



FUNDING OF POLITICAL CAMPAIGNS

***Project: “Improved election system
in the Republic of Macedonia”***

Funding of Political Campaigns

Skopje, April 2010

For Transparency -Zero Corruption

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CONTENT:

1. Introduction	5-7
2. Project's Rationale	8-9
- "Improved election system in the Republic of Macedonia"	
3. Chronology of the activities	10-18
- Working Group meetings	
- meetings at the OSCE Monitoring Mission	
4. Round table (Mavrovo, November 2009)	19-45
- presentations' summary	
- comments and suggestions	
5. Voting of the Diaspora	47-49
6. GRECO recommendations	50-51
7. OSCE/ODIHR recommendations	52-59
8. Public debate (Skopje, April 2010)	60-63
9. "Draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns"	64-97

1. Introduction

The conclusion that corruption is a phenomenon that could be found in all segments of society and should not be considered as isolated one bears even greater significance in the case of political corruption or corruption in politics.

What is political corruption? One of the most accepted definitions is that it represents abuse of the entrusted power by the political leaders for personal advantage in order to strengthen their power or wealth. Political corruption does not necessary involve money, it could also be in a form of “trading in influence” or providing services or advantages and by that jeopardizing democracy.

In regard to incriminations, political corruption encompasses a long list of crimes and illegal actions committed by the politicians before, during or after leaving their office. It is often a reason for insufficient transparency and losing of trust in politicians and political parties in the well-established democratic states, while in the developing states in transition political corruption is a serious threat for the democracy and it weakens the new democratic institutions.

Political corruption is constantly in the focus of the activities of Transparency International. For some time now it has been the main issue and subject of concern for its national chapters around the world. From the numerous analysis and researches about the factors that contribute to the existence of a high level of corruption in the Republic of Macedonia, Transparency-Zero Corruption found out that political corruption in all its forms is in the core of the problem with the corruption, and funding of political parties and campaigns is the main reason for this situation.

Because of this we believed that it was our duty to get involved in the broader range of activities for improving the electoral legislation in the Republic of Macedonia through concrete activities in the area that is closest to the goals of our organization – funding of parties and political campaigns. Funding of political parties and political campaigns is under

the influence – and has an impact on the relations between the politicians, the members of the political parties and the electorate. The problem of the political funding is in the core of political corruption. Even though the political funding and corruption are different notions when their areas of interests overlap, a zone of political corruption is created.

The strongest weapon against corruption is transparency, responsibility and accountability. Thus, this project's objective was based on the Recommendations of the Council of Europe REC(2003)4 on common rules against corruption in the funding of political parties and electoral campaigns and – the Guiding Principle 15 (funding of political parties and campaigns), as well as on ODIHR's reports in order to make an analysis of the Macedonian legislation in this area and to propose solutions. Certainly, the provisions could be good or bad, but all of them could be improved. The working group which was actively involved in this project in the course of the numerous meetings and discussions created a position and conviction that they could contribute for the improvement of the laws as well as to increase the trust in politics and politicians and to strengthen democracy. The effect of reduced opportunities for corruptive conduct will be achieved only if an efficient system of control and sanctions are established for those who do not respect the rules.

In this occasion I would like to express our gratitude to our donor, the Embassy of the Kingdom of Norway and the Ambassadors Mr. Carl S. Wibye and Mr. Kjetil Paulsen for the support to this project, the OSCE Mission for the active participation at the meetings and the members of the working group: Ms. Zorica Apostolska, Ms. Magdalena Nestoroska, Ms. Andriana Skerlev-Cakar, Mr. Faruk Omeragic, Prof. Zoran Sapuric, Mr. Branislav Gulev, Mr. Jonce Cvetkoski, Mr. Zage Filipovski, Ms. Sanja Gligorova, Ms. Ljupka Siljanoska, Mr. Goran Momirovski, Mr. Fexhri Selami, Mr. Ilija Cilimanov, Mr. Oliver Derkoski, Mr. Ilmi Selami, Mr. Mane Kolev, Mr. Subhi Jakupi and Mr. Tihomir Ignjatovski. I would also like to thank the heads of the key public institutions and bodies for their clear positions and directions and for attending all our consultative debates. Hence, the many years of experience, practice and problems we have been faced with in the course of the several years' long efforts of the Republic of Macedonia to legally regulate this sphere of funding of the political parties and campaigns were incorporated in this project.

The aim of this brochure is to familiarise all the interested parties to our views and the results from the implementation of this project. Our work does not stop here. We will continue to monitor all the activities until the final adoption of the legal provisions that will ensure transparency, accountability and liability in the funding of political parties and campaigns in the way that GRECO recommends in its evaluation of the Republic of Macedonia.

Prof. Slagjana Taseva, PhD

President of Transparency – Zero Corruption
Skopje, 28 April 2010

2. Project's Rationale

Based on the up to date experience with organizing and holding elections in the Republic of Macedonia, "Transparency - Zero Corruption", with the support of the Norwegian Embassy in the course of the past year realised the project: "Improved election system in the Republic of Macedonia" The fundamental objective of this project was primarily to review and analyse from a number of different aspects the Electoral Code and other legal acts that refer primarily to the electoral process and the activities of the political parties in it. The final goal of this project was the adoption of recommendations that should help ensure more efficient and safer elections, overcoming the irregularities and any kind of tensions during the electoral process, as well as recommendations for consistent respect of the international standards and norms.

In the course of the project realization in the period between May 2009 and April 2010, Transparency-Zero Corruption cooperated with the Ministry of Justice, the State Election Commission, the Broadcasting Council, the State Audit Office, the State Commission for Preventing Corruption as well as relevant representatives of the political parties with seats in the Assembly, the Delegation of the European Union in the Republic of Macedonia, the civil association MOST, the Journalists Association of the Republic of Macedonia and exchanged information with the OSCE Monitoring Mission in our country.

The aim of the project "Improved election system in the Republic of Macedonia" was also to put an emphasis on the process of funding of the political parties and electoral and referendum campaigns and in that sense to improve the electoral system as a whole. Hence, Transparency-Zero Corruption directed its activities specifically to the analysis of the portion of the legislation that deals with party funding and their electoral and referendum campaigns funding. Within that framework the project should help in improving the laws in the context of the international standards implementation in this area that will provide another element for reducing

the possibilities for irregularities in the funding of the electoral and referendum campaigns, as well as funding of the political parties. This is a very important issue for the Republic of Macedonia because the successfully implemented elections and the consistent respect of legal regulations and international standards will also mean a good quality step forward on the way of getting closer to the European democracies and the Euro-Atlantic integrations of the country.

This Project is also closely linked to the Electoral Code as well as other laws that refer to the electoral system and process in the Republic of Macedonia. Transparency-Zero Corruption believes that this was the right time to work on improving laws and legal acts related to the electoral process because the local and the presidential elections are behind us and in the next two years according to the statements of the political leaders early parliamentary elections are not expected. From that aspect all the laws and legal acts that are related to the electoral system of the country could be reviewed and analyzed without any political pressure.

As mentioned before, for the realization of the project's objectives excellent cooperation was established with several important national institutions, international factors as well as domestic professors and experts in this area. Within that framework, the Law on Financing of Political Parties in the Republic of Macedonia and the amendments to that law were analysed. The international aspects and experiences in regards to funding of political parties and electoral campaigns were a matter of special treatment and analysis along with the issue of transparency in the field of funding of parties and electoral and referendum campaigns. Additionally, the legal funding the political parties, the right to control the funding and prevention of corruption, the conditions and the need to adopt a separate Law on Electoral Campaigns Funding were reviewed from a legal aspect. Apart from the numerous suggestions that resulted from the serious analyses done in the course of the project realization, as a final document, from the overall implementation of the project: "Improved election system in the Republic of Macedonia" was also the adoption and the proposal of "Draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns" which full version is published in this brochure.

3. Chronology of the activities

Within the framework of the project “Improved election system in the Republic of Macedonia” supported by the Norwegian Embassy, and implemented by Transparency-Zero Corruption a number of activities were realised. Numerous meetings and discussions were held with representatives of institutions and organizations that were most directly involved in the electoral process in the Republic of Macedonia i.e. directly or indirectly dealt with this specific issue. At the beginning a Working Group was formed. On its first meeting the Group proposed a Steering Committee to be established and the project’s framework and methodology to be defined. In the past period of almost a year a number of meetings were held discussing the essential issues and problems related to the electoral system in the Republic of Macedonia and the overall activities of the project. For the purpose of having better coordination and project realization a number of meetings with the Ministry of Justice were held at which present foreign representatives as well as representatives of the OSCE Monitoring Mission in our country were present. Consequently in November 2009 in Mavrovo we had a two-day Round Table on the topic: “Improving the System of Transparent and Accountable Funding of the Political Parties and the Electoral Campaigns in the Republic of Macedonia”, and in April 2010 in Skopje a public debate on the final draft was held: “Draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns”.

As part of the project, internet training for high school students on the topic on organizing democratic elections was designed. Within that framework a test called “Learning to Vote” was designed with the purpose to teach them, as the future potential voters, about the electoral system and process in the Republic of Macedonia. The training is provided on the web site of Transparency-Zero Corruption (www.transparency.org.mk) and the successful students will receive TZC certificate, which they can use if they want to become observers at elections.

■ At the first working meeting (9 July 2009) convened by Transparency-Zero Corruption regarding the project: “Improved election system in the Republic of Macedonia” supported by the Norwegian Embassy, representatives from the Ministry of Justice, the OSCE Monitoring Mission, the State Election Commission and the Broadcasting Council took part. The President of Transparency-Zero Corruption, Prof. Slagjana Taseva, PhD moderated this meeting. First of all she elaborated on the primary goals of this project that referred to analyzing the Electoral Code from different aspects, as well as other legal acts that referred to the electoral process and the activities of the political parties. In that context Taseva emphasized that the final goal of this project was the adoption of recommendations that should help ensure more efficient and safer elections in the future, overcoming the irregularities and the tensions of any kind during the electoral process, as well as recommendations for consistent respect of the international standards and norms.

Some essential issues and problems related to the electoral system in our country were reviewed at the meeting. These issues were also additionally analysed in the following period, and a so-called Steering Committee that defined the framework and the methodology of the project was founded. The representatives of the OSCE Monitoring Mission proposed joint review of the rule of law section with a comment on the Electoral Code proposing participation of foreign experts. The representative of the State Election Commission emphasized especially the problem with the electorate list, as well as the issue of the Diaspora’s participation in the elections, while the representative of the Broadcasting Council elaborated on the problems that stemmed from the violation of the laws related to the media presentation and advertising of political parties and individuals during the electoral campaign, violation of the legal acts on political parties and the media, as well as inconsistent application of the system of sanctions in the domain of violation of the legal provisions on media presentation during campaigns.

Special emphasis was placed on the need to monitor and review the draft-Law on amending the Law on Financing of Political Parties in the Republic of Macedonia that was in parliamentary procedure and which is one of the important elements for creating better electoral system here. Furthermore, it was pointed out that within the framework of this project’s

realization cooperation was necessary with the relevant political parties in the Republic of Macedonia, with the Secretariat for European Affairs, with the Delegation of the European Union, with representatives of the foreign embassies, the NGO MOST as well as with a number of domestic and foreign experts in this area, in order to adopt more comprehensive recommendations and suggestions for improving the electoral system and process in the country.

■ In September and October 2009 the Working Group held several consultative meetings at which the shortcomings and the inconsistencies of the Electoral Code were discussed, among the topics covered and treated at the two-day Round Table in Mavrovo, at the beginning of November 2009.

■ The meeting of the Working group held on 10 February 2010 moderated by Prof. Slagjana Taseva, PhD, President of Transparency-Zero Corruption, was attended by: the Ministry of Justice, the State Audit Office, the Broadcasting Council, the State Commission for Preventing Corruption, Zoran Sapuric, a professor at the American College, a representative of the political party NSDP, as well as representatives of the OSCE Monitoring Mission in our country. At the meeting the summary, the recommendations and the conclusions from the Round Table held in Mavrovo in November 2009 (the more extent report could be found in this brochure further down) were reviewed in regard to the provisions on the electoral campaigns funding in the Electoral Code and the provisions from the Law on Financing of Political Parties.

The participants at the meeting had an opportunity for a real debate on the Draft Law on Electoral and Referendum Campaigns drafted by Prof. Slagjana Taseva, as well the text amending the legal provisions that should help improve transparency and supervision of political campaigns by the Broadcasting Council.

The participants at the meeting agreed with the concept and they paid a special attention to the following components:

- 1 The need for more precise determination of the period under monitoring that starts from the day of scheduling the elections until the day when they are held (maximum three months) in order to follow primarily the financial changes on their gyro-accounts, as well as other electoral activities of political parties related to the material expenses;
- 2 Defining and establishing sanctions in the provisions within the framework of the Electoral Code;
- 3 Precise establishing of the date when the lists of candidates or of a candidate running for election and the start of the campaign become official – is it on the day of his/her political promotion or on the day when they are officially submitted to and approved by the State Election Commission (SEC);
- 4 To re-examine the provision on the time for the opening of the political parties' gyro-accounts (should it remain 45 days);
- 5 The Law on Financing of Political Parties should be precise regarding the monitoring of all political parties and it should be intensive in the first ten (10) days after the announcement of the elections and twenty (20) days before the day when the elections are held;
- 6 To be precise about the campaigning period and the expenses of the independent candidates who are supposed to collect signatures (to increase it from 35 to 45 days);
- 7 The start of the campaign needs to be defined – submitting the list of candidates (before or after they are confirmed by the official bodies), opening a gyro-account that is submitted to the State Election Commission (SEC) and appointing a chief (head) of the electoral campaign, as a person responsible for all the activities, including the financial activities;
- 8 The campaigning period should not be longer than 45 days (20 days of intensive campaigning before the day of the elections);

- 9 The media representation to be separated and specially defined in regard to the campaign activities of the candidates – activities of the candidate in a pre-electoral campaign and activities of the candidate during the electoral campaign;
- 10 When establishing the start of the campaign to have an exception for the independent presidential candidates, whose period for collecting signatures should not be considered as a start of the campaign, with the exception of the time for opening the gyro account;
- 11 Defining the time for initiating misdemeanour proceedings;
- 12 Precise defining of the obligations for auditing the financial activities of the parties by the State Audit Office (SAO) – Article 85 from the Electoral Code – audit of the budget funds and of other sources that are transferred to the gyro accounts of the political parties;
- 13 A person should be appointed by the political party or by the candidate running for election (chief of the campaign, Electoral Headquarters Chief), who will also be responsible for the financial statement submitted to the State Election Commission (SEC); A term is proposed – campaign organizer;
- 14 It was suggested for the State Audit Office (SAO) to have all the relevant data related to the financial activities of the political parties;
- 15 More precise wording in Article 23 from the Law on Financing of Political Parties – the audit of the political parties funding performed by the State Audit Office 6 (six) months after the gyro account is closed;
- 16 Establishing the process of refunded means, more specifically refunding individuals and political parties; it was proposed also to have an independent audit that controls these funds;
- 17 When auditing the budget funds and the funds of the political parties, it was pointed out that the main problem is the media and the companies that give funds for which the Public Revenues Office (PRO) is competent;

- 18 It was proposed for a complete audit to be performed by the State Audit Office on all the funds spent during the electoral campaign, including the donations, the printed materials, the billboards, the propaganda materials (T-shirts, pens, cigarette lighters ...) etc.;
- 19 To strengthen the control of the spending during campaign and to propose specific sanctions for which most competent would be – the State Election Commission, the State Audit Office and the Public Revenues Office;
- 20 To look into the possibility of tax exemption for a candidate who had expenses for collecting signatures, but who did not participate in the elections (reference to Malta);

■ The Working Group members met few more times in February and March 2010 when concrete and precise proposals and remarks on the abovementioned topics and issues were also provided. At the meeting they also discussed the finalization of a concrete text of draft amendments to the Electoral Code that refer to the political parties funding as well as the draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns, which apart from the basic provisions also encompass the provisions on the presentation of the electoral and referendum campaigns in the media, their funding, as well as the respect of the provisions for partial refunding of the expenses for organizing and funding of the electoral campaigns and the penal provisions.

EXCHANGE OF OPINIONS

■ In the process of implementing the project “Improved election system in the Republic of Macedonia”, for the purpose of exchanging information on this topic, a meeting was held between its Senior Officer on Good Governance, Marie-Carin von Gumpfenberg, PhD and the President of Transparency-Zero Corruption, Prof. Slagjana Taseva, PhD, at the offices of the OSCE Monitoring Mission, on 15 July 2009. The meeting was also attended by Jasmina Dimitrieva – Najdanova, National Legal Adviser, Marija

Mirceska, Senior Legal Assistant and Jasmina Todorovska-Miteva, Project Assistant.

The President of Transparency-Zero Corruption, Prof. Slagjana Taseva elaborated on the project's main objectives related to the Electoral Code, as well as other legal acts that refer to the electoral system and process in the Republic of Macedonia. Taseva emphasised the need for close cooperation with the OSCE Mission in the Republic of Macedonia on various topics related to this issue. This would be very helpful when adopting recommendations as pre-conditions for more efficient and safer carrying out of the elections in order to overcome irregularities and any kind of tensions in the course of the electoral process, as well as for consistent respect of the international standards and norms. Taseva and Gumpfenberg agreed that it would be good to use this period, during which no elections are planned in the Republic of Macedonia, for a more relaxed and studious reviewing of the Electoral Code and some other acts related to the electoral system from different aspects, in order to make really solid recommendations.

It was emphasized that Transparency-Zero Corruption with this project concentrates on the adoption of a new Law on Financing of Political Parties and activities related to the funding of campaigns, as well as respect of the legal provisions of the Broadcasting Council in regards to the media presentation of the political parties during the electoral processes. Taseva's proposals for regular and open cooperation with the OSCE's Office and for involving experts on these issues from abroad, and their participation in round tables were supported and accepted by the OSCE representatives.

On the other hand, Marie-Carin von Gumpfenberg emphasized the need for openness as a prerequisite for constructive cooperation within the project, and expressed eagerness for mutual assistance with the Government of the Republic of Macedonia within the electoral process. She noted the essential issues and problems related to the electoral system and proposed reviewing the section on the rule of law with a comment on the Electoral Code. They also agreed to define the obligations, to avoid overlapping of topics, and to agree on the projects that each of them will cover in order to have useful and good amendments, and recommendations for improving the electoral system and process in the country.

At the end of this constructive meeting they agreed on the need to exchange information about the existing materials and documents of both the OSCE Monitoring Mission and Transparency-Zero Corruption.

■ At the meeting of the OSCE - Election Support Group held on 3 December 2009 in the offices of the OSCE Monitor Mission in our country various representatives were present. Representatives of institutions involved in areas related to the electoral system, representatives of the foreign embassies, NGOs and civil associations took part, including the representative of Transparency-Zero Corruption. The representative, at the meeting, familiarised the participants with the TZC's activities within the framework of the project "Improved election system in the Republic of Macedonia". The meeting was moderated by the Head of the OSCE Mission, Ambassador Jose-Luis Herero, and Ms. Ljupka Siljanovska, State Secretary at the Secretariat for European Affairs, Mr. Aleksandar Novakovski, SEC's President and Ms. Jasmina Dimitrieva-Najdenova, National Legal Adviser at OSCE addressed the meeting.

The representative of the Secretariat for European Affairs, Mr. Siljanoska, among other, emphasized that they have been active in regards to this issue, as a very important issue in the development of the democratic capacities and the democratic progress of the country. They have four working groups:

1. A group for monitoring and reviewing issues related to the voting of the Diaspora;
2. A group for preventing corruption in funding of political electoral campaigns;
3. A group for dealing with legal issues related to the application of methods of pressure on the employees and the citizens, more specifically methods of threats and intimidation against them; and
4. A group for monitoring issues related to the updating of the electorate list.

She especially underlined the work of the third working group because it cooperates with the OSCE Monitoring Mission and the Civil Association – MOST. In that context three types of measures were pointed out for sanctioning and preventing this phenomenon before and during the electoral campaigns. The measures refer to legislation, strengthening administration capacity and adoption of rules and laws, as well as providing training for organizing campaigns. The need to protect the civil servants and the administration in general from the methods of pressure and threats by providing trainings as well as with the adoption of a new Law on Civil Servants was emphasised. On the updating of the electorate list it was stated that the process started in June with pilot projects in Gostivar and Vinica with the initial action plans being drafted.

The President of the State Election Commission, Novakovski, spoke of the irregularities that emerged during the electoral process, especially of those related to campaigns funding, controlled by the State Audit Office, and the updating of the electorate list, a process transferred from the Ministry of Justice to SEC which methodology was yet to be determined. Diaspora registration, he said, was done in cooperation with the Ministry of Foreign Affairs and the UNDP. In regard to the updating of the electorate list, it was stated that along with the OSCE there was also successful regional cooperation with the municipal election committees and they believed that in the future there should not be cases of thousands of “phantom” votes and votes by deceased citizens.

The National Legal Adviser of the OSCE Monitoring Mission, Ms. Nadjovska spoke about the 2009 presidential and local elections and the irregularities that had a court epilogue. Regarding this issue, it was stated that a new report by the OSCE would be published in December, 2009.

4. Round table (Mavrovo, November 2009)

As part of the activities of the project: “Improved election system in the Republic of Macedonia”, Transparency-Zero Corruption, supported by the Royal Norwegian Embassy organized a Round Table/Workshop in Mavrovo on 6, 7 and 9 November 2009 on the topic of: “Improving the System of Transparent and Accountable Funding of Political Parties and Electoral Campaigns in the Republic of Macedonia”. This Round Table was attended by representatives of institutions and organizations that were directly or indirectly working on issues related to the electoral system, professors and experts, as well as the Norwegian Ambassador to the Republic of Macedonia, H.E. Mr Kjetil Paulsen

The President of Transparency-Zero Corruption Prof. Taseva, PhD in her welcoming speech at the Round Table underscored that the aim of the gathering was to analyse the Law on Funding the Political Parties, to look into its shortcomings, inconsistencies and irregularities, and together to adopt recommendations for its improvement. Furthermore, at this round table, as Taseva pointed out, it was also planned to analyse all the activities related to the funding of the political electoral campaigns and the legal provisions of the Broadcasting Council regarding the media presentation of the political parties during the electoral campaigns. Taseva especially emphasized the significance of a good legal framework and the respect of international standards in this area of the electoral legislation, which requires synchronised participation of the institutions that deal with this issue and supervise or participate in this process in order to create a good law that will regulate the funding of political parties, as well as to create a clear and consistent system of transparency when spending money for electoral campaigns.

In the following section the speech of the Ambassador of the Kingdom of Norway, H.E. Mr. Kjetil Paulsen, can be read.

“The Norwegian Government is pleased to support Transparency’s project “Improving the election system in Macedonia” and I would like to welcome this Round Table as an integral part of the project.

How political parties and campaigns are funded continues to be a widely debated topic in democratic countries. There is no blueprint applicable everywhere. Rules and regulations vary from country to country and the only thing we can do is to collect and analyse experiences when we want to establish our own system for financing of political parties and campaigns.

Nevertheless, there are a few common benchmarks that we want to meet in democratic countries with regard to today's topic. Let me mention just three of these.

Firstly, the need for transparency. The models for financing may vary, but we will always need to know which models are in place. This is not only about transparency, but also about accountability. Regardless of received contributions the political parties will probably benefit in the form of public trust if they keep their books open for everyone to check. Rules and regulations are needed, but also good will, moral and honesty.

Secondly, we do not like to believe that "money can buy politics". Consequently, we envisage financing models which prevent contributions so big or with so many strings attached that they most likely are aimed at unduly influencing the adoption or execution of certain policies. Admittedly, to design the best rules with regard to this aspect is a challenge. Continuous reflection and analysis is required.

Thirdly, in most democracies there are systems in place that ensure the political parties a certain degree of public financing. But a considerable number of criteria need to be applied in order to establish a model which is fair, which is not excessive and which is comprehended as a useful and not wasted contribution to our democratic system.

According to the EC progress report on Macedonia, released last month, this country has implemented important measures to ensure transparent and accountable financing of political parties. This is good news. It is also good news that we do not rest in peace, particularly in a field so fluid, so sensitive, so controversial and so hotly debated in many countries as the relationship between politics, political parties and financial donations of various kinds.

This roundtable has to be viewed in such a perspective. Issues have been resolved, but other challenges remain. It is my hope and belief that Transparency, chapter Macedonia, will contribute constructively to identifying further

measures to regulate, in a fair and accountable manner, financing of political parties and political campaigns in this country.”

On behalf of the Delegation of the European Union in the Republic of Macedonia and Ambassador Erwan Fouéré, the participants were addressed by the political adviser Mr. Damijan Sedar. He said that the Round Table’s topic was very important for the progress of the Republic of Macedonia on its way towards the European Union and that the implementation of the recommendations from Brussels was of essential importance for the country. Talking about organizing elections, Sedar emphasized that there was progress and improvement in organizing the elections, but there were still things that needed to be done to achieve the European standards, especially in regard to the funding of the political parties and their campaigns. The country has the capacity and it would be good if a working group is created in the Government of the Republic of Macedonia that will constantly deal with these issues.

This was followed by the introductory remarks by Mr. Zage Filipovski, the National Officer on Democracy and Elections at the Monitoring Mission in Skopje (OSCE/ODIHR) and by Mr. Jonce Cvetkoski, representative of the Ministry of Justice that presented their analyses and added their views of the Law on Financing of Political Parties in our country.

Mr. Zage Filipovski elaborated on the OSCE/ODIHR Report on the presidential and local elections held in our country, as well as on the Report (opinion) on the Electoral Code by the European Commission for Democracy through Law (the Venice Commission), presented on its 79 plenary session held in June 2009. They, among other things, concluded that during the electoral process in the Republic of Macedonia, methods of intimidation were noticed, as well as cases of group and family voting accompanied by other types of tensions and cases of intolerance during the electoral campaigns. The representative of the OSCE/ODIHR Monitoring Mission emphasized the need of the so-called Action Plans i.e. a need to create special working groups in the government that would deal and work on the issue related to the funding of the political parties and electoral campaigns, as well as organising coordination meetings of the working groups six times a year, with participation of both domestic and foreign experts.

Funding of Political Campaigns

Eight important points, related to their activities in this area, were emphasized:

1. Support by OSCE/ODIHR provided to the government and the political parties to overcome the weaknesses in this area of the electoral system in the Republic of Macedonia;
2. Drafting amendments to the Electoral Code on funding of electoral campaigns;
3. Improvement of the appeal process;
4. Precise clarification of the provisions on funding of campaigns – clear control of the campaigns funding and clear provisions on the donations;
5. Looking into the donations limitations;
6. Introducing mandatory submission of reports on the spending of funds in the course of the campaign;
7. Controlling the funds collected before the campaign but used during the campaign and for candidates promoting activities;
8. Looking into the provisions for the reimbursement of the funds planned for the candidate for political positions.

The representative of the Ministry of Justice, Mr. Jonce Cvetkoski presented the analysis of the Law on Financing of Political Parties made by the Ministry of Justice that stated that the Ministry of Justice was consulted when the Law of Financing of Political Parties was drafted and that in the phase of the adoption of the Law they gave a positive opinion. Cvetkoski especially addressed the issues related to political parties' property and sources of funding, both public and private sources of funding, as well as funding control and the penal provisions. Furthermore, he underlined the issue of clarifying the dilemma of what is considered a donation and emphasized the need of adopting a separate Law on Campaigns Funding.

This was followed by a discussion in which many of the Round Table participants took part. Among others, Mr. Branislav Gulev, Assistant to the Chief State Auditor at the State Audit Office proposed amendments to the Law on Financing of Political Parties in the section that refers to preparing

the annual financial statement and report (information about revenues and costs) that he characterized as a systematic shortcoming of the Law. Apart from the regular audit of the financial statements, Gulev, also proposed to synchronise the supervision phase and the phase of drafting the report, because between these two phases there was “a gap” as well as prolonged audit, related to the paying of the billboards, the printed materials and presentations in the electronic media for which there were no limitations.

On the second day of the Round Table an overview was made of the existing Law on Financing of Political Parties, as well as a comparative analysis of the legal regulations with concrete proposals of amendments, presented by Prof. Zoran Sapuric from the American College. Prof. Slagjana Taseva, PhD from the European University, presented an analysis of the international standards and practices pointing out the need to adopt a Law on Political Campaigns Funding. The amendments to the Electoral Code of Norway, the experiences and the proposals related to the funding of the political parties and campaigns were presented by Mr. Jens-Oscar Nergard, an expert and adviser at the Ministry of Government Administration and Reform of the Kingdom of Norway, and a representative in GRECO.

Mr. Subhi Jakupi, the Deputy President of the State Election Commission and Ms. Andriana Skerlev-Cakar, head of the legal department at the Broadcasting Council also had presentations. Jakupi spoke about the electoral campaigns, their funding, and the expenses of the political parties after the elections, expenses for the participation of the Diaspora in the electoral process of the Republic of Macedonia, while Skerlev-Cakar spoke about the electoral legal regulations from the aspect of the media presentation.

Professor Sapuric, apart from the presentation and the assessment of the functioning of the Law on Financing of the Political Parties and the comparative analysis of the legal regulations in this area, also emphasized the need for certain changes in the above-mentioned Law that would be within the framework of the system that encompassed the State Election Commission, the State Audit Office, the Broadcasting Council, the State Commission for Preventing Corruption, and others. In that context the competences of each institution should be defined precisely and the European practice should be respected. He even presented some concrete pro-

posals for amending the Law on Financing of Political Parties that should help improve it as well as help to ensure more transparent operating of the political parties and their accountability before the public in regards to their financial activities and further reduction of the possibilities for corruptive behaviour in that area.

■ Professor Taseva had a comprehensive presentation on the international standards and experiences, as well as on the need to adopt a Law on Electoral Campaigns Funding¹. There was also discussion about the Recommendations of the Council of Europe that were evaluated and adopted by GRECO. These recommendations presented by Prof. Taseva were adopted by the Committee of Ministers of the Council of Europe member countries on 8 April 2003, at the 835th meeting of the deputy ministers, and they referred to the fight against corruption related to the funding of the political parties and the electoral campaigns.

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

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

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

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

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

1 The recommendation of the Council of Europe REC(2003)4 on common rules against corruption in the funding of political parties and electoral campaigns and – Guiding Principle 15 (funding of political parties and campaigns)

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

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

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

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

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

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

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

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

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

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

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

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

THE NORWAY EXPERIENCE

The guest from the Kingdom of Norway, Mr. Jens-Oscar Nergard, from the Ministry of Government Administration and Reform of Norway at the Round Table spoke about the foreign experiences and challenges. He presented the developments in this area in Norway since it was dynamic area where the laws of many states were amended and harmonised, even in countries that were considered to be the most developed, and according to the conclusions on various levels were the least threatened by corruption. Nergard emphasized that he had been working on this issue for almost three years and that it was impossible to find two identical models in the world. Some of the experiences from Norway could be useful for Macedonia, but every country has its own specific features. In Norway the system of political parties state funding was adopted in 1970, and five years later the system of donating to the political parties’ branches on regional level was introduced. The Law on Transparent Funding of the Political Parties that went into effect in Norway in 1998 is almost an exact copy of the Danish one, but in 2002 the Norwegian Parliament recommended the Government in Oslo to increase the transparency in this area and to create a Committee that would deal strictly with that specific issue. This was done in 2006. The Committee consists of five members with a 5 year mandate. Three of the members come from different political parties, one is a judge who is also the Chairperson of the Committee, and one is a representative of the

administration (statistics). If the Committee notices irregularities in the political parties funding, it has the right to initiate proceedings in front of the Constitutional Court. In Norway, as Nergard underlined, the guidelines and the recommendations of the Council of Europe were strictly followed, and so far there have been no serious incident during elections. In Norway, a voluntary system of donations is applied for the local authorities, and the state covers 90 percent of the expenses of the bigger political parties, and according to the established principle, the public funds are distributed up to the party branches on a local level.

In the discussion actively participated: Oliver Derkoski (VMRO-DPMNE), Magdalena Nestoroska (SDSM), Branislav Gulev (State Audit Office), Faruk Omeragic (Broadcasting Council), Fexhri Selami (New Democracy), Ilmi Selami (SCPC), Sanja Gligorova (MOST), Jonce Cvetkoski (Ministry of Justice), Zorica Apostolska (NSDP), Slagjana Taseva, Zoran Sapuric and Goran Mirovski (Journalists Association). The representative of the Broadcasting Council, Andriana Skerlev-Cakar also had a presentation.

■ **Comments and proposals made at the Round Table**

A number of conclusions and recommendations came out from the discussion at the Mavrovo Round Table. The joint conclusions of the 26 participants – representatives of: the Ministry of Justice, OSCE/ODIHR Monitoring Mission, Delegation of the European Union, State Election Commission, State Audit Office, Secretariat for European Affairs, Broadcasting Council, State Commission for Preventing Corruption, representatives of the relevant political parties represented at the Assembly of the Republic of Macedonia, as well as professors from the European University and the American College, representatives from the Journalists Association and the NGO “Most”, were:

- 1 A need for a separate Law on Electoral Campaigns Funding to be adopted;
- 2 A need to simplify and harmonise the proceedings for controlling the political parties funding;

Funding of Political Campaigns

- 3 A need to simplify and harmonise the proceedings for controlling the electoral campaigns funding;
- 4 Recognition of the possibilities to precisely determine the time when the election activities and electoral campaigns start;
- 5 A need to establish a Working Group at the Government of the Republic of Macedonia that would deal with issues related to the funding of political parties and campaigns;
- 6 Harmonising the penal and misdemeanour provisions in the Law on Misdemeanours;
- 7 Reviewing the possibilities to separate the funding on central and local levels.

The OSCE Monitoring Mission and the representative of the Delegation of the European Union suggested for the Government to create a separate working group (or groups) that would deal with the issue related to the funding of political parties and electoral campaigns. For that purpose it was also suggested to have coordination meetings of the working group five times a year, at which both domestic and foreign experts would take part.

The representatives of the international organizations and the members of the working group pointed out eight important items regarding this issue:

- 1 Improvement of the appeal process;
- 2 Clear control of the campaigns funding and clear provisions on donations;
- 3 Establishing a principle of mandatory reports for the legal entities linked to political parties (in compliance with the Recommendations by the Council of Europe);
- 4 Possibilities to limit the donations;
- 5 Introducing mandatory submission of reports on the spending of the funds in the course of the campaigns;
- 6 Controlling the funds collected before the campaign;
- 7 Looking into the provisions for the reimbursement of funds planned for candidates for political positions; and

- 8 Article 189 from the Electoral Code to envisage a sanction not only for individuals and parties, but also for group of voters.

■ In regard to the funding of political parties' campaigns, specific proposals for legislation improvements were made. The conclusions and the recommendations refer to:

- 1 Control of funds spent by political parties six (6) months before elections;
- 2 Providing equal access to the media for all parties participating in the electoral campaign;
- 3 Audit of political parties' donations by the State Audit Office;
- 4 Clear and public list of donors and measurability of donations (no anonymous donors);
- 5 Regulating the competences of the State Election Commission (SEC) in the misdemeanour proceedings and imposing of misdemeanour sanctions;
- 6 Definition of the term 'early start of the electoral campaign';
- 7 Amending Article 87 from the Law on Financing of Political Parties regarding the time for submitting financial statements by political parties that refer to the electoral campaign;
- 8 Establishing the ownership of the media and establishing their independence.

■ In the course of the preparations of the round table and during the debate certain shortcomings in the legislation were pointed out and concrete interventions in the given laws were proposed. For greater precision and transparency in the funding of political parties' electoral campaigns the following things were proposed, specifically:

Electoral Code - transparency

1. The provisions on the funding of campaigns in **Articles 83-87** from the Electoral Code are clarified and strengthened with the latest amendments (Official Gazette of the Republic of Macedonia No. 86/08), but

still there is certain concern regarding the supervision. The supervision of the funding of the electoral campaigns is entrusted to a number of institutions, but none of them has a complete insight and cannot impose complete control. Because of that, it was proposed for the provisions that refer to funding of electoral campaigns to be strengthened in the following way:

- to ensure harmonization and coordination of the supervision of funding rules implementation (legal provisions),
 - to establish efficient limitation of the donations and expenses, and
 - to separate the reporting and audit procedures.
2. **Articles 83 and 84** from the Electoral Code should be reviewed once again in order to:
- have the exceptions from the donations' limitations for a campaign that seem to undermine the purpose of the law, repealed. For example, **Article 83(2)** enables for a campaign to be funded "from a political party's membership fee", but no limitations are envisaged. In order to avoid having the established limitations for donations bypassed, the Electoral Code in the same paragraph should forbid membership fees in amounts greater than the allowed ones as envisaged for natural persons and legal entities, i.e. 5,000 and 20,000 EUR, accordingly.
3. **Article 83** does not allow expenses for the campaign to be covered from the general fund of the political party. Hence, donations for the campaign are allowed only after a special gyro account is opened. Donations that are given to political parties before the beginning of the campaign cannot be used for the campaign. It is believed that these provisions are too restrictive. Consequently it is recommended:
- proper control of the funding mechanisms of political parties that will ensure use of funds donated to the parties before the beginning of the campaign, or

- to enable depositing of previously collected donations and unspent funds from previous campaigns/activities on a separate gyro account for the elections.
4. **Article 83 (1)** forbids funding of electoral campaigns with money coming from enterprises with mixed capital where foreign capital dominates. There should be a clarification whether the notion foreign capital also encompasses joint ventures by legal entities registered in the country, but which are owned by foreign natural persons or legal entities.
 5. Regulating the funding does not allow spending money before the submission of the list of candidates. It could be difficult to make a candidates' list, to collect signatures or to make a plan on the campaign style or strategy without having any expenses.
 - Certain approval of expenses needs to be allowed for a reasonable period of time before the date of submitting the list (for example, one or two weeks),
 - to envisage approval of expenses for collecting signatures before the submission of the list,
 - or maybe certain "preparation" expenses to be exempted from the control envisaged by the Electoral Code.
 6. The audit procedure envisaged in **Article 85** from the Electoral Code needs to be improved in order to provide:
 - Supervision of the financing of all the candidates participating in the elections;
 - An annual balance sheet and annual financial statement need to be prepared by the campaign organiser (data about the revenues and expenses related to the party activities during the political campaign), which is considered to be a systematic weakness of the Law;
 - Synchronizing the activities with the Reports of the Ministry of Justice and the State Audit Office and other institutions, as well as synchronizing the monitoring phase and the phase of making the report, because a "gap" of 75 days. appears (According to the Electoral Code the deadline for the draft-

ing of the financial statement is 15 days after the end of the electoral campaign, and the closing of the account should be within three (3) months - a total of 75 days);

- Prolonged audit of the financing of billboards, printed materials and material for the electronic media for which there are no time limitations, and
 - It is necessary to have an independent audit.
7. **Article 86** from the Code, which envisages reimbursement for the election expenditures to be given to the organisers of the electoral campaigns only for the elected candidates in the amount of 15 MKD per vote, should be reviewed and maybe changed with a system according to which all the candidates that will win certain percentage of votes to be eligible for reimbursement.
- That percentage/threshold of votes should be sufficiently low to encourage more initiatives coming from women and representatives of the smaller ethnic communities that are often faced with problems of collecting sufficient funds for organizing electoral campaigns.
8. **Article 86(3)** from the Code establishes that “reimbursement of the electoral expenses shall be determined with a decision by the Parliament, the municipal council and the council of the City of Skopje”. At the same time, **Article 86(1)** gives a right to reimbursement of electoral expenses in specific cases and in a specific amount.
- It seems that this is contradictory – or at least it is not necessary to require a decision for something that is already provisioned by law.
 - Furthermore, some amending is possible for the purpose of clarification whether the reimbursement will be calculated based on the first or the second round of elections.
9. The procedures and conditions for paying and refusing the payment of the reimbursement to the candidates based on **Article 87** from the Electoral Code should be regulated in details.

- The Electoral Code (or the regulations) should establish the content and the form of the financial statements that need to be submitted by the elections' participants;
- Especially the existing form established by the Ministry of Finance should be modified because it does not require from the participants in the elections to submit information about the expenses, undermining the transparency and the benefit from these reports;

10. Sanctioning possible abuse or use of public funds and cases of corruption in the course of the electoral campaign.

Electoral Code – Media Coverage

In regard to the legal gaps in the electoral regulations from the aspect of the media coverage of the elections, Andriana Skerlev-Cakar had a presentation emphasizing that when the provisions from the Electoral Code were applied during the last elections (2009 local and presidential elections) the Broadcasting Council detected certain legal gaps².

1. Primarily this refers to the provision that *the Council is obligated after establishing irregularities, to initiate misdemeanour proceeding in front of the competent court against the broadcaster that violated the provisions from the Electoral Code during the electoral campaign, during the electoral silence and on the day of the elections.*

On the other hand, the *Council is obligated to monitor the elections media presentation and the broadcasters' programmes from the day of the announcing of the election until the end of the voting on the day of the elections.* In practice this has brought about a situation where some of the basic courts take a position that there are grounds for a misdemeanour liability of the broadcasters against which the Council submitted a request for initiating misdemeanour proceedings because of the premature begin-

2 The data are taken from the Report of the Broadcasting Council of the Republic of Macedonia on the monitoring of the media coverage during the 2009 presidential and local elections.

ning of the electoral campaign. These courts sanction them with fines for the given broadcasters.

However, other basic courts, acting upon the initiatives by the Council, took a position that there were legal grounds for exemption of the broadcasters from misdemeanour liability, in compliance with the Law on Misdemeanours, elaborating that in the disputed programmes, i.e. shows, interviews and statements candidates for President, for municipality and city of Skopje council members or interviews and statements of politicians, representatives of the governmental bodies, etc. were aired in a time when the phase of proposing candidates had not been started yet, and the candidate was not confirmed by the state and the other competent election commissions, and that the Council in compliance with Article 74, Paragraph 3 from the Electoral Code, was authorized and obligated to initiate misdemeanour proceedings only during the electoral campaign, during the electoral silence and on the day of the elections.

The Council appealed against the acquittal verdicts, pointing out the following arguments:

- The content of Article 74, Paragraph 1 in the Electoral Code, refers to a conclusion that the electoral campaign consists of many activities, among which the electoral media presentation. This means that the electoral media presentation is one of the many possible forms of electoral campaigning;
- The formulation of legal entity (in Article 181 Paragraph 2) in the Electoral Code refers to the possibility of misdemeanour sanctioning of the conduct of a number of legal entities among which the broadcasters. A reason for such interpretation is the fact that the elections media coverage is impossible without the involvement of the media (both electronic and printed), and the broadcasters and publishers as their owners;
- The provision in Article 74, Paragraph 2 from the Electoral Code, which provisions the obligation of the Broadcasting Council to monitor the media coverage during the elections, and the broadcasters' programmes in the Republic of Macedonia from the day of announcing the elections until the completion of voting on the day of the elections, shows that

media presentation is possible as a form of electoral campaigning, even on the day of the announcing of the elections, in this case on 10 January 2009;

- The liability of the broadcaster as a legal entity, for a violation of the time established as the beginning of the electoral campaign, in this case starts on 10 January 2009, as the day of the announcing the elections, and lasts until 1 March 2009 and it does not depend on the phase in which the electoral process is in, before or in the phase of proposing the lists of candidates, or by the phase of submission to the competent election commissions, or the phase of their confirmation, also by the competent election commissions;
- Because of the existing possibility to start the electoral campaign at the time when it should not be underway, i.e. in the previously mentioned meantime (from 10 January 2009 until 1 March 2009), the legislator sanctioned the early beginning of the electoral campaign in all its forms. An electoral campaign is basically possible at the time when legally it is not allowed, thus, sanctioning of such an illegal conduct is envisaged, by prescribing a misdemeanour in Article 181 Paragraph 2 from the Electoral Code;
- The Council's duty to monitor the electoral media presentation from the day of the announcing of elections until the end of voting on the day of the elections would be meaningless, legally inefficient obligation, unless it has the right to react to an early electoral campaign. Broadcasting Council gets its capacity to initiate misdemeanour proceedings in case of early start of the electoral campaign, not from Article 74, Paragraph 3 of the Electoral Code, but from Article 37, Paragraph 1, Subparagraph 13 of the Law on Broadcasting, which reads that the Council passes and implements measures established with this law, initiates misdemeanour and criminal proceedings, and performs other things envisaged with this or another law.

The court decisions have been appealed before the Courts of Appeal, but the Council is not familiar with the outcomes.

2. Another detected weakness is the fact that the Electoral Code does not sanction the broadcasting of adds by the state institutions and bodies of the municipalities and the City of Skopje, financed from the Budget of the Republic of Macedonia, i.e. from the budgets of the municipalities and the City of Skopje (Article 84-a).
3. Even though the Council had no problems with the application of the provision from the Electoral Code regarding the allowed 15 minutes per real hour for paid political advertising (Article 75, Subparagraph 3), it is important to point out that this solution is different from the solution contained in the Law on Broadcasting “the Broadcasting Council may allow ... 20% or 12 minutes additional time for broadcasting paid political programme per real hour”.
4. The Electoral Code in Article 74, Paragraph 1 forbids electoral media presentation before the day established as the first day of the electoral campaign, but it does not define the notion of electoral media presentation and does prescribe that the Council should establish forms of media presentation in this period.

Having in mind that the Council is a regulatory body with legal competences for the broadcasters’ programmes and, especially important in this past period, having in mind that it is a body with competences to monitor the programmes on the day of the announcement of the elections, during the 2009 local and presidential elections, the Council, in order to overcome this gap in the regulations, established certain criteria regarding the media conduct in the period before the start of the campaign.

The goal was for the media not to find themselves in a situation of violating the Electoral Code due to the different interpretations of what is an electoral media presentation. These criteria were adopted based on the many years of experience of the Council in monitoring the work of the media during elections and outside the election processes, and based on the reactions of citizens, political parties and other entities outside the periods of the electoral campaigns. The reactions usually referred to the frequency of the appearance of representatives of the political parties

in the broadcasters' programmes and the big quantity of paid political advertising outside the electoral campaign period.

In this sense, as electoral media presentations are considered the forms of positive and negative presentation of the party positions and programmes, i.e. the potential candidates, and participation of political parties' representatives or potential candidates in programmes on topics related to the electoral process or when such participation could influence the electoral process.

Still in order to avoid violating the freedom of the media to report information, as well as the right of the citizens to be informed, in the daily-informative programmes (news) it was possible to report about the current societal-political developments, including the activities related to the election process. Having in mind that during this period the regular activities of the governmental bodies do not stop, and in order to ensure equitable treatment of all political entities as much as possible, i.e. to avoid favouring the ruling parties, the way of informing about the activities of the central and local governments must not be to the benefit of the electoral campaign of a certain candidate, political party, i.e. organiser of an electoral campaign.

Hence, in order to overcome this legal gap in the Electoral Code it is necessary for it to be amended with provisions providing the Council with competence to regulate this issue with separate bylaws.

Regarding the media presentation, given in the Electoral Code adopted by the Assembly of the Republic of Macedonia on 29 March 2006, in order to overcome the legal gaps, i.e. contradictions in the provisions from the Electoral Code and the Law on Broadcasting, that encompass the same issues, Andriana Skerlev-Cakar pointed out the following suggestions for amending some of the articles in the Electoral Code and the Law on Broadcasting.

■ Specific proposals for amendments to the Electoral Code:

1. In Article 75 from the Electoral Code, Paragraph 3 to be amended providing the Broadcasting Council with a competence after establishing irregularities to initiate misdemeanour proceedings before the competent court against the broadcaster who violated the provisions from this Code and the Rulebook on the equal access

to media presentation during the electoral campaign from the day of announcing the elections until the day of the elections.

2. In Article 181 Paragraph 2 to precisely establish who are the legal entities that bear misdemeanour liability, and at the same time in a separate indent to prescribe accountability for the editors-in-chief of both electronic and printed media.
3. To sanction the violation of Article 84-a in the Law on amending the Electoral Code.
4. In order for the rules of conduct in the period from the announcement of the elections until the beginning of the electoral campaign to be sufficiently clear and transparent, the Council should be authorized to regulate this with a special bylaw.

■ **Specific proposals for amending the Law on Broadcasting:**

1. To delete the existing Article 80 that prescribes that “the Assembly of the Republic of Macedonia upon a proposal by the Broadcasting Council adopts a decision on the regulations for the media presentation during the electoral campaign via the broadcasters”, having in mind the fact that in the Electoral Code it is established that the Council adopts a Rulebook for equal access to media presentation during the electoral campaign.
2. To delete Article 95 from the Law on Broadcasting having in mind that the duration of the paid political advertising per real hour is also established in the Electoral Code.

Law on Financing of Political Parties

Official Gazette of the Republic of Macedonia No. 76/04

Regarding the Law on Financing of Political Parties the representatives from the Ministry of Justice proposed several possibilities for additional clarification of the provisions in the Law, such as:

1. Control of the property and the sources (public and private) for funding the political parties;

2. Clarification of the penal provisions regarding the violations of the provisions on the financing, more specifically the sanctions for the parties that will not submit their financial statements on time (now the sanctions are between 50 and 500 EUR in MKD counter-value); and
3. Defining the notion of donation.

In regard to the **funding of the political parties** it was concluded that when the financial situation of political parties is audited, a statement is taken from the secretary general, who signs the financial statement.

The local organisations of the party do not have separate gyro accounts. According to the Law on Financing of Political Parties a party could open only one gyro account that incorporates the funds from the Central Budget and funds from natural persons and legal entities.

In that sense it is proposed:

- The State Audit Office to have a right to audit the financial statements related to the electoral campaigns;
- Public financing per voter who voted to be introduced;
- To prevent the possibility of financing the political parties from unknown funds;
- To regulate the loans, because there are cases when the funds of the party are transferred as a loan to the electoral campaign account, which makes the validity of the reports of the State Audit Office questionable, because the source of those funds is unknown and it cannot be established whether the 5,000 EUR limit for natural persons and 20,000 EUR for legal entities was topped. And in the Electoral Code there are no limitations for taking loans from the regular account of the political party.

Specific proposals for amending the **Law on the Financing of Political Parties** in³,:

3 Presented at the Round Table by Prof. Zoran Sapuric, PhD

Article 1 (Amendment No. 1)

In Article 10 Paragraph 2 after the words “whose candidates are elected for”, the words “for mayors and” are deleted, and the word “municipalities” is changed with the words “units of the local self-government”.

The existing text of Article 10 Paragraph 2 reads: „The funds for financing the political parties, in the amount of 70% provided from the Budget of the Republic of Macedonia, are equally allocated to the political parties whose candidates are elected for members of the Assembly of the Republic of Macedonia proportionally with the number of their MPs i.e. to the political parties whose candidates are elected for **mayors** and councilpersons in the **municipalities** in the Republic of Macedonia, proportionally with the number of their councilpersons.”

Rationale for the amendments

So far, in practice when decisions related to the financing of the political parties are made there is often confusion and dilemmas whether the funds given are based on the elected mayors and councilpersons, or are only based on the elected councilpersons. Apart from that, at the end of the given paragraph it reads that the funds are allocated only proportionally to the number of councilpersons, and not of mayors, which is contradictory. This amendment will ensure simpler methodology for allocation of the funds that are planned for financing of political parties in the local self-government units. Apart from that, in compliance with the legal regulations, (the Electoral Code) the political parties whose candidates are elected for mayors and councilpersons are allocated funds for the expenses they had during the electoral campaign after the end of the local elections.

The replacement of the word municipalities with the words local self-government units represents harmonization of the text with the previous paragraph where the term local self-government units is used, referring both to the municipalities and the City of Skopje, because the term municipality does not cover the City of Skopje.

Article 2 (Amendment No. 2)

In Article 12 after the word “if” the comma and the words “mayor and i.e.” are erased.

The existing text of Article 12 Paragraph 2 reads:,, If the mayor, i.e. the councilperson is elected as a candidate of two or more political parties, the funds are divided among them in equal portions, unless the political parties have a different arrangement”.

Rationale for the amendments

The rationale is the same as the rationale given in the previous article.

Article 3 (Amendment No. 3)

After Article 16 a new Article 16-a is added, which reads:

For every donation, the person authorised by the political party in compliance with the statute and the other acts of the political party, is obligated to issue the donor a written certificate.

Every monetary donation higher than 100 EUR in MKD counter-value is paid only through a bank account. For every donation to a political party made by a legal entity that is higher than 1,000 EUR in MKD counter-value, the management of the legal entity has to adopt a special decision.

Rationale for the amendments

The obligation of the political party to issue a written receipt to the donor is for the purpose of contributing to greater transparency in the funding of political parties and to reduce possibilities for corruptive activities within political parties, as well as decreasing corruptive activities in general. This solution exists in a number of European states.

Article 4 (Amendment No. 4)

In Article 17, Paragraph 4, the full-stop at the end of the sentence should be replaced with a comma, and the words “in at least one of the daily papers” should be erased and instead of them, the words “in at least

two of the daily papers that are distributed on the territory of the entire state” should be added.

The existing text of Article 17, Paragraph 4 reads: „ political parties are obligated to make public the register of donations on their web site, and in at least one of the daily papers.

Rationale for the amendments

Having in mind that many people still do not use the internet, apart from the obligation for the political parties to make their donations’ registers public on their web site, for the purpose of more transparent operating and better possibilities for the public to have an insight, it would be a much better solution for this register also to be published in two daily papers.

Furthermore, it should also be clarified that this refers to the daily papers that are available on the whole territory of the country, and not to the daily papers distributed only on a local level.

Article 5 (Amendment No. 5)

In Article 19 Paragraph 1, indent 1, a new indent is added that reads:

- a profit made by buying and selling stocks and bonds at the stock exchange in the Republic of Macedonia, as well as from dividends from the stocks that are quoted at the stock exchange.

The existing text of Article 19 Paragraph 2 reads: „the political parties cannot acquire other types of revenues apart from the following:

- interest to a deposit in a bank,
- lease, i.e. leasing party’s premises,
- revenues from selling audio-visual and digital publications, propaganda material and other publications on which the name or some other symbol of the political party is placed, as well as profit from copy rights,
- revenues from selling tickets for events organised for party purposes, but the name or some symbol of the political party has to be on the tickets.

Rationale for the amendments

This amendment would enable political parties, apart from revenues from leases, bank interests, selling propaganda material and ticket for various events, to also acquire revenues from buying and selling stocks at the stock exchange, as well as revenues from dividends. This solution is also accompanied by the prohibition for political parties to perform economic operations. Additionally, this would enable political parties to invest part of their free financial funds in stocks and bonds during the period when they do not need it.

Article 6 (Amendment No. 6)

In Article 20 Paragraph 1, Indent 5 is changed and it should read: „enterprises with public capital or local self-government units’ and public institutions’ capital, including those that started the process of privatization.

An alternative

In Article 20, Paragraph 1, Indent 5 is changed and it should read: „enterprises with at least 5% of public capital or local self-government units’ and public institutions’ capital, including those that started the process of privatization.

The existing text of Article 20 Paragraph 2 Indent 5 reads: „enterprises with at least 20% of public capital or local self-government units’ and public institutions’ capital, including those that started the process of privatization.

Rationale

During the period of drafting and adopting the Law on Financing of Political Parties (2003-2004), the process of privatization of the enterprises was not fully completed, so in a number of enterprises where a significant portion of the capital was privatized, a smaller portion of the new total capital was still public, usually with participation of the Pension and Disability Insurance Fund, but also on other grounds. Having in mind the fact that today, five years after the adoption of the Law, the situation has

significantly changed, a correction needs to be done in the sense of forbidding any kind of possibility for political parties to be funded by enterprises in which there is any percentage of public capital or of public enterprises' and local self-government units' capital.

The alternative solution leaves some space for political parties to be funded by enterprises in which the state and the local self-government units have a share. And the percentage of the share of the public capital and local self-government units' capital in enterprises that would not bring about prohibition to fund political parties is reduced from 20% to 5%.

Furthermore, in the meantime an overall legal framework has been adopted that deals with the issue of public institutions, and there is no need, apart from the public institutions, to list also other public bodies, as in compliance with the stated legal framework, the public institutions refer to all public bodies. Apart from this, one should also take into consideration the fact that in certain enterprises that are privatised or will be privatised in the future, the local self-government units could also have their own capital, and especially after the intensive process of decentralization.

Article 7 (Amendment No. 7)

In Article 20, Paragraph 1, Indent 8 is changed and it should read: Money from enterprises in which the sole owner is a foreign legal entity or a natural person, or from enterprises in which the dominant owner is a foreign legal entity or a natural person, except in cases when the enterprise is registered, i.e. has its offices in the Republic of Macedonia.

The current text reads: Funds from enterprises with mixed capital where the dominant owner is a foreign investor.

Rationale for the amendments

The current text of the indent in question covers only the mixed enterprises where apart from domestic there is also a foreign capital. This solution does not refer to the enterprises whose ownership structure is such that the foreign investor (either a foreign legal entity or a natural person) is the sole owner and there is no domestic capital. Additionally,

this would enable for the enterprises with foreign capital registered in the Republic of Macedonia to make donations to political parties. These enterprises operate in compliance with Macedonian laws, and the Macedonian legal regulations apply. This would also increase the transparency in the financing of political parties.

Article 8 (Amendment No. 8)

In Article 25, Paragraph 3 a new Paragraph 4 is added which reads: The political party is obligated to submit quarterly reports in reference to the previous paragraph including the quarters during which they did not receive any donations.

The existing text of Article 25 Paragraph 3 reads: „The political party submits quarterly reports, for the donations it received, to the Ministry of Finance, the Public Revenues Office, and the State Audit Office, within 15 days after the end of the quarter.

Rationale for the amendments

By imposing an obligation for political parties to submit quarterly reports to the competent state bodies and in cases when they have not received any donations in a given quarter, the provision on the submission of reports is clarified in more details. This contributes to the strengthening of the financial discipline of political parties.

Article 9 (Amendment No. 9)

In Article 26 Paragraph 4 the full-stop at the end of the sentence should be replaced with a comma, and the words “in at least one of the daily papers” should be erased and instead of them the words “in at least two of the daily papers that are distributed on the territory of the entire state” should be added.

The rationale for this amendment is the same as the one for Article 4.

Article 10 (Amendment No. 10)

The Legislative Committee of the Assembly of the Republic of Macedonia should establish an agreed text for the Law on Financing of Political Parties.

Article 11 (Amendment No. 11)

This Law goes into effect on the eighth day after its publication in the “Official Gazette of the Republic of Macedonia”.

5. Voting of the Diaspora

In compliance with the amendments to the Electoral Code from 2008, the citizens with temporary residence or temporary working engagement abroad, starting from 1 September 2009 have a right to vote at the next parliamentary and presidential elections, and from each of the three electoral districts one MP will be elected.

At the Round Table the participants were unanimous in defining several issues that were important for the proper carrying out of the process of elections in the Diaspora:

1. What is the number of voters?;
2. Composition and number of electoral units where there will be voting;
3. Where the people will vote (Diplomatic-Consular Offices of the Republic of Macedonia abroad or other premises which requires additional funds);
4. Determining the expenses for the delivery of the electoral material by the State Election Commission;
5. How will the electoral campaigns in the three electoral districts in the Diaspora be funded, having in mind the financial implications on the budget of the SEC for organizing the elections, both in reference to the performing of the electoral activities and the successful implementation of the electoral proceedings, and the impact of the public financing of the electoral campaigns which is regulated with the Electoral Code and the Law on Financing of Political Parties.

It is necessary to respect the national regulations regarding the funding of the political campaigns in the country where this type of electoral activities will be carried out.

■ Additional suggestions and recommendations

- To register the revenues and expenses that are in cash (the donations could be equipment, computers ... that will be registered on another balance sheet).
- The term annual balance sheet (Article 26, Paragraph 2) should also encompass the balance of accounts as a financial form, drafted by the Ministry of Finances - which means to have two additional reports – balance of accounts and revenues and expenses balance sheet that would clarify the terms used in the law – annual balance sheet and annual financial statement. In the Law on Financing of Political Parties only one term to be used – annual balance sheet.
- To establish whether there is a need for the political parties to make quarterly reports about the donations and the loans that will be submitted to the Election Commission (separate reports in a case when the parties get a loan and a donation from the same source).
- Foreign companies with its headquarters in the Republic of Macedonia have a right to be donors. Aren't they considered foreigners? Is it necessary to make certain correction in this wording?
- Illegal sources of electoral campaigns funding – the financing cannot come from the Budget of the Republic of Macedonia, nor from the budgets of the local self-governments' units, except when we speak about reimbursement of the election expenses; also a campaign cannot be financed by public enterprises, public institutions, civil association, religious communities, religious groups, foreign governments funds, international institutions, bodies and organizations of foreign states as well as foreigners, funds from enterprises with mixed capital where the foreign capital dominates; and the campaigns cannot be funded from anonymous sources, i.e. funds from unidentified sources.

- Is there a need to open a separate gyro-account for the funding of an electoral campaign of a coalition of number of parties registered at SEC?
- The Internet as part of the electoral campaign to be regulated with legal norms.
- Is there a possibility to control the party accounts and the accounts for electoral campaigns funding? The experts say that there is such a possibility, so in the final financial statement all the transfers made six (6) months before the elections need to be incorporated.
- The role of the Public Revenues Office as the only institution which should control the calculation of the VAT when a contract is concluded between a party and a medium. Does the donor pay the VAT?
- Possible interventions in the Law on Donations and Sponsorships.

■ Taking into consideration all the above-stated suggestions, Transparency-Zero Corruption, after the Mavrovo Round Table initiated specific activities for drafting the legal provisions for improving transparency and supervision in the funding of the political and referendum campaigns. Furthermore, activities for drafting proposals for incorporating the amendments in the existing laws started.

The text with the conclusions from the debate was distributed to all the participants in order to undertake specific activities or to submit specific suggestions on what would be the most suitable way of transferring the suggested changes into the given regulations.

6. GRECO recommendations

At the 46th plenary session held in March 2010, GRECO adopted a Report on the Republic of Macedonia regarding “Transparency of Party Funding”. The report, that will be officially published after the Government of the Republic of Macedonia adopts a decision for that, encompasses six (6) recommendations for our country:

In view of the above, GRECO addresses the following recommendations to the Republic of Macedonia:

- i. (i) to introduce clear provisions determining the commencement of an election campaign in view of the obligation to keep campaign accounts and campaign financial reports; and (ii) to extend the financial reference period applicable to election campaigns so that the financial activity during this period is accurately and comprehensively recorded (paragraph 89);
- ii. to amend the Electoral Code in order to ensure that goods and services granted to election campaign organisers at discounted prices are properly identified and accounted for, at their market value, as donations, in order to ensure that the rules on donation ceilings are not circumvented (paragraph 91);
- iii. to increase the transparency of the accounts and activities of entities related, directly or indirectly, to political parties, or otherwise under their control, and to include, as appropriate, the accounts of such entities in the accounts of political parties (paragraph 92);
- iv. to ensure that all political parties are adequately informed and advised (e.g. through the provision of training/guidelines) on the

applicable political funding regulations, particularly as regards their accounting aspects (paragraph 93);

- v. to provide a leading independent body assisted, if appropriate, by other authorities, with a mandate and adequate powers and resources to carry out a proactive and effective supervision, investigation and enforcement of political financing regulations (paragraph 97);
- vi. (i) to ensure that the mechanism by which sanctions are imposed for violations of the rules on political funding works effectively in practice, and (ii) to ensure, in particular, that the sanction of loss of public funding by political parties and election campaign organisers can be applied in practice (paragraph 101).

7. OSCE/ODIHR recommendations

The published “Final OSCE/ODIHR Report” on the presidential and local elections from 22 March and 5 April 2009 regarding the funding of the electoral campaigns and their media coverage presents certain findings and recommendations. We give you some of the findings and all the recommendations that refer to organizing campaigns.

THE ELECTION CAMPAIGN

The official 19-day election campaign for the first round began on 2 March and ran until midnight 20 March. The lack of clear provisions of what constitutes campaigning created some confusion about what political activity was permissible before the official start of the campaign.

The OSCE/ODIHR EOM observed a number of instances of campaigning before 2 March, including the presentation of some presidential candidates’ slogans, the holding of well publicized party conventions, and the display of some posters. However, interlocutors generally did not consider this to be an issue of concern or a subject for complaint. The SEC and the BC considered taking action in connection with the party conventions and the media coverage they engendered, but decided not to, in part because they received no complaints.

After the start of the official campaign period on 2 March, political parties and presidential candidates engaged in a vigorous program of rallies. The OSCE/ODIHR EOM observed over 100 rallies before the first round, at which party leaders, presidential and mayoral candidates, and candidates for municipal councils frequently appeared together. A few instances of clashing rally schedules were resolved peacefully. Rallies proceeded without disruptions and were generally well attended. The campaign was highly visible throughout the country, including extensive use of commercial billboards and posters. Some municipalities were late

in designating locations in which candidates could place posters (a requirement of the Electoral Code), and some designated inappropriate places. Although some posters were torn down or defaced, this did not appear to be a serious problem.

Second round campaign activities were generally lower-key, with fewer public events. Political parties and mayoral candidates concentrated on low-profile activities such as door-to-door campaigning or small neighbourhood meetings. The governing party, VMRO–DPMNE, was to some extent an exception to this trend, as high-level officials and cabinet ministers visited various parts of the country to support party candidates for mayor, and new VMRO–DPMNE billboards appeared in the capital, featuring the Prime Minister with mayoral candidates.

At the national level, the issues of EU and NATO accession, as well as scenarios for resolution of the dispute with Greece over the country's name, dominated the campaign. Despite the high level of activity by presidential candidates before the first round, the focus of public interest cantered more on local than on national issues. Municipal contests and issues continued to dominate the campaign agenda and even increased their profile in the second round.

A peaceful and democratic election process was widely regarded as a key requirement for the country's progress towards Euro-Atlantic integration, a goal supported by all major political parties and featuring highly in their national campaigns. Throughout the electoral process, candidates and parties repeatedly expressed their commitment to holding democratic elections and pledged to avoid the kinds of violent incidents that negatively affected the 2008 elections.

National and local codes of conduct were signed, the most prominent being a code of conduct sponsored by the National Democratic Institute, which was accompanied by a large-scale campaign for democratic elections. However, a good election process frequently appeared to be equated with an environment free of violence, with far less focus on the other elements essential for a democratic election process.

Throughout its time in the Republic of Macedonia, numerous, troubling allegations were received from all over the country of pressure on or intimidation of citizens in connection with the elections. The OSCE/ODIHR EOM followed up on these reports and found many to be credible. Even

when the allegations could not be substantiated, it was often clear that people believed them, undermining “their right to cast their votes free of fear of retribution”. This problem seriously undercut the quality of the election process.

The most common allegations concerned threats that public sector workers would lose their jobs if they did or did not support certain candidates. Public-sector employees appeared to be particularly vulnerable to such threats in light of the politicization of the civil service. Numerous public servants were reportedly asked to submit lists of other people who would support the governing party. In addition, there were reports of intimidation of potential supporters of opposition candidates, reported threats to owners of businesses that they would face tax audits if they supported the opposition, and threats that pensions or social benefits would be withdrawn if their recipients did not support the party in control at the local or national level. The overwhelming majority of these allegations were levelled at State officials and activists of the governing party. The Broadcasting Council informed the OSCE/ODIHR EOM that it came under government pressure to alter its findings, which it refused to do. A large number of candidates, senior Government officials, and NGOs confirmed to the OSCE/ODIHR EOM their conviction that intimidation was, indeed, a serious problem.

In the final days before election day on 22 March, the Prime Minister issued public statements and notified public officials that such activities would not be tolerated. However, the Government’s belated response was insufficient to create a climate free from intimidation or fears of retribution. Before the second round of the elections, the reports of intimidation increased in intensity, especially in connection with close mayoral contests in many parts of the country. Although the Prime Minister again publicly spoke out against pressure and intimidation, his efforts were not sufficient to bring it to an end or to restore public confidence.

Overall, election contestants made discernable efforts to use measured language in their campaigns; nevertheless, tensions were high in some municipalities with tightly contested races, especially between the two rounds. Examples included Struga, Ohrid, Demir Hisar, Makedonski Brod, Gostivar, Berovo, Petrovec and Šuto Orizari. There were incidents between the two rounds – including clashing demonstrators in the central square

of Skopje over plans to construct a church, and a fight among students of different ethnic groups at a school in Struga – that featured prominently in the media and turned into confrontational issues for candidates and parties at the national level. After the second round of the elections, tensions remained high in Struga and Šuto Orizari, where the results of the mayoral elections were not readily accepted by the losing parties. In protest against the results in Šuto Orizari, hundreds of inhabitants of this predominantly ethnic-Roma municipality marched to the Parliament building on 8 April.

Presidential and municipal candidates campaigned almost exclusively among their own ethnic communities, and there were a few instances of nationalist or ethnically divisive campaign language. The only presidential candidate who made a discernable effort to campaign across ethnic lines was Imer Selmani (New Democracy).

Ethnically based voting patterns were especially visible during the second round of the presidential election, when only ethnic-Macedonian candidates remained in the race. There were an unusually high number of invalid ballots cast (6.2 per cent of all ballots cast) for the second round, especially in ethnic Albanian areas. There was also a marked low participation among ethnic Albanians in the second round of presidential voting, despite the fact that the governing ethnic-Macedonian party, VMRO–DPMNE, and its coalition partner, the ethnic-Albanian DUI, had reached an agreement for mutual support of their candidates at the local and national level in the second round. Examples of extremely low presidential election voter turnout in the second round include 1.6 per cent in Želino compared to 35.2 per cent for the second round mayoral vote held at the same time, and 2.51 per cent in Lipkovo compared to 40.2 per cent for the second round of the mayoral race.

Several meetings of the leaders of the main political parties took place during the pre-election period, organized by the Prime Minister, aimed at promoting a peaceful and co-operative approach to the elections. These gatherings seemed to contribute to the generally calm atmosphere before and during both election days. In another effort to promote a civil campaign atmosphere, presidential candidates before the first round took initiatives to bring their opponents together for joint meetings.

Efforts to ensure a calm and violence-free election atmosphere were generally successful. The Ministry of Interior registered a total of 77 cases

of violations during both rounds of the election process, none of them of a serious nature.¹² In total, the Ministry of Interior raised 11 misdemeanour charges against individuals and initiated three criminal charges, for “misuse of official position and authority”, “misuse of voting rights” and “bribery during voting”.

Most OSCE/ODIHR EOM interlocutors emphasized that an appropriate role of the police and other law-enforcement agencies in preventing election-related violence would be crucial for the conduct of democratic elections. In February, the Ministry of Interior presented the principles of an overall security plan for the elections, which built directly on the experience of the 2008 elections. Based on these principles, the eight regional police offices, in coordination with the commanders of local police stations, elaborated plans which were then fed into an overall police deployment plan,¹³ supported by a training program on the role of the police during elections.

The constructive role of the police in ensuring a calm atmosphere free of violence during the first and second round of the elections was noted by most OSCE/ODIHR EOM interlocutors, and the police’s presence during both election days was characterized by international observers as visible and reassuring, but not excessive. However, the OSCE/ODIHR EOM also received credible allegations of police taking an active role in the campaign in support of the governing party in some instances, for example in Štip, Delcevo, Demir Hisar and Makedonski Brod.

From the time of the announcement of the elections, the State Commission for Prevention of Corruption actively reminded state and local bodies to refrain from announcing new investments, signing contracts, hiring personnel, using public funds for new projects or making extraordinary payments during the election period, as prescribed by the Law on Preventing Corruption. The Commission notified the public prosecutor’s office regarding two cases of alleged vote buying and took action to look into a complaint submitted by the New Social Democratic Party (NSDP) claiming misuse of resources by the Government.

Prior to the announcement of the elections, the Government engaged in expensive and high-profile publicity campaigns in support of its policies and programs. Although these were discontinued when the elections were called, as required in Article 84-a of the Electoral Code, opposition parties

and media representatives asserted that the public campaigns were so widespread and pervasive that they had a continuing effect on the electoral campaign and had made much of the media dependent on government advertising revenues.

Prosecutions of and court cases against persons charged with offences in connection with the 2008 election continued during the 2009 election period. As of 31 May the OSCE was informed that a total of 26 individuals has been convicted for offenses in connection with the 2008 elections. This was only a small proportion of the over 200 persons originally charged. Some interlocutors – including the leaders of two opposition parties – told the OSCE/ODIHR EOM that they believed that cases were being handled differently, depending on the political affiliation of the accused; the Government strongly denied this assertion. Interlocutors, including prosecutors, also pointed out that one of the major obstacles in processing some cases is that witnesses are afraid to testify or to uphold previous testimony.

CAMPAIGN FINANCING

Campaign financing is regulated by a more developed set of regulations in the amended Electoral Code. According to legislation, campaign organizers must open a separate bank account for election purposes, and all campaign expenses must be covered from funds deposited in this account. New provisions broaden the definition of donations, which now include providing services to organizers of an electoral campaign free of charge or at a discount. Eligible physical persons are allowed to donate the equivalent of EUR 5,000, while legal entities may donate up to EUR 20,000.

However, these limits do not apply for some donations in goods and services, for which Article 83.3 of the Electoral Code sets exceptions; these include providing goods and services at discount prices, which is especially important for discounts from broadcast and print media for political advertising. These exceptions effectively circumvent the limits on campaign donations and allow for unlimited donations from businesses and broadcasters. A campaign for a single election list may spend no more than MKD 180 (around EUR 3) per registered voter in an election unit.

At the end of the campaign period, organizers are required to submit a financial report to the SEC, the State Audit Office, the State Commission for the Prevention of Corruption, and municipal councils and the council of the City of Skopje. However, the form for reporting is prescribed by the Ministry of Finance and is the same one which is used for keeping the register of donations; it only includes a list of donations and donors, but not expenditures. In addition, the State Audit Office explained to the OSCE/ODIHR EOM that they do not automatically audit all candidates and parties after an election, but only focus on the larger parties and candidates financed from the state budget. This undermines the oversight of financing rules and the effectiveness of campaign finance regulations. There were no plans, for example, to audit the campaign finances of any of the presidential candidates.

Reimbursement of campaign expenses is available only to elected candidates and amounts to 15 MKD per vote received. This reimbursement is paid from the state or local budgets, based on a decision of Parliament, the municipal council or the council of the City of Skopje. However, these institutions can decide not to reimburse candidates if the State Audit Office finds irregularities in their financial report. The rules which apply and the procedures to be followed if irregularities are found are not clearly set out in the Electoral Code, and none of the institutions that the OSCE/ODIHR EOM met could give a clear answer as to which would be the appropriate body to initiate such procedures.

RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities, political parties and civil society of the Republic of Macedonia, in further support of their efforts to conduct elections fully in line with OSCE commitments and other standards for democratic elections. A number of these recommendations have already been offered in previous OSCE/ODIHR final reports but remain to be addressed. In particular, recommendations from the OSCE/ODIHR final report for the 2008 early parliamentary elections which have not yet been implemented could be considered, in addition to new recommendations made in this report.

The OSCE/ODIHR stands ready to provide assistance to further improve the electoral process.

THE ELECTION CAMPAIGN

- Political parties and candidates, especially presidential candidates, could make greater efforts to explain their policies and reach out to voters of ethnic communities other than their own.
- The campaign process would be improved if municipalities rigorously implement their obligation to designate places for the posting of campaign posters in a timely manner and in designated places that are sufficiently large, visible and suitable for posters.

MEDIA

- If political coverage by broadcast media is to be regulated during the pre-campaign period to ensure equitable coverage of contestants, the regulations should not prevent the media from providing normal coverage of political developments.
- Shorter deadlines could be established for courts to rule on lawsuits brought against broadcasters by the BC during the campaign and pre-campaign period, both to ensure that the BC can enforce the regulations in a timely fashion, and to allow broadcasters the opportunity for a speedy and effective remedy if their rights have been violated.
- To continue to function effectively, the BC will need to receive continued, adequate support and financing from the government and to retain its substantive independence.

The parliament should fulfil its responsibility to ensure that all members of the BC are appointed in a timely fashion.

8. Public debate

On 14 April 2010 within the project: “Improved election system in the Republic of Macedonia”, Transparency-Zero Corruption organized a public debate on the topic: “Draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns”. This public debate started with the opening address by the Ambassador of the Kingdom of Norway, H.E. Mr. Kjetil Paulsen.

The participants in this public debate had an opportunity to hear the presentation of the “Draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns” by Prof. Slagjana Taseva, PhD followed by comments on the draft of the legal provisions by the President of the State Election Commission, Mr. Aleksandar Novakoski, the President of the Broadcasting Council, Mr. Zoran Stefanoski, the President of the State Commission for Preventing Corruption, Mr. Ilmi Selami, professor Zoran Sapuric, the representative of the Ministry of Justice, Jonce Cvetkoski, the representative of the State Audit Office, Branislav Gulev, the expert from the Kingdom of Norway and representative in GRECO, Mr. Jens-Oscar Nergard, and the Deputy Director of the Ministry of Government Administration and Reforms, Mr. Christian Fredrik Horst, the President of VMRO-NP, Marjan Dodovski, the members of SCPC, Cvetko Mojsoski, Mane Kolev, Arif Musa etc.

■ Elaborating on the general and specific goals of the project: “Improved election system in the Republic of Macedonia”, i.e. the “Draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns” the President of Transparency-Zero Corruption Prof. Slagjana Taseva, PhD emphasized that they supported the improvement of the laws in order to decrease the political pre-election tensions and to achieve consistent respect of the international standards and norms in regard to the elections. In that sense Taseva underlined that the issues related to transparency in the area of political parties and electoral

campaigns funding were very important and thus this project reviewed and analysed from a legal aspect the issues related to the political parties funding, the shortcomings in regulating the electoral campaigns funding, as well as the control of funding and corruption prevention. As Taseva emphasized, they came to a conclusion that there were conditions and a need for a separate Law on Electoral Campaigns and Referenda Funding to be adopted. At the end of its presentation, Taseva underscored the significance of the international instruments, to be more precise the international experiences in regard to the political parties and electoral campaigns funding and pointed out as useful the remarks on last year's presidential and local elections in the Report by the OSCE/ODIHR Monitoring Mission in the Republic of Macedonia, as well as the latest recommendations by the Council of Europe, i.e. GRECO regarding transparency in the funding of the political parties and the electoral campaigns.

■ The President of the State Election Commission, Mr. Aleksandar Novakoski, reminded us that within the Secretariat for European Affairs there was a Coordinative Body for the purpose of looking into all the disputable issues related to the electoral system. As problematic Novakoski mentioned issues and dilemmas about who was competent to control the accounts of the parties and their activities during the campaigns, as well as how the voting of the Diaspora would be organized and the need to establish provisions in the Referendum Law. On the voting of the Diaspora he said that it was going to cost the state a lot and it would require organization, preparation of electorate lists, organizing campaigns and providing observation during the electoral process. Regarding the audit of the financial activities during and related to the electoral campaigns he emphasized that the State Election Commission could not perform this task because they did not have either staff (only one staff member) or other types of capacities and that was why he proposed to have it done by independent audit companies. He pointed out the Bosnia and Herzegovina example where the Central Election Commission performed the audit. In that context Novakoski proposed for Article 189 to be amended encompassing sanctions against the political parties that would fail to submit a financial statement on time. He also stated that they should contemplate about introducing sanctions for using office vehicles by the observers-officials. Additionally, he pointed out the issue of who should

be criminally charged by SEC, if the campaign organizer was not known. Novakoski emphasized that a definition for the electoral campaign was needed (public gatherings, posters, billboards, lists), as well as a precise definition for who was the organiser of the electoral campaigns, who should represent a legal entity, i.e. to legalise the organiser (SEC confirms the organiser) and to clear up the issue related to the manipulation of the administration, i.e. the civil servants. In that sense he said that the Agency for Civil Servants should cooperate with the SEC and regulate the activities of the civil servants in the campaigns, as well as their financing and engagements on the day of the elections. According to the Electoral Code, SEC monitors the work of the parties 60 days before the campaign, so the better off parties can afford to respect the campaign deadlines, but they can also do campaigning before that. The President of the State Election Commission initiated also the issues of the non-sustainability of a political bloc (group of citizens, group of parties) and the partnership agreements for having financial activities and a joint gyro account as well as the refusals to register the coalitions as separate legal entities.

■ The President of the Broadcasting Council, Mr. Zoran Stefanoski first of all expressed regret that the public debate was not attended by the representatives of the ruling coalition parties. Talking about the media activities during the electoral campaigns, he emphasized that the donations' amounts needed to be limited and that the Law envisaged prohibition, but there were no sanctions prescribed for irregularities in the course of those activities. Stefanoski said that in that sense the law and local media were manipulated and for that reason it was necessary to define precisely when the official campaign started and which period was considered as pre-campaign period. He supported strict rules and criteria in the media presentation of the political parties.

■ VMRO-NP's President, Marjan Dodovski spoke about the paid political advertising and how much it was really paid, and whether there were manipulations with the transaction accounts (opening-closing them). He emphasized that there was a need to have equal representation by the private media and that the participation of the political authorities in the electoral campaigns needed to be regulated, calling them the secret

unregulated logistics. As weaknesses in the electoral campaigns, Dodovski pointed out the facts that the administration did not function during the campaigning period, that budget funds were spent for campaigns, and he proposed for the Internet, billboards and surveys not to be used during the campaigns.

■ In the course of the debate the comments by the members of the Working Group and the participants in the Round Table, held in November last year were reviewed. The main emphasis was placed on the analysis of the Law on Financing of Political Parties that helped in recognizing its shortcomings and making recommendations for its improvement. Additionally, all the activities related to the funding of the electoral political campaigns were analysed (transparency and control of financing), as well as the legal provisions of the Broadcasting Council regarding the media presentation of the political parties during the electoral campaigns. Hence, practically, the idea for the adoption of a separate Law on Political Campaigns Funding emerged, more specifically the idea for the “Draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns”.

■ In the course of the public debate there was a comprehensive and fruitful discussion on the “Draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns”.

9. “Draft legal provisions for improving transparency and supervision in funding of political and referendum campaigns”

INTRODUCTION

This text provides draft legal provisions that would improve transparency and supervision in the funding of the political campaigns and organizing referenda. Our decision to work on the drafting of legal provisions and not on a separate law is due to the fact that in the Republic of Macedonia there is already a codified Electoral Code in which the legislator incorporated all the provisions that regulate the electoral process as a whole.

The Working Group that drafted this text decided to make the entire content of its work available to all the stakeholders who should be involved in the process of polishing up the existing legislation in this area. With this we reaffirm our determination to contribute to the process of creating conditions for fair and democratic elections and especially for much more precise legal regulations in the area of electoral campaigns funding as a precondition for reducing the opportunities for creating illegal and corruptive debtor-creditor relations in the area of political activities.

The decision to start working on a separate review and elaboration of this segment of the electoral process emerged from our numerous previous activities as well as the activities of the Council of Europe and Transparency International that resulted in the formulation of specific Recommendations and other documents dedicated to raising public awareness about the need of concrete legal regulating in this sphere, as well as creating an opportunity for efficient monitoring of the evolution of these processes as GRECO does it in its third round of evaluation. The Report on the Republic of Macedonia was on the agenda of GRECO's Plenary Session to be held in Strasbourg on 23 March 2010.

This draft of legal provisions is the outcome of the project “Improved election system in the Republic of Macedonia”, that Transparency-Zero

Corruption realized in the course of 2009-2010 with the support of the Royal Norwegian Embassy

Prof. Zoran Sapuric, who was one of the drafters of the Law on Financing of Political Parties proposed specific amendments to this legal text, that were incorporated in the summary and the conclusions of the working meeting.

THE GOAL AND THE ASSESSMENT OF THE SITUATION IN THE AREA THAT NEEDS TO BE REGULATED WITH THE LAW AND THE REASONS FOR THE ADOPTION OF THE LAW

This text provides the draft legal provisions that should improve transparency and supervision in the funding of the political campaigns and organizing referenda. Our decision to work on the drafting of legal provisions and not a separate law is due to the fact that in the Republic of Macedonia there is already a codified Electoral Code in which the legislator incorporated all the provisions that regulate the electoral process as a whole.

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OVERVIEW OF REGULATIONS FROM OTHER LEGAL SYSTEMS AND HARMONISATION OF THE DRAFT LAW WITH THE EU LEGISLATION

The decision to start working on a separate review and elaboration of this segment of the electoral process emerged from our numerous previous activities as well as the activities of the Council of Europe and Transparency International that resulted in the formulation of concrete

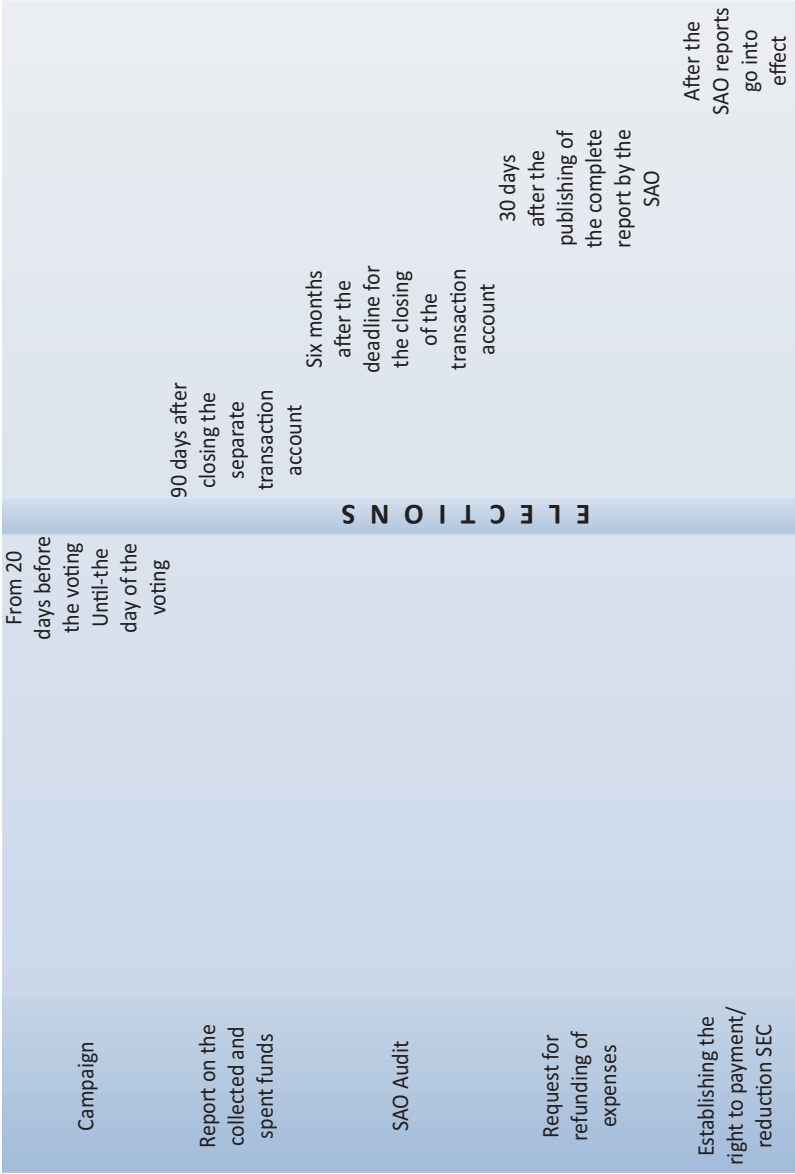
Funding of Political Campaigns

Recommendations and other documents dedicated to raising public awareness about the need of concrete legal regulating in this sphere, as well as creating an opportunity for efficient monitoring of the evolution of these processes as GRECO does it in its third round of evaluation. The Report on the Republic of Macedonia was on the agenda of GRECO's Plenary Session to be held in Strasbourg on 23 March 2010.

Table of activities

DEADLINES	
ACTIVITY	
Announcement of 60 days to the elections	15 days of preparations for the elections
Appointing the organiser	45 days before the voting
Appointing the responsible person	45 days before the voting
Opening a separate account	45 days before the voting at the elections
Reporting to SEC	45 days before the voting
Pre-electoral campaign	From-45 days before the voting until-20 days before the voting

ELECTIONS



DRAFT LEGAL PROVISIONS

I. BASIC PROVISIONS

Article 1

1. This law regulates the issues related to the electoral campaigns for the election of members of the Assembly (hereinafter: MPs), President of the Republic of Macedonia, members of the local self-government bodies as well as issues that refer to the referendum campaigns.
1. The electoral campaign in compliance with this law encompasses all types of announcements with political content and other forms of political propaganda that could influence the decision of the voters at the time of voting at the elections.
2. The referendum campaign in compliance with this law encompasses all types of advertising as well as other types of propaganda which intention is to influence the decision of the voters at the time of the referendum voting.
3. The provisions regulating the electoral campaign apply also for the referendum campaign unless the law provisions differently.
4. The electoral campaign encompasses primarily:
 - propaganda in the media, both electronic and printed and propaganda that utilizes the telecommunication means,
 - putting on posters and
 - public appearances related to the electoral or referendum campaign (hereinafter: the pre-election events).

Article 2

1. The electoral campaign may begin 45 days before the day of voting, and it has to finish 24 hours before the day of the voting.
2. If the President of the Assembly is presented with a request for collecting signatures for a referendum, a special communiqué for

the public could be prepared informing them about the collecting of signatures. The special informing of the public starts on the day when the collecting of signatures starts and it lasts until the day when it ends. It could be organized by the initiators.

3. The State Election Commission in an adequate manner informs the public about the beginning and the deadline for the collecting of signatures. The Macedonian Radio-Television is obligated to broadcast these notifications free of charge.
4. The special communiqué from paragraphs 2 and 3 of this Article refers to a referendum campaign on a local level that needs to be carried out in the usual manner.

Article 3 (*Article 70 from the Electoral Code*)

1. The electoral campaign could be organized by the nominators of the candidates or the list of candidates, political parties and other organizers of electoral campaigns; in case of a referendum the initiators of the referendum and other interested parties in the outcome of the referendum (hereinafter: electoral campaign organizers). The interested parties listed in this paragraph could be citizens of the Republic of Macedonia with a right to vote, individual entrepreneurs, individual enterprises, entrepreneurs and legal entities with their main offices on the territory of the Republic of Macedonia.
2. The electoral campaign organizer is responsible for the legality of the way the electoral campaign is carried out. The electoral campaign organizer is also responsible for those rules of the electoral campaign for which implementation s/he authorized another contractor. The electoral campaign organizer should appoint a person responsible for the funding of the electoral campaign, including the period defined as the pre-election period (hereinafter: the responsible person).
3. The list of candidates and individual candidates for the election of members of the Assembly as well as candidates for the election of a President of the Republic could have only one electoral

campaign organizer. The electoral campaign organizer could appoint only one responsible person in compliance with paragraph 2 of this Article.

4. Each list of candidates and each individual candidate for the election of the members in the representative and individual bodies of the local self-government could have only one organizer of the electoral campaign. Each list of candidates and each individual candidate for the election of members in the representative and individual bodies of the local self-government could have only one responsible person in the sense of paragraph 2 of this Article.
5. Each initiator of a referendum i.e. any other interested party in its outcome could have only one organiser. Each initiator of a referendum i.e. every other interested party in its outcome could have only one responsible person in accordance with paragraph 2 of this Article.
6. Foreign legal entities and natural persons cannot organise electoral campaigns in the Republic of Macedonia.
7. In the Republic of Macedonia it is not allowed to carry out an electoral campaign of another state.

Article 4

1. The pre-election gatherings are not allowed in the premises of state bodies, local self-government bodies, public institutions, entities with public competences, in the premises of religious institutions except when the religious group is the organizer of a referendum campaign.
2. The electoral campaign must not be financed from the current funds and funds from business entities with a more that 25% public capital share and business entities in which they are the majority owners.
3. When the organizers of a referendum campaign are trade union organizations and workers councils who need to explain their positions to their membership, they have a right to use appropri-

ate premises of business and public entities in compliance with the collective agreement and the internal acts that regulate the trade union activities.

4. An exception that allows organizing pre-election gatherings in the premises from Paragraph 1 of this Article could be allowed if there is no other space in town that could gather a bigger number of people.
5. The prohibition from Paragraph 1 of this Article does not apply in cases when for organizing of pre-election gatherings premises are used that are primarily intended for organizing public events.
6. In the cases from Paragraphs 3 and 4 of this Article the premises have to be available to all organizers of electoral campaigns under equal conditions. The conditions must be made public by the owner or the manager of the premises 45 days before the day of voting at the latest in the case of the elections and 25 days before the voting for a referendum. The announcement must be done in at least one national printed medium and all the local media as well as on SEC's web site.

II. ELECTORAL AND REFERENDUM CAMPAIGNS IN THE MEDIA ***(The Broadcasting Council proposes amendments to the Electoral Code in its Articles 75, 76, 77 and adds new articles 75-a and 76-a)***

Article 5

Article 77 is amended and it should read:

1. The results from the public survey regarding the participants in the election process are made public within 5 days at the latest before the day determined as the day of the elections.
2. When the results of the public opinion survey related to the participants in the election process are made public the media are obligated to publish the following information: the name of the one who ordered and paid for the survey, the institution that carried out the survey, the methodology applied, the size and the

structure of the survey sample and the period when the survey was carried out.

Media presentation

Article 6

Article 75 is amended and it should read:

1. The Broadcasting Council adopts a Code of Conduct for the broadcasters for the period before the beginning of the electoral campaign and a Book of Regulations for an equitable access to media presentation during the electoral campaign and they are published in the “Official Gazette of the Republic of Macedonia”.
2. The Code of Conduct for the broadcasters during the period before the beginning of the electoral campaign establishes which things are acceptable to be part of the electoral media representation and which are not in the period before the beginning of the electoral campaign and it establishes the way of conduct of the broadcasters from the day the elections are announced until the day determined as the start of the electoral campaign.
3. The Book of Regulations for equitable access to media presentation during the electoral campaign establishes the forms of electoral media representation in the course of the electoral campaign, the principles for ensuring equitable access to the representation of the participants in the election process in all forms of electoral media representation and the way of reporting during the electoral silence in the broadcasters’ programmes.
4. The broadcasters in the Republic of Macedonia are obligated to ensure equitable access under equal conditions to their programmes for the electoral media presentation in the course of the electoral campaign of all the participants in the election process in compliance with the Book of Regulations for equitable access to the media presentation during the electoral campaign.

5. The broadcasters are obligated to comply with the code and the book of regulations from Paragraph (1) of this Article.

Article 7

After Article 75 a new Article 75-a is added which reads:

1. During the electoral campaign the broadcasters that cover the elections could broadcast 15 minutes additional time for advertising per real hour broadcasted programme, strictly planned for paid political advertising, out of which 10 minutes at the most could be dedicated to only one candidate.
2. The broadcasters and the printed media in the Republic of Macedonia are obligated within five day from the day of the announcement of the elections to define the pricelists for the paid political advertising of the electoral programmes and of the candidates running for election.
3. During the period from the definition of the pricelists until the start of the electoral campaign the media are obligated at least twice to make public the pricelists from Paragraph (2) of this Article, on a visible place in their programmes, i.e. in their printed issues.
4. The pricelists may not be changed in the course of the electoral campaigns.
5. The printed media are obligated to submit the pricelists from paragraph (2) of this Article to the State Election Commission and the State Audit Office, and the broadcasters also to the Broadcasting Council of the Republic of Macedonia.
6. The broadcasters and the printed media in the Republic of Macedonia are obligated to offer all the participants in the election process equal opportunities, i.e. equal prices and discounts for the paid political advertising.

Article 8

Article 76 is amended and it should read:

1. The paid political advertising has to be properly and visibly marked as “paid political advertising” and clearly separated from the other contents of the media, equally for all those who want to advertise.
2. In all forms of paid political advertising, the one who ordered the advertisement has to be clearly marked.
3. Minors are not allowed to participate in the paid political advertising.
4. The broadcasters are not allowed to broadcast paid political advertisements in the news, the special information programmes, educational and children programmes, as well as during broadcasts of religious, sporting, cultural, entertainment and other events.
5. The public broadcasting service is not allowed to broadcast paid political advertisements.

Article 9

After Article 76 a new Article 76-a is added which reads:

1. The public broadcaster is obligated during the election process and in cooperation with the State Election Commission, to inform the citizens about the way and technique of voting and to broadcast other information linked to the election process free of charge.
2. During the electoral campaign, the Public Broadcasting Service is obligated to broadcast free political presentation of the participants in the election process in compliance with the principles established in the Book of Regulations for equitable access to the media presentation during the electoral campaign.

III. ELECTORAL AND REFERENDUM CAMPAIGNS FUNDING

Article 10

1. Regarding the funding of the electoral campaigns the provisions from Article 83 and 83-a from the Electoral Code are applied ***(the Broadcasting Council proposes amending of Article 83-a Paragraph 5)***.
2. Separate from the Law that regulates the political parties, it is forbidden for the electoral campaigns to be financed with funds from enterprises with a public capital share bigger than 25% and enterprises with dominant public capital.
3. The discounts that the broadcasters and the printed media give for the paid political advertising of the participants in the electoral campaign will be considered a donation expressed in monetary value.
4. The size of the donation should not be higher than EUR 20,000.00 in MKD counter-value. The types of donations established in Article 83-a, Paragraph (1), indents 1 and 2 do not apply to the broadcasters and printed media.

Article 11

1. As electoral campaign expenses are considered the expenditures that are necessary for carrying out the electoral campaign for the confirmed candidate list, or the confirmed candidate or for carrying out a referendum.
2. The expenses for the electoral campaign encompass:
 - expenses for printing, putting on and taking off posters,
 - expenses for publishing the pre-election notifications in the media,
 - expenses for the organisation and implementation of the pre-election rallies,

- expenses for printing, reproduction and disseminating pre-election material – expenses for opening, keeping and closing the separate transaction account,
 - expenses for collecting signatures for the independent candidates, and
 - other similar expenses resulting solely from the electoral campaign activities or collecting signatures by the independent candidates.
1. If a contractor or a salesman of goods gives the electoral campaign organizer a discount or writes off a debt the amount that the contractor or the salesman calculated for the services provided to the one who ordered that i.e. the customer in its market value will be recorded as an electoral campaign expense.

Article 83-a Paragraph 5 (5) The discounts that the broadcasters and the printed media give for the political advertising of participants in the electoral campaign will be considered a donation presented in monetary value.

1. The contractor or the salesman from Paragraph (3) of this Article on the invoice that s/he sends to the electoral campaign organizer states the amount of the discount, i.e. states that s/he agrees to write off the debt in full, according to its market value.
2. Provisions in Paragraphs (3) and (4) of this Article are not applied in cases when a natural person performs jobs free of charge and s/he has no obligation to send an invoice.

Article 12

(Amendment to Article 70 from the Electoral Code in compliance with GRECO's Recommendation 1 ii)

1. The electoral campaign organizer is obligated within **45 days at the latest** before the day of voting at the elections i.e. 25 days before the day of the voting for the referendum to open a separate transaction account with a designation “for an electoral campaign” i.e. “for a referendum campaign” and to state for whom the campaign

is organized. The referendum organizer within 45 days after the Assembly or the representative bodies of the local self-government adopt the decision can open a transaction account and to collect funds.

The electoral campaign organizer has to collect all the funds that s/he collected on his/her own or received from other legal entities or natural persons for the funding of the electoral campaign on that transaction account. The electoral campaign organizer has to pay for all the expenses for the electoral campaign exclusively from that account.

1. The electoral campaign organizer is obligated to close the account within 120 days, counted from the first next day after the day of voting. ***(Amendments to Article 71 Paragraph 6 of the Electoral Code)***

The day of the loan payment deadline from Subparagraph 3 and the deadline for the deferred payment from Subparagraph 4 Paragraph 1 Article 12 of this Law should not be later than 30 days before the closing of the account.

Article 11

1. The candidates for members of the Assembly and the candidates for a President of the Republic along with the submission of their nomination within 45 days counted from the day of voting are obligated to submit to the State Election Commission data about the electoral campaign organizer, i.e. the **responsible person** along with the data about a separate transaction account opened for the electoral campaign and the number of the transaction account, the name of the bank and the name of the holder of the transaction account.
2. The candidates for members of representative and independent elected bodies of the local self-government along with the submission of their nomination within 45 days counted from the day of voting are obligated to submit to the local self-government election commission data about the electoral campaign organizer

along with the data about a separate transaction account opened for the electoral campaign and the number of the transaction account, the name of the bank and the name of the holder of the transaction account.

3. When the referendum is announced on a local level, the organizers of the referendum campaign 25 days before the day of the voting at the latest will submit the data about the electoral campaign organizer to the local self-government election commission. They are obligated to submit to the Election Commission data about the electoral campaign organizer, i.e. the **responsible person** along with the data about the separate transaction account opened for the electoral campaign and the number of the transaction account, the name of the bank and the name of the transaction account holder.
4. The independent candidates for president of the Republic are obligated immediately after the announcement of the nomination to submit to the State Election Commission data about the organizer of the campaign for collecting signatures and the number of the separate transaction account opened for that purpose. They are obligated to submit to the State Election Commission data about the electoral campaign organizer, i.e. the **responsible person** along with the data about the separate transaction account opened for the electoral campaign and the number of the transaction account, the name of the bank and the name of the transaction account holder.
5. The State Election Commission is obligated to forward immediately the data about the electoral campaign organizer to the State Audit Office, or 40 days before the day of voting at the latest.
6. In a case of referendum the local self-government election commissions are obligated to forward immediately the data about the electoral campaign organizer to the State Audit Office, or 20 days before the day of voting at the latest.

Article 12

Regulated with Article 85 of the Electoral Code

1. 90 days at the latest after the closing of the separate transaction account the electoral campaign organizer at the parliamentary elections, presidential elections or a national level referendum is obligated to submit to the State Election Commission and the State Audit Office information about: the total amount of collected and spent money for the electoral campaign,
 - the data regarding all the monetary contributions to the electoral campaign organizer who on the day of voting amount to as much as three average gross monthly salaries per employee in the Republic of Macedonia according to the State Statistical Office for the previous year,
 - all the loans approved to the electoral campaign organizer, if the amount of the approved loan is higher than the amount from indent two of this paragraph, including the data about the creditor.
 - all the deferred payments if the amount of the deferred payment is higher than the amount in indent two of this paragraph, including the data about the legal entity or the natural person who approved the deferred payment.
1. As monetary contributions from Subparagraph 2 in Paragraph (1) are not considered the funds that a legal entity or a natural person intended for the funding of a political party in compliance with the law that regulates the funding of political parties.
2. The time for the deferred payment from indent 4 Paragraph (1) of this Article should not be longer than 90 days from the day when the service is provided or the items delivered. As a deferred payment are also considered all the payments made 30 days after the provided service and delivered items at the latest.

Article 13

1. The electoral campaign organizer for the election of members to the independent representative elected bodies of the local self-government or a referendum on a local level is obligated within 90 days after the closing of the transaction account to submit to the local self-government representative body and to the State Audit Office information about all the collected and spent money for the electoral campaign.
2. The report from Paragraph (1) of this article has to encompass the data from Article 12 of this law about the source of the funds and the way they are spent as well as all the other data from Article 12 of this Law.

Article 14

The chief state auditor in details elaborates on the findings from the content and the report from Articles 12 and 13 of this Law. ***Article 85-b It is mandatory to make them public on the SAO web site***

Article 15

The report and the data from Articles 12 and 13 of this law for the purpose of ensuring transparency of the electoral campaign become available for the public when they are submitted to the SEC, the Assembly, i.e. the representative bodies of the local self-government and to the State Audit Office.

Article 16

When the electoral campaign organizer is not a political party the extra/remaining received and collected funds, after closing the transaction account should be donated for humanitarian purposes in compliance with the law that regulates the functioning of the humanitarian organizations.

Article 17

1. The electoral campaign expenses for the election of members of the Assembly should not go beyond MKD 180 per individual with a right to vote in the electoral region i.e. electoral municipality, where the list of candidates is submitted i.e. where the candidate is running for election.
2. The electoral campaign expenses for the election of the President of the Republic should not be more than ----- MKD per individual with a right to vote in the country. If there is a second round of voting, the expenses for the electoral campaign for the candidate that entered the second round could increase for additional ----- MKD per individual, with a right to vote in the country.
3. The electoral campaign expenses for collecting signatures for the election of the President of the Republic should not be more than ----- MKD per individual with a right to vote in the country.
4. The electoral campaign expenses for the election of the local self-government representative bodies should not be more than ----- MKD per individual with a right to vote in the country.
5. The electoral campaign expenses for the election of the independent elected bodies of the local self-government should not be more than ----- MKD per individual with a right to vote in the local self-government unit. If there is a second round of voting, the expenses for the electoral campaign for the candidate that entered the second round could increase for additional EUR 0.15 per individual, with a right to vote in the local self-government unit.
6. The expenses for the referendum campaign on a national or local self-government level should not be more than ----- MKD per individual with a right to vote in the country i.e. the local self-government unit.

VI. PARTIAL REFUNDING OF THE EXPENSES FOR ORGANIZING AND FINANCING ELECTORAL CAMPAIGNS

Article 18

1. The electoral campaign organizers whose lists won seats in the Assembly have a right to expense refunding for the electoral campaign in the amount of ----- MKD per vote they won, and the total value of the reimbursed expenses should not be higher than the money that were spent as recorded in SAO's report.
2. A right to refunding of the expenses also have the electoral campaign organizers whose candidate lists won at least 6% of the votes of the total number of counted votes in the election district or at least 2% of the total number of counted votes in the entire country, in the amount of -----MKD per vote they won in that election municipality, i.e. state.
3. The expenses that the presidential candidates had for collecting signatures supported by a certificate issued by the Public Revenue Office are deductible from the annual profit tax statement for the year in which the campaign for collecting of signatures happened.

Article 19

The referendum campaign organizers do not have a right to refunding of the campaign expenses.

Article 20

1. A right to refunding of some of the electoral campaign expenses also have the organizers of presidential electoral campaigns for whose candidate voted at least 10% of the total number of voters with a right to vote. If there is a second round of voting the candidate running in the second round has a right to expenses refunding based on the votes s/he won in that round.
2. The organizers of presidential electoral campaigns are refunded in the amount of ----- MKD for every vote they win, but the total

amount of the refunded expenses should not be higher than the amount of the funds they spent as recorded in the audit report of the State Audit Office.

Article 21

The organizers of electoral campaigns for the election of the members of the Assembly or for the election of the President of the Republic upon their request are refunded for the electoral campaign expenses from the Budget of the Republic within 30 days from the day when the State Audit Office publishes the report in the Official Gazette of the Republic of Macedonia.

Article 22

1. The local self-government before the beginning of the electoral campaign establishes the amount of the refunded expenses to the electoral campaign organizers. The local self-government may decide to refund some of the expenses only to the electoral campaign organizers who won seats in the representative bodies of the local self-government, and only to the electoral campaign organizers for the independent bodies of the local self-government whose candidates reached certain percent of the total number of voters with a right to vote who voted, but the percent that the local self-government appoints must not be higher than 10%.
2. The amount of the partial refunding of the expenses to the electoral campaign organizers for the election of members to the representative bodies of the local self-government should not be higher than the amount refunded per vote to the organizers of the electoral campaigns for the members of the Assembly. The amount of the partial refunding of the expenses to the electoral campaign organizers for the independent bodies of the local self-government should not be higher than the amount refunded per vote to the organizers of the electoral campaigns for the President of the Republic. If there is a second round when the independent bodies of the local self-government are elected, the candidate

that entered the second round has a right to expenses refunding based on the votes s/he wins in the second round.

3. A right to partial refunding of the expenses for the organizers of a referendum campaign at the local self-government level is not allowed.

Article 23

1. The State Audit Office within 180 days after the closing the transaction account audits those organizers of electoral campaigns who in compliance with this law have a right to receive partial refunding of the electoral campaign expenses.

The State Audit Office within 180 days after the closing of the transaction account audits the organizers of electoral campaigns, national level referenda, the organizers of electoral campaigns for the election of members of the representative and independent bodies for the local self-government as well as for the local referenda.

1. The electoral campaign organizers, the National Bank of the Republic of Macedonia and the commercial banks where the electoral campaign organizers have their separate transaction accounts are obligated upon a request by the competent institution to provide the documents necessary for the audit and to provide access to the bookkeeping journals and records.

Article 24

With the audit from Article 30 of this law the State Audit Office checks:

- the amount of collected and spent funds for the electoral campaign,
- whether the electoral campaign organizer used the collected funds for the electoral campaign in compliance with the law,

- the validity of the data that the electoral campaign organizer states in the report in compliance with Articles 18 and 19 of this law.

The final report of the State Audit Office is published in the Official Gazette of the Republic of Macedonia.

Article 25

1. The electoral campaign organizers for the election of members of the Assembly and for the election of a President of the Republic that will spend more than 10% above the allowed amount of funds for electoral campaigns, will be paid from the Budget of the Republic only a half of the partial refunding of the expenses for organizing and funding electoral campaign in compliance with this law.
2. The electoral campaign organizers for the election of members of the representative and independent elected bodies of the local self-government that will spend more than 10% above the allowed amount of funds for electoral campaign, will be paid from the Budget of the local self-government only a half of the partial refunding of the expenses for organizing and funding electoral campaign in compliance with this law.
3. For the political parties which electoral campaign organizers for the election of members of the Assembly and for the election of a President of the Republic spend more than 10% above the allowed amount of funds for the electoral campaign, the funds that are paid from the Budget of the Republic based on the law that regulates the funding of political parties will be reduced within one year.
4. For the political parties in the local self government units where the organizer of the electoral campaign for the election of members of the representative and independent elected bodies of the local self-government spends more than 10% above the allowed amount of funds for the electoral campaign, the funds that are paid from the budget of the local self-government based on the

law that regulates the funding of the political parties will be reduced to a half within one year.

5. The electoral campaign organizer for the election of members of the Assembly and for the election of a President of the Republic that will spend more than 30% of the allowed amount of funds for the electoral campaign loses the right to partial refunding of the expenses for organizing and funding electoral campaign that in compliance with this law is paid from the Budget of the Republic.
6. The electoral campaign organizer for the election of members of the representative and independent elected bodies of the local self-government that will spend more than 30% above the allowed amount of funds for the electoral campaign, loses the right to partial refunding of the expenses for organizing and funding electoral campaign that in compliance with this law is paid from the budget of the local self-government.
7. The political party within a year loses the right to receive funds from the Budget of the Republic that are paid based on this law that regulates the funding of political parties if the organizer of their electoral campaign for the election of members in the Assembly and for the election of a President of the Republic spends more than 30% above the allowed amount of funds for an electoral campaign.
8. The political party in the local self government whose electoral campaign organizer for the election of members of the representative and independent elected bodies of the local self-government spends more than 30% above the allowed amount of funds for an electoral campaign, within a year loses the funds that are paid from the budget of the local self-government based on the law that regulates the funding of the political parties.
9. The proceedings for establishing the reduction i.e. the loss of the right to funds from the Budget of the Republic or the budget of the local self-government are carried out by the State Election Commission after the audit report becomes final.

10. The party can initiate administrative proceeding against the decision from Paragraph (9). The appeal does not postpone the implementation of the decision.

VII. SANCTIONS

Article 26

Editor-in-chief of a media shall be a subject to a fine of EUR 350 if:

- s/he publishes a public opinion survey for a candidate or a referendum question and fails to publish the information from Article 5 Paragraph of this law;
- s/he publishes a public opinion survey within seven days before the voting (Paragraph 2 Article 5);
- s/he acts contrary to Paragraphs (4) and (5) of Article 6;
- s/he publishes a story without stating the client and the other conditions stated in Article 7.

Article 27

1. A fine of EUR 1,500 to 2,000 is imposed for an offense to:
 - a publisher, a medium that fails to implement or does not make public the rules or acts contrary to the published rules from Article 6 of this law or acts contrary to Paragraph 2 in Article 5 of this law;
 - a the publisher, a medium that will not state the information in compliance with Article 7 of this Law;
 - a legal entity, an independent entrepreneur or an individual businessman that acts contrary to Article 7 of this law.
1. A responsible legal entity shall be a subject to a fine of EUR 150 to 200 if it violets the previous paragraph.

Article 28

1. A religious community, state institution or another entity that provides public services shall be a subject to a fine of EUR 2,000 to EUR 4,000 if they act contrary to Article 4 of this law.
2. A responsible person of a religious community, state body, body of the local self-government, public institution or another entity that provides public services shall be a subject to a fine of EUR 1,000 to 2,000 if they act contrary to the previous paragraph.

Article 29

1. The electoral campaign organizer - a legal entity, independent entrepreneur or an individual businessman shall be a subject to a fine of EUR 10,000 to 15,000 if s/he fails to submit the report on the funding of the electoral campaign within the provisioned period (Article 12 and 13) or opens a transaction account late or not at all and all the funds for the electoral campaign are not collected on that account or does not pay for all the electoral campaign expenses from that account (Article 16) or the extra collected funds are not used for humanitarian goals (Article 22).
2. A responsible person who is the organiser shall be a subject to a fine of EUR 1,500 to 2,000 if s/he violates the previous paragraph.
3. The electoral campaign organizer – an individual who will violate the first paragraph of this law shall be a subject to a fine of EUR 400 to 1,200.

Article 30

1. The electoral campaign organizer – a legal entity, an independent entrepreneur or an individual businessman shall be a subject to a fine of EUR 7,000 to 12,500 if s/he in respect to the funding of an electoral campaign for the election of members of the Assembly or for the election of a President of the Republic exceeds the limitation from Article 23 of this law.

2. The electoral campaign organizer – a legal entity, an independent entrepreneur or an individual businessman shall be a subject to a fine of EUR 3,500 to 10,000 if s/he in respect to the funding of an electoral campaign for the election of members of the representative and independent elected bodies of the local self-government in the local community exceeds the limitation from Article 23 of this law.
3. The referendum campaign organizer – a legal entity, an independent entrepreneur or an individual businessman shall be a subject to a fine of EUR 3,500 to 10,000 if s/he exceeds the limitation from Article 23 of this law.
4. The responsible person-electoral campaign organizer – an individual who committed an offence regulated with this Article shall be a subject to a fine of EUR 700 to 1,000.

Article 31

1. The Public Revenue Office is competent for the implementation of the provisions from this law.
2. The institution from the previous paragraph can impose and fine for offences in compliance to this law, within the framework of the regulations prescribed by law.

VIII. TRANSITIONAL AND FINAL PROVISIONS

RATIONALE

On the draft provisions for improving transparency and supervision in funding of political and referendum campaigns.

The text is based on the analysis of the national and comparative law carried out within the framework of the project. The starting point for the drafting of this text are the recommendations that resulted from the three day discussions as part of the round table that was held in November 2009, at which a number of institutions took part: Ministry of Justice,

State Election Commission, Secretariat for European Affairs, Broadcasting Council, State Audit Office, State Commission for Preventing Corruption, the political parties VMRO-DPMNE, SDSM, NSDP, DPA and LDP, the NGO MOST, representatives of the media as well as representatives of the OSCE Spillover Monitor Mission and of the European Commission in the Republic of Macedonia.

At the round table a detailed analysis of the provisions of the Law on the Political Parties and the Electoral Code, as well as of certain provisions in the Law on Broadcasting was done and opinions and specific proposals were presented regarding transparency and supervision in the funding of the political parties. For the drafting of the recommendations the ODIHR recommendations and the Council of Europe Recommendation REC(2003)4 on the on common rules against corruption in the funding of political parties and electoral campaigns and – in general – the Guiding Principle 15 (funding of political parties and campaigns) were also taken into consideration.

Furthermore, the Working Group had also in mind the recommendations for amending the Electoral Code and the Law on Broadcasting drafted by the Broadcasting Council as well as of the Law on Referendum. These proposals are related to the previous amendments to the Electoral Code that changed the way in which certain aspects related to the media presentation during the electoral campaign were regulated, which is the reason for the proposal to delete the provisions in the Law on Broadcasting related to the old legal provisions that are now contrary to the current Electoral Code. In order to ensure consistency of the electoral regulations the following changes need to be done:

- VI. Programme Standards – Article 80 from the Law on Broadcasting is deleted;
- VII. Advertising, TV-shopping and sponsorship - Article 95 from the Law on Broadcasting is deleted;
- IX. Public broadcaster – Indent 8 from Article 121 Paragraph 1 from the Law on Broadcasting is deleted;
- XVI. Penal provisions – In Article 166 Paragraph 1 from the Law on Broadcasting subparagraphs 23), 24), 25) and 33) are deleted;

Apart from that the Broadcasting Council believes that some other amendments need to be introduced to the Electoral Code, (Official Gazette of the Republic of Macedonia No. 40/2006, 136/2008 and 148/2008), in Chapter VI. ELECTORAL CAMPAIGNS AND ELECTORAL CAMPAIGN FUNDING where paragraphs 2 and 3 in Article 74 should be merged. This recommendation is supported with the following arguments:

“At the previous presidential and local elections the Broadcasting Council applied the Electoral Code and its obligation to monitor the electoral media presentation from the day of the announcement of the elections until the end of the voting on the day of the elections to the letter and for all the violations of the Code initiated misdemeanour proceedings against the broadcasters. However, the Council was faced with a problem in the court proceedings after its requests for initiating misdemeanour proceedings for the violations during the period that started with the announcement of the elections until the beginning of the electoral campaign, i.e. regarding the electoral media presentation before the official beginning of the electoral campaign. Some of the courts ruled in favour of the Council and others ruled in favour of the defendants and dropped the charges against them with an explanation that there were no grounds for misdemeanour in the cases of media presentation before the confirmation and publishing of the list of candidates by the State Election Commission, the municipal election commissions and the city of Skopje Election Commission. After the announcement of the first misdemeanour proceedings by the Council for premature electoral media presentation, contrary to the provisions in the Code, the media also intensively reported the statements by legal experts who claimed that one cannot speak about electoral media presentation of the political parties and candidates until the competent bodies confirm the lists of candidates. A solution for this problem needs to be found, otherwise the whole idea about prohibiting electoral media presentation from the day of the announcement of the elections until the day of the official start of the electoral campaign as well as the new obligation for the Council to monitor that period has no sense. *If there is no solution, we propose thinking about deleting the prohibition for electoral media presentation from the day of the announcement of the elections until the day of the start of the electoral campaign and to go back to the*

old legal provision with rules only for the period of the electoral campaign and the electoral silence. “

Additionally, it was proposed for Article 75 from the Electoral Code to be amended regulating the obligation of the Broadcasting Council to adopt a **Code of Conduct for the Broadcasters** for the period before the beginning of the electoral campaign and a Book of Regulations for an equitable access to the media presentation during the electoral campaign. It was proposed for a new Article 75 to be introduced that would regulate precisely the additional time for advertising, the pricelists and their publishing as well as the treatment of all the participants in the electoral process. Furthermore, it was proposed to amend Article 76 and to introduce a new Article 76-a according to which the Public Broadcasting Service would be obligated in cooperation with the State Election Commission to inform the citizens free of charge about the way and the technique of voting and to broadcast other information related to the election process. Moreover, during the electoral campaign, the Public Broadcaster would be obligated to broadcast political presentation of the participants in the election process free of charge in compliance with the principles established in the Book of Regulations for equitable access to the media presentation during the electoral campaign. In addition, it proposes amending of Paragraph 5 of Article 83-a which should read: (5) The discounts that the broadcasters and the printed media give for the paid political advertising of the participants in the electoral campaign will be considered donations expressed in monetary value. The amount of the donation should not be higher than EUR 20,000.00 in a MKD counter-value. The types of donations established in Article 83-a, Paragraph (1), indents 1 and 2 do not apply to the broadcasters and printed media.

The Broadcasting Council also proposes amendments in the provisions that refer to the **elections monitoring** or more specifically in Article 162 to add a new paragraph, Paragraph (5) which should read: (5) In the course of the election process and the activities related to its monitoring, by means of press-conferences, communiqués and other forms of informing only the organizations and the people from Article 161 of this Code that are authorized by the State Election Commission to monitor could be informed.

The Broadcasting Council believes that a shortcoming of the **Code is that it regulates the rules of conduct of the printed media, but it does not envisage a possibility for their sanctioning** if the rules are not respected.

Having in mind that in the Republic of Macedonia there is no regulatory body for the printed media we believe that the State Election Commission should be authorised to also monitor the media presentation in the printed media and to initiate misdemeanour proceedings after establishing the violations. In this way all the media will be in an equal position. For the broadcaster there will be still more detailed rules which are justified having in mind their influence, but at least the general principles will apply equally to all. A possible solution would be to add in Article 74 a new Paragraph 3 which will establish that the SEC is competent to monitor the electoral media presentation from the day of the announcement of the elections till the day when the elections are held and to initiate misdemeanour proceedings for detected irregularities in the printed media. In addition a sanction should also be envisaged for the broadcasters, if they exceed the allowed amount for a donation (Article 83-a Paragraph (5)) and for the broadcasters and the printed media if they fail to submit financial reports for the advertising space used by the electoral campaign organizers (Article 85-a).

Apart from this the working group took on a position that an equitable access to the media should be ensured for all the participants in the electoral campaign, as well as to define the ownership relation with the media and to establish their independence.

The representative of the State Audit Office (SAO) submitted an elaborated suggestion along with this draft text of the legal provisions that refer to the regulation of **transparency, supervision and accountability** of the electoral and referendum campaigns; harmonisation of the provisions in Article 83 from the Electoral Code by adding to the total value of the donations also those donations or advantages received from the broadcasters and the printed media; regulating the possibility from Article 83 regarding the funding of the campaign from the account of a political party by introducing an obligation for those funds to be transferred to the temporary account opened for the funding of the campaign; harmonizing of Article

85 Paragraph 1, Article 71 Paragraph 6 and Article 86 in regard to the obligation to submit a financial statement on the electoral campaign and the obligation to close the accounts for the electoral campaigns, related to the payment of funds from the budget as well as the provisions from the Articles 85 and 85-b that should precisely establish which are the bodies that have the competence and legal obligation to process the findings, and the conclusion pointed out in the audit reports.

Apart from the above state amendments, the basic elements to which the recommendations for amending of the legal provisions in this sphere refer to are related to the **transparency in funding** the electoral campaigns for a duration that will encompass a longer period of time, meaning prolonging the period of monitoring to 45 days before the voting. In doing so provisions are proposed in the sense of more precise incorporating, comprehensive recording and assessing the spending in the course of the electoral campaigns.

The draft contains also proposals for changes in the Electoral Code that will ensure **preventing the circumventing of the top limit rules for the donations**. For this purpose it is proposed for the goods and services that are provided to the electoral campaigns with discount to be properly identified and calculated according to the market value as donations. In this sense it is recommended to introduce a system of linked legal entities and natural persons so that the financial activities of the legal entities and the natural persons that are directly or indirectly linked to the organizers of the electoral campaigns or the political parties and their accounts to be properly incorporated in the accounts of the political parties.

This framework should also ensure: control of the funds spent by the political parties in the six (6) months period before the elections are held and taken from their regular accounts; audit of the donations to the political parties by the State Audit Office; detailed and public list and overview of the donors and measurability of the donation (no anonymous donors); regulating the competence of the State Election Commission (SEC) regarding the initiating and carrying out of misdemeanour proceedings and imposing misdemeanour sanctions; also amending of Article 87 from the Law on Financing of Political Parties regarding the deadline for submitting the financial statements that refer to the electoral campaign by the political parties.

In regard to the supervision and the independent control of the regular funding of the political parties, and if necessary extended control of the affiliated entities and funding of the electoral campaigns, the overall competence should be concentrated in the hands of the **State Audit Office** by giving this institution apart from the possibility to audit and control, also an ability to impose sanctions (limitation of the payment of funds per voter if the rules are not respected) and other sanctions. Additionally, the competence for implementing the provisions proposed in this draft should be shared with the **Public Revenue Office** which should act strictly within the framework of its current competences. In this way an essential complementarity among the institutions competent for the supervision will be achieved and a real efficient supervision of the funding of the electoral campaigns will be established, instead of the existing dispersed and absolutely inefficient implementation of this control. With this concept the **State Election Commission** will have a mandate to verify the decisions of the SAO.

The proposed system of sanctions should prevent a certain political party or a political campaign organizer from acquiring the right to get funds that are by law recognised as budget funds and which are paid out after the end of the electoral campaign, the verification of the mandates and the summing up of the votes.

The real challenge with this type of reform in the electoral legislation is to establish the time when the electoral campaign starts and to define the terms. There is a need in the Electoral Code to establish a definition of the terms: “**early start of the electoral campaign**”, “**person responsible for carrying out the electoral campaign**”, “**pre-electoral campaign**”, i.e. the time when the electoral campaign has not started, yet, but certain party activities are underway as well as to establish the time when the “pre-electoral campaign” started.

When analyzing the electoral process regulated with the Electoral Code the working group that worked on this Draft came to the conclusion that: after the announcing of the elections the parties need few days to consolidate and to decide how they will participate in the elections. Apart from that in order to expand the period of monitoring, supervision and audit of the campaign activities the optimum deadline for submitting to the State Election Commission a separate bank account for the campaign

and the person responsible for the funding of the electoral campaign is **45 days before the elections**. This would be a preclusive deadline that would apply for all the participants in the elections, both the political parties and individuals. Unless the required information is submitted one cannot participate in the electoral process. The period “before the campaign” will last for 25 days, i.e. the official electoral campaign will start 20 days before the elections.

The persons responsible are obligated to draft a report on the spending of the money from the separate account within six months after the end of the elections.

MUTUAL INTERCONNECTION OF THE SOLUTIONS CONTAINED IN THE PROPOSED PROVISIONS

These proposals are interconnected with a number of laws that regulate the electoral legislation, including the Electoral Code, the Law on Broadcasting, the Law on Referendum and the Law on Financing of Political Parties as well as the Law on State Audit.

THE CONSEQUENCES FROM THE PROPOSED SOLUTIONS

With the proposed solution we reaffirm our determination to contribute to the process of creating conditions for fair and democratic elections and especially for much more precise legal regulation in the area of funding the electoral campaigns as a precondition for reducing the possibilities for creating illegal and corruptive debtor-creditor relations in the area of political activities.

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