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Theme II

Third Evaluation Round

Evaluation Report on Liechtenstein on Transparency of Party Funding

(Theme II)

Adopted by GRECO
at its 71st Plenary Meeting
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I. INTRODUCTION

1. Liechtenstein joined GRECO on 1st of January 2010, i.e. after the close of the First Evaluation Round. Consequently, Liechtenstein was submitted to a joint evaluation procedure covering the themes of the First and Second Evaluation Rounds. The relevant Joint First and Second Round Evaluation Report (Greco Eval I/II Rep (2011) 1E) in respect of Liechtenstein was adopted at GRECO's 52nd Plenary Meeting (21 October 2011). This report and its subsequent reports are available on GRECO's website (<http://www.coe.int/greco>).
2. GRECO's current Third Evaluation Round (launched on 1 January 2007) deals with the following themes:
 - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption (EST 173), Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
 - **Theme II – Transparency of party funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).
3. The GRECO Evaluation Team (hereafter referred to as the "GET") carried out an on-site visit to Liechtenstein on 21-24 September 2015. The GET for Theme II (23-24 September) was composed of Mr Jean-Christophe GEISER, Federal Office of Justice (Switzerland) and Mr Alvis VILKS, former Deputy Director of the Bureau for Preventing and Combating Corruption – KNAB (Latvia). The GET was supported by Mr Christophe SPECKBACHER from GRECO's Secretariat. Prior to the visit the GET experts were provided with replies to the Evaluation questionnaire (document Greco Eval III (2015) 1 - Theme II), as well as copies of relevant legislation.
4. The GET met with members / representatives of the following institutions: the Ministry for General Government Affairs and Finance and its Financial Affairs Unit; the Government Chancellery, the Office of Justice (responsible for the Commercial Registry); the Secretariat of parliament; the Financial Audit Office (which is the country's supreme public audit body). Meetings were also held with representatives of the four existing political parties and the Mayor of Vaduz (chairman of the conference of local authorities). Finally, the GET met with a representative of the Liechtenstein Institute (an academic institution), representatives of the media (*Liechtensteiner Volksblatt*, *Liechtensteiner Vaterland*, Radio L) and of the Liechtenstein Association of Independent Auditors.
5. The present report on Theme II of GRECO's Third Evaluation Round on Transparency of party funding was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the report is to evaluate the effectiveness of measures adopted by Liechtenstein in order to comply with the requirements deriving from the provisions indicated in paragraph 2. The report contains a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to Liechtenstein in order to improve its level of compliance with the provisions under consideration.
6. The report on Theme I – Incriminations – is set out in GrecoEval3Rep(2016)2 - Theme I.

II. TRANSPARENCY OF PARTY FUNDING – GENERAL PART

7. The principality of Liechtenstein has a population of about 37,000 and an area of 160 km². In accordance with the Constitution, Liechtenstein is a constitutional, hereditary monarchy on a democratic and parliamentary basis (Articles 79 and 80). The power of State is shared between the Prince and the people. The dualistic system of two sovereigns enshrined in the 1921 Constitution (revised last in 2003) grants important powers to the Reigning Prince vis a vis the three branches of power and entrusts him with important responsibilities and competencies as regards policy-making and the functioning of the country's institutions¹. At the same time, the Constitution bears several features of a direct democracy, including the right for the people to submit a reasoned motion of non-confidence against the Reigning Prince (*Landesfürst*)². Comprising the Prime Minister and four Ministers, the Government is a collegial body reporting both to the parliament (*Landtag*) and to the Reigning Prince, the head of state. The Government is appointed by the Reigning Prince following a proposal by parliament and serves a four-year term. The State consists of two regions (without administrative function) with eleven communes; these entities represent the constituencies for electoral purposes.
8. According to the on-site discussions, Liechtenstein has entered a phase of economic and political change in recent years, accelerated by the financial crisis of 2008/2009. Changes have progressively been called for, notably in respect of the country's place as a financial and legal service centre, the competitiveness of its relatively important industrial sector and its overall economic situation. The country has been experiencing a budget deficit since 2009, even though it has no public debt and its financial reserves are such that they could compensate for several years of reduced income. This evolution appears to progressively impact the traditional monopoly of the two oldest and conservative parties which have ruled the country alternatively or as a coalition, usually with a little differentiated agenda and without genuine opposition to confront them. The birth of a third stable political formation in 1985 (which entered parliament in 1993), and of a fourth one at the last elections in 2013 (which immediately entered parliament as its third most important formation) is changing the political landscape and the content of the political debate in a number of areas³ including on political institutions. It is noteworthy that a motion was submitted in parliament in August 2013, inviting the Government to examine which measures could be adopted to improve the legal framework and transparency of political financing in the country; they pointed to a number of issues⁴. It was not endorsed by parliament and the opponents reportedly objected *inter alia* that more urgent matters needed to be addressed first (e.g. regulating lobbying) and that if the donors of his/her party were known to the individual parliamentarian, it could affect the independence of his/her decision-making.

¹ Text of the Constitution in English: <http://www.icla.up.ac.za/images/un/use-of-force/western-europe-others/Liechtenstein/Constitution%20Liechtenstein%202009.pdf>

² Legislative proposals may be made with the support of 1,000 voters (or 1,500 in case of a constitutional amendment). A popular initiative may also be made by referendum, object to a law within 30 days after its adoption by parliament.

³ This is documented in literature which was made available to the GET, for instance:

- Michalsky, Helga (1991): *Liechtenstein: Konkordanzdemokratie und Parteienwettbewerb*. In: Helga Michalsky (Hg.): *Politischer Wandel in konkordanzdemokratischen Systemen*. Vaduz: Verlag der Liechtensteinischen Akademischen Gesellschaft (Liechtenstein Politische Schriften, 15), pp. 133-157.

- Waschkuhn, Arno (1994): *Politisches System Liechtensteins. Kontinuität und Wandel*. Vaduz: Verlag der Liechtensteinischen Akademischen Gesellschaft (Liechtenstein Politische Schriften, 18).

- Marxer, Wilfried (2015): *Parteien im Wandel*. In: Mario Frick, Michael Ritter und Andrea Willi (Hg.): *Ein Bürger im Dienst für Staat und Wirtschaft. Festschrift zum 70. Geburtstag von Hans Brunhart*. Schaan: Verlag der Liechtensteinischen Akademischen Gesellschaft (Liechtenstein Politische Schriften, 56), S. 241-270.

⁴ http://landtaglive.gmgnet.li/files/medienarchiv/postulat_transparente_parteienfinanzierung.pdf.

Definition of political party, their founding and registration

9. There is no definition as such of political parties. For public subsidisation purposes, article 2 of the Act of 28 June 1984 on the allocation of contributions to political parties lists the following criteria for political formations to be eligible to State support: 1) the political party must be established in the form of an association (in accordance with article 246 of the Law on Persons and Companies – LPC⁵), 2) it must be committed to the principles of the Constitution and 3) carry out activities of political education, public relations and participation in public policy development. In accordance with the above article 246 LPC, a political party organised in the form of an association must have a written charter that specifies its purpose, means and organisation. Once the statutes are adopted and the board is appointed, the party (upon authorisation from its competent body) may apply, like any other association, for registration in the Commercial Registry. The application for registration must contain the statutes and the list of board members. The GET received contradictory information on the implications of registration and the number of political formations actually registered as political associations. According to information received on-site by the GET from the Commercial Registry and the parties themselves, one party only has registered to date. One representative of a non-registered party met by the GET referred to his party as a mere “club” without legal existence and which can be dissolved any time. The authorities of Liechtenstein do not agree with this perception of the situation and they point out that even non-registered associations enjoy full legal personality.
10. Currently, there are four parties in Liechtenstein: *Vaterländische Union* (VU) – Patriotic Union⁶, *Fortschrittliche Bürgerpartei* (FBP) – Progressive Citizens' Party⁷, *Die Unabhängigen* (DU) – The Independents⁸, *Freie Liste* (FL) – Free List⁹. At the level of the 11 municipalities, there is also a variable number of local party sections; the larger parties have such sections in all municipalities. These are treated in different manners by the central party, either as autonomous entities or as a party component. But none of these have reportedly registered in the Commercial Registry.

Participation in elections

11. Elections are held in Liechtenstein to designate the members of parliament (Landtag)¹⁰ and of municipal councils¹¹. Liechtenstein citizens also vote on the occasion of consultations, referenda and citizen initiatives¹². The parliament has 25 members, elected for a four year term by proportional representation in two multi-seat constituencies: since 1989, one constituency designates 15 seats and the other 10 seats. Its main task is to discuss and adopt resolutions on constitutional proposals and draft government bills. It has the additional duties of giving its assent to important international treaties; of electing members of the government, judges, and board members of the Principality's institutions; setting the annual budget and approving taxes and

⁵ *Personen- und Gesellschaftsrecht, PGR*, Liechtenstein Legal Gazette (LGBl.) 1926 no. 4.:

“Article 246 – corporate groupings of persons: 1) Associations which pursue a political, religious, scientific, artistic, charity, social or other purpose not related to business acquire legal personality as soon as the intention to exist as a corporate body emerges from their statute. 2) Statutes are established in writing and shall give details about the purpose of the association, its financial means and its structures. 3) Provided the Statutes do not establish binding rules about the Organisation and the relations between the association and its members, the following provisions shall be applicable. 4) Mandatory legal provisions cannot be altered by the Statutes.” The full text (in German) is available in the [LILEX legislative database](#)

⁶ [https://en.wikipedia.org/wiki/Patriotic_Union_\(Liechtenstein\)](https://en.wikipedia.org/wiki/Patriotic_Union_(Liechtenstein)); portal (in German) of the VU: <http://www.vu-online.li/>

⁷ https://en.wikipedia.org/wiki/Progressive_Citizens%27_Party; portal (in German) of the FBP: <http://www.fbp.li/>

⁸ [https://en.wikipedia.org/wiki/The_Independents_\(Liechtenstein\)](https://en.wikipedia.org/wiki/The_Independents_(Liechtenstein)); portal (in German) of the DU: <http://www.du4.li/>

⁹ [https://en.wikipedia.org/wiki/Free_List_\(Liechtenstein\)](https://en.wikipedia.org/wiki/Free_List_(Liechtenstein)); portal (in German) of the FL: <http://www.freieliste.li/>

¹⁰ <http://www.landtagswahlen.li>

¹¹ <http://www.gemeindewahlen.li/>

¹² <http://www.abstimmung.li>

other public charges; and supervising the administration of the state. All members of parliament exercise their mandate in addition to their regular daily profession or occupations.

12. The exercise of political rights is regulated in the People's Rights Act (*Volksrechtegesetz, VRG*), of 1973, as subsequently amended¹³. Article 1 VRG states that all citizens of 18 years or more who have had their regular residence in Liechtenstein for at least one month before the date of election or vote may vote and stand for election. Article 3 establishes the principle of mandatory participation of voters in elections and in votes. The voters have to exercise their voting rights in the municipality of residence. The VRG under its articles 19-24 provides for the creation of a) election and voting commissions in every commune (responsible for communal elections/referenda and counting the votes of the respective municipality in national elections/referenda) and b) of a central election and voting commission in each of the two constituent regions. The members and substitute members must be elected/designated by the municipal councils and the government, respectively, immediately after their own election and for the same duration. They are headed respectively by the chairperson of the municipal councils and by persons appointed by the government. In case of an election, the competing lists (electoral groups) are all entitled to designate an equal number of representatives. Those standing for elections may not belong to a commission. The Commissions are solely responsible for the correct execution of the vote or election; article 64 VRG provides for a complaint mechanism allowing a competing list of candidates to address the Government with a request for the annulment of the election on certain grounds including where a candidate does not meet the criteria to be elected, or where the conduct of the election and the counting of votes were affected by gross irregularities or criminal offences.
13. Candidates for parliamentary election must submit an application supported / signed by at least 30 voters of the constituency concerned. A voter may sign only one nomination, and a signatory may not withdraw his signature after the submission of the nomination. Each nomination must carry the title / name of the respective electoral group, which must be unique (not identical to that of another existing political formation). Once an election has been announced by the government, candidates have 14 days to register. The official announcement is usually published during the month of November prior to the parliamentary election (which is usually held in February thereafter). There are no legal restraints regarding the duration of election campaigns.
14. The threshold for entering the Landtag is 8% (of the votes validly cast throughout the country). From each election list, as many candidates are to be declared elected as primary and residual mandates have been allocated, namely those candidates from the list who have obtained the highest number of votes.
15. The last elections were held in February 2013 (parliamentary election) and March 2015 (communal elections). Traditionally, the elections are dominated by two main parties and the last 12 years saw no participation from formations other than the four registered parties.

Party representation in parliament

16. As a result of the above parliamentary elections in 2013, the current distribution of seats in parliament is as follows: *Fortschrittliche Bürgerpartei* – FBP: 10, *Vaterländische Union* – VU: 8, *Die Unabhängigen* – DU: 4, *Freie Liste* – FL: 3. The first two political parties traditionally dominate the political competition in Liechtenstein and for many years, the country was ruled by a

¹³ Version in German: <https://www.gesetze.li/Seite1.jsp?lrs=1&lrs2=16&clearsvs=true>

coalition of these parties. The other two were created more recently – FL in 1985, DU in 2013 – and they entered parliament for the first time in 1993 and 2013 respectively.

Overview of the political funding system

17. Liechtenstein has adopted a mixed system of public and private political financing characterised by public subsidisation at State and municipal level and unregulated private support and election campaign financing. There are no global estimates available as to the share of public and private sources of funding. The GET was told by one party that public funding represents approximately 90% of its total income; in the case of another party, it represents only 60%. The absence of a commonly agreed framework on the sources of funding to take into account makes reliable assessments and comparisons difficult.

Legal framework

18. The main pertinent piece of legislation is the *Law of 28 June 1984 on the payment of contributions to political parties* (LGBI. 1984 no. 31) – hereinafter the LPCPP – which provides for the public subsidisation of political parties at State level¹⁴. The authorities of Liechtenstein also refer to the *Law of 17 December 1981 on allowances for Members of parliament and on contributions to political groups represented in parliament* (official gazette 1982 no. 22) – hereinafter the LAMPCPG. During the visit, it emerged that the political factions / groups in parliament are sometimes considered as a party component and that the funds allocated by the above law is used by, or transferred to the parties in full or in part.

Public funding

Public funding at State level

19. The LPCPP of 1984 currently allocates a total amount of CHF 710 000 (approx. EUR 655 000), which is to be split between the various parties which a) are represented in parliament or b) have participated in the last elections in the two constituencies and obtained at least 3% of the total number of votes across the country even though they have not won a seat. This amount is distributed among the benefiting parties proportionally to the number of votes and paid in semi-annual instalments (every 1st of March and 1st of September). In addition, a flat fee of CHF 55 000 (approx. EUR 50 700) is allocated annually to each party represented in the *Landtag* to help them pursue purposes of political education, public relations and participation in public policy development (articles 1 to 4 LPCPP).
20. In order to benefit from the above grant, parties must apply for it (the application is to be sent by the competent organ to the Government's Financial Affairs Unit), be committed to the principles of the Constitution, and be able to demonstrate that they conduct activities for which the public contribution is made available. Some of those met by the GET took the view that to benefit from the subsidy, a party must be registered as an association. However, there seems to be diverging views on this matter and it would appear that even parties which are not registered in the Commercial Registry do receive the grant. The contributions are paid upon submission of the approved party statutes, financial statements, and documentation of objectives and activities of the political parties (article 4 of the LPCPP states that "the Government may make the allocation subject to the submission of [these documents]"). The LPCPP (article 6) also states that the "political parties concerned must keep accurate records of the use of the contributions and store

¹⁴ For the text in German <http://www.landtag.li/iframe.aspx?lnr=171.20&nid=4140&auswahl=4140&lang=de>

the relevant documents. The annual financial statements have to be published in an appropriate manner. The Government may appoint an independent firm to carry out an audit". Once the allocation has been decided / agreed by the Government, the Financial Affairs Unit proceeds with the payments.

21. On a different subject-matter, the LAMPCPG mentioned earlier regulates the attribution of allowances to individual members and political groups of parliament to cover the expenses of their work in the *Landtag*.

Allowance paid to members of the Landtag	Contribution to parliamentary groups
<ul style="list-style-type: none"> • CHF 300 (full day) or CHF 200 (half day) for every day spent in meetings or on preparatory work • CHF 20 000 (MPs) or CHF 10 000 (deputy MPs) annual overhead costs + the same amount additionally to the Speaker and deputy-Speaker • CHF 3 000 annually for members of committees + an additional amount of CHF 2000 for the committee chairpersons • CHF 100 / hour for special tasks accomplished by committee members • Similar specific arrangements to cover activities abroad (attendance + accommodation and subsistence allowance, travel costs etc.) 	<ul style="list-style-type: none"> • Annually CHF 10 000 for each group + CHF 5000 per ordinary member of the group

22. This can be of relevance since out of the above compensation, elected representatives may have to reassign a certain percentage to their respective political party according where this is provided for in the party's statutes (see also the sources of financing listed in the parties' statutes).

23. Moreover, the Law on promotion of the media of 2006¹⁵ provides for state support in particular to the printed media; one condition to benefit from it is that there are at least 10 publications per year. In 2014 the total amount was about 1.8 million CHF with support granted to nine different media products upon submission of proof of expenditure for full-time staff, distribution/delivery or training. During the on-site discussions, the GET was also told that legal announcements made and paid by the state could amount to approximately 600 000 CHF annually. The Liechtenstein authorities clarified after the visit that this was the situation prior to the introduction in 2012 of on-line announcements; accordingly, the bulk of public announcements is now made in that way and the amounts concerned have decreased to approximately 130 000 CHF per year. During the on-site discussions, the GET was told that in total the above amounts could represent more than 1 million CHF income for the two daily newspapers of the country which are owned by, or closely related to the two leading parties.

24. Apart from the above, there are no extra benefits in the form of free media time and access to billboards, post fee exemption, subsidisation of costs etc. in periods of campaigns, as it often exists in other countries.

Public funding at municipal level

25. Parties – actually their local branches/groups – also receive public support from the 11 municipalities, in accordance with the municipal regulations and their individual criteria. The subsidy generally consists of a lump sum for each party represented in the local council and an additional lump sum multiplied by the number of mandate-holders. The table below gives an overview of the situation as of August 2015:

¹⁵ *Medienförderungsgesetz*, which replaces an earlier legislation of 1999 ([link](#) to the version of the law in German)

	Basic lump sum (CHF)	Additional amounts based on number of municipal mandataries (CHF)	Total (CHF)
Triesen	4 000 x 3 parties = 12 000	2 000 x 11 (3 parties) = 22 000	34 000
Triesenberg	5 000 x 2 parties = 10 000	1 500 x 11 (2 parties) = 16 500	26 500
Vaduz (1)	2 500 x 4 parties = 10 000	1 500 x 13 (2 parties) = 19 500	29 500
Planken	2 000 x 2 parties = 4 000	1 000 x 7 (2 parties) = 7 000	11 000
Eschen	5 000 x 3 parties = 15 000	1 500 x 11 (3 parties) = 16 500	31 500
Gamprin	2 500 x 2 parties = 5 000	1 000 x 9 (2 parties) = 9 000	14 000
Mauren	5 000 x 3 parties = 15 000	2 000 x 11 (3 parties) = 22 000	37 000
Ruggell	2 500 x 2 parties = 5 000	1 000 x 9 (2 parties) = 9 000	14 000
Schellenberg	2 000 x 3 parties = 6 000	1 000 x 9 (3 parties) = 9 000	15 000
Schaan	4 500 x 4 parties = 18 000	2 000 x 13 (4 parties) = 26 000	44 000
Balzers	3 000 x 2 parties = 6 000 + contribution in proportion to share of votes for each party obtaining more than 5 % + 2 000 per party in election years		
Overall (without Balzers)			256 500 (EUR 238 000)

(1) in Vaduz, the basic lump sum is paid to each party which obtained at least 5% of votes even if not represented on the local Council

26. Part of these amounts may need to be forwarded by the local branches/groups to the central structure, e.g. 50% in the case of FL whereas the Statutes of the FBP and VU refer only to State subsidies (and not to a portion of communal subsidies) as sources of funding. In addition, communal mandataries may also be required by the statutes of their party to reassign part of their allowance, which is the case of the FBP and FL. According to the information gathered on-site, these local sections may also benefit from further (moderate) support at local level, mostly the use of local public premises for meetings or events on an equal basis. For instance in Vaduz, the rental free of charge is granted once per year to each local party section; national parties are charged for that.
27. Finally, the GET was informed during interviews with the government offices that depending on the specificities of a political party, one cannot exclude that further public funds are allocated to some of its structures or activities (e.g. youth groups) under the general rules of support for such social activities.

Private funding

28. The LPCPP does not regulate the sources of private funding (origin, types of permissible or non-permissible support, possible limits with regard to the amount / size/periodicity etc.). Since political parties are constituted as associations under the Law on Persons and Companies (LPC), under article 254 contributions can be requested from the members. The GET noted that according to the statutory provisions of certain parties, both natural and legal persons from Liechtenstein or abroad can be members, according to some statutory provisions. The LPC does not address further sources of financing of associations such as private donations.
29. The Liechtenstein authorities point out that besides state funds, the two main sources of private funding in Liechtenstein are membership fees and private donations. In addition, and as mentioned above, parties may also receive special contributions from holders of a political mandate. When preparing for the on-site visit, the GET noted that the parties have determined in their statutes and appended documents their sources of funding as follows:

FBP	a) State contributions; b) contributions from mandataries; c) donations
VU	a) voluntary contributions from party members and third persons b) membership fees possibly decided by the general assembly c) State contributions d) the VU is the beneficiary of, and is supported by the foundation «Vaterländische Union»
DU	(statutes not available on-line at the time of the visit)
FL	a) State contributions; b) membership fees c) contributions from mandataries (5% according to <i>Reglement</i>) d) donations as provided for in the <i>Reglement</i> and ethical guidelines: e) the <i>Reglement</i> refers also to the annual parliamentary contribution to the political group ("the group may retain these amounts, for instance to remunerate the work of trainees. Unused amounts are to be transferred to the FL) and to support from the communal groups ("communal groups support the activities of the FL with 50% of the communal contribution. In return, the FL supports actively and substantially the election campaigns of the communal groups and candidates")

Expenditure

30. The current legal framework does not provide for any State support in relation to campaign- and other expenditures, or certain quantitative or qualitative restrictions or limits applicable to expenditure concerning political parties and entities related to them, especially concerning election campaigns. The authorities of Liechtenstein point out that certain restrictions stemming from the corruption-related provisions of the Criminal Code may apply but there appears to be no such case recorded to date.

III. TRANSPARENCY OF PARTY FUNDING – SPECIFIC PART

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

Books and accounts

31. Articles 251a and 251b of the Law on Persons and Companies¹⁶ obliges associations – thus including also "political associations" – to comply with the accounting requirements of article 1045, paragraph 3: observance of the fundamental accountancy principles, keeping records and documentary evidence in a manner which is commensurate to the volume of assets involved and which reflects the on-going activity and operations involving assets. As pointed out in the analytical part, many questions remain open, for instance the level of consolidation of accounts expected (to include all entities controlled by or related to the party) and, as a consequence, of the subsequent financial statements.

Reporting obligations

32. Political parties applying for public support provided from the annual subsidy submit their application to the Government's Financial Affairs Unit, accompanied by their financial statements and documentation on the fulfilment of objectives and activities to be pursued by political parties. The GET was told on site that the reports cover the situation from mid-year to mid-year and that they are usually sent during the summer. After the visit, the authorities pointed out that the annual

¹⁶ Personen und Gesellschaftsrecht (PGR) of 20 January 1926, as subsequently amended (available in German at <https://www.gesetze.li/DisplayLGBL.jsp?Jahr=1926&Nr=4>)

statements are actually drafted according to the parties' definition of the financial year: mid-year to mid-year in case of one party, and based on the calendar year for the other three parties.

33. As regards donations, there are no specific reporting duties apart from the general bookkeeping and tax law requirements vis a vis the tax authorities. In this context, the latter can request specific documents and information to ascertain the situation of the tax-payer.

Tax regime applicable to donations

34. Contributions to political parties or their entities are not tax deductible (this possibility exists in Liechtenstein only for charitable organisations).

Publication obligations

35. The GET noted that in principle, article 6 LPCPP requires that "the annual financial statements have to be published in an appropriate manner". There is no obligation to disclose the identity of donors above a certain amount or for donors to publish these statements on their side. As pointed out in the analysis, the reports are not published in practice and the GET noted that for the time being only the FL party appears to have a transparency policy through which an overview of its financial situation – including a general balance, items of income and expenditure – are published every year as an annex to its general activity report available and kept on the party's website; this party has also published its statutes, special rules concerning the different categories of funding and ethical principles in relation to transparency and donations; these principles provide for the periodic publication of the financial situation, that donations from legal or natural in excess of CHF 5 000 be published with the identity of the donor, that the party's management ensures the legitimacy of the origin of private support, that donations cannot entail in return a specific behaviour from the party even though they can be attributed to specific activities limited in time.

Third parties

36. In the absence of any rules on sources of private funding including and/or concerning the funding of election campaigns, this matter is not regulated in Liechtenstein.

Access to, and keeping of accounting records.

37. Books and documentary evidence must be retained for a period of 10 years, according to article 1059 of the Law on Persons and Companies. The authorities pointed out that accounting and other financial information can be fully accessed by the competent authorities through the normal procedures which are also applicable to all other legal entities.

Election campaigns

38. As indicated earlier, the legislation currently in place does not deal with the financing of election campaigns, whether in connection with political parties or as an autonomous matter where political formations or groups of persons would only be active the time of an election, or where campaign financing is the sole responsibility of the regular parties' candidates.

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

Auditing

39. Associations – thus including the political parties – are required under article 251b of the Law on Persons and Companies to have an auditor elected by the general assembly when certain conditions are met¹⁷; apart from this, associations are free to regulate the auditing of their financial situation. In practice, all four political parties have made some arrangements in their statute concerning the audit function. One party makes limited provision and requires simply that the assembly is to elect two persons responsible for financial revision. A second party provides in its rules that revision is the responsibility of a specific independent and statutory body of the party, whose member(s) is(are) elected for 4 years by the assembly. The third party has made provision to the effect that the body responsible for revision can be a private person or a firm providing revision services, or a trust service provider. In the case of the fourth party; the revision body is listed as an organ of the party; but revision can be done by a natural person who is not a party member or by a recognised (external) revision and trust service provider. The GET gathered from the on-site discussions that in practice, parties use either option (external service firm or internal body) to carry out the annual audit.

Public supervision / monitoring of political parties and election campaigns

40. The Government, through its Financial Affairs Unit, receives systematically the financial statements in support of the annual request for the payment of the public subsidy to the political parties which benefit from it. Since all the existing parties are entitled to, and benefit from this subsidy, they all submit the supporting documentation. The information gathered on-site by the GET shows that this stage does not lead to verifications in practice, be it on the way the subsidy is used nor on the comprehensiveness of the financial statements which are normally meant to become public. The Government is entitled, in accordance with article 6 LPCPP, to order certain checks concerning the annual financial statements and for that purpose, to appoint an independent audit firm¹⁸. The on-site discussions showed that this mechanism is not used in practice either.

41. As already indicated, the financing of election campaigns is not subject to specific rules/regulations. This also applies to supervisory arrangements. The GET understands that given the central role that the political parties appear to play in practice in respect of election campaigns, the financial activity deployed in this area is logically the affair of the political parties rather than that of the (lists of) candidates. The pertinent information would normally be included in the regular financial statements and thus be subjected to the possible controls by the Financial

¹⁷ This duty applies where

1. two of the following thresholds are exceeded in two consecutive financial years:

a) total assets of CHF 6 million,

b) income of CHF 12 million,

c) the equivalent of 50 full-time employees on an annual average; or

2. it is requested by a member of the association who commits his personal liability or is vouching for any debt and liabilities of the association.

¹⁸ Auditors and auditing companies are regulated by the Auditors and Auditing Companies Act. The Financial Market Authority (FMA) is responsible for the prudential supervision of auditors and auditing companies (issuing and withdrawal of licences, monitoring of continued compliance with licensing conditions), disciplinary powers, quality and due diligence inspections, and maintenance of the register of auditors. The FMA is also responsible for issuing certifications, advertising the auditor examination (licensing or qualification examination), and admission to the examinations.

Affairs Unit or a private auditor. The authorities of Liechtenstein confirmed this analysis of the situation.

(iii) Sanctions

Financing of political parties and election campaigns

42. According to the authorities, the only sanctions applicable in relation to political financing are those contained in the criminal code concerning corruption-related offence; see also the first part of this report – theme I on incriminations of corruption. As it is pointed out, several gaps have, however, been identified concerning active and passive bribery involving elected assembly members, and concerning the offence of trading in influence under the current legislation (new legislation is in the process of adoption to improve the legal framework). Moreover, active and passive bribery in connection with elections or a public vote is a criminal offence which attracts a penalty of up to one year imprisonment (article 265 Criminal Code). The GET noted that no information is available as to whether irregularities in the financial statements or the use of the public subsidy can lead to a loss / suspension / reimbursement of public aid. The same goes for possible accounting irregularities.

Statistics

43. There are no pertinent cases known of a corrupt conduct in relation to political activities or possible infringements of the LPCPP (e.g. for inadequate financial statements).

Immunities and other mechanisms allowing persons to avoid proceedings or sanctions

44. The replies to the questionnaire indicate that immunities granted to members of parliament are limited to the protection of freedom of speech and *habeas corpus* rules during meeting periods; criminal action is free outside those periods. The subject of immunities was analysed in the context of the joint First and Second Evaluation Round report.

Statute of limitation

45. In the absence of specific sanctions and of an enforcement mechanism in relation to the legal framework on political financing – whether based on administrative law or criminal law standards – this subject appears irrelevant for the time being. As for the general criminal law provisions, these have been presented in the joint First and Second Evaluation Round report.

IV. ANALYSIS

In general

46. As things stand, the system of mixed public-private political financing which exists in Liechtenstein is largely unregulated and thus imposes limited obligations. Although there are arrangements to ensure some level of transparency and supervision of political financing, these are not applied in practice. The country has undergone a phase of economic and political change in recent years. New parties have progressively emerged, which not only compete with each other but also progressively represent a political opposition to the two larger historical formations which have ruled the country for decades, sometimes as a coalition, with political agendas showing little difference. The GET was told by some interlocutors that the recent increase in

political competition would contribute to improvements in the public sector generally, for instance less cronyism in the appointment to senior positions on the board of State-controlled corporations. The subject of political financing would also have become more prominent, especially now that there is support from six of the 25 members of parliament and that four parties are struggling to have access to direct or indirect public support, which has been cut because of the more difficult budgetary situation. A motion was submitted in parliament in August 2013 and eventually rejected by 19 members of parliament¹⁹, inviting the Government to examine which measures could be adopted to improve the legal framework and transparency of political financing. The motion made reference to the standards of the Council of Europe and GRECO's work. Its proponents claimed that citizens' trust in the parties has decreased in recent years and that there is a need to increase the overall transparency of political financing. Party income would need to be made more transparent including with regard to contributions from members and holders of a public mandate, private donations and other public subsidies (from the communes and indirect public support such as the press/media-subsidisation). The motion also stressed that due to decreased public funding, parties tended to seek greater support from private sources with the risk of dependence of politics from private business, associations and wealthy individuals. It also referred to the situation in two countries of the region which have introduced thresholds for the disclosure of large donations and restrictions on the funding from public companies and professional associations, and to the situation of a neighbouring country which had been harshly criticised by GRECO for the absence of a legal framework on political financing. It also stressed the need to ensure transparency of campaign spending and sources of campaign funding in connection with elections as well as referenda and citizens' legislative initiatives. Some of the objections of those who opposed the adoption of the motion are stated in paragraph 8.

47. Traditionally, the political parties in Liechtenstein play a role which may not be as prominent as in other parliamentary democracies, given the size of the country, the constitutional set-up of the State and the primacy of the Government and the Prince who has wide-ranging prerogatives²⁰. Moreover, the strong elements of direct democracy²¹ present in Liechtenstein provide citizens

¹⁹ See paragraph 8 and footnote 5

²⁰ The Constitution provides in particular that

- the Prince is the Head of State,
- he takes through the Government, and independently of the Diet, the steps required for the implementation and enforcement of the laws and any action required in pursuance of the powers of administration and supervision, and shall issue the requisite ordinances;
- laws require the assent of the Prince Regnant in order to acquire validity; if the assent is not given within six months, a law shall be deemed to have been refused
- he appoints the judges (and presides with a casting vote the selection committee; candidates are proposed to the diet with his assent) and he has the prerogative of remitting, mitigating or commuting sentences which have been legally pronounced, and of quashing prosecutions that have been initiated;
- he has the right to convene the Diet, to close (or to prorogue) it, and to dissolve it
- defects or abuses which the diet has observed in the State administration can be reported to the Government or also directly to the notice of the Prince
- the Prince has the right of legislative initiative, in the form of Government bills
- the Government is responsible collegially to the Prince and the Diet and in case of a motion of no-confidence, the Prince appoints any interim government; the same goes for individual members of government and dismissals shall be taken by the Prince Regnant in agreement with the Diet;
- The Head of the Government shall preside at meetings of the Government, deal with business directly entrusted to him by the Prince Regnant, and countersign the laws and any decrees or ordinances issued by the Prince; the Head of the Government shall submit reports by word of mouth or in writing to the Prince Regnant with regard to matters placed under the authority of the Sovereign.

²¹ Among those direct democratic rights guaranteed by the Liechtenstein Constitution is also the right of individual municipalities to secede from the union. The decision on whether to initiate a secession procedure shall be made by a majority of the Liechtenstein citizens eligible to vote who reside in the municipality. Secession shall be regulated by a law or, as the case may be, by an international treaty. Changes to borders between municipalities, the establishment of new

with direct participation rights by means of legislative initiatives and referenda, thereby continuously exposing parliamentary decisions to a possible challenge by the people. The equilibrium of powers remains a source of political debate.²² Nonetheless, the political parties are instrumental in the political landscape as they have in practice a prominent role for the presentation of candidates for parliamentary and municipal elections²³. This may be explained by the need for new competing political lists or groups of candidates to organise in order to be able to challenge the position of the two older parties (which benefit from the active support of the two major newspapers) and by the high threshold of votes needed to enter parliament²⁴. Also, the fact that the only forms of public support allocated directly by the LPCPP only benefits political parties constituted as an association, certainly is a strong incentive for any political newcomer to become a recognised political actor. There is no public support to cover expenses of candidates and election expenditure, nor are competing parties or possible groups of candidates awarded any State support at elections. This tends to reinforce the position of the two leading parties. There have also been allegations that recent amendments of the media subsidisation law have brought the State aid further out of reach of the smaller parties²⁵, even though these tend to be treated favourably by the calculation system used for the allocation of seats in parliament. Provided this central electoral role of the parties does not fundamentally change and Liechtenstein provides for a comprehensive set of rules for the transparency and supervision of party financing which would equally apply during election campaign periods, the financing of election campaigns as a distinct subject would thus be of lesser relevance. The People's Rights Act (*Volksrechtgesetz, VRG*) – which regulates the organisation of elections, referenda and citizen initiatives – does not address the financing of campaigns connected thereto. Party representatives and other interlocutors met by the GET stressed that also citizen initiatives and referenda are sometimes financially supported by lobbies and other interest groups which remain unknown.

48. The GET welcomes the latest discussions held in the summer of 2013, which can only help to raise awareness of the negative effects of the current absence of legal regulations for the transparency of political financing. It hopes that this report will help to foster recognition of the need to settle this question, drawing on Council of Europe Recommendation Rec(2003)4. As this text does not deal with referenda and initiative campaigns as such, the recommendations given in this report do not extend to them. However, some of the problems identified below concern not only political parties and election campaigns, but also referenda and citizen initiative campaigns. The GET considers that the important role they play in Liechtenstein's political life, the links some referendum campaigns and committees have with political parties and the sometimes important financial flows that they appear to generate in certain cases – see previous paragraph – would justify applying similar rules to them. The Liechtenstein authorities are therefore encouraged to adopt an overall approach and to take all forms of campaigns into account when considering the follow-up to be given to this report.

municipalities, and the unification of existing municipalities shall additionally require a majority decision of the Liechtenstein citizens eligible to vote who reside there. If secession is regulated by a treaty, a second vote shall be held in the municipality after the treaty negotiations have been concluded.

²² The GET was told that during the 2011 referendum on abortion, the Prince had taken a stand against its legalisation and announced that he would in any event refuse to validate the results if a majority of voters supported it. This has reportedly discouraged a number of supporters to go to the polling stations (the level of participation was 61%, a value which is considered as low in Liechtenstein). The result was 5760 votes against, and 5246 in favour.

²³ For an overview of the general (parliamentary) elections since 2001, see www.landtagswahlen.li and for the municipal elections since 2003, see www.gemeindewahlen.li. The youngest group of campaign participants in the last general elections of 2013 was immediately established as a fully-fledged political formation.

²⁴ In spite of this situation, the youngest party immediately entered parliament when it participated for the first time in national elections as an electoral group.

²⁵ By increasing significantly the minimum number of issues to be released in order to qualify for the attribution of the aid.

Transparency

49. Public aid under the LPCPP is available only to those political parties which are established as an association (*Verein*) in accordance with article 246 of the Law on Persons and Companies – LPC. Inconsistent information was given to the GET about the implications of this provision and about the current situation of political parties with regard to registration (in the Commercial Registry managed by the Office of Justice). State representatives sometimes took the view that all four political parties were registered associations since otherwise they would not benefit from the State contribution allocated under the LPCPP. Other interlocutors including a representative of the Commercial Registry pointed out that to date, only one political party had actually registered as an association with the Registry, and that this was not a pre-condition to receive public support. What is important is that political parties are constituted as associations according to their statutes and that these are to be submitted to the Financial Affairs Unit of the government administration in support of the application for the payment of the annual subsidy. The GET also understands that in principle, the LPC places a non-registered association on the same legal footing as the basic form of a company, including for accountancy and auditing obligations. However, a party representative indicated that his (non-registered) party was a mere “club” – as opposed to an association – with no legal existence of its own (and that presumably, all local party sections were in the same situation). It was also pointed out that in practice, the absence of a status as a registered association can be a disadvantage, for instance to obtain a loan (due to the lack of guarantees for possible creditors). This means that in principle, a party would have to resort to other means to conclude certain transactions, for instance borrowing money to finance a campaign. In the light of GRECO’s experience in the third Evaluation Round, the absence of a clear status and legal capacity can sometimes encourage political parties to resort to arrangements²⁶ which can make it unnecessarily difficult to hold them to account or to draw a reliable financial picture of their activities. It is thus clear that the statute of political parties in Liechtenstein needs clarification to limit risks for the level of transparency and the future enforcement of more ambitious legislation on political financing. Moreover, it is equally important that a level playing field applies to all political parties, with the same rights and obligations, which would allow for the comparability of information on their financial situation and activity. Therefore, **GRECO recommends to ensure that political parties in Liechtenstein have an appropriate status and legal form, which takes into account the specificities of political parties and entails the necessary legal capacity.**
50. Another fundamental question is whether the registration entails (or not) certain specific accountancy, audit and other obligations for political parties. In this respect, it would appear that if registered associations which meet certain financial turnover criteria are subjected to the full range of accounting principles, those which are not registered are at least subjected to the same duties as the basic form of a company. This includes the duty to retain evidentiary information for a period of 10 years. The latest financial statements of political parties examined by the GET (which were submitted to the Financial Affairs Unit) shows that these reflect in different manners the overall situation and do not necessarily provide a complete picture of the various items of income, expenditure, assets, debts, liabilities and so on. The GET recalls that in accordance with article 11 of Recommendation Rec(2003)4, political parties and entities connected to them should keep proper books and accounts. Moreover, those of the parties should be consolidated so as to include the situation of all entities which are related directly or indirectly to them or otherwise under their control. In the context of Liechtenstein, this would apply for instance to the local party sections, with which the central structure entertains financial flows. This would also apply to

²⁶ For instance, creation of structures for the management of their assets and the conclusion of legal acts, natural persons (who may be party members or just supporters) undertaking such commitments instead of the party itself etc.

social-economic groups of members (women, youth etc.), media outlets and any other business or non-business activity, or assets controlled or managed indirectly by foundations and other structures. At least one party manages its real estate property and printed media activity by means of a foundation which is also responsible for the collection of private support and which subsequently pays back part of these amounts as lump sums to the party to finance its functioning. However, the activities and assets controlled by such bodies are not necessarily reflected by the parties in their statements. Representatives of the audit profession agreed with the GET that the overall consolidation of statements would be a desirable improvement. Last but not least, as pointed out in paragraph 32, there is no unified reference period for the closure of annual accounts and the establishment of financial statements: three parties use the calendar year whilst the fourth one establishes the situation from mid-year to mid-year. For the purposes of reporting, publication and comparability including in respect of campaign financing, the GET considers that the same time-frame should apply to all parties. What is thus clearly missing is a standardised accounting format or set of accounting rules, which would spell out clearly how accounts must be kept and which would take into account the specificities of political parties, the variety of their sources of income and expenditure and the variety of structures possibly linked to them. Obviously, this concerns also the particular records to be kept on electoral campaigns, in accordance with article 10 of Recommendation Rec(2003)4: in Liechtenstein, as in other countries, electoral periods imply an increase in the financial activity of political parties. An adequate accounting format would also ensure that the financial statements submitted to periodic supervision and made publicly available provide for a reliable picture and comparable information across the various parties. In the light of the considerations contained in the above paragraphs, **GRECO recommends i) that adequate accounting rules and forms be introduced which would clearly apply to the financing of all political parties and of election campaigns, which would take into account the various sources of income, expense, assets, debts and liabilities, and ii) that accounts be properly consolidated with the inclusion of all entities which are related directly or indirectly to a political party or are otherwise under its control.**

51. In order to ensure a satisfactory level of transparency of political financing, it is equally important that the legislation takes into account the possible involvement of so-called “third parties” (individuals, businesses or associations which are distinct from political parties), who may be campaigning in favour of party candidates and/or who may represent a source of additional support including especially on the occasion of election campaigns. Thus, their indirect support would need to be accounted for in the financial statements of the political parties concerned. During the on-site discussions, reference was made to the existence of such groups of interests. The debate held in the summer 2013 on the parliamentary motion mentioned in paragraph 46 also shows that this is an issue in Liechtenstein. The GET also was informed that the two major newspapers of the country, the *Liechtensteiner Vaterland* and the *Liechtensteiner Volksblatt*, are known for their large involvement in political life and their closeness to the two “traditional” parties. These links take the form of an indirect ownership structure of one of the newspapers, the financial activity of which would thus be reflected in future in the consolidated statements recommended earlier. But there are no apparent connections in the case of the other major newspaper, the control structure of which involves a variety of co-owners²⁷. Liechtenstein needs

²⁷ The *Vaterland* is in the ownership of Vaduzer Medienhaus AG which is under the indirect control of the VU party, through the foundation of the same name (*Vaterländische Union*). The GET was told that the *Volksblatt* is in the joint ownership of an Austrian media group (20%), “some other owners” (20 to 25%), and that the remaining shares are owned by a group described as “small idealists from the former ownership structure”. The links between the *Volksblatt* and the FBP are primarily explained by the fact that the FBP is historically an emanation of the group of people who founded and run the newspaper.

to address these sources of support and to find ways to properly reflect in the accounts and financial statements of the respective political parties any support emanating from distinct entities or groups, including those who own media businesses. **GRECO recommends that Liechtenstein seeks ways to increase the transparency of contributions by third parties in the financing of political parties and election campaigns.**

52. Neither the legislation on associations (LPC) nor the legislation on party financing (the LPCPP) regulate the sources of funding in general. Parties are in principle free to undertake whatever activities they choose. As pointed out earlier, the LPCPP deals only with the public subsidisation of political parties. In practice, these use different arrangements for their funding involving a combination of some or all of the following sources: membership fees including in the form of a percentage of their professional remuneration, fees paid by their mandate holders involved in state bodies and businesses linked to the state or municipalities, private donations, income from media activities, income generated by special events and donations made on such occasions, income generated by property assets²⁸, income from municipal subsidies to the local groups of the parties. Moreover, some parties benefit in practice from financial flows from their respective parliamentary groups; the total amount of funds allocated by parliament to the factions is not immense (165 000 CHF in total) but at the same time nothing reportedly prevents parliamentary groups or individual parliamentarians from receiving additional financial contributions from private sources: these amounts could then be repaid partly to the parties as a group contribution. The GET could not determine whether the support provided by parliamentary groups to their respective parties contravenes certain parliamentary regulations or general rules on the use of public resources allocated to State bodies. If such money flows are in principle prohibited, clear rules would need to be introduced and/or enforced to that effect; otherwise, donations made to the groups and by the latter to the political parties need to be properly accounted for. Also in other countries evaluated by GRECO, this has sometimes been a controversial matter and clarification is needed in Liechtenstein in this respect.
53. Of particular importance is the absence of any rules on private support which would ensure the proper registration of all donations with information on their nature and value, as provided for under article 12 of Recommendation Rec(2003)4. The absence of any rules means that in practice, parties deal in different manners with anonymous donations (some do prohibit these, others do not) and in-kind support – other than voluntary work by non-professionals – including their acceptance and subsequent valuation for recording purposes. The experience in other countries shows that further issues can arise with regard to goods and services provided at preferential rates or paid for directly by donors (whether it constitutes some form of sponsoring or not). The same can be said about donations received by party members or certain party structures and subsequently forwarded to the party in the form of a member or intra-party contribution. The GET also recalls that for the sake of transparency, it is important to address consistently membership fees and voluntary contributions by the members, and donations emanating from sympathisers. This also helps limit any risks that certain rules on donations – such as on the disclosure of major donors recommended in the subsequent paragraph – be circumvented. Especially since political parties in Liechtenstein sometimes provide that their members can be legal and natural persons, including from abroad (see paragraph 28). The GET believes that voters need to know which domestic or foreign interests support their party. As shown in the table related to paragraph 29 on the overview of statutory provisions, the sources of funding are generally defined in loose terms and only one party has adopted and published some specific rules on donations. These require i.a. the registration of all donations and their payment

²⁸ For instance, the GET was informed that one of the Liechtenstein parties owns about 1000 m² of real estate which is used partly by its headquarters and partly rented out.

through a bank account and the GET strongly supports the principle of using modern payment techniques for the collection of donations. Other parties which have no specific rules sometimes rely on ad hoc decisions from the management body, for instance to decide on the acceptance of in-kind support. As for loans, credit lines or similar arrangements, it remains unclear whether loans are subscribed by members on behalf of the party, whether any debt fully or partly written off by the creditor would be registered as a private support from the bank or the party member and so on. In view of the above, there is thus a clear need to establish a framework on the sources of funding of political parties. Liechtenstein may also wish to draw further inspiration from the content of articles 3 to 7 of Recommendation Rec(2003)4, which fall outside the scope of the Third Evaluation Round. In the light of the considerations contained in the above paragraphs, **GRECO recommends i) that political parties – and other campaign participants as the case may be – be required by law to record all forms of funding and private support with information on their nature and value, including for goods and services provided free of charge or at preferential value, as well as in respect of loans; ii) to introduce a general ban on donations from persons or bodies that fail to reveal their identity to the political party or candidate concerned and iii) that the legal situation regarding funding from parliamentary groups and private support to these groups be clarified and that the financial flows concerned be properly accounted for in that context.**

54. Turning to the publicity of information on political financing, the GET recalls that in accordance with article 13 of the Recommendation (2003)4, States should require political parties to make public regularly, and at least annually, their accounts or as a minimum a summary of these, including particular records of campaign expenditure, as well as of all donations received and the identity of donors in case of donations above a certain amount. To some extent, this is reflected in the LPCPP since its article 6 provides that the parties' *annual financial statements have to be published in an appropriate manner*. However, this provision is not applied in practice. Neither the Financial Affairs Unit nor the political parties themselves – with the exception of one formation which publishes the latest statement on its website – make these reports publicly available in any manner. The GET itself obtained a copy from the remaining three parties only with their explicit agreement, mostly under the condition of confidentiality. The GET was told that one of the reasons for this situation was the absence of further arrangements spelling out clearly who should ensure the publication (albeit article 6 is about party obligations) and how this should be done. Bearing in mind that the principle of publicity was introduced in 1995 as an amendment to the LPCPP of 1984, the GET finds this situation rather unexpected. As mentioned earlier, the LPCPP refers to the publication of statements *in an appropriate manner*. In the absence of practice, the implications of this expression for the modalities of publication and/or the content of financial statements remains unclear. In any event, as regards the modalities of publication, many other GRECO members now publish on-line year after year the financial statements (so that the public interested can make comparisons) for instance on the website of the political financing supervisor. In GRECO's view, this is a good practice. Ideally, specific information concerning the funding of election campaigns should be made available on an on-going basis during the campaign period, or shortly after. As regards the possible content of these statements, there are no specific rules nor a standardised format imposed by the public authorities which would ensure the comparability and comprehensiveness of information across all political formations in future, including in respect of campaign expenditure and of all donations and donors registered in the accounts. Nor does it provide for the disclosure of the identity of donors above a certain amount although interestingly, the party which has adopted its own internal rules on private donations has decided in 2014 in that context to indicate on its website all donations from legal or natural persons in excess of CHF 5 000, with the donor's identity. The GET recalls that information to the public on the most important private sources of party and candidate funding is an important

element of any transparency policy. Such a measure has a preventive role by limiting undue influence on the political sphere, especially bearing in mind that Liechtenstein imposes no ceiling on donations. GRECO recommends i) that measures be taken to ensure the effective, regular and timely publication of adequate financial statements concerning political parties and – as appropriate – other election campaign participants and ii) that individual donations above a certain minimum level, together with the identity of donors, be disclosed in that context.

Supervision

55. First of all, as regards financial audits, there is no requirement for political parties to have their financial reports examined and certified by independent external professionals. As indicated in the descriptive part, on the basis of the provisions of the Law on Persons and Companies all four parties have made some arrangements providing for an annual internal or external audit; the on-site discussions confirmed that different options are used in practice (internal or external audit). The discussions with representatives of the audit profession also showed that for the time being, there are no strict standards for the independence of auditors in the case of political parties: there are no restrictions concerning an auditor being a member of the party nor rotation requirements, for instance. The GET has considered whether it would be appropriate for the future regulations on political financing to provide for fully-fledged periodic audits by external bodies provided with adequate guarantees of independence from their client, prior to the submission of the financial statements to a public supervisory body. It came to the conclusion that the existing arrangements already ensure some level of internal party discipline and “multi-eyed” control, and that the limited size of the parties in Liechtenstein and their level of structural complexity do not warrant, for the time being, stricter auditing arrangements. The Liechtenstein authorities may nonetheless wish to bear these matters in mind in connection with future changes to the legislation.
56. The GET recalls that in accordance with article 13 to 15 of Recommendation Rec(2003)4, countries should establish a reporting mechanism for political parties (and related entities) and election campaign participants more generally, and subsequent monitoring by an independent authority, as well as the specialisation of personnel involved. As indicated in the descriptive part of this report, there are currently no such effective arrangements in place in Liechtenstein. Parties applying to the Government's Financial Affairs Unit for public aid under the Law of 1984 on the payment of contributions to political parties (LPCPP) submit in practice some financial information as part of their application since *the Government may subject the allocation of contributions to the submission of the approved party statutes, financial statements, and documentation on the objectives and activities of the political parties* (article 4 LPCPP). The on-site interviews showed that this was a mere formality in practice and that the attribution of the subsidy does not depend on the results of any financial or other form of supervision by the Financial Affairs Unit. Article 6 of the LPCPP provides that the *Government may appoint an independent audit firm to carry out an audit* but this mechanism has not been used to date. Besides, the law does not spell out clearly the objective and possible consequences of the audit for the payment of the annual subsidy, and whether it applies only to the financial statements or also to the financial records and accounting /supporting documents. Nor does the law say whether these audits must take into account all items of income and expenditure as well as assets, debts and liabilities.
57. In Liechtenstein, it is primarily the Government which is responsible for the financial supervision over the use of public monies (the parliament has more a general responsibility over the execution of the budget). Even if the Financial Affairs Unit or another administrative authority were given explicit responsibility for the financial supervision of political parties and election

campaigns, it would most likely not fulfil the requirement of independence, laid down in Recommendation Rec(2003)4. In the course of its Third Evaluation Round, GRECO has consistently expressed its great concern at supervision performed by a governmental body. The GET thus enquired whether another existing public body could enter into consideration. Articles 19 et seq. of the People's Rights Act provides for the establishment of electoral commissions at the level of each municipality and each of the two electoral districts but these bodies appear insufficiently prepared to be entrusted with the supervision of political financing: these commissions have no control function (complaints are filed to the government and subsequently examined by the high court) nor permanent staff and their composition would not guarantee the objective and impartial treatment of a case of illegal financing²⁹.

58. The Financial Audit Office (*Finanzkontrolle*) – FAO, supports the Government and the parliament in their respective financial or budgetary control function, its representatives met on-site referred to it as independent both from the executive and from the legislature and this independence is guaranteed by law and certain statutory arrangements³⁰. According to the Law of the Financial Audit Office (LFAO), the FAO is only organisationally attached to the parliament. The staff of the FAO now counts five persons including its Head. In practice the FAO makes use of private audit firms to support it in its work – mostly Swiss firms which have thus no links with local interests. The audit criteria of the FAO are determined in article 11 LFAO and comprise legality, effectiveness, efficiency, security and functionality depending on the audit engagement. Concerning subsidies, the FAO is empowered to perform sampling tests “to ensure the legality of the funds”, as the authorities pointed out after the visit. The checks of the FAO are therefore limited to the compliance with legal requirements and do not include efficiency checks. As the GET was also told on-site, the FAO is not allowed by law to take into account the way funds are spent. Bearing this in mind, should the FAO be the public authority entrusted in future with political finance supervision, there is a clear need to review the FAO's legal competencies to ensure in particular that checks would be applicable both to the sources of income and to the expenditure of political parties, even where this does not concern the attribution or use of public aid. This would be of paramount importance to ensure the effectiveness of monitoring, especially in respect of election campaign financing given the logical necessity for a supervisory body to be able to assess items of income and expenditure against each other. Moreover, the GET recalls that an effective supervisory mechanism would need to oversee the finances of parties and election participants, whether or not they receive public financial support. Giving to the future supervisory authority the capacity to receive complaints or reports from citizens and political formations involved in the political competition would contribute to this. Having said all the above concerning the FAO, it is of course up to Liechtenstein to design the future supervisory mechanism on the basis of an existing or newly created body.
59. In view of the considerations contained in the above paragraphs, Liechtenstein clearly needs to introduce a fully-fledged reporting mechanism for parties and possibly other campaign participants to submit detailed financial statements to the supervision of a public authority. The

²⁹ The commissions at municipal level are chaired automatically by the acting mayor and composed of members of the municipal council, the two regional commissions are composed of persons to be appointed by the government; there are no specific criteria for appointments that would guarantee a balanced composition involving also non-political appointees with a specific expert background.

³⁰ Articles 1 and 2 of the 2009 Law on the Financial Audit Office (the full text of the law in German is available in the [LILEX legislative database](#)). Moreover, the FAO is authorised by law to refuse to do an audit requested by the government and parliament, it appoints the auditors by itself, the head of the FAO is selected by means of an open competition organised by a select committee of independent experts. The parliament then appoints one of the preselected candidates (three, in practice) for a term of eight years, renewable once. S/he can be dismissed in case of a gross breach of duties „or for other important reasons“. In practice, the management of the FAO are not Liechtenstein nationals.

current arrangements involving the Financial Affairs Unit need to be reviewed so as to entrust a sufficiently independent body with the task of supervision. Therefore, **GRECO recommends i) to establish a mechanism for the independent supervision of the financing of political parties and election campaigns, which would have the necessary authority and resources to ensure proper supervision; and that ii) political parties and other election campaign participants as appropriate, be required to present periodically – and at least annually in the case of political parties – financial statements comprising adequate information for enabling proper supervision.**

60. It emerged from the on-site discussions that as a general rule, the FAO does not publish the results of its audit activity since such reports could harm the reputation and image of individuals or organisations concerned by certain findings. Findings are discussed with the parliament and only a summary of the FAO's activities is released annually in an activity report (the second group of reports deals with the general, annual budgetary control). Should the FAO – or another body – be entrusted with the proper supervision of political financing, it is clear that citizens would need to be informed of the results of this work and the level of financial transparency and integrity of the party and candidates they support. Ensuring an appropriate degree of transparency in the supervisory work would also contribute to maintaining the accountability, effectiveness and independence of the body concerned at the level expected. Moreover, the introduction of an adequate legal framework on the financing of political parties and election campaigns in Liechtenstein and the various improvements arising from this report will no doubt lead to important changes in Liechtenstein. The legislation will probably need to be gradually refined and supplemented over time by measures to explain and clarify the application of these regulations, such as explanatory guides, standardised financial forms, definitions of certain notions, training and so on. It is important that the supervisory authority be provided with a clear mandate and leadership for identifying what subsequent legal or regulatory arrangements are needed, particularly in light of the checks carried out. The experience of other countries has already highlighted the value of such an approach. Therefore, **GRECO recommends that the improved supervisory arrangements include the periodic publication of results and findings concerning individual party compliance.**

Sanctions

61. As indicated in the descriptive part, the system of sanctions relies exclusively on the general criminal sanctions for corruption-related offences. The GET recalls, however, that rules on political financing pursue a preventive logic which cannot rely exclusively on general criminal action. The LPCPP itself does not define any infringement specific to the party financing rules and it does not establish any corresponding sanctions. Not even in respect of the basic obligations of article 6: keeping accurate records of the use of the public aid, storing the relevant documentation, publishing financial statements. But as mentioned earlier, this may be part of a broader issue. Moreover, although the government can order an independent audit, the consequences of possible critical findings are not spelled out. Not even as to how it could impact on the public subsidisation and lead to a loss, suspension or requirement to reimburse the amounts concerned. The GET recalls that in order to ensure the highest level of compliance with legal provisions on political financing, an adequate machinery needs to be in place to define infringements and sanctions in relation to the various legal requirements. This is recalled in article 16 of the rules appended to Recommendation Rec(2003)4, which stresses also that such sanctions need to be effective, proportionate and dissuasive. GRECO's experience has shown that these sanctions need to be applicable both to the breaches of formal obligations and to the deliberate dissimulation of items of income and expenditure. It has also shown that there are pros

and cons for each category of sanctions – whether administrative or criminal: the former normally imply a lower level of procedural formalism without the full rigours of the criminal procedure but the latter certainly involve a stronger element of dissuasion and they allow for enhanced investigatory capacities. Many GRECO members have opted for a combination of both, for instance by also allowing or obliging the (administrative) supervisory body to refer a case to the criminal prosecution in case it suspects that a criminal offence was committed. In any event, adequate statutes of limitations need to allow for the timely launching of proceedings, bearing especially in mind that annual financial reporting in the area of political financing can lead to certain infringements being detected only several months after the act was committed. In the light of the foregoing, **GRECO recommends i) that the legislation be supplemented by effective, proportionate and dissuasive sanctions for various breaches of the regulations on the financing of political parties and – as the case may be – of elections campaigns and ii) that for such purposes, the supervisory authority be clearly allowed to forward to the prosecutorial body those cases for which there is a suspicion of a criminal offence.**

V. CONCLUSIONS

62. Liechtenstein is currently undergoing significant economic and political change. For a long time, the political landscape consisted of two parties but there are now two further parties in parliament and the transparency of political financing has gained in importance on the political agenda. These discussions are timely since Liechtenstein is one of the very few GRECO members which have no system in place for the transparency of political financing. Moreover, as political competition increases, financing is likely to become increasingly an issue. The Law of 28 June 1984 on the payment of contributions to political parties (LPCPP), which is the main piece of legislation, only provides for the public subsidisation of all the parties represented in parliament or which have participated in elections. Private support is not regulated at all. The LPCPP requires that the political parties submit annual financial statements to the Government's Financial Affairs Unit, and the latter can order audits by private firms. Since an amendment of 1995, the law also provides for the publication of these periodic financial statements in an appropriate manner. But these core arrangements are not applied in practice and only one political party publishes financial information on its website.
63. Liechtenstein clearly needs to fill the gaps identified in this report and to take into account Recommendation Rec(2003)4 *on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns*. As pointed out in the other part of the report on incriminations of corruption, passive bribery of elected officials has not been criminalised for many years (draft legislation is being prepared to address such matters). These various gaps in the legislation create risks of political corruption. To start with, Liechtenstein must make the periodic publication of financial statements a reality. In the absence of rules on private support and a standardised accounting and reporting format which would take into account the specificities of political parties, especially their variety of structures and sources of income and private support, it is up to them to define what to report about and how to consolidate their accounts. The legislation should thus require the proper consolidation of these accounts so as to include all entities related directly or indirectly to the party or otherwise under their control, including local sections and bodies used for the management of property and business activities. Likewise, the proper registration of all possible forms of private support, for instance goods and services provided free of charge, is of paramount importance. In the same vein, anonymous donations should be clearly prohibited. As in other countries, a supervisory mechanism needs to be established, which would have adequate legal and other means at its disposal, including guarantees of operational independence. Currently, this precondition is not fulfilled by the Financial Affairs Unit. The

legislation also needs to provide for effective, proportionate and dissuasive sanctions in relation to the future regulations on political financing. Obviously, the desirable improvements would need to also apply during election campaigns.

64. In view of the above, GRECO addresses the following recommendations to Liechtenstein:
- i. to ensure that political parties in Liechtenstein take an appropriate status and legal form, which takes into account the specificities of political parties and entails the necessary legal capacity (paragraph 49);
 - ii. i) that adequate accounting rules and forms be introduced which would clearly apply to the financing of all political parties and of election campaigns, which would take into account the various sources of income, expense, assets, debts and liabilities, and ii) that accounts be properly consolidated with the inclusion of all entities which are related directly or indirectly to a political party or are otherwise under its control (paragraph 50);
 - iii. that Liechtenstein seeks ways to increase the transparency of contributions by third parties in the financing of political parties and election campaigns (paragraph 51);
 - iv. i) that political parties – and other campaign participants as the case may be – be required by law to record all forms of funding and private support with information on their nature and value, including for goods and services provided free of charge or at preferential value, as well as in respect of loans; ii) to introduce a general ban on donations from persons or bodies that fail to reveal their identity to the political party or candidate concerned and iii) that the legal situation regarding funding from parliamentary groups and private support to these groups be clarified and that the financial flows concerned be properly accounted for in that context (paragraph 53);
 - v. i) that measures be taken to ensure the effective, regular and timely publication of adequate financial statements concerning political parties and – as appropriate – other election campaign participants and ii) that individual donations above a certain minimum level, together with the identity of donors, be disclosed in that context (paragraph 54);
 - vi. i) to establish a mechanism for the independent supervision of the financing of political parties and election campaigns, which would have the necessary authority and resources to ensure proper supervision; and that ii) political parties and other election campaign participants as appropriate, be required to present periodically – and at least annually in the case of political parties – financial statements comprising adequate information for enabling proper supervision (paragraph 59);
 - vii. that the improved supervisory arrangements include the periodic publication of results and findings concerning individual party compliance (paragraph 60);
 - viii. i) that the legislation be supplemented by effective, proportionate and dissuasive sanctions for various breaches of the regulations on the financing of political parties and – as the case may be – of elections campaigns and ii) that for such purposes, the supervisory authority be clearly allowed to forward to the prosecutorial body those cases for which there is a suspicion of a criminal offence (paragraph 61).

65. In conformity with Rule 30.2 of the Rules of Procedure, GRECO invites the Liechtenstein authorities to present a report on the implementation of the above-mentioned recommendations by 30 September 2017.
66. Finally, GRECO invites the authorities of Liechtenstein to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.