

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns

*(Adopted by the Committee of Ministers on 8 April 2003
at the 835th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that political parties are a fundamental element of the democratic systems of states and are an essential tool of expression of the political will of citizens;

Considering that political parties and electoral campaigns funding in all states should be subject to standards in order to prevent and fight against the phenomenon of corruption;

Convinced that corruption represents a serious threat to the rule of law, democracy, human rights, equity and social justice, that it hinders economic development, endangers the stability of democratic institutions and undermines the moral foundations of society;

Having regard to the recommendations adopted at the 19th and 21st Conferences of European Ministers of Justice (Varese, 1994 and Prague, 1997 respectively);

Having regard to the Programme of Action against Corruption adopted by the Committee of Ministers in 1996;

In accordance with the Final Declaration and the Plan of Action adopted by the Heads of State and Government of the Council of Europe at their Second Summit, held in Strasbourg on 10 and 11 October 1997;

Having regard to Resolution (97) 24 on the twenty guiding principles for the fight against corruption, adopted by the Committee of Ministers on 6 November 1997 and in particular Principle 15, which promotes rules for the financing of political parties and election campaigns which deter corruption;

Having regard to Recommendation 1516 (2001) on the financing of political parties, adopted on 22 May 2001 by the Council of Europe's Parliamentary Assembly;

In the light of the conclusions of the 3rd European Conference of Specialised Services in the Fight against Corruption on the subject of Trading in Influence and Illegal Financing of Political Parties held in Madrid from 28 to 30 October 1998;

Recalling in this respect the importance of the participation of non-member states in the Council of Europe's activities against corruption and welcoming their valuable contribution to the implementation of the Programme of Action against Corruption;

Having regard to Resolution (98) 7 authorising the Partial and Enlarged Agreement establishing the Group of States against Corruption (GRECO) and Resolution (99) 5 establishing the Group of States against Corruption (GRECO), which aims at improving the capacity of its members to fight corruption by following up compliance with their undertakings in this field;

Convinced that raising public awareness on the issues of prevention and fight against corruption in the field of funding of political parties is essential to the good functioning of democratic institutions,

Recommends that the governments of member states adopt, in their national legal systems, rules against corruption in the funding of political parties and electoral campaigns which are inspired by the common rules reproduced in the appendix to this recommendation, – in so far as states do not already have particular laws, procedures or systems that provide effective and well-functioning alternatives, and instructs the "Group of States against Corruption – GRECO" to monitor the implementation of this recommendation.

Appendix

Common rules against corruption in the funding of political parties and electoral campaigns

I. External sources of funding of political parties

Article 1 Public and private support to political parties

The state and its citizens are both entitled to support political parties.

The state should provide support to political parties. State support should be limited to reasonable contributions. State support may be financial.

Objective, fair and reasonable criteria should be applied regarding the distribution of state support.

States should ensure that any support from the state and/or citizens does not interfere with the independence of political parties.

Article 2 Definition of donation to a political party

Donation means any deliberate act to bestow advantage, economic or otherwise, on a political party.

Article 3 General principles on donations

a. Measures taken by states governing donations to political parties should provide specific rules to:

- avoid conflicts of interests;
- ensure transparency of donations and avoid secret donations;
- avoid prejudice to the activities of political parties;
- ensure the independence of political parties.

b. States should:

- i. provide that donations to political parties are made public, in particular, donations exceeding a fixed ceiling;
- ii. consider the possibility of introducing rules limiting the value of donations to political parties;
- iii. adopt measures to prevent established ceilings from being circumvented.

Article 4 Tax deductibility of donations

Fiscal legislation may allow tax deductibility of donations to political parties. Such tax deductibility should be limited.

Article 5 Donations by legal entities

a. In addition to the general principles on donations, states should provide:

- i. that donations from legal entities to political parties are registered in the books and accounts of the legal entities; and
- ii. that shareholders or any other individual member of the legal entity be informed of donations.

b. States should take measures aimed at limiting, prohibiting or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration.

c. States should prohibit legal entities under the control of the state or of other public authorities from making donations to political parties.

Article 6 Donations to entities connected with a political party

Rules concerning donations to political parties, with the exception of those concerning tax deductibility referred to in Article 4, should also apply, as appropriate, to all entities which are related, directly or indirectly, to a political party or are otherwise under the control of a political party.

Article 7 Donations from foreign donors

States should specifically limit, prohibit or otherwise regulate donations from foreign donors.

II. Sources of funding of candidates for elections and elected officials

Article 8 Application of funding rules to candidates for elections and elected representatives

The rules regarding funding of political parties should apply *mutatis mutandis* to:

- the funding of electoral campaigns of candidates for elections;
- the funding of political activities of elected representatives.

III. Electoral campaign expenditure

Article 9 Limits on expenditure

States should consider adopting measures to prevent excessive funding needs of political parties, such as, establishing limits on expenditure on electoral campaigns.

Article 10 Records of expenditure

States should require particular records to be kept of all expenditure, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate.

IV. Transparency

Article 11 Accounts

States should require political parties and the entities connected with political parties mentioned in Article 6 to keep proper books and accounts. The accounts of political parties should be consolidated to include, as appropriate, the accounts of the entities mentioned in Article 6.

Article 12 **Records of donations**

a. States should require the accounts of a political party to specify all donations received by the party, including the nature and value of each donation.

b. In case of donations over a certain value, donors should be identified in the records.

Article 13 **Obligation to present and make public accounts**

a. States should require political parties to present the accounts referred to in Article 11 regularly, and at least annually, to the independent authority referred to in Article 14.

b. States should require political parties regularly, and at least annually, to make public the accounts referred to in Article 11 or as a minimum a summary of those accounts, including the information required in Article 10, as appropriate, and in Article 12.

V. **Supervision****Article 14** **Independent monitoring**

a. States should provide for independent monitoring in respect of the funding of political parties and electoral campaigns.

b. The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.

Article 15 **Specialised personnel**

States should promote the specialisation of the judiciary, police or other personnel in the fight against illegal funding of political parties and electoral campaigns.

VI. **Sanctions****Article 16** **Sanctions**

States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to effective, proportionate and dissuasive sanctions.

Ministers' Deputies

CM Documents

CM(2001)195 revised addendum (restricted) 24 April 2002

796 Meeting, 22 May 2002

10 Legal questions

10.3 Multidisciplinary Group on Corruption (GMC)

c. Draft Explanatory Memorandum to the Draft Recommendation Rec(2002).. of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and election campaigns

Document prepared by the Directorate General I (Legal Affairs)

Foundations of the Recommendation

1. Political debate is essential for the existence and development of modern democracies. Political parties, vehicle of political ideas, have a crucial part to play in this process.
2. The functioning of political parties in modern time has become extremely costly. Nowadays, it is hardly possible for a political party to exist and develop its activities only on the contributions of its members. Therefore, if a society wants its citizens to participate in political life, political parties should be allowed to receive funding of various nature and origin.
3. Political parties may be funded by the State and by natural and legal persons. It should however be underlined that, as private funding becomes more significant for political parties, so new possibilities for influence over them are created. Political parties thus become more vulnerable to corruption. In many modern societies funding of political parties gives rise to widespread corruption in several forms.
4. Corruption of political parties goes to the heart of the democratic political system because it distorts the equality of opportunity between parties and the process of policy decision-making. It raises the prospect of political parties supporting particular interests only because of outside financial influence.
5. In many countries the laws governing political party funding are very recent, while in others they are inadequate. At present, there is no international standard or reference, the question of political party financing being closely linked to the constitutional and electoral systems of each State, which are themselves generally the product of each country's historical or cultural background.
6. One of the main issues in regulating political party funding is how the rules can be enforced. Another is how public trust in political parties can be fostered by transparency. Modern democracies cannot accept lack of transparency.
7. Taking into account the wide mandate of the GMC over different aspects of the modern manifestations of the phenomenon of corruption, the problem of fighting corruption in political party funding had also to be addressed.

Background to the Recommendation

8. The Council of Europe became strongly interested in the international fight against corruption because of the obvious threat corruption poses to the basic principles this Organisation stands for: the rule of law, the stability of democratic institutions, human rights and social and economic progress. Furthermore, corruption is a subject well-suited for international co-operation: it is a problem shared by most, if not all, member States and it often contains transnational elements. The specificity of the Council of Europe lies in its multidisciplinary approach, meaning that it deals with corruption from the perspectives of a criminal, civil and administrative law
9. At the 1994 Malta Conference of the European Ministers of Justice, the Council of Europe launched its initiative against corruption. The Ministers considered that corruption was a serious threat to democracy, the rule of law and human rights and that the Council of Europe, being the pre-eminent European institution defending these fundamental values, should respond to that threat.
10. The Resolution adopted at this Conference endorsed the need for a multidisciplinary approach, and recommended the setting up of a Multidisciplinary Group on Corruption with the task of examining what measures could be included in a programme of action at international level, and the possibility of drafting model laws or codes of conduct, including international conventions, on this subject. The importance of elaborating a follow-up mechanism to implement the undertakings contained in such instruments was also underlined.
11. In the light of these recommendations, the Committee of Ministers agreed, in September 1994, to set up the Multidisciplinary Group on Corruption (GMC) under the joint responsibility of the European

Committee on Crime Problems (CDPC) and the European Committee on Legal Co-operation (CDCJ) and invited it to examine what measures would be suitable for a programme of action at international level against corruption, to make proposals on priorities and working structures, taking due account of the work of other international organisations and, to examine the possibility of drafting model laws or codes of conduct in selected areas, including the elaboration of an international convention on this subject and a follow-up mechanism to implement undertakings contained in such instruments. The GMC started its work in March 1995.

12. The Programme of Action against Corruption (PAC), prepared by the GMC in the course of 1995 and adopted by the Committee of Ministers at the end of 1996, is an ambitious document, which attempts to cover all aspects of the international fight against this phenomenon. It defines the areas in which action is necessary and provides for a number of measures to be adopted in order to realise a global, multidisciplinary and comprehensive approach to tackling corruption. The Committee of Ministers instructed the GMC to implement this programme before the end of the year 2000.

13. At their 21st Conference (Prague 1997), the European Ministers of Justice adopted Resolution No 1 on the links between corruption and organised crime. The Ministers emphasised that corruption represents a major threat to the rule of law, democracy and human rights, fairness and social justice, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society. They further underlined that a successful strategy to combat corruption and organised crime requires a firm commitment by States to join their efforts, share their experience and take common actions. The European Ministers of Justice specifically recommended speeding up the implementation of the Programme of Action against corruption which includes examining, with a view to drawing up a recommendation, the financing of political parties and its impact on corruption.

14. On 10 and 11 October 1997, the 2nd Summit of the Heads of State and Government of the member States of the Council of Europe took place in Strasbourg. The Heads of State and Government, in order to seek common responses to the challenges posed by corruption throughout Europe and to promote co-operation among Council of Europe member States in the fight against corruption, instructed, *inter alia*, the Committee of Ministers to secure the rapid completion of international legal instruments pursuant to the Council of Europe's Programme of Action against Corruption.

15. The Committee of Ministers, at its 101st Session on 6 November 1997, adopted Resolution (97) 24 on the 20 Guiding Principles for the fight against Corruption. Principle 15 specifically indicates that States should "promote rules for the financing of political parties and election campaigns which deter corruption."

16. Consequently, following the adoption of the Criminal Law Convention on Corruption (European Treaty Series No 173), of Resolutions (98) 7 authorising the partial and enlarged Agreement establishing the "Group of States against Corruption – GRECO", of Resolutions (99) 5 establishing the Group of States against Corruption, of the Civil Law Convention on Corruption (European Treaty Series No 174), as well as the Recommendation N° R (2000)10 of the Committee of Ministers to Member States on codes of conduct for public officials, the Committee of Ministers [adopted Recommendation Rec(2002)... on common rules against corruption in the funding of political parties and election campaigns.]

Preparatory work and adoption of the Recommendation

17. The Programme of Action against Corruption had drawn attention to the existence of links between the illegal financing of political parties and corruption. The Third Conference of Specialised Services in the Fight against Corruption (Madrid, 28-30 October 1998) had been also devoted to these issues, and the participants had suggested that a relevant international instrument be drafted. In the conclusions of the Madrid Conference, they invited the Council of Europe :

- "to prepare common standards with a view to the setting up of transparent systems for the funding of political parties so as to prevent corruption" ; and to

- "prepare a Protocol to the Criminal Convention on Corruption providing for the co-ordinated criminalisation of the illegal financing of political parties and the personal and unjustified enrichment of elected representatives during their term of office."

18. The GMC examined therefore the possibility of drafting international rules on the fight against corruption in the funding of political parties and election campaigns. In December 1998 the GMC decided to have prepared a questionnaire on national legislation and practice concerning the funding of political parties and candidates for election and to send it to member and observer States. An analysis of the replies was prepared (GMC (99)24).

19. On the basis of these documents the GMC in September 1999 decided to take this work forward. The GMC considered more effective to have guidelines in a non binding form instead of a legally binding instrument. At its meeting in December 1999, the GMC decided to create a special working group on the funding of political parties (GMCF). It was agreed that this group would consider the elaboration of common principles in the States participating in the GMC's work with regard to the funding of political parties, candidates and election campaigns, the aim being to prevent corruption. The GMCF had also the task to express a view on the type of legal instrument which might frame these principles.

20. The GMCF working group met five times (April, June, October, December 2000 and March 2001) to consider and finalise a draft Recommendation of the Committee of Ministers including in appendix a set of common rules against corruption in the funding of political parties and election campaigns. It submitted the draft to the GMC for consideration at its 23rd meeting in March 2001.

21. In its work on the issue of the fight against corruption in funding of political parties and election campaigns, the GMC draw inspiration from Recommendation 1516 (2001) of the Parliamentary Assembly on Funding of Political Parties (adopted on 22 May 2001).

22. The GMC examined the present draft recommendation at its 23rd, 24th and this 25th and last meeting (in the light of the view of the CDCJ). In [] the GMC submitted to the Committee of Ministers a draft Recommendation on common rules against corruption in the funding of political parties and election campaigns.

23. The Committee of Ministers of the Council of Europe adopted the Recommendation Rec(2002)... to member States on common rules against corruption in the funding of political parties and election campaigns at the ... meeting of the Ministers' Deputies (Strasbourg,) and authorised the publication of the explanatory memorandum.

24. By this instrument the Governments of member States are urged to adopt and implement in their national laws provisions against corruption in the funding of political parties and election campaigns, on the basis of the common rules appended to the Recommendation. However, a State may at the date of this Recommendation already have in place a law, procedure or system that provides an effective, equivalent alternative to a particular provision of the Recommendation. Also by this instrument the Committee of Ministers instructs GRECO to monitor the implementation of the Recommendation. This instrument being a Recommendation, does not have the legal binding effect of a Convention. This will no doubt be taken into account in the monitoring process adopted by GRECO in respect of this Recommendation.

Structure and content of the Recommendation

25. The Recommendation concerns itself with those aspects of the funding of political parties and election campaigns that are vulnerable to corruption. It comprises a number of general rules that should underpin the legislation and practices of a State relating to this subject.

26. This body of rules comprises common minimum standards that should be found in the relevant laws and practices of a modern, liberal, democratic State.

27. The provisions of the Recommendation offer these standards at two levels of insistence.

First, some provisions use the word “should”, indicating that they advocate a standard generally recognised as desirable and to be achieved as soon as reasonably possible, subject to the existence of an effective equivalent alternative (see paragraph 24 above).

Secondly, there are provisions that point the way to good practice by using the word “may”, indicating that a State is entitled, if it thinks fit, to adopt the recommendation contained in the provision.

Indicating that a State may adopt a certain law or practice does not imply that it may not adopt a law or practice that is different, provided of course that the law or practice adopted is not inconsistent with the other principles of the Recommendation. Equally, the word “may” allows a State’ laws to remain silent on the matter.

28. The Recommendation is structured in six chapters dealing with:

Sources of external funding of political parties:

the chapter deals with State support, the meaning of “donation”, the general principles that should govern donations, tax deductibility, donations by legal entities and foreign donors, and donations to organisations linked to a political party.

Sources of funding of candidates for elections and representatives elected to public office:

the single article of this chapter simply applies the rules regarding political party funding *mutatis mutandis* to election candidates and elected representatives.

Election campaign expenditure:

the chapter contains the articles limiting election campaign expenditure and requiring proper accounts of such expenditure to be kept.

Transparency:

the chapter contains those articles that are designed to shed light on the finances of political parties. They deal with the keeping of proper accounts, the recording of donations and their donors, and the presentation and publication of accounts. It is generally recognised that the strongest single influence against corruption is the light of accountability and public scrutiny.

Supervision:

this chapter deals with the function of supervision that should be undertaken by an independent authority and the need for the specialisation of personnel to combat illegal funding.

Sanctions:

the recommendation that breach of the rules should be visited with dissuasive sanctions is found in this chapter.

29. Comments on each of the articles follow.

Article 1 - Public and private support to political parties

30. Support to political parties may be public or private. There are arguments for and against both forms of support.

31. The argument against state support is that the taxpayer should not be obliged to support financially organisations of which he or she does not approve politically. Furthermore, the development of political will should proceed from society to the state, not the other way round. Two other reasons are sometimes put forward: first, state support could cause an existing party system to ossify making it difficult for new parties to break in; second, reliance on state support could lead parties to abandon efforts to raise money from electors and thereby damage civic engagement in the political process. Those who are in favour of this kind of funding consider that in this way a greater equality between parties may be achieved and undue influence on political parties may be limited as the need for private funding would be reduced.

32. The great majority of member States provide state support for political parties and election candidates in recognition partly of their significance in the democratic process and partly of the vulnerability of that process to improper influence by means of private donations. The nature and extent of State support varies from country to country and in a few countries is limited to the provision of free broadcasting time. The intention underlying the provision of reasonable contribution is that both the nature and the amount of the contribution should be reasonable.

33. The article urges the State to make contributions to political parties. Such contributions may be financial. State support is to be distributed in accordance with objective, fair and reasonable criteria, matters to which GRECO can be expected to have due regard. Examples of such criteria might be a minimum of registered members, a minimum proportion of votes cast, the number of seats won.

34. In paragraph (d) the support from citizens of a State refers to financial or other support that is so extensive as to interfere with the policy making process of the party.

Article 2 - Definition of donation to a political party

35. The meaning of “donation” covers any form of material advantage bestowed on a political party, excluding subscriptions. The advantage can take the form of a gift, loan, credit, payment or discounted price or release of any liability. It can be in cash or in kind, goods or services. The rules do not apply to subscriptions, which are small regular payments made to a party by its members as a condition of membership, but they do apply to donations otherwise made by its members.

36. It should be noted that no definition of “political party” is suggested. For the purpose of qualifying for support from public funds, the criteria referred to in Article 1 will necessarily include criteria which a group will have to meet in order to be eligible for any public funding. Those criteria will provide a definition of sorts, and perhaps will be a sufficient and suitable definition of a “political party” for the purpose of compliance with the other provisions regulating the funding of political parties. This matter of definition is for each member State to determine. However, in doing so, States could draw inspiration from the definition included in the guidelines on the financing of political parties, adopted by the Venice Commission according to which “ a political party is an association of persons one of the aims of which is to participate in the management of public affairs by the presentation of candidates to free and democratic elections” (see 46th Plenary meeting, 9-10 March 2001).

Article 3 - General principles on donations

37. The first part of this article sets out four principles that States’ legislation should specifically provide for: the avoidance of conflicts of interests; transparency of donations and the avoidance of secrecy; the avoidance of prejudice to the activities of parties arising from donations; the maintenance of the independence of parties.

38. Conflict of interests would arise where a donation was given on condition that it was applied for a particular purpose contrary to the aims of the party, or where the donor’s interests conflicted with the aims of the party, or where the donor’s interests conflict with the public interest. The first example of conflict of

interests might be dealt with by a specific rule prohibiting such conditions from attaching to donations. The second and third examples could be neutralised by requiring not only the identity of the donor to be disclosed but also the nature of the donor's interests, whether financial or otherwise.

39. Transparency is generally thought to be an effective precaution against the dangers of improper influence and favouritism that arise from large undisclosed donations in that it allows the public to form its own views about the integrity of a party. Rules requiring a party to maintain and make available for public scrutiny records that identify donors making donations over a certain value and specifying the size of their donations would embody the principle of transparency. A secret donation is understood to be one that does not appear in the accounts of the party and is to be contrasted to an anonymous donation which does appear in the accounts but the donor is not identified.

40. The avoidance of prejudice to the activity of a party and the maintenance of independence can be regarded as complementary. No donation should compromise a party's freedom of action or its independence.

41. The sheer size of donations to political parties can be the cause of improper influence being brought to bear on the actions of the party. For this reason States are urged to place an upper limit on the value of donations that can lawfully be made to a political party. States should each determine the appropriate limit in the light of their particular political and economic circumstances. States are also urged to set strict rules preventing circumvention of the upper limit. While it is recognised that it is difficult entirely to prevent evasion of donation limits, the combination of strict rules and a range of dissuasive sanctions would be effective in achieving general compliance.

Article 4 - Tax deductibility of donations

42. Recognising the desirability of encouraging political activity and public support of such activity, this article allows a State to permit taxpayers to deduct donations to a political party from their taxable income. Political parties benefit indirectly from tax deductibility as it encourages private donors to contribute financially to the activities of parties.

43. On a related matter, it should be noted that no recommendation is made as to whether a political party should be exempt from paying tax on the donations it receives.

Article 5 - Donations by legal entities

44. The three parts of this Article each address an aspect of donations by legal entities such as companies. If the funding of political parties by companies is not regulated by strict rules, this may adversely affect equality between the parties.

45. The approach to the issue of funding by legal entities varies from one country to another but most countries consider that there should be more restrictions on donations from companies because they exercise economic power and thus may seek more favourable treatment.

46. First, some countries consider that legal entities such as companies can exert so much influence by the size of their donations that they should not be permitted to make any political donations. Others consider company donations should be more strictly controlled than donations by individuals. The article urges States to take one or other of these legislative measures.

47. Second, donations by legal entities that provide goods or services to the public administration are regarded as providing opportunities for improper influence on the award of contracts. States are urged to limit such donations, prohibit them entirely or otherwise regulate them.

48. Third, in some States the opportunity for the party in Government to coerce legal entities owned by the State or by a local authority to contribute to the party is the reason for urging States to prohibit donations from these sources.

Article 6 - Donations to entities connected with a political party.

49. In recent years institutions connected with political parties have been used in different ways for the circumvention of political parties funding rules. In order to avoid evasion of rules concerning donations to political parties, this article provides for their application to any organisation connected to a political party. However, it is not necessary that the provisions in Article 4 allowing for tax deductibility of donations apply to donations made to such organisations, and Article 6 therefore excludes that provision. But, if it thinks fit, a State may allow such tax deductibility.

50. The form and function of these bodies vary greatly. Research institutes, political education foundations, local or regional branches of a national party can all be connected with or come under the influence of a party in such a way as to warrant applying to them the rules that apply to political parties. Some of the criteria indicating that a body is a subsidiary organisation of a political party are that the body forms part of a political party, or is established by or under the constitution of the party, or is effectively controlled by the party or its officers, or has functions conferred on it by or under the constitution of the party.

Article 7 - Donations from foreign donors

51. This Article enables States to control foreign donations more strictly than domestic donations or even to prohibit them entirely. The rationale for the provision is that foreign donations may exert an improper, interfering influence on the political life of a country. Furthermore, the identity of a foreign donor or the origin of the donation may be more difficult to verify.

52. A donation may be defined as “foreign” if it emanates from abroad or if it is made by a non-citizen. It is for each State to determine the “nationality” status of legal entities and subsidiaries of legal entities.

Article 8 - Application of funding rules to election candidates and elected representatives

53. It appears from States’ existing legislation and practice that similar funding rules are applicable to election candidates and elected representatives. It does not appear necessary to envisage different rules.

54. Therefore, this article applies the rules regarding political party funding *mutatis mutandis* to election candidates and elected representatives. This means that the articles contained in Chapters I, IV, V and VI are to apply, with necessary modifications, to these candidates and representatives. (The phrase “*mutatis mutandis*” is understood to mean “changing what has to be changed”). It should be noted that the rules are also to apply to the funding of political activities of elected representatives.

Article 9 - Limits on expenditure

55. Political parties believe it is necessary to spend ever increasing amounts on advocating their views to the public. The rate of this expenditure is increased by competition from political rivals. The consequent pressure to attract financial support makes a party susceptible to improper influence from substantial donors. The source of donations and the reasons for making a donation may become matters of indifference.

56. Limits on expenditure should apply also to expenditure of funds received in the form of State support in order to ensure some equality of arms between parties.

57. For these reasons a number of States limit the amounts that may be spent on election campaigns. This article reflects that desirable practice and urges States that have not done so to put in

place laws that limit such expenditure. The limits should apply to electoral expenditure not only by political parties but also in respect of individual candidates and lists of candidates. It is for each State to determine the appropriate limits.

Article 10 - Records of expenditure

58. As a necessary corollary to limiting campaign expenditure, the keeping of proper records of what is spent on election campaigns is required in respect of political parties, lists of candidates and candidates.

Article 11 - Accounts

59. This article and the following two are intended to enhance the transparency of party political funding. These three articles are extremely important for the establishment of a coherent system for the prevention of and fight against corruption in the funding of political parties.

60. By law political parties should be required to keep proper books and accounts. Entities connected with political parties, as described in Article 6, are also required to keep proper books and accounts. It is important to note that this Article further recommends that the accounts of political parties should be consolidated to include the accounts of the connected entities so that the true extent of a party's support becomes evident.

Article 12 - Records of donations

61. Donations in cash or in kind should be recorded in the accounts of a political party so as to show accurately the amount of funding received by the party. Equally important is the identity of the donor if the donation is above a certain value, for it is such donations that may influence the attitude and actions of the party or buy access to the party's decision-makers. By virtue of Article 6 the obligations under Article 12 apply also to the entities connected to political parties.

62. It is for each State to decide the value of the donation above which the donor must be identified. In determining that value States should balance the importance of preserving the confidentiality of the individual's political preference against the need to bring to light the sources of influence on the party.

Article 13 - Obligation to present and publish accounts

63. This article contains two distinct obligations: first, States should require political parties to present their accounts at set intervals to an independent authority; second, the parties themselves should be required to publish annually or more frequently at least a summary of their accounts, and the election expenses on the occasion of each election. The first obligation enables effective control and sanction; the second is intended to provide the public with the information needed to judge for itself the sources and extent of certain kinds of influence on a party.

Article 14 - Independent supervisory authority

64. States are urged to have an independent authority established by law, whose function is to supervise the funding of political parties and election campaigns. Such an authority is regarded as essential in ensuring compliance with the laws regulating this corruption-prone area of the political life of a country. The authority would foster the effectiveness of control over political parties and the confidence of the public in political party funding. The authority's duties need not be limited to the supervisory functions referred to in the article.

65. The second part of this Article envisages the authority's duties as including the supervision of the accounts of political parties and of election campaign expenditure. Supervision also extends to the presentation and publication of those accounts. This supervision should include the investigation of suspected irregularities and, where necessary, the referral of the investigation to competent authorities.

66. As regards sanctions for breach of the rules, the authority's role may be both to punish and to refer to other authorities, such as the courts, for appropriate action.

67. It is left to the discretion of each State to define the status of this control authority. "Independence" is necessarily relative and can never be absolute. The essential attribute of the supervisory authority is that it should be free from improper external influence in discharging its functions under this article.

Article 15 - Specialised personnel

68. By this article States are urged to develop the specialisation of judiciary, police, and other personnel in the fight against illegal political funding. It is envisaged that specialised education and training would allow prevention and enforcement personnel to deal more effectively with the problem.

69. It is left to the discretion of the State to determine whether there should be a structural specialisation or only functional specialisation of the personnel in the fight against illegal political funding. As regards the independent supervisory authority referred to in Article 14, the personnel should include those with specialist knowledge of the financing of political parties and election campaigns.

Article 16 - Sanctions

70. In requiring States to provide effective, proportionate and dissuasive sanctions for breach of the rules about the funding of political parties and election campaigns, this article leaves it to States themselves to determine what those sanctions should be.

71. Sanctions can be penal or administrative in nature. Administrative sanctions can be aimed at the person or at property. Currently, sanctions vary widely from one country to another, ranging from small fines to imprisonment for up to 10 years and include:

- deprivation of an elected representative's mandate;
- disqualification from standing for election for up to 10 years;
- loss of right to vote for up to 5 years;
- loss of office or employment;
- ineligibility for appointment as magistrate or public official for 2-10 years;
- loss of election expenses refund;
- ineligibility for State funding;
- forfeiture of illegal funds;
- cancellation of election;
- award of seat to election opponent;
- dissolution of party.

72. It is also to be noted that the effective use of sanctions is important in dissuading political parties and election candidates from breaching the rules regarding political funding and in reinforcing public confidence in the political process.