



Groupe d'Etats contre la corruption  
*Group of States against corruption*

**DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS**  
**DIRECTORATE OF MONITORING**



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## **Third Evaluation Round**

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

(Theme II)

Adopted by GRECO  
at its 49<sup>th</sup> Plenary Meeting  
(Strasbourg, 29 November – 3 December 2010)

## I. INTRODUCTION

1. Armenia joined GRECO in 2004. GRECO adopted the Joint First and Second Round Evaluation Report (Greco Eval I-II Rep (2005) 2E) in respect of Armenia at its 27<sup>th</sup> Plenary Meeting (6-10 March 2006). The aforementioned Evaluation Report, as well as its corresponding Compliance Reports, are available on GRECO's homepage (<http://www.coe.int/greco>).
2. GRECO's current 3<sup>rd</sup> Evaluation Round (launched on 1 January 2007) deals with the following themes:
  - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption<sup>1</sup>, Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
  - **Theme II – Transparency of party funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).
3. The GRECO evaluation team for Theme II (hereafter referred to as the "GET"), which carried out an on-site visit to Armenia from 19 to 21 May 2010, was composed of Mr Adrian MORARU, Deputy Director, Institute for Public Policy (Romania) and Mr Remco NEHMELMAN, Associate professor in Constitutional Law, University of Utrecht (Netherlands). The GET was supported by Ms Sophie MEUDAL-LEENDERS and Ms Tania VAN DIJK from GRECO's Secretariat. Prior to the visit the GET experts were provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2010) 4E, Theme II), as well as copies of relevant legislation.
4. The GET met with officials from the following governmental organisations: Ministry of Justice, Ministry of Finance, State Revenue Committee, Central Electoral Committee, as well as with representatives and accountants of the five major political parties: Republican Party, Prosperous Armenia, Rule of Law Party, Armenian Revolutionary Federation and Heritage Party. Finally, it met with representatives of Transparency International, "The Choice is Yours" NGO, the *Deutsche Gesellschaft für Technische Zusammenarbeit* (GTZ), the Yerevan Press Club and the Association of Accountants and Auditors of Armenia.
5. The present report on Theme II of GRECO's 3<sup>rd</sup> Evaluation Round on Transparency of party funding was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the report is to evaluate the effectiveness of measures adopted by the Armenian authorities in order to comply with the requirements deriving from the provisions indicated in paragraph 2. The report contains a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to Armenia in order to improve its level of compliance with the provisions under consideration.
6. The report on Theme I – Incriminations, is set out in Greco Eval III Rep (2010) 4E, Theme I.

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<sup>1</sup> Armenia ratified the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191) on 9 January 2006. These instruments entered into force in respect of Armenia on 1 May 2006.

## II. TRANSPARENCY OF PARTY FUNDING - GENERAL PART

### Definitions

7. According to Article 3 of the Law of the Republic of Armenia on Political Parties (hereafter “LPP”), a political party is defined as a “non-governmental association formed on the basis of individual membership, the activity of which is aimed at participating in the political life of society and the State”.
8. Political parties acquire legal personality following their registration in the state register of legal entities. They may hold the rights and obligations corresponding to the goals of their activity.

### Registration of political parties

9. A political party seeking registration has to submit the following documents to the State Registry of the Ministry of Justice, which is the authority responsible for registration, within three months following the holding of the party’s founding assembly: (1) an excerpt of the minutes of the founding assembly including information on the establishment of the party, its territorial coverage, the approval of its statutes and programme, details about the persons responsible for state registration within the party, as well as about its governing and supervisory bodies; (2) the statutes and programme of the party, signed by the authorised persons; (3) the application for registration, signed by the members of the governing body of the party and including their passport details and place of residence; (4) the address of the party’s governing body; (5) a copy of the periodical press in which information on the time and venue of the party’s founding assembly was published and (6) the document attesting payment of the registration fee (Article 13(3), LPP). The State Registry has to accept or reject the application within one month of its submission. If it finds small irregularities in the application, it may ask the party to correct them. If the irregularities are more serious, it rejects the application.
10. Changes in party statutes and political programmes have to be registered but do not entail the need for the party to apply anew for registration.
11. At the moment of registration, a party has to have at least 200 members and regional subdivisions in at least one-third of the 11 *Marzes* (provinces) of Armenia, including Yerevan. Six months at the latest after its registration, the party has to have at least 2000 members and regional subdivisions in all *Marzes*, including Yerevan, with not less than 100 members in each *Marz*. The party is required to notify in writing the registration authority about the fulfilment of these conditions (Article 5, LPP). A party may also form structural subdivisions, except within state and local self government bodies, armed forces, law enforcement bodies, schools and educational institutions. A party may have representations abroad, but its governing bodies, territorial and regional subdivisions must be located in Armenia (Article 5, LPP).
12. The state register of political parties contains the party’s name, address, date of registration, as well as the names, addresses and identification numbers of its head and founders. This information is accessible free of charge to the public upon written request or on internet.
13. As of February 2010, there were 74 registered political parties in Armenia, two of which were engaged in a liquidation process.

## Overview of the electoral system and participation in elections

14. All citizens who have reached the age of 18 years have the right to vote.
15. Armenia has a unicameral Parliament, the National Assembly, with 131 members elected through popular vote for a five-year term; 90 seats are filled by proportional vote on nation-wide party or coalition lists; 41 seats are filled by direct majority vote, one from within each of the 41 constituencies. Each voter is entitled to one proportional and one majority vote. Candidates running in the parliamentary elections<sup>2</sup> must be at least 25 years old and must have had Armenian citizenship<sup>3</sup> and permanent residence in the country for at least five years.
16. Candidates to the proportional vote may only be nominated by political parties and party coalitions on a list of candidates, which must be registered with the Central Electoral Commission (hereafter CEC). An electoral deposit of 2,500 times the minimum salary<sup>4</sup>, that is AMD 2.5 million (approximately EUR 5,000) must be paid, which is returned to the party or coalition after the elections if the list receives at least one mandate. If this is not the case, the deposit is transferred to the state budget. The threshold for entering parliament through the proportional voting system is 5% of the total number of votes cast in the case of lists submitted by parties and 7% in the case of lists submitted by party coalitions.
17. Candidates to the majority vote may either nominate themselves or be nominated by political parties and party coalitions. Parties may nominate only one candidate per constituency, who may or may not be a member of the party. Candidacies must be registered with the constituency's Territorial Electoral Commission and an electoral deposit of 1000 times the minimum salary (AMD 1 million, *i.e.* approx. EUR 2,000) must be paid, which is returned to the candidate after the elections if he/she is elected or receives at least 5% of the total number of votes cast. Otherwise, the deposit is transferred to the state budget.
18. The executive branch of power is composed of the President of the Republic and the government. The President of the Republic is elected by popular vote for a five-year term, with a maximum of two terms in office. Candidates wishing to be elected as President of the Republic must have reached the age of 35 years and have been Armenian citizens and permanent residents in the country for at least ten years. Candidates may either be nominated by political parties and party coalitions or be self-nominated. Candidates must also pay an electoral deposit of 8,000 times the minimum salary (AMD 8 million, *i.e.* about EUR 16,000) to the bank account of the CEC. This amount is returned to them after the elections if they receive more than 5% of the total number of votes cast. If this is not the case, the deposit is transferred to the state budget. The presidential elections are held in one single constituency, covering the entire territory of the country; an absolute majority of the votes is necessary to be elected in the first round; if no candidate reaches an absolute majority, a relative majority is sufficient in the second round. The last presidential elections took place on 9 April 2008 and Mr Serzh Sargsyan from the Republican Party was elected.
19. Finally, local elections are held every four years, to elect in two separate elections heads of communities and members of community councils. The political parties do not participate in these

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<sup>2</sup> Members of the Constitutional Court, judges, employees of the Police and National Security Service, employees of tax, customs authorities, employees of the prosecutor's office, members of the military and persons occupying political functions in state and local self-government bodies cannot be elected as MPs. They may however temporarily resign from their post, pending the results of the elections, if they wish to become candidates (Article 97, Electoral Code).

<sup>3</sup> Persons with dual citizenship may not be candidates in presidential or parliamentary elections.

<sup>4</sup> For the purpose of such calculations, the minimum salary is deemed to be AMD 1000.

elections as such, as they are only open to candidates running individually. Every Armenian citizen, who has attained the age of 25 years, has been resident in a given community for at least the last two years, and has the right to vote, can be elected head of a community. Every Armenian citizen, who has attained the age of 21 years, has been resident in a given community for at least the last two years, and has the right to vote, can be elected member of a community council<sup>5</sup>. Candidates may nominate themselves; there is no need for the candidacy to be backed by a number of citizens' signatures. An electoral deposit of a variable amount depending on the size of the community<sup>6</sup> has to be paid into the bank account of the Central Election Commission. This deposit is returned to the candidate if he/she is elected or if he/she receives more than 5% of the votes. Otherwise, the deposit is transferred to the state budget. Both elections are held following a majority voting system. The last local elections took place in 2008.

### Party representation in Parliament

20. The latest parliamentary elections were held in May 2007, with the participation of 23 parties<sup>7</sup>, five of which obtained seats:
- Republican Party of Armenia (HHK, conservative): 65 seats, 41 of which filled by proportional vote and 24 by majority vote;
  - Prosperous Armenia Party (BHK, liberal conservative): 27 seats, 18 of which filled by proportional vote and 9 by majority vote;
  - Armenian Revolutionary Federation Party (ARF, socialist): 16 seats, filled by proportional vote;
  - Rule of Law Party (OEK, centre): 8 seats, filled by proportional vote;
  - Heritage Party (centre, liberal): 7 seats, filled by proportional vote.
21. The remaining 8 seats were filled by independent candidates.

### Overview of the party funding system

22. The rules governing public funding of political parties are contained in the Law on Political Parties of 3 July 2002 and in the Electoral Code of 5 February 1999. At the time of the on-site visit, amendments to both texts were under preparation, in order to improve political parties and election campaigns' legal framework, including on funding aspects.

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<sup>5</sup> Members of the Constitutional Court, judges, employees of the internal affairs, national security, defence and prosecution bodies may not run in local elections (Article 122, Electoral Code).

<sup>6</sup> For communities of up to 5,000 voters, the amount of the electoral deposit is 50 times the minimum salary (AMD 50,000 *i.e.* EUR 100) for candidates to the mandate of community head and 10 times the minimum salary (AMD 10,000 *i.e.* EUR 20) for the mandate of member of community council. For communities of over 5,000 voters, the respective amounts are 100 times the minimum salary (AMD 100,000 or about EUR 200) for community head and 20 times for council member (AMD 20,000 or about EUR 40)(Article 123, Electoral Code).

<sup>7</sup> National Democratic Party (Azgayin Zhoghovrdavarakan Kusaktsutyun), National Consent Party (Azgayin Hamadzaynutyun Kusaktsutyun), National Unity Party (Azgayin Miabanutyun Kusaktsutyun), "Prosperous Armenia" Party ("Bargavach Hayastan" Kusatsutyun), Alliance Party (Dashingq Kusaktsutyun), Heritage Party (Zharangutyun Kusaktsutyun), People's Party (Zhoghovrdakan Kusaktsutyun), "Democratic Way" Party ("Zhoghovrdavarakan Ughi" Kusaktsutyun), "Impeachment" Block ("Impeachment" Dashingq), "Armenian Revolutionary Federation" Party ("Hay Heghaphokhakan Dashnaksutyun" Kusaktsutyun), Democratic Party of Armenia (Hayastani Demokratakan Kusaktsutyun), Youth Party of Armenia (Hayastani Yeritasaradakan Kusaktsutyun), People's Party of Armenia (Hayastani Zhoghovrdakan Kusaktsutyun), Communist Party of Armenia (Hayastani Komunistakan Kusaktsutyun), Republican Party of Armenia (Hayastani Hanrapetakan Kusaktsutyun), Marxist Party of Armenia (Hayastani Marxistakan Kusaktsutyun), Republic Party (Haranpetutyun Kusaktsutyun), United Labour Party (Miavorvats Ashkhatanqayin Kusaktsutyun), United Liberal National Party (Miatsyal Azatakan Kusaktsutyun), "New Times" Party ("Norzhamanakner" Kusaktsutyun), Social-Democratic Hnchakyan Party (Sotsial-Demokratakan Hnchakyan Kusaktsutyun), Christian-Democratic Renaissance Party (Qristonea-Zhoghovrdakan Veratsnund Kusaktsutyun) and "Rule of Law" Party ("Orinats Yerkir" Kusaktsutyun).

## Public funding

23. Direct public funding is distributed to the political parties and party coalitions whose electoral lists have received at least 3% of the total number of votes cast through the proportional voting system during the latest parliamentary elections, in the proportion of the votes they have received. It is provided that the state budget devoted to public funding of political parties must not amount to less than “the product of 0,03 times the minimum salary established by law and the total number of citizens included in the voting lists during the latest parliamentary elections” (Article 27, LPP). The specific amounts are determined annually and the funds are distributed by the Ministry of Finance on a quarterly basis, upon receipt of funding applications by the parties. Public subsidies are provided to political parties and party coalitions to support the funding of their operational activities. There is no specific allowance or costs reimbursement foreseen for election campaign purposes.
24. The authorities submitted the following information on direct public funding of political parties for the period 2007-2009<sup>8</sup>:
- Republican Party of Armenia:
    - o 2007: AMD 53,689,000 (approximately EUR 107,378)
    - o 2008: AMD 27,183,000 (approximately EUR 54,366)
    - o 2009: AMD 27,183,000 (approximately EUR 54,366)
  - Prosperous Armenia:
    - o 2007: AMD 7,139,000 (approximately EUR 14,278)
    - o 2008: AMD 12,129,200 (approximately EUR 24,258)
    - o 2009: AMD 12,129,300 (approximately EUR 24,258)
  - Armenian Revolutionary Federation Party:
    - o 2007: AMD 10,198,100 (approximately EUR 20,396)
    - o 2008: AMD 10,552,900 (approximately EUR 21,106)
    - o 2009: AMD 10,552,900 (approximately EUR 21,106)
  - Rule of Law Party:
    - o 2007: AMD 7,719,000 (approximately EUR 15,438)
    - o 2008: AMD 5,655,000 (approximately EUR 11,310)
    - o 2009: AMD 5,654,000 (approximately EUR 11,308)
  - Heritage Party:
    - o 2007: AMD 2,829,800 (approximately EUR 5,660)
    - o 2008: AMD 4,807,500 (approximately EUR 9,615)
    - o 2009: AMD 4,807,500 (approximately EUR 9,615)
25. Political parties, coalitions and candidates in elections are entitled to indirect public funding through free air time on public TV and radio and the use of halls and other premises free of charge during the election campaigns. According to Article 81(3) of the Electoral Code, candidates to the election for President of the Republic have the right to use 60 minutes of free air time on public TV and 120 minutes of free air time on public radio. This right is extended to political parties and coalitions presenting lists of candidates to the parliamentary elections through the proportional system (Article 113(2), Electoral Code). Moreover, state bodies have to provide, upon request of the relevant Territorial Electoral Commissions, halls and other premises to candidates, political parties and coalitions, free of charge and on the basis of equality of treatment, for the purpose of organising rallies and other election-related activities (Section 1 of the Decision of the CEC No 35-N of 3 August 2005).

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<sup>8</sup> Based on the annual financial reports submitted by political parties to the State Registry of the Ministry of Justice.

## Private funding

26. As regards private funding of the operational activities of political parties, the law prohibits donations from the following sources (Article 25(2), LPP):
- charitable and religious organisations, as well as organisations founded by them;
  - state and local self-government bodies, except for the funding provided by such bodies as referred to above (see paragraph 23);
  - establishments and organisations of state and local self-government bodies, as well as organisations founded with the participation of state and local self-government bodies;
  - state administration institutions;
  - state non-commercial organisations;
  - legal persons registered within 6 months prior to the date of the donation;
  - foreign states, foreign nationals and legal persons, as well as legal persons with more than 25% foreign participation;
  - international organisations and international non-governmental organisations;
  - anonymous donors.
27. The following private sources of funding are allowed to political parties: (1) membership fees, if they are foreseen by the party's statutes; (2) donations from natural or legal persons; and (3) civil law transactions and other proceeds not prohibited by legislation (Article 24, LPP). There are no restrictions on membership fees, nor on the amount/size/periodicity of private donations outside the context of election campaigns.
28. The replies to the questionnaire mention that a draft law containing amendments to the Law on Political Parties has been submitted to the government, which contains some limits on the amount of contributions made per year to political parties by physical and legal persons<sup>9</sup>.

## *Election campaigns*

29. According to Article 25(1) of the Electoral Code, candidates, parties and coalitions have the right to set up pre-election funds for the purposes of funding their electoral campaign and paying the electoral deposit required for registration of their candidacy. Setting-up such pre-election funds is not compulsory. However, as all campaign expenses have to be paid from the funds, most parties and candidates do open them in practice. These funds may be opened after the registration of the candidate<sup>10</sup> or the list at the Central Bank of Armenia – for candidates to the presidential elections – or at other Armenian commercial banks designated by the Central Bank – for candidates in other elections. The election funds may be composed of: (1) personal funds of the candidate; (2) funds provided to the candidate by the political party that nominated him/her; (3) a political party's own funds and (4) donations by natural and legal persons. All contributions to election funds must be made in AMD, in cash or by bank transfer.

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<sup>9</sup> According to the version of the draft law provided at the time of adoption of this report, political parties could receive private donations up to 1 million times the minimum salary per year (AMD 1 billion or about EUR 2 million), including 10,000 times the minimum salary by each natural person or commercial legal person (AMD 10 million or about EUR 20,000) and 1,000 the minimum salary by each non-commercial legal person (AMD 1 million or about EUR 2,000).

<sup>10</sup> Candidates to presidential elections have to submit their application for registration to the Central Election Commission not earlier than 90 days and not later than 75 days before election day. The Central Election Commission must decide upon a candidate's registration within 3 days of submission of the application (Articles 72 and 89, Electoral Code). Candidates to parliamentary elections through the majority voting system have to submit their registration application to the relevant Territorial Election Commission at least 45 days before the elections.

30. For the presidential elections, the amount of personal contributions made to the election fund of a candidate must not exceed 10,000 times the minimum salary (AMD 10 million or about EUR 20,000); funds provided by the political party who nominated the candidate must not exceed 30,000 times the minimum salary (AMD 30 million or about EUR 60,000); voluntary contributions by natural persons must not exceed 200 times the minimum salary (AMD 200,000 or about EUR 400) and voluntary contributions by legal persons must not exceed 500 times the minimum salary (AMD 500,000 or about EUR 1,000) (Article 79, Electoral Code).
31. As regards parliamentary elections, the ceilings of the allowed contributions to election funds of candidates and lists of candidates are 1,000 times the minimum salary for the candidate's personal contribution (AMD 1 million or about EUR 2,000); 2,000 times the minimum salary for contributions to lists of candidates from their political party or coalition (AMD 2 million or about EUR 4,000); 50 times the minimum salary for private donations by natural persons (AMD 50,000 or about EUR 100) and 150 times the minimum salary for private donations by legal persons (AMD 150,000 or about EUR 300) (Article 112, Electoral Code).
32. Finally, as regards local elections, natural persons may donate up to 25 times the minimum salary (AMD 25,000 or EUR 50) to the election fund of candidates and legal persons up to 150 times the minimum salary (AMD 150,000 or about EUR 300) (Decision of the CEC No. 37-N of 3 August 2005).
33. There are no rules or limits regarding donations in kind to political parties and candidates.

#### Taxation regime

34. Donations to political parties by individual donors in cash or in kind may be deducted from the gross income up to the limit of 5% of that income (Article 13, Law on Income Tax).
35. No taxes are due on the sums gathered on election funds.

#### Expenditure

36. Expenditure restrictions only apply in the context of election campaigns, in order to ensure equal conditions between all parties and candidates. Candidates to presidential elections must not spend more than 70,000 times the minimum salary out of their election fund (AMD 70 million or EUR 140,000) (Article 79, Electoral Code). Candidates to parliamentary elections through the majority voting system must not spend more than 5,000 times the minimum salary (AMD 5 million or EUR 10,000), while political parties running through the proportional system must not spend more than 60,000 times the minimum salary (AMD 60 million or EUR 120,000) (Article 112, Electoral Code). During the election campaign period, parties and candidates are only allowed to make expenditure out of their election fund (Articles 79(9), 112(5) and 128(2), Electoral Code).

### III. TRANSPARENCY OF PARTY FUNDING - SPECIFIC PART

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

##### Books and accounts

###### *Political parties*

37. Political parties are subject to the same accounting rules as other legal persons. Pursuant to the Law on Accounting, all legal persons – thus including political parties – registered in the Republic of Armenia are obliged to maintain accounting records (double-entry bookkeeping system) from the moment of their registration. Accounting records – with the exception of records on donations made by natural persons for which there is no retention requirement – are to be kept for a minimum of five years. The head of the executive body of a political party is responsible for ensuring that the books are kept in accordance with the requirements of the Accounting Act (Article 11, Law on Accounting). The party is to prepare an annual financial statement, which is to be submitted to the founders and members of the party (Article 23, Law on Accounting and Article 28, LPP).
38. Further requirements for the annual financial statements of parties can be found in the Law on Political Parties and Order No. 39-N of 31 March 2005 of the Minister of Justice. Political parties are to submit their financial statement to the Ministry of Justice no later than 25 March of the year following the reporting year (Article 28, LPP). Order No. 39-N of 31 March 2005 of the Minister of Justice prescribes that the parties are to record in their financial statement information on donations of natural and legal persons, which includes information on the type of donation, amounts, in cases where the donations exceed AMD 100,000 (approximately EUR 200), the identity of donors as well as more detailed information on certain types of donations (see further paragraph 41 below).

###### *Election campaigns*

39. As indicated above (see paragraph 29), separate pre-election funds are set up in the context of election campaigns (for the presidency, parliamentary as well as local elections). In case of parties, the pre-election funds are to be administered separately from the parties' regular accounts. Pursuant to Article 25 of the Electoral Code, for the purpose of reporting (see paragraph 42 below), candidates, parties and party alliances having set up pre-election funds are explicitly required to record the chronology of all contributions made to the fund (including the names and addresses of donors, as well as the size of donations made to the fund) and expenditure (with date and information on documentation confirming the expenses) up to the day of the elections (when all transactions in respect of the pre-election funds are to cease, pursuant to Article 25(8) of the Electoral Code). To facilitate the recording of and reporting on this information, Decision No. 37-N of the CEC of 3 August 2005 stipulates that donors to a pre-election fund are to indicate on the cash or payment order - in case of legal persons – their name, date of state registration, bank details, portion of foreign funds in their capital and – in case of natural persons – their name, surname, date of birth and passport number. In case the donor does not abide by these stipulations the amount is returned to the donor or, in case this is not possible, transferred to the state. If a bank notices that some information on donors is missing, it is bound to return the donation to them or, if they cannot be identified, to transfer the donation to the state budget.

## Access to accounting records

40. The Law on Freedom of Information does not appear to apply to political parties. However, the LPP does stipulate that political parties shall operate transparently<sup>11</sup>, which, according to the authorities, implies that they should in principle answer the citizens' requests for information.

## Reporting obligations

### *Political parties*

41. As indicated above, pursuant to Articles 20 and 23 of the Law on Accounting and Article 28 of the LPP, political parties are required to submit an annual financial report on their income and expenditure to the Ministry of Justice by the 25<sup>th</sup> of March of the year following the reporting year. Article 28 LPP and the Order No. 39-N of the Minister of Justice of 31 March 2005 prescribe in further detail what items are to be included in this financial report, namely information on:
- the amount and type of monetary donations (which is to include the name and address of the donor, if the donation exceeds AMD 100,000 – approximately EUR 200);
  - the value, type of donation and further details on donated moveable assets (which is to include the name and address of the donor, if the donation exceeds AMD 100,000 – approximately EUR 200);
  - the value, type, address and further information on donated real estate (which is to include the name and address of the donor, regardless of the value of the estate);
  - the value, type and further details on income received from civil law transactions, such as proceeds of leased or sold property;
  - the amount and type of received state funding;
  - different types of expenditure, including salaries, rent, utility payments, acquisition of property and transport;
  - the capital (money, real estate and moveable property) of the party at the end of the year.

### *Election campaigns*

42. Pursuant to Article 25 of the Electoral Code, candidates and parties running for elections are required to submit two declarations about the financial movements on their pre-election funds to the electoral commission that has registered them, the first on the 10<sup>th</sup> day after the start of the election campaign<sup>12</sup> and the second no later than six days after the end of elections. These declarations are to contain:
- information on monetary donations: the chronology of all contributions to the pre-election fund, the first and last names of all contributors, their registered address and the size of their contribution;
  - all expenses made from the pre-election fund, their date and information on documents confirming the expenses;
  - the amount remaining in the pre-election fund (if any).
- During national elections, the aforementioned electoral commissions are to forward the declarations received from candidates, parties and party alliances to the Oversight and Audit Service of the CEC within 3 days of receiving them.

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<sup>11</sup> e.g Articles 8, 22 and 28

<sup>12</sup> According to Article 18 (5) of the Electoral Code, the election campaign starts on the day after the deadline for registration of candidates and parties and ends one day before the voting day. Hence, the campaign for presidential elections starts 74 days before the voting day and the campaign for parliamentary elections starts 44 days before the voting day (see footnote 10).

43. In addition to the declarations made by the candidates, parties and party alliances themselves, the banks where the pre-election accounts have been opened are required to report at least every three days to the appropriate election commission on the contributions made to and the expenses from the candidates' and parties' pre-election funds (Article 25(6), Electoral Code).

#### Publication requirements

##### *Political parties*

44. Article 28 of the Law on Parties requires parties to publish their annual financial report in the media<sup>13</sup> by the 25<sup>th</sup> of March of the year following the reporting year.

##### *Election campaigns*

45. Declarations on pre-election funds – as submitted by presidential candidates and parties and party alliances participating in the National Assembly elections and which have been forwarded by the relevant electoral commissions to the Oversight and Audit Service of the CEC – shall be posted on the CEC's website within three days of receiving them (Article 25, Electoral Code). The declarations of candidates for election running through the majority system, including in local elections, may be made available to the public or the media upon request.

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

##### *Political parties*

46. Neither the Law on Accounting nor any other law provides for mandatory internal control over the finances of political parties. According to the information provided to the GET during the on-site visit, some political parties have requested private audit companies to audit their accounts, but the audit reports were not made public. The Armenian authorities however indicate that the 2009-2012 Action Plan for the Implementation of the Anti-Corruption Strategy foresees a mandatory audit of the financial-economic activities of political parties financed by the state, as well as a voluntary audit of all political parties (upon a decision of the congress or the management body of the party), after every election starting from 2012.
47. As regards external control, the Ministry of Justice, which receives the political parties' annual financial reports, reviews them in order to check that the deadlines for submission were met and that no donations were received from illegal sources (see paragraph 26). If a party fails to submit a report or misses the deadline for submission, the Ministry of Justice forwards the file to the tax authorities, in order for them to apply the corresponding sanctions (see paragraph 51). If an illegal donation was received, the Ministry of Justice asks the party to return it to the donor or, in the case of an anonymous donation, it is transferred to the state budget. The Ministry of Justice does not itself check the accuracy of the reports. However, if it considers that a report is obviously fraudulent, it may refer the case to the prosecution authorities for further action.

##### *Election campaigns*

48. The Electoral Code foresees the creation by the CEC of an Oversight and Audit Service (within the CEC) on the day the election is announced, to monitor the contributions to pre-election funds,

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<sup>13</sup> Either in the public media or in a private print media publishing at least 1,000 copies.

their accounting and use (Article 26, Electoral Code). The Oversight and Audit Service is tasked with checking the declarations submitted to the CEC by the various electoral commissions as regards the pre-election funds of candidates, parties and party alliances participating in national elections (both presidential and National Assembly elections). It is required to check the declarations within 20 days of receiving them and to forward all relevant documentation to the CEC. Pursuant to Decision No. 27-N of 1 February 2007 “On the establishment of an oversight-audit service adjunct to the CEC and on defining the procedure for the formation and activities of the oversight-audit service”, in carrying out its checks, the Oversight and Audit Service is entitled to:

- examine all financial documents available at the electoral commissions;
- request information, statements, copies of documents concerning the contributions to and expenses from the election funds of candidates, parties and alliances of parties, from the banks where the pre-election accounts are held, if considered necessary by the Commission;
- prepare draft decisions on issues related to its activities and recommend their submission for discussion in the CEC;
- participate in the process of drafting legal acts by the CEC during the elections, with a view to providing financial advice.

49. The Oversight and Audit Service is a temporary body, only set up in the context of elections and which works from the day of the announcement of the elections until 45 days after the final result of the elections has been announced. Its staff consists of a head of service, who is a public official appointed by the Head of the CEC, and three contractual employees. The Armenian authorities indicated that current legislation does not foresee any measures, such as rules on incompatibilities or limitations of the number of contracts/secondments, to prevent undue interference with the work of the Oversight and Audit Service.

50. The CEC receives and examines the findings of the Oversight and Audit Service, a summary of which is published on its website. It is a collegial body, currently composed of eight members – one for each of the five political parties represented in the National Assembly, one member nominated by the President of the Republic, two members nominated by high judicial authorities (Article 35, Electoral Code). Current legislation does not foresee any provisions on incompatibilities and prevention of conflicts of interest. During electoral periods, the CEC meets three days a week and reviews the materials submitted by the Oversight and Audit Service. It may request additional information or documents and receive complaints from citizens, although according to the authorities, the latter possibility had never yet been used in practice. It then decides by a majority vote<sup>14</sup> whether or not to apply to the administrative court of first instance for sanctioning a party or candidate that has committed irregularities. Sessions of the CEC are open to the public, the media and NGOs, which may ask to be registered as observers<sup>15</sup>.

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

*Political parties*

51. Both administrative and criminally liability for negligent accounting can be incurred. Fines ranging from 50 to 500 times the minimum salary (AMD 50,000 to 500,000, that is approximately EUR 100 to 1000) can be imposed by the tax authorities upon political parties – and party officials – pursuant to Articles 169(12) and 244(2) of the Code on Administrative Offences for failure to preserve accounting records for the prescribed period of time, for mistakes in the

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<sup>14</sup> By exception to the majority rule, decisions to deny or invalidate a candidate’s registration are taken by a 2/3 majority.

<sup>15</sup> During the 2008 presidential elections, 31 NGOs were registered as observers.

financial statements and failure to submit and publish these statements within the deadline set by the law. These sanctions are imposed by the relevant Head of the State Revenue Committee's territorial unit after an investigation, upon report by the Ministry of Justice about parties having failed to submit their annual report on time. If a political party fails to pay a fine within 15 days of receiving it, the State Revenue Committee may apply to the competent administrative court to request the recovery of this amount from the party.

52. Criminal liability is *inter alia* envisaged for submitting falsified financial statements and tax evasion by parties. However, as the Criminal Code does not provide for criminal liability of legal persons, criminal sanctions can only be imposed upon party officials.

#### *Election campaigns*

53. Pursuant to Article 40(3) of the Code on Administrative Offence, failure of candidates, parties or party alliances to present a declaration on the use of its pre-election fund shall entail a fine in the amount of 100 to 200-fold the minimum salary (AMD 100,000 – 200,000, or approximately EUR 200 to EUR 400). Furthermore the Electoral Code (Article 25), stipulates that if parties or candidates use resources for their campaign other than the pre-election funds, their registration for the elections may be annulled. These sanctions are applied by the administrative courts of first instance, upon application by the CEC.

#### Statutes of limitation

54. The time-limit for imposing an administrative sanction (whether in the context of a party's regular accounting or as regards the use of pre-election funds and declarations thereto in the context of an election campaign) is two months from the date of commission of the offence, or - in case of a continuing offence – two months from the date of disclosure of the offence (Article 37(1), Code on Administrative Offences).
55. The time-limit for imposing criminal sanctions (for falsified financial statements and tax evasion) ranges from five to ten years, depending on the gravity of the offence.

#### Immunities

56. The President and members of the National Assembly, as well as candidates for presidential elections enjoy immunity (Articles 56.1 and 66 of the Constitution). The President may not be prosecuted or held liable for actions connected to his position during and after his/her term in office, but may be held liable for actions unconnected to his position once his/her term in office has expired. The immunity of members of the National Assembly may be lifted, in accordance with the Law on Rules of Procedure of the National Assembly, on the basis of a motion of the Prosecutor General upon a decision adopted by a majority of votes in the National Assembly (provided that more than half of the members of the National Assembly participated in the voting).
57. However, during the election periods, candidates to the presidency can be held administratively or criminally liable upon consent of the CEC (Article 78(5) of the Electoral Code). This consent is to be decided upon by a majority of two-thirds of the total number of votes of the members of the Commission.

## Statistics

58. The Armenian authorities indicate that in 2005, 16 political parties have been fined pursuant to the Code on Administrative Violations for failure to present financial statements in accordance with the procedure defined by law. In 2007, there were 12 such cases and in 2009, a handful of parties again failed to comply with the provisions on the submission of financial statements and proceedings are under way.
59. As regards election campaigns, the Armenian authorities indicate that during the parliamentary elections of 2003, more than 10 candidates for the National Assembly by the majoritarian system have been held (administratively) liable for failure to present a declaration on the contributions to and use of their pre-election funds. In addition, the registration of one candidate was repealed for failure to submit a financial statement. No party or candidate was sanctioned for exceeding the limits of allowed expenses.

## **IV. ANALYSIS**

60. The financing of political parties and election campaigns in Armenia is regulated by the Law on Political Parties of 3 July 2002 and the Electoral Code of 5 February 1999. These texts reflect to some extent the principles of Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and election campaigns, especially as far as election campaigns are concerned. Rules are in place to ensure a degree of regulation of the resources and the expenses of parties and candidates in connection with elections and a system of supervision does exist, with cases in which parties and candidates were actually sanctioned for non-compliance with certain rules. This does not exclude a number of gaps, which will be detailed below. Amendments to both the Law on Political Parties and the Electoral Code have been prepared and – if they are adopted – may well go some way towards removing deficiencies identified in this report. According to the authorities, the draft amendments to the Law on Political Parties were to be submitted to the government by the end of the year 2010. As to the draft amendments to the Electoral Code, at the time of adoption of this report, they were before the Standing Committee on State and Legal Affairs of the National Assembly and were due to be adopted by May 2011. Many interlocutors met by the GET during the visit stressed however that these amendments had been under preparation for quite some time. In this context, the GET urges the authorities to grant priority to this matter and proceed swiftly with the adoption of these amendments.
61. Even though voter turnouts are rather high (e.g 60% in the 2007 National Assembly elections or 70% in the 2008 presidential elections), many of the GET's interlocutors underlined that citizens generally showed low interest in the political debate and were convinced that the party with the most resources and best connections would win the elections, regardless of its ideas or programme and of their vote. Allegations about vote-selling practices were also reported. This view of politics appears to be shared by a number of politicians and the misuse of public resources during election campaigns is an issue that has been highlighted both to the GET and by other observers<sup>16</sup>. The Armenian authorities might wish to introduce or develop civic education programmes, in order to encourage citizens and civil society to become more involved in a healthy political debate.

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<sup>16</sup> See among others Transparency International's report on monitoring of campaign finance of the 2007 and 2008 elections in Armenia: [www.transparency.am](http://www.transparency.am)

62. Public funding of political parties plays a minor role in Armenia. All the parties represented in Parliament – which are the main recipients of direct public funding – reported that the part of public funding in their resources was negligible. Instead, in an economic and social context in which it is difficult for political parties to gather resources from membership fees, political parties in Armenia are heavily dependent on private donations. Some parties are openly financed by wealthy donors and proudly advertise it, thereby giving even more credit to the public's mercantile view of politics. Several interlocutors of the GET stressed that this made it difficult for opposition parties to thrive – all the more so since, allegedly, some opposition parties' donors were subject to unjustified interference by public authorities and broadcast media biased towards parties in power. It was also difficult for new parties to emerge if they were not backed by such wealthy donors. This premium given to the already established and wealthy parties is reinforced by the electoral rules, with the need for substantial financial deposits – EUR 5,000 for candidates to the National Assembly elected by proportional vote<sup>17</sup> and even up to EUR 16,000 for candidates to the office of President of the Republic – to run for elections. Even though the amount of these deposits has been reduced following recommendations by international observers<sup>18</sup>, they may still represent a significant hurdle for the less endowed parties. In this context and although the issue of fairness concerning the criteria for the distribution of state support is outside the scope of the present evaluation, the GET wishes to draw the attention of the Armenian authorities to Recommendation 1516 (2001) of the Parliamentary Assembly of the Council of Europe on Financing of Political Parties according to which state financial contributions should prevent dependence on private donors and enable new parties to enter the political arena and to compete with the more well-established parties.

### *Transparency*

63. Current legislation on the financing of political parties in Armenia offers many opportunities for wealthy donors to legally provide financial support. Although some restrictions do apply to the private funding of political parties' operational activities, such as the prohibition of anonymous or foreign donations, as well as donations from state and local bodies and charitable and religious organisations, which are to be welcomed, there is no limit to the amount of funding that may be received from legal sources or that may be spent, nor to the amount of membership fees. The only caps on private donations and expenses apply in the context of election campaigns, during which candidates to elections have to open pre-election funds at designated banks to finance their campaign. All resources used to finance the campaign – the candidate's personal funds, funds from his/her party and private monetary donations – have to be deposited on this fund and all campaign expenses are made from it. These rules make it possible for political parties to anticipate the receipt of contributions or to delay expenses, as well as to label private contributions as membership fees, in order to avoid the use of the pre-election fund and hereby to circumvent the rules on campaign financing. The Armenian authorities are aware of this gap and are reportedly planning to address this matter by introducing yearly caps on private donations in future amendments to the Law on Political Parties. The GET supports this initiative and recommends **to take measures to prevent the rules on ceilings on private donations and expenses during election campaigns from being circumvented by effecting these contributions and expenses outside the campaign period.**

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<sup>17</sup> 90 of the 131 members of the National Assembly are elected by proportional vote on nation-wide party or coalition lists. The remaining 41 seats are filled by majoritarian vote in single-mandate constituencies.

<sup>18</sup> See Joint Opinion on the Electoral Code of the Republic of Armenia by the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), CDL-AD (2008)023: [http://www.venice.coe.int/docs/2008/CDL-AD\(2008\)023-e.asp](http://www.venice.coe.int/docs/2008/CDL-AD(2008)023-e.asp).

64. Another way for donors to legally support political parties or election candidates is by making donations in kind during election campaigns. Although such contributions are to be recorded in the parties' regular accounts, the Electoral Code does not regulate donations in kind during election campaigns, nor goods and services offered at a discounted price, as it only deals with monetary contributions through pre-election funds. This situation provides obvious opportunities and almost certainly incentives for covert donations to political parties and election candidates; a shortcoming which is recognised by the institution in charge of monitoring election campaigns, including their financing, the Central Electoral Commission (CEC), which proposed, in the framework of planned amendments to the Electoral Code, to reflect in-kind donations at their commercial value in the financial declarations submitted by the parties and candidates to election. The GET strongly supports this idea and recommends **to ensure that donations in kind to political parties and election candidates (other than voluntary work from non-professionals), as well as goods and services offered at a discounted price, are accounted for at their commercial value and included in the declarations on election campaign finances.**
65. As explained above, several of the GET's interlocutors stressed that some political parties were heavily – and even, for one of the political parties that the GET met during the visit, exclusively – dependent on a few wealthy persons, who not only made large donations, but also paid the party's or candidate's campaign expenses. In this context, the GET is convinced that the current legislation fails to address the involvement of third parties (ie entities or individuals outside the party structure) in the financing of political parties and election campaigns, which greatly undermines the transparency of party funding and the level playing field between parties. The GET consequently recommends **to find ways to increase the transparency of contributions by third parties in the financing of political parties and election campaigns.**
66. The phenomenon of third party spending is partly explained by the fact that the expenditure limits during election campaigns appear to be very low, something that was stressed repeatedly to the GET. Unrealistic expenditure limits make it virtually impossible for parties and candidates to carry out an effective campaign by using (and reporting) only funds which fall within the expenditure limits set by the law. Too low expenditure limits actually have an adverse effect, encouraging underreporting and use of the loopholes referred to above and contribute to a general mistrust by the public regarding the published documents on party and campaign financing. Again, the Armenian authorities are aware of this problem and are planning to increase the expenditure limits during election campaigns, an idea which is welcomed by the GET. It therefore recommends **to adjust the current spending limits for election campaigns, in order to encourage political parties and candidates to give a true account of the expenses incurred in connection with election campaigns.**
67. The level of transparency regarding the financing of election campaigns is also affected by the lack of a common format for reporting expenditure. Decision No. 37-N of the CEC, which regulates the reporting on pre-election funds, does not contain any details on the manner of reporting campaign expenditure, nor does it define what categories of expenses must be declared. The GET was informed that as a result, there are great variations regarding the items reported and the level of detail provided, which makes it very difficult, if not impossible, to make any kind of meaningful comparison of the data submitted, especially since the supporting documents are not published on the CEC's website, unlike the declarations themselves. The GET is convinced that transparency would be greatly enhanced if a common format was established, indicating the categories of expenses that should be reported and accompanied by appropriate guidance to political parties and election candidates on the scope of the reporting

requirements. It consequently recommends **to establish a standardised format (accompanied by appropriate guidelines, if necessary) for reporting election campaign expenditure.**

68. Current legislation provides for the publication by the political parties of their annual financial reports and for the publication by the CEC on its website of the declarations submitted by the candidates in presidential elections on their electoral campaign funding, as well as by the lists of candidates to the National Assembly for election by proportional vote. These obligations appear to be generally complied with, thanks to the application of sanctions to the non-compliant parties and candidates. By contrast, the financial declarations of candidates to the National Assembly for election by majority vote, as well as of the candidates in local elections, are not published and are only available to the public and the media upon request. The GET sees no reason for this differential treatment and is of the opinion that transparency of election campaign financing could be enhanced by extending publication requirements, especially to candidates to the National Assembly for election by majority vote and to the candidates to the most important elections at local level. This could be particularly beneficial for local elections, where the situation is rather opaque and where many irregularities reportedly happen. The GET therefore recommends **to ensure that the financial declarations of candidates to the National Assembly for election by majority vote, candidates to the position of head of community and candidates to Yerevan city council are published in a way that provides for easy access by the public.**

### *Supervision*

69. Turning to the internal control of political parties' accounts, the GET encountered a diverse situation among the parties represented in Parliament. Some parties had a very centralised model of financial management, with all resources and expenses being approved at central level and others a decentralised one, with each regional or local unit being responsible for its own budget and reporting periodically to the central level. Some parties did have their accounts verified by private audit companies, on a voluntary basis, but the results of these audits were not made public. Under current legislation, the accounts of political parties in Armenia are not subject to any mandatory audits. However, the GET learned during the visit that the 2009-2012 Action Plan for the Implementation of the Armenian Anti-Corruption Strategy foresees a mandatory audit of the political parties which receive public funding, as well as a voluntary audit of all political parties as of 2012. The GET welcomes this idea and takes the view that a proper auditing of political parties' accounts is an important means of monitoring and could help improve the current supervision of political parties in Armenia. Such a procedure would ideally apply to all parties, however a flexible approach is necessary in order to avoid an unreasonable burden upon the numerous small parties with limited resources and administrative capacity. The GET consequently recommends **to ensure independent and consistent auditing in respect of political parties receiving public funding and, as appropriate, of other parties.**
70. The external monitoring of political parties lies with several distinct institutions, the Ministry of Justice and the CEC being the main actors of the system. The Ministry of Justice receives the political parties' annual financial reports and verifies whether they were submitted within the specified deadlines and whether any illegal donations, e.g. from anonymous or foreign sources, were received. It then forwards the list of non-compliant parties to the State Revenue Committee, which can carry out investigations, impose fines or apply to the administrative courts for recovery of the fines in case of non-payment by a party. The CEC, for its part, is responsible for the oversight of election campaign funding. It checks through its Oversight and Audit Service, a temporary body established during election periods, the declarations on pre-election funds submitted by candidates, parties and party alliances participating in elections for the President of the Republic and for the National Assembly.

71. The GET takes the view that the supervision model described above suffers from several deficiencies, which manifestly affect the quality of monitoring and enforcement of the rules on political financing as a whole. First, the fact that political parties' annual reports and election campaign declarations are monitored by different institutions, and the lack of coordination between them, prevents any of them from gaining a full picture of political financing. This picture is all the more incomplete as the declarations submitted by candidates in local elections are not subject to any control whatsoever. Secondly, the independence of the monitoring institutions is insufficient. The Ministries of Justice and Finance can hardly be regarded as independent and, while the CEC is an independent body, it is composed of a majority of representatives of political parties, which may result in a lack of a determined and proactive approach towards supervision. The first stage of the supervision is carried out by the CEC's Oversight and Audit Service, which is composed of four seconded public officials. There are no measures in place, such as rules on incompatibilities or limitations of the number of mandates, to prevent conflicts of interest and undue interference in the work of the Oversight and Audit Service, nor of the CEC itself. Thirdly, the Oversight and Audit Service, which is only a temporary body established in election periods, clearly lacks sufficient professional staff and financial resources to go beyond a mere formal check of the documents submitted by the parties and candidates, all the more as it has to verify the declarations on pre-election funds within 20 days of their submission. While both the Service and the CEC may request additional information from the parties and candidates and are vested with investigative powers, including access to information from other institutions (e.g. banks), the evidence collected by the GET clearly indicates that these powers are hardly used in practice and that no cross-checks are performed to verify the accuracy of the data contained in the declarations. Moreover, the supervisory role of the CEC and the Oversight and Audit Service is restricted to the financial movements on the pre-election accounts. There is thus no possibility for these bodies to assess to what extent election campaigns could have been financed by non-declared funding. Supervision by the Ministry of Justice of the political parties' annual reports is also of a formalistic nature, as the only check performed is whether the requested documents were received within the prescribed deadlines and any further investigation has to be deferred to the State Revenue Committee. Fourthly, the CEC and the Ministry of Justice have no competence to impose administrative sanctions. Against this background, the GET is convinced that the arrangements for the supervision of political parties and election campaigns in Armenia need to be thoroughly reviewed. The GET therefore recommends **to ensure that an independent and integrated mechanism is in place for the monitoring of the funding of political parties and electoral campaigns, and that it is given the mandate, the authority and the financial and staff resources to effectively and pro-actively supervise such funding, to investigate alleged infringements of political financing regulations and, as appropriate, to impose sanctions.**
72. Another issue of concern is the lack of information available to the public on the results of financial monitoring of political parties and election campaigns. Publicity measures are in place regarding the information submitted by the parties and candidates themselves, which are posted on the CEC's website and, as regards the parties' annual reports, published in daily newspapers. The GET was also pleased to learn that the sessions of the CEC are open to the public and to non-governmental organisations, which may register as observers. However, the only information available to the public regarding supervision itself is a summary of the findings of the Oversight and Audit Service, which is published on the CEC's website. No information is available on the supervision of political parties' annual reports. The GET is convinced that the provision of more information to the public on the actual supervision carried out could be an incentive for more substantial control and at the same time, for compliance by political parties and candidates with the financing rules. The GET recommends **to ensure the publication of and easy access by**

**the public to the results of the supervision of the funding of political parties and election campaigns.**

### *Sanctions*

73. Sanctions are in place for some violations of political financing rules by political parties, responsible persons within the parties and election candidates. These sanctions are of two kinds, either fines of a moderate amount – AMD 50,000 to 500,000 (approximately EUR 100 to 1,000) for failure to preserve accounting records, mistakes in the financial statements or failure to submit or publish financial statements; AMD 100,000 to 200,000 (approximately EUR 200 to 400) for failure to present declarations on pre-electoral funds – or drastic measures, such as cancellation of a candidate/list's registration for the elections if other means than the pre-election fund are used for financing an election campaign. The statistics submitted by the Armenian authorities show that these sanctions, especially fines, are actually applied and that as a result, parties and candidates do comply in practice with the reporting and disclosure requirements contained in the legislation. However, the GET is concerned that not all violations of the political financing regulations are coupled with sanctions: there are for instance no sanctions for donors that exceed the ceilings of allowed donations, nor for parties receiving illegal donations, other than transfer of such donations to the state budget. The GET considers moreover that the existing arsenal of sanctions lacks proportionality, as it consists only of fines or of very drastic sanctions, resulting in the cessation of activity of the party or candidate concerned. Other, more incremental sanctions could usefully be introduced – ideally in the Law on Political Parties and the Electoral Code itself, for reasons of clarity – in order to adequately cover the range and gravity of possible violations of political financing rules. Therefore, the GET recommends **to clearly define infringements of political financing rules and to introduce effective, proportionate and dissuasive sanctions for these infringements, in particular by extending the range of penalties available and by enlarging the scope of the sanctioning provisions to cover all persons/entities upon which the Law on Political Parties and the Electoral Code impose obligations.**
74. Another factor hampering the enforcement of political financing rules is the very low time-limit for imposing an administrative sanction, namely two months from the date of commission of the offence or, in the case of a continuous offence, two months from the date of disclosure of the offence (Article 37(1), Code of Administrative Offences). This limitation period may appear sufficient in the current enforcement system, in which the only sanctions actually imposed concern the failure of a party or candidate to submit the required financial documents and declarations on time. However, a more complete arsenal of sanctions, covering all aspects of the political financing rules, requires a longer limitation period, taking into account the complexity of some of the offences and the difficulties in investigating them. The GET therefore recommends **to increase the limitation period for administrative violations of the Law on Political Parties and the Electoral Code.**

## **V. CONCLUSIONS**

75. The legal framework for the financing of political parties and election campaigns in Armenia reflects to some extent the principles of Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and election campaigns, especially as far as the latter are concerned. Rules are in place to ensure a degree of regulation of the resources and the expenses of parties and candidates to elections and a system of supervision does exist, with cases in which parties and candidates were actually sanctioned for non-compliance with certain rules. This does however not exclude a number of shortcomings, such as the fact that caps on

private donations and expenses only apply during election campaigns, the lack of regulation of donations in kind and goods and services offered at a discounted price during election campaigns, as well as the lack of transparency regarding the involvement of third parties in the financing of political parties and election campaigns. Transparency needs to be enhanced, especially as regards campaigns for local elections and expenditure during election campaigns at all levels. The supervision of the funding of political parties and election campaigns suffers from several deficiencies, in particular a lack of co-ordination between the various institutions involved, a lack of sufficient professional staff and financial resources, insufficient independence and lack of substantial control. The existing arsenal of sanctions only covers some of the violations of political financing rules and lacks proportionality. Finally, the statute of limitation for administrative sanctions is too short, which affects effective enforcement of the rules. The Armenian authorities are aware of many of these problems and amendments to both the Law on Political Parties and the Electoral Code are under preparation, which – if they are adopted – may well go some way towards removing certain deficiencies identified in this report. The GET hopes that this report and the recommendations contained therein will provide a useful contribution to the reform process and urges the Armenian authorities to rigorously pursue the implementation of the recommendations contained in the report.

76. In view of the above, GRECO addresses the following recommendations to Armenia:

- i. **to take measures to prevent the rules on ceilings on private donations and expenses during election campaigns from being circumvented by effecting these contributions and expenses outside the campaign period (paragraph 63);**
- ii. **to ensure that donations in kind to political parties and election candidates (other than voluntary work from non-professionals), as well as goods and services offered at a discounted price, are accounted for at their commercial value and included in the declarations on election campaign finances (paragraph 64);**
- iii. **to find ways to increase the transparency of contributions by third parties in the financing of political parties and election campaigns (paragraph 65);**
- iv. **to adjust the current spending limits for election campaigns, in order to encourage political parties and candidates to give a true account of the expenses incurred in connection with election campaigns (paragraph 66);**
- v. **to establish a standardised format (accompanied by appropriate guidelines, if necessary) for reporting election campaign expenditure (paragraph 67);**
- vi. **to ensure that the financial declarations of candidates to the National Assembly for election by majority vote, candidates to the position of head of community and candidates to Yerevan city council are published in a way that provides for easy access by the public (paragraph 68);**
- vii. **to ensure independent and consistent auditing in respect of political parties receiving public funding and, as appropriate, of other parties (paragraph 69);**
- viii. **to ensure that an independent and integrated mechanism is in place for the monitoring of the funding of political parties and electoral campaigns, and that it is given the mandate, the authority and the financial and staff resources to effectively and pro-actively supervise such funding, to investigate alleged infringements of**

**political financing regulations and, as appropriate, to impose sanctions** (paragraph 71);

- ix. **to ensure the publication of and easy access by the public to the results of the supervision of the funding of political parties and election campaigns** (paragraph 72);
  - x. **to clearly define infringements of political financing rules and to introduce effective, proportionate and dissuasive sanctions for these infringements, in particular by extending the range of penalties available and by enlarging the scope of the sanctioning provisions to cover all persons/entities upon which the Law on Political Parties and the Electoral Code impose obligations** (paragraph 73);
  - xi. **to increase the limitation period for administrative violations of the Law on Political Parties and the Electoral Code** (paragraph 74).
77. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Armenian authorities to present a report on the implementation of the above-mentioned recommendations by 30 June 2012.
78. Finally, GRECO invites the authorities of Armenia to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.