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Theme II

Third Evaluation Round

Evaluation Report on the Slovak Republic on Transparency of party funding (Theme II)

Adopted by GRECO
at its 36th Plenary Meeting
(Strasbourg, 11-15 February 2008)

I. INTRODUCTION

1. The Slovak Republic joined GRECO in 1999. GRECO adopted the First Round Evaluation Report (Greco Eval I Rep (2000) 2E) in respect of the Slovak Republic at its 4th Plenary Meeting (12-15 December 2000) and the Second Round Evaluation Report (Greco Eval II Rep (2003) 2E) at its 17th Plenary Meeting (Strasbourg, 22-25 March 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 Corruption¹, Articles 1-6 of its Additional Protocol² (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
 - **Theme II – Transparency of party funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).
3. The GRECO Evaluation Team for Theme II (hereafter referred to as the "GET"), which carried out an on-site visit to the Slovak Republic from 13 to 15 June 2007, was composed of Mr Remco NEHMELMAN, Associate Professor Constitutional Law, Vrije Universiteit Amsterdam (Netherlands), Mr Costel POPA, Research Director, ProDemocracy Association (Romania) and Mr Douglas STEWART, Head of Policy on Political Parties and Elections Finance, Electoral Commission (UK). The GET was supported by Mr Christophe SPECKBACHER and Ms Tania VAN DIJK from GRECO's Secretariat. Prior to the visit the GET experts were provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2007) 3E, Theme II) as well as copies of relevant legislation.
4. The GET met with officials from the following governmental organisations: Ministry of the Interior (Bureau for the Fight against Corruption and the Section of Public Administration: Department for Elections, Department for NGOs and Political Parties Registration and the Department of Internal Affairs), Ministry of Finance (Department of Public Expense Financing, Department for Control of Self-Budgetary Resources and the Unit for Accounting Methodology for NGOs and Political Parties), Government Office (Central Contact Point OLAF), Supreme Audit Office, Financial Control Administration of Bratislava and the Special Prosecution Office. In addition, the GET met with representatives of two political parties: SMER-SD (SMER – sociálna demokracia, part of the governmental coalition) and SMK (Strana maďarskej koalície – Magyar Koalíció Pártja, the Hungarian Coalition Party, part of the opposition). The GET also met with representatives of the Committee on Finance, Budget and Currency of the National Council, Slovak Chamber of Auditors, non-governmental organisations (Fair-Play Alliance, national chapter of Transparency International and Civic Eye / Občianske oko) and the media (Slovak TV and Trend magazine).

¹ The Slovak Republic ratified the Criminal Law Convention on Corruption (ETS 173) on 9 June 2000. The Convention entered into force in respect of the Slovak Republic on 1 July 2002.

² The Slovak Republic ratified the Additional Protocol to the Criminal Law Convention (ETS 191) on 7 April 2005. It entered into force in respect of the Slovak Republic on 1 August 2005.

5. The present report on Theme II of GRECO's Third Evaluation Round – Transparency of party funding – was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the report is to evaluate the measures adopted by the Slovak authorities in order to comply with the requirements deriving from the provisions indicated in paragraph 2. The report contains a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to the Slovak Republic in order to improve its level of compliance with the provisions under consideration.
6. The report on Theme I – Incriminations, is set out in Greco Eval III Rep (2007) 4E-Theme I.

II. TRANSPARENCY OF PARTY FUNDING – GENERAL PART

Definitions

7. In the Slovak Republic there is no legal definition of political parties. The basic provisions on political activities are set out in Articles 29 and 30 of the Constitution, which stipulate that all citizens have the right to freedom of association, the right to establish political parties and movements for this purpose, the right to participate in the administration of public affairs directly or through freely elected representatives and that political parties and movements shall be separate from the state.

Registration of political parties

8. Act No. 85/2005 Coll. on Political Parties and Political Movements (hereafter Act No. 85/2005), of 4 February 2005, provides the legal framework for the establishment of, association in and funding of political parties. A political party comes into existence upon registration. From the moment of registration the political party has legal personality and can acquire rights and obligations. From that moment on the party is liable for its obligations with all its assets. Section 20 of Act No. 85/2005 stipulates that the members of the political party are neither liable nor responsible for the obligations of the party.
9. The registration is carried out by the registry of political parties at the Ministry of the Interior. In order to be registered, a preparatory committee - composed of a minimum of 3 Slovak citizens who have reached 18 years of age and have full legal capacity – has to apply to the Ministry of the Interior. The application must be signed by all members of the preparatory committee and their signatures must be certified by a notary. Apart from information on the members of the preparatory committee (names, identification/birth numbers and addresses), the application should include a list signed by 10,000 citizens (together with their names, addresses and identity card numbers), two copies of the statute³ of the political party, proof of payment of the

³ The statute of the political party is to include the following information:

- The name of the party and its abbreviation, which cannot be the same as that of an already existing political party;
- The party programme, including the aim of its activities;
- The rights and obligations of the party members;
- The bodies, the way they are created/have been elected and the definition of their competencies;
- The acts the statutory body can carry out on behalf of the party and whether and to what extent other members or employees of the party can also perform legal acts in name of the party;
- Principles of economic management of the party;
- Provisions related to organisational units of the party - if they are established -, the scope of power regarding the acquisition, management and sale of assets and acquisition of other property rights on behalf of the party, the definition of the scope in which they can act and incur liabilities in name of the party (organisational units do not have legal personality);

administrative fees and address details of the political party. If the application meets the legal requirements, the party is to be registered. The information in the registry of political parties is publicly accessible (with the exception of the birth/identification numbers of natural persons)⁴. The name of the party, the names of the members of the preparatory committee and information on representatives of the party are published on the website of the Ministry of the Interior.

10. In February 2007 there were 42 registered political parties in the Slovak Republic.

Participation in elections

11. Slovakia is a republic with a parliamentary multi-party system. Its legislature is the 150-seat unicameral National Council, to which members are elected for four-year terms, via a proportional electoral system in one nationwide constituency (via the Hagenbach-Bischoff method⁵). Slovakia's head of state is the president⁶, who is elected by direct popular vote for a five-year term.
12. As regards elections to the National Council, the right to candidacy is granted to Slovak citizens with permanent residence in the Slovak Republic, not disqualified from exercising the right to vote and at least 21 years old.⁷
13. Act No. 333/2004 Coll. On Elections to the National Council of the Slovak Republic (as amended by Act No. 464/2005 Coll. and Act No 192/2007 Coll.) provides the conditions for participation in elections. A registered political party can participate in elections for the National Council, either by itself or as part of a coalition, after submitting a list of not more than 150 candidates and payment of the election deposit of 500,000 Slovak Crowns (hereafter SKK) - approximately €15,000 -, no later than 90 days before the day of elections. Candidates for a seat in the National Council have to be nominated by and placed on a list of a political party: they cannot stand for election individually, although they can campaign for a seat individually. The electoral officer⁸ checks whether the list of candidates fulfils the legal requirements, after which it is submitted to the Central Election Commission, which is responsible for examination and registration. The final list of candidates is to be registered by the Central Election Commission no later than 70 days before the day of the elections. A decision of the Central Election Commission not to register a list of candidates of a political party can be challenged before the Supreme Court.

- The way of managing the property balance resulting from liquidation of property and liabilities/commitments, if a party is dissolved or abolished.

⁴ An array of information is registered in the political parties' registry, including information on the preparatory committee (indicating the persons empowered to act in the committee's name) or the party, its representatives as well as changes in the statutory body or statute and possible liquidation and bankruptcy proceedings.

⁵ Candidate lists are fixed, but each elector can cast four preferential votes for candidates with respect to the same list. For leftover seats a greatest remainder calculation is used.

⁶ The president is the head of state and the formal head of the executive, though with very limited powers. Direct elections for president were held for the first time in 1999, and most recently in June 2004, when Ivan Gašparovič was elected as head of state.

⁷ Certain categories for officials cannot be members of the National Council (e.g. judges, prosecutors, etc.). The same applies to plenipotentiaries/proxies of a party and their substitutes.

⁸ An electoral officer is an expert adviser to the Central Election Commission (or district electoral commission or polling district commission), appointed by the government (or District Office or mayor respectively) 105 days before the election to assist the commission with all organisational and administrative matters.

14. The election threshold for political parties to enter parliament is five percent of the total number of valid votes cast; for coalitions of two or three political parties, the threshold stands at seven percent of the valid votes cast and ten percent for coalitions of at least four political parties⁹.
15. As regards presidential elections, the right to candidacy is granted to any citizen of the Slovak Republic who is eligible to be elected to the National Council and is at least 40 years old on the day of elections (Article 103 of the Constitution). Candidates for the presidency are nominated by a group of 15 members of the National Council, or based on a petition signed by at least 15,000 voters (Article 101 of the Constitution). The President of the Slovak Republic is elected for a 5-year term by direct popular vote. Direct elections for president were held for the first time in 1999, and most recently in 2004.
16. For each election, ad-hoc electoral commissions are created. The Central Electoral Commission, in which each political party or coalition with seats in the National Council nominates one member, acts as the supreme electoral authority, both for elections of the National Council and the presidential elections. At local level, the Central Electoral Commission is supported by district electoral commissions and polling district commissions. The Central Electoral Commission or other electoral commission do not have any authority, whether formally or informally, as regards funding issues related to the campaigns for the National Council or presidency.

Party representation in Parliament

17. In the last elections for the National Council, which were held in June 2006, 21 political parties and political movements participated¹⁰, of which 6 acquired seats in the National Council:

- SMER – sociálna demokracia*	50 seats
(<i>SMER-Social Democracy / SMER-SD</i>)	
- Slovenská demokratická a kresťanská únia – Demokratická strana	31 seats
(<i>Slovak Democratic and Christian Union - Democratic Party / SDKU-DS</i>)	
- Slovenská národná strana*	20 seats
(<i>Slovak National Party / SNS</i>)	
- Strana maďarskej koalície – Magyar Koalíció Pártja	20 seats
(<i>Hungarian Coalition Party / SMK</i>)	
- Ľudová strana – Hnutie za demokratické Slovensko*	15 seats
(<i>People's Party – Movement for a Democratic Slovakia / LS-HZDS</i>)	
- Kresťanskodemokratické hnutie	14 seats
(<i>Christian Democratic Movement / KDH</i>)	

Three parties (indicated above with *), namely the SMER-SD, SNS and LS-HZDS, went on to form the governing coalition.

⁹ Unless no political party or coalition has passed the threshold in which case the threshold will be lowered by 1 percent for each of these parties/coalitions.

¹⁰ The 21 political parties and movements participating in the elections were: Agrárna strana vidieka, Aliancia nového občana, Hnutie za demokraciu, Komunistická strana Slovenska, Kresťanskodemokratické hnutie, Ľavicový blok, Ľudová strana - Hnutie za demokratické Slovensko, Misia 21 - Nová kresťanská demokracia, NÁDEJ, Občianska konzervatívna strana, Prosperita Slovenska, Slobodné fórum, Slovenská demokratická a kresťanská únia - Demokratická strana, Slovenská ľudová strana, Slovenská národná koalícia - Slovenská vzájomnosť, Slovenská národná strana, SMER - sociálna demokracia, Strana demokratickej ľavice, Strana maďarskej koalície - Magyar Koalíció Pártja, Strana občianskej solidarity and Združenie robotníkov Slovenska.

Overview of the political funding system

Legal framework

18. The funding of political parties is regulated by Act No. 85/2005, which entered into force on 1 June 2005¹¹. At the time of the visit of the GET, only one election for the National Council had taken place under this act (i.e. in June 2006). The GET understood that the new Act No. 85/2005 had been adopted to close various loopholes in the 1991 Act on Political Parties and Movements (as amended in 2001) and that Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns had been explicitly taken into account in the debate leading up to the adoption of this act.
19. The funding of the election campaigns of presidential candidates, is regulated by Act No. 46/1999 Coll. on the Method of Election of the President of the Slovak Republic of March 1999. At the time of the visit of the GET, two presidential elections had taken place under this act (in May 1999 and April 2004).

Public funding

Political parties

20. Political parties are provided with three different forms of direct public funding:
 - a. Contribution for votes obtained in the elections, provided once - after elections - to parties which have obtained more than 3% of the valid votes cast and which amounts to 1% of the average monthly salary per vote (Section 52, paragraph 4 of Act 333/2004). In 2006, this was slightly over 170 SKK per vote (approximately €5). This contribution is generally provided once every 4 years. In 2006 the state provided 380,029,965 SKK (approximately €11.3 million) in contributions for votes to 8 political parties;
 - b. Contribution for activities, which is provided annually to the same group of parties/coalitions that receive a contribution for votes and constitutes for an entire year of the electoral term a quarter of the total amount of the contribution of votes¹². In 2007, this contribution was provided to 8 political parties, amounting to a total of 95 million SKK (approximately €2.87 million);
 - c. Contribution for seats, which is provided annually to parties/coalitions that are represented in the National Council. It amounts to 30 times the average monthly wage per seat for up to 20 seats; any seat over 20 will get 20 times the average monthly wage. In 2007, this contribution was provided to 6 political parties, amounting to a total of 70.7 million SKK (approximately €2.14 million).

¹¹ Act No. 85/2005 repealed Act No 424/1991 Coll. on Association in Political Parties and Political Movements and Act No 239/1994 Coll. on restriction of expenses of political parties and movements in relation to promotion before the elections to the National Council of the Slovak Republic.

¹² The total amount of the contribution for votes is divided in to 48 parts: of which a maximum of 3 parts are paid in the year when the elections are held, 12 parts are paid in every whole year of the electoral term and the remaining parts are paid in the year of the next elections (Section 27, paragraph 2, of the Act 85/2005).

	Votes (%)	Number of obtained votes	Seats	Contribution for votes (SKK)	Contribution for seat 1-20	Contribution for seat 21 and more	Total contribution for seats	Contribution for activities	Total contributions
SMER - SD	29,14	671 185	50	116 115 005	10 380 000	10 380 000	20 760 000	29 028 751	49 788 751
SDKU - DS	18,35	422 815	31	73 146 995	10 380 000	3 806 000	14 186 000	18 286 749	32 472 749
SNS	11,73	270 230	20	46 749 790	10 380 000	-	10 380 000	11 687 448	22 067 448
SMK	11,68	269 111	20	46 556 203	10 380 000	-	10 380 000	11 639 051	22 019 051
LS - HZDS	8,79	202 540	15	35 039 420	7 785 000	-	7 785 000	8 759 855	16 544 855
KDH	8,31	191 443	14	33 119 639	7 266 000	-	7 266 000	8 279 910	15 545 910
KSS	3,88	89 418	-	15 469 314	-	-	-	3 867 329	3 867 329
SF	3,47	79 963	-	13 833 599	-	-	-	3 458 400	3 458 400
TOTAL	95,35	2 196 705	150	380 029 965	56 571 000	14 186 000	70 757 000	95 007 491	165 764 491

21. As indicated above, in 2007, the state spent 165.7 million SKK (approximately €5 million) on contributions; in an election year this amount may be a lot higher due to the contribution for votes to be provided. The GET was informed that these forms of public funding were intentionally called contributions and not subsidies: if a person (or in this case a political party) fulfils the conditions stipulated in the relevant legal provisions provision of the contribution is mandatory; the provision of subsidies is to the discretion of the respective authority. Furthermore, the sanctions for misuse of contributions are reportedly lower than they are for misuse of subsidies.
22. The law provides for certain restrictions on the use of public funding by political parties. The abovementioned state contributions may not be used to provide loans or credits to natural and legal persons, for silent partnership agreements, activities of a company of which the party is the founder or sole partner, liability for commitments of natural or legal persons, settlement of fines and other financial sanctions, or donations. The public funding provided to political parties may thus not be used to sponsor presidential election campaigns.
23. Political parties also receive some forms of indirect public funding, in the form of free campaign hoarding (billboards) in the municipalities and a maximum of 30 minutes' broadcasting time per party (or coalition) on Slovak Radio and on Slovak TV for political advertisements.¹³ The costs of the content of the political advertisements broadcast by Slovak Radio, Slovak TV and other broadcasters are to be met by the respective political party or coalition.
24. Furthermore, it would appear that members of the National Council receive indirect public funds, in the form of payment of salaries of certain staff members, support for the activities of parliamentarians' office and technical equipment. In addition, members of the National Council can take public transport for free and, if parties with more than eight seats in the National Council set up a so-called 'political group', certain activities of this group are paid for.

Presidential candidates

25. Presidential candidates are not provided with any form of direct public funding. To this end, Section 18 of Act No. 46/1999 on the Method of Election of the President clarifies that a presidential candidate "may not receive a gift or other supply free of charge from the state, state or municipal bodies". Presidential candidates may receive some indirect public funding, in the

¹³ In addition, Slovak Radio and Slovak Television are to allocate 10 hours of broadcasting time for political discussion programmes. Broadcasters, other than Slovak Radio and Slovak Television, may allocate each party or coalition a maximum of 30 minute' broadcasting time each (in an equal amount for each party/coalition, up to 10 hours in total (Section 24 of Act No. 333/2004 Coll. on Elections to the National Council).

form of a maximum of one hour's¹⁴ broadcasting time on Slovak Radio and Slovak TV; the costs of these political advertisements are however to be met by the candidate.

Private funding

Political parties

26. Pursuant to section 22 of Act No. 85/2005, apart from the aforementioned state contributions, the funding of a political party may consist of:
 - membership fees;
 - gifts (i.e. donations);
 - services free of charge;
 - bequests;
 - income of the sale or rent of its moveable or immoveable property;
 - interest on bank accounts;
 - shares of profits of companies established by the party;
 - profits on stocks and shares, and
 - loans and credits.
27. A number of restrictions apply to the sources of this funding. Pursuant to Section 24 of Act 85/2005, political parties are prohibited from receiving gifts and services free of charge¹⁵ from state, regional or municipal entities¹⁶, legal persons established by these entities or in which they have shares, as well as various types of non-governmental organisations¹⁷, public institutions and other legal persons established by law, foreign citizens, legal persons with headquarters abroad if their majority owner is neither a Slovak citizen nor a legal person having its headquarters in Slovakia (with the exception of political parties, groups of political parties or legal persons established or owned in majority by a political party), or natural persons or legal persons whose identity cannot be established. Furthermore, any donations or services provided free of charge with a value of more than 5,000 SKK (approximately €150) may only be accepted on the basis of a deed of gift (in accordance with the Civil Code); if the value of this donation or service is more than 100,000 SKK (approximately €3,000) the signatures of the donor and the party statutory body are to be certified by a notary.
28. As indicated above, anonymous donations (and services provided free of charge of which the identity of the contracting party cannot be established) are prohibited, as are donations by public sector entities and foreign donations, with the exception of those by foreign political parties or entities established by (foreign) political parties.
29. Private companies (i.e. those which have not been established and/or are not partly-owned by state, regional and municipal bodies) are free to donate to political parties, as long as they have

¹⁴ In addition, other broadcasters may reserve also a maximum of one hour's broadcasting time per presidential candidate (an equal amount of time for each candidate, Section 15 of Act No. 46/1999 Coll. On the Method of Election of the President of the Slovak Republic).

¹⁵ Services free of charge are pursuant to Section 23, paragraph 3, of Act 85/2005 considered to be: the lending of moveable or immoveable property, provision of a free of charge service, the amount of debt of a party assumed by a natural or legal person, the lease or sale of moveable or immoveable property under the market price, any service which is provided under the market price.

¹⁶ Section 24 of Act No. 85/2005: This includes the National Property Fund and the Slovak Land Fund.

¹⁷ Namely "citizens associations, foundations, non-profit-making organisations providing public service, non-investment funds, associations of interest of legal persons, associations of municipalities, organisations with an international element" (Section 24 of Act 85/2005).

their headquarters in the Slovak Republic or are majority-owned by a Slovak citizen or Slovak legal entity. There are no restrictions or limits as regards the income from property (including assets, stocks or shares owned by the party etc.) or income from party's own business or fundraising activities. As regards the party's own business, Section 20, paragraphs 2-5, of Act 85/2005 provides that a party may not be engaged in business activities or conclude silent partnership agreements in its own name, but it may found companies or be a sole partner in such a company. Companies founded by the party or in which it is a sole partner may only be engaged in publishing, promotion activities, manufacturing and marketing of objects for the promotion of the programme or activities of the party, organisation of training and political events and management of assets of the party. It is furthermore explicitly prohibited for companies set up by political parties (or in which the political party is the sole partner) to be engaged in public tenders if the procurer is a public legal person.

30. There are no restrictions or limits on membership fees. The party is however obliged to keep separate records of collected membership fees, including the forename and surname of the party member and his/her permanent address if the total subscription fees paid by this member have reached 25,000 SKK (approximately €750) or more in a given year.
31. There are no quantitative restrictions on the amount (value) of donations, free of charge services, income from property, loans/credits and income from party activities and fundraising activities, the party may receive.
32. Donations to political parties by individual contributors are not tax deductible (but the party itself does not have to pay tax on donations it receives).

Presidential candidates

33. Pursuant to Section 18 of Act No. 46/1999 Coll. on the Method of Election of the President of the Slovak Republic, the publicity campaigns of candidates in presidential elections are financed by private donations of citizens and permanent residents of the Slovak Republic, legal entities having their registered seat in the Slovak Republic and by political parties and movements in registered in the Slovak Republic.
34. Campaigns for presidential elections are limited, pursuant to Section 15 of Act No. 46/1999 on the Method of Election of the President, to a period of 15 days to 48 hours before the election. Campaigns are described as "the activities of candidates, political parties and movements, and other entities for the benefit of the election of a candidate, including newspaper advertisements or radio or television broadcasting commercials (...), mass media, billboards, posters and other information media."
35. Presidential candidates may receive private funding for his/her publicity campaign¹⁸ in the form of gifts and services free of charge, from permanent residents of the Slovak Republic, legal entities having their registered seat in the Slovak Republic and from political parties and movements registered in the Slovak Republic.
36. Few restrictions apply to the sources of this funding. Donations and services free of charge from the state, state bodies or self-governing bodies are explicitly prohibited, as are foreign donations

¹⁸ A publicity campaign is to be understood as any public announcement intended to support the candidate or made for the benefit of the candidate, for which payment is or shall be made (Section 17, paragraph a, Act No. 46/1999).

(or at least in as far as the donors are not also resident in the Slovak Republic or are an entity with its registered seat in the Slovak Republic).

37. There are no explicit quantitative restrictions on the amount (value) of the donations and free of charge services a presidential candidate may receive, but a candidate may nevertheless not spend more than 4,000,000 SKK (approximately €120,000) on his/her publicity campaign.
38. Donations to presidential candidates by individual contributors are not tax deductible.

Expenditure

Political parties

39. There are no restrictions on the amount of expenditure by a political party. Regarding qualitative limits, as already outlined above, public funding may not be used to provide loans or credits to natural and legal persons, for silent partnership agreements, for activities of a company of which the party is the founder or sole partner, to assume liability for commitments of natural or legal persons, for donations or to settle fines and other financial sanctions.

Presidential candidates

40. Pursuant to Section 16 of Act No. 46/1999 on the Method of Election of the President, a presidential candidate may spend a total of 4,000,000 SKK (approximately €120,000) on his/her publicity campaign¹⁹. This expressly includes amounts paid or committed by third parties on behalf of the presidential candidate. If a commercial, newspaper, advertisement or programme has been published or broadcast free of charge or at a reduced price somewhere other than on the Slovak Radio or the Slovak Television, the normal market price is to be calculated towards the expenditure limit.

III. TRANSPARENCY OF PARTY FUNDING - SPECIFIC PART

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

Books and accounts

41. As of 1 January 2005 all political parties and political movements are obliged to account for their income and expenditures by double-entry book-keeping, in accordance with Act No. 431/2002 on Accounting. Political parties are subject to the same accounting obligations as commercial companies and are obliged to keep their accounting records for a minimum of 5 years (Article 35, Act No. 431/2002).
42. A presidential candidate is, pursuant to Section 19 of Act No. 46/1999 on the Method of Election of the President of the Slovak Republic, only required to maintain records of all gifts received for his/her advertising and the donors and the total amount spent on his/her publicity campaign.

¹⁹ Pursuant to Section 17, paragraph b, of Act No. 46/1999, publicity campaign expenses of a presidential candidate shall be understood as the total amount of money and other resources having a monetary value incurred by the presidential candidate for the payment of paid advertisements in periodicals and payment of commercials or sponsoring programmes in the radio and television broadcasting, payment of the price of advertisements placed in public places and payment of the preparation of advertising programmes, posters, leaflets and other advertising materials and objects, regardless of whether the obligation to make the payment falls directly on the presidential candidate or on third parties.

43. With regard to account offences, the law provides for both criminal and administrative sanctions for accounting offences. Article 125, paragraph 1, of the Criminal Code prohibits the use of "false or grossly distorted data concerning important facts in financial and commercial documents if made with the intent to obtain unjustified benefit." This law also refers to the destruction or concealment of such records, all of which is punishable by imprisonment, fine or ban on the professional activity. By virtue of Article 125, paragraph 3, the penalty is substantially increased if the false statement or record destruction is committed "with the intention to facilitate or cover up another criminal offence". However, as the Slovak Republic does not provide for criminal liability of legal persons, these sanctions can only be imposed on the natural person having committed the accounting offence and not on a political party itself. Furthermore, by virtue of Article 8 of Act No 431/2002 on Accountancy, accounting entities – which includes political parties but not presidential candidates - have the obligation to keep accurate, correct and comprehensible accounting records. For failure or infringement of these duties the tax authorities can impose a fine of up to 3% of total amount of property of the accounting entity depending on the infringed/non-fulfilled duty.

Reporting obligations

Political parties

44. Pursuant to Sections 21 and 30 of Act 85/2005, parties have to submit an annual report on their finances to the National Council of the Slovak Republic. During election periods, political parties are required to report an interim and final report on their election campaign finances to the Ministry of Finance.
45. A political party is to submit the annual report on its finances to the National Council of the Slovak Republic by 30 April following the accounting year. Pursuant to Section 30 of Act 85/2005, this annual report is to include:
- the financial statements of a party for the accounting period, certified by an auditor²⁰;
 - an overview of income of the party²¹;
 - separate records of gifts and free of charge services (pursuant to Section 22 of Act 85/2005 this is to include the date of acceptance of the gift or free of charge service, the amount, the identification data of the donor or the contracting party who has provided the free of charge service);
 - separate records on loans and credits (including the date of receiving the loan or credit, amount, agreed repayment date, full name and address of the lender / credit provider, if the lender is a natural person, or company name, identification number and office address if the lender / credit provider is a legal person);
 - the number of party members²², the total (aggregated) amount of membership fees the party has received and the separate records of membership fees of those members including the names and addresses of members who have paid more than 25,000 SKK (approximately €750) in that year in membership fees;
 - the financial statements of the company of which the party is a founder or sole partner;
 - information on the financial situation of the party for at least two immediately preceding accounting periods;

²⁰ The Slovak Chamber of Auditors appoints this auditor from a list of auditors by drawing lots.

²¹ Pursuant to Article 22, the income of a party may consist of membership fees, gifts and other free of charge services, inheritances, income from the sale or lease of its moveable property or real estate, interest on bank deposits, profits of a company, profit on shares/securities, income from loans and credits and public funding.

²² As they were on 31 December of the calendar year covered by the annual report.

- information on events of special importance that will occur after the end of the period covered by the report;
 - information of suggested profit distribution or loss settlement;
 - information on the performance of tax-related obligations, and
 - an overview of overdue liabilities.
46. The annual report is to be certified by the auditor to see whether it is in accordance with the financial statements for the same accounting period (which have also been certified by an auditor) and whether the economic management of the party is in compliance with the legal requirements. The auditor's statement is to be included in the annual report of the party to the National Council of the Slovak Republic.
47. A party is furthermore to report separately on its campaign finances related to elections of the National Council. A party is obliged to submit an interim report to the Ministry of Finance, at the latest 21 days before elections, covering the period of the day the elections are declared until 30 days before the elections are held; the final report, covering the whole period of the day the elections are declared until the day of elections, is due to be submitted to the Ministry of Finance at the latest 3 days after the elections. Pursuant to Section 21 of Act no. 85/2005, information to be included in both the interim and final reports is:
- an overview of expenses related to pre-election surveys and public opinion surveys;
 - an overview of expenses for paid classified advertisements, advertising in periodical press, political advertisement broadcasting, election posters and other information media;
 - an overview of travelling expenses by political party members and the allowances given to party employees for this purpose during the election campaign;
 - an overview of all other expenses related to the promotion of the party's activities and programme;
 - an overview of the gifts, free of charge services, loans and credits the party has received in the period covered by the interim and final report respectively;
 - the aforementioned separate records kept by the party on loans, credits, gifts and services provided free of charge, including relevant data as regards names, amounts etc., as far as these have been accepted during the period covered by the interim report and final report, are also to be included in the interim and final reports.

Presidential candidates

48. Presidential candidates are required to report to the Ministry of Finance how much in financial resources they have received for their publicity campaign and the total amount of resources spent on their publicity campaign, within 30 days of the day of elections. These reports are to include the names and addresses of each donor and the value of his/her gift or service free of charge, if value of the gift or free of charge service exceeds 10,000 SKK (approximately €300) in case of a natural person or 100,000 SKK (approximately €3,000) in case of a legal person.

Third parties

49. As regards political parties, there are no requirements placed on contributors as regards the recording/reporting of contributions made to political parties, related and affiliated entities and organisations, candidates for elections or electoral campaigns.
50. As regards presidential candidates, publishers of periodicals, radio and television broadcasters, providers of advertisements in public places and other physical or legal entities which have

provided advertising programmes, posters, leaflets and other advertising materials for the benefit of a presidential candidate, are required to inform the Ministry of Finance within 30 days after the presidential elections of the amount of resources spent by the individual presidential candidate on publicity (i.e. any public announcement intended to support a candidate or made in the benefit of the candidate) which has been published, broadcast or prepared. The data submitted to the Ministry of Finance is to include information on the market price of advertisements, advertising materials and sponsored programmes that have been published, broadcast or prepared free of charge or at a reduced price.

Access to accounting records

Political parties

51. The auditor certifying the financial statements to be included in the annual report of a political party has access to the accounting records of the party and has a right to request from the party's statutory body all necessary documents and information indispensable to perform the audit. In addition, the tax authorities have access to the accounting records of political parties. Detailed financial information – other than what is contained in the annual reports submitted to the National Council and the election campaign report submitted to the Ministry of Finance – including invoices, is not accessible to the public.

Presidential candidates

52. Financial records held by presidential candidates are accessible to the tax authorities. The financial records held by presidential candidates themselves are not accessible to the public, but information submitted by presidential candidates to the Ministry of Finance would then fall under Act No.211/2000, on Free Access to Public Information.

Publication requirements

Political parties

53. The annual reports of political parties on their finances are published by the Bureau of National Council on its website, following a decision by the National Council (or its authorised body) to be taken by 31 July of that year. Birth (identification) numbers of natural persons shall not be included in the published information.
54. Interim and final reports of political parties on their election campaign finances are published on the web-site of the Ministry of Finance. Birth (identification) numbers of donors are not published. The interim report will be published on the website of the Ministry of Finance within 7 days of its receipt and remains there until publication of the final report; the final report will be published on the website of the Ministry of Finance within 30 days of its receipt and will remain on the website for 6 months thereafter.

Presidential candidates

55. The Ministry of Finance is not under an obligation to publish the information submitted to it by presidential candidates (and by publishers of periodicals, radio and television broadcasters, providers of advertisements in public places and other physical or legal entities that have prepared advertising programmes, posters, leaflets and other advertising materials for the benefit of a presidential candidate). As indicated above, this information would fall under Act

No.211/2000 on Free Access to Public Information once submitted to the Ministry of Finance and would thus be accessible to the public.

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

Auditing

56. As outlined above, political parties are required to have their financial statements for the accounting period certified by an auditor, who is appointed by the Slovak Chamber of Auditors from a list of auditors by drawing lots. In addition to certifying the financial statements, the auditor is also to check whether the annual report is in accordance with the financial statements for the same accounting period, and whether the economic management of the party is in compliance with the law. The auditor's report is to be included in the annual report submitted by the party to the National Council of the Slovak Republic.
57. There are no auditing requirements for presidential candidates.

Monitoring

Political parties

58. As regards the annual report on the regular finances of the party, the National Council (or its authorised body) performs a formal control if all the required information (see paragraph 45 above) and the auditor's report are included in the annual report. Although Section 30, paragraph 5, of Act 85/2005 implies that the National Council also checks whether the information contained in the annual report is correct and complete and whether there are no other breaches of the law identified in the annual reports, in practice it would rely on the auditors' report. Should any deficiencies be identified in the report, the National Council (or its authorised body) would ask the party to remedy these before 30 June of the calendar year at the latest (i.e. 2 months after the parties should have submitted their reports). Upon notification by the National Council (or its authorised body) the Ministry of Finance should suspend payments of state contributions (i.e. contributions for activities and contributions for seats, see paragraph 20 above) until it has been notified by the National Council that the deficiencies have been remedied.
59. The Ministry of Finance supervises compliance with the obligations of the party to provide an interim and final report of their election campaign finances. It performs a formal control of the data contained in both the interim and final report, but does not cross-reference this information or examine the bookkeeping by the political party.
60. The Ministry of Finance also controls whether public funding to a party has been provided in line with the relevant conditions (both as regards the contributions for votes provided after the elections and the contributions for activities and seats provided annually).
61. In addition, Section 32 of the Act 85/2005 provides that "financial control of the fulfilment of the conditions for provision of the State budget contributions and of their accurate use shall be performed by the financial control administration". The GET was informed that the Financial Control Administration, which consists of several (regional) branches, is an independent body with a special status according to the Constitution and Act 440/2000 Coll. on the Financial Control Administration. The Financial Control Administration may audit political parties as regards the use of state budget funds *ex officio*, if it receives any signals that there are irregularities in the

way state contributions have been spent, or when it is asked by the Ministry of Finance to carry out such an audit.

62. The Supreme Audit Office may, furthermore, check whether the Ministry of Finance has provided the public funding in compliance with the law, but has limited competence as regards the spending of these public funds by political parties.

Presidential candidates

63. The Ministry of Finance checks – on the basis of the information submitted to it by the presidential candidates and publishers of periodicals, radio and television broadcasters etc. – whether presidential candidates have not spent more than 4,000,000 SKK (approximately €120,000) on their publicity campaigns.

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

Political parties

64. Political parties are subject to administrative liability, if they do not comply with the obligations laid down in Act No. 85/2005. Slovak legislation does not provide for criminal liability of legal persons; political parties can therefore not be held criminally liable for criminal offences committed in the context of party funding.
65. Act No. 85/2005 provides for the following administrative sanctions. In the context of financing campaigns for elections to the National Council, if a party fails to submit an interim and/or final report to the Ministry of Finance on its election campaign finances or if it submits the report too late, the Ministry of Finance can impose a fine on the party to the amount of 100,000 SKK (approximately € 3,000). This fine can furthermore also be imposed (upon the party), if the Ministry of Finance finds that the data contained in the interim or final report on election campaign finances is incomplete and if the party does not remedy this situation within 15 days of having been notified of these deficiencies.
66. Furthermore, as regards routine party finances, if the party fails to submit its annual report to the National Council, the Ministry of Finance can impose an administrative fine of 100,000 SKK (approximately € 3,000) on the party. Moreover, if upon notification by the National Council of deficiencies in the annual report²³ a party fails to remedy these deficiencies by 30 June of that year at the latest, the Ministry of Finance (upon notification by the National Council by 31 May of that year) may suspend the public funding of the party (contribution for activities and contribution for seats) until it has been notified by the National Council that the deficiencies have been corrected. Should the party however fail to correct the deficiencies within the designated time, the Ministry of Finance may, in addition to suspension of the contributions for activities and seats (see paragraph 20 above), also impose an administrative fine of 100,000 SKK (approximately €3,000) on the party.
67. In addition, both in the context of an election campaign or regular party finance, if a party has accepted a gift or a service free of charge in violation of the law, the Ministry of Finance may impose a fine of double the value of the gift or free of charge service.

²³ These deficiencies refer in particular to situations in which the party has not included all the required data (as prescribed by Section 30, paragraph 2, of Act No. 85/2005) in the annual report, if the information provided is false or incomplete, the auditor's report is not included in the annual report or if there is another breach of law identified in the annual report.

68. Finally, during the visit the GET was informed that the Financial Control Administration (see paragraph 61 above) can impose fines on political parties for misuse of state contributions and can require parties to return these contributions (in whole or in part) to the state budget, in accordance with *inter alia* Section 31 ("breach of financial discipline") of Act No. 523/2004 Coll. on Budget Rules of the Public Service.
69. All abovementioned fines can only be imposed on political parties. The Slovak authorities have indicated that sanctions can be imposed on individual party members by the party itself on the basis of the party's internal regulations, but this cannot be done on the basis of the law. Natural persons (for example, employees of the party or members of the statutory body) may however be held criminally liable, for example for accounting offences.
70. A party can appeal against a decision by the Ministry of Finance to fine the party directly with the Minister of Finance. The Minister of Finance will set up an advisory committee consisting of external and internal experts according to Act No. 71/1967 Coll. on Administrative Procedure to take a decision on appeal. The decision on appeal can be challenged before the Supreme Court.

Presidential candidates

71. Act No. 46/1999 on the Method of Election of the President provides for administrative liability of presidential candidates for compliance with the rules on submission of information on their publicity campaign and the expenditure limit.
72. If a presidential candidate does not fulfil his/her duty to submit information to the Ministry of Finance on the resources s/he obtained and has spent on his/her publicity campaign, the Ministry of Finance can impose a maximum fine of 2,000,000 SKK (approximately €60,000) on the candidate.
73. If the Ministry of Finance ascertains from the information submitted to it by the presidential candidates (on the total amount of financial resources obtained for their publicity campaign and their total publicity expenditures) and publishers of periodicals, radio and television broadcasters, etc. (on the amount of resources spent on publicity by a candidate), that a presidential candidate has spent more than 4,000,000 SKK (approximately €120,000) on his/her publicity campaign, it can impose – within 2 months of delivery of this information, i.e. a maximum of 3 months after the elections – a fine of 10 times the amount by which the maximum was exceeded.
74. In addition, any legal or natural person who publishes a periodical, broadcasts on radio or television, provides advertisements in public places or has prepared advertising programmes, posters, leaflets or other advertising material for the benefit of a presidential candidate and who has not informed the Ministry of Finance in writing of the amount of resources spent by a presidential candidate can be fined in the amount of 2,000,000 SKK (approximately €60,000).
75. Presidential candidates and legal or natural persons who have been fined in relation to the publicity campaign of a presidential candidate can appeal against this decision. An appeal will however not suspend the imposition of the fine.
76. Criminal liability of presidential candidates is provided if a criminal offence is uncovered in the context of a presidential campaign.

Immunities

77. As far as immunity for (criminal) offences committed in connection with party funding are concerned: pursuant to Article 78 of the Constitution, Members of the National Council cannot be prosecuted, be subject to disciplinary sanctions or held in pre-trial detention without approval of the National Council of the Slovak Republic. If this Council withholds its approval, the parliamentarian in question cannot be prosecuted for the duration of his/her term in office. Only when caught in the act, can a member of the National Council be arrested or detained, after which the chairman of the National Council is to be notified without delay. Unless subsequently approved by the Mandate and Immunity Committee, the member of the National Council is to be immediately released from custody.
78. The President enjoys full immunity and can, by virtue of Article 107 of the Constitution, only be prosecuted for intentional violation of the Constitution or for high treason and cannot be held administratively liable (or otherwise) for irregularities in the funding of his/her publicity campaign for the elections.

Statutes of limitation

79. As regards administrative liability of political parties, the abovementioned administrative fines have to be imposed within a year from the day that the Ministry of Finance learns of the violation of the law and no later than 3 years of the violation having taken place.
80. As regards presidential candidates, any fine in relation to expenditures in excess of 4,000,000 SKK has to be imposed within 2 months of submission of the information by the presidential candidate (and natural and legal persons who have provided publicity for a candidate), which should be – if the information is submitted on time - at the latest, 3 months after a presidential election.

Statistics

81. The Slovak authorities have provided an overview of sanctions imposed in 2005, 2006 and 2007 for violations of Section 18, paragraph 1 of Act No. 424/1991 on Association in Political Parties and Movements and Section 30, paragraph 2 of Act No. 85/2005 (i.e. not submitting the annual financial report). This overview indicates that, in 2007, 34 non-parliamentary political parties and political movements, were fined in an amount of 100,000 SKK (approximately €3,000) each. Furthermore, the GET was informed during the on-site visit that in the context of the 2004 presidential elections a sanction had been imposed: the GET was not made aware of the nature of this sanction and the type of conduct for which it had been imposed.

IV. ANALYSIS

82. Already in 2001, with the entry into force of amendments to Act No. 424/1991 Coll. on Political Parties and Movements, the Slovak Republic took a significant step towards improving transparency and accountability in the area of political finance. In June 2005, this was furthered with the entry into force of Act No. 85/2005 Coll. on Political Parties and Political Movements (hereafter Act No. 85/2005). The GET was advised that Act No. 85/2005 was adopted to amend

various loopholes in the old act, in particular the issue of debts, loans and in-kind donations²⁴, had introduced an increase in the amount of public funding provided to political parties and amended the section on administrative offences. No significant amendments were made to the supervisory system of the old act. The GET was also informed that Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns had been explicitly taken into account during the elaboration of Act No. 85/2005.

83. Much of the discussion leading up to the adoption of the new act reportedly focused on the amount of public funding to be provided to political parties. The GET noted with satisfaction that parties not represented in parliament were not excluded from receiving public funding: these parties can receive such funding (so-called contributions for votes and contributions for activities) if more than three percent of the valid votes is cast for their list.
84. Although Act No. 85/2005 foresees a mixed-model of funding - providing public funding and allowing private donations - the GET was informed that according to their official statements most parties represented in parliament rely for more than 80% of their income on state contributions. Exact figures were not available, but a representative of one of the parties interviewed informed the GET that as much as 95% of the party's income was provided by the state. In principle, public funding tends to limit the potential influence of big donors over politics and thus diminishes the risk of private interests distorting the democratic process, but has the (potential) disadvantage of increasing parties' dependence on the state. Although strictly speaking outside the scope of this evaluation, the GET wishes to draw the attention of the Slovak authorities to article 1 of Recommendation Rec(2003)4 of the Committee of Ministers according to which state support should be limited to reasonable contributions and should not interfere with the independence of political parties. In light of what appears to be a disproportionate reliance of Slovak parliamentary parties on state contributions, the Slovak authorities may wish to consider building certain incentives into the political funding system, with a view to encouraging political parties to seek to increase their revenue from other sources²⁵.

Transparency

85. Act No. 85/2005 requires political parties to report on their finances – in particular their routine finances - in a fair amount of detail. Parties have to provide (in both their annual reports and their campaign reports) separate records of gifts, services that have been provided free of charge, loans and credits: these records are to include details on the nature and value of the gift, service or loan and identity of the donor, service provider or lender/creditor. Furthermore, the GET noted with satisfaction the comprehensive definition of free of charge services included in Section 23 of the act, which addresses the challenging issue of in-kind donations and services provided at a reduced price, the prohibition on anonymous donations, the requirement to provide a deed of gift for any gift with a value of more than 5,000 SKK (approximately €150) and the obligation on political parties to include in their annual report financial information on companies owned by them, the party's financial situation in the two preceding years and data on membership fees (including information on members who have paid more than 25,000 SKK - approximately €750 -

²⁴ In this context, the GET received information on various political scandals having taken place at the time of the previous act, including a company owned by a political party receiving a large public procurement contract, a media company employing party officials, who worked for the party but received a salary from the company, and debts of political parties being taken over by private sponsors.

²⁵ For example, by making membership fees and (small) private donations tax deductible, or by making state funds depend on the raising of an equivalent amount of private donations. Both these incentives – if properly regulated – could further increase transparency of party funding.

in membership fees). Moreover, the GET welcomes the requirements placed upon parties to report on their campaign expenses both before the elections and shortly thereafter. However, despite this overall positive assessment of the requirements imposed upon parties by Act No. 85/2005 to ensure transparency of party finances, further improvements need to be made in four areas.

86. First of all, neither Act No. 85/2005 nor any other regulation deals with the financing of individual candidates for elections. Although all candidates for a seat in the National Council have to be placed on a party list, they can conduct a campaign for a parliamentary seat separate from the party on whose list they appear. The fact that donations can be given directly to an individual candidate or a member of parliament without being reported, is a significant lacuna in the present system. From the interviews the GET conducted, it became clear that political parties consider donations to candidates and candidates' expenses not to be related to the finances of the party and therefore not falling under the provisions of Act No. 85/2005 on transparency of party funding. The GET was informed that after the 2006 National Council elections two parties reported not to have had any campaign expenditure, arguing that candidates had spent their own money. As this undermines the spirit of the Act No 85/2005, in particular section 21 of the act which seeks to provide transparency as regards expenses related to the election of candidates for National Council, the GET recommends **to require candidates for elections to the National Council to disclose all donations they have received in relation to their political activities - including their source (at least above a certain threshold), nature and value - and details of the expenditure incurred.**
87. Secondly, Act No. 85/2005 does not distinguish between the central party organisation and local and regional branches, which implies that all income and expenditure of such branches of the party are to be reflected in the central party's accounts and must be included in the annual party reports. This was confirmed by the Slovak authorities, which stated that as political parties are legal entities they are obliged to include all income and expenditure of local regional branches into the central accounts. Nevertheless, the GET was made aware that local and regional branches of the party would use and administer their own funds independently, that not all information on income and expenditure in the context of – in particular – local elections would be disclosed by the parties and that there had been various irregularities in funding practices at regional and local level, including as regards elections for mayor. The GET was unable to assess whether the cause of this situation was a lack of awareness on the part of political parties of the obligation to include income and expenditure of local and regional branches in the central party accounts²⁶, insufficient internal party control or a similar problem as highlighted in the previous paragraph that income and expenditure of candidates in local and regional elections would not be considered as funding of the party itself. The GET could envisage in this regard that further guidance be given to parties, stipulating the level of detail in which local and regional funding is to be disclosed (see also paragraphs 89 and 97 below) or if need be, in view of the financial stakes involved with – for example - the mayoral elections in Bratislava, a separate reporting procedure for elections in big municipalities. Such further measures are all the more important as Act No. 85/2005 does not provide for any limits on the amount of private funding a party may receive. In light of the above, the GET recommends **to take measures to enhance the transparency of income and expenditure of parties and candidates at local and regional level (in particular in connection with mayoral elections).**
88. Thirdly, it would appear that in the Slovak system, political parties are not required to provide (financial) information as regards entities related directly or indirectly to them or otherwise under

²⁶ The two political parties interviewed by the GET seemed to be aware of this obligation.

their control, if they have a separate legal personality from the party.²⁷ This is a clear shortcoming of the present system. The examples provided to the GET included entities set up by (persons closely involved with the activities of) political parties²⁸, the involvement of political youth organisations in presidential election campaigns and the use of billboards in campaigns to support a particular candidate or party of which the origin could not be traced back to a political party. In light of the latter example, it might be worthwhile to establish a formal requirement that political advertisements (whether billboards or otherwise and whether for a particular issue, candidate or party) must always mention explicitly the entity or person having commissioned the advertisement. Another option would be an obligation upon third parties which spend amounts of money above a certain threshold on campaigning activities and regardless of their relationship with the party to register and to report on their involvement in a campaign, to allow genuine oversight of their activities. To ensure that the requirements upon entities outside the direct party structure is proportionate, the thresholds should be set in such a way that only significant expenditure at both national and local level are concerned. Therefore, the GET recommends **to introduce proportionate disclosure rules for expenditure incurred by entities outside the party structure, related directly or indirectly to the party, in connection with election campaigns.**

89. Finally, as mentioned before (see paragraph 85 above) the GET welcomes the level of detail and periodicity with which parties are required to report their routine party finances and election campaign expenditure. Another positive feature of Act No. 85/2005 is that both the annual party reports and the reports on election campaign finances are published on the web-site of the National Council (for annual reports) and the Ministry of Finance (for campaign reports), which, in principle, should greatly facilitate genuine oversight by civil society, the media and the public at large. However, the reports published on the website of the National Council are very hard to find due to the fact that they are categorised by a number and not by their name.²⁹ Furthermore, neither Act No. 85/2005, nor any other (secondary) regulation prescribes the format in which parties are required to report on their routine and campaign finances. The GET was advised by the Committee on Finance, Budget and Currency of the National Council that it had issued some guidance at its own initiative as regards the submission of the annual report on parties' routine financial activities to the National Council. The GET welcomes this initiative, but notes that the guidance provided does not appear to establish a common reporting format. It is furthermore clear that no guidance is given at all as regards the reporting of election campaign finances. The absence of a standardised format of reporting and explanatory notes for such reporting makes any comparison over the years and across parties extremely difficult and impoverishes the value of the disclosed information. Therefore, the GET recommends **(i) to ensure that the annual reports of political parties are easily accessible to the public and (ii) to establish a standardised format (accompanied by appropriate instructions, if necessary) for the campaign and annual reports to be submitted by political parties.**

²⁷ Commercial companies set up or owned by a political party are the exception in this regard : the financial statements of these companies have to be included in the annual reports of political parties.

²⁸ The GET was informed of the difficulties involved with getting any form of (financial) information on these NGOs. After the visit the GET was informed that NGOs can only be set up by natural persons and that political activities in the legal form of an NGO are prohibited. Nevertheless, it would appear that entities outside the party structure, related directly or indirectly to the party - in whatever legal form –, have a considerable (financial) influence on election campaigns.

²⁹ The GET was informed that it was foreseen, in the near future, to categorise the annual reports by their title, instead of by their file number.

Supervision

90. The GET considers that a regulatory system for political finance is only as strong as its weakest link. The weakest link of the Slovak system is the way in which party and campaign finance is supervised.
91. As regards internal controls, the GET was informed that each party decides for itself on the way their finances are to be supervised. In addition, there is a legal requirement for parties to have their financial statements certified by an auditor, who is appointed ad random by the Slovak Chamber of Auditors. The GET was told that the auditors would also give their opinion and make recommendations, as regards parties' internal financial controls.
92. External control of political finance is carried out by a variety of entities. The Committee on Finance, Budget and Currency of the National Council appears to be the main entity entrusted with such supervisory tasks. However, by its own admission the supervision this Committee exercises is rather formalistic: it relies on the statements of the aforementioned auditors (but does not have access to the initial full audit report) and only checks whether none of the donations reported by parties in their annual reports stem from apparent prohibited sources (e.g. state bodies or foreign entities). Furthermore, the Ministry of Finance is entrusted with supervising parties' compliance with the obligation to provide an interim and final report of their election campaign finances. This supervision is also of a formalistic nature: the Ministry of Finance only verifies whether all the information parties are legally required to submit is included. The Ministry of Finance also has the responsibility for supervising whether the state's contributions to political parties are spent in conformity with the law. Moreover, it appears that the use of state contributions by political parties can also be supervised by the Financial Control Administration³⁰, an independent body, and to a limited extent the Supreme Audit Office³¹.
93. To sum up, in the opinion of the GET, the system of supervision of party and campaign finances, suffers from several shortcomings. The supervision exercised is extremely fragmented, diffused and formalistic. Neither the Committee on Finance, Budget and Currency of the National Council nor the Ministry of Finance has a good overall picture of private and public funding of parties and election campaign finance and the necessary expertise to exercise an adequate form of supervision. The supervision exercised relies too much on the assessment of the auditors, whose main responsibility is towards the party's executive body and not to the Committee on Finance, Budget and Currency. There is currently no (independent) supervisory entity with the capacity or the expertise to investigate whether the financial statements accurately reflect the money raised and spent. Although the media and civil society - such as the Slovak chapter of Transparency International, the Fair Play Alliance and Civic Eye – play a key role in providing a form of external oversight of parties' compliance with the relevant regulations³², this oversight is significantly hampered by the absence of any mechanism by which irregularities found by external stakeholders can be followed up. In light of assessments of various interlocutors that parties' reports do not provide an accurate picture of their income, entrusting a body with investigative capacities would be a significant improvement. Such a move would also facilitate scrutiny by

³⁰ The GET was made aware that the Financial Control Administration could audit political parties as regards their use of state contributions *ex officio*, if it would receive indications that there were irregularities in the way these contributions had been spent, or if asked by the Ministry of Finance.

³¹ The GET was told that in 2005 it was proposed to give the Supreme Audit Office the authority to audit all financial activities of political parties. This proposal did not receive enough support in the National Council.

³² Special mention should in this regard be made of the Fair Play Alliance - an NGO actively engaged in increasing the transparency of political representation and public administration - which has, *inter alia*, created a publicly accessible database of flows of public money to private hands, providing further insight into decisions which may be favourable to certain political donors.

external stakeholders and enhance the follow-up to any complaints. Finally, it would be advisable to strengthen the independence of financial oversight and to remove any possible impression with the electorate that supervision in this area was biased or political.

94. In light of the preceding paragraphs, the GET recommends **to provide a single body with a mandate and adequate resources to supervise and investigate party funding (both from private and public sources) and election campaign finances, including those of election candidates, and to ensure that this body is in a position to exercise its functions in an independent and impartial manner.**

Sanctions

95. The GET notes that the Slovak Republic provides for administrative liability of political parties for infringements of political finance rules. As criminal liability of legal entities is not provided for under the Slovak legal system, political parties cannot be prosecuted for any corruption offences committed in the context of political finance. As underlined in the descriptive part of this report, the Ministry of Finance is under a legal obligation to impose administrative fines of 100,000 SKK (approximately €3,000) for infringements relating to the late or incomplete submission of the election campaign and annual reports. If a party accepts a gift or service in violation of Act No. 85/2005, the Ministry of Finance may also impose a fine of up to twice the amount of the value of the gift or service. Finally, public funding may be suspended if deficiencies in the annual report have not been remedied by the party. The GET is far from convinced that these sanctions are adequate deterrents to dissuade political parties from breaching the rules regarding political funding and therefore recommends **to review the sanctions available for violations of the rules on political funding, to ensure that these are proportionate and dissuasive.**
96. As far as enforcement is concerned, the GET was not made aware of any sanctions ever having been imposed for infringements of party funding rules, other than for non-submission of financial reports (cf. paragraph 81). During the on-site visit, it was acknowledged that the level of compliance with the old law and Act No. 85/2005, made the effectiveness of the sanctioning mechanism questionable. The GET wishes to stress that effective enforcement of political funding rules is an important element in ensuring public confidence in the political process. Although the observed lack of enforcement may be related to ineffective supervision and the lack of investigative capacity on the part of supervisory entities (see above), the GET also has doubts whether the Ministry of Finance is sufficiently independent to impose the sanctions at its disposal. Consequently, the GET recommends **to ensure that the mechanism by which sanctions are imposed for violations of the rules on political funding is independent, impartial and effective in practice.**
97. In addition, it is essential that any enforcement mechanism is supported by meaningful, timely and accurate guidance to help political parties and candidates comply with the regulations on political finance. In the Slovak Republic this important feature is underdeveloped, as already stressed in paragraph 89 above. In the opinion of the GET it would be advisable that the body mentioned in paragraph 94 above would also establish a unit specifically responsible for providing training and advice to candidates for election, elected representatives, public officials and political parties to support compliance with the political funding regulations. The GET therefore recommends **to provide advice and training to political parties and election candidates on the applicable political funding regulations.**
98. Finally, the GET notes – in line with its reflection in paragraph 86 above – that, under the current system, candidates other than presidential candidates cannot be held liable for infringements of

political funding rules. Therefore, the GET recommends **to establish liability of election candidates for infringements of political funding rules, in line with the rules applying to political parties.**

Presidential candidates

99. Due to time constraints and the fact that the regulatory system for the funding of political parties and campaigns for the National Council differs fundamentally from the regulatory system relating to presidential election campaigns, the GET was not in a position to examine both systems in-depth. During the on-site visit the GET therefore focused primarily on the funding of political parties and campaigns for the National Council. This was a deliberate choice, bearing in mind that the magnitude of the funding of political parties and National Council elections greatly exceeds the funding of presidential candidates and that the president has very limited powers, which diminishes the risks resulting from questionable financial practices. In comparison to Act No. 85/2005, the provisions on transparency of funding in Act No. 46/1999 on the Method of Election of the President are quite basic. As the disclosure requirements are furthermore only applicable to expenditure related to *publicity* campaigns for which there is an expenditure ceiling of €120,000, it would appear that presidential candidates can easily circumvent the transparency requirements placed upon them. During the on-site visit the GET was informed that the current expenditure ceiling would encourage underreporting of income and expenditure on advertising. In the GET's view, it would be advisable as a first step to require presidential candidates to report on their income and expenditure in more detail (not just limited to advertising) and to make the reports they are to submit to the Ministry of Finance public. Therefore, the GET recommends **to assess whether there is a need to amend the provisions of Act No 46/1999 on the Method of Election of the President with a view to enhancing the transparency of the funding of presidential candidates (to ensure that the amended provisions, if any, are in line with the requirements of Act No. 85/2005 Coll. on Political Parties and Political Movements).**

V. CONCLUSIONS

100. Act No. 85/2005 Coll. on Political Parties and Political Movements is to a large extent in line with the relevant provisions 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. Indeed, the problems as regards funding of political parties in the Slovak Republic are not so much related to the letter of Act No. 85/2005 but the spirit in which parties comply (or do not comply) with the provisions. A clear example of this is the issue of candidates' expenses, which a number of parties consider as not to fall within the scope of the provisions of Act No. 85/2005. However, a more pressing concern is the inadequate supervisory system, and, related to this, the observed lack of enforcement of the rules. The current system of supervision is fragmented, diffused and formalistic and neither the Committee on Finance, Budget and Currency of the National Council nor Ministry of Finance has the necessary expertise or any kind of investigative capacity. As a result, infringements of political finance rules are rarely brought to light by the supervisory authorities and, if they are brought to light, the detected infringements - with the exception of fines imposed for non-submission of financial reports - do not appear to lead to any penalties. Establishing an effective supervisory mechanism and ensuring adequate enforcement of the rules on party and election campaign funding must therefore be a matter of priority.
101. In view of the above, GRECO addresses the following recommendations to Slovak Republic:

- i. to require candidates for elections to the National Council to disclose all donations they have received in relation to their political activities - including their source (at least above a certain threshold), nature and value - and details of the expenditure incurred (paragraph 86);
 - ii. to take measures to enhance the transparency of income and expenditure of parties and candidates at local and regional level (in particular in connection with mayoral elections) (paragraph 87);
 - iii. to introduce proportionate disclosure rules for expenditure incurred by entities outside the party structure, related directly or indirectly to the party, in connection with election campaigns (paragraph 88);
 - iv. (i) to ensure that the annual reports of political parties are easily accessible to the public and (ii) to establish a standardised format (accompanied by appropriate instructions, if necessary) for the campaign and annual reports to be submitted by political parties (paragraph 89);
 - v. to provide a single body with a mandate and adequate resources to supervise and investigate party funding (both from private and public sources) and election campaign finances, including those of election candidates, and to ensure that this body is in a position to exercise its functions in an independent and impartial manner (paragraph 94);
 - vi. to review the sanctions available for violations of the rules on political funding, to ensure that these are proportionate and dissuasive (paragraph 95);
 - vii. to ensure that the mechanism by which sanctions are imposed for violations of the rules on political funding is independent, impartial and effective in practice (paragraph 96);
 - viii. to provide advice and training to political parties and election candidates on the applicable political funding regulations (paragraph 97);
 - ix. to establish liability of election candidates for infringements of political funding rules, in line with the rules applying to political parties (paragraph 98);
 - x. to assess whether there is a need to amend the provisions of Act No 46/1999 on the Method of Election of the President with a view to enhancing the transparency of the funding of presidential candidates (to ensure that the amended provisions, if any, are in line with the requirements of Act No. 85/2005 Coll. on Political Parties and Political Movements) (paragraph 99).
102. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Slovak authorities to present a report on the implementation of the above-mentioned recommendations by 31 August 2009.
103. Finally, GRECO invites the authorities of the Slovak Republic 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.