

**Congress of Local and Regional Authorities of Europe  
CHAMBER OF REGIONS**

**Integrated Project “Making democratic institutions work”**



**Transparency of the financing of political parties  
and their democratic functioning**

**Expert workshop  
18 October 2002**

DRAFT MEETING REPORT

## **I Context and objectives**

1. The expert workshop on the transparency of the financing of political parties and their democratic functioning brought together experts and members of the Secretariat from the Parliamentary Assembly of the Council of Europe, the Congress of Local and Regional Authorities of Europe (CLRAE), the Multidisciplinary Group on Corruption (GMC), the Venice Commission, the Steering Committee on Local and Regional Democracy (CDLR), academics and representatives of intergovernmental and non-governmental organisations. The workshop pursued the following objectives:
  - Take stock of Council of Europe documents and instruments concerning the transparency of the financing of political parties, and outline the Council's philosophy in this field,
  - Collect information on related work by other organisations and consider their potential contribution to a future Manual on party finance,
  - Discuss the feasibility, scope and target publics of such a Manual
2. The idea to draft a manual on the financing of political parties originated in the Congress of Local and Regional Authorities of Europe (CLRAE) but its implementation has been assigned to the Integrated project "Making democratic institutions work" (IP 1). IP 1 is a platform for transversal action at Council of Europe level in areas concerning the responsiveness and accountability of democratic institutions, democratic participation, and democratic representation (elections). In 2002 around 40 activities were carried out within the Project's framework, involving a range of Council of Europe departments and external partners.

## **II Overview of Council of Europe's work in the field of party finance**

### Project Group "Human Rights and Genuine Democracy"

3. As early as 1996, the interdisciplinary Project Group "Human Rights and Genuine Democracy" issued a comprehensive report on the financing of political parties (*CM (96) 12*). The report highlights the role which the Council of Europe could play by establishing guidelines in the field of party finance as a model for national legislation, in order to ensure the effective functioning of political parties, and to help eliminate corruption. Most of the principles upheld in subsequent Council of Europe instruments, are already present in this report.

### Congress of Local and Regional Authorities of Europe

4. The Congress of Local and Regional Authorities of Europe has issued two instruments relevant to the theme of the workshop: Recommendation (2000) 86

on the financial transparency of political parties and their democratic functioning at regional level and a Code of conduct for locally elected officials.

5. Based on a report by Mr Haegi (Switzerland), the main thrust of Recommendation (2000) 86 is the transparency of party finance. It does not instruct member states to restrict sources and/or volume of funding but insists that informing voters about funding received by political parties is an essential requirement for genuine democracy. The Recommendation concerns parties operating at regional level, particularly in federal states but also where local or regional parties defend specific local interests (minority or other).
6. The Committee of Ministers has adopted a reply to the Recommendation whereby it confirms the importance of the issue, and draws attention to its complexity.
7. The Code of conduct for locally elected officials was adopted by CLRAE in 1999. It responded to a need, common to most member states at a time when local and regional policy-makers were given new responsibilities in the context of devolution and economic change. The Code provides general guidelines to be adapted by member states. It is meant to guide the behaviour of local and regional councillors who are also (potential) candidates in elections, inform the general public of potential pitfalls, and help increase the trust of citizens in local and regional elected representatives. The central issues covered are: conflict of interests, favouritism in funding applications or public procurement, potential problems associated with the accumulation of mandates. The Code exists in English, French, Italian, and German and IP 1 has funded its translation into Spanish, Portuguese, Polish, Romanian, and Turkish.

#### Venice Commission

8. The Council of Europe Commission for Democracy through Law (Venice Commission) has carried out extensive research on legal regimes for the funding of political parties across Europe. In 2000, it adopted a report drafted by Jacques Robert, based on this survey. The report revealed that from a legal point of view, the situation in Europe is very diverse, legislation is relatively recent and in many cases incomplete. Some regulations are of constitutional or organic nature, others are ordinary laws. Some countries forbid private funding, others rely only on this kind of funding.
9. According to Mr Robert's report, some national regulations ban foreign funding from either public or private donors, others authorise such funding. In some cases private and/or public donations are limited to a certain ceiling. In different states, control on donations is carried out by constitutional courts, state financial institutions, or is simply subject to internal or external audits commissioned by political parties.
10. Responding to the need for a certain harmonisation of party finance regulations along common European standards, the Venice commission adopted in 2001

Guidelines on the financing of political parties (CDL-INF(2001)008). The Guidelines set minimum standards in the following areas:

- type and destination of donations, in particular in campaign periods;
- restrictions and control of donations – the Guidelines require the introduction of ceilings for both private and public funding as a means for ensuring equality of opportunity between competing parties;
- transparency of funding
- sanctions

11. The issue of the state as a guarantor of equality of opportunity for all parties participating in an electoral contest is taken up also by the Guidelines on elections, adopted in July 2002 by the Council for Democratic Elections<sup>1</sup> and the Venice Commission. The document recalls the state's duty of neutrality with regard to public funding for parties and campaigns and its explanatory memorandum recommends that at least a minimum public funding is provided for all parties participating in an election.

#### Parliamentary Assembly

12. The Parliamentary Assembly of the Council of Europe (PACE) produced, in May 2001, a substantial report on party finance based on information from member states. The report led to a recommendation adopted by the Assembly and addressed to the CM [PACE Recommendation 1516 (2002)].

13. The Parliamentary Assembly referred to “a number of scandals linked to the financing of political parties in several Council of Europe member states in all parts of Europe over recent years [which have] demonstrated that this issue must be addressed as a matter of urgency in order to prevent the loss of citizens' interest in the political life of their respective countries”<sup>2</sup>.

14. The recommendation asserts that “Political parties should receive financial contributions from the state budget in order to prevent dependence on private donors and to guarantee equality of chances between political parties”. State contributions should be proportional to political support enjoyed by political parties but should also enable new parties to enter the political arena and to compete under fair conditions with the more well-established parties”. It warns, however, against excessive state funding which could weaken the links between parties and the electorate.

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<sup>1</sup> A body composed of representatives of the Parliamentary Assembly of the Council of Europe, the Venice Commission, and the Congress of Local and Regional Authorities of Europe

<sup>2</sup> PACE Recommendation 1516 (2002)

15. The recommendation requires that strict limitations be imposed on donations from legal entities and that donations by religious institutions be banned. Limits to campaign expenditure are also called for.
16. Regarding transparency of funding, the Assembly recommends that, in addition to strict account-keeping, donors contributing funds over a certain amounts should not remain anonymous.
17. Comments were made at the meeting that this recommendation may be insufficient in several respects:
  - Contributions in-kind, which can sometimes be substantial, are not mentioned;
  - The recommendation's central concern is with legislation while the biggest problems in practice are related to mechanisms of control and the means they have at their disposal to investigate.
  - The recommendation gives up on criminal sanctions and does not foresee judicial control while political parties have little fear from non-judicial control. It thus fall short from "best practice" in some member states which have specific procedural guarantees or laws for judicial control.
  - The recommendation targets national legal framework and institutions although corruption is an increasingly international phenomenon.

#### Multidisciplinary Group against Corruption

18. The last point evokes the need to put in place effective international instruments and mechanisms against corruption. The Council of Europe responded to this need by setting up, in 1994, the Multidisciplinary Group on Corruption (GMC) with a mandate to draft a number of international legal instruments for the fight against corruption. Subsequently, its work has been taken up by the enlarged partial agreement Group of States Against Corruption (GRECO) which provides an efficient mechanism for monitoring corruption in all member states
19. In 2002, the GMC examined member states' legislation concerning party and campaign financing and set up a working group to prepare a recommendation on the subject. The draft is currently being discussed by the Ministers' Deputies who are expected to adopt it in the near future. The recommendation would instruct member states to introduce legal provisions in line with the principles outlined below, in so far as they do not yet have equivalent provisions in place, and mandate GRECO to monitor the implementation of this recommendation.
20. The draft recommendation consists of a Preamble and 16 articles. It identifies the minimum provisions national legislations should contain with regard to support for political parties by the state, citizens and legal persons. These provisions

should serve to guarantee that donations to political parties are transparent, do not entail conflicts of interests; do not prejudice the activities of political parties, and ensure their independence.

21. The text invites states to set limits on the value of donations, as well as limits on campaign expenditure without recommending specific methods for doing this. It requires the setting up of a legal framework for donations by legal entities, entities connected with political parties, and foreign donors. The draft recommendation deals also with transparency and accountability, in particular requesting that records be kept of all donations to a political party, and that accounts be supervised by an independent authority. Finally, it states that infringement of rules concerning the funding of political parties and election campaigns should be subject to effective, proportionate and dissuasive sanctions.
22. The scope and nature of the draft Recommendation reflect a concern to respect the significant diversity of legislation in this field, which is strongly linked to national traditions and history. Consensus between members of the GMC working group has been hard to achieve: legal professionals such as judges and prosecutors were in favour of more restrictive rules while representatives of the executive and experts connected with political parties have been more reluctant to change.
23. Possible conflicts between these different groups of stakeholders are important to keep in mind when drafting of future manual. Furthermore, the manual should stress the role of the media as champion of transparency in public life and the integrity of public officials. In reality, the media often report on corruption cases under the cover of party finance which is easier than pointing the finger at individual corruption.
24. On the other hand, all candidates in elections are not necessarily linked to political parties (for instance, in the US presidential elections candidates have their own team and funds). Transparency and corruption can also be issues in such cases.

#### Steering Committee on local and Regional Democracy

25. The Steering Committee on local and Regional Democracy (CDLR) is about to adopt a Model initiatives package - a substantial document covering a range of issues relating to public management. The document consists of a list of ethical standards to be respected in local public life, and examples of good practice. After adoption by CDLR, the document will be subject to local consultations in member states in order to assess its permanence in different contexts, and enrich the text. Other international organisations will be also consulted, and the document will be launched at the end of 2003 at a high-level conference. In the field of party finance, about 60 examples of good practice are included.

### **III Work of other international organisations**

#### European Parliament

26. The first document by the European Parliament (EP), Directorate General for Research, on the subject of party finance, a report on the Funding of political parties in European Community member states appeared in 1991. It served as a basis for the preparation of a report by Ursula Schleier on the Statute and Financing of European Political Parties and eventually for the European Parliament legislative resolution on the proposal for a Council regulation on the statute and financing of European political parties [COM(2000) 898 - C5-0081/2001 - 2001/0011(CNS)]. At present the Parliament is working on a new report containing updated information on the statute of European political parties.
27. The main interest of the European Parliament in the matter is of constitutional nature and concerns rules for the creation and funding of European political parties. The Parliament stated that the such parties should be subject to a Community authorisation, and their funding should be provided, following the principle of equality of opportunity, from the Community's budget, with new parties given a chance to compete in elections. The European Commission took these ideas up in its proposal for a Statute of European political parties.
28. Two elements of the Parliament's position on the matter are of particular interest:
  - Definition of representativity of European political parties: parties whose candidates have been elected in at least 5 member states for EP or regional elections, or have obtained at least 5% of votes in the most recent EP elections.
  - Transparency of party funding: 25% of the funding should be raised through parties' own efforts. The rest would be composed of a flat rate, equal for all, plus a part in relation to the number of elected representatives in the EP.
29. The Statute of European political parties is a highly sensitive issue, dividing Europhiles and Euro-sceptics, as well as member states and despite the massive support of the European Parliament, the dossier is at the moment in a standstill. The entry into force of the Nice treaty would give the EP a stronger position to make progress on this matter. In addition, the Court of Auditors severely criticised the cross-financing of EP political groups and urged the Commission to draft a statute of European political parties.
30. The draft statute proposes a strict definition of European political parties, and a set of rules to distinguish between EP groups and European political parties, in order to avoid cross-financing of national parties under the cover of their belonging to European political parties.

31. According to the draft statute, control on the financing of European political parties will be exercised jointly by the Court of Auditors and the European Parliament, the Court holding the right to examine the accounts and the EP accepting the “supremacy” of opinion of the Court in case of conflict. In case the regulations governing the statute and funding of European political parties are infringed, sanctions would involve suspension of financing and other financial penalties but no penal sanctions are foreseen. The Statute foresees that anonymous donations would not be accepted under any circumstances.

### OECD

32. Party and campaign financing is a new issue for OECD but the organisation is happy to participate in this expert workshop.

33. The OECD Convention on combating bribery of foreign public officials in international business transactions, a legal instrument which entered into force three years ago, is expected to contribute to reducing corruption in international business transactions and maintaining the integrity of the financial system. A peer review-based monitoring mechanism evaluates the extent to which the standards set by the Convention have been adequately transposed in national law.

34. OECD Ministers have repeatedly called on the Organisation to move ahead on other issues relating to corruption. In response, the OECD has started work on corruption of party officials and could therefore possibly contribute to the Council of Europe’s manual on party and campaign financing.

35. In general terms, the issue of interaction between private and public interest is high on the OECD’s agenda and motivates their interest in the Council’s initiative.

36. Recently the OECD has been paying growing attention to institutions and governance, particularly public governance since they are a crucial prerequisite for the good functioning of economies. They have also done work on the transparency and accountability of the public sector and the governance of publicly listed companies. Traditionally the OECD works with the executive and business groups but recently has started work with MPs.

### International IDEA

37. International IDEA (Institute for Democracy and Electoral Assistance), is an intergovernmental organisation based in Stockholm which provides a forum for discussion and action for the improvement of democracy and electoral practice. Eight Council of Europe member states are also members of International IDEA and several others are candidates.



38. IDEA does not defend any particular model of democracy. Its approach is pragmatic, not prescriptive and their output often takes the form of manuals and codes of conduct. One of IDEA's manuals is on the running of elections, including electronic voting. A handbook on making a democracy assessment under preparation is under preparation.
39. IDEA is about to publish a Handbook on the funding of political parties, the result of several years of scientific investigation by outstanding international experts, containing a comprehensive review of legal frameworks and practice across the globe. The Handbook is conceived as a matrix which will enable people practically involved in party finance matters (parliamentarians, party officials, electoral administrations etc.) to improve their systems.

#### Transparency International

40. Transparency International (TI) has only recently started work on party finance but this is expected to gain momentum rather quickly. TI's approach to corruption does not focus on a criminal law perspective, but on national integrity systems. The organisation has been involved in a number of initiatives, including a move to extend the OECD Convention mentioned above to cover bribery of parties and party officials, and encouraging the UN convention process to cover party and campaign financing. In May 2003 TI plan to organise an international anti-corruption conference which will bring together expertise in key areas. Furthermore, their 2002 report will focus on political corruption. They are also looking forward to drafting guidelines and principles to underpin their advocacy work.
41. A meeting which took place in Athens in September 2002 reviewed country responses to a questionnaire about the legal framework for party finance and the way the systems work in practice. This documentation was seen as a basis to extract common principles or standards. The TI chapter in the Czech republic has set up an international website with a manual on party financing (see list in Appendix II). Provisions on party finance have been included in Article 10 of the African Union Convention.
42. In the field of party and campaign financing, transparency is of key importance ("sunlight is the best disinfectant"). Bringing in the perspective of civil society is also important since this would correspond to a specific sort of transparency. From the TI and civil society point of view this means knowing what are the legal rules, how can documents be accessed. People need to know where they would go if they had to report fraud, they need to have information from accessible sources about the financing of political parties in their community.
43. There must be consequences for violating the rules and they should be serious consequences.

#### Coalition 2000 (Bulgaria)

44. Coalition 2000 is a national anti-corruption initiative active in the fields of awareness-raising and monitoring. The activities and outputs of the organisation are wide-ranging: quarterly surveys about public perceptions of corruption, yearly corruption assessment reports, draft laws, including the new law on political parties, a manual on anti-corruption education, etc. The Coalition has developed an anti-corruption action plan, adopted by the national authorities. In the field of election financing, they have co-operated with two other NGOs towards achieving an agreement with national election authorities to monitor the financing of the last presidential campaign. They have thus been able to access the acting President's election accounts.
45. Coalition 2000 has identified several sources of party and campaign-related corruption:
- anonymous donations are a serious problem because of the large scale of the grey economy;
  - donations from companies with state participation in some cases raise suspicion that there might be a conflict of interest;
  - financing from membership fees is not very transparent

#### Association of Central and East European Election Officials (ACEEEO)

46. ACEEEO, which has already been in existence for 10 years, has analysed electoral legislation in the new European democracies and put forward recommendations for change. The Association's expertise in electoral matters is enriched through frequent participation in election observations. During the past few years, party finance has been one of ACEEEO's main subjects. Hungarian experts have prepared research papers related to party and campaign financing on 6 countries for the Association. ACEEEO's experience shows that the need for regulation and transparency is a real one in the new democracies but also that no regulation could work in practice without the development of truly democratic civic culture. An excess of regulation could, however, be counterproductive since this leads to heavier bureaucracy and bureaucracy is not a friend of transparency.

#### **IV Towards the consolidation of existing standards and the development of practical tools for the improvement of democratic practice in the field of party finance**

47. The above stock-taking exercise revealed the existence of:
- national and regional initiatives limited in scope and focus
  - general guidelines – Transparency International standards for the EU, CDLR, the Venice Commission

- reference documents – IDEA, OECD
- political recommendations – CLRAE, PACE, GMC, OECD

#### Purpose, content and method

48. An internationally recognised manual on the financing of political parties and election campaigns **should be based on international legal instruments**, and draw on ideas provided by the various research or practice-oriented tools.
49. Its primary **target public** should not be government officials or legislators since they are addressed in a sufficiently comprehensive and authoritative way by existing recommendations. On the contrary, **the document should be an analytical pedagogical tool**, outlining, within the framework of international standards, different options, alternatives, definitions, legal principles, methods of functioning and control, and their implications for transparency etc.
50. **Examples** should be provided to illustrate advantages or disadvantages of different options. For instance, in the British tradition there is the so-called “third party model” which is an effective means of controlling donations. It would also be useful to suggest practical ways of informing voters of financial contributions made to political parties (transparency).
51. For this manual to become a viable and useful tool, the **“user” perspective**, i.e. the view of political parties themselves should be taken into account. Political parties’ membership is shrinking fast. When foreign donations were banned in the UK, the Liberal party and other small parties ceased to exist. Bureaucratic rules for declaring donations have affected local chapters of national political parties who need staff to deal with the paperwork. Rules for disclosing donors’ identity have also badly affected parties at local level. **Single-issue groups, civil society organisations, as well as political parties** should be consulted in the course of drafting the manual.
52. The manual could **analyse laws in different countries** and set out their comparative advantages. It could list measures used successfully in countries with ultra-liberal models, and in countries with more interventionist models. It could also give examples of rules of a preventative nature, and rules of a “repressive” nature.
53. Specific issues related to **sub-national and supra-national parties**, in particular with regard to control mechanisms, should be addressed.
54. The basic terms used in the manual should be explicitly defined (**thesaurus**). The language of the manual should be simple and comprehensible.

55. The manual should be **a means to enhance the local opportunities** of parties in new democracies which are small and under-funded but contribute to a functional multi-party democracy.

#### Procedure and resources

56. The precise procedure to be followed, within the framework of the Integrated project, as well as the involvement of partners participating in the workshop will be defined at a later stage. There is, however, a shared understanding that work on the manual should involve partners in a way which creates a feeling of shared ownership, which in turn could ensure greater impact.

57. A few elements were already agreed upon:

- The national consultation processes for the CDLR's Model initiatives package could also perhaps focus, *inter alia*, on the issue of party finance. The LOREG database (<http://www.loreg.coe.int/en/start.html>) which contains a number of laws on this subject could also be used as a resource.
- From the perspective of Transparency International this is an important project. Many of their chapters have showed willingness to work on these matters but the modalities of their participation would have to be negotiated.
- The draft manual should be submitted, *inter alia*, to the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe for opinion.
- The Global organisation of parliamentarians against corruption with secretariat in Canada ([http://parlcent.parl.gc.ca/English/program\\_briefs\\_GOPAC.htm](http://parlcent.parl.gc.ca/English/program_briefs_GOPAC.htm)) could also become a partner in this project.

## APPENDIX I

### List of participants

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## APPENDIX II

### Non-exhaustive list of documents relating to the financing of political parties

#### Council of Europe

CM (96) 12, Groupe de projet « Droits de l'homme et démocratie véritable » (CAHDD).  
Rapport final d'activité « Financement des partis politiques »

*Conférence européenne des services spécialisés dans la lutte contre la corruption*  
[Le trafic d'influence et le financement illégal des partis politiques - Actes, Madrid, octobre 1998 \(2000\); ISBN : 92-871-4254-8](#)

Parliamentary Assembly, [Recommendation 1516 \(2001\)](#): Financing of Political Parties

Parliamentary Assembly, [Doc. 9077](#) (4 mai 2001) : Report on the Financing of Political Parties: Political Affairs Committee, Rapporteur: Ms Vlastá Stepová, Czech Republic, Socialist Group

CDL-INF(2001)008 [Guidelines and Report on the Financing of Political Parties: adopted by the Venice Commission at its 46th Plenary Meeting, \(Venice, 9-10 March 2001\)](#)

CPLRE [Recommendation 86](#) (2000) on the financial transparency of political parties and their democratic functioning at regional level

CPR (7) rev Part II. The Financial transparency of political parties and their democratic functioning at regional level. Rapporteur Mr Haegi (Switzerland)

CM Rec(2000)10 [on codes of conduct for public officials](#)

GMC 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 (working document, not available online).

GMC (1999) 23 rev, Working Group on the Funding of Political Parties (GMCF).  
[Summary of Member and Observer States' replies to Political party and Observer states' replies to political party and candidate funding questionnaire, \(DGI, Legal Affairs\)](#)

Model initiatives package of CDLR (working document, not available online)



### **Documents of other organisations**

IDEA – Administration and cost of elections project (partly covers the subject)  
<http://www.aceproject.org/main/english/pc/pcd.htm>

Max Planck Institute: Financing of political parties in comparative perspective (In German)  
[http://www.virtual-institute.de/en/Taet2000/etat00\\_57.cfm](http://www.virtual-institute.de/en/Taet2000/etat00_57.cfm)

Czech manual on party finance  
<http://www.party-finance.org/documents/brozura-angl.pdf>

Party Finance in Comparative Perspective  
[http://www.oezp.at/oezp/online/02\\_1\\_ab\\_e.htm](http://www.oezp.at/oezp/online/02_1_ab_e.htm)

A model law on financing of political parties  
<http://www.cesid.org/english/publication/Models/model3.htm>

European parliament, [Report](#) on the proposal for a Council regulation on the statute and financing of European political parties - Committee on Constitutional Affairs

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