



## **Election campaign financing and the candidacy of individual candidates**

*Comparative Analysis*

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*Project to strengthen anti-corruption  
and anti-money laundering systems  
in the Czech Republic*





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**Project to strengthen anti-corruption and anti-money laundering systems in the Czech Republic**

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of individual candidates”**

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## 1 EXECUTIVE SUMMARY

Political debate is essential for the existence and development of modern democracies, this goes hand in hand with the existence of multi-party systems and also the possibility of individuals to run for election and contribute to the broad debate.

In the contemporary societies the political parties act as vehicle of political ideas, and have a crucial part to play in the functioning of pluralist democracies.

The functioning of political parties in modern time has become very costly, despite the availability of social media and other online media which provide for lower costs of promotion. These high costs increase the pressure on the political parties to raise funds from various sources to cover the operational expenses and especially the expenses relating to election campaigns.

Taking into account the above countries should take measures to regulate the financing of political parties. Usually the political parties are funded by the State and by natural and legal persons, including the members of the political parties. However it is important to note that the broad opportunities for private funding of the political parties come with the risk of increased possibilities for influencing in the decision making and increased risk of corruption.

General standards of the Council of Europe state the right to an effective political democracy and the principle of free elections. In connection with these principles individual candidates have the right to stand up for election and their electoral finance has to be transparent.

The present study addresses the place of independent candidates<sup>1</sup> in certain countries and the regulations on funding of electoral campaigns which apply to them. It is concentrated on various electoral systems. Three are dominated by proportional voting rules which give a residual role to single candidatures: Estonia, Ireland and Poland. In two other countries, MPs are elected by direct universal suffrage using a uninominal majority, in one round (United Kingdom) and in two rounds (France).

This presentation of different electoral systems focused on legislative elections highlights different approaches of the status of independent candidates. Czech legislation, which raises questions regarding donations to independent candidates,<sup>2</sup> shall be analysed in respect to these various regulations. Comparison between the five above-mentioned systems with rules applying to the Czech Republic will lead to some recommendations to change these rules.

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<sup>1</sup> Documents, translations of acts, reports on this issue equally use the terms of independent, individual and single candidates, which refer to the same notion. In the Czech Republic independent candidates refer mostly at national level to candidates to the Senate, see p.34

<sup>2</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval32820102910\\_CzechRep\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval32820102910_CzechRep_Two_EN.pdf), § 63

## 2 INTERNATIONAL STANDARDS

An outline of the general international standards affecting the classical electoral law and electoral campaign finances is presented in the two sub-chapters below. The analysis will present the position of several key institutions that have developed standards in relation to the financing of election campaigns or the financing of the independent candidate campaigns.

### 2.1 Electoral law

#### 2.1.1 The position of the ECHR

Purposes aimed by the electoral systems are described as follows by the European Court of Human Rights (ECHR): “*Electoral systems seek to fulfil objectives which are sometimes scarcely compatible with each other: on the one hand, to reflect fairly faithfully the opinions of the people, and on the other, to channel currents of thought so as to promote the emergence of a sufficiently clear and coherent political will*”. In these circumstances the phrase “*conditions which will ensure the free expression of the opinion of the people in the choice of the legislature*” implies essentially - apart from freedom of expression (already protected under Article 10 of the Convention) (art. 10) - the principle of equality of treatment of all citizens in the exercise of their right to vote and their right to stand for election<sup>3</sup>.” So we have to admit that these aims are modest and the formulation of the ECHR is careful.

This cautious approach is due to the fact that the choice of an electoral system is a sovereign decision of a State<sup>4</sup> and is within its jurisdiction. In the European Union, electoral matters are governed by the principle of subsidiarity, International Standards are rare and very little electoral litigations are referred before the ECHR. But instruments issued by the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe (CoE) show that there are common values in the relevant field.

#### 2.1.2 A close vision of the rights of the candidates

Paragraph 7.5 of the 1990 OSCE Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe (CSCE) provides that the participating States will respect “*the right of citizens to seek political or public office, individually or as representatives of political parties or organizations without discrimination*”.

The conditions for independent candidatures set up by the Venice Commission are stricter than the ones laid down by the OSCE in Copenhagen. According to the Guidelines listed in the Code of Good Practice in electoral matters of the Venice Commission<sup>5</sup>, “*the presentation of individual candidates or lists of candidates may be made conditional on the collection of a minimum number of signatures. The law should not require collection of the signatures of more than 1% of the voters in the constituency concerned*”.

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<sup>3</sup> Mathieu-Mohin and Clerfayt v. Belgium , 9267/81, 2 March 1987

<sup>4</sup> “The choice of electoral system (...) is a matter in which the State enjoys a wide margin of appreciation” (Matthews v. United Kingdom , n° 24833/94, 18 February 1999, § 64 )

<sup>5</sup> <http://www.venice.coe.int/webforms/documents/default.aspx>

Pursuant to the British Electoral Commission, an independent candidate is a person who wishes to stand for election and is not chosen by a political party. What motivates independent candidatures? Some feel none of the established political parties truly represent their local area, many are standing as an act of protest against the system and others have founded tiny parties to advocate their specific agendas.

### 2.1.3 Influence of political parties on the nomination of candidates on electoral lists

Mixed electoral systems with a proportional closed-list system in one single nationwide constituency and many single-member constituencies exist in different countries, such as Germany, Romania and Ukraine. However, consequences of these electoral systems can vary, since political systems social environment are always different and systems with single candidatures may be in certain cases controversial. For instance, by assessing amendments to the Moldovan electoral legislation, the Venice Commission was concerned by the risk of influence of wealthy businessmen on independent candidates and it addressed the fears shared by the OSCE in its report on the 2012 parliamentary elections in Ukraine<sup>6</sup> about the same electoral system applying in Moldova. But the same risk may occur for the candidate who could be very well positioned on a party list and be exposed to political and financial pressures.

About the proportional voting system applied in Germany, an expert in electoral law strongly criticized the power of the political parties to select candidates on their lists to the election to the Bundestag. He argued that with such an influence the Parliament in practice had no real legitimacy and voters had no right to choose their representatives. Uninominal majority system or preferential voting system on the lists could remedy to these shortcomings<sup>7</sup>. But the leading role of political parties in uninominal majority systems is obvious too. Referring to Westminster, the British are used to state: “*MP’s are selected not elected*”. Moreover the cost of electoral campaigns may favour monopoly of political parties in electoral campaigns to the detrimental of single candidates. Obviously political parties may have more financial and human resources than isolated candidates but it is not systematic, which justifies the above-mentioned views of the Venice Commission and of the OSCE concerning electoral systems in Moldova and Ukraine.

### 2.1.4 The legal background of the protection of independent candidates in the jurisprudence

If disputes on independent candidatures before the ECHR are not abundant we have to remind that Article 3 of Protocol n°1 to the ECHR provides: “*The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature*”. The Commission<sup>8</sup> inferred from that principle subjective rights of participation which have been confirmed in the above-mentioned judgment *Mathieu-Mohin and Clefayt v. Belgium* of 1987. So according to European case law the right to vote and to stand for election derive from the obligation to organize free elections<sup>9</sup>.

Article 25 of the International Covenant on civil and political rights of 16 December 1966 expresses the same concern. Every citizen shall have the right and the opportunity “*to vote and to be elected*”

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<sup>6</sup> <http://www.venice.coe.int/webforms/documents/pdf=CDL28201429005-e>

<sup>7</sup> Pr. Hans Herbert von Arnim, Wahl ohne Auswahl, die Parteien und nicht die Bürger bestimmen die Abgeordneten, Zeitschrift für Rechtspolitik 2004, 115

<sup>8</sup> The European Commission of Human rights merged with the European Court of Human rights in 1988

<sup>9</sup> Commission (decision) *W, X, Y and Z v. Belgium*, n°s 6745/74 and 6746/74, 30 May 1975; Conference on the European electoral heritage : ten years of good practices in electoral matters, Venice Commission, 10 September 2012

*at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.”*

Considering the method of voting and the accounting of the ballot papers, each vote has the same value<sup>10</sup>.

In that context jurisprudence in Member States of the CoE highlights the importance of the status of individual candidates in electoral competition.

Because it illustrates the link between the candidature and the funding of an electoral campaign, we can refer to the decision of the German constitutional court of 9 March 1976 (*BverfGE 41, 399*). Its background is the following. The former mayor of Bonn stood up as independent candidate to legislative elections of 1969 but German authorities refused to reimburse him his electoral expenses. He challenged the decision. The constitutional court considered that the right to stand up for elections is part of electoral freedom. By monopolizing this right political parties infringe constitutional principle of universal, free and fair elections. The fact that according to article 21 of the Basic Law political parties shall participate in the formation of the political will of the people does not impede independent candidates to claim for the equality of chances. Exclusion of independent candidates from reimbursement of electoral expenses does not comply with the equality of chances granted by Article 38, § 1 of the Basic Law<sup>11</sup>.

A French judicial decision stresses the independence of candidates regarding political parties too. It is due to the fact that in France election of an MP is a uninominal majority system. Therefore the link with the party is weaker than in a proportional voting system. A candidate is not obliged to mention if he is affiliated to a party in his declaration of candidature (*Constitutional Council, 93-1226/1246, 22 September 1993, AN Paris I, p.247*).

So two main principles may be deduced from common standards and from jurisprudence:

- The right for candidates to stand up derives from the obligation to organize free elections;
- An equal treatment has to be given to candidates and to political parties. For this reason discrimination practices between political parties and candidates must be banned. For instance the OSCE and the Venice Commission did not receive adequate explanations from Ukrainian authorities to understand why unused funds should return from the banks to the parties after elections while unused funds in the account of a single mandate district candidate should be transferred to the State budget<sup>12</sup> and both the OSCE and the Venice Commission expressed concern about that discrimination.

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<sup>10</sup> Marcus Hahn, *Formalisierbare Gleichheit*, Prof Mitteilungen des Institutes für Deutsches und Europäisches Parteienrecht und Parteienforschung, Heft 15 2008/2009, S.41

<sup>11</sup> Article 38 of the Basic Law: “Members of the German Bundestag shall be elected in general, direct, free, equal and secret elections”. Yves-Marie Doublet, *Le financement des partis politiques en République fédérale d’Allemagne*, *Economica* 1991, p.69

<sup>12</sup> Joint Opinion on the Draft Amendments to the Laws on election of people’s deputies and on the Central Election Commission and on the Draft Law on repeat elections of Ukraine, adopted by the Council for Democratic Elections at its 45th meeting (Venice, 13 June 2013) and by the Venice Commission at its 95th Plenary Session (Venice, 14-15 June 2013)



## 2.2 Electoral campaign finance

Finance of electoral campaigns and political parties has proved crucial in preventing and controlling corruption. UN convention against corruption and a recommendation of the CoE put emphasis on the need of transparency of electoral campaign finance, which has an impact on independent candidatures in terms of equal opportunities of candidates.

Article 7, 3 of the UN Convention against corruption<sup>13</sup> calls on each Party to the convention to consider taking appropriate legislative and administrative measures, consistent with the objectives of the convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and where applicable, the funding of political parties.

The Recommendation of the Committee of Ministers of the CoE of 8 April 2003 on common rules against corruption in the funding of political parties and electoral campaigns contains several principles on transparency of funding of political parties accounts, on supervision and sanctions for offences which have been stipulated by laws on political parties' finances of the Member States of the CoE. Principles provided for by the recommendation are required to be applied by Member States.

Article 8 of the recommendation considers that the regulations regarding funding of political parties should apply *mutatis mutandis* to funding of electoral campaigns of candidates<sup>14</sup>. As transparency is essential to enhance public trust in policy, according to article 10 of the recommendation, States should require particular records to be kept of all expenditures, direct and indirect on electoral campaigns in respect of each political party, each list of candidates and each candidate.

The Group of States against corruption (GRECO) of the CoE has been established in 1999 to monitor States compliance with the CoE anti-corruption standards and the relevant standard in political finance is precisely this recommendation of 2003.

Therefore the GRECO has repeatedly demanded member States to require both parties and candidates to publish the donations received, in an easily accessible manner and at regular intervals, defined by law, including during election campaigns. Such timely information would enhance openness of political financing, attracting attention of the media, facilitating public debate and allowing the public and authorities to uncover potential irregularities in the funding of elections at an early stage of the electoral process.

The need for the candidates to be liable to the same requirements of disclosure as the political parties has received attention by the GRECO particularly in two evaluation reports. The first one is on Croatia and the second one on Turkey. About Croatia, the GRECO recommended to harmonize provisions on election campaign funding addressing the level of detail, the frequency of reporting on and the publication of donations received by parties, lists and candidates including during the electoral campaign period. After the compliance report of Croatia, the GRECO concluded that its recommendation had been implemented satisfactorily<sup>15</sup>. Concerning Turkey, the GRECO invited the Turkish authorities to require political parties to regularly disclose all individual donations

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<sup>13</sup> The UNCAC has been ratified by the Czech Republic the 29 November 2013

<sup>14</sup> [https://www.coe.int/t/dghl/monitoring/greco/general/Rec282003294\\_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/general/Rec282003294_EN.pdf)

<sup>15</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820112912\\_Croatia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820112912_Croatia_EN.pdf), p.7 and 8

including the ones of a non-monetary nature they receive above a certain value, indicating the nature and value of each donation as well as the identity of the donor including the electoral campaign period<sup>16</sup>.

The Venice Commission addresses this issue of transparency of political finance too. Funding must be transparent. It operates at two levels. The first one concerns campaign funds, the details must be set out in a special set of carefully maintained accounts. The second level involves monitoring the financial status of elected representatives before and after their term in office<sup>17</sup>.

If Guidelines and report on Financing of political parties of the Venice Commission focus their attention on political parties, this text notes that public financing could also be extended to political bodies representing a significant section of the electoral body and presenting candidates for election<sup>18</sup>. For the author of this report, any irregularity in finances of an electoral campaign shall entail for the party or the candidate at fault sanctions proportionate to the severity of the offence that may consist of the loss of the reimbursement of the public contribution, the payment of a fine or the annulment of the election.

At last NGOs drew the attention on integrity gaps related to political finance and recommended controlling flows of money in politics by limiting donations, strengthening transparency especially during electoral campaigns, creating independent and well equipped supervisory body and ensuring enforcement of rules and proportionate sanctions<sup>19</sup>.

This general legal framework had to be recalled before considering Czech legislation and legislation of other Member States of the CoE.

### **3 THE CZECH REPUBLIC**

#### **3.1 System of representation**

According to Article 18 of the Constitution: “*Elections to the Chamber of Deputies shall be held by secret ballot on the basis of universal, equal and direct suffrage and under the principles of proportional representation*”.

In 1990, the Civic Forum founded by Vaclav Havel pleaded for a proportional system to avoid a confrontation between non-communists and communists political parties<sup>20</sup>. The Chamber of Deputies consists of two hundred Deputies elected for a four years term. The territory is divided into constituencies, electoral regions on the principle of proportional representation<sup>21</sup>. Lists of candidates running for a seat in the Chamber of Deputies may be proposed by coalitions or by political parties or political movements. The list of candidates shall include among others: the title of political party or coalition; the names and surnames of the candidates, their age, their occupation, the place of their permanent residence and their ballot’s position.

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<sup>16</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820142924\\_Turkey\\_Interim\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820142924_Turkey_Interim_EN.pdf) .p.6

<sup>17</sup> <http://www.venice.coe.int/webforms/documents/CDL-AD28200229023rev.aspx>

<sup>18</sup> <http://www.venice.coe.int/webforms/documents/CDL-INF%282001%29008-E.aspx>

<sup>19</sup> Detailed policy paper on political party integrity available at: <http://transparencyinternational.eu>

<sup>20</sup> République Tchèque, Dictionnaire des élections, Presses universitaires de France, 2001, p. 895

<sup>21</sup> Article 26 of Act 247 on Elections to the Parliament of the Czech Republic and on Amendments of certain other acts. 13 regions and the capital city of Prague.

In addition to these data the list of candidates shall include an indication by the political party or coalition, of the political affiliation of each candidate or, if applicable, of the fact that a candidate has not been a member of any political party and stands on the party list as non-affiliated-candidate<sup>22</sup>. This statement shall be reviewed by the Central Election Board<sup>23</sup>. If these provisions grant a large influence to the parties to select affiliated candidates, decrease of partisan membership may induce parties to adopt strategies to support non-affiliated candidates. In the Chamber of Deputies if some parties like the Communist party have partisan lists, others parties don't have systematically affiliate members.

For unipersonal votes such as the presidential election, Senators elections and municipal elections, independent candidates are permissible. In this report, insofar independent candidates at national level for Parliamentary elections refer in practice to candidates to the Senate, it appears more relevant to designate individual candidates for elections to the Chamber of Deputies, who are on the lists of candidates but who are not members of the given political party, as "*candidates without any party affiliation*". According to the Czech Statistical Office at General elections 2013, 34,45 % of all candidates were not members of a political party. This proportion was about the same for General elections 2010: 35,80 % but again these candidates may not be considered as "*independent*" candidates.

An election threshold determines the minimum number of votes that a political party must receive in elections in order to be allocated a mandate in the Chamber of Deputies<sup>24</sup>: 5 % for a single political party or political movement; 10 % for a coalition of two political parties or political movements; 15 % for a coalition of three political parties or political movements; 20 % for a coalition of four or more political parties or political movements.

When elections are held, the 200 available mandates are first allocated among the electoral regions on the basis of the number of valid votes that were cast, using the so-called Mandate Number. Subsequently, the mandates that have been allocated to an electoral region are divided proportionally among the political parties, political movements and coalitions that have stood for election in the region and that have passed the election threshold.

A conversion system for election results is used. This is an election formula which determines the number of mandates that are to be allocated to political parties, political movements and coalitions that have passed the election threshold. The current election law uses the d'Hondt system<sup>25</sup>, which provides for the division of election results of each party by a series of numbers 1, 2, 3 up to n. Mandates are allocated to the parties based on the size of their respective shares that are achieved by this division.

Once mandates are divided among the political parties, political movements and coalitions in each electoral region, they must be allocated to the individual candidates representing these parties. They

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<sup>22</sup> Article 31 of Act 247 on Elections to the Parliament of the Czech Republic and on Amendments of certain other acts

<sup>23</sup> Article 33 of Act 247 on Elections to the Parliament of the Czech Republic and on Amendments of certain other acts

<sup>24</sup> [http://www.psp.cz/files/okv/en\\_Parliamentary\\_elections.pdf](http://www.psp.cz/files/okv/en_Parliamentary_elections.pdf)

<sup>25</sup> See footnote 51

are allocated to individual candidates in the order that their names appeared on each party's list of candidates (voters cast their vote for a given party by selecting and submitting the list of candidates of the party, movement or coalition into the ballot box).

The order in which individual candidates appear on the list of candidates is determined by each party, movement or coalition. It may be decided on the basis of primary elections in which party members vote. This method embodies the weight of the political parties in the electoral system.

The election law, however, allows for so-called preferential votes to be cast by voters in elections to the Chamber of Deputies. Each voter may circle up to four candidates on the list of candidates they submit in order to give these candidates a preferential vote. If candidates receive more than 5 % of the total number of votes that have been cast for their party, they are elected to the Chamber of Deputies regardless of their position.

### **3.2 Electoral campaign finance**

The Act on association in political parties and political movements does not address specifically finances of candidates to the Chamber of Deputies without any political party affiliation. It does not deal with the donations paid directly to them and expenditures incurred by them<sup>26</sup>. Regarding the Chamber of Deputies, this system contributes to place candidates who are not members of a party under the financial dependence of the parties. Either parties monitor resources and electoral expenditures of candidates without any party affiliation or these candidates collect money without party's knowledge and without transparency.

Sources of political parties<sup>27</sup> are contributions to electoral expenses funded by the State, allowances for operational expenses from the State budget, membership fees, donations and inheritances, rentals and sales of tangible and intangible assets, interest on deposits, participation in business transactions<sup>28</sup>, income from raffles and cultural, social, leisure, educational and political events, loans and credits. Both natural and legal persons may make donations in cash and in-kind. Public funding for party activities is split in two parts<sup>29</sup>: a permanent contribution and a mandate contribution. Each political party and movement or coalitions of parties or movements which received at least 3 % of the vote in the election for the Chamber of Deputies may receive 6 million CZK<sup>30</sup> and 200 000 CZK<sup>31</sup> per year for every 0,1 % of the total amount of votes cast up to 5 % of the votes, the maximum allowance being 10 CZK million. The mandate contribution consists of 850 000 CZK<sup>32</sup> per year per member of each chamber and of 237 500 CZK<sup>33</sup> per year per member or a regional council or the Municipal Council of Prague.

No political party or movement may accept free benefits and gifts from State, municipal or local bodies, institutions receiving contributions from the State budget, public companies or legal entities

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<sup>26</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval32820102910\\_CzechRep\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval32820102910_CzechRep_Two_EN.pdf), § 63

<sup>27</sup> Section 17 (4) of the Act on association in political parties and political movements

<sup>28</sup> The scope of these business transaction is provided for by paragraphs 2 (2) and 3 (3) of Section 17 of the Act on association in political parties and political movements

<sup>29</sup> Section 20 of the Act on association in political parties and political movements

<sup>30</sup> Approximately 221 000 EUR

<sup>31</sup> Approximately 7380 EUR

<sup>32</sup> Approximately 31 300 EUR

<sup>33</sup> Approximately 9 200EUR

in which the State or a State company has a stake and legal entities partially managed and supervised by the State. This provision is not applicable if the interest of the State or a State company does not exceed 10 %. Donations from Charities, other legal entities defined by special status, foreign natural persons who do not have permanent residence status in the Czech Republic are not authorized. Foreign legal persons are not allowed either to make donations, except foreign political parties and foundations.

Party Expenditures are not liable to any limit.

### **3.3 Supervision of electoral campaign's accounts and sanctions**

All political parties have to present a financial statement to the Chamber of Deputies by 1st April of each year. This statement includes an auditor's report with no reservations, total resources and expenses, all inherited assets, received gifts and donations including the donor's first name, surname, date of birth and permanent address or the donor's business name, registered address and identification number, all inherited assets. If the donation is above CZK 50 000<sup>34</sup> a year, a donation contract must be signed and submitted with the annual financial report. Also membership fees over CZK 50 000 have to be stated together with the amount and identification of the member. A copy of the financial statement of the party is available at the Library of the Chamber of Deputies. Sanctions for infringements of party funding rules can be only imposed upon political parties.

Scrutiny is carried out by the Supervisory Committee of the Chamber of Deputies composed of 15 members appointed by the political groups<sup>35</sup>. It checks if the party met the legal requirements. It can inform the tax authorities if regulations on donations have been violated.

Three kinds of sanctions may be imposed: fines, suspension of public subsidies and dissolution of the party. Fines may be imposed when the party has accepted a donation which infringed the law<sup>36</sup>. In that case the party must return the donation with an interest to the donor or to the State budget by the 1st of April. If the party does not fulfil its duty the tax authorities may impose a fine of twice of the amount of the donation. The Minister of finances may suspend the public subsidies if the party did not present its annual financial report, if this report is incomplete or if a legal action has been brought against the party to suspend its activities<sup>37</sup>.

### **3.4 Final remarks**

Electoral system in the Czech Republic relies on political parties. As the OSCE noticed it in its report on Parliamentary elections of May 2010<sup>38</sup>: "*Individual candidates*<sup>39</sup> cannot stand for the lower chamber, which is not in line with OSCE commitments".<sup>40</sup> At the moment election campaign funding is just regulated for presidential election. Only §18 (1) c) of the Law No. 424 / 1991 Coll. on association in political parties and political movements provides for election expenses which are to be included in the annual financial statement of the party or the movement. There is no special

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<sup>34</sup> Approximately 1840 EUR

<sup>35</sup> For other similar examples : [http://www.coe.int/t/dghl/monitoring/greco/general/DOUBLET\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/general/DOUBLET_EN.pdf)

<sup>36</sup> Section 19 of the Act on association in political parties and political movements

<sup>37</sup> Section 20a of the Act on association in political parties and political movements

<sup>38</sup> <http://www.osce.org/odihr/elections/czech-republic/115576>

<sup>39</sup> This expression refers to candidates without any party affiliation

<sup>40</sup> See above 2.1.2 of the present report

regulation on significant fields on electoral finance: on financing of election campaigns insofar election campaigns are not defined; on independent candidates to the Senate and to local councils; on financing of private campaigns of party listed candidates and on election campaign of third parties.

Moreover the approach of funding of electoral campaigns exclusively through political parties fails to impose any sanctions to candidates without any party affiliation who would have violated the law. In its evaluation report on transparency on party funding<sup>41</sup>, the GRECO expressed its concern about a possible transfer of prohibited donations received by a candidate to a party. For that reason the GRECO pleaded for transparency standards for the electoral campaigns of the candidates which should be provided for separately from electoral campaigns of political parties. Besides the shortcomings of the rules of electoral finances of the Czech legislation in terms of transparency and supervision which have been raised by the GRECO, as long as the funding of electoral campaigns of candidates to the Chamber of Deputies without any party affiliation will be not regulated aside, it will be difficult to talk about independent candidatures. This concern is shared by observers about others elections as the election to the Chamber of Deputies: *“The finances of independent candidates running for seats in local or regional councils or the Senate are not monitored, and if the Czech Republic is to adopt a truly comprehensive and successful political finance reform, the rules must be equal and fair for everyone”*<sup>42</sup>.

The shortcomings of the current Czech model of oversight for election campaigns and party financing are numerous. Formally, supervision over political finances does exist, but formally is the key word. The system places very few requirements on political parties and candidates to help keep their financial activities transparent. Oversight over election campaigns is virtually non-existent and has so far been established for the presidential race exclusively. The six laws that directly regulate party existence and elections in the Czech Republic have been amended several times; this has not, however, led to an effective regulatory model in compliance with GRECO standards.

There is on ongoing process to amend current rules on party and electoral campaign finances. On an International Conference on corruption held in Prague on the 20<sup>th</sup> and 21<sup>st</sup> October 2015, Mr. Jiri Dientstbier, Minister of the Czech Republic’s Government for Human Rights, Equal Opportunities and Legislation, Chairman of the Government Legislative Council outlined the main features of the draft legislation to reform the current legal framework on party and electoral campaign finance. In the text submitted to the Czech Parliament, regarding income and expenditure, accounts of political parties should include all transactions. Donations from public bodies should be prohibited. Donations from individuals and legal entities should not exceed every year a threshold of CZK 3 Million<sup>43</sup>.

Electoral expenditures should be limited according the type of elections at stake. Electoral expenditures should not exceed for elections to the Chamber of Deputies the amount of CZK 90 million<sup>44</sup>, CZK 2 million<sup>45</sup> for each candidate participating to the first round of election to the Senate and CZK 2 500 000 for candidates running at both rounds<sup>46</sup>. These amounts include amounts of which political parties, political movements or coalitions, their candidates or independent candidates spent

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<sup>41</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%2820102910\\_CzechRep\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%2820102910_CzechRep_Two_EN.pdf), § 63

<sup>42</sup> <http://www.visegradgroup.eu/party-money-talks-but-in-the-czech-republic-to-whom/>

<sup>43</sup> Approximately 110 780 EUR

<sup>44</sup> Approximately 2 950 000 EUR

<sup>45</sup> Approximately 110 780 EUR

<sup>46</sup> Approximately 138 390 EUR

or ought to spend including amounts spent or obliged to be spent by third parties. Limits on expenditures would induce candidates to use their donations for electoral purpose and enhance information of political financing of candidates. Every political party, movement or candidate should open a transparent bank account<sup>47</sup> no later than 5 days after the announcement of the day of the election. If we refer to amendments suggested to the Assembly of political parties and political movements, practice of in-kind donations should be addressed, annual reports of political parties should be disclosed and the supervision body should be an independent institution. This supervision body could initiate investigations.

If these provisions are adopted, valuable progress will be achieved in terms of transparency of funding of electoral campaigns by political parties. The authorities have prepared two legislative proposals to amend the act on assembly in political parties and movements and the acts regulating different elections. The later assumes the Office's authority to monitor and sanction behaviour of independent candidates and political parties alike. However, it shall be mentioned that the proposed amendments to the acts regulating different types of elections do not concern the act on municipal elections (as opposed to the act on regional elections).

These drafts are subject to modifications. Questions raised by transparency of the funding of electoral campaigns of candidates to the Chamber of Deputies without any party affiliation haven't been totally taken in account. It seems for instance that these candidates can't apply for public funding, are not liable to specific financial statements and no sanctions are imposed on them and donors for electoral campaign financing irregularities. Financial links between political parties and these candidates during and after electoral campaigns should be clarified to preserve independence of these candidates. Auditing of financial statements of these candidates should be regulated. The scope of supervision of the new Office for oversight of financing of political parties and movements should include finance of these candidates.

The issue raised by the monopoly of presentation of candidates by political parties which has been criticized by the OSCE will not be solved. The question of candidates to the Chamber of Deputies without any party affiliation is not only a matter of electoral campaigns funding but is also a matter of electoral law and practice. The compliance with the standards of the OSCE would require changes of the electoral law to allow presentation of candidates on separate lists without any party affiliation and any influence of the party to determine the place of these independent candidates on the lists.

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<sup>47</sup> Bank account will allow free and permanent monitoring of payment transactions by third parties

## 4 EXAMPLES OF REGULATIONS ON INDEPENDENT CANDIDATURES FROM COE MEMBER STATES

Existing laws of different countries contain regulations on independent candidates but their impact on the election of these candidates is variable. Below we will discuss the regulation in five Council of Europe member states.

### 4.1 Estonia

#### 4.1.1 System of representation

##### 4.1.1.1 Lists of political parties

The 101 members of the Estonian parliamentary assembly, the Riigikogu are elected for a four years term by proportional elections<sup>48</sup> with open lists. Each political party can nominate up to two more candidates per constituency list as compared to the number of available seats. To stand as a candidate a person shall express his desire to stand as a candidate in the list of a political party or as an independent candidate<sup>49</sup>.

The Riigikogu Election Act and the European Parliament Election Act stipulate that only a member of the relevant political party or an independent candidate may stand as candidate in the list of the political party, and a member of another political party may not. The Local Government Council Election Act sets no such restriction. At the Riigikogu and local government council elections, a personal registration number is given to every candidate upon registration. Registration numbers start at 101. Candidate numbers are divided between political parties and independent candidates by luck of draw<sup>50</sup>.

Candidates on the lists are on the ballot paper on which each elector indicates his or her choice. In determining the electoral result, a simple quotient is calculated for each district by dividing the number of valid votes cast by the number of seats allocated to the district. Each candidate who obtains more votes than this quotient is elected. Candidates presented on party lists are enumerated in order of votes obtained. Each of these lists – in case it obtained 5 % of the votes nationwide - is allocated a number of seats equal to the number of times its votes exceed the quotient, those candidates receiving the most votes being declared elected. Mandates not assigned at the district level are distributed as national compensation mandates on the basis of a modified d'Hondt<sup>51</sup> method among those parties whose candidates obtained at least 5 % of the national vote. Seats will be distributed based on the position in the national candidates list but those candidates who have received less than 5% of simple quota in the respective constituency will not receive a mandate. In case there are not enough candidates exceeding the requirement of 5 % votes of the simple quota,

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<sup>48</sup> Article 60 of the Constitution and Riigikogu Election Act

<sup>49</sup> § 28 (1) of the Riigikogu Election Act

<sup>50</sup> <http://www.vvk.ee/info-for-voters/candidates/list-of-candidates/>

<sup>51</sup> This method is a [highest averages method](#) for allocating seats in [party-list proportional representation](#). The distribution of compensation mandates according to the modified d'Hondt distribution method that is used at the Riigikogu elections gives a small advantage to the parties that have received more votes. D'Hondt distribution series runs as 1, 2, 3, 4, etc. A slightly altered distribution series is used in [Estonia](#), where the elements of the series from 2 onwards are raised to the power of 0.9. The values of such a series are 1,000, 1,866, 2,688, 3,482, etc. The d'Hondt method provides advantages for big parties.



the mandates are allocated to those candidates in the same party list who have received the largest part of the simple quota in their constituency<sup>52</sup>.

The National Electoral Committee (NEC) registered at the last parliamentary elections of the 1<sup>st</sup> March 2015, 863 candidates from 10 political parties. Six parties-four parliamentary and two non-parliamentary nominated the maximum possible number of 125 candidates<sup>53</sup>.

In addition to the candidates on the lists, the electoral law recognizes the right of independent candidates to participate to electoral campaigns.

#### **4.1.1.2 Independent candidates**

A person has the right to stand as a candidate if is 21 years old, has the legal capacity, does not serve in the Defence forces and is not sentenced to prison after a criminal offence may nominate himself or herself as an independent candidate and perform the acts necessary for registration. A person who has the right to vote with 18 years of age, has the legal capacity for that purpose and has not been convicted of criminal offence and imprisoned may nominate another person as an independent candidate and perform the acts necessary for registration on the basis of a corresponding authorization document. An independent candidate may be nominated in only one electoral district<sup>54</sup>.

An independent candidate shall submit to the NEC an application for his registration, a copy of the payment certifying the payment of security and the documents required. Among the various information on his identity, which has to be given is the information on membership in a political party<sup>55</sup>, which could be seen as an obstacle for the candidacy of independent candidates.

A candidate in favour of whom the number of votes cast exceeds or equals the above-mentioned simple quota is elected<sup>56</sup>.

In the last parliamentary elections which took place in March 2015 a total of 17 independent candidates were registered; however none of them was elected in the parliament.

#### **4.1.2 Funding of electoral campaigns**

Sources of funding of the election campaign of a single candidate include donations made on the terms and conditions laid down in the Political Parties Act and the personal property of the single candidate.

Rules applying to donations to political parties are strict in comparison with the ones which usually regulate this activity in other member States of the Council of Europe.

Firstly, donations cover in-kind donations. Donation means a financially assembly benefit and includes a service<sup>57</sup>. To assess the real value of a non-monetary donation, regulations on donations specify that the usual value of the object or right will be used. So, in-kind donations should be traceable.

Secondly, independent candidates may not receive anonymous donations, donations by legal persons<sup>58</sup>, transfers or granting of use of goods, services or proprietary rights to political party

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<sup>52</sup> § 62 of the Riigikogu Election Act. Venice Commission Revised comparative table on proportional electoral systems: the allocation of seats inside the lists. 30 April 2015. Study 764/ 2014

<sup>53</sup> OSCE,ODHIR Needs Assessment Mission Report 19-21 January 2015, Parliamentary elections 2015, p.5

<sup>54</sup> § 27 (1) and (2) of the Riigikogu Election Act

<sup>55</sup> § 28 (3) of the Riigikogu Election Act

<sup>56</sup> § 62 (2) of the Riigikogu Election Act

<sup>57</sup> Same rule applies in Latvia and in Lithuania. [https://www.coe.int/t/dghl/monitoring/greco/general/DOUBLET\\_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/general/DOUBLET_EN.pdf) p.13

<sup>58</sup> § 5 2 (5) of the Political Parties Act

on preferential terms, release from ordinary binding duties or obligations. These strict rules are an obstacle to concealed donations. Sanctions for prohibited donations to political parties apply to prohibited donations to independent candidates. Where possible prohibited donation shall be returned immediately to the donator and if the donation cannot be returned, it will be transferred to the State budget.

Thirdly, an independent candidate may use only current accounts for receiving election campaigns revenues and incurring election campaign expenses<sup>59</sup>. Political parties are liable to election campaign and annual reports<sup>60</sup>.

Fourthly, independent candidates submit to the political party funding supervision committee<sup>61</sup> a report on the expenses of the election campaign and the origin of the funds used within one month after the polling day. Reports shall be published on the website of the Political Party Funding Supervision Committee (PPFSC)<sup>62</sup>.

#### **4.1.3 Supervision of electoral campaign's accounts and sanctions**

The PPFSC has been established to oversee compliance with campaign finance legislation. This supervision committee has to check annual party accounts, party registers on donations, election coalition quarterly reports on donations as election campaign reports and quarterly reports by political parties. It consists of a member appointed by the Chancellor of Justice, a member appointed by the Auditor General, a member appointed by the NEC, a member appointed by a political party represented in the Riigikogu who is not a member of the Riigikogu or of the Government. The term of this office is five years<sup>63</sup>.

An appointing body or party may remove its representative at any time, which could negatively impact the PPFSC's independence. In its final report on parliamentary elections in March 2015, the OSCE called on amending the act on this point to secure the independence of the Committee<sup>64</sup>.

PPFSC authority is limited, as it may not adopt regulations, issue fines or investigate possible violations. However, it has the authority to impose monetary penalties if parties do not comply with its administrative instructions to rectify identified violations. The PPFSC may look into complaints or initiate actions on its own. In accordance with the law, the PPFSC must send cases requiring investigation to the police, which has resulted in delays and pose a significant problem for enforcement. Political parties are required to submit quarterly and annual reports to the PPFSC on income and expenditures. The law does not require reporting on third-party campaign expenditures.

The PPFSC shall make an injunction to a single candidate in the following cases: if he failed to submit his election campaign report; if he failed to return a prohibited donation; if he did not recognize an accepted donation; if he did not transfer a prohibited donation to the State budget; if he did not submit his electoral expenses; if he has failed to submit a document requested

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<sup>59</sup> § 12,5 of the Political Parties Act

<sup>60</sup> §§ 12,8 and 12,9 of the Political Parties Act

<sup>61</sup> The Political Parties Act which entered into force in April 2011 established the Supervisory Committee on Political Party Funding.

<sup>62</sup> § 12, 8(1), (2) of the Political Parties Act

<sup>63</sup> § 12,10 (4) of the Political Parties Act

<sup>64</sup> <http://www.osce.org/odihr/elections/estonia/160131>, p.10

by the committee by the prescribed date<sup>65</sup>. Independent candidate may appeal against injunction. Failure by an independent candidate to submit an election campaign report<sup>66</sup> or to inform the PPFSC of the use of a current account for election purposes is punishable by a fine<sup>67</sup>.

#### 4.1.4 Final remarks

We note that allocations from State budget are exclusively devoted to political parties<sup>68</sup>, which participated to Parliamentary elections. To apply for these public funds, political parties have to obtain at least one per cent of the votes cast<sup>69</sup>. It means that regarding public funding the treatment of political parties and independent candidates is different. The funding of the latter is exclusively private while political parties may receive private and public funds and these public funds may be used for current activities of the parties or for electoral campaign purposes.

More generally Estonian electoral system is dominated by political parties.

Secondly, the lack of any electoral expenditures limits might tend to favour in practice wealthy candidates, discourage underfunded ones and create a political dependency regarding donors. This risk may be all the more a reality because there is no limit on the amount the donor can contribute to a candidate.

Thirdly, independent candidates do not have obligation to disclose donations regularly but just during the election campaign<sup>70</sup>. In its last report of the third evaluation round<sup>71</sup>, the GRECO welcomes the amendment to Political Parties Act which imposes regular disclosure of donations to political parties and election coalitions but regrets that no similar rules are applicable to independent candidates, who only have to include information on donations received in their election campaign reports after elections. The time of active election campaigning is deemed to be the time as of the last day for the registration of candidates<sup>72</sup> which is 45 days before the polling day<sup>73</sup>. So candidates may be induced to concentrate donations they collect before the day of the beginning of the electoral campaign.

## 4.2 France

### 4.2.1 System of representation

MPs are elected by direct universal suffrage using a uninominal majority system in two rounds. All French citizens of at least eighteen years old who are in their possession of their civil and political rights and who are not in state of legal incapacity may vote. To be elected MP at the first round a candidate must obtain an absolute majority, *i.e.* more than half of votes cast and a number of ballots equal at least to one quarter of the voters enrolled. If no candidate is elected a second round is required. Only those candidates who have obtained a number of votes in the first round equal at 12,5 % of the voters enrolled, may stand in the second round. In the second round a relative majority is enough to be elected. Thus the candidate with the highest number of votes is deemed elected. MPs are

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<sup>65</sup> § 12,11 of the Political Parties Act

<sup>66</sup> 12,17 of the Political Parties Act (Up to 300 fine units)

<sup>67</sup> § 12,15 of the Political Parties Act (Up to 200 fine units)

<sup>68</sup> § 12,7 of the Political Parties Act

<sup>69</sup> At the 2015 elections to the Riigikogu 11 parties were running, 6 parties collected more than 1 % of the votes

<sup>70</sup> § 12,8 of the Political Parties Act

<sup>71</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2013\)10\\_Second\\_ADD\\_Estonia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)10_Second_ADD_Estonia_EN.pdf). The Estonian authorities planned to submit draft legislation addressing the issue of disclosure of donations to independent candidates for election to Government by January 2014 at the latest.

<sup>72</sup> § 5 (1) of the Riigikogu Election Act

<sup>73</sup> § 30 (2) of the Riigikogu Election Act

elected for a five years term. The constituencies in which each MP is elected depend on the department from 1 to 21 seats according the size of the population.

An overwhelming majority of candidates runs for a political party. After their election MPs are members of a political group inside the Lower House. But it is not mandatory to be a member of a group. MPs in that position are named on the list of MPs as “*belonging to no group*” and are usually referred to as “*non-enrolled*”. Out of 576 MPs there are 10 MPs in that position under the present legislature. So if the electoral system does not favour independent candidates the organization of the Lower house neither. Because at the last election most of these MPs belonged to small parties they were unable to reach the threshold of 15 MPs to form a political group. Membership of a political group brings substantial number of prerogatives concerning the working of the legislative procedure.

## **4.2.2 Electoral campaign finances**

### **4.2.2.1 Public funding**

Limits of electoral expenditures apply to all elections in constituencies over 9 000 inhabitants. The spending limit for the 2012 presidential election was EUR 16 851 million for the first ballot and EUR 22 509 million for the second. The average spending limit for legislative elections is approximately EUR 60 000. This ceiling is readjusted every 2 years for inflation. If the candidate obtains 5 % or more of the votes cast in the 1st round, he receives a flat reimbursement. The maximum amount of this flat reimbursement allowed by law is equal to 47,5 % of the upper limit of electoral expenses defined by each constituency according to the number of its inhabitants. To be reimbursed, the candidate must meet several requirements: appoint a financial agent, an individual or an association; file campaign accounts which must be submitted by an accountant registered with the Association of Chartered accountants in the legal time limit. The amount of flat reimbursement was EUR 36,3 million for the presidential election 2012 and EUR 49,3 million for legislative elections the same year.

### **4.2.2.2 Private funding**

Only donations from individuals-domestic and foreign persons- are allowed with a limit of EUR 4 600 per donor and per year for a candidate and EUR 7 500 per donor and per year for a party. Contributions may be made by members and elected officials to parties. Unique donations from legal persons

to candidates which are accepted are donations from parties. French electoral code prohibits all public figures and public sector corporate bodies from giving donations or other benefits to a candidate. Campaign accounts may be rejected on the ground that the candidate enjoyed a benefit within the meaning of these provisions. It is for the National Commission for Campaign Accounts and Political Funding (CNCCFP) which is the supervising body of political party and electoral campaigns finances and for the electoral court to assess whether the campaign accounts should be rejected accordingly, having regard to all the circumstances and in particular to the value of the benefit, the conditions in which the benefit, the in-kind contribution was given and its amount. For instance the occasional use of photocopier by a candidate given the amount, the nature and the benefit does not justify rejection of the candidate’s campaign account.

Expenses are considered as electoral expenses liable to the flat reimbursement in the limit of the ceiling of expenditures when they aim at obtaining votes and be engaged by the candidate

or with his agreement within the legal electoral campaign period which starts one year before the first day of the month in which the election takes place. For instance purchase of a suit by a candidate is not considered as an electoral expense liable to flat reimbursement according to jurisprudence<sup>74</sup>. In France commercial advertising in the Medias six months for the election is prohibited<sup>75</sup>.

Exceeding the ceiling of expenses causes the rejection of the campaign account by the CNCCFP. If it is confirmed by the electoral court and if this excess is significant (17 % for instance), the candidate may lose his flat reimbursement and he may lose his office during three years. Same rule applies in case of a significant infringement of the regulations on electoral campaign funding, when for instance before 2013 candidates made direct payments without going through an agent. This electoral sanction of ineligibility is not an available sanction for presidential election but applies to other elections. By legislative elections 2007 penalty of ineligibility has been applied twice for elected MPs, by legislative elections 2012 three times.

#### **4.2.2.3 Candidates' campaign accounts**

In constituencies of more than 9 000 inhabitants, all candidates in an election whether Presidential, legislative, senatorial, regional, departmental, municipal or European, are required to file a campaign account. This campaign account must be submitted by a chartered accountant with the CNCCFP the 10<sup>th</sup> Friday after the first round. Candidates who did not obtained 1 % of the votes at the first ballot are exempted from this submission of a campaign account.

This campaign account must include donations by individuals, the candidates' personal contributions, bank loans taken out by candidates; borrowings from political parties, expenses paid by electoral parties, in-kind contributions by the candidate, the political party and miscellaneous income.

In same constituencies and for the same elections, candidates are required to appoint a financial agent or an electoral financial association. They are the sole intermediaries regarding campaign financing. They have to collect campaign funds over the year before the day of the month in which the election takes place and up to the date of the filing of the candidate's accounts, *i.e.* the 10<sup>th</sup> Friday after the first ballot. They settle expenses incurred directly by the candidate or on his/ her behalf. They must open a single bank or post office account for all transactions for the electoral campaign. According to the relevant provision of the Electoral Code, the account's title shall show that the holder is acting as financial agent for the duly named candidate. This agent shall be declared at the Prefecture of the residency of the candidate. These agents have to be declared when candidates submit their candidature. It is a way for candidates to ease the centralization of expenses and income of the electoral campaign.

Receipts enclosed to donations from physical persons below a threshold of EUR 3 000 serving as proof of payment for tax administration do not mention the candidate. The GRECO in one of its recommendations<sup>76</sup> suggested to French authorities to lay down an appropriate threshold above which the identity of the donor must be disclosed. French authorities view that it would excessively undermine the principle of freedom of political opinion, one of the consequences

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<sup>74</sup> CE, 30 novembre 2005, Mme Le Pen, req. 273319 ; CC, 2002-115 PDR, 26 septembre 2002, décision relative au compte de campagne de M. François Bayrou, candidat à l'élection du Président de la République des 21 avril et 5 mai 2002, Rec. p. 242.

<sup>75</sup> Article L 52-1 Electoral Code

<sup>76</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)5\\_France\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)5_France_Two_EN.pdf)

of which is the principle of the secret ballot. Given the weak amount of these donations, EUR 4 600 to a candidate and EUR 7 500 to a political party, the risk of an excessive influence of donations from individuals on political actors should not be exaggerated.

#### ***4.2.2.4 Supervision of electoral campaign's accounts and sanctions***

The CCNCFP is an independent administrative authority composed of 9 active or honorary members from the highest courts: three from the Council of State, three from the Court of cassation and three from the Audit court. These members are tasked with the election of their chairman. Its budget amounts EUR 6,7 million in 2015, EUR 4,2 million for personnel costs and EUR 2,5 million for management costs. 47 employees work in that commission. It is expected to treat 11 600 accounts of candidates for departmental elections and 250 accounts of lists for regional elections in 2015.

In the case of the campaign's accounts the CNCCFP has six months to approve, reject or revise them. 2,5 % of these accounts have been rejected at the 2007 legislative elections, 2,1 % at the 2012 legislative elections.

If the account is accepted the State grants candidates with at least 5 % of the votes cast at the first round, 47, 5 % of the flat reimbursement of the electoral expenditures. There are various reasons for a rejection of a campaign account: no account opened by an agent, a deficit unaccounted for, no invoices attached to the account, significant excess of the ceiling of expenses. In case the CNCCFP rejects the campaign accounts, it refers the matter to the court with jurisdiction for the election. In case the CNCCFP considers that a criminal offence has been committed, it refers the matter to the Public prosecutor.

If the CNCCFP has to deliver its decisions within a period of six months from the deadline for the submitting the accounts, this period is reduced to two months if the election has been challenged by a voter who has an interest in taking legal procedure.

Decisions of the CNCCFP may be challenged by the candidates before the relevant election jurisdiction.

Confirmation of the rejection of the campaign account by the jurisdiction means loss of the flat reimbursement. For instance insofar electoral expenditures of Nicolas Sarkozy exceeded 2, 1 % of the threshold at the 2012 presidential race, he lost his public reimbursement which amounted to EUR 10, 8 million<sup>77</sup>. According to the decision of Constitutional Council of the 4<sup>th</sup> July 2013 on the decision of the CNCCFP which was challenged by Nicolas Sarkozy<sup>78</sup>, the CNCCFP was right to reject his account. If the infringements to the rules do not lead to the rejection of the accounts the flat reimbursement may be reduced depending on the number and the seriousness of the infringements<sup>79</sup>.

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<sup>77</sup> This deficit was covered by donations from individuals to the party

<sup>78</sup> <http://www.conseil-constitutionnel.fr/conseil-constitutionnel/english/french-presidential-election-2012/french-presidential-election-2012.104965>

<sup>79</sup> Article L 52-11-1 Electoral code

Other sanction which may be applied is the ineligibility which is one of the main characteristics of the French system. This ineligibility may be ordered by the court if the campaign account has been rightfully rejected on grounds of fraud or of serious breach of the rules on electoral campaign funding.

It applies for a maximum of three years and to all elections but not for the previous elections. It is a very deterrent sanction. Out of 6 603 candidates at the 2012 legislative elections, 195 have been declared ineligible by the Constitutional Council. In 18 cases the candidate has regularized his situation during the procedure and in 19 cases the Constitutional Council has considered the infringement of the rules was not serious enough to justify the penalty of ineligibility. If this penalty applies only during three years, in practice the disqualified elected representative may not be elected for the whole duration of the mandate which be fulfilled by another elected representative. One point has to be emphasized. Ineligibility applies to all elections but may not be ordered for presidential election because the announcement of the results of the election by the Constitutional Council is a judicial decision just after the second ballot which can't be put in question later. Pursuant to Article 62 of the Constitution this announcement shall be binding on public authorities, on all administrative authorities and all courts.

Besides electoral sanctions, in case the CNCCFP considers that a criminal offence has been committed, it can refer the matter to the public prosecutor. Electoral code provides for sanctions of criminal offences with fines of EUR 3 750 and/ or a prison sentence of at most one year.

From a general point of view, French funding regulations of politics have two merits. They have limited spending on elections and they have reduced dependence of political parties and candidates on private donations.

### **4.2.3 Final remarks**

Two main factors may ease independent candidatures: the universal majority electoral system in constituencies and the self-financing of electoral campaigns by candidates through personal funds and loans. Personal funds represented for instance 71 % of the income of the candidates to the legislative elections 2012<sup>80</sup>. But in practice we noted that 98 % of the MPs at these elections were put forward by political parties. So if independent candidates may stand up in constituencies where there as known, may raise money, are liable to same rules on donations and expenditures as candidates of the parties, have recourse to a financial agent and if transparency requirements for the candidates are close to the ones for the political parties (accounts, chartered accountants in one case and auditors in the other case), candidates of political parties have greater chances to be elected than independent candidates. And as party members they will be members of political groups, which means more rights concerning the work in plenary sittings.

## **4.3 Ireland**

### **4.3.1 System of representation**

The Irish parliament (the *Oireachtas*) is composed of the directly elected Assembly, the *Dail Eireann*, the Lower House and the indirectly elected *Seanad Eireann*, the Upper House. The 166 members

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<sup>80</sup> Droit des élections, Laurent Touvet, Yves-Marie Doublet, Economica 2014, 2nd Edition, p.335

representing 43 constituencies of the *Dail Eireann* are elected for five years on a system of proportional representation by means of a single transferable vote<sup>81</sup>. Transferable vote means a vote which is capable of being given so as to indicate the voter's preference for the candidates in order and capable of being transferred to the next choice. PR-STV (Proportional representation with a single transferable vote) allows the elector to indicate their first and subsequent choices for the candidates on the ballot paper. Names of candidates are listed on the ballot papers by alphabetical order.

Voters indicate their first choice by writing it and then their second choice and their third choice and so on. When the papers have been counted and sorted, the quota is calculated by dividing the total valid poll by one more than the number of seats to be filled, ignoring any remainder and then adding 1 vote. For example, in a Dáil election in a four seat constituency with 50 000 votes cast, 50 000 divided by 4 plus 1 (that is, 5) 10,000. If a candidate receives more than the quota on any count, the surplus votes are transferred to the remaining candidates in proportion to the next available preferences indicated by voters (that is, the next preference on each vote for a candidate who has not been elected or eliminated). That is the single transferable vote. For example, if candidate A receives 900 votes more than the quota on the first count and on examining all of their votes, it is found that 30 % of these have next available preferences for candidate B, then candidate B does not get 30 % of all candidate A's votes, candidate B gets 30 % of A's surplus, that is, 270 votes (30 % of 900). This system means two things. Voters can just select one candidate but by indicating preferences they can vote for other candidates. They can express choose an independent candidate or the representative

of a party. This voting system takes two days to account. The independent candidate who is elected usually says to whom candidate his surplus votes will be transferred.

This system has been criticized for its lack of ability to let emerge a majority and a strong government but a great number of constituencies with a small number of seats provides a majority bonus<sup>82</sup>. According to Article 16 of the Constitution, the number of seats per constituency shall not be less than three. Candidates are elected proportionally in 43 constituencies consisting of three, four or five representatives depending on the number of inhabitants.

Candidates must be a citizen of Ireland, be over 21 years of age and not be disqualified from election to the Dáil.

To be nominated for membership of the Dáil, candidates must complete one of the following options:

-A Certificate of Party Affiliation. Voters may be more informed on the party affiliation. If the candidate wishes to supply a photograph or a party emblem, certain requirements regarding shape and size must be met. If he does not supply a photograph and/or emblem, the space or spaces provided on the ballot paper will be left blank. If the candidate has no party affiliation he may describe himself as "*non-party*" or leave the appropriate space blank.

-Statutory declarations by 30 assenters in the relevant Dáil constituency.

-Candidates or someone on their behalf must lodge a deposit of EUR 500 with the returning officer.

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<sup>81</sup> At the next General Election this will change to 158 members representing 40 constituencies

<sup>82</sup> Irlande, Dictionnaire des élections, Presses universitaires de France, 2001, p. 543



The candidate, or someone on his or her behalf, must lodge a deposit of EUR 500 with the returning officer.

A total of 566 candidates were registered to compete in the 2011 Dáil elections while the number of independent candidates was 174<sup>83</sup>. After the election, there were 16 independent MPs in the Dáil representing 10 % of the total. The fact there are constituencies with 3 or more seats explains that single candidates who are well installed in their constituency without any direct party affiliation may be elected.

#### **4.3.2 Electoral campaign finances<sup>84</sup>**

##### ***4.3.2.1 Electoral expenditures***

The Electoral Act of 1997 which has been amended several times set up a system for supervising and limiting election expenditure by political parties and candidates. Both must account for all that they spend on an election, including expenditure on advertising, promoting the party, opposing other candidates and soliciting votes. The election period starts on the date of the dissolution of the Dáil and runs to polling day, including both dates.

The Electoral Act sets down limits so that candidates are only allowed to spend a certain amount on elections. The maximum that a candidate can spend on a Dáil election is:

- EUR 45 200 per candidate in a five-seats constituency;
- EUR 37 650 per candidate in a four-seats constituency;
- EUR 30 150 per candidate in a three-seats constituency.

Each candidate is required to appoint an election agent for the purposes of accounting for expenditure incurred by or on behalf of the candidate at the election. The agent may also assist the candidate generally in relation to the election. The appointment of the election agent by the candidate, who may be the candidate him/herself, must be made not later than the last day for receiving nominations and be notified to the returning officer. A candidate or his agent may also appoint one deputy agent (or sub-agent) for each polling district in the constituency to assist the candidate in the polling district and to act as deputy for the candidate's election agent in the district. The appointment of a deputy agent (or sub-agent) must be notified in writing to the returning officer by the person making the appointment.

The national agent of each political party and the election agent of each candidate is required to furnish to the Standards in Public Office Commission (the Standards Commission), within 56 days of polling day at the election, a statement in writing of all expenses incurred in connection with the election. A copy of each statement submitted to the Standards Commission is laid before each House of the *Oireachtas*.

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<sup>83</sup> OSCE/ODHIR Early parliamentary elections 25 February elections 2011

<sup>84</sup> <http://www.viron.ie/en/LocalGovernment/Voting/PublicationsDocuments/FileDownload,1869,en.pdf>

The Act also creates a system of reimbursement of election expenses. If a candidate received at least one-quarter of the quota of votes for the constituency in which he or she ran, he or she may apply for a reimbursement of up to EUR8,700 of his or her election expenses.

#### ***4.3.2.2 Electoral campaign funding***

Elected public representatives and candidates for election may not accept a donation from a person in a particular year that exceeds EUR 1,000.

In the case of a political party or ‘third party’ campaign group, the maximum donation that may be accepted cannot exceed EUR 2,500<sup>85</sup>.

The acceptance of a donation from a non-Irish citizen residing abroad is prohibited.

A ‘corporate donor’ that wishes to make a donation greater than EUR 200 to a candidate, elected representative, political party or third party campaign group must be registered with the Standards Commission. The maximum amount that can be accepted from a ‘corporate donor’ which is not registered is EUR 200<sup>86</sup>.

A corporate donor is defined as a body corporate, an unincorporated body of persons or a trust. A donation above this amount from a registered corporate donor must be accompanied by a statement that the making of the donation was approved by the members, shareholders or trustees of the donating body.

The maximum amount that can be accepted as a cash donation in the same year is EUR 200. Cash donations over EUR 200 are banned.

A free service provided by an individual, including use of the individual's motor vehicle, private telephone, etc., where the service provided is not part of the individual's work or business<sup>87</sup>. Expenses incurred by a registered political party are not regarded as a donation to a candidate.

Where a loan is provided to a candidate by a financial institution and the normal rules attaching to such loans apply, the loan is not regarded as a donation to the candidate. However, where a loan is provided to a candidate by a financial institution in circumstances where either the interest charged is less than the lowest rate available from the financial institution or the loan is not repaid in accordance with the terms and conditions under which the loan was issued or is only partially repaid, the benefit to the candidate may be regarded as a donation and may, therefore, be subject to the disclosure and maximum limits applying to the acceptance of donations<sup>88</sup>.

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<sup>85</sup> Section 23A Electoral Act 1997, Electoral (Amendment) Political Funding Act 2012

<sup>86</sup> Section 23AA Electoral Act 1997, Electoral (Amendment) Political Funding Act 2012

<sup>87</sup> Section 22 b (iii) Electoral Act 1997

<sup>88</sup> <http://www.sipo.gov.ie/en/Guidelines/Election-Guidelines/General-Election-Candidates-and-Election-Agents-2011>

### **4.3.2.3 Financial statements**

Each member of the Dáil is required to furnish to the Standards Commission, by 31<sup>st</sup> January each year, a statement indicating whether any donations exceeding EUR 600 were received, and must include the same information in respect of these donations as is provided by a candidate.

An unsuccessful candidate at a Dáil election is required to furnish to the Standards Commission, within 56 days of polling day at the election, a statement indicating whether any donations exceeding EUR 600 were received by them for the election and giving particulars of any such donations and the persons who made them.

Section 24 (1A) of the Electoral Act 1997 provides for that an individual must furnish a Donation Statement/Statutory Declaration to the Standards Commission, if he/she, in a particular year, makes donations exceeding EUR 1,500 in aggregate value to two or more persons who were members of the same political party when the donations were made, or to a political party and to one or more of its members. The Donation Statement/Statutory Declaration must give details of the donations and the persons to whom they were made and must be furnished by 31<sup>st</sup> January of the following year.

If a donor does not intend to comply with this requirement and a Member or candidate at an election is aware of this, he/she is prohibited from accepting a donation from that individual. If such a donation is received, the Standards Commission must be notified within 14 days and the donation or its value remitted to the Standards Commission.

Seven Donation Statements from individual donors with a total value of EUR 56,520 were received in respect of 2014. Details of the donations disclosed by individual donors in respect of 2014 are available in a report which is available on the Commission's website.

The statement must include information on<sup>89</sup>: the date on which the donation was received; information on whether the donation was requested from the donor, and if so, the name of the person who requested the donation, and, whether a receipt issued to the donor in respect of the donation, and if so, the date on which the receipt issued and the name of the person who issued the receipt. Fail to provide this information would be an offence.

If a candidate receives, in any particular calendar year, a monetary donation, the value of which exceeds EUR 100, he must open and maintain a political donations account in a financial institution. In addition, each political party is required to furnish to the Standards Commission, by 31<sup>st</sup> March each year, a statement indicating whether any donations exceeding EUR 1,500 were received by it and giving particulars of any such donations and the persons who made them. As with candidates and members of Dáil, the statement must also include further detailed information on such donations. All public representatives, unsuccessful candidates at elections and third parties who receive a donation for political purposes greater than EUR100 in any particular year must open a political donations account which should then record all donations transactions in the year after the account was opened.

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<sup>89</sup> Section 20 of Electoral Act 1997

Annual and post-election donations statements must be accompanied by a statement from the financial institution specifying the transactions that have taken place in the account together with a certificate stating that all donations were lodged to the account and were used for political purposes.

A new part, Part IX, was introduced by the Act 2012 to the Electoral Act to submit accounts of political parties to disclosure and to auditing requirements<sup>90</sup>. If political parties do not comply with these requirements risk is losing State funding. The audit shall be carried out by the end of the period of six months from the end of the financial year to which the relevant accounts relate.

#### ***4.3.2.4 Supervision of electoral campaign's accounts and sanctions***

The Standards Commission is an independent body established in December 2001 by the Standards in Public Office Act 2001. It has six members and is chaired by a former Judge of the High Court.

The Electoral Acts require the Standards Commission to monitor and, where it considers it appropriate to do so, to report to the Chairman of Dáil on matters relating to:

- the acceptance and disclosure of donations received by political parties, Members of both Houses and of the European Parliament and candidates at Dáil, Seanad, European Parliament and presidential elections.
- the opening and maintenance of political donations accounts.
- the limitation, disclosure and reimbursement of election expenses.
- the State financing of qualified political parties.
- the registration of "third parties" (*i.e.* campaign / lobby groups or individuals which accept a donation for political purposes which exceeds EUR127 in value) and other persons.

The Standards Commission may conduct whatever enquiries are necessary in the discharge of its statutory functions.

The Standards Commission is required, from time to time, to draw up and publish guidelines and provide advice on compliance to persons who are covered by the provisions of the Electoral Acts. A person must act in accordance with guidelines published or advice given by the Standards Commission, unless, by doing so, he or she would be contravening another provision of the Electoral Acts.

The Standards Commission is also required to facilitate the inspection and copying, by any person, of Donation Statements, Election Expenses Statements, etc., provided to it under the legislation.

It is an offence by the candidate to fail to furnish to the election agent relevant details of expenses incurred before the appointment of an election agent, in sufficient time to enable the agent to carry out his/her duties.

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<sup>90</sup> Part IX Electoral Act 1997, Electoral (Amendment) Political Funding Act 2012

After an election agent has been appointed, it is an offence for a candidate to incur election expenses unless authorized to do so by his/her election agent or the national agent of his/her political party.

Knowingly accepting a prohibited donation, may result in a fine of up to EUR2 500.

Failure to take the appropriate action in relation to anonymous donations or foreign donations, or donations in excess of the prescribed limit may result in a fine of the same amount. Donor who fails to furnish the required Donation Statement is liable to a fine not exceeding EUR2 500. A donor who knowingly furnishes a false or misleading Donation Statement is liable, on summary conviction, to a fine not exceeding EUR25 394.76 and/or imprisonment up to 3 years. Where the conviction relates

to a failure to furnish a donation statement the person shall be guilty of a further offence on every day in which the failure continues, after such conviction, and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding EUR500 per day<sup>91</sup>.

#### **4.3.3 Final remarks**

Electoral system facilitates independent candidatures. Regulations on donations and disclosure show that due consideration has been paid to transparency.

Threshold for cash donations, register of ‘corporate donors’, submission of financial statements, disclosure of donations on the website of the Standards Commission reflect this transparency. Limitations on electoral expenditures partake of this rules which aim at transparency too. Concerning public funding to political parties the Electoral Act does not make any reference to whether funding is to be applied for capital or current purposes and does not specify the time period to which the funding relates. The Commission is of the view that there is a need for greater clarity in these matters<sup>92</sup>. But in its second compliance report GRECO valued the efforts displayed to enhance transparency of party funding and reporting requirements.

## **4.4 Poland**

### **4.4.1 System of representation**

460 Deputies to the Lower House, the *Sejm* are elected by proportional representation<sup>93</sup> from 41 multi-member constituencies in an open list system. The size of constituencies varies between 7 and 20 elected deputies. Independent candidates cannot stand alone in the *Sejm* elections but only in list-sharing with other candidates in a multi-member constituency<sup>94</sup>. Article 196 of the Election code (Act 5<sup>th</sup> January 2011) provides in § 1: “*In the process of distribution of seats in the constituencies only the lists of candidates for Mps of the electoral committees whose lists at least 5 % of valid votes in the country shall be taken into account.*” § 2 states: “*Lists of candidates for Mps shall be included in the distribution of seats in the constituencies where the list received at least 8 % of the valid votes in account*”. According to Article 208 § 2 of the Electoral code: “*A person may stand for election in one constituency and only on one list of candidates*”. The link between a seat in a constituency

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<sup>91</sup> <http://www.sipo.gov.ie/en/Guidelines/Explanatory-Notes/Explanatory-Notes-for-Donors/>

<sup>92</sup> <http://www.sipo.gov.ie/en/Reports/Annual-Reports/2014-Annual-Report/AnnualReport2014/chapter3.html>

<sup>93</sup> Article 96 of the Constitution

<sup>94</sup> This provision does not comply with Paragraph 7.5 of the 1990 OSCE Copenhagen Meeting. See above 2.1.2.

and the outcome of the vote on a national level has been criticized because it eliminates political parties which took part to an election just in a constituency or in few of them. These political parties will not exceed the nationwide threshold<sup>95</sup>.

Polish citizen who, no later than on the day of vote has attained 18 years of age, has the right to vote in elections and, anyone having the right to vote, who, no later than on the day of the elections, has attained the age of 21 years, is eligible to be elected to the Sejm. Persons, who, by a final judgment of a court, have been subjected to legal incapacity or deprived of public or electoral rights, shall have no right to vote<sup>96</sup>.

Voters, being at least 15<sup>97</sup> in number, may establish an election committee too and, then, after having collected at least 1 000 signatures of citizens in support of the setting up or their committee, must notify the creation of the election committee to the National Electoral Commission.

The election committee may perform electoral activities after the National Electoral Commission has made a decision to accept the notification. The function of an election committee of a political party is performed by an organ of the party, authorized to represent it. A list of candidates should be submitted, in each constituency, to the constituency electoral commission. A constituency list must be supported, by the signatures of a least 5 000 voters residing permanently in a given constituency<sup>98</sup>.

This requirement does not apply to an election committee which has registered constituency lists in at least half of all constituencies.

Notification of the list of candidates should include surname, name (s), occupation and address of each candidate. The names of the candidates are placed on the list in the order as determined by the election committee<sup>99</sup>.

Electoral committees whose candidates' lists collect at least five per cent of the total number of valid votes and eight per cent for coalitions participate in the distribution in the mandates in the constituencies according to the d'Hondt method<sup>100</sup>.

We note that in practice independent candidates can't stand in the Sejm elections. They have to be on lists of candidates. This point has been raised by the OSCE in its report on Parliamentary elections of 9<sup>th</sup> October 2011<sup>101</sup>. At a referendum held on 6<sup>th</sup> September 2015 Polish citizens were asked whether they approved to introduce single mandate constituencies for Sejm elections. They were in favour

of the reform but as the voters turnout was of 7,8 %, well below the 50 % threshold, this referendum was not legally binding.

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<sup>95</sup> M. Mirosław Granat, Mode de présentation des candidats au Parlement-traduction des intérêts des partis politiques ou des électeurs ? Les élections et la démocratie. Actes du colloque franco-polonais Paris les 5 et 6 avril 2001, Paris-Białystok 2003

<sup>96</sup> Articles 10 and 11 of the Act 5 January 2011 (Electoral code)

<sup>97</sup> Article 89 of the Act 5 January 2011 (Electoral code)

<sup>98</sup> Article 210 of the Act 5 January 2011 (Electoral code)

<sup>99</sup> Article 212 of the Act 5 January 2011 (Electoral code)

<sup>100</sup> Articles 227 § 1, 232 of the Act 5 January 2011 (Electoral code). See footnote 51

<sup>101</sup> <http://www.osce.org/odihr/elections/87024>, 18 January 2012 p. 4

#### 4.4.2 Electoral campaign finances

If the financing of election campaigning is public, the expenses of election committees on electoral campaigning are met from their own resources. Financial resources of the election committee of a political party may be derived only from an Election Fund of that party<sup>102</sup>, while funds may be donated to a coalition election committee and an election committee of voters only by natural persons who are Polish citizens<sup>103</sup>. At the above-mentioned referendum, Polish citizens had to decide whether the current elections finances system which prohibits funding by companies should be replaced by a private funding system but given the very low turnout, the status quo prevailed. While an Expert Fund is used to pay expertise work and statutory actions of a political party, an Election Fund has to finance participation to elections and expenses incurred by political parties in the elections have to be met through this fund.

The sum of contribution from a Polish citizen for the election committee may not exceed 15 times the minimum wage<sup>104</sup>. This threshold is 45 times for the candidate<sup>105</sup>. If these thresholds are exceeded the excess shall be forfeited to the State. An Income of an electoral committee of a party can only come from the election fund of the party. The register of private donations to political parties is annexed to the financial reports of the political parties but it will not be published. Rules are different for the disclosure for donations to electoral committees formed by voters which are published during the electoral campaign. So requirements for disclosure of donations to electoral committees are stronger than the ones about donations to political parties, which does not meet principles of equal transparency between candidates and political parties which may deduced from the Recommendation of the Council of Europe of 2003.

Loans are published too on the websites of the election committees. The loan taken out, the name of the bank granting the loan, its essential conditions for its recovery, its date, its amount, interest and other costs of its acquiring, guarantors and the commitment to be repaid are liable to disclosure<sup>106</sup>. Given the amount of the loans taken out by political parties, the GRECO feared that this channel of funding could be a way to circumvent the threshold of donations<sup>107</sup> but the measures taken by Polish authorities to ensure that the reimbursement of loans is carried out in conformity with the terms they have been granted enhanced the transparency of this very significant channel of funding in Poland<sup>108</sup>. Financial management of the election committees is carried out by the financial representative<sup>109</sup>. Financial resources of the election committee shall be collected on a bank account<sup>110</sup>.

The financial agent shall submit to the National Electoral Commission within three months following polling day a report referred to as “*financial report*” on revenues, expenditures and financial liabilities of the election committee including bank loans and specifying the conditions set forth by lending

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<sup>102</sup> Article 132 of the Act 5 January 2011 (Electoral code)

<sup>103</sup> <http://www.sejm.gov.pl/english/sejm/pos.htm>

<sup>104</sup> Around EUR 400 per month, Eurostat

<sup>105</sup> Article 134 of the Act 5 January 2011 (Electoral code)

<sup>106</sup> This rule does not apply to local elections

<sup>107</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2012\)19\\_Second20Poland\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)19_Second20Poland_EN.pdf);

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2014\)16\\_ADD\\_Poland\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2014)16_ADD_Poland_EN.pdf)

<sup>108</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820122919\\_Second20Poland\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820122919_Second20Poland_EN.pdf)

<sup>109</sup> Article 127 of the Act 5 January 2011 (Electoral code)

<sup>110</sup> Article 134 of the Act 5 January 2011 (Electoral code)

institutions, along with the written opinion of an auditor<sup>111</sup>. For elections to the Sejm and the Senate, the European Parliament elections and for the election of the President of the Republic, the National Electoral Commission publishes the financial reports of the election committee within 30 days from the date of their submission in the Public information bulletin.

In its addendum to the second compliance report for the third evaluation round of the Polish party funding, published in January 2015, the GRECO views “*that different reports submitted by the same political parties still appear to be published separately and there is still not single document giving an overview of a given political party’s financial situation in a clear and complete manner*”<sup>112</sup>.

#### **4.4.3 Supervision of electoral campaign’s accounts and sanctions**

Supervision is carried out by the National Electoral Commission. It shall be composed of three judges of the Constitutional Tribunal, designated by the President of the Constitutional Tribunal; three judges of the Supreme Court, designated by the President of the Supreme Court; three judges of the Supreme Administrative Court, designated by the President of the Supreme Administrative Court.

Within 6 months from the date of submission of the financial report, the National Electoral Commission accepts the statement with no reservations; it accepts the statement indicating minor errors or rejects the statement<sup>113</sup>. Rejections occur when an election committee accepted funds from other sources than an Election fund, when it accepted financial benefits or in-kind benefits in violation of the regulations. Electoral committees may subject objections to the National Electoral Commission with respect to the financial statements. In case of rejection of the financial report of the Election committee by the National Electoral Commission the financial representative has the right to appeal to the Supreme Court against this decision of the National Electoral Commission<sup>114</sup>. In the event of failure to submit the financial report, the Election committee is not entitled to grants from State budget. In case of rejection by the National Electoral Commission the financial report or the denial of a complaint, the public subsidy is reduced by an amount equal to three times the amount of funds raised or expenditures made in violation of the rules<sup>115</sup>. Financial benefits acquired by the Election Committee in violation of the code shall be forfeited to the State Treasury.

Beside these financial sanctions criminal sanctions may be applied. Any person who contributes or spends funds of an election for purposes others than electoral ones; contributes or spends funds of an election committee after the election or exceeds the spending limits; transfers funds made by a non -individual person to an election committee of a coalition or to an election committee of voters, or receives funds or in-kind contributions in the name of such committee, organizes public collections of funds, acts in the name of an election committee of a political party, receives funds derived from other sources than the Election Fund of the party, shall be punished by a fine of between 1 000 and 100 000 Zlotys<sup>116</sup>.

Any person who violates the rules concerning methods of collection of financial resources of an election committee; fails to insert a stipulation in a bank account agreement, concluded

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<sup>111</sup> Article 142 of the Act 5 January 2011 ( Electoral code)

<sup>112</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820142916\\_ADD\\_Poland\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820142916_ADD_Poland_EN.pdf)

<sup>113</sup> Article 144 of the Act 5 January 2011 ( Electoral code)

<sup>114</sup> Article 145 of the Act 5 January 2011 (Electoral code)

<sup>115</sup> Article 148 of the Act 5 January 2011 (Electoral code)

<sup>116</sup> Article 506 of the Act 5 January 2011 (Electoral Code), EURuro 2370 to 23 700 approximately



in the name of an election committee, that all contributions must be made exclusively by cheque, bank transfer or credit card, collects funds for the benefit of one election committee of a coalition or election committee of electors in excess of fifteen times the minimum monthly wage of a worker on the day preceding the day of the announcement of elections may be liable to a fine whose amount is not defined by law<sup>117</sup>. Transfer of financial or in-kind resources between election committees, collecting funds after the election, spending funds after the submission of the financial report, exceeding the spending limits is liable to a fine whose amount is not precise either<sup>118</sup>. Failure of the financial agent of an Election Committee to submit the financial report to the National Election Commission and preventing a financial agent to fulfil his mission shall be subject to a fine or an imprisonment of up to two years<sup>119</sup>. Preventing an auditor from preparing his report or his opinion on Election Committee report is liable to same penalties.

#### **4.4.4 Final remarks**

Room for independent candidatures is very tight. The inability for independent candidates to stand alone on the lists to the Sejm, the different treatment made on disclosure of donations to political parties and to electoral committees are illustrations of the hurdles to overcome for independent candidates.

In a report on the method of nomination of candidates within political parties<sup>120</sup>, the Venice Commission considers that the requirements imposed on political parties for selecting candidates must be coherent with the electoral system. The proportional voting system by giving the selection power of candidates to political parties gives little room for independent candidates. It should be seen in the context of the nationwide threshold of 5 % of the votes, of the relatively high threshold required for political parties to receive public funds (3 %), which is higher than in Germany (0,5 %), in Estonia and France (1 %), which consequently favours established political parties<sup>121</sup>.

According to the OSCE transparency of electoral campaign funding could be increased insofar the requirement for the disclosure of financial information by parties and electoral committees is of limited effectiveness, as they only need to submit receipts without specifying the nature of the expenses, which may limit the transparency of the campaign finance system<sup>122</sup>.

On its side the GRECO views that if the National election Commission does not have the power to investigate possible infringements of the law, it referred more cases to law enforcement authorities than in the past and the financial means of this supervision body have increased<sup>123</sup>.

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<sup>117</sup> Article 224 of the Act of 12 April 2001 on elections to the Sejm and to the Senate

<sup>118</sup> Article 225 of the Act of 12 April 2001 on elections to the Sejm and to the Senate

<sup>119</sup> Article 226 of the Act of 12 April 2001 on elections to the Sejm and to the Senate

<sup>120</sup> <http://www.venice.coe.int/webforms/documents/default.aspx>, p.20

<sup>121</sup> Mme Maria- Kruk-Jarosz, Les systèmes électoraux et la représentation politique- la pratique constitutionnelle et les opinions politiques en Pologne aujourd'hui, Les élections et la démocratie. Actes du colloque franco-polonais Paris les 5 et 6 avril 2001, Paris- Bialystok 2003

<sup>122</sup> [www.osce.org/odihr/elections/poland/150121](http://www.osce.org/odihr/elections/poland/150121)

<sup>123</sup> [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3%2820142916\\_ADD\\_Poland\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3%2820142916_ADD_Poland_EN.pdf)

## 4.5 United Kingdom

### 4.5.1 System of representation

The system which applies, the so called “*first past the post*” is known as the relative majority system since whenever there are more than two candidates in a constituency, the successful candidate may not have an absolute majority of votes but merely a majority relative to vote of the runner up. This system does not represent of minority interests but is simple, favours close links between the member and its constituency and produces an absolute majority of seats.

A person becomes a candidate at a parliamentary election on the date of the dissolution of Parliament, or in the case of a by-election, the occurrence of the vacancy in consequence of which the writ for the election is issued if on or before that date he is declared by himself or by others to be a candidate at the election, and otherwise, on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier)<sup>124</sup>.

To make his nomination valid the candidate has to complete his nomination form, his home address form and his consent to nomination. On the form candidate has to state he is qualified and not disqualified for standing. The candidate has to submit these nomination papers to the Returning officer whose role is to ensure that the election is administered effectively. The candidate makes a deposit of £ 500. Objections to the validation of the nomination can be made on the 19th day before the poll. After the closing of the nomination the candidate has to appoint an election agent for the management of his campaign and in particular its financial management. This agent may appoint sub agents to act on their behalf.

It is unusual for a candidate who is not representing one of the established political parties to be elected in Parliament or for an independent to be elected<sup>125</sup>. At the last general elections on 7<sup>th</sup> May 2015, 172 independent candidates were running<sup>126</sup>. The North Down seat in Northern Ireland was retained by independent Sylvia Hermon, the single independent MP.

### 4.5.2 Electoral campaign finances

The time when spending limits and rules apply is regulated by the Electoral Commission. This period is divided in two parts<sup>127</sup>: “*the long campaign*” which began for the last general election on 19<sup>th</sup> December 2014 until the day the person becomes officially candidate. The “*short campaign*” starts from this day and ends on polling day. In both periods the spending limit is calculated by adding a base amount and a variable that takes in account the number of registered voters in the constituency. At the 2015 General elections the fixed amount was £ 30 700 for the long campaign and 6 pennies per registered parliamentary voter in a borough constituency or 9 pennies per registered parliamentary voter in a county constituency. Spending limit for “*short campaign*” is £ 8 700 with the same variable amounts. Costs included in this spending are: advertising of any kind; unsolicited material sent to electors; transport costs for the candidate or his campaigners; public meetings; staff costs;

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<sup>124</sup> Section 118 A of the Representation of the People Act 1983

<sup>125</sup> In 1997 the broadcaster Martin Bell was elected as an independent, in 2005 Peter Law too. Dr Richard Taylor won two terms as an MP until he was defeated in 2010

<sup>126</sup> [http://www.electoralcommission.org.uk/\\_\\_data/assets/pdf\\_file/0006/190959/UKPGE-report-May-2015-1.pdf](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/190959/UKPGE-report-May-2015-1.pdf)

<sup>127</sup> [http://www.electoralcommission.org.uk/\\_\\_data/assets/pdf\\_file/0018/173016/UKPGE-overview.pdf](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0018/173016/UKPGE-overview.pdf)

accommodation and administrative costs. Volunteer time, use of a public room for a meeting, someone's personal car and general computer equipment bought for personal use. Political parties also have spending limits for campaigning which are separate from the candidate's long and short campaign spending limits. Every candidate must appoint an electoral agent. This electoral agent must keep invoices or receipts for any payment of £ 20 and above<sup>128</sup>. After the election he has to send spending and donations return to the local returning officer<sup>129</sup>.

### **4.5.3 Donations**

The scope of donations is very broad. Donations refer to money, property, goods or services which are given towards candidate spending without charge or on non-commercial terms and with a value over £ 50. Permissible donations are donations from an individual registered on a UK electoral register, a Great Britain or a North Ireland registered political party, most UK registered companies, UK registered trade union, building societies, friendly societies, limited liability partnerships, friendly societies and based unincorporated associations based in and which carry on business or other activities in the UK. When the donation is more than £ 50 the candidate must identify the donor and verify that the donation is from a permissible resource. If the donation comes from an unidentified source, it must return to the donor or to the financial institution which has been used to transfer the donation. To make sure that in-kind donations reflect their real value, British rules take into account their value at the market rate. The value of a donation is the difference between the values of what is has been received by the candidate and the amount paid for it. Details of the donations with the name and the address of the donor, its number of register, the amount of the cash donation and the date on which the date was accepted have to be recorded by the person who is dealing at the time with donations.

Candidate's spending's and donations have to be returned to the Returning Officer within 35 days of the results of the election.

### **4.5.4 Supervision of electoral campaign's accounts and sanctions**

The Electoral Commission shall consist of not less than five but not more than nine Commissioners. Four Commissioners have been put forward by political parties<sup>130</sup>, which could undermine the authority of the Commission even these representatives recuse themselves in certain cases. This supervision body is established by the UK Parliament. It has supervisory and investigative powers<sup>131</sup>.

To carry out its supervisory function the Commission may need to obtain information from and visit premises used by those it regulates<sup>132</sup>. It does it on a voluntary basis. It will need an inspection warrant where there is a continuing requirement to inspect documents to fulfil the Commission's functions. The Commission can only seek an inspection warrant when it exercises supervisory powers and not when it investigates a suspected breach of the Political Parties, Elections and Referendum Act 2000 (PPERA). To obtain the warrant the Commission must be able to show that there are reasonable grounds that there are documents relating to the income and expenditure of the organization

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<sup>128</sup> Section 73 (2) of the Representation of the People Act 1983

<sup>129</sup> Section 81 of the Representation of the People Act 1983

<sup>130</sup> Section 3A of the PERA 2009

<sup>131</sup> [http://www.electoralcommission.org.uk/\\_\\_data/assets/pdf\\_file/0003/106743/Enforcement-Policy-30March11.pdf](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0003/106743/Enforcement-Policy-30March11.pdf)

<sup>132</sup> Section 146 of the PERA 2000

or individuals in the premises. The Commission needs to inspect the documents for the purposes of carrying out its functions other than investigatory functions and the Commission has requested permissions to inspect the documents on the premises and it has been unreasonably refused.

The Commission may carry out investigations where it has reasonable grounds to suspect that a person has committed an offence under the PPERA or contravened any requirement of PPERA. When the person refuses to co-operate, the Commission may use its statutory powers and issue an investigatory notice requiring the production of documents, the provision of information or an explanation. When there is a reason to believe that the information will not be forthcoming voluntarily or when there is a risk that important evidence will be destroyed or removed, the Commission will use its statutory powers without making a prior request.

The Commission may impose a variety of flexible sanctions including fines from £ 200 to £ 20 000, compliance and restoration notices by which actions to achieve compliance or rectify non-compliance may be achieved<sup>133</sup>. It can issue stop notices by which a particular action or intended action has to be stopped. The Commission may also take into account aggravating or mitigating features. For instance mitigating features include a previously good compliance record or an action taken to eliminate or reduce the risk of damage resulting from regulating non-compliance. The Commission does not have powers to impose criminal sanctions but may refer a breach for criminal investigation or seek prosecution in cases which it judges to have a significant impact on confidence in transparency and integrity of party and election finance. During the period 1<sup>st</sup> December 2010 - 31<sup>st</sup> March 2012, the Commission commenced 141 case reviews into possible non-compliance, of which 104 related to the late delivery of, or failure to deliver, reports to the Commission. No investigations were commenced during the period.

#### **4.5.5 Final remarks**

The electoral funding system is not an obstacle to independent candidates. If anything, they are helped by the right to send postal material free of charge<sup>134</sup> and by the election spending limits on other candidates. Local TV stations must provide balanced coverage, and they are likely to attract curiosity interest from the local newspapers.

What they don't get is the benefit of national campaign publicity which spreads across the country as a whole. Political parties are entitled to party election broadcasts if they present enough candidates. These are broadcast nationally, and there is no opportunity for independent candidates in local constituencies to have similar access.

That said, British party system has been a tight two party system for a long time. It is fracturing now (Greens, Liberal democrats, UKIP ...) but it is still a tight party system. People tend to vote for a government rather than a constituency representative. Election law has not much to do with it.

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<sup>133</sup> [http://www.electoralcommission.org.uk/\\_\\_data/assets/pdf\\_file/0003/106743/Enforcement-Policy-30March11.pdf](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0003/106743/Enforcement-Policy-30March11.pdf)

<sup>134</sup> Section 91 of the Representation of the People Act 1983

## 5 RECOMMENDATIONS

To give a place to independent candidates for elections to the Chamber of Deputies of the Czech Republic without any party affiliation, the legal framework on finance of electoral campaigns should enable the submission of non-affiliated party candidatures. Partisan and non-partisan candidatures should be given equal opportunities and should be treated impartially. Comprehensive regulations on electoral campaign funding should be established for non-affiliated party candidates.

Without prejudice to the follow up of the recommendations of the GRECO<sup>135</sup>, given the legal framework on electoral campaign funding in the Czech Republic and regarding standards laid down by the Council of Europe, the OSCE, the Commission of Venice and various examples of foreign laws, the present report addresses following recommendations:

- To allow the presentation of candidates outside political parties, to comply with principle stated in 1990 at the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe.
- To introduce regulations on funding and transparency of finance of electoral campaigns of party candidates and non-affiliated party candidates.
- To set up a mechanism of public funding of electoral campaigns of non-affiliated party candidates through a reimbursement of electoral expenses over a threshold of votes cast determined by law.
- To prevent excessive electoral campaign expenditures by establishing limits on these expenditures.
- To require the presentation of electoral campaign financial statements of non-affiliated party candidates certified by an independent auditor after a reasonable deadline after the polling day.
- To provide for disclosure of private donations to non-affiliated party candidates in these financial statements.
- To ensure a disclosure of financial statements of non-affiliated party candidates.

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<sup>135</sup>[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820142928\\_2nd\\_Interim\\_CzechRep\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC32820142928_2nd_Interim_CzechRep_EN.pdf)

- To entrust monitoring of electoral finances of non-affiliated party candidates to an independent supervision body with adequate human and financial resources.
- To take appropriate measures to impose sanctions for non-affiliated party candidates who would have infringed rules on funding, transparency and disclosure of electoral campaign finances.

## 6 APPENDIX: TABLE OF COMPARATIVE LAW ON FUNDING OF ELECTORAL CAMPAIGNS OF INDEPENDENT CANDIDATES<sup>136</sup>

	<b>Estonia</b>	<b>France</b>	<b>Ireland</b>	<b>Poland</b>	<b>United Kingdom</b>
Ban on foreign donations	no	no <sup>137</sup>	yes <sup>138</sup>	yes <sup>139</sup>	no <sup>140</sup>
Ban on anonymous donations	yes <sup>141</sup>	yes	no <sup>142</sup>	no <sup>143</sup>	no <sup>144</sup>
Ban on cash donations <sup>145</sup>	no	no <sup>146</sup>	no <sup>147</sup>	no <sup>148</sup>	no <sup>149</sup>
Ban on donations from legal persons	yes <sup>150</sup>	yes <sup>151</sup>	no <sup>152</sup>	yes <sup>153</sup>	no <sup>154</sup>
Ban on donations from public bodies	yes <sup>155</sup>	yes <sup>156</sup>	yes <sup>157</sup>	yes <sup>158</sup>	yes <sup>159</sup>

<sup>136</sup> This table does not take in account the Czech Republic in so far Czech regulations on electoral finances don't address this kind of candidatures for elections to the Chamber of Deputies, see p.33

<sup>137</sup> Donations from Foreign individuals is permitted, Article L 52-8 Electoral Code

<sup>138</sup> Section 49 Electoral Act 2001, Article 23A , 2 (a)

<sup>139</sup> Banned for Election Committees and Voters Election Committees , Article 132, § 3 of the Election Code ( Journal of Laws 31 January 2011) Presidential election , Article 132, § 4 of the Election Code ( Journal of Laws 31 January 2011)

<sup>140</sup> Section 54 (2) PPREA. Permissible donors: beside British citizens, Individuals: Irish, Commonwealth or EU citizens who are residents in the UK

<sup>141</sup> § 12<sup>3</sup> (2) 1 of the Political Parties Act

<sup>142</sup> Over 100 EUR, Section 23 (1) of Electoral Act 1997

<sup>143</sup> Article 140, § 2 of the Election Code ( Journal of Laws 31 January 2011) provides for a record by the Election Committee of the donation which exceeds the amount of the minimum wage

<sup>144</sup> Ban on anonymous donations > 50£ , Schedule 2 A , Section 4 (2) Representation of the People Act 1983

<sup>145</sup> Cash donations are not systematically anonymous donations

<sup>146</sup> Limited to EUR 150, Article L 52-8 Electoral code

<sup>147</sup> Limited to EUR 200, Electoral Act 2012, Amendment of Section 23 A (1) of Electoral Act 1997

<sup>148</sup> « Financial resources of the Election Committee shall be collected on only one bank account “: article 134 of the Election Code ( Journal of Laws 31 January 2011)

<sup>149</sup> Cash donations admitted < 50 £ Schedule 2 A , Section 4 (2) Representation of the People Act 1983

<sup>150</sup> § 12<sup>3</sup> (2) of the Political Parties Act

<sup>151</sup> Article L 52-8 Electoral Code

<sup>152</sup> Authorized under conditions provided for by Law ( Section 10, Electoral Act 2012, Amendment to Art 23 AA of the Act of 1997)

<sup>153</sup> Limited list of permitted resources: Article 132, §§ 3, 4 of the Electoral Code ( Journal of Laws 31 January 2011)

<sup>154</sup> No. Limited list of authorized persons ,Section 54, (2) b of the PPREA

<sup>155</sup> §§ 5<sup>2</sup> and 12<sup>3</sup> (2) of the Political Parties Act

<sup>156</sup> Article L 52-8 Electoral Code

<sup>157</sup> A facility provided to a person out of public funds is not a donation, 22 2 b (ii) of Electoral Act 1997

<sup>158</sup> Permissible finance resources are provided for by Article 132 of the Electoral Code ( Journal of Laws 31 January 2011)

<sup>159</sup> Only donations from permissible donors are authorized , Section 54 (2) PPREA

In-kind donations	no <sup>160</sup>	no <sup>161</sup>	yes <sup>162</sup>	no <sup>163</sup>	yes <sup>164</sup>
Limits of donations	no	yes <sup>165</sup>	yes <sup>166</sup>	yes <sup>167</sup>	no
Loans	no <sup>168</sup>	yes	yes <sup>169</sup>	yes <sup>170</sup>	yes <sup>171</sup>
Limits of electoral expenditures	no	yes <sup>172</sup>	yes <sup>173</sup>	yes <sup>174</sup>	yes <sup>175</sup>
Disclosure of donations	yes <sup>176</sup>	no	yes <sup>177</sup>	yes <sup>178</sup>	yes <sup>179</sup>
Disclosure of financial statements	yes <sup>180</sup>	yes <sup>181</sup>	yes <sup>182</sup>	yes <sup>183</sup>	yes <sup>184</sup>
Independent supervision body	yes <sup>185</sup>	yes <sup>186</sup>	yes <sup>187</sup>	yes <sup>188</sup>	yes <sup>189</sup>
Sanctions for infringements of the law	yes <sup>190</sup>	yes <sup>191</sup>	yes <sup>192</sup>	yes <sup>193</sup>	yes <sup>194</sup>

<sup>160</sup> § 12<sup>3</sup> of the Political Parties Act

<sup>161</sup> According to jurisprudence, in-kind donation shall entail the electoral campaign account considering the amount, nature and the context of the in-kind donation

<sup>162</sup> Donations of goods are considered as donations, 22 a (ii) Electoral Act 1997; the right to use, without payment or other consideration, indefinitely or for a specified period of time, any property or goods, 22 a (iii); the supply of services without payment or other consideration therefor 22 a (iv).

<sup>163</sup> Article 134 § 5 of the Electoral Code ( Journal of Laws 31 January 2011)

<sup>164</sup> Article 90 C Representation of the People Act, Property, goods, services etc. provided free of charge or at a discount of more than 10% of the commercial rate for the use of the property or for the provision of the goods, services or facilities

<sup>165</sup> Article L 52-8 Electoral Code

<sup>166</sup> Section 9 Electoral Act 2012, Section 23 A, 1 (c) of Act of 1997

<sup>167</sup> Article 134, § 3, of the Electoral Code ( Journal of Laws 31 January 2011)

<sup>168</sup> § 12<sup>2</sup> of the Political Parties Act combined with § 5<sup>2</sup> concerning borrowing applies only to political parties

<sup>169</sup> Explanatory Notes for donors. Standards in Public Office Commission. <http://www.sipo.gov.ie/en>

<sup>170</sup> Article 132 §§ 3, 4 and 6 of the Electoral Code ( Journal of Laws 31 January 2011)

<sup>171</sup> Section 71F (Regulated transactions) of the PPERA

<sup>172</sup> Article L 52-11 Electoral Code

<sup>173</sup> <http://www.sipo.gov.ie/en/Guidelines/Election-Guidelines/General-Election-Candidates-and-Election-Agents-2011/General-Election-Candidates-and-Election-Agents-2011.pdf> <http://www.sipo.gov.ie/en/guidelines/election-guidelines/draft-general-election-guidelines-for-2015-or-2016>

<sup>174</sup> Article 199 of the Electoral Code ( Journal of Laws 31 January 2011)

<sup>175</sup> Section 76, 2 of the Representation of the People Act 1983

<sup>176</sup> Limited to the period of the election campaign, § 12, <sup>8</sup> (5) of the Political Parties Act

<sup>177</sup> Over EUR 1 500 , details of the donations disclosed will be published on the website of the Standards Commission, <http://www.sipo.gov.ie/en/Guidelines/Explanatory-Notes/Explanatory-Notes-for-Donors/Explanatory-Note-for-Donors.pdf>

<sup>178</sup> Article 140, § 2 of the Electoral Code ( Journal of Laws 31 January 2011)

<sup>179</sup> Schedule 2 A , Part III Reporting of donations Representation of the People Act 1983

<sup>180</sup> § 12<sup>8</sup> (5) of the Political Parties Act

<sup>181</sup> Under a summarized form, Article L 52-12 Electoral Code

<sup>182</sup> Section 24 Electoral Act 1997

<sup>183</sup> Article 142 of the Electoral Code( Journal of Laws 31 January 2011)

<sup>184</sup> Section 81 of the Representation of the People Act 1983 , Part III Schedule 2 A

<sup>185</sup> § 12<sup>10</sup> of the Political Parties Act

<sup>186</sup> Article L 52-14 of the Electoral Code

<sup>187</sup> Standards in Public Office Act, 2001

<sup>188</sup> <http://www.sejm.gov.pl/english/sejm/pos.htm>

<sup>189</sup> Part I of the PPERA 2000

<sup>190</sup> § 12<sup>15</sup> and 12<sup>17</sup> of the Political Parties Act

<sup>191</sup> Articles L 52-15, L 113-1 and L 118-3 of the Electoral Code

<sup>192</sup> <http://www.sipo.gov.ie/en/Guidelines/Explanatory-Notes/Explanatory-Notes-for-Donors/Explanatory-Note-for-Donors.pdf> (Offences)

<sup>193</sup> Article 147 and followings of the Electoral Code ( Journal of Laws 31 January 2011) and Section IX (Penal provisions)

<sup>194</sup> <http://www.electoralcommission.org.uk/our-work/roles-and-responsibilities/our-role-as-regulator-of-political-party-finance/sanctions>