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**Theme II**

## **Third Evaluation Round**

### **Evaluation Report on Norway on Transparency of party funding**

(Theme II)

Adopted by GRECO  
at its 41<sup>st</sup> Plenary Meeting  
(Strasbourg, 16-19 February 2009)

## I. INTRODUCTION

1. Norway joined GRECO in 2001. GRECO adopted the First Round Evaluation Report (Greco Eval I Rep (2002) 3E) in respect of Norway at its 10<sup>th</sup> Plenary Meeting (12 July 2002) and the Second Round Evaluation Report (Greco Eval II Rep (2004) 3E) at its 20<sup>th</sup> Plenary Meeting (30 September 2004). The aforementioned Evaluation Reports, as well as their corresponding Compliance Reports, are available on GRECO's homepage (<http://www.coe.int/greco>).
2. GRECO's current Third Evaluation Round (launched on 1 January 2007) deals with the following themes:
  - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173)<sup>1</sup>, Articles 1-6 of its Additional Protocol<sup>2</sup> (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 Norway from 12 to 14 November 2008, was composed of Ms Thomasenia DUNCAN, General Counsel, Federal Election Commission (USA), Ms Laura STEFAN, Anti-Corruption Co-ordinator, Romanian Academic Society (Romania) and Mr Pall THORHALLSSON, Legal Adviser, Prime Minister's Office (Iceland). The GET was supported by Ms Tania VAN DIJK from GRECO's Secretariat. Prior to the visit the GET was provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2008) 5E, Theme II) as well as copies of relevant legislation.
4. The GET met with officials from the following governmental organisations: the Ministry of Government Administration and Reform, the Ministry of Local Government and Regional Development, the Ministry of Finance, Statistics Norway and the Auditor General of Norway. The GET also met with a representative of the Political Parties Act Committee. In addition, the GET met with all political parties represented in the *Storting* [Parliament] – the Norwegian Labour Party (*Det norske Arbeiderparti*), Progress Party (*Fremskrittspartiet*), Conservative Party (*Høyre*), Socialist Left Party (*Sosialistisk Venstreparti*), Christian Democratic Party (*Kristelig Folkeparti*), Centre Party (*Senterpartiet*) and Liberal Party (*Venstre*) – as well as two political parties without a seat in the *Storting* [Parliament] – Red (*Rødt*, the former *Rød Valgallianse*) and the Coast Party (*Kystpartiet*). Moreover, the GET met with auditors and representatives of the Norwegian chapter of Transparency International, the Confederation of Trade Unions (LO), the Confederation of Norwegian Business and Industry (NHO) 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 Norwegian 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

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<sup>1</sup> Norway ratified the Criminal Law Convention on Corruption (ETS 173) on 2 March 2004. The Convention entered into force in respect of Norway on 1 July 2004.

<sup>2</sup> Norway ratified the Additional Protocol to the Criminal Law Convention (ETS 191) on 2 March 2004. It entered into force in respect of Norway on 1 February 2005.

a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to Norway 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 (2008) 6E-Theme I.

## II. TRANSPARENCY OF PARTY FUNDING – GENERAL PART

### Definitions

7. In Norway, political parties have played a central role in the democratic system since the emergence of parliamentarism in the mid-1880s. Political parties are briefly mentioned in the Constitution: “The election of representatives of constituencies is based on proportional representation and the seats are distributed among *political parties* in accordance with the following rules”. However, the Norwegian authorities indicate that, due to the principle of freedom of association, there is no legal definition of political parties, either in the Political Parties Act (hereafter: PPA) or anywhere else. Simply put, political parties are legal entities<sup>3</sup> registered, in accordance with Chapter two of the PPA, in the Register of Political Parties. It should be emphasised though that, despite the implication to the contrary in the Constitution, participation in elections is not the exclusive competence of registered political parties: unregistered groups may also participate in elections to the *Storting* [Parliament], county councils and municipal councils. It has however been 20 years since an unregistered group won a seat in the *Storting*. In the most recent elections for the *Storting* in 2005 three unregistered groups participated (in addition to 18 registered political parties): however, none of these three groups won any seats. In county and municipal elections it is less rare for unregistered groups to win seats in the respective councils.<sup>4</sup>

### Registration

8. Political parties acquire legal personality following their registration in the Central Co-ordinating Register for Legal Entities, where they are allocated their own organisation number. From the moment of registration in the Central Co-ordinating Register for Legal Entities, the political party bears rights and obligations independently from its statutory bodies and members. The requirement to register the party in the Central Co-ordinating Register applies to the party’s main (parent) organisation; subordinated bodies of a party (party organisational structures/units at county or municipal level, including youth organisations) may however also be registered in the Central Co-ordinating Register for Legal Entities, thus acquiring legal personality separately from the main party structure. The Norwegian authorities indicate that many youth organisations at national level and party units at county level are registered separately in the Central Co-ordinating Register for Legal Entities.
9. A political party wishing to participate in the elections under a particular name may apply to register the party’s name in the Register of Political Parties at the Brønnøysund Register Centre. Registration in the Central Co-ordinating Register for Legal Entities is a pre-condition to registration in the Register of Political Parties: Only once a party has been registered in the

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<sup>3</sup> It should be noted that political parties are free to choose their organisational structure. The Norwegian authorities report that 21 of the 22 parties in the Register of Political Parties are registered as ‘associations’. Only one party is organised as ‘another legal person’.

<sup>4</sup> In the most recent municipal elections, in September 2007, unregistered groups received 51,539 votes (approximately 2,3%) out of a total of 2,226,834 votes and won 392 seats in the municipal councils (approximately 3,6%) out of a total of 10946 seats up for election in all the municipal councils in Norway.

Central Co-ordinating Register for Legal Entities can it apply to have its name registered in the Register of Political Parties. Pursuant to Section 2 PPA, registration in the Register of Political Parties gives the party the exclusive right to field candidates for election under the registered name. As already indicated above, it is however also possible to participate in elections without having been registered in the Register of Political Parties and the Central Co-ordinating Register for Legal Entities. These lists of candidates (or unregistered groups) may also use the term 'party' in their name on their list of candidates, without being registered in the Register of Political Parties as such.

10. Pursuant to Section 3 PPA, in order to be added to this Register there must be no risk of confusion of the name of the party with that of another party in the Register of Political Parties or a Sámi political entity registered with the Sámi Parliament.<sup>5</sup> Furthermore, an application to register the party's name in the Register of Political Parties must, pursuant to Section 3 PPA, include:

- the party's founding document;
- information on the persons who have been elected to the party executive bodies and the persons who are authorised to act as the official representatives of the party in cases pursuant to the PPA;
- the statutes, stipulating which body of the party elects the party's executive bodies;
- the declarations of at least 5,000 persons (containing signatures, dates of signature and names, dates of birth and addresses of the persons in question) eligible to vote in a general election, indicating that they want the party's name to be registered.<sup>6</sup>

The application is to be registered with the registration authority by 2 January of the election year if the registration is to have any effect in the election in question (Section 3, paragraph 3 PPA). Only where special grounds exist, can the registration authority refuse to register the name of a political party (Section 3, paragraph 1 PPA).

11. The name of the party, its organisation number, address, information (i.e. name, address, date of birth and identification number) as regards the members of the executive body and the contact person who is registered in the Central Co-ordinating Register for Legal Entities is entered in the Register of Political Parties. With the exception of the date of birth, identification number and address of the members of the executive body of the party, the information entered in the register is publicly available (Section 2 of the 'Regulation on certain aspects relating to the political parties'). Neither the Register of Political Parties or the Central Co-ordinating Register for Legal Entities would however include information on the party's organisational structure, such sub-national branches and other organisations/units under its control, in as far as these have not been registered as separate entities in the Central Co-ordinating Register.<sup>7</sup> Any changes in the party's executive body are to be notified to the Register of Political Parties. The name of a party having failed to issue a list of candidates in any constituency in two consecutive general elections (or which has been dissolved or changed its name four years earlier) will be deleted from the Register of Political Parties.

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<sup>5</sup> People of Sámi heritage, included in the Sámi census, are eligible to vote to the Sámi Parliament of Norway. Elections for the Sámi Parliament take place at the same time as elections for the *Storting*.

<sup>6</sup> Persons declaring that they want the party's name to be registered must have reached voting age by the end of the calendar year in which the application is made, but if the application is submitted less than one year before an election, it is sufficient that the person has reached voting age by the end of the election year. Declarations are only valid if they are made less than one year before the application to register the party's name was made. (Section 3, PPA)

<sup>7</sup> The Norwegian authorities however indicate that such information is nevertheless collected by Statistics Norway in its annual survey of the population of political parties and made public on the party funding web-site set up by Statistics Norway and the Ministry of Government Administration and Reform (<http://www.partifinansiering.no>).

12. In August 2008 there were 22 registered political parties in Norway. The Norwegian authorities however indicate that the number of structures/entities (national youth organisations, county and municipal units and county youth organisations) which form part of the organisational structure of these 22 registered political parties and fall under the remit of the Political Parties Act is approximately 3200.

### Participation in elections

13. Pursuant to Articles 50 and 53 of the Constitution, all citizens of Norway who have reached (or will reach) the age of 18 years in the year the elections are held, have full legal capacity and have not been disqualified from voting<sup>8</sup> have the right to vote. Everyone who is entitled to vote and who has lived in Norway for the last 10 years has the right to be elected to the *Storting*, as stipulated by the Constitution and People Representation Act. Members of staff in the ministries (with the exception of ministers, state secretaries and political advisers), justices of the Supreme Court and members of the diplomatic corps or of the consular service are disqualified from election to the *Storting*. Foreigners who have lived in Norway for 3 years continuously can vote in local elections.
14. Norway has a modified<sup>9</sup> unicameral parliament, the *Storting* ('Great Council'). The *Storting* has 169 members, who are elected by popular vote for a four-year term by proportional representation<sup>10</sup> in 19 multi-seat constituencies. Norway has a multi-party system: there are numerous parties and a single party has little chance of forming a government alone. Coalition governments (and minority) cabinets are therefore the norm.
15. There are 430 municipalities with their own council and 19 county counties (these counties also form the constituencies for the elections of the *Storting*). Municipal and county council elections take place simultaneously every four years. Elections are thus held every second year, alternating between elections for the *Storting* and municipal/county elections. The most recent elections to take place were the municipal/county elections held on September 9, 2007.
16. As indicated above (see paragraph 7), both political parties and other (unregistered) groups may put forward candidate lists for elections to the *Storting* and municipal/county council elections. Electoral lists are open: electors can change the order in which candidates are listed. The Norwegian system is however not very candidate-oriented, but strongly party-centred: the electorate votes for a particular party, rather than for a candidate on an electoral list.

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<sup>8</sup> Article 53 of the Constitution: "The right to vote is lost by persons:

a) sentenced for criminal offences, in accordance with the relevant provisions laid down by law;

b) entering the service of a foreign power without the consent of the Government."

<sup>9</sup> For voting on legislation the *Storting* divides itself in two chambers, the *Odelsting* (with three-quarters of the *Storting* members) and the *Lagting* (a quarter of its members). The *Lagting* however rarely disagrees with the *Odelsting's* decision and, in February 2007, the *Storting* passed a constitutional amendment abolishing the division into *Odelsting* and *Lagting*, which takes effect from the 2009 general elections.

<sup>10</sup> Norway uses a modified Sainte-Laguë method for both local and national elections. 150 members of the *Storting* are elected in the 19 constituencies. Each county is a constituency, which elects a pre-calculated number of seats in the *Storting*, based on the population and geographical area of the county (with sparsely populated constituencies getting more mandates than their population would suggest in order to maintain representation of rural areas in the *Storting*). In addition, there are 19 so-called 'levelling seats' or 'members at large', one in each county. These seats are divided amongst parties which have obtained fewer seats than the total number of votes they won in the country would suggest (i.e. a party could for example despite a relatively large number of votes in all 19 constituencies not win enough votes in any single constituency to obtain a seat in the *Storting*). Only registered political parties, which have received at least four percent of the number of votes cast in the entire country, are eligible to obtain 'levelling seats' or 'members at large'.

17. Apart from the threshold of 4 percent of the total number of votes cast in Norway to obtain one of the 19 'levelling seats' or 'members at large' (see footnote 10) in the *Storting*, there is no election threshold.

#### Party representation in Parliament

18. In the last elections for the *Storting*, which were held on 12 September 2005, 18 political parties and three unregistered groups/lists participated<sup>11</sup>. Seven political parties won seats in the *Storting*:

- Norwegian Labour Party * ( <i>Det norske Arbeiderparti</i> )	- 61 seats
- Progress Party ( <i>Fremskrittspartiet</i> )	- 38 seats
- Conservative Party ( <i>Høyre</i> )	- 23 seats
- Socialist Left Party* ( <i>Sosialistisk Venstreparti</i> )	- 15 seats
- Christian Democratic Party ( <i>Kristelig Folkeparti</i> )	- 11 seats
- Centre Party* ( <i>Senterpartiet</i> )	- 11 seats
- Liberal Party ( <i>Venstre</i> )	- 10 seats

19. Three parties (indicated above with \*), namely the Norwegian Labour Party (*Det norske Arbeiderparti*), the Socialist Left Party (*Sosialistisk Venstreparti*) and the Centre Party (*Senterpartiet*), went on to form the current coalition government in October 2005.

#### Overview of the political funding system

##### Legal framework

20. The rules governing the funding of political parties and election campaigns are contained in the abovementioned Act on certain aspects relating to the political parties (the Political Parties Act, PPA), which entered into force in January 2006. The PPA applies to registered political parties in the same manner at different levels (national, regional and local) and replaced the Act on the disclosure of the political parties' income of 1998, which only applied to registered political parties participating in elections to the *Storting*. The PPA regulates the registration of political parties, provision of government grants to registered parties (and – to some extent – the provision of financial support to elected groups), non-permissible donations, reporting on income by registered parties and the establishment of the Political Parties Act Committee. The Norwegian authorities indicate that as elections in Norway are strongly party-centred, the legislation concerning funding and reporting only applies to registered political parties and not to candidates or unregistered groups.
21. The Norwegian authorities report that the PPA, *inter alia*, balances three considerations which are considered of fundamental importance for a well-functioning democracy:
- freedom of action for political parties (independence);
  - the right of individuals to support political parties;

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<sup>11</sup> These political parties were: the Norwegian Labour Party (*Det norske Arbeiderparti*), the Progress Party (*Fremskrittspartiet*), the Conservative Party (*Høyre*), the Socialist Left Party (*Sosialistisk Venstreparti*), the Christian Democratic Party (*Kristelig Folkeparti*), the Centre Party (*Senterpartiet*), the Liberal Party (*Venstre*), the Red Electoral Alliance (*Rød Valgallianse*), the Coast Party (*Kystpartiet*), the Pensioners Party (*Pensjonistpartiet*), the Christian Assembling Party (*Kristent Samlingsparti*), the Greens (*Miljøpartiet De Grønne*), the Democrats (*Demokratene*), the Norwegian Communist Party (*Norges Kommunistiske Parti*), the Reform Party (*Reformpartiet*), the Sámi Party (*Sámeálbmot bellodat, Samefolkets Parti*), the Liberal Popular Party (*Det Liberale Folkeparti*) and the Society Party (*Samfunnspartiet*). In addition, three unregistered groups/lists participated in these elections: the Abortion Opponents' List (*Abortmotstandernes Liste*), the Norwegian Republican Alliance (*Norsk Republikansk Allianse*) and the Beer Unity Party (*Pilsens Samlingsparti*).

- the right of the public to information on the identities of donors of gifts to political parties over a certain limit, which may have an impact on political decision-making.
22. As becomes clear from the 'Proposal to the *Odelsting* No. 84 (2004-2005)' (i.e. the proposal for adoption of a Political Parties Act), Recommendation Rec(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 was explicitly taken into account in the deliberations leading up to the adoption of the PPA.
  23. The PPA was complemented in April 2006 by the Regulation on certain aspects relating to political parties (REG 2006-03-16 No. 321: the Political Parties Act Regulation), providing further details on the registration in the Political Parties Register, the reporting of party income, the withholding of government grants and the functioning of the Political Parties Act Committee.
  24. Since the entry into force of the PPA, only 1 election has been held under the new financial regulatory regime: the municipal/county council elections of September 2007.

### Public funding

25. In Norway, registered political parties at national level have been subsidised by the state since the early 1970s. Parties at local and county level of have received state subsidies since 1975. Over recent decades the funding provided to parties has undergone a significant increase. The Norwegian authorities indicate that public funding is provided with the following aims:
  - to ensure satisfactory, stable and fair funding of political parties, without making them too dependent on either public funding or private donations;
  - to contribute to the trust and confidence in politicians, parties and in government in general;
  - to combat corruption or suspicions of corruption.
26. The provision of direct public funding is provided annually to political parties and youth organisations at national level, party units and youth organisations at county level and party units at municipal level. The funding is based on the amount of votes a national, county or local party/party unit has received in the most recent elections at national, regional or local level.
27. At national level, political parties may apply to the Ministry of Government Administration for government grants. These government grants are divided into so-called vote support (90 percent of the total annual funding provided) and basic support (10 percent of the total annual funding provided). Vote support is provided in proportion to the amount of votes the political party received in the respective elections. No threshold exists for receiving vote support. Basic support is provided to political parties at national level which have received at least 2.5 percent of the votes in the last national election or had at least 1 representative elected to the *Storting* (Section 11 PPA). In 2008, at national level, approximately 211 million NOK (approximately €23 million) was distributed among 18 political parties, whereby the vote support rate amounted to 72.10 NOK (approximately €8) per vote cast for the party in the most recent *Storting* elections and the basic support rate amounted to 3,017,143 NOK (approximately €330,000) per party (7 parties out of the aforementioned 18 political parties received this basic support in 2008).

Party	Number of votes	Vote support (NOK)	Basic support (NOK)	Total (NOK)	Total (€) (approx.)
<i>Det norske Arbeiderparti</i>	862,456	62,187,003	3,017,143	<b>65,204,146</b>	7,126,161
<i>Fremskrittspartiet</i>	581,896	41,957,350	3,017,143	<b>44,974,493</b>	4,915,262
<i>Høyre</i>	371,948	26,819,144	3,017,143	<b>29,836,287</b>	3,260,808
<i>Sosialistisk Venstreparti</i>	232,971	16,798,269	3,017,143	<b>19,815,412</b>	2,165,626
<i>Kristelig Folkeparti</i>	178,885	12,898,423	3,017,143	<b>15,915,566</b>	1,739,412
<i>Senterpartiet</i>	171,063	12,334,421	3,017,143	<b>15,351,564</b>	1,677,772
<i>Venstre</i>	156,113	11,256,458	3,017,143	<b>14,273,601</b>	1,559,962
<i>Rød Valgallianse</i>	32,355	2,332,943	-	<b>2,332,943</b>	254,967
<i>Kystpartiet</i>	21,948	1,582,551	-	<b>1,582,551</b>	172,957
<i>Pensjonistpartiet</i>	13,556	977,449	-	<b>977,449</b>	106,825
<i>Kristent Samlingsparti</i>	3,911	282,001	-	<b>282,001</b>	30,820
<i>Miljøpartiet De Grønne</i>	3,652	263,326	-	<b>263,326</b>	28,779
<i>Demokratene</i>	2,705	195,043	-	<b>195,043</b>	21,316
<i>Norges Kommunistiske Parti</i>	1,070	77,152	-	<b>77,152</b>	8,432
<i>Reformpartiet</i>	727	52,420	-	<b>52,420</b>	5,729
<i>Sámeálbmot bellodat, Samefolkets Parti</i>	659	47,517	-	<b>47,517</b>	5,193
<i>Det Liberale Folkeparti</i>	213	15,358	-	<b>15,358</b>	1,678
<i>Samfunnspartiet</i>	44	3,173	-	<b>3,173</b>	347
<b>Total</b>	<b>2,636,172</b>	<b>NOK 190,080,001</b>	<b>NOK 21,120,001</b>	<b>NOK 211,200,002</b>	<b>€23,082,048</b>

28. Parties' county and municipal units may apply to the County Governor for grants. As with government grants at national level, pursuant to Sections 12 and 13 PPA, the grants at county and municipal level are divided into vote support (in proportion to the votes received – without any threshold – by the party in, respectively, the last county council elections and the last municipal council elections) and basic support (to parties which have received at least 4 percent of the votes in the last county council or municipal elections in question or have had at least 1 representative elected to the county or municipal council). In 2008, political parties at county level received 26.11 NOK (approximately €2.85) per vote in vote support and 40,248 NOK in basic support (approximately €4,400); political parties at municipal level received 11.53 NOK (approximately €1.25) per vote in vote support and 1,101 NOK (approximately €120) in basic support. This financial support derives from the state budget; the municipal and/or county administration does not bear the financial responsibility for this.

29. In addition, youth organisations affiliated to political parties at national and county level are also eligible for direct public funding. The amount of funding provided to these youth organisations is in proportion to the amount of votes the respective political party received in the last national or county election (Sections 11 and 12 PPA). In 2008, youth organisations at national level received approximately 2.42 NOK (approximately €0.26) per vote the parent party received in the 2005 *Storting* elections, which amounted to 6,369,000 NOK (approximately €700,000) for the 13 youth organisations at national level in total. The Norwegian authorities report that the amount of direct public funding provided to youth organisations at national and county level and political parties at

county and municipal level amounted to approximately 105 million NOK (approximately €11.5 million) in 2008.

30. According to information of Statistics Norway<sup>12</sup>, political parties are very dependent on government funding as a source of income: Government funding accounted for 72 per cent of the political parties' income in the year of municipal/county elections in 2007, compared with 76 per cent in 2006.
31. The Norwegian authorities emphasise that an important feature of the abovementioned funding is the absence of any conditions attached to it and the lack of supervision thereof: parties are free to use this funding in any way they see fit and the disposal of these funds is not in any way supervised (Section 10, paragraphs 3 and 4 PPA)
32. In addition to funding provided to registered parties and their youth organisations, groups elected to the *Storting*, county and municipal councils are provided with financial support (Section 10, paragraph 2 PPA) regardless of whether they are a registered political party or not. At national level, the office allowance for groups in the *Storting* amounted to a total of 127 million NOK (approximately €13.9 million) in 2008. This amount was distributed among the seven parties represented in parliament (see paragraph 18 above).<sup>13</sup> The purpose of this allowance is to cover expenses required to carry out parliamentary activities. In a similar manner county and municipal administrations are responsible for the provision of funds to elected groups in the county and municipal councils. The Norwegian authorities indicate that almost all municipalities and counties in Norway have established some form of financial support for elected representatives and groups; the level of this support varies per county or municipality.
33. Political parties furthermore receive limited indirect public support in the form of an exemption of capital and income tax (for non-commercial activities<sup>14</sup> such as membership fees, government grants, gifts, lotteries etc.) and are, like other non-governmental organisations, eligible for certain VAT-privileges. There is no provision of indirect public funding in the form of free broadcasting time to political parties<sup>15</sup>. On the contrary, political commercials on television are prohibited (Section 3-1 of the Broadcasting Act).
34. The Norwegian authorities report that the possibilities for the government (including local and regional governments) to facilitate its own election campaign or to benefit in any way from using public resources are modest.

#### Private funding

35. The PPA provides for certain restrictions as regards the sources of private funding (for political parties at all levels, including their youth organisations. First of all, pursuant to Section 17,

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<sup>12</sup> See <http://www.partifinansiering.no/english> and [http://www.ssb.no/english/subjects/07/02/10/partifin\\_en/](http://www.ssb.no/english/subjects/07/02/10/partifin_en/)

<sup>13</sup> Paragraph 5.1 of the Proposal to the Odelsting No. 84 (2004-2005) makes clear that "parliamentary groups receive subsidies annually (...) for the employment of secretaries and case executives. The subsidy is divided into two parts, a variable component and a fixed component. The variable component (representative subsidy) is dependent on the size of the Parliamentary group in that a subsidy is given for the payment of the salary to one secretary/adviser for each representative in the group. (...) The fixed component (basic subsidy) is a common subsidy for all Parliamentary groups. (...) For groups in the opposition an addition to the basic subsidy is given which varies according to the size of the group", with parliamentary opposition groups of three or four representatives receiving a 50% higher basic subsidy than governmental groups and parliamentary groups of five or more representatives receiving a 100% higher basic subsidy.

<sup>14</sup> Income of the party deriving from activities with commercial purposes is subject to taxation, but only when revenues from the sale of goods or services exceed 70,000 NOK (approximately €8,000).

<sup>15</sup> With the exception of televised debates prior to elections, in as far as this can be considered as free broadcasting time.

paragraph 2 PPA, parties may not receive any donations from persons whose identity is unknown to the party (anonymous donations). Anonymous donations are to be transferred to the state budget. Furthermore, Section 17, paragraph 3 PPA prohibits both donations from public agencies (i.e. legal entities under the control of the state or another public agency) and donations from foreign donors (i.e. private individuals who are not Norwegian citizens or who do not satisfy the conditions for eligibility to vote at municipal and county council elections, pursuant to Section 2-2 of the Election Act, or corporate entities registered abroad). For the purpose of this provision in the PPA, donations are considered to be any form of support that the party would be obliged to report (see paragraphs 45-47 below), and thus cover both in-kind and monetary support (Section 17, paragraph 4 PPA)

36. The PPA does not provide for any limits as regards the amount/size/periodicity of private donations or membership fees.
37. There are no restrictions as regards contributions from entities providing or seeking to provide goods or services to the public administration. From the 'Proposal to the *Odelsting* No. 84 (2004-2005)' (i.e. the proposal for adoption of a Political Parties Act), it becomes clear that this issue has been discussed, with both the Democratic Financing Committee (the Committee which was tasked in 2003-2004 with carrying out an analysis of the system of financing of political parties and proposing amendments thereto) and the Ministry of Government Administration and Reform agreeing that there would be a delimitation problem and that current regulations (*inter alia* relating to public procurement) would be sufficient in addressing any problems in this area.
38. Donations to political parties are not tax deductible.

#### Expenditure

39. No limits or restrictions on the expenditure of political parties exist. Possible expenditure limits were discussed in the context of the abovementioned 'Proposal to the *Odelsting* No. 84 (2004-2005)'. The Democratic Financing Committee and the Ministry of Government Administration and Reform agreed that the risk of corruption or improper financial practices were connected to the income of political parties and, in addition, that caps on expenditure could be too easily circumvented.

### **III. TRANSPARENCY OF PARTY FUNDING – SPECIFIC PART**

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

##### Books and accounts

40. Registered political parties are subject to the same accounting obligations as other associations. Pursuant to the Accounting Act, associations must prepare annual accounts in accordance with the provisions of the Accounting Act if, in the preceding year, they have had either (i) total assets in excess of 20 million NOK (approximately €2.2 million) or (ii) an average number of 20 or more employees (full-time equivalence). If one of the aforementioned conditions applies to a party, the party is required to apply generally accepted accounting practices or International Financial Reporting Standards (IFRS) and to keep their books in accordance with the requirements of the Accounting Act.<sup>16</sup> The parties falling under the remit of the Accounting Act<sup>17</sup> have to prepare an

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<sup>16</sup> This obligation to keep books in accordance with the requirements of the Act on Bookkeeping also applies to political parties who do not fulfil one of the aforementioned conditions if they have taxable sales exceeding 140,000 NOK (approximately €16,000) in a year.

annual report, must have their accounts audited by a registered auditor and are required to keep their books, invoices and other primary bookkeeping documentation for a period of 10 years (secondary documentation for a period of 3,5 years). Furthermore, they are obliged to submit their annual accounts, annual report and auditor's report to the Register of Company Accounts which, pursuant to the Accounting Act, is to make these available to the public (upon request).<sup>18</sup> Five out of the seven political parties represented in the *Storting* fulfil one of the abovementioned conditions, consequently falling under the remit of the Accounting Act. The GET was however informed that the other two parties represented in the *Storting*, as well as several party units at subnational level, voluntarily submit their annual accounts, annual report and auditor's report to the Register of Company Accounts.

41. Provisions on accounting offences are contained in the Penal Code and the Accounting Act. Sections 182-183 and 286 of the Penal Code criminalise respectively intentional use of falsified or forged documents and intentional or negligent "disregard of the provisions on recording and documentation of accounting information, annual reports or the storage of accounts". Legal persons, such as registered political parties, can also be held liable for the commission of these offences.

#### Access to accounting records

42. Political parties to which the Accounting Act applies (see paragraph 40 above) are required to give any public supervisory authority, which includes tax authorities, the necessary assistance to inspect the accounting system and accounting materials and, to this end, also put equipment and software at the authorities' disposal. This requirement also applies to the auditor.
43. Furthermore, pursuant to Section 23 PPA, party organisations/units (at national, regional and local level) and youth organisations, falling within the remit of the PPA, are obliged to allow an inspection of their accounts over the previous year upon request. The GET was informed that anyone can request such an inspection. However, no cases were known of such a request ever having been made. Parties having to submit their accounting documentation to the Register of Company Accounts (or voluntarily doing so) would at any rate refer such requests to the Register of Company Accounts at Brønnøysund Register Centre.

#### Reporting obligations

44. As indicated above, political parties to which the Accounting Act applies are to prepare an annual report and are to submit this report (together with their annual account and auditor's report) to the Register of Company Accounts.
45. Furthermore, pursuant to Section 18 of the PPA, all political parties, including organisational units of parties, whose total income during the year was more than 10,000 NOK (approximately €1,100) after the deduction of public support are to submit an annual report on the income of the party to the central register (Statistics Norway), at the latest, six months after the closing of the

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<sup>17</sup> In addition, a special accounting standard has been issued outlining the requirements for non-profit organisations (including those political parties to which the Accounting Act applies) and the applicable exceptions to the Accounting Act. This standard includes provisions on consolidated accounts for organisations with a multi-entity structure, accounting for contributions (and disclosing the name of the payer, amount and conditions attached to material contributions) and accounting for the use of these funds. However, few political parties appear to follow this standard, instead preferring to follow the provisions of the Accounting Act itself.

<sup>18</sup> The aforementioned accounting documents are publicly available via the website of the Register of Company Accounts.

accounts. This report is to contain a complete overview of the income received by the party or party organisation/unit in the preceding calendar year and is to be categorised as follows:

- public grants<sup>19</sup>;
- income from the party's own activities<sup>20</sup>;
- donations from others<sup>21</sup>
- internal transfers (i.e. transfers from other party units).

46. In addition, Section 20 PPA provides that if, during the reporting period (a calendar year), a donor has made one or more donations to the party's central organisation with a total value of 30,000 NOK (approximately €3,300) or more, the value of the donation and the identity of the donor (name and address) shall be reported separately; the same is true for donations by an individual donor to party units at county council level with a total value of 20,000 NOK (approximately €2,200) or more in the calendar year or at municipal level with a total value of 10,000 NOK (approximately €1,100) or more. Donations to youth organisations are governed by the same rules as donations to the parent party at a corresponding level.
47. Donations are to be understood, pursuant to Section 19, paragraph 3 PPA, as both monetary donations and in-kind donations, in the form of goods, services and other benefits that have been received free of charge or at a reduced price. Volunteer work which does not require special qualifications and does not form the income of the person volunteering is not considered to be a donation; similarly, premises and objects lent by private individuals to the party which do not form part of their income are not considered to be donations. Donations in-kind are to be estimated at market value and to be included in the annual income report.
48. The annual report on income is, furthermore, to contain a declaration on any political or commercial agreements that the party has agreed with any donor and a declaration that the party or the party unit has received no other income than that which has been reported. The report from the party's central organisation is to be signed by the party leader and approved by an auditor; reports of party units at municipal or county level do not have to be approved by an auditor and have to be signed by the person who has applied for or signed for the receipt of the public funding and a member of the board (Section 21 PPA).
49. To facilitate the reporting on income by the political parties / party units at the different levels (including the provision of information on donations above a certain threshold), Statistics Norway has elaborated standardised electronic forms and guidelines (pursuant to Section 10 of the Political Parties Act Regulation).
50. Parties whose total income during the year in question was less than 10,000 NOK (approximately €1,100) after the deduction of all public support are obliged to submit a declaration that their income for the year has been below this level to the central register at Statistics Norway (Section 18, paragraph 3 PPA).
51. As the name implies, the aforementioned annual report on income does not include information on expenditure of the parties. In the process leading up to the adoption of the current act (cf.

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<sup>19</sup> To be subdivided into: government grants pursuant to Chapter 3 of the PPA, municipal/county support for the party and other public support.

<sup>20</sup> To be subdivided into: subscription revenues, income from lotteries, fund-raising campaigns and similar activities, income from capital, income from business activities and other income

<sup>21</sup> To be subdivided into: donations from private individuals, donations from commercial enterprises, donations from organisations in working life (such as trade unions, employer organisations etc.), donations from other organisations, associations and unions, institutions, foundations and fund, and donations from others.

'Proposal to the *Odelsting* No. 84 (2004-2005)'), it was discussed – also in the context of expenditure limits (see paragraph 39 above) - whether the reporting obligation should be extended to also include parties' expenses, but as it had already been agreed not to introduce campaign expenditure limits, information on parties' expenditure was not considered to be very relevant for the electorate.

### *Third parties*

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

### Publication requirements

53. Political parties themselves are not under an obligation to publish the annual reports on their income or to make any other information available to the public. The Norwegian authorities indicate that several parties place the annual reports on their income on their web site and/or make them available on request.
54. Pursuant to Sections 20 and 22 PPA, the Central Register of Statistics Norway, the entity to which political parties and party organisations/units with a reporting obligation have to submit their report, is to compare the information concerning a party's income and sources of income and make this available to the public in an appropriate manner and shall also publish the name of the donors who have made donations above the threshold (i.e. 30,000 NOK/ca. €3,300 in a given year at central level; 20,000 NOK/ca. €2,200 at county level and 10,000 NOK/ca. €1,100 at municipal level). To this end, Statistics Norway, in co-operation with the Ministry of Government Administration and Reform, has established a special web-site (<http://www.partifinansiering.no>), on which the income reports of parties and party units and information on donors who have made donations above the threshold, as well as relevant statistics, are published. The relevant information is available on this web-site for a period of five years.

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

55. Both the PPA and the Accounting Act promote a form of internal control over the finances of certain political parties. As indicated above (see paragraph 40), pursuant to the Accounting Act, parties which have either had total assets in excess of 20 million NOK (approximately € 2.2 million) or an average number of employees exceeding 20 labour years are required to have their accounts audited by a registered auditor. Furthermore, pursuant to Section 21, paragraph 3 PPA, the central organisation of parties which are required to submit an annual income report (i.e. those parties whose total income during the year was more than 10,000 NOK / approximately €1,100 after the deduction of public support) are required to have the annual income report approved by an auditor.<sup>22</sup> The Norwegian authorities indicate that within the limits of the Auditor Act (which includes provisions on the independence of an auditor and his/her objectivity) the parties in question are free to select an auditor and there are no further specific requirements in the law concerning internal audits.
56. As regards external control, two bodies are mentioned in the PPA as being involved with a certain form of control over the provision of the government grants to parties and the collection

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<sup>22</sup> This requirement is absent in respect of the annual income reports of party units at county and municipal level, as it was considered to be too costly and burdensome for party units at those levels to have their annual income report approved by an auditor. The Norwegian authorities indicate that at any rate the overwhelming majority of the party units at municipal level are exempt from the obligation to submit an income report, as their income would be lower than 10,000 NOK.

and supervision on the submission of income reports, the Political Parties Act Committee and Statistics Norway. However, it should be stressed that neither body has the legal authority to scrutinise the accuracy of the reports or to otherwise exercise supervision over the accounting practices of the political parties.

57. The Political Parties Act Committee, which - pursuant to the Section 24 PPA - is an “independent administrative body, administratively subordinate to the King and the Ministry” tasked to:
- interpret the relevant regulations
  - make decisions on withholding grants
  - decide on appeals concerning decisions relating to registration (pursuant to Section 8 PPA)
  - decide on appeals concerning decisions relating to government grants (pursuant to Section 15 PPA).

Although the Committee is administratively subordinate to the King and the Ministry, neither the King nor the Ministry of Government Administration and Reform may issue instructions on the way the Committee is to carry out its mandate in individual cases, nor may they amend any decision of the Committee. Pursuant to Section 25 PPA, the Committee has at least 5 members, who are appointed by the King for six years at a time. The present committee took office in March 2006 and is composed of a High Court judge (the chair of the Committee), a member of Statistics Norway and additionally three members with political experience<sup>23</sup>. Pursuant to Section 15 of the Political Parties Act Regulation, the Political Act Committee can decide with binding effect to withhold government support, on the recommendation of the Ministry or *ex officio*, if the party or party unit has failed to report its income as required by the PPA or there is doubt whether the party or party unit exists.

58. In deciding to withhold government support or not, the Political Parties Act Committee relies on information submitted to it by Statistics Norway. Pursuant to Section 22, paragraph 2 PPA, the Central Register of Statistics Norway is required to provide the Political Parties Act Committee and the Ministry of Government Administration and Reform with an overview of parties, which have failed to comply with the requirement to report within the deadline.

59. As already indicated above, neither Statistics Norway nor the Political Parties Act Committee may supervise the accounts of political parties and the expenses involved in election campaigns (as foreseen by Article 14 of the Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns). In this regard, the Norwegian authorities stress that the accuracy of the income returns is a matter for the reporting party/party unit itself and that neither the Political Parties Act Committee nor Statistics Norway may scrutinise the accuracy of the reports or the accounting practices of the political parties. Statistics Norway may nevertheless request political parties and party units to clarify certain issues included in the income returns submitted to it by these parties and party units. The Norwegian authorities furthermore indicate that the reporting system, especially at local and regional level, is based on trust and political responsibility and that it is expected that the mass media will play a key role in contributing to satisfactory reporting habits and compliance with regulations at all levels.

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

60. The only sanction foreseen under the PPA is the withholding of state subsidies to the party. As indicated above, pursuant to Section 24, paragraph 2 (b) of the PPA and Section 15 of the

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<sup>23</sup> The Norwegian authorities indicate that in this regard attention is paid to achieving an adequate balance between the left-centre-right political axis and, with regard to the Committee as a whole, to gender and geographical representation.

Political Parties Act Regulation (Reg 2006-03-16 No. 321), the Political Parties Act Committee can decide to withhold the government grants to the party, either on the recommendation of the Ministry of Government Administration and Reform or at its own initiative when the party or party unit has failed to comply with the rules for the reporting of income under Chapter 4 of the Political Parties Act or when there is doubt as to whether the party or the party unit exists. A decision of the Political Parties Act Committee cannot be appealed, but can be challenged before a court. The Political Parties Act Committee can also decide *ex officio* to reverse a decision to withhold the government grant if the grounds for withholding it no longer apply, or if the competence to reverse the decision follows from Section 35 of the Public Administration Act, subsections 1 and 5.<sup>24</sup> Government grants can be withheld for one year at a time. In addition, the Ministry can temporarily suspend the provision of a government grant in individual cases pending the decision of the Political Parties Act Committee (Section 16, Political Parties Act Regulation).

61. The Norwegian authorities indicate that against the background of the relatively high public funding provided to political parties (i.e. about €40 million for an electorate of approximately 3.5 million voters) and the relatively modest level of private donations and other income sources for political parties at county and municipal level, the withholding of grants is considered to be an effective, proportionate and dissuasive sanction within the meaning of Article 16 of Recommendation Rec(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.
62. Furthermore, criminal sanctions can be imposed on both legal entities (registered political parties) and natural persons in case of accounting offences, fraud or corruption committed in the context of the financing of political parties. In addition, the GET was informed that any natural or legal person giving a false testimony, which reportedly includes the submission of an intentionally incorrect report on the income of a political party or party unit, could be fined or sentenced to a maximum term of two years' imprisonment.<sup>25</sup> Finally, political sanctions might be taken by the electorate (i.e. where a party had displayed dubious financial practices, it might lose votes at the next elections, if the electorate were to learn of such practices).

### Statistics

63. The PPA entered into force in January 2006. The Norwegian authorities indicate that 2007 was a 'start-up' or 'amnesty' year, when only a couple of breaches of the reporting regime were handled by the Political Party Act Committee. However, in a letter to the parties which did not fulfil their reporting obligations the Committee announced that it would take a tougher line from 2008 onwards. In 2008, the Committee decided to withhold grants in 124 cases, but reversed this decision in 12 cases after receiving new information from the party (or party unit) concerned. With the exception of the Norwegian Communist Party, all parties at national level submitted satisfactory income reports. The total amount of state grants withheld was 750,000 NOK

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<sup>24</sup> This refers to situations in which "(a) the reversal is not to the detriment of any person to whom the administrative decision is directed or who directly benefits from this decision, or (b) the notification of the administrative decision has not reached the person concerned and the administrative decision has not been publicly announced, or (c) the administrative decision must be deemed invalid." The GET was informed that the Political Parties Act Committee has in practice reversed 12 of its decisions to date. In the majority of these cases it turned out that the party entity in question was founded in the same year and could therefore not possibly be obliged to report on any income in the previous year.

<sup>25</sup> In this regard, Section 166 of the Penal Code provides: "Any person who gives false testimony in court or before a public notary or in any statement presented to the court by him as a party to or legal representative in a case, or *who orally or in writing gives false testimony to any public authority in a case in which he is obliged to give such testimony* or where the testimony is intended to serve as proof, shall be liable to fines or imprisonment for a term not exceeding two years. The same penalty shall apply to any person who causes testimony known to him to be false to be given by another person in any of the abovementioned cases, or who aids and abets thereto." [emphasis added]

(approximately €82,000). The Norwegian authorities, furthermore, indicate that the deficiencies in reporting by political parties (and party units) were widely reported in newspapers across the country.

64. In recent years, no prosecutions have taken place related to political party funding. Investigative steps were taken concerning youth organisations of political parties and other voluntary organisations in the early 1990s, after information on alleged irregularities and possible fraud related to the distribution of state grants to these organisations was published. However, these cases were dismissed by the prosecution service. In 1998, four representatives of a youth organisation of a political party were convicted for fraud, after an investigation was launched in 1995 into unlawful receipt of a grant of approximately €70,000 from a municipality. The organisation had *inter alia* reported fictitious members. Representatives of the organisation received sentences ranging from six months' unconditional imprisonment to three months' conditional imprisonment.

#### Immunities

65. Norwegian legislation does not provide for immunities for offences committed in connection with political funding.<sup>26</sup>

#### Statute of limitation

66. The PPA does not provide for any rules as regards limitation periods for the withholding of grants. For possible criminal offences committed in the context of party funding, such as accounting offences, fraud and corruption, the limitation period ranges from two years (for 'simple' accounting offences for which a sanction of a maximum of one year imprisonment can be imposed) to ten years (for 'gross' corruption for which a maximum sanction of ten years' imprisonment can be imposed).

### **IV. ANALYSIS**

67. The legal framework for the funding of political parties in Norway underwent significant changes with the entry into force of the Act on certain aspects relating to the political parties (the Political Parties Act) in January 2006. The introduction of the Political Parties Act (hereafter: PPA) was preceded by a thorough consultation<sup>27</sup> and preparation procedure, starting with a request from the *Storting* (Parliament) in December 2002 to the Norwegian government, which led to the appointment of the Democracy Financing Committee. On the basis of the report of this Committee, 'Money Counts, but votes decide', a proposal was made for a new act. As a result of the thorough preparation of the new law – with which all parties represented in the *Storting* were involved – the act could count on full consensus in the *Storting*. As becomes clear from the preparatory works to the Political Parties Act<sup>28</sup>, Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns (hereafter: the Recommendation) was explicitly taken into account. It was decided not to follow the Recommendation on a number of points (such as campaign expenditure limits and further regulation of donations by entities providing goods and services to public administration) – as this

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<sup>26</sup> Article 66 of the Constitution only provides that "Representatives on their way to and from the *Storting*, as well as during their attendance there, shall be exempt from personal arrest, unless they are apprehended in public crimes [i.e. caught in the act / *in flagrante delicto*], nor may they be called to account outside the meetings of the *Storting* for opinions expressed there. Every representative shall be bound to conform to the rules of procedure therein adopted."

<sup>27</sup> The GET learned that 530 entities had commented on the proposals for a new law.

<sup>28</sup> *Odelstingsproposisjoner No. 84 (2004-2005)* [Proposal to the *Odelsting* No. 84 (2004-2005)]

could hamper the so-called self-financing ability of parties, create evasion possibilities and would make it more difficult for the public to see what is going on<sup>29</sup> – and to adopt a ‘wait-and-see’ attitude if in light of future developments in Norwegian politics further measures would be required.<sup>30</sup>

68. In proceedings leading up to the PPA attempts were made to balance different, sometimes conflicting, concerns. While ‘transparency’ is – as emerges from the preparatory works – the main premise of the PPA, this is weighed against the right to privacy of donors and the administrative burden the transparency regulations could place upon party organisations (particularly at local and regional level, where party organisations are mostly run by volunteers). Consideration is also given to the organisational freedom of parties and how far the state should go in ensuring a (financial) level playing field between the parties. Although, as outlined below, the GET does not always agree with the choices made therein, it welcomes that these important considerations have explicitly been taken into account.
69. One of the most important changes introduced by the new law is that – whereas the previous political funding regulations only applied to the political parties at the national level – the transparency requirements of the PPA are also applicable to regional and local party units and youth organisations. In addition, under the previous system anonymous donations were only to be reported (in aggregate amounts and only separately if a donation came above a certain threshold); pursuant to the PPA anonymous donations (i.e. donations from donors whose identity is not known to the party) are explicitly prohibited, as are donations from legal entities under the control of the State or other public authorities (in line with Article 5, section c, of the Recommendation). The GET welcomes this.
70. An important characteristic of the Norwegian party finance system is the relatively generous public funding provided to political parties, which according to the abovementioned preparatory works is even higher than in the rest of Scandinavia<sup>31</sup>. Government grants are provided annually to registered political parties and youth organisations at national level, party units and youth organisations at county level and party units at municipal level. The funding is based on the number of votes the relevant party or party unit has received in the most recent elections at national, regional or local level. From information provided by Statistics Norway it becomes clear that political parties are heavily dependent upon this funding: on average more than 70 percent of the income of parties at national level comes from the state. The benefits of state funding are obvious: substantial financial support from the state decreases the dependence of parties on private donors with all the risks of undesirable influence that private funding entails.
71. A drawback of the provision of substantial public funding is that it increases the dependence of parties on the state. However, as becomes clear from the preparatory works, the Democracy Financing Committee and the Norwegian Ministry of Government Administration and Reform agree that there are “no indications that this development [i.e. increased reliance on public funding] has had a negative influence on the parties handling of their core tasks or has been damaging to the democracy”<sup>32</sup>. Nevertheless, to overcome any concerns in this regard and to enhance parties’ autonomy *vis-à-vis* the state, the Norwegian legislator has explicitly provided that no conditions whatsoever are to be attached to this funding and the use of this funding is not

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<sup>29</sup> *Ibid.*, Section 6.4 (“General on contributions from private donors”).

<sup>30</sup> *Ibid.* Section 6.4 (“Paramount considerations” and “Proposal in connection with the recommendations by the Council of Europe”).

<sup>31</sup> *Ibid.*, Section 5.3. The GET was informed that in total public funding to political parties would amount to approximately €40 million (for an electorate of approximately 3.5 million voters).

<sup>32</sup> *Ibid.*, Section 5.5 (“State subsidies to the political parties”).

to be controlled: political parties (including the local/regional party units and youth organisations) are free to spend government grants in any way they see fit. This leads to the somewhat unusual situation that even if certain individuals within the party were to use these grants for personal gain, were to unduly favour friends or family in awarding contracts for services carried out for the party, or if the party itself were to use these grants to engage in – for example – commercial activities, this may be frowned upon by the electorate (although, as will be discussed further below, it is debatable whether the electorate would find out about this), but dubious practices would otherwise not have any major consequences.

72. As indicated above, ‘transparency’ is the main premise of the PPA. Aside from transparency, a further important feature of the present system is ‘trust’. As also stated by the Democracy Financing Committee in the preparatory works “the proposed system is based on trust and that it must be expected that parties follow the system loyally”<sup>33</sup>. In addition, as the GET was repeatedly told on-site, the media are ‘trusted upon’ to play a key role in ensuring that parties comply with the regulations at all levels. While the GET was not in a position to assess whether the trust placed in parties in Norway is indeed justified, it does agree with the Ministry of Government Administration and Reform that there is reason to believe that in a system in which such generous public funding is provided and political parties are explicitly prohibited from advertising on television, the risks of dubious funding practices may be less prevalent. Nevertheless, given the assertion that ‘transparency’ is a basic premise of the PPA, the GET is of the opinion that any system in which the public and media are relied upon to such an extent to scrutinise party finances and to hold parties accountable for the decisions they make therein, the picture of the possible (financial) ties of parties (as well as the manner in which they spend public money) needs to be as comprehensive and easy to understand as possible. As will be further outlined below, in the Norwegian system this is not always the case. The assertion of certain Norwegian interlocutors that “in Norway everybody knows everything about everyone anyway” does not detract from the position of the GET.

### Transparency

73. Political parties, as registered legal entities (cf. paragraph 7 above), are subject to the same accounting obligations as other legal entities. This means that political parties with an average number of 20 or more employees (full-time equivalence) or assets exceeding 20 million NOK (approximately €2.2 million) must comply with the Accounting Act’s requirements on accounting and bookkeeping, including the preparation of an annual report, an audit by a registered auditor, and submit their annual accounts, annual report, and auditor’s report to the Register of Company Accounts<sup>34</sup> at the Brønnøysund Register Centre which, pursuant to the Accounting Act, is to make these available to the public upon request. The GET understands that only the largest political parties meet one of the two above-mentioned thresholds of the Accounting Act, but that the two political parties represented in the *Storting* which do not meet the threshold nonetheless comply with the Act’s requirements and submit their accounts to the Register of Company Accounts. Information was also provided indicating that other smaller political parties/units, including regional and local level party organisations can and do voluntarily comply with the Accounting Act. There was no information available, however, on how many of these organisations do so. For a significant number of party organisations, there are no formal requirements to keep proper books and accounts within the meaning of the Recommendation.

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<sup>33</sup> *Ibid.*, Section 7.4 (“Violations – sanctions”).

<sup>34</sup> The Register of Company Accounts is a different register from the Register of Political Parties, which is also placed at the Brønnøysund Register Centre.

74. Although the GET welcomes that the five largest political parties are obliged to file their accounts and annual report, which is an important tool in strengthening the financial discipline of political actors, it also finds that the reports filed pursuant to the Accounting Act will clearly not be of great use to members of the general public or the media. Without familiarity with reading and comprehending financial records and reports such as 'profit and loss statements' and 'balance sheets' the information provided will not readily be understandable. Also – because of the nature of audited financial statements and accounts – it is not possible to identify in these annual reports either the size of single donations or the identity of big donors.
75. The fact that a significant number of political parties are not obliged to submit financial information pursuant to the Accounting Act, that the financial information submitted will not be easy to understand for the general public and will not include details of individual donations is to some extent overcome by the requirement of Section 18 of the PPA: all political parties, including organisational units of those parties, that have an income during the year of 10,000 NOK (approximately €1,100), excluding public support, are to submit an annual report on the income of the party to Statistics Norway, at the latest, six months after the closing of the accounts. The report is to contain a complete overview of the income received by the party in the preceding calendar year (public funding, income from the party's own activities, donations from others and internal transfers). The report is furthermore to include a declaration on any political or commercial agreements between the party and any donor and is to identify donors who have made donations to the party's central organisation with a total value of 30,000 NOK (approximately €3,300) or more in a year (or 20,000 NOK / ca. €2,200 to a party unit at county level or 10,000 NOK / ca. €1,100 at municipal level). The GET was pleased to note that the definition of a donation explicitly includes in-kind donations (goods, services and other benefits that are received free of charge or at a reduced price). It, furthermore, welcomes that Statistics Norway has developed standardised forms for the reporting of parties' annual income and individual donations which, according to the political parties met by the GET are easy to complete, and that it provides – if necessary – further guidance to parties on the completion of these forms. Samples of income reports provided by Statistics Norway, which are also to be found on its web-site, moreover, illustrate that – unlike the abovementioned reports filed pursuant to the Accounting Act – these reports would be rather easy for the public to understand.
76. Despite the abovementioned positive points, the GET has certain misgivings about the fact that, at present, no information on parties' expenditures, debt or assets is available to the public, except to the extent that this is reflected in the reports submitted to the Register of Company Accounts for those parties to which the Accounting Act applies. The GET became aware, *inter alia* from the extensive discussion on this point in the preparatory works to the PPA, that the overarching rationale for not requiring political parties to disclose detailed information on expenditure is that the risk of corruption and improper financial practices were considered to be connected to the income of political parties. The large amounts of public funding provided to parties combined with the required disclosure of other sources of income, including in some instances the identity of donors, is seen to adequately address any concerns about questionable financial ties and possible corruption in the party funding system.
77. Apart from the fact that the aforementioned assumptions ignore the benefit of regular disclosure simply for the sake of transparency – which is, after all, the basic premise of the PPA – the GET finds that, above all, in a system in which such generous public funding is provided to political parties, the general public has every right to know how the parties spent their tax money, in particular to see that public funds are not used for personal gain. Reporting on expenditure will, furthermore, help provide a clearer picture as regards the accuracy of the reported income and

can also assist political parties by reflecting more accurately their actual or net income<sup>35</sup>. Moreover, the GET attaches great importance to the availability of information regarding the parties' debts, as this could bring questionable financial dependency relationships to light, as well as further details on assets, as these assets have the potential to influence a party's position on certain policy issues.

78. Attempts have apparently been made to off-set the lack of information on parties' expenditure, debts and assets, by providing for a general right of inspection of parties' accounts. Pursuant to Section 23 of the PPA, parties or party units comprised by this Act are obliged to allow inspection of the accounts that have been prepared for the previous year upon request. As becomes clear from the preparatory works to the law, such a request to inspect the accounts can be made by anyone. The GET congratulates the Norwegian authorities on this creative solution, but also became aware that it is unlikely that this right of inspection has since the entry into force of the act ever been used. None of the political parties met by the GET had ever received a request to have their accounts inspected and those that already submit their accounts to the Register of Company Accounts would, at any rate, refer requests to the Register. In this regard, the GET agrees with the position put forward by the Ministry of Justice in the consultation procedure leading up to the PPA, that there will likely be substantial differences in the quality and substance of accounts, which will make it difficult for outsiders to understand and compare relevant information.<sup>36</sup>
79. It is the view of the GET that disclosure of expenditure, assets and debts, in addition to the information already available on parties' income, will no doubt further enhance transparency and an informed confidence in the party funding system in Norway. The GET is aware that in the absence of a requirement on the central party organisation to consolidate its accounts to include the accounts of local and regional party units (which are under a separate obligation to report their income), it may be too much of an administrative burden on small parties and party units to report on their expenditure, assets and debts. In this regard, it would be appropriate if a requirement to report expenditure were applicable only to those parties and party units already required to report their annual income. Similarly, for the sake of transparency, it could suffice that debts and assets only be reported in as far as they – for example – have a value above a certain threshold. Moreover, the way this information is presented is crucial for any form of scrutiny. The GET would therefore find it advisable that a common format for the reporting of this type of information be adopted, as is currently also the case for the annual income reports. Such a format would facilitate comparisons over the years and across parties and enhance the value of the disclosed information, but would also provide further guidance to political parties as to the scope of their reporting requirement. The GET therefore recommends **(i) to require party organisations to disclose expenditure annually, in addition to the current disclosure of income; (ii) to oblige party organisations to submit information on their assets and debts, as appropriate, and (iii) to establish a standardised format (accompanied by appropriate guidelines, if necessary) for the provision of such information.**
80. More specifically as regards the income to be reported, Section 20 PPA provides that if during the reporting period a donor has made one or more donations to the party's central organisation with a total value of 30,000 NOK (approximately €3,300) or more, the value of the donation and

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<sup>35</sup> For example, not reflecting the amount of membership fees that a party organizational unit might transfer to another unit of the party inflates the income reported over the actual amount of income available to the party unit.

<sup>36</sup> Proposal to the *Odelsting* No. 84 (2004-2005)], Section 7.5 ("Obligation to allow inspection of the accounts as they exist") In addition, the Ministry of Justice indicates that a right of inspection may entice parties to keep less detailed accounts: "if the parties fear that inspection could provide grounds for unfounded criticism etc., it can entail that the party regards itself as better served by not keeping accounts, alternatively to keep less detailed accounts".

the identity of the donor are to be reported separately; similarly, donations by individual donors to party units at the county council level of a total value of 20,000 NOK (approximately €2,200) or more in the calendar year or at municipal level with a total value of 10,000 NOK (approximately €1,100) or more must be identified. However, the PPA does not require that donations from the same donor to more than one level of party organisation be totalled annually to prevent circumvention of the disclosure thresholds. As already indicated in the preparatory works, by splitting a donation between different units of a particular party a donor can easily avoid being identified and can reportedly donate up to 5 million NOK (approximately €550,000) without his/her identity being revealed. Some of the interlocutors on site argued that people who make big donations to political parties would want to take credit for such donations and would not be likely to be able to influence policies by splitting a big donation over several organisational levels, making the risk of splitting donations to avoid transparency rules rather small. The GET does not fully agree with this argument and finds that it would therefore be worthwhile to consider introducing a requirement that a disclosure threshold would also apply to the total sum of donations received from the same donor in a calendar year, regardless of the level of party organisation to which the donation is made. Nevertheless, the GET accepts that such a requirement would be contrary to a fundamental aspect of the Norwegian reporting system, namely its decentralised nature, and could thus raise practical problems (as party units at local and regional level would not have knowledge of donations made by the same donor to other party units and would thus be required to report even very small donations to the central party organisation).

81. Two other aspects of the income reporting required under the PPA however deserve additional attention. The annual report on income is to contain a declaration on any political or commercial agreements that the party has entered into with a donor. However, during the on-site visit it became clear that this requirement was not widely understood. The interlocutors of the GET had little experience with 'political agreements' and found it unclear what types of arrangements might fit this description, despite the discussion of this issue in the preparatory works to the PPA.<sup>37</sup> In practice, in the last two years, no such agreements have been reported in the parties' income reports.
82. Furthermore, as indicated above, donations are to be understood, pursuant to Section 19, paragraph 3 of the PPA, as both monetary donations and in-kind donations, in the form of goods, services and other benefits that have been received free of charge or at a reduced price. Section 19, furthermore, provides that in-kind donations are to be estimated at market value and to be included in the annual income report. As already indicated above, the GET welcomes that the challenging issue of in-kind donations is addressed by the PPA. However, a number of interlocutors cast doubt on whether this was properly understood by the persons concerned and whether all in-kind donations would in reality be reported, leading the GET to conclude that – in addition to the references in the preparatory works<sup>38</sup> – further guidance on this issue to parties would be in order. Although, as already indicated above, the GET welcomes the fact that Statistics Norway provides further guidance on the completion of the income reports in individual cases upon request, the GET also considers that effective disclosure and transparency depend on a shared understanding of the definition of items that require reporting. It thus finds that it would be useful if further explanations would be provided to parties on the concept of 'political agreements' and how to value and report in-kind donations. In light of the above and the preceding paragraph, the GET recommends **to provide further guidance on the reporting and**

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<sup>37</sup> *Ibid.*, Section 6.4 ("Agreements in connection with individual donations").

<sup>38</sup> *Ibid.*, Section 7.6 ("Further on what income shall be reported").

**valuation of in-kind donations as well as on the concept of ‘political agreements’ which require reporting under the Political Parties Act.**

83. There are no requirements for political parties themselves to publish information about their income. Instead, Statistics Norway, in cooperation with the Ministry of Government Administration and Reform, has established a web-site with information on the funding of political parties ([www.partifinansiering.no](http://www.partifinansiering.no)). The GET commends the Norwegian authorities for the setting-up of this web-site on which the individual income reports of the different parties and party units (as well as information derived from those reports in a summarised and aggregated form), complemented with further statistics presented in a coherent and accessible manner, are published.
84. A number of the GET’s interlocutors also stressed that the frequency of income reporting (i.e. yearly) is insufficient to allow the media and the public to be regularly informed of the income of political parties. The schedule for reporting – no later than six months after the closing of accounts – bears no relationship to when the public and the media would find the information most useful. The GET is aware that the issue of reporting in connection with elections has been discussed in the proceedings leading to the adoption of the PPA, but also found that the Democracy Financing Committee was not unanimous in its rejection of reporting in connection with elections; the GET also understood that a number of stakeholders were clearly in favour of such a reporting obligation and that it was decided to leave it “up to the individual party or party organisation to practice a larger degree of transparency”<sup>39</sup> by voluntarily reporting donations received before an election period.<sup>40</sup> In the view of the GET, reporting deadlines before elections would greatly enhance the usefulness of the information to the public and the media. It would have the benefit of increasing openness of party financing at the very time when a party’s income and income sources arguably are of most interest to the electorate, when the electorate is determining which party inspires sufficient trust and confidence to warrant a vote on its behalf. In light of this, the GET recommends **to consider introducing an obligation to report on income received and expenses incurred in connection with election campaigns.**
85. As already indicated in paragraph 79 above, one of the difficulties involved in obtaining information about the finances of political parties in Norway is the fact that each party has several different units, each with their own accounts. There is no obligation to present consolidated party accounts, neither pursuant to the Accounting Act (which only obliges organisation with a top-down structure to do so) nor the PPA. Some of the larger parties may be comprised of more than 300 different units. Gaining a complete picture of the finances of a given political party is a daunting task. The GET therefore contemplated the usefulness of an obligation on political parties at central level to consolidate their accounts to include those of local and regional units (in line with Article 11 of the Recommendation), not only to facilitate the public’s access to information but also to decrease the burden of the reporting obligation upon local and regional party units. However, it notes that this issue has been considered at length in the proceedings leading up to the adoption of the PPA, and that – at that time – it was concluded that such a consolidation requirement would come into conflict with the internal management principle in some parties. The Norwegian authorities report that, as also mentioned in paragraph 80 above, the decentralised system was deliberately established as an alternative to a consolidated system, with the objective of enhancing transparency for the benefit of the electorate at local and regional level (who would presumably be more focused on local/regional matters and local/regional parties and party units). To introduce a requirement for parties to consolidate their accounts

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<sup>39</sup> *Ibid.*, Section 7.6 (“Reporting before an election”).

<sup>40</sup> The GET was made aware, after the visit, that at least one political party (*Høyre*) has published such information on its web-site.

would defeat this objective and would furthermore create practical challenges (as parties' would be organised in different ways, with some party units being separate legal entities). The GET accepts this and acknowledges that the statistics gathered by Statistics Norway on party funding at least provide a somewhat more complete picture of the financial situation of the various party structures, which is to be welcomed.

## Supervision

### *Auditing*

86. As regards internal control, the GET notes that the Accounting Act places certain obligations upon the five largest political parties (see above) as regards internal financial control in that they must have their accounts endorsed by a certified auditor. The PPA includes a similar requirement – though somewhat more limited in scope – for a larger number of parties: party organisations at central level with an income of more than 10,000 NOK (approximately €1,100) after the deduction of public funding are required to have their annual *income* report approved by an auditor. The information gathered by the GET indicates that auditors can be active members of the party to whom they provide their services and can serve as parties' auditors for an unlimited number of years, without a requirement to rotate. It furthermore transpired from the meetings the GET had, that the standards used for the audits of the political parties are more suitable for business companies than not-for-profit organisations. A more appropriate standard has been developed especially for not-for-profit organisations, but has not yet been adopted by the auditors working for the parties. It may well be that this standard addresses the independence of auditors in a more detailed manner than the existing auditing legislation. However, in the absence of further information on this issue, the GET recommends **to establish clear rules ensuring the necessary independence of auditors who are to audit the accounts of political parties.**

### *Monitoring*

87. As regards external control, Statistics Norway and the Political Parties Act Committee are the main bodies responsible for monitoring party funding. The GET learned that Statistics Norway reviews income reports only to ensure that the form and its directions are properly understood and that there are no obvious errors; the Political Parties Act Committee in turn takes decisions on the withholding of grants on basis of the information of Statistics Norway on whether the income reports have been submitted. Neither the Political Parties Act Committee nor Statistics Norway has the legal authority to scrutinise the accuracy of the reports nor the accounts or accounting practices of the political parties, nor can they act upon information received by citizens on possible inaccuracies in the income reports besides asking the party secretary for clarifications. Again, 'trust' is cited as the rationale for this lack of oversight, and fear of media exposure is believed to be a compelling disincentive to parties' misreporting. Reliance on the media to discover and publish irregularities presupposes that the media has ready access to information that might reveal such irregularities and that investigative journalists have a strong interest in investigating party funding issues. This does not always appear to be the case in Norway (even bearing in mind that access to information over previous years would be facilitated by the general right of inspection of parties' accounts, see paragraph 78 above). Furthermore, reliance on party members to discover and publicise inappropriate political party spending – another argument the GET heard – is unrealistic, especially during election campaigns when party members would have little incentive to bring to light negative information about their own party. Moreover, the GET remains unconvinced by the argument that 'freedom of action' of political parties in Norway would be a fundamental impediment to providing for an appropriate mechanism to carry out proper substantial supervision of party financing. In short, the GET

concludes that exclusive reliance on media and party members to play a key role in contributing to satisfactory reporting habits and compliance with regulations is not in line with Article 14 of Recommendation Rec (2003)4 relating to the provision of “independent monitoring in respect of the funding of political parties and electoral campaigns”, including the “supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication”. Therefore, the GET can only recommend **to ensure appropriate independent monitoring of political funding, including electoral campaigns, in line with Article 14 of Recommendation Rec(2003)4.**

### Sanctions

88. The PPA provides for one single type of sanction, the withholding of state subsidies to the party. In situations where the party or party unit has failed to comply with the reporting of income under Chapter 4 of the PPA or when there is doubt as to whether the party or the party unit exists, the Political Parties Act Committee can decide to withhold the whole government grant to the party or party unit in question (the Political Parties Act Committee cannot decide to partly withhold the government grant). The PPA thus provides no possibility to impose milder sanctions for minor violations of the law, in particular as regards the incorrect disclosure of income. The GET was informed that, in the latter case, criminal sanctions in the form of a fine or a maximum of two years' imprisonment could be imposed pursuant to Section 166 of the Penal Code (the provision of false testimony). Criminal sanctions are also available for accounting offences, fraud or corruption committed in the context of the financing of political parties. The Norwegian authorities add that it would be possible for the electorate to take 'political sanctions', by not voting for a party with dubious financial practices, which rests on the presumption that these practices are indeed brought to light. As already indicated above, the Norwegian authorities consider the withholding of grants – in the light of the fact that parties and party units are provided with substantial government grants – an effective, proportionate and dissuasive sanction.
89. The effective use of sanctions is essential in strengthening public confidence in and maintaining the integrity of the political process. However, in the opinion of the GET the current sanctioning system is defective in two respects. First of all, it is incomplete, in that not all infractions of the PPA can be adequately dealt with, in particular late submission of income reports, incompleteness of the reports, non-reporting of donations of an individual donor above the specified thresholds<sup>41</sup> and acceptance of anonymous donations, foreign donations or donations of a public entity. As such the GET finds that the current single sanction system limited to non-submission of income reports does not provide an adequate incentive for political parties to strictly adhere to the rules for the prompt and accurate reporting of their income and the non-acceptance of prohibited donations as required by the Political Parties Act. Secondly and related to this, the GET finds the sanctioning system insufficiently flexible to deal with also minor infractions of the PPA. For example, the GET was informed that submission of an income report containing false information could be prosecuted as false testimony pursuant to Section 166 of the Penal Code. However, for what could, in some cases, be a minor violation of the law the institution of criminal proceedings may well be disproportionate – also considering that a criminal sanction should be an *ultimum remedium* – and perhaps also involve an unnecessarily slow and cumbersome procedure. Introducing more flexible sanctions and ensuring that they apply to a wider range of violations of the PPA will complement the existing system of withholding grants and possible criminal sanctions. Consequently, the GET recommends **to introduce appropriate**

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<sup>41</sup> These thresholds have been set at 30,000 NOK (approximately €3,500) for political parties at central level; 20,000 NOK (approximately €2,200) for party units at county level and 10,000 NOK (€1,100) for party units at municipal level.

**(flexible) sanctions for all infractions of the Political Parties Act, in addition to the current range of sanctions.**

## **V. CONCLUSIONS**

90. In 2006, the legal framework for the funding of political parties in Norway underwent significant changes, with the entry into force of the Act on certain aspects relating to the political parties (the Political Parties Act). The authorities should be commended for these changes, which signified an important step towards enhancing transparency of party funding, in particular at local and regional level.
91. Important components of the present system are generous public funding provided to parties, a decentralised system of regulations and, in general, 'trust' that parties comply with the relevant regulations. GRECO recognises that in a system in which considerable public funding is provided to political parties (and parties are explicitly prohibited from advertising on television) the risks of dubious funding practices may be less prevalent. However, precisely because political financing comes to such a large degree from public means and also given that 'transparency' is a basic premise of the Political Parties Act, GRECO finds that the picture of the possible (financial) ties of parties as well as the manner in which the political parties spend public funding needs to be as comprehensive and easy to understand as possible. In addition to the current disclosure of income, political parties should therefore also be required to provide further information on their expenditure, as well as in appropriate cases on their debts and assets. Furthermore, the current supervisory mechanism provides for a very limited and mainly formalistic supervision of party financing and relies too heavily on the media to detect and uncover possible dubious funding practices. As such it is not in line with Recommendation Rec (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. Finally, the current system would benefit from the introduction of more flexible sanctions for violations of the Political Parties Act.
92. In view of the above, GRECO addresses the following recommendations to Norway:
- i. **(i) to require party organisations to disclose expenditure annually, in addition to the current disclosure of income; (ii) to oblige party organisations to submit information on their assets and debts, as appropriate, and (iii) to establish a standardised format (accompanied by appropriate guidelines, if necessary) for the provision of such information** (paragraph 79);
  - ii. **to provide further guidance on the reporting and valuation of in-kind donations as well as on the concept of 'political agreements' which require reporting under the Political Parties Act** (paragraph 82);
  - iii. **to consider introducing an obligation to report on income received and expenses incurred in connection with election campaigns** (paragraph 84);
  - iv. **to establish clear rules ensuring the necessary independence of auditors who are to audit the accounts of political parties** (paragraph 86);
  - v. **to ensure appropriate independent monitoring of political funding, including electoral campaigns, in line with Article 14 of Recommendation Rec(2003)4** (paragraph 87);

**vi. to introduce appropriate (flexible) sanctions for all infractions of the Political Parties Act, in addition to the current range of sanctions (paragraph 89).**

93. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Norwegian authorities to present a report on the implementation of the above-mentioned recommendations by 31 August 2010.
94. Finally, GRECO invites the authorities of Norway 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.