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Evaluation Report on Cyprus on Transparency of Party Funding

(Theme II)

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I. INTRODUCTION

1. Cyprus joined GRECO in 1999. GRECO adopted the First Round Evaluation Report (Greco Eval I Rep (2001) 6E) in respect of Cyprus at its 7th Plenary Meeting (17-20 December 2001) and the Second Round Evaluation Report (Greco Eval II Rep (2005) 3E) at its 27th Plenary Meeting (6-10 March 2006). The afore-mentioned Evaluation Reports, as well as their corresponding Compliance Reports, are available on GRECO's homepage (http://www.coe.int/greco).

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

   - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173), Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).

   - **Theme II – Transparency of Party Funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).

3. The GRECO Evaluation Team for Theme II (hereafter referred to as the "GET"), which carried out an on-site visit to Cyprus on 27-29 October 2010, was composed of Mr Aidan Moore, Assistant Principal Officer, Standards in Public Office Commission (Ireland) and Mr Petras RAGAUSKAS, Senior research fellow, the Law Institute (Lithuania). The GET was supported by Mr Björn JANSON, Deputy to the Executive Secretary of GRECO. Prior to the visit, the GET was provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval III (2010) 6E, Theme I), as well as the pertinent legislation and case law.

4. The GET met with representatives of the following organisations: The Office of the Attorney General, the Auditor General, the Elections Commissioner, the Parliamentary Committee on Institutions, the Parliamentary Committee on Legal Affairs and the Director General of Parliament. The GET also met with representatives of the following political parties: Akel Aristera Nees Dynameis, Kinima Ikologon Perivallontiston, Evroko and Dimokratikos Synagermos. Moreover, the GET met with representatives of the Certified Accountants Association (NGO) as well as representatives of the academia and media.

5. The present report on Theme II of GRECO's 3rd Evaluation Round on transparency of political funding was prepared on the basis of the replies to the questionnaire and information provided during the on-site visit. On 10 February 2011 (ie after the on-site visit), the Political Parties Law 2011 (L.20(I)2011) was adopted by Parliament. The current report takes into account this new legislation, which entered into force on 25 February 2011. The main objective of the report is to evaluate the measures adopted by the authorities of Cyprus 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 Cyprus 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) 9E, Theme I.

II. TRANSPARENCY OF PARTY FUNDING - GENERAL PART

Introduction

Legal framework

7. At the time of the GET's visit to Cyprus, there was no generic legal definition of political parties in law. However, there were several legal texts containing different definitions for particular purposes. According to Section 2 of the Law to Provide for the Right of Political Parties to Acquire, Possess and Dispose of Immovable and Movable Property and Conditions thereof (Law 199/1989), political parties are those represented at the House of Representatives (Parliament) and any organisation, union or group of persons which, according to the meaning attributed to it by an average prudent citizen, having knowledge of the political system in Cyprus, is considered to be a political party, in view of the organisation, structure, institutions, objectives and its impression on the public and provided that, in the last elections to Parliament has secured at least three per cent of the total of valid votes and includes any organisation of youth of a political party. Moreover, according to Section 2 of the Cyprus Broadcasting Corporation Law (Cap 300A), political parties are defined as parties represented in Parliament or an organisation or a union or a group of persons, which, according to the meaning attributed to it by an average prudent citizen having knowledge of the internal political facts in Cyprus and aims at its organisation, structure, institution, objectives and its impression to the public, is considered to be a political party". It is to be noted that these definitions are limited to particular activities of political parties, such as to own, possess and dispose of property or to be granted broadcasting time.

8. The GET was informed that legislative reform in respect of political parties and their financing has been an issue since 2004 when a "private bill" (ie a bill submitted to Parliament by an individual MP, without formal backing from any political party) aiming at regulating political parties in Cyprus was first introduced. A further such attempt was made in 2007. These Bills have been subject to numerous discussions in Parliament and parliamentary committees. At the time of the on-site visit, the Parliamentary Committee of Institutions was dealing with the *"2009 Private Bill"* (draft legislation) entitled *"A Law to Provide for Registration, Funding of Political Parties and other Similar Matters"*. The two main objectives of the *"2009 Private Bill"* were i) to put in place a legal framework for political parties and ii) to regulate party funding.

9. On 10 February 2011, Parliament adopted the "Law Providing for Registration, Funding of Political Parties and other Similar Matters" (hereinafter referred to as *"Political Parties Law 2011" or "PPL").* This law, which entered into force on 25 February 2011 introduces a generic definition of what constitutes a legal party: *"political party' means a union or a group of persons, which cooperates for the formation of the political will of people's and participates in presidential, parliamentary, European and municipality elections, or in any one of these for the purpose of realising its political programme and which operates within the legal framework provided for by the Constitution and the laws of the Republic and includes both parliamentary and non parliamentary parties"* (Section 2 PPL). Moreover, Section 9 PPL establishes legal personality for political parties, limited to the right to sue and to be sued in its own name with a separate legal personality representing all its members.

Registration

10. At the time of the evaluation visit, there was no general requirement to register for political parties. Similarly there was no requirement to be a registered or recognised political party in

order to contest elections. Any party, which by virtue of the old legal definitions was considered a political party, could participate in elections. However, there were party registration requirements for the purpose of parties being able to acquire, possess or dispose of property. Section 5 of Law 199/89 provides that the General Director of the Ministry of Interior is the Registrar and s/he is competent for keeping the Registry of Political Parties. Section 6 of the same law requires that the parties are to file an application to the Registrar in order to be registered. Moreover, according to Section 8 of this Law ("Application for registration"), the registration of a party in the Registry is effected upon a written application of the party, signed by the head of the party or the secretary-general or the president of the administrative board of the party or of its duly authorised representative; the constitution of the political party is to be attached to the application together with the name and emblem of the party; as well as the name and the address of the head of the party, the secretary general or the members of the administrative board of the party.

11. With the adoption of the Political Parties Law 2011, a general obligation upon political parties to register has been introduced. The PPL provides that each political party must apply (through its leader, president or head of the party or through a duly authorised representative(s) and submit the statute) for registration to the Register of Political Parties, which is under the authority of the Commissioner (the Director General of the Ministry of the Interior), The Commissioner issues a certificate as proof of the registration. The registration procedure is simplified in respect of parties already represented in Parliament; these only have to submit their statutes within 3 months from the entry into force of the law in order to be registered.

12. At the time of the GET visit the recognised/registered political parties in Cyprus, according to the legal definitions mentioned in paragraph 7 above were the following:

- AKEL-ARISTERA-NEES DYNAMEIS ("AKEL")
- DIMOKRATIKOS SYNAGERMOS ("DISY")
- DIMOKRATIKO KOMMA ("DIKO")
- EDEK KINIMA SOSIALDIMOKRATON ("EDEK")
- EVROPAIKO KOMMA ("EVROKO")
- KINIMA IKOLOGON PERIVALLONTISTON ("KINIMA PERIVALLONTISTON")
- ENOMENI DIMOKRATES ("EDI").

13. The registered political parties in Cyprus, for the purposes of acquiring, possessing or disposing of property according to Law 199/89, were the following:

- AKEL-ARISTERA-NEES DYNAMEIS ("AKEL")
- DIMOKRATIKOS SYNAGERMOS ("DISY")
- DIMOKRATIKO KOMMA ("DIKO")
- EDEK KINIMA SOSIALDIMOKRATON ("EDEK")

Elections

Presidential elections

14. According to the Constitution of Cyprus (Articles 39 and 40), the President of the Republic is elected by universal direct secret suffrage for a five year term. Voting is compulsory for every citizen over the age of 18. Candidates must be over 35 years of age and would need more than 50 per cent of the votes cast to be elected. If no candidate receives such a majority, the election is to be repeated between the two candidates who received the greater number of votes. The

most recent presidential elections were held in two rounds in 2008. The candidates are to a large degree supported by the parties in their campaigns.

Parliamentary elections

15. According to article 62(1) of the Constitution the number of representatives in the House of Representatives (Parliament) is 50. Out of this number, 35 are to be elected by the Greek Cypriot Community and 15 by the Turkish Cypriot community. However, for the smooth running of Parliament and of the Committees in particular, the House decided in July 1985 to amend the Election of the Members of the Parliament Law of 1979 ("Law 72/79") by adopting Law 124/1985, to increase the seats in Parliament to 80. Of these, 56 (70%) representatives are to be elected by the Greek Cypriot Community and 24 (30%) by the Turkish Cypriot Community, as provided in article 62(2) of the Constitution. Since 1964, Turkish Cypriot members have not attended the House, and no elections have since been held among the Turkish Cypriot community in accordance with the Constitution.

16. Thus, currently the House of Representatives (Parliament) has 56 members elected for a five year term by proportional representation. The number of seats in each constituency coincides with the administrative districts and the seat allocation of the Greek Cypriot community is as follows: Nicosia (21 seats), Limassol (12 seats), Famagusta (11 seats), Larnaca (5 seats), Paphos (4 seats) and Kyrenia (3 seats). In addition, there are 3 observer members representing the Armenian, Latin and Maronite minorities.

17. After a first allocation of the seats given to each constituency between the parties/candidates, in accordance with Section 32 of Law 72/79, there follows a second allocation of remaining seats in accordance with Section 33(2) of Law 72/79) from all constituencies between the independent political parties or coalition of political parties. The allocation of the unused seats takes place between the candidates of the independent parties, coalitions of parties, combinations of independent candidates or independent candidates, who have collected a percentage of 1.8% of the total amount of valid votes, independently from whether they have been credited with any seat during the first allocation. By virtue of Law 72/79, the threshold for a political party to enter the national Parliament in Cyprus is a minimum of approximately 1.8 per cent (1/56) of the total amount of valid votes.

18. The following parties participated in the 2006 Parliamentary elections:

AKEL-ARISTERA-NEES DYNAMEIS ("AKEL")
DIMOKRATIKOS SYNAGERMOS ("DISY")
DIMOKRATIKO KOMMA ("DIKO")
EDEK KINIMA SOSIALDIMOKRATON ("EDEK")
EVROPAIKO KOMMA ("EVROKO")
KINIMA IKOLOGON PERIVALLONTISTON ("KINIMA PERIVALLONTISTON")
ENOMENI DIMOKRATES ("EDI")
EVROPAIKI DIMOKRATIA
KINIMA ELEFTHEROI POLITES
LAIKO SOSIALISTIKO KINIMA
POLITIKO KINIMA KINIGON.

19. As a result of the elections held in 2006, the following parties were represented in the House of Representatives:

AKEL- 18 seats
DISY- 18 seats
DIKO- 10 seats
EDEK- 6 seats
EVROKO- 3 seats
KINIMA PERIVALLONTISTON- 1 seat.

Local and regional elections

20. Local and regional elections in Cyprus are regulated in the Communities Law of 1999 ("Law 86(I)/1999"), as amended, and in the Municipalities Law of 1985 ("Law 111/85"), as amended. According to Law 86(I)/1999, in every community, a council is elected for a period of five years (Section 13) and every member of such a community over the age of 18, who is registered in the relevant community electoral catalogue, has not only the right to vote but is also obliged thereto. Moreover, any person, who has the right to vote and whose name is written in the aforementioned catalogue, is eligible to be a candidate, either for the presidency of the council (if s/he is over the age of 25), or to become a member of the council (if s/he is over the age of 21) (Section 16). The President of the council is elected for a period of five years (Section 17). According to Section 20, the Minister of the Interior shall appoint a General Commissioner and a Deputy General Commissioner in every constituency for the elections. Section 31 explicitly refers to the provisions of Law 72/79 (Parliamentary elections) and provides that these provisions are also to be applied in relation to community elections. Rules on the allocation of seats are provided for in Section 33 and that procedure is similar to the one provided for in Law 72/79 (Sections 32 and 33) concerning the election of the members of Parliament. Similar provisions can be found in Law 111/85 concerning municipalities. Every council is elected for a period of five years and it is composed of the mayor and members (councillors) (Section 12). The right to vote is provided in Section 13 (similar provision as that of Law 86(I)/1999). The elections take place every five years and the Minister of the Interior appoints a General Commissioner of Elections along with a commissioner and a deputy commissioner in every district. Section 31 explicitly refers to the provisions of Law 72/79, which apply and in relation to the municipality elections.

Elections to the European Parliament

21. Elections to the European Parliament are governed in accordance with the Election of the Members of the European Parliament Law of 2004 (Law 10(I)/2004), which contains similar provisions as those just mentioned above. According to Section 23, the provisions of Sections 32 and 33 of Law 72/79, concerning the allocation of seats, do apply also in relation to and/or for the purposes of Law 10(I)/2004. According to Section 13, every citizen of the Republic over the age of 25, who is duly registered in the relevant electoral catalogue, can be a candidate for election. As for citizens of other EU countries, they must also be over the age of 25 and duly registered in the electoral catalogue, provided that the requirements of Section 9 are met. Moreover, Section 27 explicitly refers to the provisions of domestic electoral legislation (including Law 72/79), which apply *mutatis mutandis* for the purposes of Law 10(I)/2004.

Overview of the political funding system

22. The State provides for direct public funding to political parties. Until the adoption of the Political Parties Law 2011, such funding has only been provided to those political parties who are represented in Parliament. With the adoption of this Law (Section 4 PPL) all political parties which are registered, whether represented in Parliament or not, are entitled to some funding from

the state. Moreover, the State provides free airtime to political parties and presidential election candidates during election campaigns. State funds in respect of presidential elections are also distributed to the parties. There is no specific public funding at regional and local levels.

23. There is no official information available as to the level of private funding obtained by the parties. Some unsubstantiated information received by the GET suggests that the amounts of such funding provided to political parties from natural as well as legal persons is considerable, although it may differ between the various parties.

Direct public funding

24. Every year since 1991 public funding has been granted to political parties which are represented in Parliament. Before the adoption of the Political Parties Law 2011, the legal basis for such funding was only to be found in the decision of the Council of Ministers (the Government), which proposes each year how to allocate the funds as a part of the annual budget (under the heading "grant to political parties"), which is subsequently adopted by Parliament as the Annual Budget. The Political Parties Law 2011 provides that registered political parties are entitled to state funding for part of their electoral and operational expenses. Parliamentary parties receive one part of the funding in equal amounts and the remaining part in proportion to the percentage of votes they obtained at the previous parliament elections. The law also provides for the funding of parliamentary and non-parliamentary parties at Parliament, European and municipal elections. Such funding is contingent on a minimum number of candidates being put forward and a minimum number of electoral districts or municipalities being contested.

25. In the 2010 budget (ie prior to the adoption of the Political Parties Law 2011) the total grant to political parties was approximately €4.470.000. This grant was allocated as follows: (a) an amount of €27.000 was allocated to political parties to cover their contributions towards their respective activities linked to the European Union; (b) some €94.000 was allocated as a basic grant to each political party; and (c) the remaining balance of €3.879.000 was distributed in proportion to the results of the 2006 Parliamentary Elections. Moreover, a special additional allowance was provided to political parties, represented in Parliament so as to cover their expenses during the years in which the elections to Parliament and Presidential elections are held. Public funding is provided exclusively to the political parties and never to election candidates. The Political Parties Law 2011 contains some general rules on the criteria for allocating public funding, but no detailed rules regulating how or for what purpose public funds are to be used; this remains an internal matter for the parties. In addition, according to the annual budget, a certain amount is provided to youth organisations of political parties represented in Parliament.

Indirect public funding

26. Indirect public funding is provided to political parties during Parliamentary elections and to candidates in Presidential elections in the form of free air time at Cyprus Broadcasting (CYBC) according to specific rules contained in sections 3 – 5 of the Cyprus Broadcasting Corporation Law (Cap. 300A). No other forms of indirect funding exist under the current law.

Private funding

27. Private funding to political parties and election campaigns was not specifically regulated in Cyprus at the time of the visit by the GET; such funding was allowed without any limits, unless it would amount to criminal activity under criminal legislation (economic crime, corruption etc).

There was no ban on anonymous contributions (although the GET was informed that some parties did not allow such contributions), nor were there any limits as to from where or whom a donation may come (physical persons, legal persons or from abroad etc) and there were no limits in respect of the size of contributions. The GET could not obtain precise information on the scale of private political financing in reality; however, some interlocutors indicated that private funding was considerable in respect of some parties.

28. The Political Parties Law 2011 introduces for the first time in Cyprus regulations in respect of financing of political parties from the private sector. According to this law (Section 5) political parties are entitled to receive lawful private monetary or in-kind contributions, whether "named or anonymous", however, each such contribution may not exceed annually € 8,000 from natural persons, € 20,000 from limited liability companies and € 30,000 from companies listed in the stock exchange. Moreover, Section 5 (3) PPL contains the rule that a political party shall not accept private contributions from any public body or quasi-public organisation, persons or companies participating in or controlling casinos or betting agencies, illegal enterprises or state companies nor from companies controlled by other states. However, the Section 5 (3) PPL also provides that contributions may be received without limits from public bodies in their capacity as sponsors to events organised by parties. Finally, Section 5 (4) PPL contains a rule that notwithstanding the previous provisions on limitations, donations to political parties in general from known or anonymous donators may be permissible where such contributions are deposited in a Special Common Fund of Parliament; such contributions are subsequently to be distributed annually to the political parties in accordance with the electoral percentage of each party.

Taxation

29. According to the authorities, public contributions to political parties are not subject to taxation. Similarly, it appears that private contributions to political parties and election candidates are also not subject to taxation on the part of the receiver. The Political Parties Law 2011 regulates explicitly that neither public funding (Section 4(2) PPL) nor private funding (Section 5 (2)(a) PPL) to political parties are subject to taxation.

30. Donors are not exempt from tax in respect of donations. The only tax-deductible expenses are those relating to the business activities of legal persons.

Expenditure

31. Political parties are not subject to any restrictions in respect of their expenditure (whether linked to public or private funds), except for criminal transactions, such as economic crime. It is to be noted, however, that according to Section 7 of the Political Parties Law 2011, at least 80 per cent of the expenses of political parties must be transferred exclusively via banking institutions and the transfer of their capital to other bodies is prohibited.

32. At the time of the GET visit, according to Law 72/79 on the Election of Members of the House of Representatives, election candidates to Parliament and their electoral representatives were subject to certain limits in respect of their expenses during the election period. Section 48 of Law 72/79 provided that a candidate may only pay for personal expenses made by him/her in relation or due to the election, up to the amount of 300 pounds (513€), and any further personal expenses up to a maximum of 500 pounds (855€) are to be paid for by his/her electoral representative. Payments exceeding these limits were considered illegal, according to Section 49 of the same Law. The limits, however, only applied to expenditure actually incurred by the candidate or his/her electoral representative and did not cover election expenses incurred by the

candidate's party or his/her supporters. The law also provides for submission of returns to the Electoral Commissions in respect of candidates, which is dealt with below ("Transparency…Reporting obligations").

33. The GET was informed on-site that the expenditure limits referred to above were considered unrealistically low and outdated and that according to a draft amendment to Law 72/79 the expenditure limits were to be increased to 5,000€ in respect of candidates "own" spending and to 25,000€ in respect of their additional spending that has to be paid for via the electoral representative. These draft amendments to the Law were adopted on 3 March 2011 (Law 31(I)/2011, which entered into force on 18 March 2011). According to the Law on Election of Members of the European Parliament (Law 10(I)/2004), these principles apply also in respect of candidates to the European Parliament, however, by virtue of Section 27 of this Law, these expenditure limits are 5,000€ and 45,000€ respectively.

34. There are no expenditure limits in respect of local elections. However, the GET was informed that two draft legislative texts were pending before Parliament for adoption. "The Communities (draft amending) Law of 2010" provides that the expenditure limit for a candidate (for the presidency of the community council) would be an amount of 3.000€, whereas the "The Municipalities (draft amending) Law of 2010" provides that the expenditure limit for a candidate (for being a mayor) would vary between 10.000€ and 30.000€ depending on the number of registered voters of the municipality, while the expenditure limit concerning a candidate for being a member of the municipality council would be 3.000€.

III. TRANSPARENCY OF PARTY FUNDING - SPECIFIC PART

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

Accounts, books, reporting and public access to such documents

Political parties

35. There are no additional specific requirements upon political parties to keep proper books and accounts, other than those which would apply generally in respect of any legal entity. The Political Parties Law 2011 does not alter this situation, however, Section 6 PPL provides that political parties' income and expenses are to be audited by the Auditor General, an independent body under the Constitution, in accordance with pertinent accounting standards. Furthermore, the GET was told that political parties, at least those represented in Parliament, do keep annual books and accounts in accordance with general accounting standards.

36. Moreover, political parties, which receive State funding are, according to Chapter 01.04 of the Annual Budget of the Republic of Cyprus 2010, obliged to submit, within three months following the end of the financial year, audited accounts to the President of the House of the Representatives. These accounts are in respect of the public grant only (ie this reporting does not necessarily include the party accounts relating to private financing).

37. At the time of the visit by the GET, there were no obligations upon political parties to make their accounts available to the public. The accounts concerning the parties' public funding (received by the President of Parliament) are not made public either. The GET was told that some political parties make their accounts available to their members and that, occasionally, information from accounts has been made accessible to the wider public by parties.

38. With the adoption of the Political Parties Law 2011 the situation is changed. Section 6 PPL provides a general rule that political parties must publicise a summary of their financial statements (annual accounts) in the daily press. The PPL does not prescribe what form such financial statements or press summaries should take or does not prescribe when they must be published.

Foundations and third parties

39. There are no particular rules concerning the accounting, reporting and public access in respect of third parties or entities connected to political parties.

Accounting and reporting obligations in relation to elections

Political parties

40. At the time of the visit by the GET, there were no separate accounting or reporting rules for political parties in relation to elections. However, also this has been changed with the adoption of the Political Parties Law 2011; Section 6(1) PPL, provides that political parties are to submit a financial statement (in a specific form) concerning their electoral expenses to the Auditor General within 45 days from the date of the election.

Election candidates

41. Law 72/79 (Section 52) provides that the representative of an election candidate, within 3 weeks from the publication of the result of the Parliamentary elections, is to submit a written statement concerning the electoral expenses of the candidate to the Election Commissioner, including the following details:
    (a) The payments made by the electoral representative;
    (b) Personal expenses paid by the candidate;
    (c) Disputed claims, if the electoral representative is aware of them;
    (d) All non paid claims, if the electoral representative is aware of such claims;
    (e) All the money, deeds, and other consideration received by or promised to the electoral representative by the candidate or another person for the purpose of any expenses done or to be done in relation to the election.

42. The statements concerning the electoral expenses are to be signed by the candidate's electoral representative and accompanied by an affidavit or a formal assurance made by the candidate and his/her electoral representative. There is no obligation to make such statements public, however, the Election Commissioner is to keep all the statements and justifications for a period of six months from the date of the publication of the result of the election. These rules also apply in respect of election candidates to the European Parliament. There are no such rules in respect of local elections in Cyprus.

43. It shall be noted that, according to the aforementioned draft amending legislation of Law 72/79, Section 52(3) is proposed to be replaced by a new paragraph (3), according to which the Elections Commissioner shall transmit all submitted statements to a Special Committee, (which will have been appointed by the Council of Ministers, at least two months before the elections) in order for the electoral expenditure to be checked by this Committee. It is also suggested that these statements and all possible comments made by this Committee are to be kept for a period of six months from the date of the publication of the result of the election.

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

Auditing political parties

44. According to Chapter 01.04 of the Annual Budget of the Republic of Cyprus, political parties, which receive state funding, are obliged to submit, within three months following the end of the financial year, audited accounts to the President of the House of Representatives for the amount of the grant. This obligation to provide audited accounts to the President of the House of Representatives only applied to the state funding and not to the parties' general income and expenditure.

45. In respect of the state funding to political parties, external, independent auditors are selected for the auditing of the accounts of political parties. These auditors are to be qualified, pursuant to the provisions of the Company Law ("Cap. 113"). According to Section 155 of this Law, a person shall not be qualified for appointment as auditor of a company unless either (a) s/he is a member of a body of accountants established in the Republic and recognised by the Council of Ministers according to Sections 155C and 155D of the same Law and possesses a valid certification by this body to conduct inspections of annual accounts of companies and inspections of unified accounts of group of companies; or (b) a person who is recognised by the Council of Ministers and for whom Section 155A applies; or (c) a company of accountants, within the meaning of Section 155B, which is recognised by the Council of Ministers. Notwithstanding the above requirements, none of the following persons can be appointed as an accountant of a company: (a) an official or an employee of the company; (b) a person who was an official or an employee of the company during the period when the accounts of the company would have been inspected by this person, (c) a parent, spouse, brother, sister or child of an official of the company; (d) a partner or an employee of an official or an officer of the company; (e) a person who, by virtue of this paragraph, cannot be appointed as an accountant of a subsidiary or a holding company of this company or of a subsidiary of a holding company of this company.

46. Following the adoption of the Political Parties Law 2011 (PPL), the auditing procedure described above has been replaced with a new system in the PPL which provides that political parties' income and expenses are to be audited by the Auditor General. The PPL does not, however, oblige parties to have their accounts audited prior to their submission to the Auditor General, which is established as the supervisory body for political party financing, see below.

Monitoring political parties and election campaigns

47. At the time of the on-site visit, there was no specific body in place in Cyprus with overall responsibility for the monitoring of political financing. However, the authorities referred to three institutions that have different roles in relation to political financing, i.e. the President of the House of Representatives, the Auditor General and the General Commissioner of Elections (including constituency commissioners). The adoption of the Political Parties Law 2011, introduces the Auditor General (State Audit) as a supervisory body in respect of political party financing, see paragraph 49.

48. Firstly, the *President of the House of Representatives* (Parliament) is the authority to which audited accounts concerning state funding must be submitted by the political parties that receive such funding. This control only applies to those political parties that receive state funding. The GET was informed that this exercise is of a formal character as no comprehensive monitoring of these accounts is in place, nor is there a procedure to make the accounts publicly available.

49. Secondly, according to Section 116 of the Constitution of the Republic of Cyprus, the *Auditor General*, which is an independent body, assisted by the Deputy Auditor General, has the power to control, all disbursements and receipts and audit and inspect all accounts of moneys and other assets administered and of liabilities incurred by or under the authority of the Republic and for this purpose s/he has the right of access to all books, records and returns relating to such accounts and to places where such assets are kept. It was explained to the GET that, apart from the general powers to audit state funding in any respect, there was at the time of the on-site visit no specific mandate provided to the State Audit to monitor political financing and moreover, the State Audit has not carried out any such monitoring to date. However, with the adoption of the Political Parties Law 2011, this situation has changed. Section 6 of the mentioned law provides the Auditor General with the specific function to monitor ("audit") political party accounts concerning their regular income and expenses on an annual basis. Furthermore, Section 6 of the same law provides that political parties are to submit financial statements (in a specific form) to the Auditor General within 45 days from the date of the election. The reports of the Auditor General are to be published (Section 6(2)) and in case there is a breach of the provisions of the Political Parties Law 2011 that is to be reported to the Commissioner of the Register of Political Parties.

50. Thirdly, the *General Commissioner of Elections* is a monitoring body (Law 72/79 and Law 10(I)/2004). The General Commissioner of Elections and the Deputy General Commissioner of Elections are appointed by the Minister of the Interior for the whole territory of the Republic. Furthermore, commissioners of elections as well as deputy commissioners are appointed in respect of every electoral district and for the electoral centres abroad, as appropriate. The Commissioners are the institutions to which the representatives of the election candidates are to submit their statements of election expenses following the elections. The GET was informed that during the 2006 Parliamentary elections only 60 per cent of the statements were actually submitted to the election commissioners. All statements were, however, submitted in the 2009 elections to the European Parliament. There is no equivalent monitoring in respect of local elections.

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

51. At the time of the visit by the GET to Cyprus, the only particular sanctions in respect of violations of political financing regulations were those provided for in Law 72/79 in situations where an election candidate to Parliament or the European Parliament exceeds his/her expenditure limits (Section 49) or when such a candidate does not comply with other provisions of the same law (Section 52) to submit the statement of electoral expenses. In respect of these "illegal acts", the law provides for a fine not exceeding €342 or imprisonment not exceeding 6 months or for both these sanctions (section 55 (1)). The same sanctions also apply in respect of election candidates to the European Parliament (Law 10(I)/2004, Section 28). The above sanctions may only be applied in criminal proceedings by a court, following the consent for prosecution by the Attorney General. The GET was informed that these sanctions had never been applied. Although some 40 per cent of the election candidates in the 2006 Parliamentary elections omitted to file their statements concerning electoral expenses, the authorities did not apply any sanctions as the admitted limits, according to the law, were considered obsolete (too low).

52. The Political Parties Law 2011 in respect of political parties introduces *administrative sanctions* for breaches of that particular law. Section 8 of the law provides that the Commissioner of the Register of Political Parties (ie the Director General of the Ministry of the Interior) having received the report of the Auditor General can investigate an alleged breach of the provisions of the Law. The Commissioner must give the party concerned a hearing. If satisfied that a breach has taken

place the Commissioner (with the concurring opinion of the Auditor General) can impose administrative fines (up to € 8.000) upon political parties. In cases of a recurrence of a breach a cut off of part or the whole of the regular funding to a party may be imposed. The decisions constitute an administrative act which is subject to judicial review. The decisions of the Commissioner are to be published in the Official Gazette of the Republic.

53. Moreover, the Political Parties Law 2011 (Section 5(2)) provides for *criminal sanctions* (a fine up to € 10.000) for breaches of the allowed annual monetary limits of contributions to a political party. This sanction may be applied in respect of the contributor as well as the receiver; however, they can only be considered within the framework of a criminal procedure.

Immunities

54. Even though there is no specific provision concerning immunities related to proceedings or sanctions for violating political funding legislation, Article 83 of the Constitution of the Republic of Cyprus provides that a member of Parliament cannot, without the permission of the Supreme Court, be prosecuted, arrested or imprisoned so long as s/he continues to be a Parliamentarian. (According to Article 83, paragraph (2) of the Constitution, such permission is not required for offences punishable with imprisonment of a minimum of five years or in case the offender is caught in the act of committing the offence.) In cases where the Supreme Court refuses to lift the immunity, the enforcement of a sentence of imprisonment imposed on an MP by a competent court is to be postponed until the MP ceases to be a Representative of Parliament.

Statutes of limitation

55. In the legal system of Cyprus, there is no "statute of limitation regime"; limitation periods are not provided for in respect of violations of regulations of political financing.

Practice/statistics

56. The authorities have stated that to date there are no cases/data on proceedings and/or sanctions in respect of illegalities within the framework of political financing in Cyprus.

IV. ANALYSIS

57. The first general elections in Cyprus – presidential, parliamentary and local – were held in 1960 in which both the Greek Cypriot and the Turkish Cypriot communities participated. At the outset (1960) the Constitution provided for 50 parliamentary seats, out of which 35 were to be elected by the Greek Cypriot community and 15 by the Turkish Cypriot Community. However, the Turkish Cypriot community has not participated in the elections since 1964. In 1985 the Constitution was amended and currently, there are 80 seats in Parliament of which 56 are held by Greek Cypriot members and 24 are vacant.

58. Public life in Cyprus is strongly interlinked with the various political parties and the political election system in Cyprus at both parliamentary elections and local level elections is dominated by the political parties as opposed to individual candidates. Political parties are also important at presidential elections. Although the elections for the presidency of the Republic are between individual candidates, the candidates are to a large degree supported by the political parties. Furthermore, political parties represented in Parliament have been receiving considerable state financing since 1991. Despite the important role of political parties in public life in Cyprus, many fundamental aspects of political parties have not been subject to regulations. On-site, the GET

came across a number of shortcomings, for example, that at the time there was no overall definition of political parties, although different definitions occurred for specific purposes, such as in the Law to Provide for the Right of Political Parties to Acquire, Possess and Dispose of Immovable and Movable Property and Conditions thereof (Law 199/1989) or in the Broadcasting Corporation Law (Cap 300A). Another problem was the uncertainty as to what extent political parties in Cyprus held legal personality. Moreover, the regulation of political financing in Cyprus did not go much further than the decision to grant subsidies from the State budget; there were no criteria concerning the allocation of state funding nor as to how it should be used and, there was no substantial monitoring of how such funding was spent. Moreover, the area of private funding of political parties was at the time of the evaluation visit completely unregulated and not subject to any form of transparency requirements. One consequence of this situation was that the proportion of state funding to private funding was not publicly known. However, information received by the GET indicated that political parties engage in their own financial activities and fundraising, and that some parties received considerable contributions from the private sector; however, such information could not be substantiated.

59. The shortcomings described in respect of the legal foundations of political parties and, to some extent, the political financing have been recognised in Cyprus for several years and there have been some attempts to address these matters through so called "private bills", ie bills initiated in Parliament by individual members; however, with no full backing from the Government or political parties. The most recent such attempt was the *"2009 Private Bill"* (draft legislation) with the title *"A Law to Provide for Registration, Funding of Political Parties and other Similar Matters"*. There were two objectives of the *"2009 Private Bill"*: to establish a legal framework for political parties and to introduce some regulations in respect of party funding and its monitoring. The Bill was, at the time of the visit by the GET, subject to discussion in the competent parliamentary committees.

60. On 10 February 2011 (ie after the on-site visit), Parliament adopted a modified Bill as the "Law on Providing for Registration, Funding of Political Parties and other Similar Matters", *"Political Parties Law 2011*" (hereinafter referred to as "PPL"). This law entered into force on 25 February 2011. The Political Parties Law 2011 is no doubt an important achievement as for the first time, a number of fundamental issues have been addressed in law. The PPL introduces a generic definition of what constitutes a legal party and – even more important – the PPL reinforces the notion of legal personality of political parties. The first objective of the "*2009 Private Bill*" – to establish a legal framework of political parties – was thus achieved through the adoption of this law.

61. Moreover, the PPL contains a number of important provisions in respect of the second objective of the "*2009 Private Bill"*, ie to regulate some aspects of political party funding. The GET notes that the adopted regulations differ from the initial proposal of the "*2009 Private Bill"* and the GET recalls that it was informed on-site that it was critically difficult to obtain political consensus in Cyprus for the introduction of party financing regulations, in particular, in respect of the financing coming from the private sector. Nevertheless, the PPL contains criteria for the allocation of state funding as well as some regulations concerning private contributions (donations) to political parties in relation to the particular areas of interest in the current evaluation, ie transparency, supervision and sanctions in respect of political financing. These parts of the PPL will be dealt with in detail under the pertinent headings below.

62. As noted above, an important feature in Cyprus is that political parties have long been entitled to substantial public funding from the State. This financing has, however, been limited only to political parties represented in Parliament and no public funding was provided to the other

parties. Although the issue of fairness concerning the criteria for the distribution of state support is outside the immediate scope of the present evaluation, the GET wishes to commend the authorities on the adoption of the PPL, according to which all registered political parties are to be subject to public funding in relation to their share of votes in the national elections. This new situation in Cyprus is in line with international instruments; the Recommendation 1516 (2001) of the Parliamentary Assembly of the Council of Europe on Financing of Political Parties, which states that financial contributions should, on the one hand, be calculated in ratio to the political support which the parties enjoy, evaluated on objective criteria such as the number of votes cast or the number of parliamentary seats won, and on the other hand should enable new parties to enter the political arena and to compete under fair conditions with the more well-established parties. The relevance of equality of opportunity in the field of public funding of parties or campaigns has also been repeatedly recognised by the Venice Commission; notably the Guidelines for Financing of Political Parties (CDL-PP (2000) 6), Code of Good Practice in Electoral Matters (CDL-AD (2002) 23).

Transparency

63. The provision of state funding to the political parties has until the entering into force of the PPL, been decided in the annual state budget. With the adoption of the PPL there are basic criteria in place for the allocation of the state funds between the parties, however, the level of the total funding remains to be decided in the annual budget. All this information is therefore open to the public. However, there are no rules/criteria as to how state funding is to be used, more than what is stated in Section 4(1) PPL, ie that political parties receive state funding for electoral and operational expenses.

64. In respect of private funding to political parties, the PPL introduces some limitations concerning monetary and in-kind contributions. According to Section 5(3) PPL, a political party is not entitled to accept contributions from public or quasi-public authorities or organisations; nor from persons or enterprises participating in or exercising control over casinos or betting agencies; or illegal enterprises. Contributions can neither be accepted from companies in which the State participates or companies which are controlled by other states. Moreover, the PPL introduces monetary limits on private donations (monetary as well as in-kind donations) according to the following: natural persons can only donate up to € 8.000 annually; limited liability companies up to € 20.000; and companies listed in the stock exchange up to € 30.000. However, should they wish to donate more, they must do so through a "Special Common Fund" held by Parliament, from which the funds are subsequently allocated to the political parties in accordance with the electoral percentage of each political party in the same manner as the rules for state funding. While welcoming the introduction of limits on the amount of donations which may be made, the GET notes that they do not bring transparency as such and that the limits set for the maximum value of donations give room for considerable donations from natural as well as legal persons. The GET notes that although anonymous donations are explicitly permitted in the PPL, no such donations are allowed to be made directly to a political party, but only through a "Special Common Fund", held by Parliament (Section 5(1) in conjunction with Section 5(4) PPL), from which such donations subsequently are to be provided to all political parties, in accordance with the allocation rules of state funding. However, the GET notes that major areas of private funding still remain without any regulation, for example concerning party memberships, loans, fund-raising activities or donations from abroad, except from foreign companies, as noted above. The GET notes with concern that the possibility to accept contributions from any kind of a public body[1] as a sponsor of events organised by the party without any reporting obligations from the

[1] Legal person of public law; state organisations and state companies.

side of the political party still exists. This is clearly against the general principles of Recommendation Rec(2003)4 and the current situation still creates the potential for improper influencing of political parties, without any public control.

65. There is no specific accounting legislation which applies to political parties. Prior to the adoption of the PPL, parties – to the extent that they were considered legal persons – appeared to be covered by the general accounting obligations applying to any legal person. In addition, there was an obligation upon political parties which receive state funding to submit audited accounts of their expenditure of this funding to the President of Parliament, within three months from the end of the financial year. While this requirement applied to the main political parties in Cyprus (those represented in Parliament), a number of other parties were not covered. Furthermore, this obligation to submit audited accounts to the President of Parliament was limited only to that portion of the funding which came from the State; there was no obligation to include the funding from private sources in these accounts. This was a major shortcoming. However, once the PPL becomes effective, the described situation will change. Section 6 PPL, which provides that the financial administration of political parties, including their income and expenses, is subject to annual audit by the Auditor General in accordance with general accounting standards. This implies that all political parties registered in Cyprus will be obliged to keep books and accounts according to general accounting standards in Cyprus. Moreover, the same Section also provides that political parties are to make public a summary of their financial statements and that the Auditor General is to publish the audit report. These provisions represent major progress in terms of the transparency of political party funding in Cyprus. At the same time, the GET notes that the PPL is general in its character and that these rules would need to be complemented with more precise regulations. In this context, the GET notes that not only income and expenditure, as it appears from the PPL, would need to be reflected in the accounts, but for example, also assets and debts of the parties. Furthermore, the accounts need to also reflect the regional and local branches of political parties as well as the so called "third parties" that may contribute financially to the political party, items which are not reflected in the PPL. As mentioned above, the PPL refers to the "financial administration of political parties", however, this wide term does not bring sufficient clarity of what it covers. Moreover, in accordance with GRECO's established practice, it is preferable that the accounts of different political parties follow a similar and coherent structure, to allow for meaningful comparisons. It is commendable that the PPL obliges political parties to publicise a summary of their financial statements in the daily press, however, there are no deadlines foreseen in the law and no precise rules as to what information needs to be publicised as a minimum. In conclusion, the GET is of the opinion that the accounting rules introduced in the PPL provide an important basic framework for party accounting, which needs to be complemented with additional regulations in order to address in an appropriate manner the special features of political parties to keep full and transparent books and accounts in line with the requirements of Articles 11, 12 and Article 13 b. of the Recommendation Rec(2003)4. The GET notes in this respect that Section 10 of the PPL provides for the possibility to complement the PPL with additional regulations. Consequently, the GET recommends **(i) to ensure that all forms of income, expenditure, assets and debts are accounted for by political parties in a comprehensive manner and following a consistent format and that their accounts also include the finances of local branches of parties; (ii) to seek ways of increasing the transparency of the finances of other entities which are related directly or indirectly to political parties or under their control, and (iii) to ensure that the accounting information is made public in a timely and sufficiently comprehensive manner**.

66. As regards the disclosure of donations to the wider public, the GET refers to the standing practice of GRECO which acknowledges the need to protect individuals' legitimate right to integrity and secrecy in respect of their political affiliation; however, these interests need to be

balanced with the legitimate interest of the voters, to know the sources of financial or other in-kind support to a political party or a candidate for whom they might wish to vote. Such a balance may, in line with Article 12 of Recommendation Rec(2003)4, be established through a "threshold", i.e. that donations above a certain value[2] are to be disclosed together with the identity of the donor. Cyprus has no such rules in place. It is true that the same law contains restrictions as to the allowed values that can be donated per year (natural persons up to € 8.000; limited liability companies up to € 20.000; and companies listed in the stock exchange up to € 30.000); however, these levels go much beyond the threshold levels that GRECO has accepted in respect of other member States. In addition, contributions in the form of sponsoring from a public body are not under any restrictions or subject to reporting obligations. In conclusion, the GET is of the opinion that the current situation makes it easy to circumvent the current rules on transparency regarding political financing. As a consequence, the GET recommends **to introduce a general requirement for political parties, elected representatives and election candidates to disclose all individual donations (including of a non-monetary nature and sponsoring) they receive above a certain value together with the identity of the donor.**

67. Turning to election campaigns, the GET notes that neither political parties, nor election candidates are subject to specific rules in respect of the incomes to of their election campaigns, however, political parties' election incomes would be part of their ordinary annual accounting. Some parties provide funding to their candidates' election campaigns and candidates themselves may also fund their election campaigns from other sources. While there are no restrictions in respect of political parties' campaign expenditure, there are limits in respect of candidates' campaign expenditure in relation to elections to the European Parliament (Law 10(I)/2004)) and to national parliamentary elections (Law 72/79), but not for presidential or municipal elections. These spending limits, however, only apply to expenditure actually incurred by the candidate or his/her election agent and do not cover election expenses incurred by the candidate's party or his/her supporters. The GET also notes that political parties are obliged to report such expenses, but not the income within the framework of the specific election reporting, to the Auditor General, according to Section 6(1)a, second paragraph PPL (see also below under "monitoring") and that election candidates are to report their election expenses to the Election Commissioner. While the GET understood that the expenditure limits for candidates in respect of European Parliament elections are considered adequate by the stakeholders concerned and that the accompanying reporting obligation is respected, the GET learned that this had not been the case concerning elections to the national Parliament, where the expenditure limit (approx. €1370 in total per candidate) was considered so low and outdated that a large number of the candidates at the 2006 national Parliament elections did not even bother to submit their reports and many of those reports that were submitted did not cover the "real" campaign expenditure. However, these expenditure limits have, after the GET's visit, been adjusted to reasonable levels (Law 31(I)/2011, which entered into force on 18 March 2011). The GET also notes that the reports relating to such expenditure are not made public, although they may be retrieved at the office of the Election Commissioner. The GET takes the view, firstly, that monetary expenditure limits need to be set at realistic levels (which now appears to be the case); secondly, the limits and reports need to cover all election expenses incurred by various stakeholders and, thirdly, both income and expenditure in relation to election campaigns need to be reported to an appropriate body (this is further dealt with below under "Monitoring") and/or disclosed to the wider public in a timely and transparent way, preferably during the on-going campaign. In the light of the above, the GET recommends **to introduce specific reporting of all income and expenditure relating**

[2] In case there are several donations from the same person, the total amount of the donations should be the decisive amount.

to election campaigns by political parties and election candidates in respect of all types of elections, that such information should include non-monetary or benefit-in-kind contributions received by the party or the candidate and expenditure incurred on the party's or candidate's behalf and that such information should be disclosed to the wider public at appropriate intervals.

Supervision and sanctions

Auditing political parties

68. Before the adoption of the PPL, political parties subject to state funding were only obliged to submit, within three months following the end of the financial year, audited accounts to the President of the House of Representatives in respect of the state funding. According to Section 6 PPL, political parties are subject to a new external monitoring regime under the Auditor General (further discussed under "*External Monitoring…*" below). Having this in mind, the GET reiterates what has been highlighted in previous GRECO reports concerning "internal" independent monitoring, namely that the possibilities for manipulating party and election campaign accounts would decrease and that the credibility of such accounts would be considerably strengthened if the accounts were to be audited by independent auditors. In addition, such audits would also provide a better basis and thus facilitate the subsequent external monitoring of parties' accounts at the level of State control. The GET takes the view that an audit requirement could in principle apply to all political parties registered in Cyprus; however, a flexible approach might be necessary in order to avoid unreasonable burden upon, for example, small parties with only marginal financial resources. The GET therefore recommends **to ensure independent auditing in respect of political parties' books and accounts, as appropriate, prior to their submission for external monitoring.**

External monitoring of political parties and election campaigns

69. Until the adoption of the PPL, the authorities referred to three institutions which had a monitoring role in relation to political financing in Cyprus: (i) the President of the House of Representatives (Parliament) who receives political parties' certified accounting statements concerning state financing; (ii) the Auditor General who, at that time, had no specific mandate to monitor political financing but who is always entitled to control any use of state funds; and (iii) the General Commissioner of Elections (who is appointed by the Minister of the Interior) and commissioners of electoral districts who receive the statements of election candidates' campaign expenses. Following the entering into force of the PPL, which establishes the Auditor General as the external monitoring (audit) body of the financing of political parties in respect of their regular income and expenses and in respect of their electoral expenses, the GET will only focus on this mechanism and on the mechanism of the General Commissioner of Elections, which is still the monitoring body concerning election candidates.

70. The GET welcomes that, following the adoption of the PPL, the Auditor General, who is clearly an independent official/authority, has been given the mandate to monitor the finances of political parties[3]. The GET is also pleased that the audit reports are to be made public. Having said that, the GET notes that the mandate provided to the Auditor General in Section 6 PPL is rather narrow in scope; for example, it is limited to income and expenditure of the regular accounts, but does not explicitly cover, for example, assets, debts or loans, with the wording "financial

[3] The audits of the Auditor General also cover the "Special Common Fund", to which donations exceeding the monetary limits established in Section 5(4) of the Political Parties Law 2011are to be deposited.

administration". Moreover, there are no provisions on deadlines to be respected by the parties for submitting the regular accounts to the Auditor General. Another shortcoming noted by the GET is that at elections only the electoral expenses – and not the incomes – are subject to monitoring. This particular lacuna, which also appeared in the *"2009 Private Bill*", was criticised by the Auditor General's Office during the on-site visit. The monitoring of election candidates' returns is carried out under the remit of the Election Commissioner. As the Commissioner (Director General of the Ministry of the Interior) is appointed by the Minister of the Interior the GET does not consider that s/he could be regarded as sufficiently removed from Government to meet the requirements of independence as envisaged under Article 14 of Recommendation Rec(2003)4. Moreover, this monitoring is limited to the campaign expenses of election candidates at national and European level and its results are not made public. Although the GET would favour a system consisting of one particular body in charge of the supervision of all forms of political financing, as opposed to the current structure, the GET wishes to stress that the new regulations in respect of the monitoring of political parties contained in the PPL represent significant improvements in the system. However, some modalities of this monitoring as highlighted above need further consideration and clarification, which preferably should be carried out in close cooperation with the Auditor General's Office. The GET notes in this respect that Section 10 of the PPL provides for the possibility to complement the law with additional detailed regulations. In view of the above, the GET recommends **(i) to clarify that the monitoring of political parties' annual accounts goes beyond the auditing of incomes and expenditure; (ii) to ensure that income funding an election campaign and all expenditure incurred in relation to the election are accounted for in the statement furnished to the Auditor General at election campaigns and to provide for clear rules for the submission of such statements to the Auditor General; and (iii) to provide an independent supervisory mechanism in respect of election candidates' income and expenditure.**

Sanctions

71. The PPL introduces a range of sanctions in respect of violations of that law by political parties: Section 5 (2) PPL provides that a breach of the monetary limits in respect of donations to political parties constitutes a criminal offence punishable with a fine (up to € 10.000). This sanction, which may be applied against a donor as well as the receiving political party, would require criminal proceedings and a court decision. Furthermore, Section 8 PPL contains administrative fines (up to € 8.000) for infringements of any of the other provisions of the law. Such investigations would be conducted by the Commissioner of the Register of Political Parties on receipt of the report of the Auditor General. The Commissioner is authorised to issue such fines, provided s/he has the agreement of the Auditor General and has given a hearing to the political party. If the breach is a recurrence of a previous breach section 8 of the law provides that a cut off of part or the whole of the regular state funding of the party may be imposed. Again, the GET wishes to commend the authorities of Cyprus for having introduced sanctions – criminal as well as administrative – in order to enforce the rules of the PPL. This is in line with what GRECO has held on several occasions, namely that in addition to ordinary criminal sanctions, which may be cumbersome to apply in practice, more flexible sanctions (such as administrative sanctions that can be applied by the monitoring bodies directly) ought to be introduced in respect of, for example, procedural and less serious violations of the political financing rules, which do not necessarily require a criminal court procedure. The administrative sanctions in the PPL appear to be applicable to almost any violation of the PPL. However, as already stated in this report, the PPL is rather general and does not provide detailed rules in a number of aspects, for example, with regard to the timing for the submission of regular party accounts to the Auditor General or in respect of their obligation to make summary statements of such accounts available to the public, As the PPL is very new legislation it remains to be seen how effective these sanctions will be when applied. In this regard

the GET notes that Section 10 PPL allows for regulations to be passed to better implement the PPL.

72. Sanctions have long been in place for violations of political financing regulations in situations where an election candidate to the national Parliament or the European Parliament exceeds the expenditure limits or when a candidate does not submit the statement of electoral expenses in accordance with the law. In respect of these illegal acts, the law provides for a fine not exceeding € 342 and/or imprisonment not exceeding 6 months. However, such sanctions can only be applied in criminal proceedings by a court of law, following the consent for prosecution by the Attorney General. Apparently, these sanctions have never been applied. The GET was informed that some 40 per cent of the election candidates to the 2006 Parliamentary elections omitted to file their statements of electoral expenses; however, the authorities did not apply any sanctions as the expense limits, provided for in law, were considered out of date and therefore obsolete by the Election Commissioner. The GET is of the opinion that also these rules need to be subject to more flexible administrative sanctions, similar to those provided for in the PPL so that, ultimately, the regime of sanctions in respect of political parties and election candidates become more coherent. The GET recommends **that flexible sanctions be introduced for violations of the legislation concerning the submission of election statements in respect of election candidates.**

V. CONCLUSIONS

73. Public life in Cyprus is strongly interlinked with the various political parties and the political election system is dominated by the parties as opposed to individual candidates. Political parties represented in Parliament have since 1991 been receiving substantial funding from the State, but this funding has not been conditioned with many statutory rules. In addition to public funding, it appears that the dominant political parties also obtain considerable funds from private sources and the longstanding lack of regulation in this respect has been a matter of controversy and concern in Cyprus for many years. With the adoption of the Law on Providing for Registration, Funding of Political Parties and other Similar Matters (*Political Parties Law*) on 10 February 2011, a number of issues in respect of political financing have for the first time been regulated by law in Cyprus. The *Political Parties Law* introduces, *inter alia*, a generic definition of political parties, a coherent party registration regime and makes it clear that political parties are legal persons. Moreover, the *Political Parties Law* provides general criteria for the allocation of state funding and such funding has been extended to also cover parties which are not represented in Parliament. Concerning the funding of political parties by private sources the *Political Parties Law* introduces a prohibitions to contributions from, *inter alia*, public authorities or from foreign companies. Furthermore, donations from natural persons and legal persons are limited to certain monetary values, subject to sanctions. Moreover, the *Political Parties Law* provides the Auditor General with the authority to perform monitoring of political party financing. The Cypriot authorities should be commended for having established this legal framework which clearly represents a step in the right direction. Having said that, the new legislation does not sufficiently address all major areas to provide for sufficient transparency of private funding of political parties as required by Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns. A major shortcoming is that there are no obligations upon political parties to report and make public the sources of private donations including sponsorships. The law is also rather general in character and certain issues, such as accounting requirements specific to political parties and deadlines for submission of accounts and financial statements would require further regulation. The establishment of a monitoring mechanism under the Auditor General is an important achievement; however, the scope of this monitoring needs further clarification, both in relation to the monitoring of parties' regular accounts and the

statements relating to election campaigns. Moreover, the monitoring mechanism of candidates is not sufficiently independent and could well be more aligned with that provided for in respect of political parties. It goes without saying that the new legislation in Cyprus needs to be assessed in terms of its effectiveness, once it has become operational in practice.

74. In view of the above, GRECO addresses the following recommendations to Cyprus:

i. **(i) to ensure that all forms of income, expenditure, assets and debts are accounted for by political parties in a comprehensive manner and following a consistent format and that their accounts also include the finances of local branches of parties; (ii) to seek ways of increasing the transparency of the finances of other entities which are related directly or indirectly to political parties or under their control, and (iii) to ensure that the accounting information is made public in a timely and sufficiently comprehensive manner** (paragraph 65);

ii. **to introduce a general requirement for political parties, elected representatives and election candidates to disclose all individual donations (including of a non-monetary nature and sponsoring) they receive above a certain value together with the identity of the donor** (paragraph 66);

iii. **to introduce specific reporting of all income and expenditure relating to election campaigns by political parties and election candidates in respect of all types of elections, that such information should include non-monetary or benefit-in-kind contributions received by the party or the candidate and expenditure incurred on the party's or candidate's behalf and that such information should be disclosed to the wider public at appropriate intervals** (paragraph 67);

iv. **to ensure independent auditing in respect of political parties' books and accounts, as appropriate, prior to their submission for external monitoring** (paragraph 68);

v. **(i) to clarify that the monitoring of political parties' annual accounts goes beyond the auditing of incomes and expenditure; (ii) to ensure that income funding an election campaign and all expenditure incurred in relation to the election are accounted for in the statement furnished to the Auditor General at election campaigns and to provide for clear rules for the submission of such statements to the Auditor General; and (iii) to provide an independent supervisory mechanism in respect of election candidates' income and expenditure** (paragraph 70);

vi. **that flexible sanctions be introduced for violations of the legislation concerning the submission of election statements in respect of election candidates** (paragraph 72).

75. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Cypriot authorities to present a report on the implementation of the above-mentioned recommendations by 31 October 2012.

76. Finally, GRECO invites the authorities of Cyprus 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.