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

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I. INTRODUCTION

1. Estonia joined GRECO in 1999. GRECO adopted the First Round Evaluation Report (Greco Eval I Rep (2001) 7E) in respect of Estonia at its 6th Plenary Meeting (10-14 September 2001) and the Second Round Evaluation Report (Greco Eval II Rep (2003) 4E) at its 19th Plenary Meeting (28 June – 2 July 2004). The afore-mentioned Evaluation Reports, as well as their corresponding Compliance Reports, are available on GRECO's homepage (http://www.coe.int/greco).

2. GRECO's current Third Evaluation Round (launched on 1 January 2007) deals with the following themes:

   - **Theme I – Incriminations**: Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173), Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
   - **Theme II – Transparency of party funding**: Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).

3. The GRECO Evaluation Team for Theme II (hereafter referred to as the "GET"), which carried out an on-site visit to Estonia from 21 to 23 November 2007, was composed of Mr Jesper HJORTENBERG, Assistant Deputy Director, Office of the Director of Public Prosecutions (Denmark), Mr Csaba GÁLI, Adviser in the Prime Minister's Office, State Secretariat for Law and Coordination, (Hungary) and Ms Patricia PENA, Manager at the Office for Democratic Governance, Canadian International Development Agency (Canada). The GET was supported by Mr Björn JANSON, Deputy to the Executive Secretary of GRECO and Mr Michael JANSSEN from GRECO's Secretariat. Prior to the visit the GET experts were provided with a comprehensive reply to the Evaluation questionnaire (Greco Eval III (2007) 5E Theme II) as well as copies of relevant legislation.

4. The GET met with officials from the following governmental organisations: National Electoral Committee, Chancellery of Parliament, Constitutional Committee of Parliament, Parliament's Select Committee on the Application of the Anti-Corruption Act, Chancellor of Justice and Ministry of Justice. In addition, the GET met with representatives of the following political parties: Estonian Centre Party, Estonian People's Union, Estonian Reform Party, Pro Patria and Res Publica Union and the Social Democratic Party. Moreover, the GET met with representatives of the Chamber of Commerce and Industry, Transparency International Estonia, the media and academics.

5. The present report on Theme II of GRECO's Third Evaluation Round – 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 Estonian 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 Estonia in order to improve its level of compliance with the provisions under consideration

6. The report on Theme I – Incriminations, is set out in Greco Eval III Rep (2007) 5E.

II. TRANSPARENCY OF PARTY FUNDING – GENERAL PART

Legal framework

7. In Estonia, political parties are governed by the Political Parties Act which entered into force in 1994 and by more general laws such as the Non-profit Associations Act of 1996 – which applies to political parties in so far as the Political Parties Act does not provide otherwise –, the Accounting Act of 2002 and the election acts of 2002, i.e. the Parliamentary ("Riigikogu") Election Act, the Local Government Council Election Act and the European Parliament Election Act. The Political Parties Act includes provisions on assets and funds of political parties as well as registration and reporting obligations, whereas the election acts contain *inter alia* provisions on financing of election campaigns by political parties or independent candidates and on corresponding reporting obligations.

Definition of political parties

8. In accordance with section 1 (1) of the Political Parties Act, a political party is "a voluntary political association of Estonian citizens which is registered pursuant to the procedure provided for in this act and the objective of which is to express the political interests of its members and supporters and to exercise State and local government authority." EU citizens who are permanent residents in Estonia may equally belong to a political party.[1]

9. Pursuant to section 1 (2) of this act, a political party is a non-profit association and as such, according to section 2 (1) of the Non-profit Associations Act, a legal person in private law. The passive legal capacity of a political party commences as of entry of the political party into the non-profit associations and foundations register and the active legal capacity even before its registration.

Founding and registration of political parties

10. In accordance with Article 48 (1) of the Constitution, the right to belong to a political party and to establish political parties is a constitutional right restricted to Estonian citizens and EU citizens.

11. Political parties are founded by an unattested memorandum of association between natural persons, supplemented by an approval of the articles of association (internal rules). In order to enter a non-profit association in the non-profit associations and foundations register of its location, the management board is to submit a petition setting out the name of the political party, its location and address, the date of approval of the internal rules, the names and personal identification numbers of the members of the party leadership, the specifications for the right of representation of the leadership and if need be the term of the political party.[2]

12. The non-profit associations and foundations register is maintained by the registration departments of the county courts i.e. the first instance general courts in the Estonian court system, dealing with civil and criminal matters. If the petition and the appended documents correspond to the legal requirements and if the political party has at least 1,000 members, it is to be entered in the register.[3] A member must be at least 18 years old and have full legal capacity.

[1] Section 5 (1) of the Political Parties Act.
[2] Section 8 of the Non-profit Associations Act.
[3] Section 6 (2) of the Political Parties Act.

A political party may not be registered under the name of a political party which has already been entered in or deleted from the register.

13. In May 2007, there were 15 registered political parties in Estonia. Information on political parties entered in the non-profit associations and foundations register and the lists of members of the political parties are available on-line.[4]

Participation in elections

14. According to section 4 of the Riigikogu Election Act, every Estonian citizen who has attained 18 years of age has the right to vote in elections to the national Parliament (the "*Riigikogu*"), unless he or she has been divested of his or her active legal capacity by a court or is imprisoned following a conviction of a criminal offence by a court. Under the same conditions, Estonian citizens who have attained 21 years of age by the last day of registration of candidates have the right to stand as parliamentary candidates.

15. Political parties – if registered in the non-profit associations and foundations register held by the Ministry of Justice, not later than on the last day for the nomination of candidates – with their lists of candidates as well as independent candidates may participate in parliamentary elections, upon registration with the National Electoral Committee.[5] Before nominating candidates, political parties or independent candidates have to deposit as security, for each person nominated, an amount equal to two minimum salary rates as established by the Government, in the bank account of the National Electoral Committee. The size of the security, which may be returned to the party or candidate depending on the outcome of the elections, was 6,000 EEK (kroons) / 385 EUR in the most recent parliamentary elections per candidate. The period for nominations of candidates begins on the first working day following the distribution of mandates and ends on the forty-fifth day before the election day. The nominated candidates are then to be registered by the National Electoral Committee, by the fortieth day before the election. On this day, the electoral campaign period begins, and it lasts until the day before the elections, campaigning being prohibited on election day itself.

16. According to section 15 (1) of the Riigikogu Election Act, the main functions of the National Electoral Committee are to verify voting results and election results across the whole country, to ensure the uniformity of the conduct of *Riigikogu* elections, to instruct other electoral committees and to exercise supervision over their activities. The National Electoral Committee is composed of two judges, an advisor to the Chancellor of Justice, an official of the State Audit Office, a public prosecutor, an official of the Chancellery of the Riigikogu and an official of the State Chancellery.

17. Mandates are divided between the political parties which receive at least 5 percent of the votes given nationally and, possibly, individual candidates for whom the number of votes cast exceeds or equals the simple quota calculated for the relevant electoral district.[6]

18. As regards elections to the European Parliament, the right to vote and to stand as a candidate extends to citizens of the European Union who have attained 18 or 21 years of age respectively,

[4] See https://ar.eer.ee/erakonnad.py.
[5] See sections 26 to 33 of the Riigikogu Election Act.
[6] Section 62 (2) and (3) of the Riigikogu Election Act.

whose permanent residence is in Estonia and who have not been deprived of their right to vote in their home Member State.[7]

19. With regard to local government council elections, section 5 (1) and (5) of the Local Government Council Election Act extend the right to vote and to stand as a candidate to EU citizens and non-EU citizens who have attained 18 years of age and whose permanent residence is located in the corresponding rural municipality or city; according to section 37, candidates have to be registered by the rural municipality or city electoral committee. Furthermore, section 31 recognises *election coalitions* which may be formed by Estonian citizens and citizens of the European Union who have the right to vote. An election coalition is not a legal person but an association i.e. a civil law partnership, formed for the objective of participating in local government council elections and exercising authority following the elections, acting on the basis of a partnership contract concluded between its members. Election coalitions are to be presented for registration with the rural municipality or city electoral committee not earlier than the sixtieth and not later than the forty-fifth day before election day. A total number of 186 election coalitions participated in the most recent local government council elections held in October 2005.[8]

Party representation in Parliament

20. Six out of 11 parties participating in the parliamentary elections held in March 2007 are represented in the National Parliament: the Estonian Reform Party (31 seats); the Estonian Centre Party (29 seats); the Party Union of Pro Patria and Res Publica (19 seats); the Social Democratic Party (10 seats); the Estonian Greens (6 seats); and the Estonian People's Union (6 seats). The other participating parties were the Estonian Independence Party, the Estonian Left Party, the Party of Estonian Christian Democrats, the Constitution Party and the Russian Party in Estonia.

Overview of the political funding system

Sources of funding

21. Pursuant to section 12.1 (1) and (4) of the Political Parties Act, the funding of political parties may consist of membership fees, allocations from the State budget, donations by natural persons (anonymous or concealed donations are prohibited), political party funds and loans or credits. No distinction is made as to whether the national or the sub-national level is concerned, however, the direct public funding is restricted to parties participating in parliamentary elections and receiving at least one per cent of the votes.

22. As for the financing of election campaigns, the different election acts allow the same types of funds as mentioned above with regard to political parties, without any further restrictions.[9] Independent candidates participating in the elections for Parliament, local government councils or the European Parliament, as well as election coalitions participating in local government council elections, may finance their election campaign out of donations received from natural and – only in the case of independent candidates – legal persons (anonymous or concealed donations are

[7] Section 4 (2) and (5) of the European Parliament Election Act.

[8] Further information is available on the website of the National Electoral Committee: http://www.vvk.ee/k05/st_nimekirjad.stm

[9] See section 66 (2) of the Riigikogu Election Act, section 64 (2) European Parliament Election Act, section 60 (2) of the Local Government Council Election Act.

prohibited), loans, estate or personal funds.[10] No direct public funding is provided for election campaigns.

Public funding

23. Direct public funding is distributed only to political parties, according to the provisions in section 12.5 (1) and (2) of the Political Parties Act:
- a political party which participates in *Riigikogu* elections and fails to reach the election threshold but receives at least one percent of the votes receives currently an allocation of 150,000 EEK (9,615 EUR) from the State budget per year;
- a political party which receives at least four percent of the votes receives currently an allocation of 250,000 EEK (16,026 EUR) from the State budget per year;
- the political parties represented in Parliament receive allocations in proportion to their number of seats; the amount of these allocations is determined by the annual State budget (the law does not provide more detailed rules for establishing the amount).

24. In 2007, 7 political parties were entitled to an allocation from the State budget,[11] i.e. the six political parties represented in Parliament and the Party of Estonian Christian Democrats. The gross amount of these allocations in 2007 was 60,000,000 EEK (approximately 3,800,000 EUR), the biggest share of which was allotted to the Party Union of Pro Patria and Res Publica (26,504,703 EEK / approximately 1,700,000 EUR); during the period 2004-2006, the yearly gross amount was the same as in 2007, whereas in 2003, it was 20,000,000 EEK (approximately 1,300,000 EUR).[12]

25. The authorities indicated to the GET that despite the limited number of party funding sources as defined by the Political Parties Act and the election acts, a few ways of indirect public funding are admitted:

26. Notices and advertisements relating to election campaigns of political parties, election coalitions and independent candidates are exempt from advertisement tax[13] which may be established by local government councils and are paid into the local budget. But according to the authorities, in practice, only a few local governments have established an advertisement tax.

27. Free airtime may be granted to political parties and election coalitions in public broadcasting. In accordance with the Estonian National Broadcasting Act, the Broadcasting Council is to establish the procedure for election campaigns of the Presidential elections, the European Parliament elections, *Riigikogu* elections and local government council elections.

Private funding

28. According to the Political Parties Act, membership fees, if introduced at all, are to be established by the internal rules of political parties. The authorities indicated to the GET that the internal rules usually set down the principles and the competent body for fixing the specific amount. Fees can be either differentiated or flat for all members of a political party. The GET learned from the interviews held with representatives of political parties that the internal rules of some parties

[10] See section 66 (3) of the Riigikogu Election Act, section 64 (3) European Parliament Election Act, section 60 (3) of the Local Government Council Election Act.
[11] See directive no 1022 of the Minister of Interior Affairs of 3 April 2007.
[12] The GET was informed after the visit that the gross amount in 2008 is 90,000,000 EEK (approximately 5,800,000 EUR).
[13] Section 10 (3) of the Local Taxes Act.

leave it open to members to pay higher amounts than the obligatory fees; in these cases, the total amount is accounted as a membership fee which is not considered a donation.

29. Both cash and non-cash donations to political parties are admitted. The Estonian authorities indicated that there are no restrictions with regard to the amount, size or periodicity of contributions to political parties or their associated organisations, and that bequest to political parties is permitted as well. While donations to members of Parliament are restricted by section 26 (2) of the Anti-Corruption Act in case its acceptance may directly or indirectly influence the impartial performance of the MP's duties, no restriction has been imposed on donations from MPs to political parties or entities/organisations related to them.

30. Political parties must not accept concealed or anonymous donations nor donations from legal persons[14] which also excludes, according to the authorities, donations from non-profit legal persons or associations which do not hold the status of a legal person. The assignment of any goods, services, proprietary or non-proprietary rights to a political party under conditions which are not available for other persons is deemed to be a concealed donation. If possible, political parties are to return anonymous donations or donations from legal persons to the donor; otherwise, they have to transfer the donations to the State budget within ten days for addition to the funds to be allocated to political parties in the following budgetary year.

31. Pursuant to section 12[6] of the Political Parties Act, the provisions on donations to political parties, particularly the restrictions and disclosure provisions, also apply to non-profit associations in which the political party is a member. Moreover, political parties are permitted to make donations to such non-profit associations.

32. In accordance with section 27 (1) of the Income Tax Act, donations made by tax resident natural persons to political parties (but not to elected representatives, independent candidates and election campaigns) are tax deductible for up to 5 percent of the taxpayer's income on top of other deductions from incomes. The value of a non-monetary donation is the market price of the property. Services provided free of charge or at a price below the market price are not deemed to be donations and their value is not deducted from income; such services are prohibited as concealed donations by section 12.1 (3) of the Political Parties Act. According to section 28.2 of the Income Tax Act, any deductions from the taxable income are limited to 50,000 EEK (3,205 EUR) per taxpayer during a period of taxation, and to not more than 50 percent of the taxpayer's income in the same period of taxation, after the deductions relating to enterprise have been made.

33. Pursuant to section 12.1 (4) of the Political Parties Act, political parties can receive loans and credits if the agreement is secured by the assets of the political party or by the surety of its members and if the lender or creditor is a credit institution in the meaning of section 3 (1) of the Credit Institutions Act, i.e. a company whose principal and permanent economic activity is to receive cash deposits and other repayable funds from the public and to grant loans for its own account and provide other financing (often a bank).

34. Political parties and other non-profit associations related to parties cannot be engaged in any economic activities aiming at earning profits. This prohibition does not include income earned on political parties' assets and fundraising activities in relation to natural persons.

[14] Sections 12.3 (4) and 12.1 (2) of the Political Parties Act.

Expenditure

35. The authorities indicated to the GET that with regard to expenditure, no direct quantitative or qualitative restrictions or limits have been imposed on political parties, affiliated organisations, election coalitions or candidates for election. A restriction might, however, be seen in the ban on open-air electoral advertising (using a logo, a symbol or the face of an independant candidate or a person belonging to a political party) during periods of election campaigning, which has been introduced in 2005 for political parties, election coalitions and independent candidates with regard to elections for Parliament, local government councils and the European Parliament.[15]

III. TRANSPARENCY OF PARTY FUNDING – SPECIFIC PART

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

Books and accounts

36. The management board of a non-profit association – and therefore of a political party – has to organise the accounting pursuant to the Accounting Act,[16] which provides that accounting entities be required to document and record all their business transactions on a double-entry basis in journals and ledgers,[17] supported by source documents certifying the corresponding business transactions or by summary documents, to prepare a chart of accounts for recording business transactions and adjusting entries[18] and to prepare, at the end of each financial year, an annual report consisting of the accounts and a management report.[19] A business transaction is defined as each transaction bringing forth changes in the assets, liabilities or owners' equity of the accounting entity, which means that all the monetarily measurable donations (objects, services, etc.) made to a political party, including services received without charge as well as loans, must be recorded. Accounting entities have to preserve justification documents, accounting ledgers, journals, contracts, financial statements, reports and other business documents which are necessary for reconstructing business transactions during audits for seven years.[20] An accounting entity in the meaning of section 2 (2) of the Accounting Act is a legal person in private or public law registered in Estonia, a sole proprietor or a branch of a foreign company registered in Estonia. Therefore, contributors who fulfil one of these conditions also have to record their transactions in accordance with the above-mentioned procedure.

37. Section 12.2 (1) of the Political Parties Act provides that political parties which receive allocations from the State budget are obliged to conduct an audit in order to prepare their annual report. The auditor's report must include a clear assessment of whether the financial statements give a true and fair view of the financial status of the political party and are in compliance with accounting legislation. However, these requirements apply neither to parties which do not receive any allocation from the State budget nor to associated organisations of political parties acting in the form of a non-profit association, and there are no special requirements for auditing electoral campaigns of political parties, elections, referenda or candidates for elections.

[15] Section 5.1 of the Riigikogu Election Act.
[16] Section 35 of the Non-Profit Associations Act.
[17] Section 6 of the Accounting Act.
[18] Section 8 of the Accounting Act.
[19] Section 14 of the Accounting Act.
[20] See section 12 of the Accounting Act, for further details. Accounting journals and ledgers which are created electronically are also to be preserved in electronic form.

38. The auditing is governed by the auditing rules and the Authorised Public Accountants Act of 1999, according to which an auditor is either a qualified and registered auditor or a company of registered auditors. The auditor of a political party is appointed by the general meeting of the party, unless otherwise provided for by the party's internal rules. The auditor has to be independent and impartial and cannot be a member of the management board or an accountant of the party. The auditing activities are supervised by the management board of the professional association of auditors – the Board of Auditors – which is entitled to bring disciplinary proceedings against the auditor. Pursuant to section 379 of the Penal Code, an auditor who in a report fails to submit or incorrectly submits the facts which were known to him or her in the conduct of an audit risks either a pecuniary punishment or up to one year of imprisonment.

39. In addition to the aforementioned accounting obligations, political parties have to maintain a register of donations setting out "the names of the donors, the details thereof and the value of the donations".[21] In the case of a non-monetary donation, the value of the donation is to be determined by the donor. The accuracy of the information contained in the register of donations is to be ensured by the leadership of the political party. The requirements for the disclosure of donations also apply to non-profit associations in which the party is a member.[22] However, there is no corresponding obligation for entities otherwise related, directly or indirectly, to political parties or otherwise under their control nor for organisations affiliated to political parties, for election coalitions or for election candidates.

Reporting obligations

40. The annual accounts of a political party and the register of donations held by a party are not subject to any reporting obligation.

41. By contrast, political parties, independent candidates and, in the event of local government council elections, election coalitions are obliged to submit a report on the sources of the funds used and the expenditure incurred with regard to electoral campaigns for the national Parliament and the European Parliament to the "Select Committee of the Riigikogu for the Application of the Anti-Corruption Act" (hereafter: the Select Committee), and with regard to local government council elections to the local election committee, within one month as of the election day.[23] The Select Committee is established on the basis of section 14 (2) of the Anti-corruption Act as a State inspection authority exercising supervision of financing political activities. In accordance with instructions prepared by the Select Committee currently in office, the reports are to be submitted electronically, as well as on paper, signed by a member of the leadership of the party and by a person responsible for the party's accounting, in the event of an election coalition by an authorised representative. The Select Committee has to preserve the reports and other documents received with regard to supervising the funding of political parties without a term.[24]

42. The reports must set out detailed information on the funds (date of receipt, type, value in EEK, the name and personal identification code or registry code of the person who allocated the funds) and the expenditure (date, name and personal identification code or registry code of the beneficiary, number of invoice which is the basis of the payment, object of payment and size of the payment in EEK), including outstanding contractual payments and unpaid invoices. The

[21] Section 12.3 of the Political Parties Act.
[22] Section 12.6 of the Political Parties Act.
[23] Section 12.4 (1) of the Political Parties Act, section 65 (1) of the Riigikogu Election Act, section 63 (1) of the European Parliament Election Act and section 59 (1) of the Local Government Council Election Act.
[24] Directive of the Director of State Chancellery from 2 April 2007, No 8.

types of expenditure are payments for advertising, public relations, publication, transportation, organisation of public events, communication, rental, postal and other expenses. If a person who stands as a candidate in the list of a political party or an election coalition incurs expenditure for the election campaign separately from the campaign expenditure of the political party or the election coalition, the report must also contain such information. Furthermore, a political party is obliged to include in its report information on expenses and funds used by non-profit associations in which the party is a member.[25] However, there is no corresponding obligation with regard to entities otherwise related, directly or indirectly, to a political party or otherwise under its control nor for organisations affiliated to a political party.

43. Apart from the aforementioned reporting obligation in respect of election campaigns, section 57 (3) of the Income Tax Act requires political parties to submit declarations to a regional unit of the Tax and Customs Board: firstly, a declaration concerning gifts and donations received during a calendar year, containing the donors' names, personal identification numbers and the value of the donation, and secondly, a declaration concerning the use of gifts, donations and other income received during a calendar year, by 1 July of the following year, containing information on expenses of the party, *inter alia*, gifts and donations made, expenses for employment, expenses for projects, advertising etc. The Tax and Customs board is to preserve the declarations for at least 7 years after submission.[26]

Publication requirements

44. Political parties have to publish their annual reports on their webpage. Furthermore the annual reports, together with the annexes, are to be submitted for publication in the *Riigi Teataja Lisa* (appendix to the State Gazette).[27] However, there are no rules regarding the timeframe for submission and publication.

45. Political parties are also obliged to publish the register of donations on their webpage.[28] Non-profit associations in which a political party is a member have to publish the register of donations made to the political party in accordance with the same procedure as the one applicable to parties, but they are not obliged to publish their annual economic activity reports or any other financial documents.[29]

46. According to the different election acts, the Select Committee or, in the event of local government council elections, the local election committees have to disclose the reports on election funds and expenses of political parties, election coalitions and independent candidates.[30] However, the legislation does not specify either the timeframe or manner in which the reports are to be disclosed. The authorities indicated to the GET that in practice, up to now the reports have been disclosed electronically on the Parliament's website.[31]

[25] Section 12.4 (1) of the Political Parties Act.
[26] Directive of the Director of the Tax and Customs Board from 28. December, 2006, No 477 P.
[27] Section 12.2 of the Political Parties Act.
[28] Section 12.3 (1) of the Political Parties Act.
[29] Section 12.6 of the Political Parties Act.
[30] Section 12.4 (1) of the Political Parties Act, section 65 (1) of the Riigikogu Election Act, section 63 (1) of the European Parliament Election Act and section 59 (1) of the Local Government Council Election Act.
[31] The reports of 2004-2007 are available under http://www.riigikogu.ee/?id=33456.

Access to accounting records

47. The authorities indicated to the GET that notwithstanding the aforementioned publication requirements, the general procedure for access to public information established by the Public Information Act does not apply to documents concerning economic activities of political parties, other non-profit associations, election coalitions and independent candidates, because the term "public information" refers to information obtained or created upon performance of public duties.

48. The authorities further indicated that the general provisions on access to documents provided for the Tax Board, in order to ascertain facts relevant to tax proceedings,[32] as well as for the investigating police authorities and the prosecuting authorities in criminal and misdemeanour procedures, apply to political parties, election coalitions and independent candidates. Moreover, section 27 (1) clause 7 of the Taxation Act provides that the tax authorities may disclose to anyone information concerning the income of, *inter alia*, a political party, including gifts and donations received and their use, without informing the party and without its consent.

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

49. The Select Committee was established on the basis of section 14 (2) of the Anti-corruption Act, by decision of Parliament of 27 April 1999, as a State inspection authority which collects the declarations of economic interests of high ranking officials. Subsequently, it has been given additional tasks such as the supervision of the expenses incurred and sources of funds used by political parties and independent candidates who participate in national Parliament and European Parliament elections. In order to carry out these duties, which it took over from the National Electoral Committee on 1 January 2004, when the respective amendments to the Political Parties Act entered into force, the Select Committee collects the reports on election funds and expenses and verifies the conformity of their content with the requirements provided for in the Political Parties Act as well as the various election acts. If the Committee considers the information presented in the reports insufficient or doubtful as to its accuracy, it may ask for further documents.[33] However, it is not entitled to apply any coercive measures or sanctions in this respect. It is obliged, though, to transmit suspicions of criminal offences or misdemeanours to an investigative body (Police) or to a body conducting extra-judicial proceedings of misdemeanour.[34] The authorities indicated that doubts or suspicions may arise on the basis of any information, including that from citizens who address the Select Committee.

50. The GET was informed that the Select Committee has initiated, since 2004, inquiries in respect of political parties as follows: In the event of the European Parliament elections in 2004, one party had to specify its report in order to clarify the sources of funds used and three political parties had to submit outstanding invoices/contractual payments. With regard to the local government council elections in 2005, explanations were required in 10 cases, 8 of which concerned outstanding invoices/contractual payments, and in one case, it was required that a prohibited donation be returned to a legal person. The Committee had recourse to the prosecuting authority with regard to a suspicion of the acceptance of a concealed donation by a political party, prohibited by section 402.2 of the Penal Code.

[32] Section 62 (1) of the Taxation Act.
[33] Section 12.4 (2) of the Political Parties Act.
[34] Sub-clause 2 6) of the Riigikogu Resolution of 27 April 1999 on the Formation of the "Select Committee of the Riigikogu for Application of the Anti-corruption Act".

51. The Select Committee is formed, in accordance with section 19 (1) of the Riigikogu Rules of Procedure Act, by a resolution of Parliament which sets out its composition, functions, authority and procedure for reporting on its activities. The Committee consists of members of Parliament whose number and political affiliations are not restricted by law. In practice, up to now the Committee has been formed on the principle that it includes one member of each party represented in Parliament. The Committee is in office since April 2007 and consists of six members. Costs incurred by the Committee are funded from the budget of the Chancellery of Parliament: remuneration of members and staff of the Committee, as well as experts and other costs.

52. The meetings of the Select Committee are closed unless the Committee decides otherwise. The Committee adopts resolutions by a majority of votes. It is assisted by a small number of officials, namely advisers and consultants – at the moment the Committee has appointed one adviser and one consultant – both nominated by the Secretary General of Parliament. These are required to have higher education (in the event of advisers preferably in the field of legal or public administration) and good knowledge of the pertinent legislation. An adviser must have been working in a State or local government authority for at least two years and a consultant for at least one year. Moreover, if necessary, the Committee may call upon experts.

53. In addition to the monitoring exercised by the Select Committee, the Tax and Customs Board is in a position to verify the accurate payment of taxes paid by political parties (and entities affiliated to them) or with regard to activities of the political party, as well as the accuracy of tax deductions. Furthermore, the Financial Supervision Authority[35] controls the activities of credit institutions, including, but not limited to, loans and credits granted to political parties and entities affiliated to parties. In the event of suspicions of criminal offences or misdemeanours, the funding and expenditure reports can be examined by the investigating police authorities and the prosecuting authorities in the course of the investigations.

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

54. Registered political parties are legal persons which, pursuant to section 14 of the Penal Code (PC), – are held responsible for acts which are committed by a body or one of its senior officials in the interests of the legal person, in the cases provided by law. Prosecution of a legal person does not preclude prosecution of the natural person suspected of the offence.

55. Sections 402.1 and 402.2 PC provide that "violations of the restrictions established on the economic activities or assets of a political party", as well as accepting a donation made to a political party by an anonymous, concealed or legal person, committed by natural or legal persons, are punishable by a "*pecuniary punishment*".

56. Furthermore, the Political Parties Act sanctions violations of the procedure for the registration and disclosure of donations by a political party (section 12.14) as well as violations of the procedure for the disclosure of the annual accounts, a quarterly statement of funds received by a political party and financing of the election campaign of a political party (section 12.15). In these cases, sanctions are a fine of up to 300 fine units[36] (1,154 EUR) for natural persons and a fine of up to 50,000 EEK (3,205 EUR) for legal persons.

[35] An agency of the Bank of Estonia, with autonomous competence and a separate budget, which conducts financial supervision in the name of the State.
[36] According to section 47 (1) PC, a fine unit is the base amount of a fine and is equal to 60 EEK (3.85 EUR).

57. Moreover, the election acts provide that violations of restrictions imposed on the presentation of political outdoor advertising[37] are sanctioned by a fine of up to 300 fine units (1,154 EUR) or, in case of violations by legal persons, by a fine of up to 50,000 EEK (3,205 EUR).[38]

58. The offences sanctioned by sections 402.1 and 402.2 PC are criminal offences to be prosecuted according to the Criminal Procedure Code and to be judged by court. The other offences mentioned above are misdemeanours to be decided upon, in principle, by the body conducting extra-judicial proceedings i.e. the police prefecture; however, the offences prohibited by sections 12.14 and 12.15 of the Political Parties Act, as well as violations of restrictions imposed on the presentation of political outdoor advertising, are decided upon by county courts.

Immunities

59. Article 76 of the Constitution grants immunity to members of Parliament. Criminal charges may be brought against them only on the proposal of the Chancellor of Justice and with the consent of the majority of the members of Parliament, in accordance with the procedure provided in chapter 14 of the Criminal Procedure Code.

Statutes of limitation

60. According to the general provisions contained in sections 81 and 82 PC, statutes of limitation are for 5 years in respect of the criminal offences provided in sections 402.1 and 402.2 PC ; 2 years in respect of the above-mentioned misdemeanours and with regard to the execution of a judgment or a decision 5 years or 18 months respectively.

IV. ANALYSIS

61. In Estonia, there is a mixed model of political financing, providing for public funding of political parties and allowing private donations to political parties and election campaigns. Public funding is granted to political parties having received at least one percent of the votes in a parliamentary election; the allocations are paid yearly and their amount is determined by the annual State budget. The GET was informed that the allocations had increased considerably in recent years and that they continued to increase. The total amount in 2007 was approximately 3.8 million EUR divided among seven parties.[39] There are no restrictions on the amounts of private donations but anonymous or concealed donations are prohibited, as well as donations to political parties by legal persons. Similarly, no limitations on the total amount of expenditure which a political party may incur (including in respect of election campaigns) are imposed. According to the representatives of political parties met by the GET, the proportion of public and private funds varies considerably among the different parties and over the years, but generally – with possible exceptions in election years – public funding appears to be the main source of income for most, if not all, political parties.

62. The financing of political parties and of election campaigns is subject to two different sets of rules provided by the Political Parties Act on the one hand and the different election acts on the other, i.e. the Riigikogu Election Act, the European Parliament Election Act and the Local Government Council Election Act. The relevant provisions in chapters 2.1 and 2.2 of the Political Parties Act –

[37] See paragraph 35 above.
[38] Section 73.2 of the Riigikogu Election Act, section 67.2 of the Local Government Council Election Act and section 71.1 of the European Parliament Election Act.
[39] The GET was informed after the visit that the gross amount in 2008 is 90 million EEK (approximately 5.8 million EUR).

and, consequently, certain provisions of the election acts – have been subject to significant amendments which came into force on 1 January 2004 and which aimed at reviewing the funding of political parties in order to prevent political corruption. The new legislation prohibits, *inter alia*, donations from legal persons to political parties; parties are only allowed to accept loans from credit institutions (normally banks) and donations by natural persons in cash are now permitted without limitation. Moreover, parties are now obliged to maintain and disclose a register of donations – instead of the former obligation to disclose a statement on funds and assets received during the quarter –, and election campaign expenditure reports are to be submitted to the "Select Committee of the Riigikogu for the Application of the Anti-Corruption Act" (hereafter: the Select Committee) instead of the National Electoral Committee as was the case before; the National Electoral Committee's work now concentrates on the administration of the electoral process.

63. Estonia has in recent years taken positive steps towards ensuring transparency of political funding. Parties are required to disclose on their internet sites their annual accounts and the register of donations received; in addition, the annual reports, together with the annexes, are to be published in the Appendix to the State Gazette. Furthermore, political parties – as well as independent candidates for election – are obliged to submit electoral campaign funding reports to the Select Committee which has to disclose them; the GET was informed that, in practice, the reports have so far been made available on the Parliament's website. However, it is doubtful whether this system of self-regulation, with no substantial control exercised by an independent supervisory body, works satisfactorily in practice. Moreover, the GET learned that, in practice, disclosure rules are frequently not respected (e.g. failure to submit the annual reports to the State Gazette or to provide complete information in the register of donations, including the addresses of donors), without any consequences for the parties concerned. In this connection, the GET was interested to learn that the Chancellor of Justice – who exercises supervision over the constitutionality and legality of legislation[40] – had submitted to Parliament a developed proposal "on bringing the Political Parties Act into conformity with the Constitution of the Republic of Estonia". He argued that the Political Parties Act failed to provide efficient supervision of the funding of political parties and was not in conformity with the Constitution, namely the principle of democracy and the fundamental right of a political party. The proposal was supported by Parliament in May 2006, and in December 2006 the Constitutional Committee of Parliament presented a draft legislative act. However, no practical action followed and in February 2007, the Chancellor of Justice decided to submit a complaint questioning the constitutionality of current legal provisions to the Supreme Court which exercises the functions of a constitutional court. The proposal of the Chancellor of Justice, which was pending at the Supreme Court at the time of the GET's visit, triggered intensive discussions within political parties and public institutions who largely agree that current legislation fails to ensure efficient supervision of political financing.[41] More details concerning the proposal are presented in paragraphs 70 to 74 below.

Transparency

64. The Non-Profit Associations Act subjects political parties to the obligation to keep proper books and accounts of their routine finances according to the general rules contained in the Accounting Act. *Inter alia*, parties are required to document and record all their business transactions on a double-entry basis, supported by source documents, and to prepare, at the end of each financial

[40] Article 139 of the Constitution. – Moreover, the Chancellor of Justice performs a number of other functions such as, *inter alia*, the function of an ombudsman.

[41] This consensus does not extend to the Chancellor of Justice' claim that current legislation is not in conformity with the Constitution.

year, an annual economic activity report which must be disclosed by the party. Furthermore, political parties have to maintain and to disclose a register of donations setting out "the names of the donors, the details thereof and the value of the donations". Finally, the funds used and expenses incurred for election activities of political parties, as well as of independent candidates and – in the event of local government council elections – election coalitions are to be reported separately and to be submitted to the Select Committee of the Parliament or – in the event of local government council elections – to the local election committees within one month of the election. The GET was told by representatives of political parties that, generally speaking, parties do not find the current reporting requirements particularly burdensome and are able to comply with relative ease. However, as stated before, the GET learned that these requirements are frequently not respected, and it furthermore identified several specific shortcomings as detailed below.

65. Article 11 of the Recommendation (2003)4 of the Committee of Ministers (hereafter: the Recommendation) specifies that accounts of political parties should be required to include, as appropriate, the accounts of entities related, directly or indirectly, to a political party or otherwise under its control. In Estonia, entities connected to a political party (which may be, for example, interest groups, political education foundations, trade unions, research institutions which are closely related to or come under the influence of a party) are under an obligation to keep accountancy records, just as political parties themselves, if they are to be regarded as accounting entities (i.e. a legal person in private or public law registered in Estonia, a sole proprietor or a branch of a foreign company registered in Estonia). By contrast, political parties are not obliged to include the accounts of connected entities in their own accounts and records, with the only – *limited* – exception of the election funding reports which must include expenses incurred and funds used by non-profit associations of which the political party is a *member*. Therefore, the GET can only conclude that Estonian legislation does not fully comply with Article 11 of the Recommendation and that it would be advisable, for the sake of best possible transparency, to require all political parties' accounts to include the accounts of all the entities connected to them or otherwise under their control. The current legal situation bears the risk of circumvention of transparency rules governing political party funding by funnelling "interested money" through associations/foundations connected with political parties. Consequently, to meet the requirements of Article 11 of the Recommendation (2003) 4, the GET recommends **to broaden the definition of entities related, directly or indirectly, to political parties or otherwise under their control, and to oblige political parties to include such entities both in their annual reports and in their reports on election campaign financing.**

66. Donations made to political parties, independent candidates or election coalitions are subject to quite stringent regulations: Anonymous and concealed donations as well as donations to political parties by legal persons are prohibited, and political parties are obliged to maintain and disclose a register of donations. In contrast, these regulations do not apply to membership fees received by political parties. In this connection, it is important to note that parties themselves may define which contributions are to be regarded as a donation or a membership fee. The GET was informed by party representatives that it is possible for parties to allow their members to pay higher amounts than the obligatory fees and that in these cases, the total income thus received is recorded as membership fees and not – at least for the amount exceeding the obligatory contributions – as donations. Although it was argued that donations are tax deductible and thus more likely to be paid than voluntarily increased membership fees, the GET is concerned that the aforementioned regulations on donations may be circumvented by paying higher membership fees. The GET therefore recommends **to ensure that membership fees are not used to circumvent the transparency rules concerning donations.**

67. As regards the obligation of political parties, candidates and election coalitions to report on election campaign funds and expenditure, the GET's attention was drawn to certain deficiencies in the current reporting practice. Firstly, it appears that the format of the reports submitted varies considerably and is thus a potential source of confusion and lack of comparability, however, it was reported that the Select Committee had recently, shortly after its appointment on 10 May 2007 and following the parliamentary elections, issued instructions which are likely to improve the uniformity of the reports. Secondly, interlocutors interviewed pointed out that the existing reporting scheme was too general and did not require supporting evidence (e.g. breakdown of individual costs, copies of invoices), failed to give a complete picture of campaign financing and sometimes contained contradictions between reported income and expenditure; these interlocutors also suggested that the complete campaign budget should be disclosed. The GET is of the opinion that credible reporting cannot rely on aggregate figures concerning income and expenses. A low level of detail required in the reporting of election financing – as appears to be the case in Estonia – impoverishes the actual meaning of the information available to the public and therefore hampers the effective monitoring of political financing. The GET therefore recommends **to require political parties, independent candidates and election coalitions to provide more detailed and complete reports on election campaign financing, in respect of the required level of itemisation of income and expenditure.**

68. The current legislation on reporting election campaign financing is limited to the above-mentioned *ex-post* notification by political parties, independent candidates and election coalitions. In this connection, it should be added that political parties are also obliged to maintain and disclose a register of donations, but section 12.3 of the Political Parties Act does not specify the required timing of updates and disclosures. Therefore, there is no reporting or disclosure obligation during the election campaign period itself. The GET is convinced that transparency in election financing would benefit significantly from reporting on campaign funding at regular intervals defined by law, in particular during the election campaign itself, as is the case in other GRECO member States. Such an approach would have the clear benefit of increasing the openness of political financing during the crucial period of campaigns as it allows the public and the authorities to uncover potential irregularities in the funding of elections at an early stage. During the on-site visit, this issue was raised by a number of interlocutors, and there was particular concern that information about non-cash or 'in-kind' funding should also be reported on a regular basis, including during election campaign periods. The GET fully shares this view and recommends **that political parties, independent candidates and election coalitions be required to publish at regular intervals, defined by law, the donations (cash and non-cash) received, including, if appropriate, during the electoral campaign period.**

69. Furthermore, the GET noted that Estonian legislation does not provide for specific timeframes regarding the publication of annual accounts either. During the evaluation visit, the GET was advised that the time elapsing before the publication of annual accounts varied considerably amongst the parties. The GET is concerned that parties may use this lack of clear rules to release information as late as possible – in particular, until after the end of election campaign periods – or even not at all. This lacuna needs to be addressed and, consequently, GRECO recommends **that the timeframes for publication of annual reports by political parties be clearly specified by law.**

Supervision

70. The monitoring of election campaign financing has been assigned to the Select Committee of the Parliament. As regards the object of supervision, the GET notes that the Select Committee is only mandated to monitor the reports on election campaign funding as submitted by political parties and independent candidates. As the Chancellor of Justice pointed out in his above-mentioned proposal to Parliament, the Select Committee is "allowed to control only the expenditures made for and in the course of election campaigns and the sources of funds thereof. It cannot supervise the other assets and funds of political parties and revenues and expenditures outside the scope of an election campaign. Therefore the Committee lacks the means to assess whether the political party has received any concealed donations".[42] Moreover, the annual reports prepared by the political parties are not submitted to the Select Committee or to any other similar supervisory body. The information gathered by the GET clearly indicates that the current situation does not fully comply with Article 14 of the Recommendation which makes reference not only to the supervision of electoral campaigns but also, and in particular, to the funding of political parties in general, including their accounts. Consequently, the GET recommends **that the monitoring of campaign financing should be complemented by a supervision of political parties' accounts.**

71. With regard to the monitoring body, most interlocutors interviewed during the visit agreed that the Select Committee in its present form does not ensure effective supervision. Indeed, to date no substantial investigations, audits or reviews have been conducted by the Committee. While the GET was advised of a few instances in which parties were asked to provide further information on sources of funding, missing invoices and impermissible donations, these seem to be fairly minor issues, raised on an exceptional basis. In the GET's view the main problems related to this body are threefold:

72. First of all, there is no comprehensive legislative framework providing the Select Committee with a precise mandate and with the authority to carry out substantial monitoring. Section 12.4 (1) of the Political Parties Act, as well as the relevant provisions of the election acts, simply require parties to submit their campaign funding reports to the Select Committee which has to disclose these reports. Section 12.4 (2) authorises the Committee to demand additional documents. According to the Chancellor of Justice, "the competence of the Committee only allows verification of the formal compliance of the information presented in the election campaign expenditure report with the Political Parties Act and election laws", but it "does not allow verification of concealed donations or to investigate the actual origin of donations".[43] The GET takes the view that efficient monitoring presupposes appropriate investigative powers (e.g. to commission experts, summon witnesses) and to enforce the relevant regulations; the Select Committee clearly lacks such powers.

73. Secondly, as regards the organisational structure, the GET notes that the Select Committee is made up of members of Parliament and has only two permanent officials. The Committee, which also handles the declarations of economic interest of high ranking officials, appears to be understaffed to exercise in-depth supervision of political finances and to carry out investigations, which require a proactive approach.

74. Thirdly, the GET is of the opinion that members of the Select Committee, as representatives of each party sitting in Parliament, cannot be considered independent as these are in fact

[42] Paragraph 52 of the proposal.
[43] Paragraph 55 of the proposal.

supervising themselves. It would appear highly unlikely that they would raise concerns that will damage their own party or members of their coalition. As argued by the Chancellor of Justice, "forming a supervisory body solely from members of political parties inevitably raises a question regarding the independence of such a body in relation to the political interests and creates a danger of reciprocal so-called 'fixed game systems'".[44] The GET was informed of situations in which no inquiries about a party's campaign financing had been made because other parties would then have been called to account for their funding practices in a more detailed manner as well. The GET is of the opinion that the current composition of the Select Committee does not ensure an appropriate level of independence from political party interests.

75. The GET concludes that the current supervision, as carried out by the "Select Committee of the Riigikogu for the Application of the Anti-Corruption Act", does not fulfil the requirements of an independent monitoring in the meaning of Article 14 of the Recommendation. Several officials interviewed suggested the establishment of a new specialised monitoring body, whereas others favoured a reinforcement of the Select Committee (with more staff and enlarged competences) or the assignment of its tasks to another existing body as, in particular, the National Electoral Committee which includes high level representatives from public institutions with financial, audit, tax and customs and judicial functions. Among the other bodies mentioned were the State Audit Office, the Tax and Customs Board and the Chancellor of Justice. The GET takes the view that any monitoring body – whether existing or yet to be created – must, above all, enjoy an appropriate level of independence and be given sufficient resources to carry out its tasks. Furthermore, it needs to be given investigative powers and the mandate to impose appropriate sanctions in case of violation of political financing regulations. In the light of the preceding paragraphs, the GET therefore recommends **to assign the monitoring in respect of the funding of political parties and electoral campaigns to an independent body which is given the mandate, the authority, as well as the financial and personnel resources to effectively supervise such funding, to investigate alleged infringements of political financing regulations and, as appropriate, to impose sanctions.**

Sanctions

76. Estonian legislation penalises "violations of the restrictions established on the economic activities or assets of a political party", as well as accepting a donation made to a political party by an anonymous, concealed or legal person, committed by natural or legal persons (sections 402.1 and 402.2 of the Penal Code); violations of the procedure for the registration and disclosure of donations to a political party (section 12.14 of the Political Parties Act); violations of the procedure for the disclosure of the annual economic activity report, a quarterly statement of funds received by a political party and financing of the election campaign of a political party (section 12.15), and, finally, violations of restrictions imposed on the presentation of political outdoor advertising (e.g. section 73.2 of the Riigikogu Election Act). The available sanctions are so-called "*pecuniary punishments*" (sections 402.1 and 402.2 of the Penal Code) or fines of up to 18,000 EEK (1,154 EUR) for natural persons and 50,000 EEK (3,205 EUR) for legal persons. The GET concludes that these provisions cover, as far as political parties are concerned, the violation of relevant funding rules. However, the GET is concerned about three shortcomings.

77. Firstly, the GET notes that there are only – relatively low – penal sanctions but no administrative or civil sanctions available for the infringement of political funding rules. The GET furthermore learned from the officials interviewed that the existing penal sanctions have hardly ever been

[44] Paragraph 54 of the proposal.

applied in practice. Against this background, the existing sanctions cannot be regarded as dissuasive and effective in the meaning of Article 16 of the Recommendation. Generally, the GET has some doubts as to the usefulness of criminal sanctions alone in this area, due to the very nature of criminal proceedings (burden of proof, the time spent on processing criminal cases, the apparently formal nature of some offences which may successfully be highlighted by the defence). The GET is of the opinion that the existing criminal sanctions – the maximum thresholds of which should be increased – need to be supplemented by administrative and, possibly, civil sanctions. Therefore, the GET recommends **to establish, in addition to the existing arsenal of criminal sanctions, more flexible sanctions with regard to the infringement of rules concerning the funding of political parties and electoral campaigns, including administrative sanctions.**

78. Secondly, the GET notes that the above-mentioned sanctions only apply to political parties and that there are no sanctions available with regard to the infringement of rules concerning electoral campaigns by candidates for election or by election coalitions, with the only exception of violations of political outdoor advertising restrictions as penalised by the different election acts. In this connection, it should be borne in mind that candidates and, in the event of local government council elections, election coalitions are subject to the same reporting obligations with regard to election campaign funding as political parties and to some of the same funding restrictions (prohibition to accept anonymous or concealed donations or, in the case of election coalitions, donations made by legal persons). Therefore, the GET cannot see why there are no sanctions available in case of violation of these rules by candidates or election coalitions, in contrast to violations of the same rules by political parties. The GET concludes that this legal situation is not in conformity with Article 16 of the Recommendation which refers not only to the infringement of funding rules for political parties but to electoral campaigns in general. In addition, the GET takes the view that the obligation to return prohibited donations to the donor or to transfer them into the State budget, as required in relation to political parties by section 12.3 (4) of the Political Parties Act, needs to be applicable also in respect of candidates and election coalitions. The GET recommends **to provide for effective, proportionate and dissuasive sanctions with regard to the infringement of rules concerning electoral campaigns by candidates for election or by election coalitions, and to require candidates and election coalitions to return illegal donations to the donor or to the State budget.**

79. Finally, the GET notes that the limitation period for the above-mentioned offences relating to party funding as provided by the Penal Code is five years for criminal offences, and two years for misdemeanours. The GET is of the opinion that this statute of limitations is rather short in respect of electoral campaign financing, as sometimes information about financing irregularities does not come to light until the next election which is, generally, held 4 years later (or 3 years, in the event of local government council elections; 5 years in the event of European Parliament elections). In this connection, the GET furthermore notes that according to Article 76 of the Constitution, members of Parliament are immune from prosecution. There is however a possibility to lift the immunity in order to bring criminal charges against them on the proposal of the Chancellor of Justice and with the support of a majority of members of Parliament. The GET takes the view that the current statute of limitations may diminish the possibilities to enforce violations of the political funding rules for which reason the current legislation warrants a review in due course.

V. CONCLUSIONS

80. Estonian political financing legislation covers a range of core issues and fulfils many requirements of Recommendation (2003)4 of the Committee of Ministers of the Council of Europe on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns. Estonia has in recent years taken positive steps towards ensuring transparency of political financing. An important component of the system is a set of disclosure obligations, *inter alia* via the internet, with regard to records on financing of political parties and of electoral campaigns. However, it appears that, in practice, this system of self-regulation does not always function satisfactorily and that the political financing system in Estonia suffers from ineffective supervision and a lack of enforcement of the existing rules. In order to ensure a high degree of transparency of political financing, disclosure obligations must be complemented by an independent monitoring body with adequate powers and resources and by an appropriate range of sanctions. The loopholes identified in the existing legislative framework and practice in Estonia (e.g. the lack of independence of the existing monitoring mechanism, the mainly formalistic supervision of the reports of political parties/candidates, the restriction of monitoring to the funding of electoral campaigns, the low level of reporting requirements concerning the funding of electoral campaigns and inadequate sanctions for breaches of the rules) are a potential source of abuse and do not provide sufficient tools to effectively detect and unveil possible instances of improper influence in political financing. Improvements to the present regime aimed at enhancing transparency and accountability of political financing and, ultimately, strengthening public trust in the political process must therefore be a matter of priority.

81. In view of the above, GRECO addresses the following recommendations to Estonia:

i. **to broaden the definition of entities related, directly or indirectly, to political parties or otherwise under their control, and to oblige political parties to include such entities both in their annual reports and in their reports on election campaign financing (paragraph 65);**

ii. **to ensure that membership fees are not used to circumvent the transparency rules concerning donations (paragraph 66);**

iii. **to require political parties, independent candidates and election coalitions to provide more detailed and complete reports on election campaign financing, in respect of the required level of itemisation of income and expenditure (paragraph 67);**

iv. **that political parties, independent candidates and election coalitions be required to publish at regular intervals, defined by law, the donations (cash and non-cash) received, including, if appropriate, during the electoral campaign period (paragraph 68);**

v. **that the timeframes for publication of annual reports by political parties be clearly specified by law (paragraph 69);**

vi. **that the monitoring of campaign financing should be complemented by a supervision of political parties' accounts (paragraph 70);**

vii. **to assign the monitoring in respect of the funding of political parties and electoral campaigns to an independent body which is given the mandate, the authority, as well as the financial and personnel resources to effectively supervise such funding, to investigate alleged infringements of political financing regulations and, as appropriate, to impose sanctions (paragraph 75);**

viii. **to establish, in addition to the existing arsenal of criminal sanctions, more flexible sanctions with regard to the infringement of rules concerning the funding of political parties and electoral campaigns, including administrative sanctions (paragraph 77);**

ix. **to provide for effective, proportionate and dissuasive sanctions with regard to the infringement of rules concerning electoral campaigns by candidates for election or by election coalitions, and to require candidates and election coalitions to return illegal donations to the donor or to the State budget (paragraph 78).**

82. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Estonian authorities to present a report on the implementation of the above-mentioned recommendations by 31 October 2009.

83. Finally, GRECO invites the authorities of Estonia 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.