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**“FUNDING OF POLITICAL PARTIES
AND ELECTORAL CAMPAIGNS IN UKRAINE:
PROPOSALS FOR FURTHER REFORMS”**

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I. OVERVIEW

General Overview of the Legal Basis for Funding the Charter Activities of Political Parties and Their Participation in Elections and Referenda

1. The principles of **political party finance in Ukraine** are established by the Law on Civil Associations of 16.06.1992, the Law on Political Parties in Ukraine of 5.04.2001, and the Law on Corporate Profit Taxation of 28.12.1994. The tax privileges for individuals that provide financial support to political parties are established by the Law on Individual Income Tax of 22.05.2003; tax privileges for legal entities supporting political parties are set by the Corporate Profit Taxation Law. The procedure for the preparation of tax statements on the use of funds by political parties is defined by Order No. 233 on Approval of the Form of Statement on the Use of Funds by Non-Profit Organisations and Institutions and Their Fulfilment Procedure issued by the State Tax Administration (the STA) on 11.07.1997. The liability for the violation of the political party finance rules is established by the Law on Political Parties.
2. The principles of **electoral campaign funding** are set by the Law on Parliamentary Elections of 25.03.2004, the Law on Presidential Elections of 5.03.1999, the Law on Local Elections of 6.04.2004 and the Law on the National and Local Referenda of 3.07.1991 which establishes the principles for funding national and local referenda. The liability for the violation of the rules established for the funding of elections and referenda is stipulated by the following acts: 1) all three election laws – for the political parties and candidates that participate in the relevant elections; 2) the Code of Administrative Infringements of 7.12.1984, Article 212-15 – for individuals that violate the procedure established for funding elections and referenda; 3) the Criminal Code of Ukraine, Article 159-1 – for individuals that violate the procedure established for funding elections.
3. The laws that establish the above funding principles were passed in different times and on deferent conceptual bases, therefore their provisions are often rather inconsistent. The election legislation lacks a unified approach to the regulation of funding of various types of elections.

Sources of Funding of the Political Party Charter Activities

A. Private Funding

4. **Sources that can be used to fund political parties** are defined by the Law on Civil Associations, the Law on Political Parties, and the Law on Corporate Income Taxation. Part 2 of Article 14 of the Law on Political Party defines political parties as non-profit organisations. The Law on Political Parties is not clear on the finance sources for political parties: Part 3 of its Article 14 sets that, to achieve their charter objectives, political parties are entitled to own chattels and real estate, money, equipment, transport, and other means the acquisition of which is not prohibited by the laws of Ukraine. Provisions of the Political Parties Law are elucidated in Article 21 of the Law on Civil Associations. According to this Article, political parties can use the following sources of finance: 1) funds and property passed over by the founders and members of the political party; 2) funds and property purchased at the expense of membership fees and from the own funds of the political party; 3) funds and property donated by citizens, companies, institutions, and organisations; 4) the

property purchased from the sale of the social and political materials, other propaganda materials, products with the symbols of the party, organisation of festivals, celebrations, exhibitions, lectures, and other political events. Thus the list of the allowed sources is limited only to those proceeds that are not prohibited by law. The current legislation does not establish either (a) cap annual funding of political parties, or (b) restrictions on the amount of funds that can be transferred by individuals or legal entities for the benefit of political parties; or (c) the number of transfers that can be made by individuals or legal entities.

5. **Political parties cannot be funded by:** 1) public authorities or local self-governance bodies (excluding the envisaged state funding of political parties); 2) state- or community-owned companies, institutions, and organisations, as well as the entities with the state- or community-owned stakes or stakes owned by non-residents; 3) companies where the foreign-owned stake exceeds 20%; 4) foreign states and their citizens, foreign companies, institutions, and organisations; 5) anonymous persons or under a nickname; 6) charity and religious associations and organisations; 7) political parties that are not part of the election bloc of political parties; and 8) non-legalised civil associations. Article 22 of the Law on Civil Associations prohibits political parties to receive incomes from shares and other securities. Unlike non-governmental organizations, political parties are prohibited to found companies, excluding mass media (Article 24 of the Law on Civil Associations), as well as to do business or perform any other commercial activities, excluding the sale of social and political publications, other campaigning and promotion materials, products with political party symbols, conduct of festivals, celebrations, exhibitions, lectures, and other political events.
6. **Individuals and legal entities that provide financial support to political parties get a number of privileges.** According to Article 5.3.2 of the Law on Private Income Tax, an individual may include the tax credit for the year under report the amount of funds or the value of the property donated to non-profit organisations (including political parties), in the amount that exceeds 2%, but is not more than 5% of the total taxed revenue for the year under report. Article 5.2.2 of the Law on Corporate Profit Taxation sets that the gross expenses of the taxpayer shall include the funds or the value of the goods (works or services) voluntarily transferred to passed over during the year under report to non-profit organisations (including to political parties) in the amount that exceeds 2% but is not more than 5% of the taxed profit received in the previous year.
7. **Political parties also enjoy taxation privileges.** Under Article 7.11.3 of the Law on Corporate Profit Taxation political parties do not pay the corporate profit tax on the revenues received in the form of funds or property transferred free of charge or provided as irrevocable financial aid or donations, as well as on passive incomes (dividends, interest, royalty), and funds or property received from the main activities of the political party.

B. State Funding

8. On 27 November 2003, the parliament amended a number of legislative acts of Ukraine due to the introduction of state funding of political parties. Among other, a new section was introduced also into the Law on Political Parties alongside with a number of other provisions related to the **state funding of political parties**. Paragraph 91 of Section II of the 2008 State Budget Law of 28 December 2007 cancelled the provisions that were introduced into the Law on Political Parties on 27.11.2003. On 22.05.2008 the Constitutional Court recognised Paragraph 91 of Section II of the 2008 State Budget Law unconstitutional, which restituted the validity of the Law on Political Parties.
9. According to the Article 17-1 of the Law on Political Parties, **state funding is provided to political parties in two forms:** 1) funding of the charter activities of political parties which is not related to their participation in elections to the public authorities and local self-

governance bodies; 2) reimbursement of the expenses incurred by political parties, including those that were part of election blocs, due to the funding of their election campaigns for the regular and special parliamentary elections. The right to the state funding is given to those political parties that manage to overcome the 3-% election threshold either independently or within election blocs. The same applies to the state funding provided for participation in elections. Thus, according to the Law on Political Parties, state funding is provided to those political parties that are represented in the parliament on the results of the most recent elections.

10. Article 17-2 of the Law on Political Parties establishes the **cap amount for the annual state funding of the charter activities of political parties** which is defined by multiplying 1% of the established minimal salary (as of 1 January of the year preceding the one when the funds are provided) by the number of the voters included into the voter lists used in the most recent regular parliamentary elections. This amount is divided by the Ministry of Justice between the political parties and blocs that have managed to overcome the election threshold in proportion to the votes that they have received in such elections. Election blocs divide such state funding in accordance with the procedure established by the parties that have formed the relevant bloc. **The cap that can be received by political parties and blocs as a reimbursement for their parliamentary campaign expenses** is established by Article 98 of the Law on Parliamentary Elections according to which the political parties and bloc that have overcome the election threshold are entitled to the reimbursement of their actual expenses, but not more than 100,000 minimal salaries. Parties that formed election blocs divide the state funding on agreement between them.

Sources for Funding the Participation of Political Parties in Elections and the Use of Such Funds

A. Private Funding

11. The Law on National and Local Referenda does not establish forms and procedures for the participation of political parties in referenda. According to Article 11 of this Law, preparation and conduct of the national referendum shall be funded from the State Budget, while local referenda are financed from the relevant local budgets. Thus, **preparation and conducts of referenda cannot be funded from other sources than the state and local budgets**. Preparation and conduct of the national and local elections can be funded from the relevant budgets and election funds of the election runners.
12. The **obligation to set up election funds** has different degrees of necessity. According to Article 37 of the Presidential Election Law requires that a presidential candidate establish his/her election fund. The same requirements are found in the Law on Parliamentary Election where Article 48 sets that a political party/bloc that has registered its parliamentary candidates with the CEC shall set up an election fund to finance its participation in the election campaign. Unlike in the national elections, it is not an obligation but rather a right of the local election participants to create their election funds. Thus, Article 82 of the Local Election Law stipulates that a local political party organisation/bloc that has registered its candidates to the local councils or mayoral candidates may establish their election fund to finance their participation in the election campaign.
13. Likewise differently, the election laws limit **the size of election funds**. The funds of presidential candidates shall not exceed 50,000 minimal salaries for the first round and 15,000 minimal salaries for the second round (Article 43 of the Presidential Election Law). No limits on election funds are established by the Parliamentary Election Law. In the local elections, no restrictions are established on the formation of the election funds, but the expenses from such a fund are limited. Unlike in the presidential elections, this amount is

not fixed being defined by the number of voters in the relevant constituency (from 20,000 to 1,000,000 UAH for the local political party organisations and blocs; not more than a half of the above amount for the mayoral candidates; and 50 minimal salaries for the candidates nominated in one-seat constituencies).

14. All election laws establish **the sources for formation of the relevant election funds**. In particular, the election fund of a presidential candidate can be formed from his own funds, the funds of the political party that has nominated the candidate or the funds of the political party that have formed a bloc which has nominated a candidate, as well as from voluntary private donations. There is no limit set for the amount that can be contributed, excluding private contributions (contributions from individuals should not exceed 25 minimal salaries). The number of private contributions, however, is not limited (only an excessive contribution is considered to be illegal (Part 8 Article 43 of the Presidential Election Law). According to Article 53 of the Law on Parliamentary Elections, the election fund of a political party/bloc is formed from the own funds of the political party (or the parties that have established a bloc), as well as from private contributions. Like with the presidential elections, there is no limit on the amount of the contribution or the number of contributions made by the founder of the election fund to its own election fund; restrictions are established only for individuals who can contribute not more than 400 minimal salaries. The sources of election funds for local elections are defined by Article 86 of the Local Election Law, according to which the election fund of a local political party organisation/bloc is formed at the expense of the funds of such an organisation/bloc, as well as private contributions; the election fund of a mayoral candidates is formed from their own funds, the funds of the political party/bloc that has nominated such a candidate, and private contributions. Individuals are allowed to make a donation of not more than 3 minimal salaries.
15. The election laws also list **the sources that cannot be used to form election funds** which include contributions **from foreigners, individuals that do not belong to any state and anonyms** (Article 43 (Part 4) of the Presidential Election Law, Article 53 (Part 3) of the Parliamentary Election Law, Article 86 (Part 6) of the Local Election Law). All election laws **prohibit funding of election campaigns from any other sources than the State Budget and election funds**. The legislation, however, offer no clear definition of the concept of “election campaign funding” (See Paragraph 16).
16. The election laws are not very clear about the purposes **for which money from the election funds can be used**. All election laws set that the main aim for which an election fund is set up is to fund the election campaign of those subjects that open accounts of such elections. The relevant legislative provisions are specified in more detailed in the resolutions of the Central Election Commission (the CEC). Thus, the CEC Resolution of 5.01.2006 on the Procedure for the Financial Accounting of the Receipt and Use of Election Fund Resources in Parliamentary Elections sets that the election fund resources can be spend on production of campaigning materials, the use of mass media, other services related to campaigning (transport services and maintenance of transport, lease of premises, lease of equipment for the purpose of campaigning, lease of premises for meetings with voters, production and lease of bill-boards, communications services), as well as “other campaigning expenses). The CEC establishes the same list of expenses for the election funds of presidential candidates.

B. State Funding of Participation of Political Parties in Elections and Use of State Funds

17. The election laws list the following **purposes** for which state funding (in case of local elections state funding is provided from local budgets as a target state subvention) provided to finance participation of political parties in elections: 1) one-time publication of information on the opening of the accrual account for the election fund of a political party/bloc or presidential candidate and the details of such accounts in the *Holos Ukrayiny*

and *Uriadovyi Kurier* newspapers; 2) production of information posters (no less than two per polling station for political parties and blocs; no less than five – for presidential candidates, no less than two – for participant of local elections); 3) payment the TV time allocated for campaigning (presidential candidates – no less than 30 min on a national TV channel, 45 min – on a national radio channel; 30 min – on regional TV channels, and 20 min – on regional radio channels; political parties/blocs – no less than 60 min on a national channel, 60 min – on a national radio channel; 20 min on regional TV and radio channels, in equal parts for each political party/bloc, local political party organisations and candidates in local elections); 4) publication of election programmes in the *Holos Ukrayiny* and *Uriadovyi Kurier* newspapers (for national elections) and one regional/local state or municipally-owned printed media (presidential candidates – not more than 12,000 characters per candidate; political parties/blocs (not more than 7,800 characters); 5) payment for the TV time allocated for TV debates between the presidential candidates; and 6) payment for the use of passenger transport by presidential candidates (excluding taxis).

Financial Record of Political Parties

18. The Political Parties Law establishes **three forms of statements to be submitted by political parties**: 1) the incomes and expenses statement; 2) the property statement; and 3) the statement on the use of state funds provided to finance the charter activities of political parties. The Law, however, establishes no requirements to the form and content of such statements or a minimal list of information to be reflected in them. No such requirements can be found also in by-laws or the Law on Civil Associations.
19. In addition to the statements required by the Political Parties Law, political parties have to prepare quarterly **statements on the use of funds as a non-profit organisation** to be submitted to the local tax authorities. The form of such statement is approved by STA Order No. 23 of 11.07.1997 on Approval of the Form for the Statement on the Use of Funds by Non-Profit Organisations and Institutions and Fulfilment Procedure. According to the Order, the statement (first part) should refer only to the taxable or non-taxable sums (property value) received by the non-profit organisations over the period under report, in particular irrecoverable financial aid or voluntary donations, proceeds from the sale of social and political publications, passive incomes, grants, and subsidies. The second part of the statement shall indicate the taxable incomes, profits, tax liabilities, and the tax amount to be paid. It is not required to provide information on how these organisations have used their funds, just like on individuals or legal entities that have provided their irrevocable financial aid to the non-profit organisations. In other words, the main purpose of this statement seems to be not to ensure the transparency of financial activities of a non-profit organisation, but rather correct calculation of tax liabilities.

Financial Statements on the Receipt and Use of Election Fund Resources

20. All election laws require that election fund administrators submit **financial statements on the receipt and use of election fund resources** to the Central Election Commission (in national elections) or the relevant territorial commission (in local elections). According to Article 52 (Part 5) of the Parliamentary Election Law, the administrators of the current account of the election fund shall, not later than on the 7th day after the ballot, provide the administrator of the accrual account of the election fund a financial report on the use of the funds from the current account. The administrator of the accrual account shall, not later than on the 15th day after the ballot, provide the CEC with a statement on the receipt and use of the election fund resources. The same procedure is established by Article 42 of the

Presidential Election Law. Article 85 (Part 4) of the Law on Local Elections requires that administrators of the election funds established by the participants of local elections submit the financial statements prepared in the form set by the CEC to the relevant territorial election commissions.

21. **Forms of the statements** on the receipt and use of the election funds resources are established by the CEC within the dates envisaged by the relevant election laws before the election date. Such reports shall include (1) a report on the formation of the election fund (in two sections: receipt of funds by the accrual account of the election fund and the transfer of funds from the accrual account), (2) a consolidated report on the receipt of funds by the current account and their use, and (3) the reports on the transfer of the outstanding remainder. Each statement shall be supplemented with details of each transaction on the election fund accounts. The statement shall also be submitted together with an explanatory note.

Political Parties' Charter Activities: Transparency of Funding

22. The Laws on Civil Associations and on Political Parties envisaged a number of **mechanisms aiming to ensure transparency of funding of the political parties' charter activities**. According to Article 22 of the Law on Civil Associations, political parties shall **publish their budgets** for the general public. The Law, however, does not describe the method and terms for the publication of such budgets or their form. Article 26 of the same Law requires that, on the basis of financial declarations, the *Holos Ukrayiny* newspaper publish the lists of individuals or entities whose donations to political parties exceed the level established by the parliament. However, as it has been noted above, the form of the tax records prepared by political parties (just like other non-governmental organisations) does not envisage mentioning information on the individuals or entities that provide financial support to political parties. In addition, the parliament has established neither the size for the contributions that would require disclosure of the information on the donators, nor the list of information to be disclosed. This means that the above provision of Article 26 of the Civil Associations Law is just declarative. The same Article sets that **a special parliamentary committee shall consider the financial records of political parties and report their findings at a plenary session of the parliament**. No such commission has been set up so far, i.e. the relevant provision of Article 26 does not work in practice.
23. Article 17 of the Law on Political Parties obliges political parties **to public on an annual basis in a national mass medium their financial statements on incomes and expenses, property statement, and the report on the use of the state funds provided to finance their charter activities**. The dates and the procedure for the publication of the first two reports are not established by the legislation. The Law also does not require that political parties notify the Ministry of Justice of the fact that they have published the above statements. The state funds report shall be provided for publication in an official national printed medium not later than by 1 April of the year following the one when state funds were provided. The relevant mass medium shall public such report within 15 days upon its receipt.

Mechanisms to Ensure Transparency of Receipt and Use of Election Fund Resources

24. Article 42 (Part 14) of the Law on Presidential Elections sets that the **information on the size of election funds** and financial statements on their use shall be **published** by the CEC in the *Holos Ukrayiny* and *Uriadovyi Kurier* newspapers not later than on the 18th day after

the ballot. **The Law on Parliamentary Elections does oblige the CEC to publish statements of political parties and blocs** on the receipt of resources by their election funds. According to Article 86 (Part 16) of the Law on Local Elections, the territorial election commissions shall publish the **financial statements on the receipt and use of resources of the election funds of the local political party organisations** in the local media within five days upon their receipt.

Funding of Charter Activities of Political Parties: Oversight

25. Article 18 of the Law on Political Parties sets that **the state oversight of the activities of political parties is performed by:** 1) the Ministry of Justice (MoJ) (as concerns observation of the Constitution and laws of Ukraine, and the charter of the political party); 2) the Central Election Commission (as concerns observation of the procedure established for the participation in elections); and 3) the Accounting Chamber (the AC) and the Main Control and Audit Office (the MCAO) (as concerns the use of the state funds provided to finance the charter activities of political parties).
26. **The procedure for the MoJ to exercise its oversight powers is not established clearly enough** by the Law on Political Parties in Ukraine. Article 18 of this Law entitled the MoJ to require that political parties provide “the necessary documents and explanations”, while political parties are supposed to provide the MoJ with such documents and explanations. Likewise, no oversight procedure is also offered by the MoJ Regulation (approved by the CMU Resolution No. 1577 of 14.11.2006).
27. Principles of the oversight to be exercised by **the MCAO and the AC** are established by Article 17-8 of the Law on Political Parties. According to this Article, the MCAO shall annually (between 1 February and 1 March of the following the one when state funds were provided, check up the scope the relevant funds used by the political parties and the purposes for which they have been spent. The check-up forms and procedure are established in more detail by the Law on the Accounting Chamber and the Law on the State Control and Audit Service in Ukraine.
28. In addition to the controllers mentioned in Paragraph 25 above, certain oversight is also done by **the State Tax Administration of Ukraine** through its local tax inspection offices (as concerns the observation of the requirements established by the tax legislation for the non-profit organisations (sources and scope of funds received, the correctness of calculation and timely payment of taxes should the party perform any taxable activities).

Funding of Participation in Elections: Oversight

29. **Oversight of funding of the political parties’ participation in the national elections** is exercised by the CEC. Under Article 53 of the Parliamentary Election Law, the CEC and the bank that keeps the relevant election fund shall oversee the receipt, accounting, and use of the means from such election fund. The CEC shall also supervise observation by the election participants of the prohibition to use any another assets to finance their campaigning that those offered by their election fund and the State Budget of Ukraine. The same norms can be found in the Law on Presidential Elections (Article 25 (Part 2, Paragraph 10, and Article 43 (Part 10), while territorial election commission perform the same functions in the local elections in relation to the election funds of local political party organizations and candidates in one-seat constituencies (Section 12 of the Law on Local Elections).
30. The election laws **do not establish directly the procedure for the CEC** (in the national elections) and the TECs (in local elections) **to oversee the funding of the election campaign. The main role in ensuring that the relevant prohibitions are observed is put**

on the election participants which, should any facts of illegal funding come to their knowledge, may address themselves to the CEC (national elections) or a TEC (local elections) with **complaints** about the violation of the election legislation in accordance with the procedure established by the relevant laws on elections. If it is established that the fact are correct, election commissions may apply sanctions (announce a warning, cancel registration etc).

31. The oversight mechanisms are specified in more detail in the Procedure for the Oversight, Accounting, and Use of the Election Fund Resources by the Election Participants approved by joint resolutions of the CEC, the National Bank of Ukraine and the order of the Ministry of Transport. The current **procedure for the cooperation between the CEC and the relevant banks enables the CEC to exercise active on-going supervision of all transactions on the election fund accounts** (banks are obliged to provide the CEC on a daily basis by noon with the information on the relevant transactions in the form of coded files; in addition, bank provide the CEC with the statements on such accounts every week).

Sanctions for the Violation of Finance Rules Established for the Political Parties' Charter Activities

32. Article 19 of the Political Parties Law establishes the following sanctions for the violation of the Ukrainian legislation by political parties: 1) **warning on exclusion of illegal activities**; and 2) **prohibition of a political party**. The warning is issued in the form of a writ in the cases when the actions performed by a political party do entail any liability. Article 21 of the same Law envisages that a political party may be prohibited if it violates any requirement of the law on the establishment and activities of the political parties and the Justice Ministry files a relevant request with the court to prohibit such political party.
33. In addition to the above two sanctions which may be applied to political parties for any violations of the Ukrainian law, the Law on Political Parties establishes a number of sanctions for breaking the rules set for the use of state funds provided to finance the charter activities of political parties. **The state funding of a political party may be terminated** if a court, on the presentation of the Ministry of Justice establishes that the relevant state funds have been used for other than charter activities purposes, for examples for funding the expenses related to the participation of the political party in the elections (Article 17-7 of the Law on Political Parties). **The state funding can also be temporarily suspended** (Article 17 of the Law on Political Parties) if a political party fails to submit to the official national mass media by 1 April of the year following the one under report a statement on the use of state funds provided to finance the charter activities of the political party. The decision to suspend state funding is taken by the Ministry of Justice. The funding is resumed in the quarter following the one in which a political party has published the relevant report as required.
34. A number of factions are also established by the taxation legislation. If a political party funds its activities from prohibited sources or should it violate any other legislative requirements, including those set by the Law on Corporate Profit Taxation, the local tax inspection office may decide **to exclude such political party from the Non-Profit Organisation Register**, and thus the political party will be deprived of its non-profit status and will have to tax the corporate profit tax and other taxes and mandatory charges.

Sanctions for Violation of Rules Established to Fund Participation of Political Parties in Elections

35. Liability for violation of the rules established to fund participation of political parties is set by a number of legislative acts, in particular the election laws, the Criminal Code, and the Code of Administrative Infringements.
36. The laws on elections establish liability for the violations committed by the election participants and mass media. In particular, two sanctions are envisaged for the election participants: 1) **a warning**; and 2) **cancellation of registration** which makes it impossible to participate in the elections.
37. According to Article 64 of **the Law on Parliamentary Elections**, for any violation of the law, including the use of any other sources of funding than the election funds or the funds provided from the state budget, campaigning outside the dates established by the law, indirect bribery of voters etc, the Central Election Commission **announces a warning either to an individual candidate or a political party/bloc**. Should a parliamentary candidate repeatedly commit the violation for which a warning has been announced, this can be used as the **grounds for annulling his/her registration as a candidate**. The CEC can pass such a decision not later than three days before the ballot. In other words, registration cannot be cancelled if (1) candidate commits different violations for which no warning has been announced, and none of the m is repeated afterwards; and (2) a candidate repeats the violation for which a warning has been announced less than three days before the ballot. **The Law on Parliamentary Elections currently does not require annulling of registration for violation of the rules established for electoral campaign funding.**
38. Article 56 of **the Law on Presidential Elections does not envisage cancellation of registration** of a presidential candidate for violations related to the illegal funding of the electoral campaign. The sole sanctions that can be applied to a presidential candidate or the political party/bloc which has nominated a candidate for the violation of the finance rules is **a warning**.
39. Unlike the laws on national elections, the Law on Local Elections envisages stricter sanctions for the violators of the finance rules. Article 48 of this Law establishes that the candidates' **registration may be annulled** if such candidates (1) finance their campaign using any resources outside their election fund; (2) exceed the ceiling established for the expenses from the election fund by law; and (3) repeatedly commit a violation for which a warning has been announced. Registration of all candidates in a multi-seat territorial consistency nominated by a local political party organisation/bloc can be annulled if the relevant political party uses any resources outside its election fund or exceeds the ceiling established for the expenses that can be made from the election fund. Repeated commitment of a violation for which a warning has been announced in accordance with Article 48 (Part 3) of the Law is not the ground for annulment of registration from one political party organisation. **Violation by a local election participant of the election law requirements which does not result in cancellation of registration entails a warning announced to such election participant.** The TEC decision to announce a warning or cancel registration may be contested in the court. Unlike the Law on Parliamentary Elections, the law on local elections establishes no deadline after which registration cannot be annulled, i.e. the registration may be cancelled, among other, on the ballot day.
40. Some of the election laws establish **liability of the media for political advertising that has not been paid for from the election fund**. In particular, Article 56 (Part 7) of the Law on Local Elections sets that trying an election dispute on the repeated or one-off gross violation of the law by the local media, the court may decide on temporary (before the end of the election process) suspension of the broadcasting licence or temporary prohibition of publication of a printed mass medium. The same provision can be found in Article 71 (Part 10) of the Law on Parliamentary Elections. The "grossness" criteria, however, are not

established by any of the above laws, and thus this issue should be determined by court. At the same time, the Law on Presidential Elections envisages no such sanctions for the media. Should the media violate the procedure established for the coverage of the election campaign, the CEC should pass the complaints about the relevant violations to the law-enforcement bodies which are supposed to react in accordance with the laws of Ukraine.

41. In addition to the election laws, sanctions for the violation of election finance rules are also established by the **Code of Administrative Infringement**. Article 212-15 of this Code sets that violation of the procedure envisaged for the provision of financial (material) support of the election campaign, provided such violations have no components of crime, entails a fine ranging between 850 and 1190 UAH for citizens and between 1190 and 1700 UAH for officials. Administrative liability for the above violation can be established for an individual that has achieved 16 years old as of the date when the infringement was committed.
42. In addition, criminal liability is established for certain violations by **the Criminal Code**. According to Article 159 of the Criminal Code, provision of gross financial (material) aid in to fund election campaign of a candidate or political party/bloc within violation of the procedure established by law through provision of funds or material values free of charge or at unreasonably low prices, production or dissemination of campaign materials which have not been paid for from the election fund or paid for at unreasonably low prices, or payment for the production and dissemination of such materials are punished by a fine ranging between 1700 and 5100 UAH, or correcting works for the period of up to two years, or limitation of freedom for up to two years, or imprisonment for the same period. Deliberate use of gross financial (material) support to fund election campaign by a candidate, political party/bloc, or their authorised representative, trustee of the candidate or an authorised person with violation of the procedure established by law is punished by a fine ranging between 1700 and 5100 UAH, or correcting works for the period of up to two years, or limitation of freedom for up to two years, or imprisonment for the same period. A note to Article 159-1 indicates that the amount, values or advantages are considered to be gross if they exceed 400 minimal salaries.

European Standards of Political Party Finance and Prevention of Political Corruption

43. The main documents that establish the standards for the funding of political parties in Europe include PACE Recommendation No. 1516 (2001), the Guidelines on the Financing of Political Parties adopted by the Venice Commission at its 46th Plenary Meeting on 9-10 March 2001, Committee of Ministers Recommendation Rec(2003)4 to Member States on Common Rules Against Corruption in the Funding of Political Parties and Electoral Campaigns of 8 April 2003.
44. **PACE Recommendation No. 1516 (2001)** establishes the following principles for the financing of political parties 1) political parties **should get funding from the states** to prevent their dependence on private sponsors and to ensure equal possibilities for all political parties; 2) state funding should be provided **in proportion to the political support** enjoyed by the political party based on the number of votes received or the number of places gained in the parliament, while at the same time **new parties should get a possibility to appear on the political scene and compete with more stable parties under fair conditions**; 3) state funding **should not exceed the amount necessary to achieve the above goals**; 4) the state may provide **indirect financial support** to political parties on the basis of the law, e.g. by covering the postal expenses and the lease of premises for meetings, support of party mass media, youth organisations and think tanks, as well as by proving tax privileges; it should be prohibited for political parties to receive **donations from state companies**, companies under the state control, **or providers of goods or services to the**

public administration sector; 6) no donations should be accepted from **off-shore companies**; **donations from legal entities should be limited**; **a ceiling should be set for donations**; and no donations should be accepted from **religious institutions**; 7) a ceiling should also be established for the expenses allowed in the course of electoral campaigns (lack of such a ceiling results in increased prices which force political parties to look for additional funds); 8) political parties should account in detail all their incomes and expenses which should be submitted at list **once a year** for the **check-up to the independent auditing bodies** and published; 9) state should establish **independent auditing bodies sufficiently empowered to oversee the accounting of political parties and the election campaign expenses**; 11) political parties should be subject to **understandable sanctions**, including **partial or full loss or forced return of the state contributions**, as well as **fining**; in case of individual liability, sanctions should **envisage cancellation of the mandate or temporary deprivation of the right to occupy certain posts**; and 12) legislation on the funding of political parties and electoral campaigns **should also extend to legal entities connected with political parties**.

45. **The Guidelines on the Financing of Political Parties** adopted by the Venice Commission at its 46th Plenary Meeting on 9-10 March 2001 provide the following recommendations: 1) **public financing** – Public financing must be aimed at each party represented in parliament; the equality of opportunity should be ensured for the different political forces and public financing should also be extended to political bodies representing a significant section of the electoral body and presenting candidates for election; the level of financing could be fixed by legislator on periodic basis according to objective criteria; tax exemptions can be granted for operations strictly connected to the parties' political activity; public funding should be subject to control by special public authorities (the Accounting Chamber); states should ensure financial transparency of the political parties that receive public funding; 2) **private financing** – Donations from abroad must in all cases be prohibited; certain limitations should be established for private financing: a maximum level for each contribution, a prohibition of contributions from enterprises of an industrial, commercial or religious nature, an *a priori* control by public organs specialised in electoral matters relating to contributions by members of parties which are presented at elections; the transparency of private financing of each party should be a main objective – in achieving this aim, each party should make public each year the annual accounts of the previous year, which would incorporate a list of all donations other than subscriptions; all donations that are of a sum higher than the subscription fee must be recorded and made public 3) **electoral campaigns** – to ensure the equality of possibilities for different political forces electoral expenses of each candidate may be limited by a certain maximum amount fixed each year in proportion to the number of relevant voters; the state should participate in campaign expenses through an additional payment equal to a certain percentage of the established maximum or proportional to the number of the votes received in the elections; private contributions may be attributed to each candidate (but the total of such should not exceed the stated maximum); contributions from commercial enterprises or religious organisations should be forbidden; electoral campaign accounts should be submitted to the organ charged with supervising election procedure, for example, an election committee, within a rational term after the elections and published; 4) **control and sanctions** – any irregularity in the financing of a political party should encompass for the following year the loss of all or part of public financing as proportionate to the severity of the violation, other sanctions may include the payment of a fine or another financial penalty or annulment of office; sanctions should be applied by courts.
46. A number of provisions from PARE Recommendation 1516 (2001) and the Venice Commission Guidelines have found their reflection in Recommendation Rec(2003)4 to Member States on **Common Rules Against Corruption** in the Funding of Political Parties and Electoral Campaigns of 8 April 2003 that stress the necessity of the **public support to political parties** which: a) should be limited to reasonable contributions; b) may be

financial; c) be provided on the basis of objective, fair, and reasonable criteria; and d) does not interfere with the independence of political parties. Both the state and its citizens should be entitled to support political parties. Article 2 of the Common Rules contains an essential new provision offering a **definition of donation to a political party** which is understood as any deliberate act to bestow advantage, economic or otherwise, on a political party. The Rules also propose certain **general principles on donations** according to which the measures taken by status governing donations to political parties should provide specific rules to avoid conflicts of interest, ensure transparency of donations and avoid secret donations, avoid prejudice to the activities of political parties, and ensure their independence. States should provide that donations to political parties are made public, in particular donations exceeding a fixed ceiling, consider the possibility of introducing rules limiting the value of donations to political parties, and adopt measure to prevent established ceilings from being circumvented. In addition to the general principles on donations, states should provide that donations from legal entities to political parties are registered in the books and accounts of legal entities, and that shareholders or any other individual member of the legal entity be informed of donations. States should take measures aimed at limiting, prohibiting, or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration. Donations from foreign sources should be prohibited or otherwise regulated. States should also prohibit legal entities under the control of the state or of other public authorities from making donations to political parties. Article 8 of the Rules provides for the **extending of the rules regarded funding of political parties to the funding of electoral campaigns of candidates for elections, and the funding of political activities of elected representatives**. As concerns the **electoral campaign expenditure**, the Rules recommend that states (a) should consider adopting measures to prevent excessive funding needs of political parties, such as establishing limits on expenditure on electoral campaigns; and (b) require particular records to be kept of all expenditure, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate. Section IV of the Rules offers **recommendations on transparency of the political party financing**: a) political parties and the entities connected with political parties should be required to keep proper books and accounts; b) the accounts of political parties should be consolidated to include, as appropriate, the accounts of the connected entities; c) accounts of political parties should specify all donations received by them, including the nature and value of each donation; d) in case of donations over a certain value, donors should be identified in the records; e) the accounts should be regularly, at least once a year, presented to an independent supervision authority; f) political parties should regularly, at least once a year, make public their accounts or as a minimum a summary of such accounts, including the information referred above. The Common Rules also provide for **introduction of independent monitoring** of the funding of political parties and electoral campaigns which should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication. The Rules call on establishing effective, proportionate and dissuasive **sanctions** for the infringement of rules concerning the funding of political parties and electoral campaigns.

II. COMPLIANCE OF UKRAINIAN LEGISLATION AND PRACTICE RELATED TO THE FINANCE OF POLITICAL PARTIES AND ELECTORAL CAMPAIGNS WITH THE EUROPEAN STANDARDS

47. PACE Recommendation 1516 (2001), the Venice Commission Guidelines on the Funding of Political Parties, and Committee of Ministers Recommendation Rec(2003)4 to member states on common rules against corruption in the funding of political parties and electoral campaigns suggest introducing **state funding of political parties** in order to prevent dependence of political parties on private donors. According to the Law on Amendments to Certain Legislative Acts of Ukraine Due to the Introduction of State Funding of Political Parties in Ukraine of 27 November 2007, the state funding of the charter activities of political parties should have begun on 1 January 2007, while starting with 2006 political parties should have begun receiving refunds for their election campaign expenses. The Law on the 2007 State Budget, however, suspended the validity of those provisions of the Law on Political Parties in Ukraine that concerned the state funding of the charter activities of political parties in 2007. The 2008 State Budget Law with amendments to certain legislative acts of Ukraine excluded all provisions that envisaged the state funding of the charter activities of political parties, refunding of the election campaign expenditures incurred by political parties from the State budget, and introduction of the oversight in the relevant area from the Law on Parliamentary Elections (Article 98) and the Law on Political Parties in Ukraine. **In such a way, political parties have been put into complete dependence on private finance.** Even though in May 2008 the relevant provisions of the 2008 State Budget Law were recognised unconstitutional, no state funding of the charter activities of political parties began. This means that the above **recommendations issued by PACE, the Venice Commission, and the Committee of Ministers with regard to the advisable introduction of the state funding of political parties are actually not fulfilled.**
48. According to PACE Recommendation 1516 (2001) and the Guidelines, the state funding should **enable new parties to appear on the political arena and compete with more stable parties under fair conditions.** The Guidelines recommend that the mechanisms of state funding be used to ensure equal possibilities for the new and the existing political parties. For this purpose, the finance should be provided to those parties that represent the majority of the voters and nominate their candidates for the elections. Article 17-3 of the Law on Political Parties in Ukraine stipulates that state funding shall be provided only to those parties that have overcome the threshold established for the parliamentary elections. This approach to the provision of state funding is discriminatory in relation to the new parties which get a considerable support from the voters in the national elections but fail to overcome the election barrier. To this end, the Law on Political Parties in Ukraine **should envisage provision of state funding to the political parties which, even though having failed to overcome the established threshold, manage to get a certain percentage of votes in their support (e.g. 1% less than the election threshold).**
49. **The provision on restriction of the total amount of funds provided from the State Budget to fund a political party and on limitation of the total refunds that can be issued from the State Budget to cover the expenses related to the election campaign generally meets the European standards** and does not need to be revised.
50. **The mechanisms of indirect State financial support to the participation of political parties in elections** established in the election legislation (funding of the production of information posters for the participants of the election process, payment for the broadcasting time on the state and community owned broadcasting channels, payment for the publication of the election programmes etc) **meet the European standards** and do not need to be revised.

51. The mechanisms of indirect State financial support to the political parties by exempting the party revenues defined by the Law on the Corporate Profit Taxation from taxation **do not contradict the European standards of political party finance.**
52. According to Article 17-1 of Law on Political Parties in Ukraine, the state provides funding to the charter activities of the political parties not related to their participation in the elections to the public authorities and local self-governance bodies. Article 17-7 of the same Law sets that the state funding can be stopped if, upon the submission of the Ministry of Justice, the court establishes any facts evidencing that the state funding provided to finance the charter activities of the political party have been used by such a party to finance its participation in the elections or for the purposes not related to its charter activities. **The law, however, does not require that the state funding provided to support political parties be accounted separately.** Thus, that state funds can arrive to the general account of a political party used to receive private donations from individuals and legal entities, and may be used to fund the campaign in the period of elections. Thus, currently the **Law on Political Parties in Ukraine sets no clear mechanisms to ensure the targeted use of state funds provided to fund the charter activities of political parties. Therefore, the Law on Political Parties in Ukraine should be amended in order to ensure that (1) the state funds provided to fund the charter activities of political parties be put into a special current account of the political party; (2) no funds from other sources, e.g. private and corporate contributions, revenues from the main activities of the party, be deposited into such special account; (3) no funds be transferred from such special account to the election fund account of the political party, its local organisations, candidates in local elections or presidential candidates nominated by the political party; and (4) the inflow and use of the funds on the special account opened for the state funds provided to finance the relevant political party be accounted separately.**
53. Even though the Law on Civil Associations, the Law on Political Parties in Ukraine, and the Law on the Corporate Income Taxation limit the purposes for which the political party funds can be used (e.g. it is prohibited to buy securities or use the funds for profit-making), they offer no **clear list of the charter activities of a political party. Thus, the rights of political parties defined by Article 12 of the Law on Political Parties in Ukraine need to be specified. Besides, the legislative terminology used by different laws related to this area needs to be unified.** Thus, the Law on the Corporate Income Taxation employs such terms as “business activities”, “main activities of a non-profit organisation”, “incomes from the main activities”, while the Law on Political Parties in Ukraine uses the notion of “the charter activities of a political party”. In addition, the Law on Corporate Income Taxation offers no definition of the “main activities”, while the Law on Political Parties does not define the concept of the charter activities of a political party. **Thus, the terminology used by the taxation legislation and the legislation on political parties needs to be unified.**
54. The Law on Political Parties in Ukraine and the Law on the Corporate Income Taxation offer no **definition of the “donation to a political party”** in the understanding of Article 2 of the Common Rules Against Corruption as any deliberate act to bestow advantage, economic **or otherwise** on a political party. Analysis of the Law on Political Parties in Ukraine and the Law on the Corporate Income Taxation shows that a “donation” is understood **only as the funds and the property directly received by a political party** (e.g., Article 7.11.3 of the Law on the Corporate Income Taxation) by depositing such funds on the relevant account or including the property into the statement of assets and liabilities. The “non-economic” advantages of a donation are not covered and, consequently are not reflected in the financial statements of political parties.
55. The Law on Civil Associations, the Law on Political Parties in Ukraine, and the Law on the Corporate Income Taxation allow that funding of political parties be provided by legal entities. They prohibit, however, funding of political parties by state- and community-owned entities, as well as entities with state- or community-owned stakes. **The Law on Political**

- Parties in Ukraine, however, does not prohibit funding of political parties by the entities, which may have no state- or community-owned stakes, but may supply works, goods, and services to the public authorities.** Lack of such a prohibition also **does not meet** the principle present in PACE Recommendation 1516 (2001) and the Common Rules Against Corruption, according to which **countries are recommended to prohibit that financial support to political parties be provided by the suppliers of works, goods, and services to the public administration authorities.** Thus, if legal entities are further allowed to fund political parties, the Law on Political Parties in Ukraine **should prohibit that political parties are funded by individuals or legal entities that provide works, goods, and services for the needs of public authorities and local self-governance bodies.**
56. The general principles recommended to be accepted by the states to govern the donations to political parties set forth in Article 3 of the Committee of Ministers Recommendations Rec(2003)4 contain the principle of independence of political parties, including through introduction of rules limiting the value of donations to political parties. The Law on Civil Associations and the Law on Political Parties in Ukraine **set no limits to the value of donations provided by individuals and legal entities to political parties.** This creates possibilities for financial dependence of political parties on a limited circle of individuals and legal entities. **Should legal entities continue being allowed to fund political parties, the law should (1) limit a lump sum donation provided by a legal entity to a political party; and (2) restrict the total amount of donations that can be given by one legal entity to a certain political party over a certain period of time (e.g. one year).** Such limitations on the value of funding should also be established for individuals as well.
57. The provision of the Law on Political Parties in Ukraine prohibiting **anonymous individuals, non-resident legal entities, foreign countries and citizens, companies with foreign capital, charity and religious organisations to fund political parties does not contradict the European standards and need not to be revised.**
58. According to Article 6 of the Common Rules Against Corruption, the rules concerning donations to political parties, with the exception of those concerning tax deductibility, should also apply, as appropriate, to all entities which are related, directly or indirectly, to a political party or are otherwise under the control of a political party. This principle is not reflected in the Law on Political Parties in Ukraine, which mainly regulates the functioning of the central charter bodies of political parties, and not organisations connected with political parties, such as mass media set up by political parties, as well as local political party offices with or without the status of a legal entity. The Law on Political Parties in Ukraine offers no definition of such concepts as “an entity connected with a political party” and “control”. This means that **implementation of Article 6 of the Common Rules Against Corruption requires the following amendments to be done to the Law on Political Parties in Ukraine: 1) to define the concept of “a connected entity”** (this can be done on the basis of the definition offered by Article 1 of the Law on Protection of Business Competition; the list of connected entities should include local political party organisations and the mass media founded by political parties); **2) to define the concept of “control”** (this can be done on the basis of the definition offered by Article 1 of the Law on Protection of Business Competition); **3) to extend the rules established for the political party finance and accounting to the connected and subordinated entities.**
59. Legal **regulation of the funding provided to election commission** does not fully meet the European standards.
60. Article 8 of the Common Rules Against Corruption establish that the rules regarding funding of political parties should apply *mutatis mutandis* to the funding of electoral campaigns of candidates for elections and the funding of political activities of elected representatives. Meanwhile, the rules established for financing participation of political parties in elections is different from the general rules of party finance. In particular, practically all election laws **prohibit legal entities to make contributions to the election**

funds (this is allowed only to individuals and relevant participants of the relevant elections – candidates in local elections, presidential candidates, political parties and their blocs, local political party organisations and their blocs that have nominated any candidates). Election laws, however, do not limit the number of contributions and the values of the contributions that can be made by political parties themselves to the election funds. This **provides legal entities with a possibility to make indirect contributions to election funds** – legal entities transfer their contributions to the current account of a political party whereupon such contributions are transferred to the election fund or to the account of a local political party organisation with the status of a legal entity and then such contributions go to the election funds of candidates in local elections nominated by the relevant local political party organisation or to the election fund of the local political party organisation. **The following solutions can be used to deal with this problem: 1) contributions made by legal entities should be deposited on a separate current account of the relevant political party; it should be prohibited to transfer any funds from this account to other current accounts of the political party, to the accounts of its local organisations (excluding the accounted opened for depositing this kind of funds), to the account of the election funds of the such political party or its candidates; the relevant amendments can be made to the Law on Political Parties in Ukraine; 2) the election laws and the Law on Political Parties in Ukraine should be amended in order to allow legal entities to make contributions to elections funds; at the same time, the transfers of the legal entity contributions from the current account of a political party to the election funds should be limited; in addition, a lump sum contribution by a legal entity to the election fund and the total value of the contributions from one legal entity to the election fund over a certain period of time established for the election campaign should also be restricted; and 3) the Law of Political Parties in Ukraine should be amended with provisions prohibiting legal entities to fund political parties.**

61. The election laws **limit** the transfers made by individuals to the election funds **only by the value of one contribution**: the sole ground for the return of any transfer made by the individual to the election is the excess of the amount established for one contribution. At the same time, **the total number of the transfers from one individual is not defined. Thus, the election laws should directly indicate whether the value established for one contribution from an individual is the total amount of all contributions that can be made by such an individual, or whether it concerns only one-off transfers. In the latter case, the total amount of contributions to the election funds from one individual in the period between the opening of the relevant account and termination of cash flow should be limited.**
62. Article 9 of the Common Rules Against Corruption sets that the states should consider adopting measures to prevent **excessive funding requirements of political parties**, such as, establishing limits on expenditure on electoral campaigns. Limitation of expenditures on election campaigns is today envisaged by the Law on Presidential Elections and the Law on Local Elections. **The Law on Parliamentary Elections establishes no such limits.** This resulted in quick and ungrounded rise of sums spent by political parties and blocs for 2006 and 2007 electoral campaigns. It is enough to mention only the fact that **the refunds paid from the State Budget on the results of 2006 parliamentary elections made up 126 mln UAH** (out of which to the Party of Regions – 35 mln UAH, to Yulia Tymoshenko Bloc – 13,500,855 UAH, to Our Ukraine Bloc – 35 mln UAH, to the Socialist Party of Ukraine – 35 млн mln UAH, and to the Communist Party of Ukraine – 8,352,358 mln), **while for a much shorter 2007 parliamentary election campaign the refunds amount grew up almost by 60 mln UAH and amounted to almost 186 mln UAH** (out of which the Party of Regions received 44 mln UAH, Yulia Tymoshenko Bloc – 44 mln UAH, Our Ukraine – People’s Self-Defence Bloc – 44 mln UAH, Communist Party of Ukraine – 14 836 862 mln, Lytvyn Bloc – 39,147,393 UAH). Therefore, **the Law on Parliamentary Elections should**

be amended in order to cut down the allocations for the parliamentary campaign by, for example, establishing certain limitations on the political advertising on TV and radio, or by limiting the maximum amount of expenses from the election fund in parliamentary elections.

63. Currently, different election laws establish different approaches to the definition of the value of election funds. The Law on Presidential Elections, for example, the value of the election fund depends on the size of the minimal salary on the day of its formation. The Law on Local Elections binds the expenditure limit with the type of the district (one-seat or multi-seat) and the number of voters registered in each district. In this context, **it would be advisable to unify the criteria established for the definition of the scope of expenses that can be taken from the election funds for different kinds of elections.**
64. **Election laws do not define the purposes for which the money from the election funds can be used.** Normally, the legislation would just stipulate the principle whereby election campaign can be funded exclusively from the election funds of the election subjects. At the same time, the laws do not define the types of activities that can be used to incline voters to vote for or against a certain candidate or political party (the types of election campaign and related activities). The relevant purposes are defined only by the resolutions of the Central Election Commission which establish the forms of reports on the arrival and use of election funds money. **Such legislative indeterminacy is one of the reasons of shadow election funding** as the expenses that are not directly attributed to the expenses that can be funded from election funds are covered from other than election funds sources. Therefore, **the election laws should establish a clear list of the purposes for which election funds can be used.** In addition to the expenses that shall be reflected in the reports on the arrival and use of election funds money envisaged for the presidential and parliamentary elections, **the list of allowed expenses should also include the salaries (political party activists, trainers etc) under employment or civil law agreements.**
65. Article 10 of the Common Rules Against Corruption sets that states should require particular records to be kept of all expenditure, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate. The election laws require **records only of those expenses that are done from the election funds of candidates, political parties and their blocs in the national elections, and elections funds of local political party or bloc organisations in the local elections.** At the same time, the practice shows that **political parties start** funding of their election campaign expenses **long before the nomination and registration of their candidates** (and consequently before the accounts of election funds are opened, as the funds begin to form upon the registration of election subjects), in particular as soon as the relevant national or local elections are announced, and even sometimes a few months before the official beginning of the election process. **Such expenses used for the elections are done outside the election funds.** With this approach, the scope of the election campaign expenses indicated in the reports on the arrival and use of election funds money make only part of the total expenses of political parties in their election campaigns. That is why, **in addition to the obligation to submit reports on the inflow and use of election funds money, political parties and their local organisations should be required to submit reports on all expenses done from their current accounts before the official beginning of the election process.** Should candidates for any elections be nominated by an election bloc, the bodies exercising oversight of funding of electoral campaigns (the Central Election Commission (CEC) in the case of national elections and territorial election commissions (TEC) in the local elections) should receive **a consolidated report on the expenses of the political parties** (or local political party organisations for the local elections) **which have formed the relevant election bloc for the period between the date when the electoral process began and the day when the account of the election fund was opened.** As, unlike with the expenses from the accounts of election funds, neither the CEC, nor TECs have enough possibilities to check the

reliability and completeness of the records of expenses made in the period after the beginning of the election process and until the opening of the election fund accounts, it would be advisable to add a provision to the Ukrainian legislation that have been adopted by many European countries – financial statements on the expenses done by political parties in the period between the beginning of the election process and the opening of the election fund accounts shall be submitted to the CEC (for national elections) or TECs (for local elections) together with the relevant **opinion of an independent auditor**.

66. The CEC and TECs have enough possibilities to oversee the cash flow on the accounts of election funds held by the subjects of election processes in the real time (by checking and registering the files sent from the banks where the election fund accounts are open, as well as by getting the weekly details on the election fund accounts), which allows oversight authorities supervising the funding of electoral campaigns to fully check the completeness and reliability of the information reflected in the reports. **However, the CEC and TECs have no proper access to the information on the expenses** made by political parties not from the election funds, but **from their own accounts** while preparing to the elections. **This problem can be solved (a) either by prohibiting election subjects and their local organisations to make any expenses from their current accounts after the election fund accounts are open and until the ballot day; or (b) by granting the CEC and TECs access to the information on the cash flow on the current accounts of political parties in the period between the opening of election fund accounts and until the ballot day.**
67. In addition to the expenses mentioned in Paragraph 66 of this report, a number of other categories of expenses **are not covered by the accounting and control of financial oversight authorities** (the CEC and the relevant TECs), in particular: 1) the expenses mentioned in Paragraphs 65 and 66 of this Report; 2) **indirect expenses of the election process subjects (e.g. the use of their property and equipment for the purpose of the election campaign which is allowed by the legislation but is effectively beyond the state supervision); and 3) expenses of the third parties that finance participation of political parties and candidates in elections not through the election funds, but directly, on their own behalf.** It seems advisable to include the indirect expenses of the election subjects in the electoral financial statements.
68. All election laws formally prohibit funding of electoral campaigns outside the election funds. However, the mechanisms to ensure the implementation of this prohibition are established only for individuals that can be brought to the administrative or criminal account for funding expenses of political parties/blocs and candidates outside their election funds. **No legal liability is established for the same violations committed by legal entities (excluding the mass media). If any mass media violate this prohibition** by broadcasting or publishing information that has express features of political advertising, but which has not been paid for from the relevant election fund, **this would result in non-proportionally tough sanctions, such as suspension of a broadcasting license or publication of a printed media until the elections are over.** At a round table, dedicated to the illegal political advertising in the media, Mr V. Shevchenko, Chairman of the National TV and Radio Broadcasting Council said that the National Council had not able to apply such sanctions to any media in 2007, as the relevant violations had been committed by practically all media, and the sanctions envisaged for such violations were inadequately strict. Since to the bigger or lesser extent all political parties are using the possibilities to fund their electoral expenses not only from the election funds, but also through the “initiative” of legal entities, normally election players do not complain about such violations to the CEC (in the national elections) or TECs (in the local elections). Consequently, such violations remain out of the attention of oversight authorities, while funds received by political parties and blocs through the above methods are not accounted, not mentioned in the financial statements, and make up a considerable part of election shadow finance. **This problem can be solved through the following means: 1) clear definition of the “campaign expenses” in the election laws; this will**

- enable oversight authorities to classify the relevant allocations done individuals and legal entities outside the election funds as illegal and apply the relevant sanctions to the violators; 2) establishment of proportionate sanctions for legal entities that violate the finance rules set for the participation of political parties and candidates in the elections in a separate unit of each election law (like it is done in many other European countries); and 3) establishment of proportionate sanctions for the media in the Law on TV and Radio Broadcasting or the relevant law on elections for airing political advertisements without them having been paid for from the relevant election funds.
69. According to the Venice Commission Guidelines for Financing Political Parties, election accounting documents shall be submitted to the relevant authority in charge of the election oversight, e.g. election commission, within a rational term after the elections and published. At the same time, **not all election laws require publication of the election financial reports** (See Paragraph 24 of this Report). **For example, the Law on Parliamentary Elections does not envisage such publication at all. The CEC does not do that on its own initiative, and as a result** the information on the inflow and use of election funds by political parties and blocs that have participate in the recent regular and early parliamentary elections (in 2006 and 2007) is not generally accessible. Also the forms of the relevant financial statements that are approved by the CEC for the relevant elections do not require disclosing information on the individuals that make donations to the election funds. Such statements just provide information on the value of funds transferred by the election subject to its election fund, the value of funds transferred to the election fund by a political party/bloc (or their local organisations) that has nominated a candidate in the presidential or local elections, as well as the value o funds transferred to the election fund by all individuals. In this context, it is **advisable (1) to amend the Law on Parliamentary Elections so that that political parties and blocs are required to publish financial statements on the formation and use of the election finance; (2) to include a provision in the election laws for them (and not CEC resolutions) to establish a list of requirements to the financial statements on the inflow and use of money from the election funds, in particular a list of the expenses to be mentioned in such statements in accordance with the definition of the concept of “the campaign expenses”, a list of transfers to be reflected in such reports, including from the persons that have made donations exceeding the established amount (with the disclosure of information on such persons); (3) to amend the Law on the CEC or the election laws so that they require the CEC to publish the financial statements on the formation and use of election funds on the official CEC website; (4) to amend the Law on Local Elections so that it requires the relevant TECs to submit financial statements from filed by the participants of local elections for their publication on the CEC website within the terms established by the Law for the publication of such reports in the local and regional printed media; and (5) to extend these proposals to the expenses made after the beginning of the election process and until the opening of the election fund accounts.**
70. Neither the election laws, nor the Code of Administrative Infringements or the Criminal Code **establish any liability for the election fund managers as concerns the failure to submit the statements on the formation and use of election funds**, which is rather conducive for the violation of the sates established for submission of such statements or submission of statements that do not meet the CEC requirements set for the form of such statements. **The Code of Administrative Infringements or the Criminal Code should establish the liability for the managers of election funds for the failure to submit or delayed submission of financial statements to the CEC (for national elections) or the relevant TECs (for local elections)**
71. Contrary to Article 16 of the Common Rules Against Corruption, violation by the political parties and candidates of the election finance rules does not result in the application of “the effective, proportionate, and dissuasive” sanctions to the violators. Thus, if a presidential

candidate uses any funds outside the election fund or exceeds the established level of expenses, this will result only in announcement of a warning. The Parliamentary Election Law punishes the same actions first time by a warning, and second time by cancelling the registration of an election participant. The latter sanction, however, is applied only to the candidates, and not political parties, and only in the cases when the relevant violation is committed not later than three days before the ballot. Another extreme is used in the local elections: should a candidate in local elections or a political party/bloc that nominated such a candidate use any funds outside the election fund or exceeds the expenses limit, the registration of such a candidate is cancelled independently of the amount of unlawfully used funds – one hryvnia or one million hryvnias. **Thus, sanctions for the violation of the election finance rules established for the election participants by the laws on national elections contradict the principles of effectiveness, proportionality, and dissuasiveness, while the sanctions applied in local elections do not meet the proportionality principle. To solve this problem, the Code of Administrative Infringements (for individual candidates) or a separate section of the election laws (for individual candidates, political parties/blocs, local political party organisations and their blocs) should establish liability for the violation of the finance rules which would meet the criteria of effectiveness, proportionality, and dissuasiveness, for example in the form of a fine which should be multiple of the unlawfully used sums. Cancellation of the registration as a sanction should be envisaged for the most serious violations of the rules.**

72. **Unlike in many other countries, the Ukrainian legislation does not require publication of the election financial statements some time before the elections**, which would allow, firstly, to attract the public attention to the sources of funding and the purposes for which the funds are used by the candidates and political parties well before the voting; secondly, it will be possible to apply preventive measures to the violators; and, thirdly, this will help to create the necessary preconditions for the efficient oversight of the election funding on behalf of the public and the media. It should be noted that **the recommendation to reduce the periods established for publishing financial statements is present in a number of GECO third evaluation round reports. To this end, the laws on election should require that the CEC (for the national elections) and the relevant TECs (for the local elections) publish the reports on the formation and use of election funds, as well as statements on the use of funds by political parties in the period between the beginning of the election process and the opening of the election fund account; such information should be published some time before the ballot date.**
73. Articles 11 and 12 of the Common Rules Against Corruption recommend that states should require political parties and the entities connected with political parties to keep proper books and accounts; states should also require the accounts of a political party to specify all donations received by the party including the nature and value of each donation. In addition, in case of donations over a certain value donors should be identified in the records. As it has already been mentioned, the current Ukrainian legislation is rather contradictory when it comes to governing the relations related to the forms of statements to be prepared by political parties: the Law on Civil Associations mentions such records as the budget of a political party; the Law on Political Parties – the income and expenses statements, the property statements, and the statement on the use of state funds provided to finance the charter activities of a political party. In addition, the legislation requires that political parties prepared reports on the use of funds of non-profit organisations and institutions to be submitted to the tax authorities located in the area where a relevant political party is registered on a quarterly basis. **The legislation establishes only the list of the information to be reflected in the reports on the use of funds of non-profit organisations and institutions, while no legislative act defines the content of all the other statements mentioned above.** It has already been mentioned that the Law on Political Parties in Ukraine offers no definition of entities connected with or controlled by a political party.

Likewise, there are no requirements on the necessity to include the financial statements of the local political party organisations and mass media founded by political parties in their income and revenue statements or property statements. In practice political parties prepare financial statements that are related only to their activities, while the local organisations with the status of legal entities and mass media founded by political parties keep their own books which are not reflected in the financial statements generated by political parties. The form established for the statements on the use of funds of non-profit organisations and institutions does not envisage the disclosure of the information on the donators. Such statements contain only the information on the general value of the non-repayable financial aid and voluntary donations for the charter purposes, the scope of revenues from the main activities etc. **Thus, the accounting principles established for political parties do not meet the principles of the Common Rules Against Corruption. To this regard it would be advisable (1) that the Law on Political Parties in Ukraine define such concepts as “a connected entity”, “control” (“entity controlled by a political party”); (2) that the statements to be prepared by political parties be unified – political parties should be required to prepared one consolidated income and expenses statement to include information related to the relevant political parties and the entities controlled thereby as concerns their income sources, their values, type of incomes in accordance with the classification established by the Law on the Corporate Income Taxation, information on the donators that made donations exceeding the amount set by the legislation; the purposes for which the relevant political party has used the funds, including the state funds provided to finance its charter activities; the property currently owned by the political party; and the party’s current tax liabilities; (3) that the form of the above consolidated financial statement be set by a joint order of the State Tax Administration (STA) and the Ministry of Justice (MoJ); political parties should also no longer be required to submit statements on the expenses of non-profit organisations and institutions; and (4) a certain periodicity is established for the submission of the above statements to the relevant oversight authorities (the STA, the Main Control and Audit Office, the MoJ), e.g. once per three months with the accrued results by the end of the period under report.**

74. Article 13 of the Common Rules Against Corruption recommends that states should require political parties to present the accounts regularly and at least annually to an independent authority, and also to make such accounts public. **The Law on Political Parties in Ukraine does not require that political parties take initiative to submit their income and expenses statements, property statements, and statements on the use of the state funds to the MoJ which can get such statements only upon its request.** The Law on Political Parties in Ukraine requires that political parties annually publish statements on their incomes and expenses, a property statement, and a report on the use of state funds provided to finance their charter activities. At the same time, **the Law sets no deadline for the publication of such documents (except for the report on the state funds which shall be published before 1 April of the year following the one under report), just like it does not require political parties to notify the MoJ of the publication of such statements,** which makes it more complicated to supervise the observation of the relevant requirements of the Law. It is demonstrative that in 2007 only eight political parties (according to the official MoJ website) took the initiative to notify the MoJ on the publication of their income-expense statements and property statements. The authors of this study have not found any signs of the above documents on the websites of any of the registered political party, excluding *Yabluko* (and even that report is for 2004). It should also be noted that the Law on Political Parties in Ukraine does not establish proportionate sanctions for the failure to publish the financial statements: according to Article 19 of the Law on Political Parties in Ukraine, only one of two sanctions can be applied – a warning on the avoidance of unlawful actions or prohibition of a party. **Thus, it would be advisable to amend the Law on Political Parties**

in Ukraine in order to envisage the following: 1) political parties shall be required to submit financial statements (or a consolidated financial statement should such statements be unified) on a regular (annual) basis to the relevant authority monitoring the financial activities of political parties by 1 April of the year following the one under report; 2) clear deadlines should be established for the political parties to publish their financial statements (concurrently with the submission of such statements to the monitoring authority or upon their consideration and approval by such an authority); 3) sanctions should be established for the delayed submission of financial statements to the monitoring authorities, for the incompliance with the forms established for such statements, submission of untrue information, and delayed publication of the financial statements in the media; 4) political parties should be required to notify the monitoring authorities of the publication of their financial statements within five days upon such publication; and 5) monitoring authorities should publish the financial statements received from political parties on their official websites.

75. Article 14 of the Common Rules Against Corruption recommend introduction of independent monitoring in respect of the funding of political parties and electoral campaigns. In Ukraine, this recommendation **has been only in relation of electoral campaigns monitored by relatively independent bodies**, i.e., by the Central Election Commission (in the national elections) and the relevant territorial election commissions (in local elections). Funding of the charter activities of political parties not related to their participation in elections is monitored by three public authorities, namely the MoJ, the Main Control and Audit Office (MCAO) (as concerns the scope of state funds provided to fund the charter activities of political parties and the purposes for which such funds are used), and the Accounting Chamber (AC) (for the same purpose as the MCAO). **Out of the above authorities, only the AC can be described as independent, while the MCAO and the MoJ are part of the system of central public executive authorities which makes it impossible to define their monitoring as independent. Moreover, the MoJ has no specialised office to audit financial statements of political parties. At the same time, the transfer of monitoring functions from the MoJ to the MCAO would not correspond to the purpose of the MCAO which controls only the use of the state funds, while the transfer of the same functions to the AC would run counter the Ukrainian Constitution, as according to Article 98 of the Constitution, the AC is in charge of supervising the inflow and use of state funds (contrary to Lima Declaration of Guidelines on Auditing Precepts). In this context, fulfilment of the recommendation done in Article 14 of the Common Rules Against Corruption requires (a) either revision of the AC's constitutional tasks in order to enable it to exercise independent monitoring of the political party finance (for this purpose, Article 98 of the Constitution needs to be amended); (b) or establishing a specialised unit for monitoring political party finance within the MoJ (this will not, however, ensure independence of such monitoring); and (c) delegate the powers to monitor political party finance to an independent anticorruption authority (the Anticorruption Bureau or any other similar body to be set up).**
76. Article 16 of the Common Rules Against Corruption recommend that states should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions. The issues related to the effectiveness, proportionality, and dissuasiveness of sanctions established for the violation of the rules set for the funding of election campaigns are considered in Paragraphs 68, 70, and 71 of this report. Today, individual violations of such rules either do not result in any punishment for the violators, or the sanctions are not proportionate to the violation (and/or not effective and dissuasive enough). Sanctions envisaged the Law on Political Parties in Ukraine are also not sufficient enough. It has already been mentioned that the Law establishes four main sanctions for the parties that violate the rules of finance: warning on

prevention of illegal activities; prohibition of a party; suspension of the state funding of the charter activities of a political party (in case of non-targeted use of the state funding); and termination of the state funding (should a political party fail to submit a report on the use of the state funding by 1 April of the following year). Only the last two sanctions can be described as effective, proportionate and dissuasive, while the first two can hardly be considered to be proportionate. **In such a way, the list of sanctions should be extended and specified. In particular, it seems advisable to do the following: 1) to establish an exhaustive list of grounds for prohibition of a political party (which should include only the activities envisaged by Article 5 of the Law on Political Parties in Ukraine, as well as systematic commitment of the violations for which the relevant political party has been already fined); 2) to introduce a fixed fine for the commitment of any of the established list of violations, in particular in relation to the finance issues (e.g. in the cases when a political party fails to submit or publish its financial statements within the established dates); 3) to specify the grounds for making a warning (for the first-time minor violations not subject to other sanctions); and 4) to extend Article 159-1 of the Criminal Code and Article 212-15 of the Code of Administrative Infringements also to the violations of the political party finance rules (the Criminal Code and the Code of Administrative Infringements should be supplement with the relevant articles).**

III. PROPOSALS ON THE REFORM OF THE FINANCE OF POLITICAL PARTIES AND ELECTORAL CAMPAIGNS IN UKRAINE

1. The Law on Political Parties in Ukraine should be amended in order to ensure an efficient oversight of the political party finance; political parties should start getting state funding after 1 January of the year following the one when the above amendments to the Law on Political Parties in Ukraine come into force.
2. State funding should be provided also to those parties that fail to overcome the election threshold, but get a certain support of the voters (e.g., 2-2.5% with the threshold being 3%).
3. In order to ensure the targeted use of the state funds provided to finance political parties, the Law on Political Parties in Ukraine should be amended in order to ensure that (1) the state funds provided to finance political parties be deposited on the special current account of the relevant political party; (2) no funds received from other sources, i.e. contributions made by individuals and corporations, revenues from the party's main activities, be put into such special account; (3) no funds be transferred from such special account to the election fund account of the political party, its local organisations, candidates in local elections or presidential candidates nominated by the political party; and (4) the inflow and use of the funds on the special account opened for the state funds provided to finance the relevant political party be accounted separately.
4. In the Law on Political Parties in Ukraine (Article 12), the notion of the "charter activities of the political parties" should be defined in more detail with the list of the possible types of such activities; the terminology used in the taxation legislation ("the main activities") and the legislation on political parties ("the charter activities") should be unified.
5. The definition of the "donation to the political party" used in the Law on Political Parties in Ukraine should be brought into compliance with Article 2 of the Common Rules Against Corruption.
6. Should the provisions that allow funding of political parties by legal entities be kept in the Law on Political Parties in Ukraine, there a need to prohibit that political parties be funded by the companies which, even though without state-owned stakes, supply works, goods, and services for the state needs.

7. The Law on Political Parties in Ukraine should restrict the donations that can be provided from one person as a lump sum, or, which would be more preferable, the total amount of donations from one person over an established period of time (e.g. one year).
8. The Law on Political Parties in Ukraine should contain definitions of such notions as “the person affiliated with a political party”, “control” that can be modelled on the relevant definitions offered by Article 1 of the Law on Protection of Business Competition.
9. The Law on Political Parties in Ukraine should extend the rules on political party finance and accounting to the connected and controlled entities (as required by Article 6 of the Common Rules Against Corruption).
10. The current election laws make it possible for legal entities to indirectly fund elections, including through election funds, even though such funding is formally prohibited by the election laws. The following solutions can be used to deal with this problem: 1) contributions made by legal entities should be deposited on a separate current account of the relevant political party; it should be prohibited to transfer any funds from this account to other current accounts of the political party, to the accounts of its local organisations (excluding the accounts opened for depositing this kind of funds), to the account of the election funds of the such political party or its candidates; the relevant amendments can be made to the Law on Political Parties in Ukraine; 2) the election laws and the Law on Political Parties in Ukraine should be amended in order to allow legal entities to make contributions to elections funds; at the same time, the transfers of the legal entity contributions from the current account of a political party to the election funds should be limited; in addition, a lump sum contribution by a legal entity to the election fund and the total value of the contributions from one legal entity to the election fund over a certain period of time established for the election campaign should also be restricted; and 3) the Law of Political Parties in Ukraine should be amended with provisions prohibiting legal entities to fund political parties.
11. The election laws should directly indicate whether the value established for one contribution from an individual is the total amount of all contributions that can be made by such an individual, or whether it concerns only one-off transfers. In the latter case, the total amount of contributions to the election funds from one individual in the period between the opening of the relevant account and termination of cash flow should be limited.
12. The Law on Parliamentary Elections should be amended in order to cut down the allocations for the parliamentary campaign by, for example, establishing certain limitations on the political advertising on TV and radio, or by limiting the maximum amount of expenses from the election fund in parliamentary elections.
13. It would be advisable to unify the criteria established by the election laws for the definition of the scope of expenses that can be taken from the election funds for different kinds of elections.
14. The election laws should establish a clear list of the purposes for which election funds can be used. The list of allowed expenses should also include the salaries (political party activists, trainers etc) under employment or civil law agreements.
15. The election laws should require not only submission of financial statements on the formation and use of election funds, but also that political parties (local political party organisation) provide the relevant election commissions with the records of all their expenses made from their current accounts after the official beginning of the election process and until the opening of the election fund account of a political party (local political party organisation) that participates in the elections or the election fund of the account held by the bloc to which such political party (local political party organisation) belong. Such statements can be filed either separately, or in a consolidated form and should include the record of the expenses made from the election funds and current accounts. Election commissions should be endowed with sufficient powers to check the reliability of the

- information on all such expenses after the official beginning of the election process and until the date when the relevant political party opens its election fund account.
16. The CEC and TECs have no proper access to the information on the expenses made by political parties not from the election funds, but from their own accounts while getting ready to the elections. This problem can be solved (a) either by prohibiting election subjects and their local organisations to make any expenses from their current accounts after the election fund accounts are open and until the ballot day; or (b) by granting the CEC and TECs access to the information on the cash flow on the current accounts of political parties in the period between the opening of election fund accounts and until the ballot day.
 17. The CEC and TECs do not cover with their oversight the indirect expenses of the election participants which support their campaigning with their property, equipment etc, which is allowed by the election legislation, but is outside the state supervision. The election laws should require inclusion of such indirect expenses into the election financial statements.
 18. The election laws should clearly define the concept of the “campaign expenses”; this will enable oversight authorities to classify the relevant allocations done individuals and legal entities outside the election funds as illegal and apply the relevant sanctions to the violators.
 19. The election laws should be supplemented with the section on Liability for Violation of the Election Legislation to establish proportionate sanctions for legal entities that break the rules set for funding participation of political parties and candidates in elections (as it is done in many other European countries).
 20. The Law on TV and Radio Broadcasting or the relevant sections of the elections law should establish liability of the media for airing political advertisements without them having been paid for from the relevant election funds.
 21. The Law on Parliamentary Elections should require mandatory publication of the election-related financial statements of political parties and blocs.
 22. The election laws (and not CEC resolutions) should establish a list of requirements to the financial statements on the inflow and use of money from the election funds, in particular a list of the expenses to be mentioned in such statements in accordance with the definition of the concept of “the campaign expenses”, a list of transfers to be reflected in such reports, including from the persons that have made donations exceeding the established amount (with the disclosure of information on such persons).
 23. The CEC Law and the election laws should require that the CEC publish the financial statements submitted by the election subjects on the CEC official website.
 24. The election laws should require that the financial statements be published not only after the elections, but also some time before the ballot.
 25. The Law on Local Elections should require that the relevant TECs provide the CEC with the financial statements of the local election subjects to publish them on the CEC official website within the dates established by the Law for the publication of such reports in the local and regional printed media.
 26. The Code of Administrative Infringements and the Criminal Code should establish liability of the election fund managers for the failure to submit or delayed submission of the financial statements to the CEC (for national elections) or TECs (for local elections).
 27. The Code of Administrative Infringements (for individual election candidates) or a special section in the election laws (for individual candidates, political parties, bloc, local political party organisations and their blocs) should establish liability for the violation of the rules set for the funding of electoral campaigns by the election subjects. The relevant sanctions shall be effective, proportionate, and dissuasive and envisage, for example, a fine that would be multiple of the amount of illegal used funds. Cancellation of registration as a sanction should be established for the most essential violations of the finance rules.
 28. The accounting principles established for political parties do not meet the principles of the Common Rules Against Corruption. To this regard it would be advisable (1) that the statements to be prepared by political parties be unified – political parties should be required

to prepared one consolidated income and expenses statement to include information related to the relevant political parties and the entities controlled thereby as concerns their income sources, their values, type of incomes in accordance with the classification established by the Law on the Corporate Income Taxation, information on the donators that made donations exceeding the amount set by the legislation; the purposes for which the relevant political party has used the funds, including the state funds provided to finance its charter activities; the property currently owned by the political party; and the party's current tax liabilities; (2) that the form of the above consolidated financial statement be set by a joint order of the State Tax Administration (STA) and the Ministry of Justice (MoJ); political parties should also no longer be required to submit statements on the expenses of non-profit organisations and institutions; and (3) a certain periodicity is established for the submission of the above statements to the relevant oversight authorities (the STA, the Main Control and Audit Office, the MoJ), e.g. once per three months with the accrued results by the end of the period under report.

29. The Law on Political Parties in Ukraine should be amended to envisage the following: 1) political parties shall be required to submit financial statements (or a consolidated financial statement should such statements be unified) on a regular (annual) basis to the relevant authority monitoring the financial activities of political parties by 1 April of the year following the one under report; 2) clear deadlines should be established for the political parties to publish their financial statements (concurrently with the submission of such statements to the monitoring authority or upon their consideration and approval by such an authority); 3) sanctions should be established for the delayed submission of financial statements to the monitoring authorities, for the incompliance with the forms established for such statements, submission of untrue information, and delayed publication of the financial statements in the media; 4) political parties should be required to notify the monitoring authorities of the publication of their financial statements within five days upon such publication; and 5) monitoring authorities should publish the financial statements received from political parties on their official websites.
30. Fulfilment of the recommendation done in Article 14 of the Common Rules Against Corruption requires (1) either revision of the Accounting Chamber constitutional tasks in order to enable it to exercise independent monitoring of the political party finance (for this purpose, Article 98 of the Constitution needs to be amended); (2) or establishing a specialised unit for monitoring political party finance within the MoJ (this will not, however, ensure independence of such monitoring); and (3) delegate the powers to monitor political party finance to an independent anticorruption authority (the Anticorruption Bureau or any other similar body to be set up).
31. The list of sanctions should be extended and specified. In particular, it seems advisable to do the following: 1) to establish an exhaustive list of grounds for prohibition of a political party (which should include only the activities envisaged by Article 5 of the Law on Political Parties in Ukraine, as well as systematic commitment of the violations for which the relevant political party has been already fined); 2) to introduce a fixed fine for the commitment of any of the established list of violations, in particular in relation to the finance issues (e.g. in the cases when a political party fails to submit or publish its financial statements within the established dates); 3) to specify the grounds for making a warning (for the first-time minor violations not subject to other sanctions); and 4) to extend Article 159-1 of the Criminal Code and Article 212-15 of the Code of Administrative Infringements also to the violations of the political party finance rules (the Criminal Code and the Code of Administrative Infringements should be supplement with the relevant articles).