persons exceeding 20 000 RUB/ circa 500 EUR. As concerns donations to electoral subjects, in respect of legal entities, identical thresholds of 10 000 EUR have been provided for by the LSDE (Section 68, paragraph 10) and the LPRE (Section 62, paragraph 8) for the parties' central offices. In addition, the LSDE has established separate disclosure thresholds for donations to regional party branches: 50 000 RUB/ circa 1 250 EUR by legal persons and 20 000 RUB/ circa 500 EUR by natural persons. In comparison, with regard to natural persons, the LPRE only requires to publish information on the number of citizens having voluntarily donated an amount exceeding 40 000 RUB/ circa 1 000 EUR to an electoral fund. The GET is of the opinion that the publication thresholds of 10 000 EUR for legal entities and of 1 000 EUR for natural persons (in presidential elections) are too high and not apt to ensure a sufficient level of transparency in the funding of political parties and of election campaigns, particularly, at local level, where the political and economic sphere are much more closely linked and where interactions can be influenced by significantly lower amounts. There may also be a need to ensure more consistency not only between the corresponding provisions of the special election laws but also between disclosure requirements included in the rules governing the financing of political parties and of election campaigns. The GET, therefore, recommends **to consider lowering the current disclosure thresholds of 10 000 EUR (donations from legal persons received by political parties) and of 1 000 EUR (donations by natural persons to an electoral fund of a candidate in presidential election) to an appropriate level.**
100. In accordance with Section 26, paragraph 1 LPP, political parties may form alliances with public associations without setting up a legal entity. Apparently, certain political parties enjoy a rather strong support from public movements and associations, particularly in the context of election campaigns. The GET wishes to highlight two such examples. The first is a youth organisation "Nashi", which has no formal links to "United Russia" but is closely associated to it.¹²⁹ The second one is a public movement "All-Russia's People Front", which is a non-incorporated civil society organisation set up in May 2011 by the prime minister.¹³⁰ The "People's Front" was quite heavily engaged in the parliamentary elections of December 2011, its members comprising one quarter of the "United Russia's" federal list of candidates.¹³¹ The "People's Front" also played a crucial role in the March 2012 presidential elections campaign. In preparation for both elections, various activities carried out by this movement were widely publicised by the media. Yet, the financing of the aforementioned and similar types of entities is not specifically regulated by the LPP or by the election laws. Their accounts, therefore, are not reflected in the accounts and records of political parties and their election-related expenditure (for instance, in the form of own campaigning activities) escapes the established reporting on electoral funds.
101. The Russian authorities explained that organisations supporting the principles of a political party, for example, youth and women's associations, research foundations, etc., are independent economic entities, incorporated in the form of non-profit organisations. They are placed under the obligation to submit their own accounting records and are not financially linked to political parties.

¹²⁹ See <http://www.nashi.su/>.

¹³⁰ See (<http://narodfront.ru/>).

¹³¹ Pursuant to Section 36, paragraph 6 LSDE, up to 50% of the federal list of candidates proposed by a political party may be composed of non-party members.

In so far as non-incorporated organisations are concerned, the authorities confirmed that these can operate without accounts due to their specific legal nature. In this connection, the GET recalls that Article 11, read in conjunction with Article 6, of the Recommendation explicitly requires the accounts of political parties to be consolidated to include, as appropriate, the accounts of entities related, directly or indirectly, to a political party or otherwise under its control. In the course of the visit it could not be confirmed that disclosure rules (namely the information on donors and expenditure) and the monitoring regime applicable to political parties also extended to these types of organisations; it was also clear that their finances are not included in the consolidated financial reports of political parties. The GET is of the opinion that the current legal situation may be used for the funnelling of “interested money” through associations/foundations in order to support a candidate or a list of candidates outside the restrictions applicable to electoral subjects and political parties. Although such associations/foundations may not be under the control of candidates or parties in a strict sense, they can clearly be closely aligned to them for the purpose of supporting their campaigns, thus creating opportunities to circumvent transparency rules governing general party funding and election campaign financing. This may also explain the existing perceptions regarding the predominantly shadow financing of political parties and election campaigns. Consequently, the GET recommends **(i) to clarify the concept of an alliance between a political party and a public association; (ii) to seek ways of increasing the transparency of funding provided to organisations such as interest groups and non-incorporated public associations whose purpose is to support a political party, including during election campaigns.**

102. According to Section 49, paragraph 1 LBG, Section 50, paragraph 1 LPRE and Section 56, paragraph 1 LSDE, the campaigning period commences on the day of nomination of a candidate/electoral association and terminates 24 hours before the voting day, and the campaigning expenses can only be incurred from the day of establishing an electoral fund and the setting up of a relevant special election account.¹³² However Section 2, paragraph 4 LBG defines campaigning as “an activity carried out during the election campaign”, the latter having a much longer duration.¹³³ As confided to the GET, in reality, the campaigning for a specific candidate commences well in advance of the campaigning period (for example, from the moment when a candidate agrees to compete in an election or from the moment of appointing his/her election team), thus falling outside of the regulated area. The GET concludes that the existing provisions of the LBG create confusion as regards the commencement of the campaigning period, which has a direct bearing on the completeness of the relevant financial reports. The GET, therefore, recommends **to introduce clear provisions determining the commencement of the “campaigning” period so that the financial activity during this period is accurately and comprehensively recorded.**

Supervision

Internal control and auditing

103. According to Section 11 LPP, the formation of internal control bodies is one of the prerequisites for setting up a political party. A party statute not only defines the election procedure, the tenure and the competence of such bodies but also incorporates the principle of obligatory rotation of their heads at federal and regional level.¹³⁴ Control over financial activities of a political party/its

¹³² Section 58, paragraph 1 LBG.

¹³³ Section 2 paragraph 19 LBG stipulates that the election campaign commences on the day of the official publication of a decision by an authorised official, a state government or local body to hold the election.

¹³⁴ Section 24, paragraph 5 LPP.

regional branch is exercised by supervisory-auditing commissions elected by the respective assemblies at regular intervals. As for the party structural units, the auditing functions are assigned to individual controllers or the units' assemblies.¹³⁵ The main objective of the supervisory-auditing commissions is to carry out internal control of the financial activities and to ensure, more generally, that financial accounting is performed correctly and within the limits prescribed for legal persons. The statutes of all political parties provide for annual and *ad hoc* internal financial audits and for the reporting of their results to party assemblies and/or superior party bodies.¹³⁶ The responsibility for implementing the financial activities of a political party lies with specifically designated persons and/or chief accountants.

104. Neither the rules on general party funding nor on the financing of election campaigns oblige political parties or electoral subjects to ensure professional (independent) auditing of their accounts and financial reports. The statutes of only two political parties expressly refer to the right "to invite independent experts (auditors)".¹³⁷ Discussions held on site revealed that professional auditing was not solicited by parties on a regular basis, nor could it be confirmed that auditors, when employed, enjoy the necessary independence vis-à-vis the parties they audited. Furthermore, the GET was not in a position to ascertain whether available auditing results have ever been made public or communicated, alongside other documentation, to the designated supervisory bodies. In this connection, the GET recalls that, as of 2012, five political parties are recipients of substantial public support. From this perspective, a proper auditing of parties' and election campaigns' accounts could become an important means of monitoring and could help further improve the current system of supervision. The GET also strongly believes that the level of income generated annually by political parties, as well as the level of funding available to electoral subjects (at least, in federal elections) generally meet the requirements set out by Federal Law No. 307-FZ of 30 December 2008 "On auditing activities" in respect of organisations subject to mandatory auditing.¹³⁸ The GET understands that, in principle, this law should be applicable to political parties. The GET, therefore, recommends **(i) to ensure that political parties are subject to independent auditing in respect of their party and election campaign accounts by certified auditors, in line with the federal legislation; and (ii) to provide for the compliance of such auditing practices with international standards.** The GET acknowledges, however, that a reasonable balance should be struck so as to avoid placing a disproportionate burden on political parties with limited resources and administrative capacity.

External monitoring

105. The Russian Federation has a fairly complex system of supervision over accounts of political parties and expenses involved in election campaigns. As far as general party finances are concerned, two forms of control are exercised: specialised financial control and general control. The specialised control is split between the CEC (and the election commissions of the federal subjects), on the one hand, and the Federal Tax Service (and its territorial bodies), on the other. The former monitors quarterly reports on income and expenditure and annual financial reports as

¹³⁵ Statutes: "United Russia", paragraph 15.14, "Right Cause", paragraph 38.1, Communist party, paragraph 3.7.

¹³⁶ Statutes: "United Russia", paragraph 13.11.1, Liberal Democratic party, paragraph 15.8, "Fair Russia", Section 25, "Yabloko", paragraph 13.10.8 and 13.10.6, "Right Cause", paragraph 38.6.3.

¹³⁷ Statutes of: "United Russia", paragraph 12.17.6, "Yabloko", paragraph 13.10.11.

¹³⁸ Pursuant to Section 5, paragraphs 4 and 5, mandatory auditing applies, *inter alia*, to: (1) organisations whose income from the sale of products/performance of works/rendering of services for the year preceding the reporting year exceeds 400 million RUB/ circa 10 000 000 EUR or whose assets on the accounting balance for the year preceding the reporting year exceed 60 million RUB/ circa 1 500 000 EUR; and (2) organisations publishing their consolidated accounting (financial) reports. Excluded from its scope are state and local-self-government bodies and agencies, state and municipal enterprises, state extra-budgetary foundations, agricultural co-operatives and alliances of such co-operatives.

far as they concern the sources and value of property received in the form of entrance and membership fees and donations by natural and legal persons. The latter oversees financial (accounting) reports and annual consolidated financial reports as far as these cover other sources of income, amounts of cash received, party expenses and taxes. The overall control is exercised by the Ministry of Justice (and its territorial organs), as the body in charge of registering public associations. In this capacity, the Ministry of Justice has the right to monitor – not more than once per year – the expenditure of funds and the use of other property by political parties as public associations. As the GET found out, the actual contribution by the Ministry of Justice to supervising the general party finances appears to be insignificant.

106. Splitting the external control function between the CEC and the Federal Tax Service may be justified and reasonable given the particular circumstances of the Russian Federation. Nevertheless, the GET would favour a more consolidated structure and has serious misgivings about the current fragmentation of responsibilities among the various supervisory bodies. Thus, the GET took note of the opinion expressed by some Russian experts that there is a degree of overlapping between the tasks assigned to the election commissions and those attributed to the Federal Tax Service.¹³⁹ Also, the GET is concerned that neither the election commissions nor the Federal Tax Service can impose sanctions directly. In case they would identify an infringement, they are obliged to apply to the Ministry of Justice (or its territorial body) for issuing a written notice. The statistics made available (cf. paragraphs 85-86 above) point to the very low number of sanctions imposed, which could be seen as indicative of the inherent weaknesses of the enforcement mechanism. Finally, it is recalled that Article 14 of the Recommendation requires states to provide for independent monitoring in respect of the funding of political parties and electoral campaigns. From this perspective, the GET notes that, in respect of the monitoring function of the Ministry of Justice, there is a latent risk of conflicting interests and political influence, since the Ministry of Justice, as part of the Government, cannot be deemed independent in this function (on the independence of the election commissions see further below).
107. As regards the financing of election campaigns, in this area, control is concentrated in one single governmental body – the CEC and the election commissions of the federal subjects and, more specifically, within their supervisory-auditing services. The tasks, activities and working methods of the supervisory-auditing services are determined by the rulings of the relevant election commissions, while the CEC supports their work through methodological guidelines and recommendations. Other government and local self-government bodies, state and municipal institutions, as well as their officials, are obliged to provide the election commissions with assistance in implementing their powers. To facilitate exchanges of information, provide for mutual consultations, carry out joint research as well as issue joint normative acts and guidelines, the CEC has concluded co-operation agreements with various governmental agencies (cf. paragraphs 70-71 above). The CEC also closely co-operates with the Savings Bank which allows it to receive information on financial flows from/to the special election accounts almost in real time.
108. The GET notes, that, according to the law, the CEC is an independent permanent body, consisting of 15 members. The President of the Russian Federation, the State Duma and the Federation Council each appoint five members of the Commission. The election commissions of the federal subjects have a similar composition (10 to 14 members), half of them appointed by a legislative body and the other half by the senior public official of the federal subject concerned. Despite the inclusion of relevant guarantees of independence in the LBG, the GET has strong

¹³⁹ S.A. Avakian, Constitutional-legal status of political parties in Russia, Moscow, 2011, p. 234.

doubts as to whether the commissions can be considered independent bodies in the meaning of the Recommendation, given the way their members are appointed. Furthermore, the GET was made aware of a mistrust in the electoral commissions due to their alleged submission to influence by the state apparatus.¹⁴⁰ In the opinion of the GET, there is a clear need to further strengthen the independence and the impartiality of the election commissions.¹⁴¹ As regards the competence and resources of the election commissions, the State automated system “Elections” managed by the CEC (cf. paragraph 66 above) allows for cross-checks not only of electoral funds but also of the day-to-day financial activities of political parties. Most of the checks, including some form of control over donations by natural and legal persons, are made automatically, while the data entered into the system is verified against the data submitted on paper. Nevertheless, the information gathered by the GET strongly suggests that this automated control is of a merely formalistic nature, i.e. it only concerns the mathematic correctness of the accounting. The GET is also concerned that this form of control does not allow for the identification of funding which may bypass official accountancy documents and which, as previously stated, is allegedly very significant. Finally, the GET has doubts as to whether the CEC’s supervisory-auditing service currently consisting of six permanent members is sufficiently numerous and qualified to carry out in-depth checks and complex analyses. In light of the situation described in paragraphs 105-108 above, the GET recommends **(i) to designate an independent body to supervise effectively the implementation of the regular financing of political parties and to provide it with adequate powers (including the ability to apply sanctions) and resources; (ii) to strengthen the independence of the election commissions in relation to the supervision of party and election campaign financing; (iii) to increase the financial and personnel resources available to the election commissions in order for them to ensure a more substantial and pro-active monitoring of the financial reports covering both general party and election campaign financing.**

Sanctions

109. Infringements of rules on general party funding and on election campaign financing are subject to two distinct sanctioning regimes. The LPP provides for the (constitutional) liability of political parties for violations pertaining to their everyday financial activities. The LBG, the special election laws, the Code of Administrative Offences (CAO) and the Criminal Code (CC) establish constitutional (or electoral), administrative and criminal liability for infringements related specifically to the financing of election campaigns. The GET has identified deficiencies and gaps in both. As concerns general party funding, in the opinion of the GET, there is an urgent need to improve the existing legislative framework. Firstly, the law fails to define the concrete infringements of the party financing rules. Sanctions can only be triggered by violations of the provisions of the LPP, of the Constitution and of the federal laws of the Russian Federation, which can be interpreted quite broadly. Secondly, the field of application of the sanctions appears to be too narrow. Sanctions are only applicable in respect of specifically designated persons but not necessarily the actual perpetrators, such as, for example, party leaders, accountants, individual members who are exempt from liability in the case of manipulation of the party accounts. Thirdly, the law provides for a limited and inflexible range of sanctions for violations,

¹⁴⁰ On the independence of the election commissions, see also the PACE report “Observation of the parliamentary elections in the Russian Federation (4 December 2011)”, op.cit., paragraph 33; on the independence of Russian Parliament from the executive, see e.g. the PACE Report “Honouring obligations and commitments by the Russian Federation” of 3 June 2005, op.cit., paragraphs 102-104.

¹⁴¹ The GET wishes to draw attention of the Russian authorities to the Code of Good Practice in Electoral Matters adopted by the European Commission for Democracy through Law, which requires, *inter alia*, that the bodies appointing members of election commissions must not be free to dismiss them at will. This also includes political parties - CDL-AD(2002) 23 rev, 23 May 2003, paragraph 3.1, letter f ([http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023-e.pdf)).

including non- or late submission of quarterly and annual consolidated financial reports. The sanctions comprise written notices and, following two such notices, a six-month suspension of activity and liquidation of a political party. This kind of sanction is probably too severe to be of any real use. Therefore, in the opinion of the GET, a broader range of sanctions would need to be introduced, particularly administrative fines, which are proportionate to the seriousness of the offences. The reduction or suspension of public funding (for instance, until shortcomings have been addressed) is not envisaged, although the suspension of the party activities would automatically terminate state aid. This means, in effect, that, even in the case of fraudulent operations, a political party can still receive financial support from the state. Consequently, measures, such as the suspension of public funding, could also be usefully considered.

110. As concerns election campaign financing, the GET was pleased to find all major legal requirements subject to sanctions, the latter being applicable to both election candidates and electoral associations. Depending on whether acts are committed *on a large scale* (cf. paragraph 76 above), they can be qualified either as criminal or administrative offences.¹⁴² Most of the interlocutors met by the GET agreed that distinguishing between administrative and criminal liability is unproblematic, although, in respect of specific cases, questions may arise as to whether the proceedings should be initiated under administrative or criminal provisions. As far as administrative sanctions are concerned, the GET notes that sanctions contained in Article 5.19 CAO are not provided in respect of all subjects listed in the relevant provisions. Also, there is an apparent discrepancy between the title and the content of Article 5.20 CAO, the former referring to the illegal financing of an election campaign, while the latter deals with the election campaign of a candidate and of an electoral association.¹⁴³ Furthermore, with the upper limit of 2 500 RUB (62.5 EUR) for natural persons and 100 000 RUB (2 500 EUR) for legal persons, the GET has found the existing administrative sanctions not to be sufficiently dissuasive.¹⁴⁴ As concerns the sanction available under Section 20, paragraph 5.1 LBG (notice issued by the relevant election commission and communicated to electoral subjects through the media or otherwise), the GET is far from persuaded of its effectiveness – separately or in conjunction with the administrative sanctions – in cases pertaining specifically to the financing of election campaigns.
111. The GET concludes that the sanctioning regimes provided in respect of the infringement of rules governing both the funding of political parties and the election campaign financing cannot be seen as sufficiently effective, proportionate or dissuasive and therefore, do not fully meet the criteria of Article 16 of the Recommendation. Also, as previously stated, the GET is concerned by the lack of real enforcement.¹⁴⁵ The GET believes that the effective use of sanctions is essential for strengthening public confidence and maintaining the integrity of the political process. Given the relationships between the financing of election campaigns and that of political parties, a consistent approach is needed in respect of these two areas. In light of the foregoing, the GET recommends **(i) to define the infringements of general party funding rules; (ii) to ensure that pertinent party representatives can be held liable for infringements of party and campaign funding rules; (iii) to review the existing sanctions relating to infringements of political financing rules in order to ensure that they are effective, proportionate and dissuasive.**

¹⁴² The GET recalls that, in accordance with Russian law, legal persons cannot be held criminally liable.

¹⁴³ In each of these cases different methods are used for calculating the duration of the campaign period and, concomitantly, of the time frame for the financial reporting (cf. paragraph 21 above).

¹⁴⁴ This opinion is shared by some Russian experts – see e.g. Russia's electoral law, op.cit., p. 539.

¹⁴⁵ With respect to legal entities, including political parties, committing violations in the sphere of electoral law, one Russian scholar admitted that the application of measures of collective juridical responsibility in contemporary electoral practice is a new and challenging undertaking – see Russia's electoral law, op. cit., p. 547; see also the PACE report "Observation of the parliamentary elections in the Russian Federation (4 December 2011)", op.cit., paragraphs 56-60.

V. CONCLUSIONS

112. The system of political financing in the Russian Federation is characterised by complexity and contradictions. On the one hand, there is a rather comprehensive set of laws in place governing the financing of political parties and of election campaigns, on the other, there are strong indications suggesting that many of the provisions are not implemented in practice. At federal level, the Federal Laws “On political parties”, “On basic guarantees of electoral rights and the right to participate in referendums of citizens of the Russian Federation”, “On elections of deputies of the State Duma of the Federal Assembly of the Russian Federation” and “On elections of the President of the Russian Federation” provide for a detailed, well thought-out but also very strict regulation in respect of transparency of political funding, external supervision of such funding, and they subject violations of the political financing rules to a set of sanctions. Although many of the provisions, as such, appear to be in line with the relevant principles contained in Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns, further improvements need to be achieved. The regulation of the financing of election campaigns is currently scattered across several laws, numerous normative acts and regulations, which have become overly complicated and highly detailed as the result of numerous changes. Although the existing legislation has been subject to frequent amendments, additional steps should be taken to eliminate inconsistencies and duplications and to provide for a consistent and robust framework that is comprehensible to all participants in elections, as well as voters. Also, there are clear signs that the effective implementation of the various laws is not given sufficient attention. Thus, the extent of alleged shadow funding of both political parties and of election campaigns is a major source of concern and jeopardises any meaningful attempts at regulation. The misappropriation of public authority and of public resources, which takes many forms, is clearly one of the key factors pushing political financing into a grey area. The sources and the extent of financial flows from organisations such as interest groups and non-incorporated public associations whose purpose is to support a political party, including during election campaigns, should also be properly analysed and addressed. Furthermore, the external monitoring of political financing is not satisfactory. As far as general party funding is concerned, the external control function is exercised by several bodies, two of which are not authorised to impose sanctions, while the role of the third, the Ministry of Justice, is clearly not in line with the requirements of an independent monitoring mechanism, as provided for by the Recommendation. As regards election campaign financing, the present composition of the election commissions also raises significant doubts about their independence and impartiality. Finally, the existing penalties appear to be rigid and inadequate for responding to all potential violations of political financing laws and regulations. Therefore, further revision and reinforcement are necessary in order to provide for a sanctioning regime that is effective, proportionate and dissuasive as well as applicable to all relevant infringements that are themselves clearly defined.
113. In view of the above, GRECO addresses the following recommendations to the Russian Federation:
- i. **to examine the various laws and regulations pertaining to election campaign financing at federal level so as to eliminate duplications and inconsistencies and to provide for a clear and robust legal framework (paragraph 91);**
 - ii. **to carry out an independent inquiry into political financing (comprising both general party and election campaign financing) in respect of financial flows outside the**

- regulated area and, based upon its conclusions, to design the necessary remedial action (paragraph 92);
- iii. to take appropriate measures to ensure that the regulation of party and election campaign financing is not undermined by the misuse of public office (paragraph 94);
 - iv. to take appropriate measures to ensure that membership fees are not used to circumvent the transparency rules applicable to donations (paragraph 95);
 - v. to elaborate practical guidelines to political parties on the valuation of in-kind donations (paragraph 97);
 - vi. to ensure that loans granted to political parties are not used to circumvent political financing regulations, in particular when their terms deviate from customary market conditions and when they are fully or partially written off (paragraph 98);
 - vii. to consider lowering the current disclosure thresholds of 10 000 EUR (donations from legal persons received by political parties) and of 1 000 EUR (donations by natural persons to an electoral fund of a candidate in presidential election) to an appropriate level (paragraph 99);
 - viii. (i) to clarify the concept of an alliance between a political party and a public association; (ii) to seek ways of increasing the transparency of funding provided to organisations such as interest groups and non-incorporated public associations whose purpose is to support a political party, including during election campaigns (paragraph 101);
 - ix. to introduce clear provisions determining the commencement of the “campaigning” period so that the financial activity during this period is accurately and comprehensively recorded (paragraph 102);
 - x. (i) to ensure that political parties are subject to independent auditing in respect of their party and election campaign accounts by certified auditors, in line with the federal legislation; and (ii) to provide for the compliance of such auditing practices with international standards (paragraph 104);
 - xi. (i) to designate an independent body to supervise effectively the implementation of the regular financing of political parties and to provide it with adequate powers (including the ability to apply sanctions) and resources; (ii) to strengthen the independence of the election commissions in relation to the supervision of party and election campaign financing; (iii) to increase the financial and personnel resources available to the election commissions in order for them to ensure a more substantial and pro-active monitoring of the financial reports covering both general party and election campaign financing (paragraph 108);
 - xii. (i) to define the infringements of general party funding rules; (ii) to ensure that pertinent party representatives can be held liable for infringements of party and campaign funding rules; (iii) to review the existing sanctions relating to infringements of political financing rules in order to ensure that they are effective, proportionate and dissuasive (paragraph 111).

114. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the Russian Federation to present a report on the implementation of the above-mentioned recommendations by 30 September 2013.
115. GRECO invites the authorities of the Russian Federation 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.