

Ministry of Government Administration, Reform and Church Affairs

Prop. 140 L

(2011–2012)

Proposition to the Storting (Bill)

Amendments to the Political Parties Act

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Amendments to the Political Parties Act

*Recommendation given by the Ministry of Government Administration, Reform and Church Affairs on 22 June 2012 and approved by the Council of State on the same day.
(Stoltenberg II Government)*

1 Main contents of the proposition

In this proposition the Ministry of Government Administration, Reform and Church Affairs proposes legislative amendments that are to facilitate greater transparency and control of the funding of political parties in order to follow the recommendations of the Council of Europe represented by GRECO to Norway. It has been proposed that the obligation to submit annual income accounts be expanded to encompass complete accounts, and that a special obligation to report gifts over a threshold value received during an election campaign be introduced. In addition, it has been proposed that special independence and rotation requirements for whomever audits the accounts of a political party be introduced and that the Political Parties Act Committee be entitled to verify the information reported. It has been proposed that a greater range of sanctions be introduced for violations of the provisions of the Political Parties Act. This applies primarily to administrative sanctions. However, the proposal also includes a provision of punishment, in the form of fines or a maximum of two years of imprisonment for material or repeated violations of the law.

2 Background to the statutory proposal

2.1 Introduction

The Council of Europe represented by GRECO (Group of States against Corruption) evaluated Norway in the autumn of 2008. The associated report was debated at GRECO's plenary meeting in Strasbourg in February 2009. GRECO prepared a follow-up report on Norway in March 2011.

2.1.1 Ministry's follow-up

At the plenary meeting of 16 February 2009, GRECO made the following recommendations to Norway under Theme II Transparency of party funding.

1. *i) that the party organisations be instructed to present annual reports on expenditure in addition to the current scheme involving income accounts, ii) that the party organisations are obliged to submit appropriate information on assets and liabilities, iii) that a standardised form be established (with associated guidelines, if required) for the preparation of this information.*
2. *that further guidelines be prepared concerning the reporting of non-monetary gifts, in addition to the concept of "political agreements", which are required to be reported under the Political Parties Act.*
3. *that it be considered to introduce a duty to report received income and incurred expenditure in connection with election campaigns.*
4. *that clear rules be established to ensure the necessary independence of auditors who are to audit the accounts of the political parties.*
5. *that appropriate, independent monitoring of political funding, including election campaigns, be provided in accordance with article 14 of Rec(2003)4.*
6. *that appropriate (flexible) sanctions be introduced for all infractions of the Political Parties Act, in addition to the current range of sanctions.*

The proposed amendments to the Political Parties Act are based on a consultation memorandum of 17 November 2010, which was sent to more than 700 bodies with a deadline of three months for the submission of comments. The proposal has been prepared in consultation with the professional environments affected, notably the Ministry of Finance, the Ministry of Justice and the Police, the Ministry of Local Government and Regional Development, the Ministry of Trade and Industry, the Political Parties Act Committee, represented by its chair, the Register of Political Parties (Brønnøysund Register Centre), Statistics Norway (SSB) and the Sogn og Fjordane County Governor. The objective has been to formulate draft legislation that meets GRECO's minimum standard in the areas where Norway has been challenged, while at the same time maintaining the Party Funding Committee's proposal in NOU 2004: 25 *Penger teller, men stemmer avgjør* (Money counts, but votes decide) as far as possible.

The draft legislation was evaluated by GRECO at a plenary meeting on 30 March 2011 and the following was adopted:

"With regard to the scrutiny of political party funding, GRECO welcomes the steps that have been taken in the direction of implementation of the recommendations. This refers to the formulation of a consultation letter concerning proposals for amendments to the Political Parties Act, including an

extensive consultation memorandum that describes the amendment proposals (which have been distributed for consultative comments). If the amendment proposals are adopted as foreseen, this will provide, for example, a statutory basis for verification of the political parties' finances in accordance with article 14 of the Recommendation Rec(2003)4, a more flexible sanction scheme, in addition to the disclosure requirements with regard to expenditures, assets and liabilities, as well as special contributions received in connection with election campaigns. GRECO praises the Norwegian authorities for their initiatives to date, which can make it possible to fulfil GRECO's recommendations in a suitable manner. In light of what has been stated in paragraphs 44 and 45, GRECO notes that Norway has managed to demonstrate that major reforms are underway, with the potential to achieve an acceptable level for fulfilment of the remaining recommendations during the coming 18 months. GRECO requests that the head of Norway's delegation submit additional information on the implementation of recommendations i, iv, v and vi (Topic II – Inspection of Political Party Funding) no later than 31 October 2012..”

GRECO finds that recommendations i and iii have been implemented satisfactorily with reference to the guidelines stipulated by the Ministry of Government Administration, Reform and Church Affairs and published on www.partifinansiering.no, plus the discussion of greater scrutiny of election campaign contributions in the aforementioned consultation memorandum. The other four recommendations – i, iv, v and vi concerning complete accounts, independent political party auditors, monitoring and control, plus flexible sanctions are regarded as "partially implemented". A Norwegian translation of the report can be found here:

http://www.regjeringen.no/upload/FAD/Vedlegg/Partifinansiering/GRECO_oppfolgingsrapport_no.pdf

To follow up GRECO's report of 16 February 2009 completely, the Ministry hereby presents a proposal for how the four remaining recommendations can be implemented in the Political Parties Act. The proposal to amend the Act also encompasses further follow-up of recommendation iii with regard to gifts received during election campaigns. The OSCE/ODIHR's recommendation to Norway in connection with election campaigns is also discussed. In addition, certain other amendments to the Political Parties Act are proposed.

The Ministry finds that the consultative proposal of 17 November 2010 essentially fulfils all six of GRECO's recommendations. Making the proposed amendments to the Act legally enforceable remains for recommendations i, iv, v and vi. The Ministry is therefore maintaining the main points of the consultative proposal in this proposition. Comments and input received during the consultation round indicate nevertheless that certain adjustments and additions should be made to the proposal.

2.1.2 About GRECO's work with party and candidate funding

Norway has signed and ratified without reservation both the conventions that the Council of Europe prepared against corruption during the period from 1997 to 2004. Norway has been a member of the Council of Europe's anti-corruption body, GRECO, since 2001. All 47 countries in the Council of Europe

are members of GRECO. In addition, the USA and Belarus participate in this cooperation, making 49 the total current number of members. The member countries participating in mutual evaluation procedures and loyally observing the recommendations made by a plenary meeting of GRECO is a prerequisite for GRECO's work.

In January 2007 GRECO initiated its third evaluation round, which entailed an evaluation of the party and candidate funding in the member countries based on the Committee of Ministers' recommendation Rec(2003)4 "On common rules against corruption in the funding of political parties and election campaigns". The work that entailed a new era in international anti-corruption work began with GRECO's evaluation visit to Finland in June 2007.

A corresponding evaluation visit will be made to all of the member countries by the end of 2012. GRECO's third evaluation round has thus been the start of coordinated and harmonised efforts among the countries participating in the Council of Europe, USA and Belarus to strengthen the legislation with respect to party and candidate funding with the aim of greater scrutiny and control in accordance with the Committee of Ministers' recommendation Rec(2003)4.

2.1.3 How free is each individual country with regard to following up the recommendations?

The Council of Europe's conventions are binding under international law on the countries that have ratified them. Recommendations from the Committee of Ministers are of an advisory nature and not legally binding in the same manner as articles in the convention. In practice, however, a great deal of emphasis will be placed on such recommendations due to political and other considerations. It is expected in particular that this applies to recommendations concerning party and candidate funding, which is an area of the law with greater international focus from organisations, the media and the general public. The United Nations, European Union, OSCE/ODIHR, OECD and Transparency International are following the results of GRECO's work and noting which countries are not living up to GRECO's standard. The United Nations and OECD have observer status in GRECO. In addition, special membership for the European Union is being negotiated.

In addition, there are possible direct sanctions that GRECO can implement in the form of political pressure, public statements on countries, exclusion of members, etc. In other words, membership in GRECO requires that the countries accept and participate in the monitoring procedures and observe, in particular, the recommendations from GRECO.

It is the Ministry's impression that GRECO has adopted a strict enforcement of the relevant articles in the Committee of Ministers' recommendation Rec(2003)4. GRECO's aim has been to establish fixed standards, and it has only allowed individual adaptations for the member countries to a limited extent, based on history, political traditions, corruption scandals, etc.

GRECO has essentially set a deadline of 18 months for implementation of the recommendations. Because political party funding is a complex area that generally involves a broad range of considerations and branch of the law, GRECO has seen a need to divide the follow-up into two rounds of 18 months.

Specifically, this entails that each country will be evaluated on the basis of the follow-up reports. The first follow-up report will focus on what the countries have done to implement the recommendations after 18 months. If it can be documented, for example, that there is specific draft legislation for the implementation, the conclusion may be "partial implementation" for the recommendations in question. In follow-up report no. 2 (published a year and a half later), GRECO requires that the country has implemented each individual recommendation and made it legally enforceable in order for the conclusion to be "satisfactorily implemented". If not, then the final conclusion may be that the country does not satisfy GRECO's standards (in full or in part). As mentioned above, GRECO may implement measures against the member country in such cases.

2.1.4 Norway's approach to the Committee of Ministers' recommendation Rec(2003)4

An evaluation of recommendation Rec(2003)4 "On common rules against corruption in the funding of political parties and election campaigns" was part of the mandate of the Party Funding Committee, cf. NOU 2004:25 *Penger teller, men stemmer avgjør* (Money counts, but votes decide). The committee was appointed in 2003 based on two requests resolved by the Storting that were submitted to the Government concerning the funding of democracy and public disclosure with regard to the funding of political parties. The mandate can be summed up by these points:

- Survey the funding of democracy (both at the time and in future)
- Evaluate the desired degree of transparency/scrutiny, including greater scrutiny in accordance with the request resolved by the Storting
- Survey the international law framework for national legislation
- Evaluate the Council of Europe's recommendation Rec(2003)4

An evaluation of the Committee of Ministers' recommendation Rec(2003)4 was not part of the request resolved by the Storting, but was added to the mandate by the Ministry in order to ensure that the draft legislation also took into consideration the common standard that the Committee of Ministers recently agreed upon and Norway acceded to. The Ministry found that Rec(2003)4 entailed strict requirements with regard to the transparency of the funding of political parties and restrictions on who could support parties. It was therefore determined that a complete implementation of the recommendation in certain areas would require stricter and more extensive legislation than the legislative amendments that the Family, Culture and Administrative Committee had outlined and proposed in Recommendation no 28 (2002–2003) to the Odelsting, cf. also page 7 in Proposition no. 84 (2004–2005) to the Odelsting.

The Ministry's view of the importance of Rec(2003)4 is as follows, cf. page 9 of the proposition:

"The recommendation is not binding on the states, but the committee should nevertheless evaluate how the recommendations made in the recommendation can best be safeguarded by Norwegian law without being in conflict with articles 10 and 11 of the European Convention on Human Rights and Norwegian political traditions".

The view of the committee with regard to what emphasis should be placed on Rec(2003)4 is evident from NOU 2004: 25 paragraph 5.3.3:

"(...) The wording of the recommendation is (then) also relatively "open". It is recommended that the member states adopt rules against corruption "inspired by" the common rules "provided the states do not already have special laws, procedures or systems that offer effective and well-functioning alternatives". Many of the recommendations are also moderate in the sense that they encourage the states to consider, evaluate, etc.

In the opinion of the committee, the recommendation goes further in proposing regulations than what is considered necessary or desirable in Norway. The political parties are part of the very foundation of a democracy. Rules that apply to the political parties entail regulation of the actual core of a country's form of government. The committee therefore finds that it must be acceptable to place emphasis on individual historical and political traditions when rules are to be adopted that apply in particular to the political parties. The political tradition in Norway and the rest of Scandinavia is to subject the political parties and their internal matters to relatively few regulations. The parties are free and independent, and their activities shall not be controlled by the state.

In some European countries, there have been serious scandals as a result of corruption in connection with the funding of political parties. Circumstances like this appear to be an underlying prerequisite for the recommendation.

The committee sees that the problem is important and recognises the need for regulations with such aims. The committee finds nevertheless that it is difficult to justify the introduction of regulations that are of a so detailed and extensive nature as recommended by the Council of Europe."

The Ministry makes reference to the fact that the Party Funding Committee's report was published a year and a half before GRECO started its follow-up work to contribute to adaptation of the legislation in the member countries to the Committee of Ministers' Rec(2003)4. At the point in time when the committee evaluated the recommendation, there were no clarifications within the Council of Europe with regard to how the recommendations from the Committee of Ministers were to be followed up and how strictly they should be practised. The Ministry finds after the fact that GRECO practises in general Rec(2003)4 stricter than what appears to be in accordance with the prerequisites of the Party Funding Committee. In addition, the Ministry makes reference to the following:

Through the Political Parties Act, the Storting has in certain areas adopted more extensive scrutiny than the minimum requirements that Rec(2003)4 entails. Internationally, the Norwegian system is unique since it allows scrutiny of the funding of party branches at all organisational levels (decentralised model), including political youth organisations. The obligation in section 21, second paragraph to disclose political and commercial agreements with contributors for the purpose of revealing any ties between the parties and private interests are also an area in which Norway goes further than the international standard. GRECO's proposal to Norway is based on the funding, scrutiny and control model that the Storting has adopted through the Political Parties Act. Even if the Norwegian model is based on – and goes further than the minimum requirements in Rec(2003)4 in certain instances, this is not

considered any impediment to GRECO requesting that Norway develop further or make other parts of the Act stricter, provided this is within the evaluation mandate.

The Ministry points out that GRECO's recommendations only apply to the funding of political parties, in addition to the information that the parties report to the authorities of direct relevance to the funding being correct. Beyond this, Rec(2003)4 does not provide any grounds for scrutiny or control of the inner life of the parties or influencing their independence or free status. It would accordingly be difficult to say that a system that ensures that the statutory information disclosed by the parties to the public authorities is correct and that the funding of political activities is from legal sources would be in conflict with or negative for the democratic system.

Norway has already obtained acceptance for national considerations during a round of negotiations with GRECO, and as a result of this the number of recommendations has been reduced in relation to the original proposal from GRECO's evaluation team.

GRECO's third evaluation round entails that countries will be assessed in relation to a selection of articles in Rec(2003)4. The Party Funding Committee evaluated a complete implementation of the recommendation. Several of the areas where the committee did not find any grounds for incorporation into Norwegian law, have not been a topic of GRECO's evaluation either.

The Ministry therefore concludes that the recommendations of the Party Funding Committee in NOU 2004:25, which were followed up by the Government in Proposition no. 84 (2004–2005) On the Act on certain aspects relating to the political parties (Political Parties Act), was a first step in the direction of bringing the Norwegian party funding regulations in accordance with the Committee of Ministers' Rec(2003)4. Adoption of the current draft legislation, which is based on GRECO's evaluation report (2009) and the follow-up report (2011) will entail that the Norwegian regulations fully satisfy GRECO's standards.

2.1.5 About Norway's international anti-corruption work

Norway has been evaluated by GRECO in both of the previous evaluation rounds (2002 and 2004, respectively). The conclusion at GRECO's plenary meeting in October 2007 was that Norway was the first member country to implement all of the recommended measures against corruption in a satisfactory manner. Norway also has a good reputation in GRECO's evaluation work through participation in a number of country visits in the previous and current evaluation rounds – both within Theme I Incriminations and Theme II Transparency of party funding.

The Ministry makes reference to broad political support that Norway shall show zero tolerance towards corruption, which is reiterated in a number of white papers and propositions. Norway has accordingly also supported a project in Macedonia (formerly the Republic of Yugoslavia) for new election legislation

under the direction of Transparency International, in which the Ministry has participated together with the political parties, authorities and academic environments.

The Ministry finds that Norway's active role in the GRECO cooperation shall continue. And as a consequence of this, the recommendations we have received in the political party funding area shall be implemented in accordance with the evaluation report. In addition to good regulations against corruption being beneficial in themselves, Norway will be following up its membership in a clear and loyal manner by implementing GRECO's recommendations. This will contribute to us still being regarded as a trustworthy partner and promoter of international cooperation to counteract corruption.

2.1.6 OSCE/ODIHR's evaluation of the general elections in 2009

In June 2009, the Office for Democratic Institutions and Human Rights (OSCE/ODIHR) was invited to observe the general elections and Sami Parliament elections held on 14 September of the same year. In June 2009 OSCE/ODIHR sent a survey delegation to Oslo, which subsequently recommended election observers for the general elections. The delegation, which consisted of nine election experts from the same number of OECD member countries, was in Norway before and during the election. In addition to experts based in Oslo, the OSCE/ODIHR sent observer groups to several municipalities throughout the country.

The OSCE/ODIHR evaluated, for example, the funding of election campaigns in Norway, cf. chapter VII of the report:

"A report from 2009 from the "Group of States Against Corruption» (GRECO – Council of Europe's expert body against corruption), which evaluated how transparent political party funding in Norway was, recommended the reporting of income and expenditures during election campaigns, independent audits and the inclusion of appropriate sanctions for violation of the reporting requirements. The Ministry of Government Administration and Reform, which is responsible for the administration of the Political Parties Act, advised the OSCE/ODIHR's election observers that it supports GRECO's recommendations, and that it plans to submit a proposal to the Government in 2010 that includes all the proposals in the report, in addition to several other proposals. The political parties expressed in general support of the proposal to establish greater transparency with regard to election campaign funding, and expected that it would increase the people's confidence in the parties."

The OSCE/ODIHR has accordingly made the following recommendation to Norway on 27 September 2009:

"The Political Parties Act should be evaluated with a view to greater transparency concerning income and expenditures in connection with election campaigns through regular and independent audit reports."

3 Consultation round

On 17 November 2010 the Ministry sent a consultation letter and memorandum to more than 700 consultative bodies, which included proposals as to how GRECO's recommendations could be implemented. The deadline for comments was set at 17 February 2011, which was subsequently extended to 1 March 2011. The following bodies were requested to comment:

All the ministries and Office of the Prime Minister

All the county governors

All the county authorities

All the registered political parties (with a reporting obligation pursuant to sections 18 and 19 of the Political Parties Act)

Brønnøysund Register Centre (Register of Political Parties)

Norwegian Institute of Public Accountants

National Court Administration

Financial Supervisory Authority of Norway

Norwegian Association of Authorised Accountants (NARF)

Norwegian Union of Journalists

Norwegian Press Association

Association of Norwegian Editors

Norwegian Accounting Standards Board

Political Parties Act Committee, represented by its chair

Office of the Auditor General of Norway

Norwegian Media Authority

Statistics Norway (SSB)

Universities

All the documents in the case can be found here:

<http://www.regjeringen.no/nb/dep/fad/dok/horingar/horingsdokumenter/2010/horing-endringar-partiloven.html?id=624852>

The Ministry has received 32 consultative responses in this matter. A total of 20 of these were comments, including two joint statements. A total of 12 bodies did not submit any comments. All of the statements received have been considered. In the following, the comments have been quoted or summed up in connection with each individual amendment proposal.

A meeting has been held between the Ministry of Government Administration, Reform and Church Affairs, Ministry of Finance and Statistics Norway after the consultation round.

4 Summary

4.1 Follow-up of recommendation no. 1 – complete accounts

The recommendation entails that the reporting system in the Political Parties Act must be amended from encompassing only income accounts to the reporting of complete accounts that include expenditures, liabilities and assets. It is party branches that are currently submitting income accounts pursuant to section 18, first paragraph and section 19 of the current Political Parties Act that will be affected by the recommendation. Based on Statistics Norway's overview, this applies to 654 party branches, i.e. 20.3 per cent of the overall number of party branches and party units, which number around 3,228. The largest political party organisations are bound by rules in the Accounting Act in addition to the reporting requirements in the Political Parties Act. For these organisations, GRECO's recommendation will not entail any changes beyond a change in the accounting statements in order to satisfy the requirements in the Political Parties Act. In brief, the practical implication of recommendation no. 1 will be setting up the accounts that these parties already keep in accordance with the rules of the Accounting Act in another way. A total of 79.7 per cent of the party branches is subject to the simplification regime of section 18, third paragraph of the current Political Parties Act. These mainly consist of minor municipal branches, county youth organisations and some county branches, which would not be subject to the obligation to submit complete accounts in accordance with the proposal, for which submission of a simple declaration will still suffice (provided that total income during the financial year, excluding all public funding, does not exceed NOK 12,000).

The Ministry finds that the complete accounts requirement in the Political Parties Act must build on the accounting principles, standards and valuation rules, not to mention the simplification opportunities that already follow from the Accounting Act whenever suitable. This is to make the accounting as consistent, effective and user-friendly as possible. It is also relevant to stipulate the minimum requirements for bookkeeping and the storage of accounting material, including documentation. The complete accounts requirement and certain bookkeeping and storage rules will improve verification that the data reported is correct, both from public authorities and other financial account users. Statistics Norway (SSB) publishes the information at www.partifinansiering.no. It has been proposed to develop a web-based accounting module and the associated instructions and guidance that will make it simpler for

the party branches to satisfy the accounting and reporting obligations. Reference is made to the draft legislation in sections 5 and 9 below. With regard to standardised reporting forms, the Ministry finds that this will involve revising the electronic forms for income reporting and instructions that Statistics Norway has prepared. This part of recommendation no. 1 does not require any amendment to the regulations.

4.2 Follow-up of recommendation no. 2 – guidelines

The Ministry finds that this recommendation has been satisfied now through the establishment of detailed guidelines for non-monetary gifts and agreements with contributors. The guidelines have been published at www.partifinansiering.no.

4.3 Follow-up of recommendation no. 3 – scrutiny of election campaign funding

GRECO has formulated this recommendation as a "consider this", i.e. that Norway is not bound to follow up and that it will suffice if Norway acknowledges that the recommendation has been considered. This has also been done, and GRECO considered the recommendation to have been implemented satisfactorily. GRECO is nevertheless expecting further follow-up of the proposals in the consultation memorandum.

The OSCE/ODIHR's recommendation can on the other hand be said to go significantly further by recommending that the Political Parties Act should be evaluated "with a view to greater transparency concerning income and expenditures in connection with election campaigns through regular and independent audit reports."

In order to possibly follow up both of the recommendations further, the Ministry has used the following five alternatives as its point of departure. The following will be introduced:

1. No special reporting rules will be implemented in connection with election campaigns, or
2. A special obligation will be implemented in connection with election campaigns to provide regular reports of contributions received within a specific time interval, or
3. A general obligation will be implemented to regularly disclose the contributions received, regardless of whether it is an election year or not, within a defined time interval, or
4. A general obligation will be implemented to regularly notify of contributions received within a specific time interval and a special obligation be implemented to notify of all income prior to the day of the election, or
5. A special obligation will be implemented in connection with election campaigns to notify of all income and expenditures within a specific time interval. The reports are to be approved by an auditor.

"Contributions" are defined in the current section 19, third paragraph, cf. also the threshold values in section 20, first paragraph. It is assumed that the reporting obligations under alternatives 2, 3 and 4 are additional to the general annual reporting obligation in the current section 18, second and third paragraphs. To prevent possible circumvention of the rules, the obligations will apply to all party branches regardless of the organisational level.

Alternative 1 entails continuing the current system unchanged, but providing acknowledgement to GRECO that the matter has been considered. Alternative 2 entails that only contributions need be reported and made public during the election campaign, while election campaign expenditures and election campaign income should be reported as part of the ordinary annual report. In accordance with alternative 3, contributions are to be reported continuously as they are received, regardless of whether or not it is an election year. The difference between alternatives 2 and 3 is the fact that the alternatives 2 and 3 limit the obligation to provide regular reporting during a specified election campaign period, e.g. from 1 January to the election day, while alternative 3 entails that the obligation is made permanent. Alternative 4 entails that election campaign income other than contributions should also be reported prior to the election day.

The Ministry finds that each of the five alternatives would satisfy GRECO's recommendation. Only alternative 5 is regarded as satisfying a strict interpretation of the OSCE/ODIHR's recommendation.

No international standard exists for the time frame of election campaign reporting. The Ministry finds that all reportable matters before elections shall be made public before the election day. As a general rule, the Ministry proposes a deadline of four weeks for party branches to report contributions received to Statistics Norway. To ensure the publication of reportable matters on www.partifinansiering.no before an election, it has been proposed to set a final reporting deadline by the end of the Friday prior to the election for the last four weeks of the election campaign period.

On the basis of an overall assessment (where particular emphasis has been placed on utility and cost issues), where the main focus has been placed on GRECO's evaluations in its capacity as an international expert body on political party funding, the Ministry recommends that alternative 2 be chosen. The proposal is supported by a number of consultative bodies.

The Ministry supports strengthening the scrutiny of election campaign contributions in relation to the proposal in the consultation memorandum. A special limit has therefore been recommended for when the identity of the contributors behind the election campaign contributions shall be made public. It has been proposed that the limit be set at NOK 10,000, which corresponds to the Norwegian Labour Party's proposal.

4.4 Follow-up of recommendation no. 4 – independent auditors

The recommendation will only affect the parties' central organisations, i.e. 18 units that are subject to the requirement of auditor approval of their reports based on the current Political Parties Act. The Ministry proposes that a requirement stipulating that the same auditor can only be retained by the party for a period of up to eight years be introduced to the Political Parties Act, i.e. a rotation requirement that entails a genuine replacement of the auditor. Reappointment will therefore not be possible. It is a condition that the auditor who carries out auditing assignments for the party is not a member of the party at the same time. For auditing firms, this applies to the statutory auditor appointed.

4.5 Follow-up of recommendation no. 5 – monitoring of political funding

The Ministry believes that the recommendation can be incorporated by expanding the authority of the Political Parties Act Committee. If inadequate or incorrect reporting is suspected, it has been proposed that the committee shall be able to demand that the party branch submit all the documentation that has anything to say about matters that the committee finds to be of particular interest in the reported data. It is stressed that it has been proposed that this shall apply to individual issues with the reported data that the committee finds necessary to evaluate the legality of. However, the provision does not give the committee general access to accounting information or other documentation in the party branch. It has been proposed that both the right of access and scope of information shall be limited to individual issues.

In addition, it has been proposed to establish a support function under the committee, a Party Auditing Committee, which shall be able to verify the reported data at the committee's request. As part of the control assignment, the Party Auditing Committee shall be able to demand the submission of all the relevant accounting information, including invoices, vouchers, copy of agreements with the contributors, etc. The authority covers access to all issues necessary to control the audit assignment or reporting. The authority does not encompass control of political party auditors, since such control is under the authority of the Financial Supervisory Authority of Norway. The Party Auditing Committee shall be able to report matters of relevance to the political party funding to the Political Parties Act Committee, but it shall have a duty of confidentiality for all other matters. The Ministry finds that the party should have a real opportunity to address individual matters with the Political Parties Act Committee before the Party Auditing Committee may be called in. In addition, the Party Auditing Committee shall be required to provide routine control/guidance of the party or party unit with regard to accounting in a manner that is politically neutral. The Party Auditing Committee shall also be able to report matters of relevance to the political party funding to the Political Parties Act Committee in this context, but it shall have a duty of confidentiality for all other matters. In this connection, the Ministry has attached particular importance to the following:

- The audit of the political parties shall be limited to whether the transactions are legal in relation to the provisions and requirements of the Political Parties Act – not the appropriateness of the transactions.
- Due consideration is to be given to the autonomy and political latitude of the parties.
- Confidential information and matters that are internal to the entities that fall outside the purposes of supervision are not to be exposed to the committee or the general public.
- The audit powers are to be clearly defined, neutral, and not open to political abuse.
- Supervision/control is to be effective and not involve any unnecessary use of resources or bureaucracy by the authorities or parties.
- Supervision/control should not give rise to role conflicts in the public sector.

4.6 Follow-up of recommendation no. 6 – more flexible sanctions

The Ministry proposes that the Political Parties Act Committee's authority in section 24, second paragraph, letter b of the current Act to withhold political party funding be expanded to apply also to portions of the funding. In accordance with the proposal, any infraction of the provisions of the Act of relevance to the political party funding could be sanctioned by the committee. It has been proposed that administrative sanctions, such as a formal warning, full or partial loss of public support and administrative confiscation (the latter in connection with illegal contributions received in accordance with section 17 of the current Act) should be founded on the Political Parties Act. It has been proposed to establish guidelines in the Act for how judgement should be exercised. Based on Proposition no. 90 (2003-2004) to the Odelsting (General Civil Penal Code) and NOU 2003: 15 *Fra bot til bedring* (From penance to improvement), the Ministry discussed whether a penal provision should be incorporated into the Act. It has been proposed to incorporate a penal provision, in the form of fines or a maximum of two years of imprisonment, for material or repeated violations of the provisions of the Political Parties Act. The Ministry finds that punishment should be reserved for the most serious violations of the law.

In the extension of GRECO's recommendations, the Ministry proposes two measures to prevent circumvention of the regulations:

- Authority in the regulations to impose an obligation on candidates who have won representation to report contributions pursuant to the current section 19, third and fourth paragraphs, during the election campaign in accordance with the same rules as for political parties. This reporting may also be performed as part of the party's or party unit's ordinary annual report.
- That contributions pursuant to section 19, third and fourth paragraphs, given to entities or enterprises that are controlled in full or in part by political parties or party units, including party branches abroad, shall be reported in accordance with the same rules and as part of the party unit's report.

GRECO is looking forward to both of the amendment proposals above.

In addition, the Ministry proposes that all of the threshold values in the Act be adjusted in accordance with the rate of inflation since the current Act entered into force (1 January 2005) and that the provisions relating to illegal contributions be made clearer. In addition, rules that strengthen the system's security are proposed. These rules must prevent party funding from falling into the wrong hands and false reports being made on behalf of the party or party branch.

5 Incorporation of the recommendations

In the following the main points of the consultative proposal of 17 November 2010 concerning how the recommendations from GRECO can be implemented will be described. The consultation memorandum is based on the Ministry of Government Administration, Reform and Church Affairs' experience from GRECO's third evaluation round, where the Ministry has participated in the Norwegian delegation and in the evaluation work related to the funding of political parties and candidates in the member states since 1 January 2007. The evaluations are also based on input from the relevant professional environments in this matter, as well as the evaluations of the Party Funding Committee in NOU 2004: 25. As mentioned in chapter 2 above, GRECO evaluated the consultative proposal as a response to all six recommendations in March 2011.

In addition to the above, the Ministry's proposals for amendments to the Political Parties Act have been presented in this proposition, based on input from the consultation round. Reference has been made to the comments of the consultative bodies in connection with each individual proposal below. Based on the consultation process and subsequent meeting, the Ministry has studied the need for the proposal of some new measures, in order to improve the system's level of security, for example. A provision has therefore been proposed that ensures that communication between the public authorities and party branches takes place through persons that have been authorised for this purpose by the party branch. This is to ensure that public political party funding does not go astray and that false reports are not made on behalf of the party branch.

5.1 Recommendation no. 1 – expenditure accounts (i), liabilities/assets (ii), standardised forms (iii)

GRECO recommends:

i) that the party organisations be required to submit annual reports on expenditures, in addition to the current scheme involving income accounts, ii) that the party organisations are obligated to submit appropriate information on assets and liabilities, iii) that a standardised form be established (with the associated guidelines, if required) for the preparation of this information.

5.1.1 Follow-up

The Ministry assumes that a complete implementation of recommendation no. 1 would require amendments to chapter 4 of the Political Parties Act.

5.1.2 GRECO on expenditure accounts

It follows explicitly from GRECO's recommendations that the current income reporting system provided in sections 18 and 19 must be expanded to include annual expenditure accounts in addition to balance sheet information. This will be done, for example, in order to verify how correct the income reporting is. It is evident from paragraph 79 of GRECO's report that the simplification rule in section 18, third paragraph of the Political Parties Act may nonetheless be made to apply to expenditure accounts¹. It is sufficient for GRECO that an expanded reporting obligation be imposed on party branches with total income and expenditures exceeding a certain amount, in excess of NOK 10,000 after deductions for all public funding pursuant to the current Political Parties Act income (amendment to NOK 12,000 proposed in the proposition). In other words, it is not GRECO's intention that this recommendation in itself shall entail any changes for the smallest party branches.

GRECO does not discuss the degree of detail of the expenditure accounts other than emphasising that in a system that is so generous in terms of political party funding as the Norwegian, the general public is fully entitled to know how the political parties use taxpayers' funds, in particular to ascertain that public funds are not being used for personal gain.² The degree of detail is also not evident from Rec(2003)4, articles 11 and 13b. In accordance with article 11, the states ought to "require political parties and the entities associated with political parties to keep proper books and accounts" and art 13 b - "States should require that political parties regularly, and at least annually, make public the accounts referred to in article 11 or as a minimum a summary of those accounts, including the information required in article 10, as appropriate, and in article 12". Article 10 relating to records of expenditure provides that "states should require particular records to be kept of all expenditure, direct and indirect, on electoral campaigns in respect of each political party, each list of candidates and each candidate".

Seen in the context of recommendations no. 3 and 5, however, it is clear that expenditure in connection with electoral campaigns must be included. This will be discussed in further detail below.

¹ "The GET is aware that in the absence of a requirement on the central party organisation to consolidate its accounts to include the accounts of local and regional party units (which are under a separate obligation to report their income), it may be too much of an administrative burden on small parties and party units to report on their expenditure, assets and debts. In this regard, it would be appropriate if a requirement to report expenditure were applicable only to those parties and party units already required to report their annual income. Similarly, for the sake of transparency, it could suffice that debts and assets only be reported in as far as they – for example – have a value above a certain threshold".

² The GET finds that, above all, in a system in which such generous public funding is provided to political parties, the general public has every right to know how the parties spent their tax money, in particular to see that public funds are not used for personal gain. Reporting on expenditure will, furthermore, help provide a clearer picture as regards the accuracy of the reported income and can also assist political parties by reflecting more accurately their actual or net income.

5.1.3 International experience with expenditure accounts

It is evident from the evaluation reports from GRECO that there is a great deal of variation between the countries with regard to how detailed the expenditure side of the political parties' accounts are. In countries with rules on expenditure ceilings, such as election campaign expenditures, or where there are conditions linked to how much or for what purpose the parties can use public funding, the accounting template is designed in general so that it is possible to check whether the parties have observed the rules. This is the case, for example, in Finland and Denmark, where it is verified whether the public funding is used only for political party work. Spain has a political party funding system that is somewhat similar to the Norwegian system. In Spain the parties' expenditure accounts shall be specified by the following items:

- personnel expenses
- procurement of goods and services
- financial expenses linked to loans
- expenses linked to political party activities
- other administrative expenses

Bullet point 1 covers important matters that GRECO has addressed in the Norwegian report – such as how much of the party's expenditures are related to political camps and employees of the party. The ratio between expenditures for political party activities and the total funds used will give the financial account users information on the party branch's relative use of funds on political party work during the year.

GRECO focuses on the parties' loans and loan agreements. In some countries, the parties have taken out loans in connection with expensive electoral campaigns, for example, which can create special ties to the lender. This has also proven to be an area in which major, concealed contributions to the parties are being made, either by the loan carrying an artificially low interest rate (interest subsidies) or the loan being written off after a certain period of time. Loan forgiveness does not automatically appear as a contribution to the party in the annual reports, i.e. the identity of the lender is not made known to the public, even if the amount of forgiven loans is recognised as income in the accounts.

5.1.4 What party branches does recommendation no. 1 affect

It is essentially party units that are currently submitting income accounts pursuant to section 18, first paragraph and section 19 of the current Political Parties Act that will be affected by the recommendation. According to Statistics Norway's most recent overview, this concerns around 654 party branches, i.e. approximately 20.3 per cent of a total of around 3,228 party branches/units. A total of 79.7 per cent of the party branches is subject to the simplification regime of section 18, third paragraph of the current Political Parties Act. These mainly consist of minor municipal branches, county youth organisations and some county branches, which would not be subject to the obligation to submit complete accounts in accordance with the proposal, and for which submission of a simple declaration

will still suffice (provided that total income during the accounting year, excluding all public funding, does not exceed NOK 12,000).

5.1.5 Accounting obligation for political parties

5.1.5.1 Brief account of the relationship between the Accounting Act and Political Parties Act

GRECO's recommendation entails that the reporting system in the Political Parties Act must be expanded from encompassing only income accounts to the reporting of complete accounts that include the balance sheet figures. The largest political party organisations (the central organisations of the parties in the Storting) are subject to the rules of the Accounting Act in addition to the reporting requirements in the Political Parties Act. For these organisations, GRECO's recommendation entails that the accounts that are submitted annually to the Register of Company Accounts pursuant to the Accounting Act must be set up in an alternative manner in order to satisfy the requirements in the Political Parties Act.

The Ministry finds that GRECO's recommendation does not directly require an introduction of an accounting obligation for the around 654 party branches that would be affected, but understands recommendation no. 1 to mean that the current disclosure requirement must be expanded to encompass complete accounts that include the income statement and balance sheet. As the Ministry argues for in the paragraph below, it is difficult to ignore the fact that the consequences of an expanded reporting basis, combined with increased control by the authorities that the information is complete and correct, entail in reality an accounting obligation for the party branches in one form or the other. Whether the accounting obligation to safeguard considerations in the Political Parties Act shall be regulated in the Accounting Act (as recommended by some of the consultative bodies) or founded on the Political Parties Act, which already contains a system for the reporting of income figures, gifts exceeding a certain amount and agreements with contributors, will therefore be a problem in particular. As is evident from the paragraph below, the Ministry proposes that the obligation to report the complete accounting figures and the associated obligation to keep accounts to satisfy the intentions of the Political Parties Act, including requirements relating to documentation and the storage of accounting information, should be regulated in the Political Parties Act and not be divided between the Political Parties Act, Accounting Act and Bookkeeping Act. This is, for example, in order to make the system as simple and accessible as possible for the party branches that are affected.

It is important to stress that the proposal to amend the Act in this proposition does not have any effect on the current obligations of the parties pursuant to the Accounting Act. As is evident below, this applies only to five or six party branches, specifically the central organisations or the largest parties that are represented in the Storting during this period. In the following, these parties, i.e. the Norwegian Labour Party, Progress Party, Conservative Party of Norway, Socialist Left Party of Norway, Centre Party, Christian Democratic Party and the Liberal Party, are referred to as the "parties in the Storting". These are the party branches that will still have to comply with both the Political Parties Act and Accounting Act with the associated bookkeeping requirements regulated in the Bookkeeping Act.

The Ministry finds nevertheless that accounting and reporting pursuant to the Political Parties Act, which will apply to a large portion of the political parties, must build on established accounting principles, standards and valuation rules, which currently follow from the Accounting Act whenever appropriate. This is so that the political party accounts will satisfy the accounting quality criteria to the greatest possible extent, which entails being relevant, reliable, comparable, etc. The Ministry suggests that the relevant accounting principles (accounting methods), along the same lines as the Accounting Act and Bookkeeping Act, should be regulated in greater detail in regulations and possibly guidelines related to the Political Parties Act.

Accordingly it may be appropriate to take a closer look at the accounting and reporting requirements that the political parties in Norway are currently subject to pursuant to the Accounting Act, which include the relevant accounting standards that are to be observed in accordance with the generally accepted accounting policies, cf. section 4-6 of the Accounting Act. How the political parties practise the principles and questions of judgement in accordance with the rules in the Accounting Act will also be illustrated below.

5.1.5.2 Parties' accounting obligation pursuant to the Accounting Act

Section 1-2 of the Accounting Act (Act 1998-07-17-56) defines entities with a statutory obligation to keep accounts. Political parties may have an obligation to keep accounts pursuant to subsection 9 of the provisions, which is worded as follows:

"other associations and societies which have had annual assets at a value of more than NOK 20 million or an average number of employees that exceeds 20 man-labour years"

or pursuant to subsection 10, which is worded as follows:

"Foundations".

Associations and foundations are self-owning in the sense that they do not have owners that are entitled to dividends or a right to the distribution of assets upon liquidation. These forms of organisation are well-suited for non-profit organisations. Political parties are free to choose their form of organisation. In accordance with the Register of Political Parties, 21 out of 22 political parties are organised as an "association/club/organisation". Only one party falls under the designation "other legal entity".

In order for a political party that is not a foundation to be encompassed by the accounting obligations in the Accounting Act, at least one of the threshold values in section 1-2, subsection 9 must typically be satisfied:

- The total value of assets must be more than NOK 20 million for the year, or
- The average number of employees for the year must exceed 20 man-labour years.

It is the balance sheet values on the date of the balance sheet that determine whether the party branch has an accounting obligation based on the asset criteria. All the assets that are to be included on the balance sheet in accordance with the valuation rules in the Accounting Act, shall be included in the calculations. The threshold value for man-labour years entails that the average value must be over 20 during the year in order for an accounting obligation to arise. Reference is otherwise made to the detailed rules in section 1-2-1 of Regulations no. 56 of 17 July 1998 relating to supplementation and implementation of the Accounting Act.

Currently only six of the largest political party organisations (central organisations or the parties in the Storting) exceed at least one of the threshold values and therefore have an accounting obligation. The central organisation of the Liberal Party observes the rules of the Accounting Act on a voluntary basis. Of the around 3,230 party units, only a very small proportion are encompassed by the requirements in the Accounting Act.

5.1.5.2.1 Further details of the simplification rules for small enterprises

The main rules in the Accounting Act apply essentially to all entities with a statutory obligation to keep accounts. There are, however, certain simplification rules for small enterprises, cf. section 3-1, second paragraph, etc. of the Accounting Act. In addition, certain exemption rules have been stipulated for organisations that do not have a for profit purpose, cf. section 4-1, third paragraph, and section 6-3, third paragraph of the Accounting Act.

"Small enterprises" are defined in section 1-6, first paragraph:

"Small enterprises are enterprises with a statutory obligation to keep accounts, which are not comprised by section 1–5, and, which on the balance sheet date do not exceed the limits of two of the following three conditions:

- 1. Sales revenue: NOK 60 million,*
- 2. Balance sheet total: NOK 30 million,*
- 3. Average number of employees during the financial year: 50 man-labour years. "*

The annual accounts for small enterprises must at least contain the income statement, balance sheet and notes to the accounts. An annual report shall also be prepared. The disclosure requirements in the annual report and notes are less extensive for small enterprises than for other enterprises.

Income statement

It falls outside the scope of the purpose here to list all of the simplification rules for accounting that currently exist for small enterprises. It is mentioned nevertheless that such enterprises are exempt from the following three accrual principles, cf. 4-1, second paragraph:

- Income shall be recognised in the income statement when it is earned (the earned income principle).
- Costs shall be expensed in the same period as related income (the matching principle).

- When hedging exists, gains and losses shall be recognised in the same period.

For exemption from bullet points 1 and 2, the Act requires that the exemption can be regarded as a generally accepted accounting policy for small enterprises. A further explanation of what the concept of "generally accepted accounting policies for small enterprises" entails may be found in the accounting standard NRS 8 issued by the Norwegian Accounting Standards Board, most recently revised in November 2006.

In addition, the Act defines certain exceptions from the valuation rules that small enterprises may choose to use, cf. section 3.1, second paragraph

Balance sheet

The balance sheet shall be broken down by non-current and current assets, and non-current and current liabilities. The balance sheet items may also be classified by liquidity, provided this gives more relevant and reliable information, cf. Accounting Act, section 6-2, fourth paragraph.

Cash flow statement

Small enterprises may choose not to prepare a cash flow statement.

Notes to the accounts

The simplified note requirements for small enterprises follow from section 7-1, cf. sections 7-35 to 7-45.

5.1.5.2.2 How the parties adapt to the regulations

Of a total of six political parties with a statutory obligation to keep accounts, only the Norwegian Labour Party (Ap) does not come under the definition of a small enterprise and is not able to use the associated simplification rules in the Accounting Act and the accounting standard NRS 8 "Generally accepted accounting policies and small enterprises". The Norwegian Labour Party follows the main rules of the Accounting Act. The Progress Party, Conservative Party of Norway, Socialist Left Party of Norway, Centre Party, Christian Democratic Party and Liberal Party apply to a great extent the simplification rules for small enterprises, including the accounting standard for small enterprises.

5.1.5.2.3 Further details of the simplification rules for non-profit organisations

Section 4-1, third paragraph of the Accounting Act lists possible deviations from the fundamental principles in the Accounting Act for entities with a statutory obligation to keep accounts as mentioned in section 1-2, first paragraph, subsections 9, 10 or 11, provided they do not have a for profit purpose. In the preliminary accounting standard from the Norwegian Accounting Standards Board, NRS(F), "Generally Accepted Accounting Policies for Non-Profit Organisations", the designation "non-profit organisations" (also abbreviated as "organisations") encompasses entities with a statutory obligation to keep accounts that do not have a for profit purpose. In the accounting standard, an organisation is

regarded as a non-profit organisation if it is encompassed by the tax liability limitations pursuant to section 2-32 of the tax code, in which the first and second paragraphs state:

Section 2-32. Limitation of the tax liability for institutions or organisations that do not have a for profit purpose etc.

(1) Charitable foundations, religious communities, churches, companies or other organisations that do not have a for profit purpose are exempt from income and wealth taxation.

(2) If the institution or organisation that is encompassed by the first paragraph concerning economic activity – including leasing out real property, even if the property is used for own use – the assets used in and income from the activity will be taxable. Economic activity is exempt from taxation when the revenues from this activity do not exceed NOK 70,000 during the tax year. For charitable and non-profit institutions and organisations, the corresponding limit is NOK 140,000.

Political parties are not encompassed by section 2-32 of the tax code with regard to taxation on income and wealth in connection with activities that have no commercial purpose. Examples of income that is exempt from taxation include membership dues, public support, gifts and income or returns from political events. Economic activity for the purpose of obtaining a financial basis for political activity shall be taxed, but only if the income exceeds the threshold value of NOK 70,000 during the year.

Since political parties fall under the so-called protective provisions of section 2-32 of the tax code, they will be regarded as non-profit organisations in the sense of the Accounting Act. The Ministry finds that NRS(F) "Generally Accepted Accounting Principles for Non-Profit Organisations" must as a rule be said to advise about the content of the generally accepted accounting policies for parties that are organised as associations or foundations, or sole proprietorships, cf. section 1-2, subsections 9, 10 and 11 of the Accounting Act. As mentioned, it will primarily be subsection 9 that will be relevant, since almost all of the parties are currently organised as associations. The associated accounting standard for non-profit organisations shall therefore be used by the political parties with regard to the portion of the enterprises that do not have a commercial purpose, to the extent that it can be regarded as a generally accepted accounting policy, cf. section 4-6 of the Accounting Act.

By virtue of being a non-profit organisation, the following exemptions from the rules of the Accounting Act will be relevant for the political party:

- exemption from the fundamental accrual principles for transactions, earned income and matching principles, when this can be regarded as a generally accepted accounting policy, cf. section 4.1, third paragraph of the Accounting Act.
- exemption from the statement layout in section 6-1 of the Accounting Act (income statement by category), section 6-1 a (income statement by function), and section 6-2 (balance sheet) when this can be regarded as a generally accepted accounting policy, cf. section 6-3 of the Accounting Act.

Chapter 6 of the Accounting Act has rules for the layout of the income statement, balance sheet and cash flow statement.

The income statement shall be *broken down by category*, i.e. show the various income and expenses grouped by category. Starting in the 2006 financial year, income statements broken down by function are permitted, cf. section 6-1a. Accounts broken down by function show a result in which the costs are broken down by the various functions in the enterprise, for example, the payroll costs will be broken down into production, marketing and sales. If the operating expenses are specified by function in the income statement, the operating expenses shall be specified by category in a note.

Parties' statement of accounts

The accounts for 2007 and 2008 show that the parties have somewhat varying practices with regard to the layout of the income statement, with regard, for example, to the degree of specification for income and expenses and the use of notes. The Ministry finds nevertheless that the common denominator is a statement layout broken down by category, i.e. the parties specify the income statement by the type of income and expense.

Income statement for non-profit organisations

If a political party has a statutory obligation to keep accounts pursuant to section 1-2, subsections 9, 10 or 11 of the Accounting Act and does not have a for profit purpose, the layout of the accounts must be somewhat different than the requirements that apply to "small enterprises" to the extent this follows from the generally accepted accounting policies for such organisations, or where it is necessary so that the financial account users can evaluate the party's financial status and results, cf. section 3-2a, second paragraph and section 7-1. This may entail, for example, that the transaction principle must be set aside in certain situations in addition to the statement layouts mentioned in bullet point 2 above. Setting aside the transaction principle may, for example, be relevant in connection with gifts that are to be classified as income without remuneration/consideration (that can establish grounds for recognition) pursuant to the Accounting Act. For a detailed explanation of the content of the transaction, earned income and matching principles for non-profit organisations, reference is made to section 3.5 in the accounting standard.

In the Accounting Act, however, gifts shall be recognised in the accounts as a rule. This is already an explicit requirement in sections 19 and 20 of the Political Parties Act, and further guidelines have also been provided for the valuation of gifts other than money in the Act's legislative background. Based on the accounting standard, the annual accounts shall encompass all the activities that are carried out under the direction of the organisation. In addition, the principle that all income and expenses shall be recognised in full applies.

The accounting standard recommends accounts *broken down by activity* as the statement layout for non-profit organisations. The purpose of accounts broken down by activity is to illustrate all of the funds obtained, broken down by the main types of funding and how these funds have been used during the financial year. This should make it easier for the financial account users to see how the organisation has funded its activities by, for example, membership fees, grants, gifts or other funds. In addition, the statement layout shall show how the funds have been used to achieve the organisation's purpose, including the costs associated with obtaining the funds.

The Norwegian Accounting Standards Board states the following on page 296 of the accounting standards:

"Income statements broken down by category or function are aimed at activities that have earning requirements and will not provide information on the use of funds in relation to a non-profit purpose. *The primary focus of non-profit organisations is not on earnings, but on fulfilment of the organisation's non-profit purpose. Experience shows that it has been relatively common for non-profit organisations to set up accounts broken down by activity in addition to the statutory income statement broken down by category. Central user groups have expressed that the benefit of accounts broken down by activity is greater than that of accounts broken down by category, since the accounts broken down by activity cover the information needs better. The guidelines established by the appropriating and/or controlling authority or body have in some cases also required activity-based result reporting (...). Comparability considerations within the non-profit organisations sector indicate that the sector should use a common statement layout. (...) Accounts broken down by activity are therefore the recommended statement layout.* If an organisation decides nevertheless to continue with a statement layout broken down by category, it will normally be required that notes be prepared that essentially specify what activities have been carried out during the last financial year.

Balance sheet

The accounting standard for non-profit organisations requires that section 6-2 (statement layout for the balance sheet) is also observed for such organisations, but with exceptions for

- Assets worth preserving,³
- Purpose capital,⁴
- Grants

As a rule all the assets at the disposal of the organisation or to which the organisation has title shall be included. It is a condition that the asset can be recognised on the balance sheet according to the

³ These assets represent capital equipment that may be typical for some organisations and difficult to find the correct value for.

⁴ The concept of "purpose capital" is recommended instead of equity, and the standard has a breakdown that differs from the accounting lines that are included in the purpose capital. If the organisation selects such a statement layout, then the primary capital must nevertheless be disclosed in any case.

valuation rules of the Accounting Act. If such assets are not part of an independent legal entity, then they shall be included in the annual accounts of the political party organisation. The Accounting Act's statement layout makes a distinction between paid-in capital and retained earnings. According to the Norwegian Accounting Standards Board, this distinction is not as relevant for non-profit organisations, and a specification of the equity (referred to as "purpose capital") based on the degree of restriction is considered more relevant. Paid-in capital shall be specified on a separate line under current and/or non-current liabilities. Reference is made to a further explanation of the accounting standard in sections 8 and 9.

Non-profit organisations that satisfy the criteria for small enterprises may choose not to calculate and recognise liabilities on the balance sheet related to all of the insured pension schemes, cf. NRS 8 "Generally Accepted Accounting Policies for Small Enterprises", section 6.1.1.1.2.

Cash flow statement

The cash flow statement provides information on liquidity, financial strength and financial freedom. No exceptions have been made for non-profit organisations with regard to the obligation to prepare a cash flow statement. Organisations that can be regarded as small enterprises may choose not to prepare a cash flow statement, i.e. all of the central political organisations with the exception of the Norwegian Labour Party appear to come under this exemption rule. According to the Norwegian Accounting Standards Board, the accounting results and cash flows of non-profit organisations that prepare accounts broken down by activity will generally coincide, so that information on the cash flows will generally be evident from the accounts broken down by activity. The accounting standard therefore suggests a simplified cash flow statement for non-profit organisations that prepare accounts broken down by activity and are subject to the cash flow statement requirement.

Notes to the accounts

With effect from 2005 a requirement was introduced in section 7-1, fourth paragraph of the Accounting Act with regard to additional information (notes to the accounts) if use of the provisions of the Accounting Act is not sufficient to provide a fair and true picture of the assets and liabilities, financial status and results of the entity with a statutory obligation to keep accounts (and the group). The requirement applies in full to non-profit organisations. The "principle of essentiality" in section 7-1, third paragraph will nevertheless apply, i.e.

"information may be omitted when it is not of significance to an assessment of the entity with a statutory obligation to keep accounts, or, if applicable, the group's financial status and results".

The accounting standard for non-profit organisations suggests as mentioned that if an income statement broken down by category is used, then the notes shall contain information on the activities that the organisation has carried out to fulfil its purpose. If, however, accounts broken down by activity are chosen, then specification of the organisation's operating costs broken down by category shall be provided in the notes in accordance with further guidelines, cf. section 4.9 in the standard.

The effect of any *change in the accounting principles or correction of errors* shall be recognised directly in equity. Organisations that are considered to be small enterprises may nevertheless recognise the effect of a change in the accounting principles or correction of errors in earlier annual accounts. The use of accounting principles shall be uniform and consistent over time. The annual accounts shall be prepared in accordance with the generally accepted accounting policies, i.e. follow the specified accounting standard. Reference is otherwise made to the accounting standard for non-profit organisations for a complete description of what accounting principles the organisations are subject to.

5.1.6 Proposals for the follow-up of recommendation no. 1 in the consultation memorandum

Here the main points in the proposal for the follow-up of GRECO's recommendation no. 1 concerning complete accounts, etc., which was distributed for consultative comments on 17 November 2010, will be explained.

The Ministry points out in the introduction to the consultation memorandum that the current system of the Political Parties Act aimed at limiting the reporting of accounts to income accounts was proposed by the Party Funding Committee in NOU 2004: 25 *Penger teller, men stemmer avgjør* (Money counts, but votes decide). This must be seen, for example, in the context of the fact that the scrutiny of the accounts of political parties has traditionally been based on anti-corruption considerations. The purpose has been to evaluate any ties between the political parties and contributors or partners that may have a negative impact on democracy (or ultimately be in conflict with the corruption provisions of the General Civil Penal Code). The committee pointed out, for example, that the UN Convention on Corruption focuses on the transparency of the political parties' income.

Experience from GRECO's work concerning the funding of political parties and candidates could indicate that focusing solely on ties between political parties and contributors is too narrow an approach to this issue. It has been found, for example, that not only do natural persons and legal entities bribe the political environment, but also that political parties and candidates bribe public authorities and the private sector. Transparency concerning the income accounts will in such cases not be adequate on the basis of anti-corruption considerations.

Norway appears to be the only country in GRECO that limits the accounting obligation solely to income accounts. Although the regulations vary between the member states, the common denominator is a requirement for complete accounts for those obligated to report, regardless of any requirements relating to the use of public funding. In its report on Norway, GRECO has highlighted the consideration that taxpayers, given the generous funding scheme, must be fully entitled to see how the political parties use the tax revenues.

As opposed to enterprises that most often maximise profits, non-profit organisations, including political parties, would not be subjected to “built-in” monitoring by shareholders or owners, since poor management would result in poor financial results, which in turn could generate initiatives aimed at the

management etc. The complete accounts requirement will improve verification that what is reported is correct and complete, both by the public authorities and other financial account users. Statistics Norway's experience with the reporting system in the Political Parties Act indicates that greater control that the information is in accordance with the requirements in the Act is needed. Reference is made in this connection to the information provided by Statistics Norway's below that 51 party branches were contacted during the next to the last reporting year for a further investigation of whether they had misunderstood the reporting requirements. A total of 53 per cent responded with a complete reporting of income that exceeded the threshold value.

A transition from a system that focuses mainly on potential links between political parties and contributors to submission of complete accounts that also contain information on the party organisation's financial standing, results and use of resources, could increase the relevance of and interest in the accounts through an increase in the financial account users as a group. In a democracy the financial support of political parties is of general interest. Some financial account users may benefit in particular from the accounts of the political party organisations – voters, members, employees, creditors, partners, research environments and the public authorities, for example. The users of the political parties' accounts will in general have a need for information on how the funds are obtained and how they are used. For the majority of the users, the organisation's financial standing and results will most likely be of secondary interest.

Several considerations are important with respect to a transition to a complete accounts requirement under the Political Parties Act. At present only around a fifth of all the party branches fall under the current income reporting system. These branches will essentially be the same as are required now to report complete accounting figures annually pursuant to the same act. A particularly important consideration will be the preparation of a system that allows the party branches to satisfy this obligation in an easy and efficient manner. Other important considerations will be the ability to compare accounts by making it possible to evaluate the development of the financial standing and results in one and the same political party organisations over time and between different political party organisations. This means that the same accounting principles and evaluation rules ought as far as possible to form the basis for all those obligated to report and that these principles and rules are to be applied consistently. It should be an aim to contribute to a clear relationship between the accounting information that is provided pursuant to the Accounting Act and Political Parties Act, respectively, for the party branches (6–7) concerned.

Accordingly, it has been proposed in the consultation memorandum that the main rules of the Accounting Act, with the exceptions that apply to non-profit organisations and small enterprises that fall under the definition of "non-profit organisations", should be maintained in full under the Political Parties Act. The proposed statement layout is outlined in the memorandum. In this connection reference is made to the fact that the Accounting Act and the associated accounting standards focus primarily on income statements broken down by category (statement based on the type of expense and

income). Entities with a statutory obligation to keep accounts that choose accounts broken down by function in a note, must specify the operating expenses broken down by category. The accounting standard for non-profit organisations recommends accounts broken down by activity, but organisations choosing this system remain fully obligated to submit accounts broken down by category in the notes. A political party will therefore not be able to avoid annual accounts broken down by category – which appear otherwise to be the statement layout chosen by political parties obligated to keep accounts pursuant to the Accounting Act.

To fulfil GRECO's recommendations, and to better satisfy the information needs of the financial account users, cf. the accounting standard for non-profit organisations, the consultation memorandum suggests a statement layout system under the Political Parties Act that will also give the financial account users information on what activities the party has carried out. The cost of political party activities is included as a separate item in the statement layout. In addition, a statement layout is proposed that is broken down by category and supplemented by a requirement that a further explanation of the use of resources be given in notes, which is considered to be in accordance with the recommendation from the Norwegian Accounting Standards Board, cf. quote above.

The expenditure side is based on this list:

- a) wage costs
- b) procurement of goods and services
- c) other administrative expenses
- d) expenses linked to political party activities
- e) transfers to other party units
- f) financial expenses
- g) election campaign expenses
 - i. marketing initiatives
 - ii. other expenses related to election campaigns

It is suggested that the accounting template can possibly be supplemented with additional lines. "Transfers to other party units" is an item that several party branches obligated to report have requested. The current income reporting system under the Political Parties Act does not indicate whether parts of the party branch's income have been transferred to the central party, county branch, etc. The party branch's *disposable* income is therefore less visible to the general public, which has been pointed out as unsatisfactory by several party branches. A comparison with section 19 n) "Transfers from other party units" would provide a more complete picture of the real income of the party unit and of how money is moved within the party system.

The income side of the income statement in the consultative proposal has been maintained based on the current rules, cf. section 19 of the Political Parties Act. In the consultation memorandum, the Ministry discusses whether the *membership fees/dues* should be excluded from the income accounts –

and this is something that several bodies have voiced support for in the subsequent consultation round. Membership fees are an internationally well-known means of circumventing the inspection system for gifts to political parties. This is done by the contributor electing to pay a membership fee that is considerably higher than stipulated in the party statutes in order to avoid being identified as a contributor to the party. In countries where this has become known to the evaluation team, GRECO has recommended that maximum limits for membership fees be included in the party funding regulations, or that the excess amount is defined as a contribution or gift to the party and subject to the associated rules with regard to transparency.

The Ministry maintains these views in the draft legislation presented. It is recommended that a rule stipulating a ceiling for membership fees in the Political Parties Act not be introduced, since this would entail too much restriction on the parties' independence. The Ministry would like the membership fees to continue to be defined as income in accordance with the Party Funding Committee's unanimous proposal, and wants this to be included in the calculation of when the accounting obligation under the Political Parties Act arises in the same manner as other income. Reference is made otherwise to the paragraph below concerning the Ministry's evaluations.

Balance sheet

It has been proposed in the consultation memorandum that the main rules of the Accounting Act relating to the balance sheet, with the exceptions that apply to non-profit organisations, including organisations that are regarded as small enterprises, be incorporated into the Political Parties Act. All the assets that the party branch controls or holds title to shall be included on the balance sheet. It is a condition that the asset can be recognised on the balance sheet according to the valuation rules of the Accounting Act. If such assets are not part of an independent legal entity, then they shall be included in the annual accounts of the political party organisation. The development of the total assets over time may help show whether parts of the public funding are used to build up assets in the party unit. This point can otherwise be seen in connection with the Political Parties Act, section 19, second paragraph, *litra f* "Investment income" and *litra g* "Income from business activities".

How important it is to state the total *liabilities* is seen in connection with the discussion concerning financial expenses associated with loans. In the consultation memorandum, it has been proposed that the requirement be combined with a rule that the creditor's identity shall be disclosed in notes when the debt (debt ratio) is in excess of a certain amount or level. This is because there would supposedly be financial ties of a certain magnitude and duration between the party and this creditor.

GRECO suggests that Norway can have minimum limits for the reporting of liabilities and assets in the Political Parties Act. This may be relevant, especially in combination with a possible requirement that the identity of the creditor shall be disclosed. It would perhaps be most appropriate to continue the rule contained in section 18, third paragraph of the current Act, which provides that the reporting requirement shall be linked to the total income and expenditures, so that the report on liabilities/assets

becomes part of the duty to submit complete accounts. Small parties will thus continue to be exempted from the complete reporting requirement. The conclusion in the consultation memorandum states that a requirement should be introduced that liabilities/assets shall always be recognised when the accounting obligation pursuant to the Political Parties Act arises. The duty to disclose the identity of the creditor may alternatively be linked to a certain debt ratio (debt/equity) or a determined nominal value of the debt, based, for example, on the threshold values stated in section 20, first paragraph of the current Political Parties Act.

The consultation memorandum suggests that party branches can choose a layout for the balance sheet in accordance with the accounting standard for small enterprises or non-profit organisations. Reference is made to the respective accounting standards for small enterprises and non-profit organisations prepared by the Norwegian Accounting Standards Board for further examples of the layout of statements.

Comparative figures and cash flow statement

The consultation memorandum proposes that the requirements in the Accounting Act be incorporated into the Political Parties Act for both these matters. It has not been considered necessary that political parties be subjected to a special cash flow statement requirement. The exemption rule for small enterprises contained in the Accounting Act ought to be continued in full, i.e. a cash flow statement shall be voluntary for political parties that are not subject to the duty to prepare a cash flow statement under the Accounting Act.

Notes

The Ministry finds that separate note requirements for political parties shall be founded on the Political Parties Act and further regulated in regulations. Certain note requirements already follow from the Political Parties Act: According to section 20, second paragraph of the current Act, the name and municipality of residence of physical contributors shall be disclosed in the reports if the total contributions during the year exceed the threshold values to be determined. According to section 21, second paragraph, a declaration shall be given of any political or commercial agreements that have been entered into with any contributor. Such information will be of particular importance, for example, in relation to sponsorship agreements. The sponsorship of political parties is increasing internationally and is particularly common in Germany. "Sponsorship" in the sense of the Accounting Act is not regarded as a contribution if it can be said that the agreement places burdens on both the parties. This is because the agreement requires that the recipient (party branch) contribute something in return. For example, allowing the use of a logo in party advertising, party members manning stands wearing particular T-shirts etc. As such, the party will normally not have earned the income from sponsorship for accounting purposes until it has fulfilled its part of the agreement. It is nevertheless reasonable to equate sponsorship with gifts with regard to possible ties between party branches and contributors. The proposal in the consultation memorandum suggests that it be pointed out in connection with the Political Parties Act that sponsorship shall be equated to gifts with regard to the reporting obligation

when the annual value exceeds the threshold value in section 20, first paragraph of the current Political Parties Act. This means that the name of the other party to the agreement along with its municipality of residence shall be disclosed along with the value of the agreement for the party when the amount exceeds NOK 30,000 (central level), NOK 20,000 (county level) or NOK 10,000 (local level).

The consultative proposal also entails that the party branches disclose the identity of the creditor in notes when the liabilities (current/non-current) exceed the above threshold values in section 20, first paragraph of the Political Parties Act, cf. above with regard to the balance sheet.

The Party Funding Committee suggested in NOU 2004: 25 that the paramount rule is that the party branches shall keep accounts in accordance with the party's own statutes. The consultative proposal is based on this. GRECO's requirement does not just entail that the parties shall be open about their complete accounts, including balance sheet figures, but also that these accounts and figures shall be reported and published annually. With this as the point of departure, the actual accounting will be a continuation of something that already appears to be widespread in one form or the other among the party branches. The publication of complete accounts and accounting based on a common template is therefore the most essential consequence of recommendation no. 1 for party branches that are subject to the obligation.

In the consultation memorandum, it has been proposed that professional accounting help be offered to the party branches so that they can comply with the obligations in the Political Parties Act – which is assumed in particular to be required by the branches at the county level and the youth organisations. It is particularly important to ensure that the party branches apply the same accounting principles and that they remain fixed over time. Clear guidelines must be established based on relevant parts of the two relevant accounting standards provided by the Norwegian Accounting Standards Board, in addition to principles that follow in particular from the Political Parties Act. A separate web-based accounting module under the auspices of the Ministry of Government Administration, Reform and Church Affairs and Statistics Norway will also be required, complete with instructions and guidance, to make it simple for the parties to fill in and submit the accounts electronically. Proposals in the consultation memorandum to establish a separate Party Auditing Committee under the Political Parties Act Committee have also been evaluated as having a possible competence-building effect in the party branches.

With regard to the last part of recommendation no. 1 concerning standardised forms, the consultation memorandum suggests that forms for income reporting and instructions that Statistics Norway has prepared can be developed further to encompass all aspects of the reporting. As mentioned, web-based instructions and guidance for the reporting may be offered. This part of recommendation no. 1 does essentially not require any amendment to the regulations.

5.1.7 Views of the consultative bodies

The proposal for the follow-up of recommendation no. 1 concerning the reporting of complete accounts has been focused on the most by the consultative bodies – after the proposal concerning the publication of contributions in connection with election campaigns (recommendation no. 3). Various aspects of the consultative proposal have been commented on and new problems were taken into consideration.

5.1.7.1 Expanded reporting obligation

The follow-up of GRECO's recommendation no. 1 entails that the current system of annual reporting of income accounts for party branches with incomes in excess of NOK 10,000, excluding all public funding, cf. sections 18 and 19 of the Political Parties Act, must be expanded to encompass complete accounting figures, i.e. income and balance sheet figures. The following statements concern this matter:

The Ministry of Finance states:

"The Ministry of Finance believes that the transparency of the funding of political parties and the use of such funding is a fundamental prerequisite for a well-functioning democracy, and it supports therefore an expansion of the reporting obligations of political parties on a general basis."

Statistics Norway (SSB):

"The proposal to expand the current report to include expenditure accounts as well is supported on a general basis by Statistics Norway. In our opinion this expansion will contribute to more relevant statistics and raise the quality of the data by including the parties' expenditure side. This expansion will also contribute to Norway following this practice from other comparable countries."

The Norwegian Union of Journalists, Norwegian Press Association and Media Businesses' Association state in a joint letter:

"To start with we would like to remind about the importance of transparency with regard to cash flows. Transparency is one of the most important tools for identifying and fighting corruption. The transparency of political party funding makes it possible to control bribery and any ties to private persons, organisations or persons of authority. Society will also have a greater degree of confidence in the system as a result of this. In order for this to function optimally, transparency on "both sides" is completely essential – i.e. both where the money comes from and what it is used for. These are factors that are completely decisive for a well-functioning democracy."

Other bodies are concerned about the consequences of expanded reporting.

The Liberal Party in Vestfold states:

"The Liberal Party is very concerned about transparency in all types of political bodies, and the Liberal Party in Vestfold welcomes therefore a change that entails full transparency for the accounts of the individual parties. Having said this, it must be ensured at the same time that the changes actually entail

full transparency, and that the changes do not entail limited political activity. We are thinking here in particular about two circumstances:

1. That the reporting of accounts, income and expenditures becomes so impractical and creates so much extra work that the financial transactions etc. are excluded from the accounting.

2. That the reporting of accounts, income and expenditures does not become so complicated that it prevents the existence of a diverse political environment in small municipalities and small parties."

The party branch believes that there is a risk that contributions may be kept concealed if the reporting becomes too demanding to learn and perform.

The Nordland County Council states:

"The proposed amendments to the Political Parties Act entail an extensively expanded reporting obligation for many party units. Nordland County Council would like to remind that political work and the operation of political parties/branches is to a large degree based on voluntary efforts (...)"

The Norwegian Labour Party in Hamar states:

"Another factor is also how such a scrutiny regime shall be managed in smaller towns/districts. Is it prudent that everyone can see that a particular party has used so, so much on the distribution of fruit here and there, or a local politician has been paid for a few hours to free him from his job during the days just before an election? Is this of any interest to the general public? If the answer is yes, then for what reason other than sensational stories?"

5.1.7.2 Accounting obligation pursuant to the Accounting Act?

In addition to the requirement of transparency for all financial matters, reporting to the public authorities and publication of information that follows directly from the wording, several of the consultative bodies have been concerned about how far recommendation no. 1 will go with regard to subjecting the parties to an accounting obligation. In addition, there is the question of whether the consultative proposal entails an accounting obligation pursuant to the Accounting Act or whether a system shall be established from scratch for accounting in the Political Parties Act.

The Ministry of Finance states:

"On the other hand, in the opinion of the Ministry of Finance it appears to be unclear based on the formulation of the proposal, whether the requirement that complete accounts shall be reported in accordance with the principles of the Accounting Act entails that the parties shall be regarded as having an accounting obligation pursuant to the Accounting Act. The Ministry finds that this has not been the intention. In the opinion of the Ministry of Finance, however, it appears that the proposal on the basis of its wording entails that the parties and party units must not only report complete accounts in accordance with the Accounting Act, but that they must also give additional information in accordance with the Political Parties Act. (...)The Accounting Act represents at the same time a framework based on

principles. Therefore it will not be prudent to base the reporting on the rules of the Accounting Act without disclosing the actual principles applied in the notes to the published accounts. Based on the prerequisite that it is appropriate and prudent to stipulate a simpler reporting regime for smaller parties and party units, the Ministry of Finance assumes accordingly that the following alternatives are foreseeable. An alternative may be to stipulate a general accounting obligation pursuant to the Accounting Act for political parties, but permit that the simplification rules for small enterprises with a statutory obligation to keep accounts are used in full and grant exemptions from provisions that would provide relatively little information value based on the purpose in relation to the administrative burden associated with obtaining such information. Another alternative may be to study rule-based accounting regulations (as opposed to the rules based on principles in the Accounting Act) for political parties, which are adapted to reporting through a web-based reporting solution without requiring additional notes on the principles. The Ministry of Finance's evaluation is that it will not be very appropriate to study a new account reporting regime for political parties from scratch. The Accounting Act provides an appropriate and well-tested reporting regime that has developed over time in accordance with the development of society and the view of what prerequisites apply at any given time for accounts of high quality, including comparability and relevance. This indicates that an attempt should be made to formulate a simple and appropriate reporting regime within the Accounting Act's system (...)"

The Financial Supervisory Authority of Norway comments on the same matter:

"It follows from section 18 of the draft legislation that all the political parties shall report their complete accounts annually in accordance with the principles of the Accounting Act. In the opinion of the Financial Supervisory Authority of Norway it would be an advantage if the legislative background specifically states whether this reporting obligation also entails that the parties have an accounting obligation. With regard to the accounting rules that are to apply to the parties, the Financial Supervisory Authority of Norway assumes that it will be an advantage if it is evaluated in more detail how the accounting provisions in the Political Parties Act can be adapted to the Accounting Act in the most appropriate manner (...)"

The Norwegian Institute of Public Accountants interprets the consultative proposal to entail a full accounting obligation pursuant to the Accounting Act for all the party branches that exceed the threshold value in section 18, third paragraph of the Political Parties Act. The institute states:

"The Norwegian Institute of Public Accountants supports the proposal to expand the accounting obligation pursuant to the Accounting Act to encompass all the political parties, youth parties and party branches with income excluding public funding of NOK 10,000 or more. In accordance with the current rules only the parties that have total assets in excess of NOK 20 million or 20 employees are subject to a full accounting obligation pursuant to the Accounting Act (accounting obligation for non-profit associations). This is a significant expansion, but we believe that the considerations that the Ministry points out in section 4.1.6 of the consultation memorandum show that such an expansion is necessary and prudent. The relatively extensive transparency requirements with regard to the political parties' financial matters are based on concern for the confidence of the voters and society. The Norwegian

Institute of Public Accountants concurs in general with what we perceive to be the main content and intention of the proposal for further regulation of the accounting obligation. With regard to the specific formulation of the statutory rules, we find, however, that there is room for significant improvements. A general observation is that the proposed statutory rules interact with the Accounting Act in an unnecessarily complicated and unclear manner. Something should be done about this before a bill is presented to the Storting. The introduction of a general accounting obligation is a far-reaching change to the parties' reporting of financial matters. This must be reflected clearly in the provisions of the Political Parties Act (...)"

The Norwegian Institute of Public Accountants also has a specific proposal with regard to the technical design of the system. The Ministry has taken a number of these suggestions into account in the proposal that is being presented in this proposition.

5.1.7.3 Relationship to the Bookkeeping Act

Any consequences of recommendation no. 1 in relation to the Bookkeeping Act were not discussed in the consultation memorandum. Provided that the follow-up of the recommendation entails an accounting obligation in one form or the other for the party branches and not just expanded grounds for the accounting obligation, the problem may be relevant.

The Ministry of Finance states:

"The Ministry of Finance would also like to point out that reporting complete accounts pursuant to the Accounting Act requires the existence of vouchers and other bookkeeping documentation that are adequate so that the political party auditor and Political Parties Act Committee can verify the reported data. The documentation rules are stipulated in the Bookkeeping Act. If the parties are subjected to a general accounting obligation pursuant to the Accounting Act, then they will also have a bookkeeping obligation pursuant to the Bookkeeping Act. The Ministry of Finance assumes that there is no need to make the bookkeeping regulations applicable in full to the political parties and party units. In the opinion of the Ministry of Finance, it will be adequate to make certain central documentation requirements applicable to the political parties. In addition, an exemption from the bookkeeping obligation should be stipulated for political parties and party units that are not currently encompassed by a bookkeeping obligation."

5.1.7.4 Proposed statement layout for the expenditure side, balance sheet, notes, etc.

A statement layout for the expenditure side has been proposed in the consultation memorandum. In addition, what the reporting of balance sheet figures and the use of notes should entail has been discussed. The following bodies have commented on the proposals:

Statistics Norway (SSB) states:

"The statement layout that has been outlined for the expenditure side of the income statement is clear, consists of mutually exclusive categories, and is appropriate in relation to designing a reporting form. The item "Transfers to other party units" is a favourable supplement to the statement layout that it would be beneficial to include. The proposal that the parties shall disclose their total assets and total liabilities – including disclosure of the creditors' identity in the notes to the accounts if the amount exceeds the proposed threshold values, is supported by Statistics Norway, and it will also be an interesting expansion of our statistics. The clarification in the Political Parties Act that sponsorship will be equated with gifts with regard to the reporting obligation is sensible in order to avoid misunderstandings."

The Norwegian Institute of Public Accountants has a different view here:

"(...)The requirements for specification of the income statement are different depending on whether the party prepares accounts broken down by activity in accordance with the accounting standard for non-profit organisations or an income statement pursuant to chapter 6 of the Accounting Act. The specification that is proposed in the consultation memorandum mixes information broken down by category and activity together. For example, wage costs (letter a) will typically represent an important part of the costs associated with political party activities (letter d). It is therefore not appropriate to require such specification in the same statement layout aimed at inclusion of all the party's expenditures. We assume that this can be solved by stipulating that:

"The following costs shall be specified in notes to the annual accounts or in the income statement

Costs by category

- a) Wage costs*
- b) Cost of goods sold*
- c) Costs of purchasing services*
- d) Financial expenses*

Costs by activity

- e) Administrative costs*
- f) Costs related to party activities*
- g) Election campaign costs*
- i. marketing initiatives*
- ii. other costs*

Transfers to other party units shall be specified in a note or in connection with the income statement.

Section 21 – balance sheet figures: The disclosure requirements in accordance with the proposal follows in full from the Accounting Act. The provision is therefore unnecessary and should be eliminated."

The Norwegian Labour Party, the Conservative Party of Norway, the Progress Party, the Socialist Left Party of Norway, the Norwegian Christian Democratic Party and the Centre Party (described as the "parties in the Storting" in the text) state:

"If it is thereby required that the Norwegian Accounting Standards shall be used as the basis, then this is unproblematic. It would be unnecessarily bureaucratic to prepare a separate template for political parties with regard to the reporting of expenditures."

5.1.7.5 Expanded reporting system under Statistics Norway

The consultation memorandum presumes that the current reporting system to Statistics Norway for publication at www.partifinansiering.no will be continued. Several bodies have commented on this point:

The Ministry of Finance states:

"In addition, Statistics Norway's reporting form is not adapted to reporting in accordance with the Accounting Act's system. The Ministry of Finance is in doubt as to whether the requirement for complete notes pursuant to the Accounting Act can be compatible with a web-based reporting form of the type that is currently used. (...) If this solution is selected, then there would have to be a separate decision on what reporting solution should be used in the future. It appears that the Ministry of Government Administration, Reform and Church Affairs finds that a web-based solution for reporting to Statistics Norway shall be maintained. The Ministry of Finance finds, as suggested above, that it can be questioned whether such a solution can be implemented in practice, due, for example, to the Ministry of Government Administration, Reform and Church Affairs' proposal that complete notes shall be reported in accordance with the requirements of the Accounting Act. In practice, the proposal probably entails that ordinary accounts pursuant to the Accounting Act must be set up. Information from the accounts will have to be transferred thereafter to the web-based reporting form. This may appear to be an unnecessary administrative burden, since this will probably have to be done manually for the foreseeable future. The Ministry of Finance finds accordingly that there may be reason to seek a clarification of whether arrangements can be made so that this information can be retrieved electronically instead from the Register of Company Accounts, or whether Statistics Norway can be instructed to retrieve the information that is required from the annual accounts submitted by the parties. In this case the resource requirements of Statistics Norway and/or the Register of Company Accounts in connection with such an arrangement would also have to be clarified."

The Norwegian Institute of Public Accountants bases its statements on the fact that the accounting obligation for all the party branches that exceed the threshold value in section 18, third paragraph, will be incorporated into the Accounting Act, that the associated reporting will be to the Register of Company Accounts, and that Statistics Norway will retrieve the data from there.

"It should be evaluated whether it is adequate that the central register for the scheme (Statistics Norway) obtains the annual accounts from the Register of Company Accounts. *The parties will avoid having to submit the accounts to more than one place. No deadline has been proposed either for submission to Statistics Norway, as is the case for submission to the Register of Company Accounts pursuant to section 8-2 of the Accounting Act.*"

Statistics Norway (SSB) states:

"Collection of this data through the preparation of a new standardised reporting form (both as an electronic and postal reporting module) that expands the existing income reporting form, will in our opinion be fully possible to implement."

Without taking a stand on what accounts should be sent, the Financial Supervisory Authority of Norway has the following comments:

"The Financial Supervisory Authority of Norway assumes, through reference to the Accounting Act, that it has not been the intention to introduce a reporting obligation to the Register of Company Accounts, see section 8-2 of the Accounting Act, which imposes a reporting obligation on all entities subject to a statutory obligation to keep accounts. This matter should be discussed in the legislative background. The Financial Supervisory Authority of Norway makes reference to the fact that accounts that are submitted to the Register of Company Accounts will be available publically, cf. section 8-1 of the Accounting Act."

5.1.7.6 About the proposal for an accounting module, including instructions and guidance

The consultation memorandum suggests in connection with the expanded reporting obligation that standardised reporting forms be established, with, for example, an accounting module under the direction of the Ministry for reporting to Statistics Norway. The proposal also applies to instructions and guidance for use of the module and what accounting principles/methods the reported data should be based on. No further technical specification of the module has been provided with regard to the functionality etc.

Statistics Norway (SSB) states:

"The guidelines for reporting will be prepared in consultation with the Ministry and made available to the parties. Expert accounting guidance will be provided at the same time on the part of Statistics Norway in connection with the reporting."

The parties in the Storting state:

"It is positive that standardised reporting forms are prepared for use by the party branches encompassed by the simplification regime in the current Political Parties Act. "

In a separate statement from the Progress Party, the following was addressed:

"(..) Both this change and the current practice indicates, moreover, that provisions have been made so that Statistics Norway can perform the tasks assigned to them here. Practice has shown in recent years that Statistics Norway has at times been very late performing its duties– and this in turn has resulted in the amount of time that the branches have to respond being correspondingly short. The Ministry should thus also consider making the deadline for the distribution of guidance and materials to the branches a statutory deadline. In the opinion of the Progress Party, this deadline should allow at least one month."

The Nordland County Council states:

"To help those who take on responsibility for these tasks and ensure uniform reporting, good information is important. The County Council considers the web-based accounting module mentioned to be a suitable tool and requests that a great deal of importance be attached to user-friendliness under its development. It is also important that it be available well in advance of when the Act's provisions enter into force."

The Liberal Party in Vestfold states:

"All the political parties are based on a high degree of voluntary work, and this applies in particular to the small parties and small local branches. It will therefore often be the case that local branches do not have resource persons available with thorough knowledge of accounting, PCs, the Internet, etc., among their officers. Such a lack of competence cannot entail that the local branch is not able to satisfy the requirements that are stipulated. We see in the memorandum and draft legislation that it is specified that this must in particular be taken into account, but we would nevertheless like to stress this point".

The party branch also addresses the following problems:

"It follows from this that the reporting systems, both for the complete accounts and election campaign contributions, must be simple to comprehend, not require extensive registration of the organisation or the person reporting, and it must be readily accessible. It must be said here that the current system for the reporting of party income cannot be regarded as simple to comprehend, and it requires follow-up by the central bodies of the party, even for relatively competent treasurers in the individual local branches. The accompanying instructions must also be improved, for example, it must be explained in detail what should be classified as the "Purchase of goods and services" versus "Costs related to party activities", and the instructions must be readily available to answer questions in connection with the reporting. The systems should, for example, also contain functionality so that supervisors at a higher level (such as the county branches) can be responsible for a local branch's reporting, so that small local branches that suddenly receive a large contribution or an amount of income from an arrangement do not experience practical problems in connection with satisfying the legal requirements.

5.1.7.7 *Deadline for reporting*

The consultation memorandum suggests that expanded reporting that encompasses complete accounts, including the balance sheet, shall take place by the current deadline in section 18, second paragraph, which is six months after the end of the financial year, i.e. 1 July. Several bodies have commented on the deadline.

The parties in the Storting state:

"The deadline for reporting shall be set at 1 June of the following year."

The Progress Party states:

"The deadline for reporting should be changed from 1 July to 1 June. This corresponds better with the activities of the party branches. Reference is made in this connection to the fact that the reporting is scheduled at the start of the traditional holiday period. This is unfortunate since most of the units obligated to report are based on voluntary work."

The Liberal Party in Vestfold finds, however, that it is acceptable to use the current deadlines for an expanded reporting system.

5.1.7.8 *About the need for legal authority in the regulations for the reporting of accounts etc.*

In the consultation memorandum, it has been proposed that the Ministry be given the authority to prescribe by regulations detailed rules for the method of reporting, including accounting principles, valuations, use of auditors and the organisation of the central register.

The proposal with regard to the accounting principles will be supported by the Ministry of Finance, which states:

"Simplification is conceivable with regard to the statement layouts and notes to the accounts. Such simplification must, however, be studied further. The Ministry of Finance finds therefore that giving authority to issue regulations to the King in Council should be considered, and that the Ministry of Government Administration, Reform and Church Affairs should review the Accounting Act with a view to clarifying what regulatory provisions the parties and party branches can be exempted from."

The Norwegian Institute of Public Accountants, which otherwise assumes that the reporting system will be regulated in accordance with the Accounting Act, does not see the need for such an authority to issue regulations:

"Essentially, we do not see the need for separate authority to issue regulations on accounting principles, valuations and the use of political party auditors."

5.1.7.9 *Who is encompassed by the reporting obligation – raising the threshold values?*

In the consultation memorandum, it has been discussed whether it is possible to raise the threshold values in section 20, first paragraph, i.e. the limits for when the value of gifts triggers an obligation for the party branch to disclose the identity of the contributor. Reference is made to the fact that Norway is

among the GRECO countries that have high thresholds for when gifts to political parties are to be subjected to public scrutiny and that consideration to the contributor's desire to be anonymous appears to be already well safeguarded in the Act. An increase in the limits stated in section 20, first paragraph would mean that fewer contributions to political parties would become public, thus restricting scrutiny compared to the current level. The Ministry agrees nonetheless that the threshold values of the Act ought to be increased over time as a result of general price inflation. The consultation memorandum relies on price inflation according to Statistics Norway of approximately 2.81 per cent per year since the Act entered into force on 1 January 2006. This would indicate that the threshold values for the scrutiny of contributions should possibly be changed from NOK 30,000 to NOK 33,375 (central level), from NOK 20,000 to NOK 22,250 (county level), and from NOK 10,000 to NOK 11,125 (local level). These increases must be regarded as moderate. In the consultation memorandum the Ministry does nevertheless not support proposing that the threshold values in the Political Parties Act be increased now. This point of view is based on the threshold values already being generous and that raising these values, to allow more party branches to avoid the reporting obligation or limit the voters' right of access may be perceived negatively by GRECO. The memorandum suggests that the development in value (price inflation) be followed in the future with a view to a subsequent amendment proposal.

Several consultative bodies have been concerned about the threshold values in the Act, primarily to prevent many local branches from being encompassed by the system.

The Norwegian Labour Party, Harstad states:

"In consideration of a living democracy, it is important that voluntary and active work that is performed by the respective parties' local branches are not professionalised and thus exclude the voluntary, unpaid work of amateurs. The Christian Democratic Party in Harstad proposes therefore that the limit for reporting be increased from NOK 10,000 to NOK 20,000, and that this shall exclude any public funding and membership fees. This is funding that does not promote any unfortunate ties of a corruption-related nature.

The Christian Democratic Party states:

"This change will encompass around 150 of the Christian Democratic Party's 361 local branches, in addition to the county branches and national party. There is no doubt that this will entail even more work for the local branches and county secretaries that must advise many of the local branches. The Christian Democratic Party sees the importance of transparency surrounding the parties' finances, including at the local level. It is important, nevertheless, to point out that the local branches are run by volunteers and that care should be taken not to demotivate the local branch leaders and treasurers. The Christian Democratic Party proposes therefore that the limit for reporting be maintained at NOK 10,000, and that this limit shall be exclusive of both public funding and membership fees. For us this would reduce the number of local branches that must report from around 150 to around 60 local branches."

The Conservative Party of Norway states:

"As pointed out by the joint comments (from the parties in the Storting), the recommendations and associated proposals for implementation from the Ministry of Government Administration, Reform and Church Affairs entail small changes for the Conservative Party of Norway's central organisation. *Our accounts are currently submitted to the Brønnøysund Register Centre and published. The proposals entail, however, an obligation, for example, to submit and publish expenditure accounts for most of the Conservative Party of Norway's local branches, which would entail a significant bureaucratisation of the voluntary work in hundreds of local branches without permanent employees and very limited finances. It is recommended that the Ministry adjust the amount limits in its proposal for the reporting obligation in sections 18-3 and 20-1 to reduce the bureaucratisation, and to ensure that the actual intentions of the Act are focused on.*"

The Progress Party comments on both the limits for gifts in the current section 20, first paragraph, and when the reporting obligation is triggered in section 18, third paragraph:

"There is a need to increase the threshold value for when the obligation to report gifts is triggered for the various organisational levels of the parties. The threshold values have stood still since the Act was introduced – which means in reality that they are lower today than at the introduction. It is important to contribute to a reduction in the parties' dependency on public funding – and thus gifts from private individuals should be stimulated – without having to publish their names. To ensure harmonisation with wage and price inflation, as well as reasonable restrictions in relation to limiting bureaucracy, the following threshold values are proposed: Local branches: NOK 15,000, county branches: NOK 25,000, central organisation: NOK 40,000. The Progress Party also believes that the values should primarily be index-adjusted in accordance with fixed intervals defined in advance."

The party also states:

"Raising the threshold value for when the income is to be reported also appears to be logical. Today this value is NOK 10,000 after the deduction of public funding. The Progress Party proposes that this be increased to NOK 15,000 after the deduction of public funding and membership fees. Such a change will be a significant relief for hundreds of small party branches, which are funded primarily through public funding and membership fees. The change will not be detrimental either to the intention and purpose of such reporting. Such a change may make the concept of "membership fees" problematic. The Progress Party does not believe that this will represent any major practical problem, since all of the parties have clear definitions of what a member is in their statutes. If such a definition should nevertheless be required, it should state that the membership fees are fees paid by individual persons in the party in order to obtain membership rights such as eligibility for office and voting rights."

The Østfold County Authority states:

"It is also assumed that the income limits do not include membership fees. Raising these income limits should also be considered."

The Political Parties Act Committee states:

"The Political Parties Act Committee will in general warn against imposing administrative burdens on the party branches that are not well-founded and proportionate. It is therefore positive that the Ministry appears to have found sensible boundaries with regard to what party branches should be exempted from the obligation to report complete accounts, cf. section 18, fifth paragraph of the draft. The number of party branches with annual income – less public funding – of under NOK 10,000 may vary from year to year. However, the provision entails in any case that this new, clearly expanded obligation must be assumed to affect only parties with administrative resources that are good enough to manage this task."

In the consultation round, Statistics Norway has given the following estimate of how many party branches will be encompassed by this reporting obligation:

"The estimate that around 20 per cent of the population will be encompassed by the reporting of expenditure accounts is perhaps somewhat low. There are still larger municipal parties that report that they have less than NOK 10,000 in income after the deduction of public funding. In the last reporting year (2009) a total of 51 party branches were contacted for further scrutiny of whether they had misunderstood the reporting. A total of 53 per cent responded with a complete reporting of income that exceeded the threshold value. For the three largest parties in the Storting – the Norwegian Labour Party, Progress Party and Conservative Party of Norway – 86 per cent changed their reporting from simplified to complete. The inclusion of the expenditure side will provide better control of the reporting over and below the threshold value, and it may contribute to identifying party branches that have probably not reported correctly at present. "

5.1.8 Ministry's evaluations and proposals

The problems addressed in the consultation round in connection with the proposals in the consultation memorandum for the follow-up of recommendation no. 1 are commented on below.

5.1.8.1 Expanded reporting obligation

The Ministry makes reference to the fact that, in its evaluation report (2009), GRECO included the following considerations for recommendation no. 1, cf. paragraph 77 in the report:

- Norway's argument to limit the right of access to the parties' income accounts because it is assumed that the corruption risk is primarily linked to income, does not take into consideration that scrutiny in general will be beneficial and in accordance with the fundamental premises of the Political Parties Act (which are transparency and scrutiny).
- Generous public funding to political parties indicates that the general public has every right to know how the political parties use taxpayers' funds, in particular, for example, to ascertain that public funds are not being used for personal gain.
- The reporting of expenditures will give a clearer picture with regard to how accurate the reporting of income is, including mirroring more accurately the parties' actual and net income.
- It is important that information on liabilities is available, since it may help to identify questionable ties.

- It is important to have detailed information on assets, because assets may potentially affect a party's views on certain political issues.

GRECO comments otherwise on the right of general access to or control of party accounts, which everyone is entitled to on request to the party branch based on section 23 of the Political Parties Act. GRECO believes that this is a creative proposal to compensate for the lack of information on the parties' expenditures and liabilities, but finds it improbable that this right to control has ever been used since the Act entered into force. According to GRECO, none of the parties the evaluation team met during its visit to the country had ever received a request to control the accounts from the general public. GRECO believes that it would be difficult for outsiders to understand and compare relevant information due to the significant differences in the quality and substance of the accounting between the various parties. GRECO concludes that the publication of expenditures, assets and liabilities, in addition to information that is already available on the parties' income, would without doubt make the political party funding system in Norway even more transparent and increase confidence in the system among the general public.

The Ministry points out that GRECO addressed in particular considerations for small party branches in its evaluation report, cf. paragraph 79.

"GRECO's evaluation team (GET) is aware that without requiring the central party organisation to merge the accounts to include the accounts of the local and regional party units (which have their own reporting requirements for their income), the administrative burden may be too great for small parties and party units to report their expenditures, assets and liabilities. In this connection, a requirement to report expenditures only for those parties and party units that were already required to report their annual income would be justified. Correspondingly, for the purpose of scrutiny, it could suffice if the liabilities and assets only had to be reported to the extent, for example, that they were over a certain threshold value."

The Ministry has tried to take all of GRECO's considerations into account in the consultative proposal. The proposal suggests that the current income reporting system provided in sections 18 and 19 of the current Political Parties Act must be expanded to include annual expenditure accounts, in addition to balance sheet information. Relevant accounting principles in the Accounting Act are incorporated into this reporting. In addition, it is a prerequisite that the simplification rule in section 18, third paragraph of the Political Parties Act still can be applied. This entails that party branches with less than NOK 10,000 (proposed expansion to NOK 12,000) in annual income, excluding all public funding, are not encompassed by the obligation. A declaration that the income does not exceed this level will still suffice for these branches. As mentioned above, the consultative proposal entails that around 80 per cent of the party branches will fall under the exemption rule. The estimate is based on the current income figures reported.

GRECO comments on the Ministry's consultative proposal concerning the follow-up of recommendation no. 1 (parts 1 and 2) in the follow-up report of 30 March 2011, paragraphs (18, 20 and 21):

"To fulfil the requirements in the first and second parts of the recommendation, the Ministry of Government Administration, Reform and Church Affairs prepared a proposal to amend the Political Parties Act, which entails that the parties or party units that already report their income shall prepare complete accounts in accordance with the principles of the Accounting Act.

GET appreciates the receipt of information showing that progress has been made in the direction of implementing this recommendation. GET concludes that recommendation no. 1 has been partially implemented."

The Ministry finds therefore that the consultative proposal fulfils all of GRECO's expectations on this point, including the considerations for small party branches.

In the following the Ministry discusses whether there is a need or opportunity to adjust the consultative proposal to comply with the views of the consultative bodies. Reference is made to the paragraph above, in which all of the statements on recommendation no. 1 are quoted. In brief, the consultative bodies have argued as follows in connection with the expanded reporting obligation:

- Transparency of political party funding and the use of such funding ("both where the money comes from and what it is used for") is a fundamental prerequisite for a well-functioning democracy.
- The relatively extensive transparency requirements with regard to the political parties' financial matters are based on concern for the confidence of the voters and society.
- Norway is following the practice of other comparable countries by the expansion of the reporting obligations.
- The changes will entail limited political activity and prevent diversity in the political environment, even in small municipalities and for small parties, through the recruitment of volunteers.
- It is unfortunate that a scrutiny and reporting regime is suggested that entails significantly more work for thousands of volunteers and unpaid officers that already spend a lot of their leisure time volunteering.
- Extra work may result in financial transactions etc. being withheld from accounting.
- Limited general interest, only provides grounds for sensational stories in the media.

The Ministry believes that the proposal for an expanded reporting basis for political parties and party branches will have a positive effect on the Norwegian democracy by making, for example, all the value flows in and out of the parties transparent. This will strengthen confidence that the parties are funded by legal sources and that they are not involved in financial activities that entail conflict with democratic principles. Complete accounts will also be a form of control that the reported income is correct and complete, which GRECO has also argued for in its evaluation report. In addition, information on liabilities and assets may better contribute to the identification of ties to private individuals and make the party

branch's financial interests more transparent. Overall, the proposals, in combination with the scrutiny system that has already been established in the Political Parties Act, will establish the basis for a degree of transparency for party funding in Norway that must be said to be high when international comparisons are made. Reference is made in this connection to the fact that the Norwegian scrutiny system, as opposed to other GRECO countries, is based on a decentralised model in which all the party branches in the party hierarchy have an independent reporting obligation.

The media focus on whether the Political Parties Act is observed. We have seen several examples of this in the autumn of 2010. The media fulfils accordingly the prerequisites for control by the general public that the Party Funding Committee used as a basis for the Political Parties Act. Based on the Ministry's experience with the Act, there are no grounds for maintaining that the scrutiny regime has contributed to sensationalistic stories in the media concerning the parties' income. If "sensationalistic stories" are to be understood to mean stories in the media that are exaggerated or based on interpretations of the facts or speculations, the Ministry finds on the contrary that there will be less probability of such stories in the future, as a result of access to all parts of the accounts.

With regard to other critical comments on the proposal, the Ministry finds that most of them would be valid in general for any increase in the scope of the statutory obligations in non-profit organisations with limited financial or administrative resources. With the exception of the last bullet point, cf. paragraph above, the arguments do not appear to apply genuinely to an expansion of the reporting obligation. The objections are nevertheless both important and relevant.

In this connection the Ministry would like to point out that the proposal only entails an increase in the scope of the information basis for reporting – no measures have been proposed to increase the number of party branches under the reporting system in relation to the present. On the contrary, it is assumed that the party branches currently observe the Act, which entails in turn that around 654 have income in excess of NOK 10,000 (Act's threshold value), while the remaining branches do not actually have income over this limit.

The Party Funding Committee proposed in NOU 2004: 25 *Penger teller, men stemmer avgjør* (Money counts, but votes decide), that all the party branches at the central, county and local levels (including the youth organisations) should be encompassed by the reporting obligation. In other words, no exemption or simplification rules were proposed by the committee in connection with the reporting obligation. This is in accordance with the Doc. 8 proposal and Recommendation no. 28 (2002–2003), which was the background for the establishment of the Party Funding Committee. The mandate was based on two requests resolved by the Storting to the Government in 2002 to strengthen the scrutiny of political party funding at all election levels and to study the funding of democracy. In Proposition no. 84 (2004–2005) On the Act on certain aspects relating to the political parties (page 54), the Ministry argued nevertheless that there were grounds for exempting the smallest parties from the full reporting obligation for income accounts by establishing instead simplified reporting requirements. This was in order to limit the administrative burdens of the scheme. At this point in time neither the Ministry nor Statistics Norway had the statistical basis to foresee that the exemption rule would entail that 80 per

cent of the party branches would be encompassed by the simplified reporting rule. The Ministry believes that the draft legislation for an expanded reporting obligation has already showed enough consideration to the exclusion of small party branches with limited financial and administrative resources and voluntary manpower. This is from the perspective of the Party Funding Committee's proposal, GRECO's views and actual considerations.

Any increase in the statutory obligations in relation to non-profit organisations, may result in the loss of volunteers. This is a factor that the legislator must take into consideration. In this matter it is relevant to weigh this up against the considerations for a well-functioning democracy, including the confidence of the citizens that the political system is based on democratic principles. As is pointed out by the Party Funding Committee, it is the responsibility of the political parties to solve important core problems for democracy. This legitimises the fact that the political parties should be subjected to transparency and scrutiny requirements to a greater extent than other non-profit organisations.

The Ministry believes it is a condition for imposing increased accounting and reporting requirements on political parties that the requirements must be proportionate to the costs of obtaining the information and the needs of the user groups for the information – in other words that the information value is weighed against the administrative burden that obtaining such information represents. The draft legislation suggests that the focus will still be on the party's income, since the proposed statement layout for the accounts, cf. paragraph below, entails a more aggregated presentation of the expenditure side and balance sheet, compared with the current rules for income reporting. Provided that accounting is currently widespread among the various levels in the party branches, which the Ministry believes it is reasonable to assume, due, for example, to the prerequisites for the Party Funding Committee, the most important consequence will be accounting based on a common goal – in addition to a certain increase in the scope of reportable information.

It is reasonable to assume that economic activity and reporting burdens are proportionate to each other to a certain extent. The smaller a party branch is, the less economic activity there will be. This will entail in turn that the reporting will be less extensive. In addition, the Ministry finds that the burden of the obligations concerning the expanded reporting basis will depend on what system will be established for the registration and reporting of the information. The Ministry proposes therefore that an efficient reporting system based on ICT be established. In the paragraph below, the Ministry will discuss two different models for registration and reporting, both of which will include help and guidance for the party branches.

Accordingly the Ministry is not proposing any changes to the proposals in the consultation memorandum concerning expansion of the basis for the reporting obligation, nor to the limits in the current section 18, third paragraph for when the simplified reporting arises. An adjustment of all the limits (threshold values) is nevertheless proposed in the Act, which corresponds to the average development of the Consumer Price Index (CPI) since the Act entered into force, cf. the paragraph below.

In the consultation memorandum, the Ministry discusses whether the *membership fees/dues* should be excluded from the income accounts – and this is something that several bodies have voiced support for in the subsequent consultation round. Membership fees are an internationally well-known means of circumventing the scrutiny system for gifts to political parties. This is done by the contributor electing to pay a membership fee that is considerably higher than stipulated in the political party's statutes in order to avoid being identified as a contributor to the party. In countries where this has become known to the evaluation team, GRECO has recommended that maximum limits for membership fees be included in the party funding regulations, or that the excess amount is defined as a contribution or gift to the party and subject to the associated rules with regard to transparency.

The Ministry maintains these views in the draft legislation presented. It is recommended that a rule stipulating a ceiling for membership fees in the Political Parties Act not be introduced, since this would entail too much restriction on the parties' independence. The Ministry would like the membership fees to continue to be defined as income in accordance with the Party Funding Committee's unanimous proposal, and wants this to be included in the calculation of when the accounting obligation under the Political Parties Act arises in the same manner as other income.

5.1.8.2 Accounting obligation pursuant to the Accounting Act

The Ministry makes reference to the fact that GRECO discusses the reporting of complete accounts in the evaluation report under recommendation no. 1. GRECO points out that the largest parties have an obligation to submit complete accounts pursuant to the Accounting Act and associated obligations pursuant to the Bookkeeping Act, but does not comment on what the actual accounting obligations involve or what accounting principles or methods are used. GRECO would like to see the basis for the reporting obligation expanded to include expenditures, liabilities and assets. In addition, GRECO would like to see that the obligations are made applicable to the parties or party branches that would not otherwise fall under the Accounting Act or be exempted from complete reporting in section 18, third paragraph of the Political Parties Act. This is stated in paragraph 73:

"For a considerable number of party organisations there are no formal requirements to engage in proper bookkeeping and keep accounts in accordance with what is intended in the Recommendation."

The Committee of Ministers' Rec(2003)4, which GRECO makes reference to, is nevertheless clear with regard to the accounting obligation and bookkeeping obligation for political parties. Article 11, first sentence states:

"Accounts

The states should require that political parties and units linked to political parties, as mentioned in article 6, keep proper books and accounts".

Beyond the fact that the books and accounts shall be kept properly, no guidelines have been established as to how this should be accomplished, for example, whether international accounting standards should be observed.

The Ministry concludes therefore that recommendation no. 1 also entails an accounting and bookkeeping obligation for the party branches, in addition the an reporting obligation. In addition, it is up to each individual member country to determine what principles the bookkeeping and accounting should observe, as well as how extensive the obligations should be.

GRECO's evaluation procedure entails in general that it is up to the member country to determine how recommended measures shall be followed up. Grounds were found in the evaluation report to comment on the relevance of the reporting pursuant to the Accounting Act with a view to anti-corruption, cf. paragraph 74:

"Even if GET is satisfied with the fact that the five largest political parties are obligated to archive the accounts and annual reports, which is an important tool for strengthening the financial discipline of the political actors, it is also found that the reports that are archived pursuant to the Accounting Act would clearly not be of great benefit to most people or the media. For someone who is not used to reading and understanding accounting documents such as "income statements" and "balance sheets" the information that is provided will not be immediately comprehensible. In addition, due to the way that audited financial accounts and the settlement of accounts are set up, it is not possible to determine the size of individual contributions or the identity of major contributors in these annual reports."

The scrutiny system in the Political Parties Act is commented on in paragraph 75:

"It is also appreciated that Statistics Norway has developed standardised forms for reporting the parties' annual income and individual contributions, which, according to the political parties GET met, are simple to fill in, and that the agency provides – if necessary – guidance for filling in these forms. Examples of the income reports obtained by Statistics Norway, which can also be found on the agency's website, illustrate, moreover, that these reports – as opposed to the aforementioned reports that are archived pursuant to the Accounting Act – will be relatively easy to understand for the common man. In addition, the manner in which this information is presented is decisive for all forms of investigation. GET finds therefore that it is advisable to introduce a common format for the reporting of this type of information, as is also the case now for the annual income reports. Such a format would make it simpler to compare from year to year, and between the various parties, and increase the value of the information presented, and it would also provide further guidance for the parties with regard to how far the reporting obligation extends."

The Ministry finds therefore that there is a clear recommendation from GRECO to develop the system for reporting and scrutiny that has already been established in the Political Parties Act.

The consultative proposal takes these considerations into account. The proposal is discussed in GRECO's follow-up report (30 March 2011):

"With regard to the third part of the recommendation, the Norwegian authorities report that as soon as the amendment proposal for the Political Parties Act has been adopted, a revised version of the current electronic forms for the reporting of income (with the appropriate guidance) will be prepared by Statistics Norway for all the parties/party units that must provide a full overview of their finances (income, expenditures, liabilities and equity, etc.)".

As mentioned above, GRECO considers this to be a step in the direction of implementing this recommendation.

Further details of the relationship between the Political Parties Act and Accounting Act

The Ministry points out that the Party Funding Committee discussed whether the Accounting Act may be a suitable alternative for a special Act (i.e. the former Political Parties Act of 1998). The committee found that this was not the case, cf. section 6.9.2 in NOU 2004: 25:

"An adaptation of the Accounting Act is basically an alluring idea. There are defined requirements in the Accounting Act that are observed by everyone, they are known, it is easy to adapt to the new requirements (such as the publication of certain costs), and the development of new systems that may entail increased bureaucracy is avoided. (...) If the Accounting Act is used as the basis, it will thus be necessary to impose a special obligation on the political parties, so that all levels of the political parties, regardless of the value of the assets and number of employees, will be subject to a statutory obligation to keep accounts.

(...) With regard to information on income, the Accounting Act today does not have any provisions that safeguard the purposes that the Act relating to the publication of the political parties' income is supposed to safeguard. The Accounting Act has not been designed with a view to identifying the sources of income for entities subject to a statutory obligation to keep accounts. If the Accounting Act is to be used, it must thus establish requirements for a special note system (in the new Political Parties Act or Accounting Act), so that the purpose of the scrutiny of the political parties' income can be safeguarded. The requirements that are stipulated for the specification of expenditures in the current Accounting Act (goods consumed, personnel and operating expenses, depreciation and interest) provides information on the scope of the party's economic activities. In combination with the balance sheet, they provide information on how the party has organised its economic activities, liquidity, funding and financial strength. They do, however, not contribute information on the party's political activities, including ties, possible abuse of power or other factors that there may be grounds for believing will be of particular relevance to the decision of the voters. If there is a special reason for requiring political parties to report information on their expenditures, in the same manner as the income side, then it may be relevant to consider a special note system for the expenditure side as well. The committee does not support an accounting obligation pursuant to the Accounting Act. What would be achieved with an accounting obligation pursuant to the Accounting Act, can, in the opinion of the committee, not be justified by some significant, democratic considerations. The committee finds interfering with the parties' organisation

through a statutory requirement to be problematic. For the local branches, there is also talk of relatively modest grants. It is easy for a situation to arise in which the cost of accounting exceeds the public funding. Reporting pursuant to the Accounting Act will in the opinion of the committee entail that a disproportionately extensive obligation is imposed on the local party branches. In addition, the Accounting Act is not designed either with a view to non-profit associations."

The Party Funding Committee referred otherwise to what the committee that evaluated the Accounting Act in NOU 2003: 23 thought about this:

"If smaller non-profit associations were to be encompassed by the accounting obligation, this would entail a significantly greater need for simplifications in the regulations. This would apply in particular if the accounting obligation was to be expanded to include all non-profit associations." (section 8.9.1)

The Ministry sums up the comments of the consultative bodies here on this part of the proposal and comments on these in the following:

- It would be beneficial if it was expressly stated in the legislative background whether the reporting obligation also entails that the parties have an accounting obligation.
- On the basis of its wording, it appears that the proposal entails that the parties and party units must not only report complete accounts in accordance with the Accounting Act, but that they must also give additional information in accordance with the Political Parties Act.
- It would be beneficial if a more detailed evaluation is made as to how the accounting provisions in the Political Parties Act can be adapted to the Accounting Act in the most appropriate manner.
- An alternative may be to stipulate a general accounting obligation pursuant to the Accounting Act for political parties, but permit that the simplification rules for small enterprises with a statutory obligation to keep accounts are used in full and grant exemptions from provisions that would provide relatively little information value based on the purpose in relation to the administrative burden associated with obtaining such information. Another alternative may be to study rule-based accounting regulations (as opposed to the rules based on principles in the Accounting Act) for political parties, which are adapted to reporting through a web-based reporting solution without requiring additional notes on the principles.
- The Accounting Act provides an appropriate and well-tested reporting regime that has developed over time in accordance with the development of society and the view of what prerequisites apply at any given time for accounts of high quality, including comparability and relevance. This indicates that an attempt should be made to formulate a simple and appropriate reporting regime within the Accounting Act's system:
- It will not be prudent to base the reporting on the rules of the Accounting Act without disclosing the actual principles applied in the notes to the published accounts.

- The proposed statutory rules interact with the Accounting Act in an unnecessarily complicated and unclear manner.

Reference is made to the discussion of whether any guidelines provided in GRECO's evaluation report on recommendation no. 1 entail an accounting obligation in addition to a reporting obligation. The Ministry's conclusion is that the report, in comparison with article 11 of the Committee of Ministers' Rec(2003)4, entails an accounting and bookkeeping obligation for the party branches in addition to the expanded reporting obligation. In addition, it is a prerequisite that the Norwegian authorities determine themselves the scope of the obligations mentioned first as long as no clear guidelines have been established in the report with regard to this.

On the basis of several factors in this matter, the Ministry finds that it is logical that the obligation to report complete accounting figures must entail some form of accounting in advance. Increased control by the authorities from the Political Parties Act Committee, cf. recommendation no. 5 below, indicates that there must be something to control. A completed reporting form to Statistics Norway will be subjected to verification and control to a limited extent – not by the committee, the proposed Party Auditing Committee nor the auditor. This means that the form must be supported by accounts with documentation. The Ministry requires that the system is not made more complicated under any circumstances than covering the needs of the financial account users (including the public authorities). For example, the Ministry does not see the need for more than one accounting period annually, since reporting to Statistics Norway only takes place once a year and the proposal for election campaign reporting (cf. recommendation no. 3 below) does not entail complete accounts, and is only applicable to gifts. In addition, there will not be any talk of submitting a full annual report in the sense of the Accounting Act. Reporting to Statistics Norway will remain as the only requirement for reporting to the public authorities pursuant to the Political Parties Act.

With regard to the relationship between the Political Parties Act and Accounting Act, which several consultative bodies have touched on, the Ministry finds that such a discussion must be based on the purpose of the various Acts. The Accounting Act focuses on the financial strength and results of entities with a statutory obligation to keep accounts, which will be of great interest to financial account users such as investors, creditors, tax authorities, employees, etc. The purpose of the Political Parties Act according to section 1, third bullet point:

"to safeguard the public authorities' right of access and to counteract corruption and undesired ties by ensuring that the funding of the political parties' activities is transparent."

As referred to above, the Party Funding Committee based its proposal on the fact that the purpose of the Accounting Act does not coincide with the considerations of the Political Parties Act. Even if both the Acts concern financial matters, the focus of the Political Parties Act is on the financial ties between the party and the contributors, not on whether the party makes a financial profit or how this may be identified or distributed. In addition, there are two important considerations in this matter that must be evaluated when choosing a system:

1. Efficient access for the general public
2. Efficient for the party branches – i.e. that they can fulfil their obligations for accounting and reporting in a manner that results in the least amount of administrative burden.

The Ministry stresses that the most important part of the reporting system in the Political Parties Act, namely the income reporting that is to directly safeguard the purpose of the Act to counteract corruption through the scrutiny of ties, has already been established in accordance with the Party Funding Committee's proposal. Statistics Norway has the operational responsibility for www.partifinansiering.no and believes that the system functions well and is continuously improving. GRECO's expresses the same in its evaluation report and presumes that this will continue. The consultative proposal therefore presumes that the income reporting system will continue where it is today, i.e. in the Political Parties Act. When there is talk of expanding the reporting system to include complete accounts (i.e. supplement the current system with the expenditure side and balance sheet) it is an implicit prerequisite that the entire system shall be contained in the same Act. Nevertheless, the Ministry has suggested in the consultative proposal that the principles in the Accounting Act shall be used as the basis for the reporting of costs and the balance sheet. This must be seen in the context of the fact that there are no special considerations in the Political Parties Act that would indicate that other principles should be used – as is the case for the income side. Opinions voiced during the consultation round that "the proposal appears to entail, based on the wording, that the parties and party units must not only report complete accounts in accordance with the Accounting Act, but that they must also give additional information in accordance with the Political Parties Act, is therefore not completely accurate. The consultative proposal entails in brief that the income side in the system will remain unchanged. This system deviates from the Accounting Act with regard to the statement layout by safeguarding in particular anti-corruption considerations. In connection with the income reporting, the current note requirements for contributors in excess of the threshold values and agreements entered into with contributors will continue. In order to follow up recommendation no. 1, the system will be supplemented with information on costs and the balance sheet based on the principles in the Accounting Act, with the exceptions that have been made for non-profit organisations and for small enterprises that fall under the definition of "non-profit organisations". It is a prerequisite that the expanded note requirements, with regard to the balance sheet, for example, safeguard anti-corruption considerations.

In its statement the Ministry of Finance discusses two alternative models for adaptation to the provisions of the Accounting Act, and the first alternative is *"to stipulate a general accounting obligation pursuant to the Accounting Act for political parties, but permit that the simplification rules for small enterprises with a statutory obligation to keep accounts are used in full and grant exemptions from provisions that would provide relatively little information value based on the purpose in relation to the administrative burden associated with obtaining such information."*

The Ministry of Government Administration, Reform and Church Affairs points out that this is the standard justification for exemption of small enterprises from the main rules in the Accounting Act. The

Accounting Act must be said to be a general framework for the collection of various entities, both small and large, in a large range of industries and sectors. During the last decade the development has been in the direction of giving small enterprises greater flexibility through a growing number of exemption rules. It is evident in the report from the committee that evaluated the Accounting Act in 2003 that several consultative bodies have expressed that it is a clear weakness of the Accounting Act that most of the businesses in Norway fall under the exceptions and not under the main rules. This is due to the fact that over 90 per cent of the population consists of small enterprises. – The Act would have been more accessible if the opposite had been the main principle. In addition, it is maintained in this context that the references in the Act to the "generally accepted accounting policies" may be perceived as incomprehensible for some of the smaller entities, and thus make the Act's provisions less accessible to them. There has therefore been talk of a separate Accounting Act for small enterprises.

The Ministry points out that only enterprises over a certain size currently fall under the provisions of the Accounting Act, i.e. those with assets valued at over NOK 20 million or an average of more than 20 man-labour years. With regard to the Political Parties Act, they must be said to be resourceful enterprises. Imposing a general accounting obligation on 3,228 party branches, most of which are based on voluntary, unpaid manpower and annual income of around NOK 10,000 will hardly strengthen democracy even with all the opportunities to benefit from the exemption rules in the Act. The Ministry believes therefore that a system in which it is implicitly required that entities with a statutory obligation to keep accounts have a clear understanding of the main rules in order to understand the scope or benefit of the exemption rules is not suitable for the party branches. In addition, parts of the Accounting Act will hardly be relevant to the activities the party branches engage in. In addition, party branches do in general not have the finances to use a professional accountant either, and therefore it will be a major challenge for the public authorities to provide instructions and guidance within such a system. The Ministry finds therefore that a system must be established in which it is clearly evident what statutory obligations the party has through the specification of regulations, guidelines and reporting forms.

The Ministry sees nevertheless that the consideration to ensure consistent use of accounting principles and methods ("what prerequisites apply at any given time for accounts of high quality, including comparability and relevance") would probably be safeguarded better by placing all of the political parties and party branches under the Accounting Act, but it finds that greater importance cannot be attached solely to this consideration rather than other considerations in this matter. Reference is made otherwise to the fact that GRECO presumes that the current system will be continued, as well as the evaluations provided by the evaluation team with regard to the relevance of the reporting of accounts pursuant to the Accounting Act in the context of anti-corruption considerations. The Ministry suggests otherwise that the accounting principles and considerations are safeguarded adequately in the subsequent work on regulations.

Accordingly the Ministry supports that parties who do not have an accounting obligation pursuant to the Accounting Act shall not observe more than one Act when the accounts are to be kept and reported. For such parties the Ministry supports that these rules be established together in the Political Parties Act. Accordingly, the Ministry's proposal also contributes to safeguarding consideration for a system for

efficient fulfilment of the party branches' obligations. By imposing on the other hand a general accounting obligation pursuant to the Accounting Act, and the associated obligations pursuant to the Bookkeeping Act, the reporting will still have to be performed in accordance with the system in the Political Parties Act (cf. justification below on the conditions for affiliation with the Register of Company Accounts). The consequence is that parties must adapt to three different Acts, and at least one of them is regarded as difficult to understand, even for relatively resourceful enterprises. The Ministry advises against the last-mentioned alternative.

About use of the accounting principles

It is evident from the legislative background for the Accounting Act that small enterprises in Norway are a heterogeneous group that cover a broad range of industries and sectors – ranging from financial institutions to car painting firms. In order to cover the entire range the legislation must necessarily be of a general nature. The need for alternative use of the accounting principles will also arise across the population, for example, exemption from a number of the fundamental accounting principles in section 4-1 has been allowed for small enterprises. In addition, there are different accounting standards for small enterprises and non-profit organisations.

In contrast to this, the Ministry finds that the party branch population is a relatively homogenous group across party lines, at least when making comparisons at the same organisational level. This means, for example, that several similarities can be found in the organisation and operations between the Norwegian Young Conservatives in Hordaland, the Christian Democratic Party's Youth Organisation in Telemark and the Progress Party's Youth in Sør-Trøndelag. This indicates in turn a custom accounting system for political parties can be developed within the Political Parties Act, which will be more readily accessible and fulfil underlying considerations better than if more general rules, such as in the Accounting Act and Bookkeeping Act, are used as the basis. The Party Funding Committee touched on this. The Ministry believes, for example, that there should be grounds for imposing the use of the same principles for accounting, as specified in greater detail in the regulations, on the party branches. It would consequently be unnecessary for the parties to disclose the use of accounting principles in notes.

Reference is made otherwise to the paragraph below on the proposed authority to issue regulations concerning this.

5.1.8.3 Relationship to the Bookkeeping Act

GRECO does not address the bookkeeping obligation directly in its evaluation report, but it makes reference to the fact that the five-six largest party branches are subject to the Accounting Act and thus the Bookkeeping Act. It follows nevertheless from the evaluation basis (Rec(2003)4, article 11) that the parties should be required to keep proper books.

The relationship to the Bookkeeping Act has not been discussed in the consultation memorandum, but it was taken into consideration by the Ministry of Finance in the consultation round, which requires the existence of vouchers and other bookkeeping documentation that is adequate so that the political party auditor and Political Parties Act Committee can verify the reported data. The Ministry of Finance points

out that if a general accounting obligation pursuant to the Accounting Act is imposed on the parties, then they will also have a bookkeeping obligation pursuant to the Bookkeeping Act. There is hardly a need to make the bookkeeping regulations applicable in full for political parties and party units that are not encompassed by the bookkeeping obligation pursuant to the Bookkeeping Act. In the opinion of the Ministry of Finance, it will be adequate to make certain central documentation requirements applicable to such political parties.

The Ministry of Government Administration, Reform and Church Affairs makes reference to the discussion above in which it is concluded that a general accounting obligation pursuant to the Accounting Act should not be imposed on political parties, i.e. the Bookkeeping Act will not apply to party branches that do not currently fall under the Accounting Act. Nevertheless, the Ministry sees that there is a need to make fundamental principles for accounting, documentation and storage applicable. This entails a requirement that all the relevant accounting information must be systematised and stored in an appropriate manner. In addition, there is a need for a rule on the storage of accounts and accounting information that encompasses discontinued party branches for a period of time that corresponds to the period of limitation in the Act. This is in order to fulfil Rec(2003)4 and to ensure that there was substance in the Political Parties Act Committee's control function. The Ministry suggests in the proposal that bookkeeping rules that are more extensive than necessary for the purpose of the Political Parties Act will not be introduced. It has been proposed that the requirements be founded on the Political Parties Act, with supplementary rules and regulations.

The fundamental bookkeeping principles are stated in section 4 of the Bookkeeping Act (Act no. 73 of 19 November 2004).

"Bookkeeping, specification, documentation and storage of accounting information shall take place in accordance with the following fundamental principles:

- 1. Accounting system: There shall be a clear and orderly accounting system that enables the production of statutory financial reporting and specifications, and which is organised in such a manner that the duty of disclosure can be complied with.*
- 2. Completeness: All transactions and other financial dispositions shall be entered in full in the accounting system.*
- 3. Substantiality: Entries shall be the result of actual events or accounting valuations and shall pertain to the business of the enterprise with a bookkeeping obligation.*
- 4. Accuracy: Information shall be entered and specified correctly and accurately.*
- 5. Updating: Information shall be entered and specified as often as dictated by the nature of the information and the nature and scope of the business of the enterprise with a bookkeeping obligation.*

6. Documentation of entries: Entries shall be documented in a manner that shows its justification.

7. Traceability: There shall be a two-way audit trail between documentation, specifications and statutory financial reporting.

8. Storage: Documentation, specifications and statutory financial reporting shall be stored for as long as reasonably required for the control of the statutory financial reporting. Storage shall take place in a form that enables the material to be read.

9. Security: The accounting material shall be adequately secured against unlawful alteration, deletion or loss.

On the basis of this provision, the Ministry discusses here what principles should be applied to the parties' bookkeeping in order to fulfil the purpose of the Political Parties Act.

Accounting system

The Ministry finds that it is a prerequisite for proper and complete reporting to Statistics Norway that the reportable information is registered in an accounting system in the party branches. To what extent the Political Parties Act Committee can verify the reported information will, for example, be dependent on what type of accounting system is used, as well as how this system is organised. An "accounting system" is defined as a medium that contains information subject to registration. This can be an ICT system or a manual system that consists of traditional books. The system can also be a combination of a manual and an ICT-based system. Pursuant to section 6, first paragraph of the Bookkeeping Act, the accounting system shall be capable of reproducing on paper specifications of statutory financial reporting as mentioned in section 5. The second paragraph, first sentence requires that "documentation of the accounting system shall be provided, describing the possibilities for control and how system-generated items can be checked, including relevant codes and fixed data, if this is necessary to enable the recorded entries to be controlled."

The bookkeeping regulations require documentation linked to the reportable information and the actual accounting system. The considerations on which this is based can be found in Proposition no. 42 (1997–98) to the Odelsting. The structure and manner of operation for the accounting system shall be evident, so that accounting experts can familiarise themselves with the system and how the accounting is carried out. It must be readily evident how the accounts can be verified, if necessary, by describing how the systems work. The Ministry of Finance states in chapter 5 of the proposition:

"In accordance with the proposal, the documentation shall show how the recorded information is arranged in the accounting system, and what the relationship is between the recorded information and figures in the annual accounts, annual report and other mandatory reporting in accordance with the law or regulations. Just like what follows from the Swedish regulations, information on any changes in the accounting system should be required in the opinion of the Ministry. Changes to the fixed data and

codes, as mentioned in section 3-1 of the current loose-leaf regulations, must be regarded as changes to the accounting system in this connection. "

In this connection the Ministry has evaluated how appropriate it is to develop an electronic downloadable accounting system for political parties that contains the necessary requirements and specifications, in addition to a guidance module. In this manner it will be possible to avoid the introduction of special documentation requirements for the accounting system. The system can be used for internal, ongoing accounting in the parties, and there will be an export function for aggregated accounting data to Statistics Norway at the end of the year. Accordingly, the reporting duties can more easily be spread out over the year instead of all the entry work having to be done from scratch just before the reporting deadline. Statistics Norway's guidance will of course also be spread out more evenly throughout the year. It is also conceivable that the accounting system can safeguard the documentation considerations, through, for example, a function for the scanning and systemisation of the accounting vouchers etc. A central database for the backup of accounting data and documentation that only the parties would have regular access to is also conceivable. It would thus also be easier to take storage into consideration with regard to the subsequent control.

The Ministry finds that there are several advantages of a common accounting system. However, it is assumed that the expenses related to the development and continuous operation would be relatively high, which would in turn require a greater increase in the operations item in chapter 1530 Funding for the political parties. Experience from Statistics Norway's electronic reporting form for income shows that only around 35 per cent of the party branches choose to report electronically, the remainder – around 65 per cent – prefer the paper-based alternative. This may indicate a certain "avoidance of the Internet", but it may also be attributed to the fact that there are still not any satisfactory electronic signature solutions. The Ministry therefore sees that a common accounting system would hardly have the expected benefit with regard to costs – since it must in any case be supplemented by a paper-based or manual alternative. In consultation with Statistics Norway, the Ministry has decided accordingly not to pursue this proposal further. It is not considered relevant to propose a statutory obligation to use a specific accounting system either. Reference is made otherwise to the paragraph below concerning the expansion of Statistics Norway's reporting forms.

As mentioned above, it is reasonable to assume that accounting in one form or the other is widespread in party branches in accordance with the statutes – as part of the internal management. This entails an accounting system, either in the form of traditional books, electronic spread sheets or more professional electronic accounting systems that are already widespread. The Ministry envisions nevertheless that the accounting systems in the party branches are generally not so complicated that it will require particularly extensive documentation to understand the structure or composition. There should nevertheless be a fundamental requirement with respect to the system's orderliness and overview function and that the system can be used as a basis for reporting to Statistics Norway. The Ministry suggests that basic accounting system rules be incorporated into the Political Parties Act – possibly with

supplementary rules in regulations, but that the parties will otherwise be entrusted with choosing a system.

The Ministry believes that there should be a rule that the design of the accounting system pursuant to the Political Parties Act must be such that it makes auditing possible on the part of the public authorities, i.e. the Political Parties Act Committee and the special Party Auditing Committee, the establishment of which was proposed under recommendation no. 5 below. Consideration to the auditor's opportunities for verification is also relevant. For party branches that already have an accounting system that satisfies the Bookkeeping Act, this rule does not entail any additional requirements.

Accounting

The Ministry points out that accounting has traditionally been linked to producing a result and balance sheet. For the purpose of the Political Parties Act in accordance with the proposal, this will be necessary, but not adequate since the purpose of the Act is "to safeguard the public authorities' right of access and to counteract corruption and undesired ties by ensuring that the funding of the political parties' activities is transparent". In addition to figures that show the financial standing and results, special information shall also be provided on ties through a statement layout specified in greater detail with respect to income and special note requirements.

To strengthen the right of access in the current Political Parties Act, GRECO has recommended that, in addition to a continuation of the reporting requirements for income, an obligation to report complete accounts, including information on liabilities and assets, shall be imposed on the parties. In the consultation memorandum, the Ministry has proposed that the expanded obligations be set up in accordance with the principles of the Accounting Act, which GRECO has not commented on in the follow-up report. Neither Rec(2003)4 nor GRECO's evaluation report says anything about how often the accounting shall be carried out. In accordance with accounting pursuant to the Accounting Act, regular updating of the accounts will essentially be something that is naturally expected by the entities with a statutory obligation to keep accounts. In connection with the Political Parties Act, there are no clear considerations or arguments indicating more frequent updating than what is required for the party branches to fulfil their statutory reporting obligations in time, i.e. annual reporting to Statistics Norway – in addition to information on contributions received during election campaigns, cf. proposal linked to recommendation no. 3 below. In the aforementioned draft amendments to the Political Parties Act it is foreseen that the Political Parties Act Committee can demand that the party/party unit in question disclose all its accounting information on suspicion of incorrect *reporting*. The provision does not give the committee general access to accounting information or other party documentation – not with regard to the substance nor time. The committee's right of access will be limited to individual cases in which there is suspicion of wrongdoing related to reported matters. In accordance with the proposal, this entails no authority for control of the ongoing accounting in the parties on the part of the authorities. With regard to the Political Parties Act, there will not be any need either for the reporting of

accounts or printouts during the year – which is, for example, the case for enterprises subject to value-added tax pursuant to the Accounting Act. If the party branch records income from a cake lottery the same day that it is earned or two months afterwards, it would be difficult to say that this would be of any significance in relation to the Political Parties Act, provided it is recorded within the same financial year and the accounting is otherwise correct. The relationship to the auditor and the auditor's opportunities to perform the auditing assignment may, however, indicate otherwise.

The Ministry finds that the quality of the accounting data for the purpose of the Political Parties Act must be safeguarded through accounting requirements in the Act – this includes considerations that the material must be complete, accurate and traceable. Otherwise factors of importance to proper internal management and control of the party branch should be covered in the internal statutes. The Ministry requires that it is stipulated in the Political Parties Act that each transaction or disposition that affects the composition or scope of the party branch's income and expenditures, assets and liabilities, shall be recorded in the accounting system. This entails that the information on any factors affecting the addition or disposal of resources shall therefore be recorded. Internal transactions between the party branches within the same registered party, such as the transfer of lottery income, will also be encompassed by the rule. Information shall be recorded and specified correctly and accurately. In addition, the Political Parties Act should require that the information shall be recorded in such a way that it can be reconstructed after the fact. It is a prerequisite that each transaction is registered with adequate identification so that it can be uniquely specified in the accounting system. It is pointed out that the reports to Statistics Norway will consist of aggregated accounting data, not individual entries.

The rule is based on the relevant principles in section 4 of the Bookkeeping Act. In the same manner as in the Bookkeeping Act, the Ministry suggests that adequate identification be used so that the transaction is uniquely specified in the accounting system. The Ministry of Finance's statements in Proposition no. 42 (1997–98) to the Odelsting can illustrate this:

"The requirements for such documentation must also ensure that it is possible to establish an audit trail. An audit trail is defined as information on how recorded information is arranged in the accounting system and the relationship between recorded information and figures in the annual accounts and other reports. This provides an opportunity to follow the information on a transaction or other disposition, including agreements, business documents, resource transformation, from the initial registration to the final annual accounts or vice versa. An audit trail is a useful tool for external bodies that are to conduct an audit."

Beyond this it is not regarded as appropriate to give an extensive list of what other data is to be recorded in the accounting system for each transaction or disposition. This could otherwise also be an area that is covered by internal statutes. The Ministry sees that there is a need for the aforementioned matters in the Political Parties Act to be specified further in regulations and possibly guidelines. This may, for example, encompass technical specification of how the identity of a contributor of gifts in excess of the threshold values in the Act, as well as identifies related to sponsorship and leasing agreements, shall be recorded.

Documentation of recorded information

The Ministry points out that special documentation requirements linked to the accounting system have been discussed above.

Section 10, first and second paragraphs of the Bookkeeping Act concerning the documentation of recorded information states:

"Recorded information shall be documented. Documentation shall be issued with a content that is correct and complete, and it shall show the justification for the entries. The documentation shall not be changed after it has been issued. If the documentation consists of several documents, the primary document shall contain references to the other documents."

Entries shall be easy to follow from the documentation via the specifications to the statutory financial reporting. Similarly, starting from the statutory financial reporting, it shall be easy to find the documentation for the individual entries. The documentation shall be systematised in a manner that enables its completeness to be checked."

The Ministry finds that accounting pursuant to the Political Parties Act shall be performed in such a manner that there is a clear relationship between the vouchers and the books (accounting system). All the relevant entries shall be documented in a manner that verifies the content – to the extent this is possible. The Accounting Act establishes that expenses shall be documented by vouchers. The same applies to income to the extent this is possible, for example, by means of invoice copies, sales slips and tally rolls.

The Ministry sees that certain types of political party income, such as collections from party meetings, may be difficult to document beyond this is a "collection from a party meeting on such and such a date". Other examples include the sale of political party effects etc. The Ministry's proposal does not require that the party is able to document who has purchased t-shirts or scarves, but that the recorded income is from such sales. The documentation requirement should not otherwise prevent the party from performing its core duties for democracy by the requirement being perceived as so artificial or extraordinary that the party drops performing the activity. The Ministry assumes that the internal statutes will have rules related to the control of vouchers, for example, use of the party's funds by trusted persons. "Unexplained use of funds" would thus be relevant in accordance with the internal statutes as well as the Political Parties Act.

The Ministry finds that there should be an original paper voucher whenever possible. It is, however, not conceivable that every transaction can satisfy such a requirement. The documentation should also be provided in another form that makes it possible to verify the origin and content in a satisfactory manner. In the sense of the Accounting Act, it has been common to understand that electronically transferred documents can be approved as documentation, provided the relevant data can be printed out on paper.

Like the Accounting Act, the Political Parties Act should also be based on a documentation date and codes (such as the voucher numbering), which ensures a systematic, unique and readily verifiable connection between the entry and the documentation for this entry.

The Ministry finds that a general documentation requirement for assets and liabilities in connection with the preparation of the annual accounts should be proposed whenever possible. What is to be regarded as satisfactory documentation will necessarily vary to a great extent depending on the type of assets or liabilities. The Ministry does not see that it is practically possible to provide exhaustive regulation in the Political Parties Act. There will therefore be a need for supplementary regulations on this point.

Storage obligation

In addition, it follows from section 4 of the Bookkeeping Act:

6. Documentation of entries: Entries shall be documented in a manner that shows its justification.

7. Traceability: There shall be a two-way audit trail between documentation, specifications and statutory financial reporting.

The Ministry's proposal entails that it shall be possible to audit the documentation throughout the entire storage period. The storage period corresponds to the period of limitation in the Act. In accordance with the proposed penal provisions, this is five years.

There is a need to stipulate in the Political Parties Act that the storage requirement encompasses all of the proof and confirmation (documentation) related to reportable matters. This will encompass in part the general storage requirement in the Accounting Act for the documentation of recorded information, assets and liabilities and documentation of the accounting system. In addition, there will be storage requirements related to particular reportable matters in the Political Parties Act, such as gifts over the threshold values in the current section 20, first paragraph concerning agreements with contributors, and sponsorship and loan agreements in accordance with the proposal. It is a prerequisite that the principle from the Accounting Act that all relevant accounting material shall be stored in an orderly manner, so that it is easy to find, shall still apply. In addition, a principle is proposed that the accounting material be kept in a manner so that it is protected from destruction and theft and that this shall apply to the storage obligation pursuant to the Political Parties Act. Proposition no. 42 (1997–87) to the Odelsting makes reference to the following as a detailed specification of what the obligation entails:

"With regard to outgoing and incoming documentation, the subcommittee makes reference to the Directorate of Taxes' bulletin of 12 November 1991 (Ko no. 3/91) in which waybills, order forms, packing notes, delivery notes, cover letters, bill of lading and corresponding supporting vouchers for invoices will essentially be defined as accounting material that falls under the storage obligation in section 11 of the Accounting Act, unless the invoice itself contains all of the information necessary from these supporting vouchers."

The Ministry finds that the main rule should be that the entities with a statutory obligation to keep accounts (party branches) themselves should ensure that the storage obligation is satisfied. For branches that are discontinued, the party branch that is immediately above in the party hierarchy will have to take over the obligation to store the accounting material during the period of limitation. Party branches further up in the system can possibly fulfil this obligation in the same manner. For a municipal branch and a county youth branch the closest party branch would be the county branch. For county branches the central organisation will be the closest branch. It is pointed out that it is only the obligation to store the mandatory accounting material "as is" that is being transferred – in addition to the obligation to safeguard this against unlawful alteration, deletion or loss. In accordance with the proposal, the party branch will not automatically be responsible with regard to the quality of the accounting material, documentation basis or other matters discussed in the point above.

5.1.8.4 Proposed statement layout for the expenditure side, balance sheet, notes, etc.

In GRECO's evaluation report, it is a prerequisite that a standardised format be established for the parties' reporting of expenditures, liabilities and assets, cf. paragraph 79. GRECO's conclusion in the follow-up report is that progress has been made in the direction of following up recommendation no. 1. The consultative proposal's statement layout is part of the evaluation:

"With regard to the third part of the recommendation, the Norwegian authorities report that as soon as the amendment proposal for the Political Parties Act has been adopted, a revised version of the current electronic forms for the reporting of income (with the appropriate guidance) will be prepared by Statistics Norway for all the parties/party units that must provide a full overview of their finances (income, expenditures, liabilities and equity, etc.)".

The Ministry points out that the proposed statement layout in the consultation memorandum has received support from Statistics Norway, but criticism from the Norwegian Institute of Public Accountants, which believes that the proposal mixes information broken down by category and activity together. The institute has a specific proposal for how this can be improved. In the opinion of the parties in the Storting, it would be unnecessarily bureaucratic to prepare a separate template for political parties with regard to the reporting of expenditures.

The Ministry points out that GRECO attaches a great deal of importance to the reporting of accounting data based on a fixed template in its evaluation reports in the third round. This is so that the data can be comparable and have a consistency that makes scrutiny by the general public easier. In the evaluation report, GRECO has made positive comments on the Norwegian template for income reporting. The Ministry finds therefore that a statutory template for the reporting of accounts that safeguards the considerations in the Political Parties Act is an important part of recommendation no. 1. The Ministry finds that there is reason to adjust the proposal in the consultation memorandum in order to oblige the comment by the Norwegian Institute of Public Accountants.

With regard to the balance sheet and notes, the consultative comments are of a more editorial nature that would have been relevant if the system had been founded on the Accounting Act. The Ministry does therefore not see any reason to make adjustments to the draft legislation on this point. The

proposal in the consultation memorandum will remain unchanged. This also means that the party or party unit ("party branch") shall disclose the identity of the creditor in notes with regard to liabilities (current/non-current) that exceed the threshold values in section 20, first paragraph of the Political Parties Act.

5.1.8.5 Expanded reporting system under Statistics Norway

The consultative proposal entails that the current system for reporting income will be expanded to include complete accounts, liabilities and assets. Statistics Norway will have the same role as today, which is to collect, compare and publish reports, but the proposal makes nevertheless reservations with regard to an increase in the guidance provided to the party branches.

The Ministry points out that GRECO comments in paragraph 75 of the evaluation report on the scrutiny system that has been established, where Statistics Norway is assigned the task of being the "central register for reporting" in accordance with section 22, first paragraph:

"It is also appreciated that the Statistics Norway has developed standardised forms for reporting the parties' annual income and individual contributions, which, according to the political parties GET met, are simple to fill in, and that the agency will provide – if necessary – further guidance for filling in these forms. Examples of the income reports obtained by Statistics Norway, which can also be found on the agency's website, illustrate, moreover, that these reports – as opposed to the aforementioned reports that are archived pursuant to the Accounting Act – will be relatively easy to understand for the common man.

Publication of the political party income has been commented on in paragraph 83:

"There is no requirement that the political parties themselves must publish information on their income. Instead, Statistics Norway in cooperation with the Ministry of Government Administration and Reform have created a website with information on the funding of political parties (www.partifinansiering.no). GET would like to praise the Norwegian authorities for having created this website, where the individual income reports from the various parties and party units have been published (as well as information derived from these reports in a condensed and summarised form), supplemented with additional statistics presented in a coherent and available manner."

Even if GRECO has commented positively on the current scrutiny system and Statistics Norway's administration, the Ministry assumes that it will be within the prerequisites if a different agency possibly takes over all or parts of this function, provided that this does not weaken the quality of the scrutiny. Two solutions appear to be appropriate as possible alternatives:

1. The Register of Company Accounts, which is currently the body where accounts are sent pursuant to the Accounting Act, will be made responsible for the receipt, collation and publication of all the information reported pursuant to the Political Parties Act.

2. The Register of Company Accounts receives accounting reports in accordance with the Political Parties Act. Statistics Norway collects therefore data for collation and publication at www.partifinansiering.no.

The Ministry points out that several consultative bodies have commented on the current system and the opportunities for expansion of this system. Some of the statements stipulate that the reporting obligation should be linked more closely to the Accounting Act than is the case in the Ministry's proposal. The Ministry of Finance finds that Statistics Norway's web-based reporting form is not adapted to reporting in accordance with the system used in the Accounting Act and is in doubt as to whether the requirement of complete notes pursuant to the Accounting Act will be compatible with a web-based reporting form of the type that is currently used. The Ministry of Finance finds that there may be reason to clarify whether provisions can be made so that this information can be retrieved instead electronically from the Register of Company Accounts or if Statistics Norway may be assigned the task of retrieving the information that is required from the annual accounts submitted by the parties. The Norwegian Institute of Public Accountants finds that it should be considered whether it is adequate that the central register for the scheme (Statistics Norway) retrieves the annual accounts from the Register of Company Accounts, so that the parties avoid having to send the accounts to more than one place.

In its consultative statement and a subsequent meeting with the Ministry, Statistics Norway was of the opinion that it would be practically possible to retrieve accounting data by the preparation of a new standardised reporting form (both as an electronic and postal reporting module) that would expand the existing income reporting form.

The Ministry points out that the Party Funding Committee considered this topic in NOU 2004: 25, cf. section 6.9.2:

"Units that submit accounts to the Brønnøysund Register Centre must be established as separate legal entities. They must be registered with the Central Coordinating Register for Legal Entities and subjected to the requirements with regard to the maintenance of register information that apply there. There are no regulations that control the organisation of political parties, and they are organised very differently. What branches represent separate legal entities will vary. A consequence of the accounting obligation pursuant to the Accounting Act will entail that the parties are subjected to new, formal requirements. The late fee rules in the Act will also apply correspondingly. The Brønnøysund Register Centre can ensure access to the individual accounts that are submitted. They do, however, not have systems designed to collate the accounting figures and create general summaries."

The Party Funding Committee proposed instead the establishment of a central register for the scheme and administrative functions within Statistics Norway.

The Ministry finds that the Register of Company Accounts as an alternative for the receipt of accounting information pursuant to the Political Parties Act would require that all of the party branches from the central level to the municipal level, including youth organisations at the central and county levels, register with the Central Coordinating Register for Legal Entities with separate organisation numbers.

The Ministry has evaluated this matter in connection with the need for increased reporting security and efficiency. This means that mandatory registration would be advantageous, partly due to the requirements in the Act relating to the Central Coordinating Register for Legal Entities concerning the maintenance of register information and partly due to the fact that the parties could use the public reporting portal ALTINN as the reporting module. As is evident from the Brønnøysund Register Centre's statement of 28 September 2009, mandatory registration with the Central Coordinating Register for Legal Entities would have consequences for the freedom of the party branches to choose their form of organisation – which the Party Funding Committee also touched on:

"It is essentially a requirement pursuant to section 4 of the Act relating to the Central Coordinating Register for Legal Entities that all the entities that are to be registered with the register and assigned an organisation number, must satisfy the requirements to qualify as a separate registration entity. For political parties this will mean that they must be established as separate legal entities. Each individual entity that seeks registration will be treated individually and separately. In accordance with the current regulations, it will thus not be sufficient that the central unit in the political party organisation be established as a separate legal entity, if it is desired that the county branches and possibly the municipal branches also register and be assigned separate organisation numbers. Each individual unit further down in the organisation must in this case be established as such. (...)As we understand the above, and the legislative amendment, this would mean that all the party units that are not currently independent legal entities must establish themselves as independent entities. This entails, for example, that their statutes must be amended in order to become independent. The Central Coordinating Register for Legal Entities requires that all the entities seeking registration must submit a copy of their statutes documenting their independence."

The Brønnøysund Register Centre found in the same letter that the special rules for the registration of subunits (enterprises) in section 4, fourth paragraph of the Act relating to the Central Coordinating Register for Legal Entities is not relevant in this context:

"The practical registration of subunits and the guidelines surrounding this is managed primarily by Statistics Norway (SSB). This essentially applies, however, to business entities that can register multiple subunits if they are engaged in activities in different industries or at different geographic locations. For associations and other non-business entities there are special guidelines for the registration of any subunits. For example, subunits with less than a minimum of five employees each shall not be registered. In addition, even if registered subunits are also assigned organisation numbers, this is not a number that is to be used externally. It is only for use within the public administration. For example, the subnumber is used for the registration of employees. In any case, it is the main number that must always be used externally for the entire registration entity and all of the parts (subunits) it consists of."

According to the registration data, only around 15 per cent of the party branches are currently registered as independent legal entities in the Central Coordinating Register for Legal Entities. A reporting obligation to the Register of Company Accounts in accordance with the current system would therefore require reorganisation, through the amendment of statutes that document full independence

from the parent party, for as much as 85 per cent – i.e. around 2,700 party branches. The Ministry finds that such a proposal would interfere too much with the parties' freedom to choose their form of organisation for it to be advisable. The Ministry makes otherwise reference to consideration for information on the use of principles in notes, which the Ministry of Finance has pointed out, can be safeguarded by other means, cf. discussion above on the relationship to the Accounting Act.

The proposal in the consultation memorandum that today's reporting system under Statistics Norway be expanded to encompass complete accounting data, liabilities and assets – will therefore remain unchanged in this proposition.

5.1.8.6 About the proposal for an accounting module, including instructions and guidance

The Ministry makes reference to the discussion above on the consultative proposal on this point. The proposal is based on the party branches receiving professional accounting assistance so that they can observe the obligations in the Political Parties Act. A separate web-based accounting module under the auspices of the Ministry of Government Administration, Reform and Church Affairs and Statistics Norway will also be required, complete with instructions and guidance, to make it simple for the parties to fill in and submit the accounts electronically. Clear guidelines must also be established based on relevant parts of the two relevant accounting standards provided by the Norwegian Accounting Standards Board, in addition to principles that follow in particular from the Political Parties Act.

GRECO's evaluation report does not include any requirement that an accounting or reporting module be developed on the part of the authorities, but it requires that a standardised reporting form be prepared and that guidelines for the reporting be prepared, if necessary, cf. paragraph 79.

The Ministry points out that the consultative bodies have commented positively on the proposal for an accounting module with instructions and guidance. The fact that it should be user-friendly, functional and accessible has been mentioned. In addition, guidance shall be provided well in advance of the reporting deadline and the accounting module should be ready well in advance of when the Act enters into force.

Alternative no. 1 Complete accounting system

The Ministry makes reference to the discussion on the accounting system above and the evaluations made in consultation with Statistics Norway with regard to the development of a downloadable electronic accounting system for political parties. The system will be able to fulfil all the necessary requirements and specifications for reporting pursuant to the Political Parties Act, including the accounting and bookkeeping principles, as well as a guidance module. It will be possible to use the system for internal accounting, including the printout of accounting reports as required. The reporting of aggregated accounting data to Statistics Norway will be exported by means of a special function at the end of the year. Such a specialised accounting system for political parties, possibly supplemented by a central database for encrypted storage of accounting data where only the parties have access will also contribute to safeguarding the documentation and storage considerations more efficiently.

Even if the Ministry can envision several advantages of a common accounting system with such functionality, the costs related to the development and continuous operation are considered to be too high in relation to the expected benefit (user frequency). In this connection, reference is made to the fact that only 35 per cent of the party branches currently use the electronic system for income reporting, and the remainder prefer paper. Alternative 1 must therefore be supplemented in any case by a paper-based or manual alternative. In consultation with Statistics Norway, the Ministry has decided accordingly not to pursue this alternative further.

Alternative no. 2 Reporting module

It is considered more relevant that Statistics Norway expand the current reporting module to include all parts of the reporting, including contributions in connection with election campaigns (cf. recommendation no. 3 below). This will not be able to function as an accounting system pursuant to section 4 of the Bookkeeping Act in the paragraph above, and it will primarily be a reporting module in which the aggregated accounting data is entered manually by the party branch at the end of the year. The guidance part of this system will nevertheless be just as well developed as in alternative 1. Paper-based reporting will still be possible.

The Ministry believes that alternative 2 will safeguard important considerations for the reporting and be clearly less expensive than alternative 1. The Ministry proposes therefore that Statistics Norway develop a system in accordance with alternative 2, which will be made operationally ready before the amendment Act enters into force.

5.1.8.7 Deadline for reporting

The Ministry points out that the consultative proposal will maintain the current reporting deadline in section 18, second paragraph, which is six months after the end of the financial year, i.e. 1 July.

The parties in the Storting propose that the deadline be moved up to 1 June due to the traditional summer holiday period. In consultation with Statistics Norway the Ministry has found that the deadline can be moved to 1 June. It is perceived to be more orderly to move the deadline and not just allow reporting from 1 June or earlier.

The proposal does nevertheless not entail any changes to Statistics Norway's deadline for the submission of reports to the Political Parties Act Committee concerning violations of the reporting obligation, which is 1 October, cf. section 13 of the regulations pursuant to the Political Parties Act.

5.1.8.8 About the need for the authority to issue regulations for the reporting of accounts

The Ministry makes reference to the proposals in the consultation memorandum concerning the authority to prescribe by regulations detailed rules for the method of reporting, including accounting principles, valuations, use of auditors and the organisation of the central register.

Two consultative bodies have commented on this matter. The statements also appear here to build on the prerequisite of anchoring the party branches' accounting obligation in the Accounting Act and not the Political Parties Act as is supported by the Ministry in the consultation memorandum and this

proposition. The Ministry of Finance states that the Ministry of Government Administration, Reform and Church Affairs should review the Accounting Act with a view to clarifying what provisions the parties and party branches can be exempted from by means of regulations, while the Norwegian Institute of Public Accountants is of the opinion that there is no need for regulations relating to accounting principles, valuations and the use of political party auditors.

The Ministry points out that the guidelines for the accounting and reporting scheme, which it has been proposed shall be prescribed in or in the extension of supplementary regulations, will ensure that the established principles in the Accounting Act and the associated accounting standards from the Norwegian Accounting Standards Board become the basis for the party branches' accounting. The guidelines will encompass income, expenditures, and balance sheet figures. It is in regulations and supplementary guidelines that the actual adaptation to the provisions of the Accounting Act and Bookkeeping Act can be carried out most efficiently. It can thus be avoided that the party branches must act based on a set of laws in which most of the provisions are not relevant with respect to the purpose of the Political Parties Act, at the same time as the accounting quality of the reporting will be safeguarded. The Ministry aims therefore to review the Accounting Act with a view to clarifying what provisions on the basis of regulations should apply to parties and party branches. Emphasis will be placed on the fact that the system in the Political Parties Act "does not interact with the Accounting Act in an unnecessarily complicated and unclear manner" as pointed out in the consultation round, to avoid, for example, that the auditor's work is made more difficult. The proposal entails that special rules concerning the auditor's performance of auditing assignments in the context of the Political Parties Act can also be stipulated as required, but that conflicts with the Auditors Act and the associated regulations are to be avoided whenever possible. If there is any doubt concerning the accounting, bookkeeping and auditing principles, the Ministry suggests in the proposition that the established accounting authorities have the highest competence to interpret such matters (and not the Political Parties Act Committee as proposed in the consultation memorandum).

The Ministry is maintaining the proposal in the consultation memorandum that the Ministry be given the authority to prescribe by regulations detailed rules for the method of reporting, accounting principles, use of auditors and the organisation of the central register. Based on the discussion above, the proposal will also encompass the bookkeeping principles.

5.1.8.9 About raising the threshold values

The Ministry points out that the consultative proposal discusses this matter, including whether the rates shall be prescribed in regulations or still be regulated by law. Pursuant to section 18, third paragraph of the current law, parties or party units that have had total income of less than NOK 10,000 after the deduction of public funding, are exempt from the obligation to report the income accounts pursuant to section 19. They are obligated to submit a declaration that the income for the year has been below this level. Pursuant to section 20, first paragraph the identity of the contributor shall be disclosed when the value of the gift exceeds NOK 30,000 (central level), NOK 20,000 (county level) or NOK 10,000 (local level), respectively. The Ministry makes reference to the Party Funding Committee's statement in NOU 2004: 25, page 97 ff.

"The value of the proposed maximum amounts allowed of NOK 10, 20 and 30 thousand, respectively, will naturally change over time. The committee has therefore considered whether the maximum amounts allowed should instead be fixed at an amount that can be adjusted in keeping with increases in wages and costs. Such a rule may seem complicated, at the same time as there are advantages to operating with fixed amounts in kroner. This creates predictability for the donors, which should have considerable influence. It is also simpler for the parties to relate to statutory amounts in kroner. This will not be less important when the number of units obligated to report grows steeply. In the opinion of the committee, these considerations compensate for the inconvenience of having to amend the Act from time to time. The committee therefore endorses a fixed amount in kroner."

Reference is made to the fact that Norway is among the GRECO countries that have high thresholds for when gifts to political parties are to be subjected to public scrutiny. Consideration for the contributor's desire for anonymity in relation to the general public appears in other words to be well safeguarded by the Act. Increasing the limits in section 20, first paragraph will entail that fewer political party gifts will be publically known and thus limit the scrutiny based on the current level. The Ministry believes that the committee's prerequisites should still apply, i.e. that the limits should still be statutory.

The Ministry acknowledges that the threshold values in the Act should be adjusted upwards over time as a result of the general price inflation. Most of the Political Parties Act entered into force on 1 January 2006. Chapter 4 on reporting the parties' income and income sources was nevertheless given retroactive force from 1 January 2005. If we assume that the Act will enter into force from 1 January 2013, the limits have remained the same for eight years. Statistics Norway advises that the CPI inflation has been 14.2 per cent since 1 January 2005.

As opposed to the consultative proposal, the Ministry in this proposition goes in for an adjustment of the limits corresponding to the development of the Consumer Price Index (CPI) for the same period. It must be stressed that the proposal is based exclusively on compensation for price inflation – not on other considerations that have been pointed out in the consultation round that small party branches must be exempted from the obligations in the Act to a greater extent than is currently the case. As the Ministry argues for above, it believes that consideration for the small parties has already been safeguarded adequately and to a far greater extent than the prerequisites of the Party Funding Committee. The effect of the proposal will nevertheless be that more party branches will be exempt from complete reporting than is the case today. Based on the figures reported for the Christian Democratic Party, which, according to Statistics Norway, is the party with the greatest number of branches that submit complete income accounts, increasing the limit by 14.2 per cent will entail that around 12 per cent more of the Christian Democratic Party's branches will be under the limit for simplified reporting.

The Ministry proposes accordingly that the threshold values in the Act be adjusted now. Rounded up to the closest NOK thousand, this will give the following rates:

- The limit of NOK 10,000 in section 18, third paragraph and section 20, first paragraph, second sentence will be raised to NOK 12,000.

- The limits of NOK 30,000 and 20,000, respectively, in section 20, first paragraph, first and second sentences will be raised to *NOK 35,000* and *NOK 23,000*, respectively.

5.2 Recommendation no. 2 – further guidelines on reporting of non-monetary gifts etc.

5.2.1 GRECO's recommendation

GRECO recommends in its evaluation report, paragraph 82:

"that further guidelines be prepared concerning the reporting of non-monetary gifts, in addition to the concept of "political agreements" that are required to be reported under the Political Parties Act".

In its evaluation reports, GRECO has been concerned that the authorities shall provide information to the political parties (and candidates) with regard to statutory obligations related to transparency and reporting.

5.2.2 Proposals in the consultation memorandum

The Ministry assumes in the consultation memorandum that this recommendation requires no amendment to the regulations, but will be followed up in cooperation with Statistics Norway. Reference is made in this connection to the discussions in Proposition no. 84 (2004–2005) to the Odelsting concerning how agreements between political parties and contributors should be interpreted. In addition, what the concept of "non-monetary gifts" entails and how a distinction can be made between voluntary work and reportable services shall be described.

5.2.3 Comments from the consultative bodies

The following have commented on this part of the consultative proposal:

Parties in the Storting state:

"The parties do not have any objections to the Ministry preparing guidelines for this."

The Norwegian Labour Party, Harstad states:

"Guidelines would be useful, and they must be easy to follow for party branches without them having to seek professional help."

Statistics Norway (SSB) states:

"Statistics Norway supports on a general basis the need for detailed guidelines concerning written political and commercial agreements with contributors in connection with the reporting of the political

parties' income. With regard to non-monetary contributions, they are described in detail in the instructions for the existing form."

5.2.4 Ministry's evaluations

Based on the discussions in the legislative background for the Political Parties Act, the consultative proposal and input from the consultation round, the Ministry issued "Guidelines for reporting non-monetary contributions and reporting political and commercial agreements with contributors" on 28 February 2011. The guidelines can be found here:

<http://www.partifinansiering.no/retningslinjer.pdf>

In its follow-up report of 30 March 2011 GRECO has commented on the guidelines as follows:

"The authorities in Norway report that the Ministry of Government Administration, Reform and Church Affairs in cooperation with Statistics Norway have prepared guidelines that explain the concept of "political agreements" and how non-monetary contributions shall be evaluated and valued. The guidelines entered into force on 28 February 2011 and have been published on the website for political party funding (www.partifinansiering.no), with a view to the next reporting deadline for parties and party units, which is 1 July 2011. GRECO has made note of the information and expects that these guidelines will contribute to a better understanding of what is considered a non-monetary contribution and political agreements that are to be reported pursuant to the Political Parties Act. GRECO concludes that recommendation ii has been satisfactorily implemented."

The Ministry finds that the recommendation does not require further follow-up. There will nevertheless be a need to revise the guidelines as a result of the draft legislation, to clarify the conditions for reporting loan and sponsorship agreements, for example.

5.3 Recommendation no. 3 – duty to report income received and expenditures incurred in connection with election campaigns

5.3.1 GRECO's and the OSCE/ODIHR's recommendations

GRECO recommends:

"that the introduction of an obligation to report income received and expenditures incurred in connection with election campaigns be considered"

GRECO has formulated recommendation no. 3 as a "consider", i.e. a milder form of recommendation where the member state can in principle satisfy the requirements by acknowledging that it has in fact considered the initiative.

As mentioned in chapter 1, the OSCE/ODIHR has also evaluated the party funding in Norway and recommended that:

"The Political Parties Act should be evaluated with a view to greater transparency concerning income and expenditures in connection with election campaigns through regular and independent audit reports."

By prescribing greater transparency concerning income and expenditures, as well as independent audit reports, the OSCE/ODIHR can be said to support several of GRECO's recommendations. However, as a basis for greater transparency for election campaign funding, the OSCE/ODIHR is introducing regular and independent audit reports – which means that the recommendation can essentially be interpreted as stricter than GRECO's recommendation no. 3 and practice in this area through the other evaluation reports. On the other hand, the formulation *"should be evaluated with a view to"* indicates that this is a mild recommendation that does not differ significantly from GRECO's recommendation. Reference in this connection can be made to the fact that "consider" is also included in the English formulation of the OSCE/ODIHR's recommendation: *"It is recommended that a review of the Political Parties Act be carried out to consider increasing the transparency of campaign income and expenditures through regular and independently audited reports"*.

5.3.2 Consideration of recommendation no. 3 in the consultation memorandum

The proposal in the consultation memorandum assumes that this recommendation will require statutory authority. From a legislative point of view, expansion of section 18, or a separate section for election campaign reporting may be considered.

Beyond pointing out the advantages of reporting income prior to elections, GRECO says little about what this system should be like or what approval requirements ought to be imposed on the reports. In addition, GRECO does not instruct Norway to consider a ceiling on election campaign expenditures (which is relatively common internationally for candidate/political party legislation). GRECO addresses income in general during the election campaign, without discussing whether this ought to apply to gifts only and/or other extraordinary income.

5.3.2.1 International experiences

In the consultation memorandum reference is made to how the scrutiny system surrounding election campaign funding is organised in the United Kingdom.

The United Kingdom has the most well-developed system in Europe for the scrutiny of contributions from the private sector, including election campaign contributions. Political parties have four types of statutory reports to submit to the Election Commission here annually. First and foremost gifts received (both monetary and non-monetary gifts, including discounted services) must be reported every quarter. The frequency increases to weekly reports in connection with general elections in the UK. The election campaign period is defined from the day that parliament is dissolved until the election day. Depending on the type of election, the period varies from four months to 365 days. The quarterly reports encompass, in addition to the parties' central organisations all the associated organisational units (so-called "AUs"). For the central organisation, the reporting obligation encompasses all contributions in excess of EUR 6,700 from one and the same contributor, and for the AUs the corresponding limit is EUR 1,300. When multiple AUs receive contributions below this limit, but the total is nevertheless over EUR

6,700, these gifts must also be reported. The contributors are obligated to give the same information on their identity that the parties are obligated to report to the authorities, i.e. name and address. Simplified rules apply nevertheless for the smallest party branches with insignificant gifts. The same rules as above apply to the parties' loan borrowings, credit facilities or guarantees received, including changes to these. Loans with non-commercial terms are regarded as gifts.

The third reporting type is annual and applies to the party's (including the AUs') accounting status (Statement of Accounts). This obligation encompasses all entities with income or expenditures in excess of GBP 25,000. Finally parties that participate in various general elections⁵ must report their election campaign expenditures.

Registered *third parties*, i.e. campaign groups or organisations that can be linked more or less to a political party, are obligated to report donations and detailed election campaign expenditures after every election.

In the United Kingdom, the public donor registry is updated quarterly/weekly on the Election Commission's website. The general public is also granted access to the political party reports on request. A special register has also been established for the parties' loans, where all of the relevant information is published, including amendments to the terms, name and address of the lender, etc. In addition, there is a register of campaign expenditures. Full specification of the election campaign expenditures, including information on each individual transaction – name and address of suppliers, date of settlement, price, discounts, etc. Invoices must be attached to all purchases of goods or services. All election campaign expenditures over the stipulated threshold values must be authorised by an employee of the political party. If the party's total election campaign expenditures exceed EUR 336,000, the reports must be approved by an independent, certified auditor.

The same rules also apply essentially for so-called third parties, except that all of the reporting deadlines here are after the election and they are not required to report loans.

5.3.2.2 Proposals in the consultation memorandum

The proposal is based on the fact that the Party Funding Committee (NOU 2004: 25) discussed a special obligation for the reporting of gifts received before an election. The committee pointed out that, with an accounting period of one year, the publication of the parties' income reports would invariably apply to income from the previous year. A model for election years was considered that was for a period from 1 January until a suitable date prior to the election. The majority nevertheless found that additional reporting in full was practically difficult and also found that the attention surrounding election campaign contributions could be at the expense of the focus on the party programme. The majority supported that it should be up to the actual parties to publish the contributions, for example, on their websites. Only a minority of two members supported a proposal for mandatory additional reporting for gifts in

⁵ This includes Westminster Parliament, European Parliament, Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly.

connection with election campaigns. It must be stressed that there was only talk of gifts in this discussion – not a complete income summary or summary of election campaign expenditures.

In the consultation memorandum the Ministry points out the obvious advantage of the additional reporting of gifts and other income before elections – the fact that updated information exists when it is the most relevant. The current Norwegian reporting system entails that accounting information is generally more than eighteen months old during the election campaign period, which clearly reduces the interest in and benefit of the publication. With today's ICT it is easy to report/publish such figures regularly.

Additional reporting prior to an election gives nevertheless rise to certain problems:

- It will be difficult to establish an appropriate distinction between the party's election campaign income and ordinary income.
- A predetermined reporting date for gifts might lead to the contributors holding back the gifts until after this date in order to avoid being named during the election campaign. Correspondingly, a reporting deadline for election campaign expenditures (before the election) could lead to the parties electing to postpone entering the expenses.
- Verification that the information is correct. A requirement that the election campaign contributions or expenditures be audited would be costly for the parties. Party branches at the county and municipal levels are at any rate exempt from this requirement in the annual reporting.
- Publication at www.partifinansiering.no will increase the public use of resources (Statistics Norway) with regard to the collection and processing of data. In addition, there is the verification that all of the party branches who have received contributions or had election campaign expenditures report when they are supposed to. The more reporting milestones there are, and the closer to the election campaign they are set, the more demanding on resources the system will be for all the parties.

The parties' reporting of private gifts indicates to date that only a limited number of contributors make contributions over the threshold values in section 20, first paragraph. Gifts are the exception – not the rule. In addition, there is primarily talk of contributions to the central organisation, even if gifts are also given sometimes at the county level. Even if election campaign expenditures are not an important topic in Norwegian election campaigns at present, this could change, for example, if more liberal rules governing party political TV advertising were to be introduced.

In the consultation memorandum, the Ministry does not see the need for the introduction of a ceiling for election campaign expenditures in the Political Parties Act. This is not part of GRECO's recommendation either. It would be very difficult administratively to stipulate the "right" cost level. Such a limit must be adjusted at regular intervals in accordance with the development of the price level. International experience indicates that it may be difficult to prevent the circumvention of such rules or that suspicions/accusations arise about circumvention from competing parties or candidates.

These considerations indicate that the system of additional reporting before elections should not be too complicated. In order to possibly fulfil the recommendations from both GRECO and the OSCE/ODIHR, five alternatives are discussed. The following will be introduced:

1. no special reporting rules will be implemented in connection with election campaigns, or
2. a special obligation will be implemented in connection with election campaigns to provide regular reports of contributions received within a specific time interval, or
3. a general obligation will be implemented to regularly disclose the contributions received, regardless of whether it is an election year or not, within a defined time interval, or
4. a general obligation will be implemented to regularly notify of contributions received within a specific time interval and that a special obligation will be implemented to notify of all income prior to the day of the election, or
5. a special obligation will be implemented in connection with election campaigns to notify of all income and expenditures within a specific time interval. The reports are to be approved by an auditor.

The term "contribution" is defined in the current section 19, third paragraph. In the consultative proposal, it is assumed that the duty to report under alternatives 2 to 5 is additional to the general annual reporting obligation in the current section 18, first paragraph. This obligation will apply to all party branches without consideration of the organisational level. Any exemption, for example, for the smallest party branches, would lead to a circumvention opportunity by means of sluicing election campaign contributions through this branch, thus avoiding identification of the donor. The consultation memorandum points out several unfortunate aspects of possible opportunities to circumvent the rules for election campaign funding. In addition to someone adapting improperly to the regulations, weaknesses in the legislation could be exploited in negative campaigns by creating groundless accusations or suspicions that some party branches are cheating. Therefore, the proposal in the consultation memorandum assumes that a system for reporting election campaign contributions will encompass all the party branches. This must also be interpreted, for example, to mean that contributions given to a local branch in connection with a general election are also encompassed by the rule.

Alternative 1 in the consultative proposal entails continuing the current system unchanged, but providing acknowledgement to GRECO that the matter has been considered. Alternative 2 entails that only contributions need be reported and made public during the election campaign, while election campaign expenditures and income should be reported as part of the ordinary annual report. In accordance with alternative 3, contributions are to be reported continuously as they are received, regardless of whether or not it is an election year. Alternative 3 can nevertheless safeguard considerations for frequency and the updating of information, which are important for the scrutiny of election campaign funding. The difference between alternatives 2 and 3 is the fact that alternatives 2 and 3 limit the obligation to provide regular reporting during a specified election campaign period, e.g.

from 1 January to the election day, while alternative 3 entails that the obligation is made permanent. Alternative 4 entails that election campaign income other than contributions should also be reported prior to the election day.

The consultative proposal suggests that each of the five alternatives would satisfy GRECO's recommendation. Only alternative 5 is regarded as fulfilling the OSCE/ODIHR's recommendation by including important elements from the wording of this. In essence, the Ministry considers alternatives 2 to 5 to be suitable for increased scrutiny of election campaign funding. The three last-mentioned could nonetheless be more demanding from an administrative point of view on both the party branches and the public authorities. Alternative 5 would also be more costly given its requirement for audited reports. In the consultative proposal this is considered an excessively strict requirement, even if it only applies to the central organisations.

No international standard exists for the time frame for election campaign reporting. The proposal in the consultation memorandum is based on the principle that all reportable issues shall be made public prior to the election day. As a rule, a deadline of four weeks is proposed for the party branches to report to Statistics Norway, with, however, special rule for the time period prior to the election day.

On the basis of an overall assessment (where particular emphasis has been placed on utility and cost issues), where the main focus has been placed on GRECO's evaluations in its capacity as an international expert body for political party funding, the Ministry recommends in the consultation memorandum that alternative 2 be chosen, based on the following principles:

- Contributions from one and the same donor during the election campaign period are to be consolidated in the usual way, i.e. contributions from individuals that in total exceed the threshold values indicated in section 20, first paragraph, shall be reported.
- This obligation will apply to all party branches without consideration of the organisational level.
- No fixed reporting milestones will be set, but there will be an obligation to report regularly on contributions received and the identity of the donor to Statistics Norway no later than within a stipulated time interval after receipt. As a rule, the Ministry proposes a reporting deadline of four weeks. To ensure that all election campaign contributions can be published prior to the election, a separate rule is proposed: contributions received during a period shorter than four weeks prior to the end of the election campaign shall be reported by the end of the last Friday before the election day.
- Statistics Norway shall prepare a standard web-based reporting form for contributions received.
- No auditor approval or auditor's report is required for the additional reports. In order to avoid delays as a result of signature requirements, it has been proposed that the party branches be assigned a user name and a password for a website they can report to. Statistics Norway sends the information received to a stated contact person in the party branch for confirmation via e-mail before it is published at www.partifinansiering.no.

- Statistics Norway publishes the reports submitted by the party branches on a regular basis at www.partifinansiering.no upon receiving confirmation. Reported contributions that cannot be confirmed for some reason shall be published with this stated as a reservation.
- It has been proposed that the reporting obligation prior to elections shall only encompass gifts, i.e. "contributions" as defined in section 19, third paragraph. Election campaign expenditures and other income shall be published as part of the ordinary annual reporting.

The consultative proposal assumes that a more detailed definition of the election campaign period is required so that such a system can function. The election campaign period is not defined precisely in the Representation of the People Act, and the OSCE/ODIHR's report recommends that this be done. According to the report, most political parties start their election campaign in July. It is reasonable to assume that the preparations start well in advance of this. On the assumption that the information will be published at partifinansiering.no, the reporting system must for practical reasons be "closed" for a certain period of time before the election day. In consultation with Statistics Norway, it has been proposed to set this point in time at before the end of the last Friday before the election day.

The proposal will result in contributions made during the election year and the year before being known prior to the election. This is because, according to current practice, accounting reports for the year prior to the election would have been received by Statistics Norway by 1 July and published at www.partifinansiering.no by 1 September during the election year. The time interval of four weeks has been proposed to take administrative issues at the party branches into account. In the consultation memorandum all of the consultative bodies are requested to consider all the alternatives.

5.3.3 Comments from the consultative bodies

Many of the consultative bodies have comments on the proposal for further follow-up of GRECO's recommendation no. 3. Most of them were essentially positive towards such a proposal, but there are nevertheless various views concerning how far one should go – specifically, whether the system should be based on alternative 2 or 5 in the list above. In their individual statements, the Progress Party and Conservative Party of Norway have opposed the introduction of a special reporting scheme for contributions during election campaigns.

The following bodies support that alternative 2 be adopted.

The parties in the Storting state:

"The parties agree that the parties' central and county organisations shall have an obligation to report contributions received on an ongoing basis within a specific time interval to be determined, cf. Ministry's alternative 2. With regard to the reporting of expenditures during election campaigns in particular, we disagree with the recommendation and believe that this is covered adequately through the follow-up of recommendation no. 1. There is disagreement on the time interval and the limit, and each individual party will submit its views here."

In a special statement from the Norwegian Labour Party:

"Regarding 8.2, the Ministry's proposal for amendments to the Act, we would like to give our full support to contributions over the threshold value in section 22, first paragraph, cf. also section 22, second paragraph, which are received during the period between 1 January and the Friday prior to the election day, also being reported by the Friday prior to the election day. The Norwegian Labour Party proposes that the threshold value for publication should be set at NOK 10,000, for the parties' central organisations as well, as the Norwegian Labour Party currently practises."

The Norwegian Labour Party in Hamar states:

"The Norwegian Labour Party in Hamar is afraid that bureaucratisation and higher costs for volunteer work will ultimately kill off volunteerism. There will be a democratic deficit as a consequence of this. We recommend and support the Ministry's view that alternative 2 shall be adopted in the new Act. Alternatives 3, 4 and 5 are not acceptable."

The Christian Democratic Party in Harstad states:

"We agree with the Ministry that election campaign funding must also be subject to scrutiny. Of the Ministry's 5 alternatives, we will recommend alternative 2 and that the reporting take place from the start of the election year until the Friday prior to the election."

Statistics Norway states:

"Statistics Norway supports the Ministry's proposal of additional reporting and publication of gifts and other income that exceeds the threshold values in a defined election campaign period. Specific election campaign reporting can contribute to increasing interest in and the relevancy of this data in particular and statistics in general. Of the five alternatives outlined by the Ministry, we support therefore the introduction, in accordance with alternative 2, of a special obligation in connection with election campaigns for the ongoing reporting of contributions received within a specific time interval to be determined. It is recommended that the start date for the reporting period be set for contributions received from 1 January to the end of the Friday prior to the election day. The general rule of a reporting deadline of four weeks from when the contribution is received is supported. Statistics Norway will prepare a specific web-based reporting form for these contributions, and the party branches can log on with an assigned user name and password to register the contributions. Statistics Norway verifies that the reported information is correct by sending it to the party branch's contact person by e-mail before it is published at www.partifinansiering.no. Reported contributions that are not confirmed by the party branch's contact person will be published with this reservation. All the contributions will be published on the aforementioned website before the actual election day. "

The following bodies believe that alternative 5 should be adopted, in other words that there should be increased transparency surrounding all the income and expenditures in connection with election campaigns and that the reports shall be approved by auditors.

The Norwegian Labour Party in Vegårshei states:

"We support the proposal of increased transparency surrounding the income and expenditures in connection with election campaigns through regular and independent audit reports. It is nevertheless important that this does not become so extensive that it will be difficult for small municipal branches to make use of voluntary work in their own organisation. It must be possible to submit annual reports by the easiest possible means, so that they are not perceived as an obstacle that must be handled by small municipal parties."

The Norwegian Union of Journalists, Norwegian Press Association and Media Businesses' Association state in a joint letter:

"Even if the recommendation is formulated as a "consider this", i.e. it will suffice if we "acknowledge that the recommendation has been considered", there are clear guidelines here from the Council of Europe's anti-corruption group that this is an area in which the right of access should be strengthened. And as the name indicates – the goal is to strengthen the ability of society to reveal corruption. In addition to the recommendation from GRECO, in September 2009 we received a new recommendation from the OSCE/ODIHR that the Political Parties Act should be evaluated "with a view to providing increased transparency around income and expenditure in connection with election campaigns through regular and independent audit reports". With such clear recommendations from GRECO and the OSCE/ODIHR concerning greater transparency surrounding both income and expenditures in connection with election campaigns, we find it strange that the Ministry chooses to follow up only one side of the recommendations (...) We find that the Ministry does not go far enough in following up recommendation no. 3, which states: "that it be considered to introduce a duty to report income received and expenditures incurred in connection with election campaigns", and we cannot support the proposal that alternative 2 be adopted, especially when we take a closer look at the grounds for the recommendations from GRECO (reference to paragraphs 76, 77 and 78 in GRECO's report on Norway). In our opinion, alternative 5 in the consultation memorandum (p. 4) is our only real alternative:

A special obligation in connection with election campaigns to disclose all income and expenditures within a specific time interval. The reports are to be approved by an auditor.

In addition to the clear international scrutiny guidelines for both income and expenditures, this alternative is the only alternative in accordance with Reform Minister Rigmor Aasrud's promises quoted on NRK.no on 21 September 2010: <http://www.nrk.no/nyheter/Noreg/1.7301137>

"Both income and expenditures should be made public I will also propose amendments concerning the reporting of election campaign contributions. Today a fairly long time may pass before we are able to report election campaign contributions, and we envision that it should be on a more continuous basis," says Aasrud to NRK.

We find therefore that both international and national obligations indicate that a special obligation should be introduced in connection with election campaigns to report all the income and expenditures within a specific time interval to be determined.

The Ministry is also requesting feedback on what time frame should be chosen for the ongoing reporting. Since the purpose is control in connection with election campaigns, we find that it is completely necessary that this reporting is made available publicly in advance of the election campaigns. Our view here is completely in agreement with GRECO's recommendations: (quote from GRECO's report). Sincere we are opposing the proposal to limit the right of access to income, the Ministry's proposal for how this should be implemented must be adjusted accordingly."

The Association of Norwegian Editors states:

"In addition, we would like to express our amazement that the Ministry has not chosen to support alternative 5 in the consultation memorandum with regard to the reporting of election campaign funding. This is in spite of the fact that it is the only alternative that satisfies both GRECO's and the OSCE/ODIHR's recommendations. Therefore we will strongly recommend alternative 5 in the consultation memorandum, and make otherwise reference to the Norwegian Press Association's consultative statement."

The Norwegian Institute of Public Accountants states:

"In accordance with section 18 (6) of the proposal, large contributions parties receive in an election year shall be reported separately to the central register (Statistics Norway). We support such a scheme. Below are our comments on the practical implementation of the auditor's confirmation of the reporting. (..) We understand that a need is seen for a separate auditor's confirmation for the special reports from the political party's central organisation in election years (section 18 (6) of the proposal). If so, then a special provision should be stipulated for this. We have noted that the party is supposed to report its income every fourth week in an election year, with a four-week deadline from the last contribution received for each report. The deadline for the last report prior to the election day is the same day as the end of the reporting period – the Friday prior to the election day. We assume that an auditor will be able to issue a confirmation within the ongoing four-week deadlines, as long as the party has the figures ready well in advance. In practice it will not be possible to get an auditor to confirm the last report by the deadline. The party will not be able to have their figures ready earlier than the evening of the Friday prior to the election day, and that will probably also present challenges."

The Østfold County Authority has the following comments:

"An attempt should be made to moderate the Ministry's alternative V so that it better fulfils the OSCE/ODIHR recommendation. A great deal of importance must be attached to democratic considerations, and it is recommended that the United Kingdom's regulation be studied. In relation to the time frame for reporting, the Østfold County Authority supports the Ministry's evaluation and proposal."

Two of the parties represented in the Storting have opposed a proposal for a special reporting obligation for election campaign contributions based on the model of the four alternatives in the consultative proposal. A proposal is suggested for the publication and deadline in special consultative statements:

The Progress Party states:

"Ongoing reporting of gifts in election years, with the last deadline on the Friday prior to the election, as is proposed, is very inappropriate because it could contribute, for example, to the media focus on "revealing" the political parties' "rich friends" during the last weekend before the election. A corresponding principle was evaluated by the committee that prepared the Act in 2005, on which the parties were represented. The majority opposed this on account of the practical difficulties and based on the attention that the contributions could draw at the expense of focusing on the political content in the election campaign. It is also very easy to circumvent this provision by the donor and receiver making an agreement to transfer the gift after the election. It is thus easy to see that the purpose of the proposed provision will not be safeguarded at all with the proposal in its present form. In our opinion it is therefore not appropriate to have a special deadline during election campaigns. Separate rules during election campaigns also mean more bureaucracy, more suspicion and, as already mentioned, more activities to avoid the rules. The Progress Party does not have any problems supporting that contributions are reported on an ongoing basis and published on the party's website, and possibly also on Statistics Norway's website. This is essentially the current practice, and functions satisfactorily."

The central organisation of the Conservative Party of Norway states:

"The Conservative Party would like to point out that the joint comments oppose special reporting during election campaigns. The Ministry of Government Administration, Reform and Church Affairs proposes that election campaign income shall be reported on an ongoing basis (within four weeks) and no later than the Friday prior to the election day. The Conservative Party would like to point out that a corresponding principle was evaluated by the committee that prepared the Act in 2005, on which the parties were represented. The majority opposed this based on the practical difficulties and the fact that the attention surrounding the contributions could be at the expense of focusing on the content of the election campaign. The latter will become even more relevant if an absolute deadline is set for the last weekend before the election. The Conservative Party recommends instead that reportable contributions be disclosed within a (continuous) deadline of four weeks".

5.3.4 Ministry's evaluations and proposals

The Ministry makes reference to GRECO's evaluations of the consultative proposal in the evaluation report, paragraph 84:

"Several of GET's partners also pointed out that income is reported too infrequently (i.e. annually) for the media and general public to be adequately informed about the parties' income. The schedule for reporting – not later than six months after the accounts are closed – is not in line with when most people and the media would benefit the most from this information. GET is aware that the question of reporting

in connection with elections has been discussed during the process that resulted in adoption of the Political Parties Act, but it also found that the decision of the Democratic Financing Committee to reject the idea of reporting in connection with elections was not unanimous. GET has also understood that many stakeholders clearly supported such a reporting requirement and that it was decided to "let it be up to each individual party or party organisation to practice a greater degree of scrutiny" by voluntarily reporting contributions received prior to an election period. In GET's opinion, reporting deadlines before an election will enhance the usefulness of the information to the general public and the media to a great extent. It would give the advantage of greater transparency at precisely a time when a party's income and sources of income would without doubt be of the most interest to the voters, when the voters decide what party they have confidence in and find trusting enough to deserve a vote."

In the follow-up report, GRECO makes, for example, reference to the OSCE/ODIHR's evaluation of the general elections in 2009 and the recommendation to increase the scrutiny of election campaign funding, as well as the Ministry's alternative proposal to comply with both of the recommendations:

"In addition the Norwegian authorities report that to prevent the circumvention of contribution provisions, a decision has been made to propose to the Storting that it be explicitly stipulated in the Act that contributions received by units that are controlled in full or in part by political parties or party units must also be included in the reporting from the party or party unit in question. The proposal also encompasses party units outside of Norway (and applies regardless of whether the contribution has been received during the period prior to an election or not.) In addition, it will be proposed that the Ministry of Government Administration, Reform and Church Affairs be granted the authority to prescribe in regulations additional provisions requiring that candidates report on the funding of their election campaigns.

GRECO notes that there has been a thorough evaluation of the introduction of a special reporting obligation in connection with election campaigns, as was required in the recommendation. GRECO appreciates that an obligation to report in particular on contributions received in connection with election campaigns will likely be introduced in the future as a result of this process. GRECO also appreciates the draft for additional legislative amendments to ensure that contributions to units related to the party or party unit must also be reported (and, if necessary, that candidates must also report on the funding of their election campaign). GRECO concludes that recommendation iii has been implemented satisfactorily."

The Ministry acknowledges that recommendation no. 3 has been deemed to be implemented satisfactorily by GRECO due to the thorough discussion of the matter in the consultation round. GRECO would nevertheless like to see further follow-up.

Therefore the question is whether Norway will be satisfied with GRECO's approval or if advantages are seen by following up the content in recommendation no. 3.

The Ministry points out that the consultative bodies have differing views on this. Those who oppose the proposal to increase scrutiny point out, for example, that the Party Funding Committee has evaluated

the matter earlier, when the majority opposed the introduction of special scrutiny requirements because it detracts, for example, from the focus on the political content of the election campaign. It is also pointed out that the rules on the scrutiny of election campaign funding can easily be circumvented. The introduction of deadlines for the reporting of election campaign contributions has also been met with scepticism, because, for example, it will reinforce the focus on monetary gifts and "rich friends" prior to the election.

Other consultative bodies support the proposal to introduce special rules, but some bodies believe that the proposals in the consultation memorandum (alternative 2 in the list above) is too liberal since it limits the scrutiny prior to elections to only contributions and not election campaign income or expenditures in general. In addition, it has been proposed that NOK 10,000 should be the limit for the publication of all contributions. Some consultative bodies have expressed that the main emphasis of the follow-up must be on the OSCE/ODIHR's recommendations and that the United Kingdom's method of regulation should be adopted.

One of the Ministry's intentions with the proposal to amend the Act is that the Party Funding Committee's views laid down in the current Act shall still apply to the extent that they are compatible with GRECO's recommendations. The Ministry finds nevertheless that there are grounds for considering a further follow-up of the conclusions in two independent evaluation reports by GRECO and the OSCE/ODIHR, respectively, on greater scrutiny of election campaign funding. The fact that most GRECO countries have rules to this effect has also been taken into account in the evaluation. The consultative proposal has been formulated with a view to avoiding circumvention of the rules by making it applicable to all of the party units, including associated units, and that all of the contributions over the defined limits shall be included by means of a specific reporting deadline set as close to the election day as practically possible. In addition, the established income reporting system in the Political Parties Act will otherwise be designed so that it is easier for the party branches and authorities to follow up the system. With regard to the aforementioned opportunities for circumvention for election campaign gifts given after the election, such matters can be regulated by accounting regulations or guidelines. Reference is made, for example, to the discussion of the accounting standard for non-profit organisations above, which states that promises of gifts must be recognised as income under certain prerequisites in the same manner as gifts received. In addition, it has been established that loans and credit on terms other than market terms shall be included as reportable contributions. It is also the opinion of the Ministry that regular deadlines for reporting, as opposed to fixed milestones, could spread out the media attention surrounding the monetary gifts more evenly throughout the election campaign period, so that any unfortunate effects in the form of the "wrong" focus close to the election day could be reduced.

The Ministry points out that focusing on all types of income and expenditures in connection with election campaigns is common in countries that have a ceiling for election campaign expenditures. In this connection, the parties' and candidates' financial status during the election campaign may be of special interest, not just what financial ties to private individuals may exist. The United Kingdom is a pioneering country with regard to the transparency of election campaign funding in Europe in many areas, where the focus prior to elections is on private contributions and loans, cf. discussion on the

system above. Private contributions down to EUR 1,300 (approximately NOK 10,000) shall be reported with an increasing frequency leading up to an election. The obligation to report election campaign income and expenditures, however, is annual and encompasses only parties with income or expenditures in excess of GBP 25,000 (approximately NOK 223,000), which must be said to be a generous limit on a Norwegian scale. If the party's total election campaign expenditures exceed EUR 336,000 (approximately NOK 2.6 million), the reports must be approved by an independent, certified auditor.

The Ministry points out that it may be difficult to distinguish between expenditures and income associated with election campaigns from the party's ordinary income (and expenditures). A specific problem would be whether annual lotteries or collections that take place during the election campaign period in election years should be defined as ordinary income or election campaign income. In addition, there is the question of what information is required by the voters. In the consultation memorandum, the Ministry has assumed that information on financial ties to individual persons will be of interest to voters prior to the election day. This has also been pointed out by GRECO in its evaluation report.

The Ministry's proposal entails nevertheless that the party's expenditures in connection with elections will be made public as part of the ordinary annual reporting. Due to the manner in which the Norwegian system is designed, the Ministry does not find there to be any weighty arguments that the parties shall be required to disclose this prior to an election.

Auditor approval will in any case only apply to the largest party branches that fall under section 21, third paragraph in the current Act, i.e. the parties' central organisations. There are several reasons why the Ministry does not find it to be relevant to impose a special auditor approval requirement on small party branches prior to elections and otherwise not impose such a requirement. Auditor approval will at any rate not be possible during the last part of the reporting period, cf. comment by the Norwegian Institute of Public Accountants. For parties that are required to use an auditor, the information provided in connection with the election campaign funding will be part of the audit basis for the annual auditor's report.

The Ministry supports strengthening the scrutiny of election campaign contributions in relation to the proposal in the consultation memorandum. It is therefore recommended that a special limit be set for when the identity of the donors behind the election campaign contributions shall be made public. It has been proposed that the limit be set at NOK 10,000, which corresponds to the proposal by the Norwegian Labour Party referred to above.

The conclusion is that the Ministry shall maintain the proposal in the consultation memorandum calling for greater scrutiny of election campaign funding, but that the threshold value for the publication of all election campaign contributions shall be set at NOK 10,000, regardless of the organisational level. Statistics Norway has commented on the proposal as follows:

"In a correction to the draft legislation to amend the Political Parties Act received from the Ministry, the Ministry of Government Administration, Reform and Church Affairs makes reference to a desire to

strengthen the proposal in the consultation memorandum concerning election campaign contributions and proposes that the threshold value for the publication of these contributions be set at NOK 10,000 in accordance with the consultative statement from the Norwegian Labour Party. This will mean in practice that contributions received during the specified election campaign period will have threshold values that differ from the ordinary reporting of contributions outside of this period. In addition, no distinction is made either, as in the ordinary reporting, with regard to the size of the contributions between the various party branch levels, such as the municipal, county and central organisation levels. Statistics Norway fears that this difference will be confusing for the entities required to report and that errors may be made on account of this. We recommend therefore that the text of the Act stipulate a correlation between the threshold values for the ordinary reporting of contributions and the reporting of election campaign contributions.

5.4 Recommendation 4 - independence of auditors who are to audit the accounts of political parties

GRECO recommends:

"to establish clear rules ensuring the necessary independence of auditors who are to audit the accounts of political parties"

5.4.1 Follow-up

As a starting point, the recommendation affects both sections 4-1 and 4-4 of the Auditors Act (Act no. 2 of 15 January 1999) and section 21(3) of the Political Parties Act.

5.4.2 GRECO's evaluation

GRECO refers to the fact that the auditor of a political party in Norway may be appointed for an undefined period of time and may also be an active member of the party. During its visit to the country, GRECO was informed that an alternative auditing standard has been introduced in Norway for non-profit making organisations, including political parties, but that it is uncertain whether it has been implemented in general (see page 23 of the report). GRECO does not exclude the possibility that an impartiality requirement may be emphasised more strongly in this standard than in the current Auditors Act. Given the lack of further information on this issue, GRECO recommends that clearer rules on impartiality be established for the political party auditors.

5.4.3 International experiences

Several of the evaluated member countries have received the same recommendation, including the UK and the Nordic countries. In the UK, in addition to the authorisation requirement for the auditor, the auditor cannot be a member of the party or work for the party or other affiliated organisational units in any way. However, an auditor approval is not required when the annual income and expenditures are below £250,000 (NOK 2.4 million). The UK has stipulated more detailed rules about the Electoral

Commission, which has been authorised to set detailed auditing regulations. Thus far the Commission has not made use of this authority.

5.4.4 Proposals in the consultation memorandum

The consultation memorandum emphasises that the recommendation will only affect the head organisations of registered political parties, i.e. those currently instructed to provide auditor approval of their reports pursuant to section 21(3) of the Political Parties Act (18 in all). The consultation memorandum also states that there is no separate auditing standard for not-for-profit organisations. The fact that GRECO may have understood this differently during its visit to this country may be due to a misunderstanding: the Norwegians have referred to the auditing of annual reports where the accounting standard for non-profit making organisations (discussed above) has been applied.

Section 4-1 of the Auditors Act contains requirements for the auditor's independence from the entity that is subject to the statutory audit obligation. Pursuant to the second subsection, the auditor may not be a member of the governing bodies or the audit committee of the entity that is subject to the statutory audit obligation. For political parties that are subject to the accounting obligation under section 1-2 no. 9 of the Accounting Act, this leads to auditors with associations that might impair their independence or objectivity being unable to audit the accounts. The same applies where other special circumstances are present which might weaken confidence in the auditor. On this basis it would be difficult to imagine that membership in the party would not impair independence or objectivity. The independence requirement is further discussed in Proposition no. 75 (1997-98) to the Odelsting concerning the Act relating to auditing and auditors [Auditors Act], Chapter 7. In the proposition, the Ministry of Finance proposes a tightening up of the independence requirement for auditors compared with previous legislation. Apart from financial interests in capacity as shareholders, creditors or debtors etc., the preparatory work also mentions employment relationships with the entity subject to the statutory audit obligation or other cooperation, subordination or state of dependence as incompatible with the requirement for independence and objectivity. Although membership of non-profit making organisations (including political parties) appears to have been discussed specifically, the Ministry assumes that section 4-1 of the Auditors Act would as a main rule be an obstacle for auditors auditing the accounts of a party to which he/she is a member.

GRECO also comments that it appears as if Norwegian legislation lacks a rotation requirement in the sense of actual replacement of auditors auditing political parties

Chapter 10 of Proposition no. 78 (2008-2009) to the Odelsting concerning the Act relating to amendments to the Auditors Act and certain other Acts (implementation of the auditing directive) addresses the election, termination and resignation of the auditor. The Ministry of Finance states the following here:

"The starting point under Norwegian legislation is that the auditor is not elected for a determined period, but functions until a new auditor is elected by the general meeting. Auditors are normally elected by the ordinary general meeting. The Ministry understands that this arrangement is also common in Sweden. (...) The Norwegian and Swedish arrangements relating to auditors' period of service differ from what is common in other EEA member states, where auditors are normally elected for a predetermined number of years. According to the Ministry, it cannot be assumed to be a requirement under the directive for auditors to be elected for clearly delimited periods. The Ministry is therefore of the opinion that it must be possible to continue the current scheme for electing auditors."

The consultation memorandum expects that audit controls strengthened through clearly stated independence requirements set to the person auditing the accounts of political parties would be an important contribution to increasing the control of the political parties' reporting to public authorities. It is therefore appropriate to make some adaptations or clarifications in the legislation. In order to comply with GRECO's recommendation no. 4, it is therefore the Ministry's opinion that the following rules ought to be incorporated in the Political Parties Act:

- A requirement that the same auditor may only be appointed by the party for a time-limited period, for example up to seven years.
- A rotation requirement in the sense of the actual replacement of auditors auditing political parties.
- A requirement that the auditor that undertakes auditing assignments for the party is not also a member of the party.

These rules will be additional to the ordinary requirements relating to independence to which the auditor is subject under section 4-1 of the Auditors Act and to the duty of disclosure to which the auditor is subject under section 6-2 of the Auditors Act.

Section 21(3) of the Political Parties Act does not include any formal competence requirements of the auditor. In the consultation memorandum, the Ministry sees a need to specify that the auditor must have the necessary qualifications in order to prevent the appointment of internal "auditors" from the party organisation.

In the consultation memorandum, the Ministry holds that the auditor's presumed loyalty to the party in his/her capacity as member while performing the auditing assignment ought to be a key criterion for the question of impartiality. The rule should be made to apply throughout the entire period of the auditor's appointment. The proposal does not include making the provision on audit firms in section 4-2 of the Auditors Act applicable in relation to the membership criterion. This means for example that an auditor who is not personally a member of a certain political party may nonetheless audit the accounts of the political party even if other auditors or senior officers of the audit firm are members. The same applies if deputy members of the audit firm's governing bodies are members of the party. It shall to the least possible degree be possible to use the provision to determine political affiliation or sympathies.

A maximum term of appointment of seven years means that it is the aggregated period of appointment that counts rather than the consecutive. According to the proposal, reappointments above and beyond the seven years will not be possible, and the party must therefore change its auditor after this period. It is nonetheless suggested that the political party is free to appoint a new auditor within the same audit firm.

5.4.5 Comments from the consultative bodies

The institutions that were consulted have raised questions about, *inter alia*, whether the auditor's approval ought to be replaced by a general auditing requirement pursuant to the Auditors Act. The institutions also called for a specification of the role of the auditor and for framework conditions for the auditing assignments. The following statements have been made about the consultation memorandum's proposal about the person who audits the accounts of a political party:

The Ministry of Finance states:

"The Ministry of Finance has previously noted that it is necessary to clarify the role of the party auditor and the framework related to the approval of reports. In particular, we have pointed out that a clarification ought to be made of whether the auditor should present a standard auditor's report, or whether 'approval of the reporting' only means that some form of attestation or auditor's declaration must be made. If, in line with the above assessment, a decision is made to propose a statutory obligation to keep accounts, the Ministry of Finance believes that a standard auditor's report for the annual accounts should be considered sufficient as an approval of the party's reporting. In such a case, the Ministry of Finance believes that it would be appropriate to replace the requirement that an auditor approves the accounts with a standard auditing requirement pursuant to the Auditors Act. This will mean that the provisions in the Auditors Act about the auditor's practice, impartiality, etc., will apply directly to political parties and that the auditor's work must be based on good auditing practice. The Ministry of Finance makes reference to the fact that the auditor's verification of accounts is normally expected to be a continuous activity throughout the financial year. An attestation or declaration that is given without the auditor having carried out continuous audits during the year cannot normally be expected to provide the same level of monitoring. On this basis, the Ministry of Finance believes that a general statutory audit obligation pursuant to the Auditors Act will help strengthen the control of the financial reporting of political parties better than the proposed system. If a general statutory audit obligation pursuant to the Auditors Act is proposed, an assessment may be made of whether a requirement for an auditor's declaration should be imposed on reporting other than of the accounts."

The Financial Supervisory Authority of Norway states:

"It follows from section 23(1) of the Bill that reporting from the party's head organisation must be approved by a state authorised or registered auditor. The Financial Supervisory Authority of Norway has no comments about this, beyond the fact that it must generally be seen as advantageous that the person who confirms assignments for public authorities is subject to regulations that help ensure the necessary competence and that they are subject to licensing requirements and public oversight. This would also be

in line with the considerations Greco's recommendation seeks to satisfy. It follows from section 23 of the Bill that the party's reporting must be approved by an auditor. It is the Financial Supervisory Authority of Norway's view that it is necessary to clarify what type of verification the auditor is to make of the 'reporting'. If the intention is to introduce a general statutory obligation to keep accounts, this must be clearly stated. If the intention is that it is an attestation that must be made, what is to be verified and with what degree of security must be clearly stated."

The Norwegian Institute of Public Accountants states:

"According to section 24 of the Bill, the party's accounts cannot be audited by someone who is a member of the party. We support this independence requirement. However, there is a need to clarify the relationship to the independence regulations in the Auditors Act. There is a question of whether party members in any case will be covered by section 4-1 of the Auditors Act, which prohibits having a relationship to the entity being audited that can weaken the auditor's independence and objectivity. In such cases, this covers the selected auditor, the statutory auditor, the auditor's close personal circle, the assignment team and other auditors, managers and Board members in the auditing firm. However, in our view membership in the party is unlikely to be sufficient pursuant to this provision. We assume that it will be sufficient that the prohibition on party members conducting the audit covers the selected auditor (the individual) and the statutory auditor (in an audit firm), though a consideration might also be made of whether it should include the assignment team. There is considerable danger of excluding too many potential auditors if the law goes further than this. In line with this, we also support the proposal that the prohibition should only apply to the parties' head organisation. A requirement that the auditor/partner must rotate every seven years has also been proposed. We have no comments on this proposal. For so-called Public Interest Entities, this follows from section 5a-4 of the Auditors Act. This provision provides a firmer framework for the rotation of auditors, and we suggest that it be stipulated that section 5a-4 of the Auditors Act shall apply to the parties' head organisation. As an extension from the intention of introducing auditor rotation, we believe that the parties' head organisation should have audit committees pursuant to sections 6-41 - 6-42 of the Public Limited Companies Act and the other provisions that apply to Public Interest Entities pursuant to chapter 5a of the Auditors Act. This will be an important measure to strengthen the parties' focus and work on their control of donations and financial activities."

Further, with regard to a statutory audit obligation, the Institute states:

"The statutory audit obligation for entities with a statutory obligation to keep accounts is stipulated in section 2-1 of the Auditors Act (see also the proposed amendment in Proposition to the Storting 51 L 2010-2011). The main rule on the statutory audit obligation for entities with a statutory obligation to keep accounts that have annual operating incomes of NOK five million or more, will apply to parties and party units that will be subject to a full statutory obligation to keep accounts. Operating income for a political party will include public grants, fees and donations. In light of this, the provision in section 23 of the Bill (the current section 21) is liable to cause confusion. The proposed (and current) third subsection states that 'Reporting from the party's head organisation must be approved by a state authorised or

registered auditor'. Instead, it should be stipulated that the exemption from the statutory audit obligation in section 2-1(2) of the Auditors Act does not apply to the party's head organisation. This way, it will be much clearer that all requirements in the Auditors Act for annual accounts are to apply. We see no reason to especially exempt party units with operating income above NOK five million from the statutory audit obligation. On the contrary, as we indicate above, we believe that a statutory obligation for political parties to keep accounts and audit has a particular foundation in the need for public confidence. This should be clarified in section 23(4) by removing the last sentence, which states that 'An auditor's approval is not necessary'."

The parties in the Storting state:

"We support the proposal, but want the assignment period to be set to eight years. Most parties hold national conferences every other year, and the auditor is often elected by the national conference."

Others are focused on the obligation to use an auditor not being expanded to apply to more party branches than it currently does:

The Norwegian Labour Party, Harstad states:

"The way we understand it, independent auditors are not required at the local party level, and we would reject the necessity of such auditors. In our local party statutes we have provisions for the election of two auditors for one year at a time. As we are largely funded by voluntary donations, raffle sales and fees, it is important to us that our group's accounts and the executive's allocations are verified by auditors who are trusted by our Annual General Meeting. Independent auditors or audit firms are not necessary at the local party level."

Østfold County Authority states

"We assume that there will not be any expansion of the current auditing system for the local party branches."

5.4.6 The Ministry's evaluations and proposals

The Ministry refers to GRECO's views on this topic in paragraph 86 of the evaluation report, of which the main content was reported above. GRECO is concerned that the auditor be independent and be replaced at regular intervals. GRECO does not discuss the scope of the obligation to use an auditor, the role an auditor should have, or which frameworks should apply to the approval of reports. In other words, recommendation four does not provide a basis for changing the scope of section 21(3) with regard to which party branches should be subject to the obligation to use an auditor. The Ministry refers to the fact that in paragraph 32-34 of its follow-up report, GRECO has made the following comments about the proposal in the consultation memorandum:

"The authorities of Norway recall that the Auditors' Act already contains certain requirements ensuring the auditor's independence from the audited entity. To complement these requirements, specifically as

regards political parties, the Ministry of Government Administration, Reform and Church Affairs has drafted amendments to the Political Parties Act, which provide that a party's report may not be audited by the same auditor for more than seven years in a row. In addition, an auditor may not be a member of the party s/he audits. As indicated under recommendations i and iii above, these amendments are currently subject to a consultation procedure. GRECO takes note of the information provided, which – if adopted as foreseen – will provide for an additional, more precise regulation of the necessary independence of auditors as regards political parties. GRECO concludes that recommendation iv has been partly implemented."

The Ministry summarises the issues and proposals raised by the consultative bodies thus:

- there is a perceived need to clarify the party auditor's role and framework in relation to the approval of reports, including what is to be verified and with what level of security (standard auditor's report or approval of reporting in some form of attestation or auditor's declaration)
- the requirement for approval by an auditor should be replaced by a general statutory audit obligation pursuant to the Auditors Act, so that the provisions in the Auditors Act about the auditor's practice, impartiality etc., apply directly to the parties, including the principle of good auditing practice
- an assessment may also be made of whether the prohibition on party members carrying out the audit also should include the assignment team.
- section 5a-4 of the Auditors Act should be used as the basis for a more firm framework for auditor rotations
- the parties' head organisations should have an auditing committee in accordance with sections 6-41 - 6-43 of the Public Limited Companies Act and chapter 5a of the Auditors Act.
- the assignment period should be set to eight years because most parties have national conferences every other year and the auditor is often elected by the national conference
- it is necessary that the person who confirms reports to public authorities is subject to regulations that help ensure the necessary competence, and that they are subject to licensing requirements and public oversight
- no expansions of current auditing systems for party branches (split views among the consultative bodies)

About the general statutory auditing requirement and the content of the auditing report

The Ministry is satisfied that political parties with a statutory obligation to keep accounts pursuant to section 1-2 no. 9 of the Accounting Act are subject to requirements to use an auditor pursuant to section 2-1 of the Auditors Act. However, based on the second subsection, first sentence, the requirement does not apply if the operating income of the consolidated activities is less than NOK five million. This means that the largest party organisations that are subject to the Accounting Act are subject to the general statutory auditing obligation pursuant to the Auditors Act. The legal provisions

about the auditor's practice, impartiality, etc., and that the auditor's work is based on good auditing practice, is therefore directly applicable to the person who audits the accounts of a political party. The Party Funding Committee did not discuss the content of the auditing assignment in their report, but assumed that current practice would be continued (cf. NOU 2004:25 paragraph 6.10.4):

"The committee suggests that the provision on a declaration that the party has not had other income than those reported be retained. The reporting from the party's head organisation must, as previously, be signed by the party chair and be approved by the auditor. To avoid excessive bureaucracy and costs in relation the expansion of the scope of the law, it is proposed that no requirement should be made about auditor approval of reporting from the municipal and county levels."

The Political Party Act's requirement of an auditor's approval applies to all registered parties' head organisation, and consequently 18 party organisations are currently covered, compared to seven based on the 1998 act. The Party Funding Committee's proposal was retained in Proposition to the Odelsting 84 (2004-2005) without being specified further. The Ministry sees no basis for the creation of a different system for this issue in the Political Parties Act than that which is stipulated in the Auditors Act. It would be logical to use the principles in the Auditors Act as the basis for everyone who audits the accounts of political parties. This means that the contents of auditing assignments for the (currently) 12 party organisations that today are only subject to the Political Parties Act should be the same as for the six party organisations that are subject to both the Auditors Act and the Political Parties Act. We therefore expect the general auditor's report requirement to be imposed on the head organisation of all registered political parties. This also involves a requirement for an auditor's declaration for all additional areas other than the accounts that are subject to annual reporting obligations according to the Political Parties Act.

In its comments to the consultation memorandum, the Ministry of Finance notes that the auditor's testing of accounts is normally presumed to be a regular activity throughout the financial year.

Nevertheless, the Ministry does not suggest that the Political Parties Act should require the auditor's activities to be undertaken regularly. It is to be expected that the auditor's control of financial enterprises, which for instance are subject to requirements related to multiple reporting milestones and accounting terms every year, is closer and more continuous than the control of political parties that pursuant to the Political Parties Act only have one accounting term a year. It will therefore be up to the party and the auditor to agree about the practical details of how to execute the assignment.

Whether the assignment team should be included

In the Ministry's view, the proposal from the Norwegian Institute of Public Accountants that the prohibition on party members conducting the audit should include the assignment team will make the rule more consistent. This specification will be relevant where colleagues provide auditing assistance to the statutory auditor. standard administrative assistance such as correspondence, copying, the practical organisation of the assignment etc., should not be included in the prohibition. The extent to which the rule can be used to survey political views should be limited to the greatest possible extent, as stated in

the consultation memorandum. The Ministry concludes that the delimitation proposed in the consultation memorandum about who is covered by the prohibition will be retained. However, we must specify that the prohibition also includes any members of the assignment team to the extent that these provide auditing assistance, in addition to the elected auditor (individual) and the statutory auditor (in an audit firm).

About auditing committees and auditor rotations

The Ministry has more doubts with regard to the Norwegian Institute of Public Accountants' proposal that the head organisations of political parties should also be required to have an auditing committee based on sections 6-41 to 6-43 of the Public Limited Companies Act and chapter 5a of the Auditors Act. In this context, we refer to the fact that the rules that the Institute mentions apply to larger listed companies or companies that borrow in the bond and certificate markets. We assume that these are enterprises of great general interest as they manage significant financial values and resources. The Ministry refers to the fact that one of the objectives of the Political Parties Act is to prevent corruption in the political system. This is to be achieved by transparency in party funding, auditing control of the reporting, and the monitoring and sanctions laid down in the Political Parties Act. How the parties otherwise manage their financial resources is outside the scope of the Political Parties Act. Party assets will generally be very limited in the context of the Public Limited Companies Act. The parties also differ in terms of their financial and administrative resources. Pursuant to § 6-43, the audit committee shall:

- a) prepare the follow-up of the financial reporting process for the board of directors,*
- (b) monitor the systems for internal control and risk management including the internal audit of the company to the extent such function is established,*
- (c) have continuous contact with the appointed auditor of the company regarding the auditing of the annual accounts,*
- (d) review and monitor the independence of the auditor, cf. the Auditors Act chapter 4, including in particular to which extent other services than audit services having been rendered by the auditor or the audit firm represents a threat against the independence of the auditor.*

The members of the audit committee are elected by and from amongst the board members. At least one of the members of the audit committee must be independent of the enterprise and have qualifications in accounting or auditing.

The Ministry recognises that several of the tasks of the audit committee as a starting point may be relevant to the Political Parties Act. An audit committee requirement pursuant to the Public Limited Companies Act would nevertheless be difficult to implement for political parties, for various reasons. Generally, requiring that recruitment for a committee for internal party issues should take place from outside party ranks can easily come into conflict with the considerations of the party's private independence. In this context, the requirement that at least one member of the audit committee shall be independent may therefore give rise to particular problems. The competence requirement for this

person is an additional issue; the text of § 6-43 indicates that the party must engage an extra auditor or someone with accounting competencies. A logical counter-argument will therefore be the resource requirement, which will be particularly relevant to small head organisations. Though an audit committee can be useful in terms of the verification of the accounts, the Ministry believes that the positive effects of the measure cannot outweigh the negative effects this can have for the private sphere of the parties or the administrative costs that would be incurred. The Ministry believes that the measures proposed in the Proposition adequately meet the objectives of the Political Parties Act for the moment.

Section 5a-4 of the Auditors Act is about rotation. The first and second sentence of the first subsection read as follows:

"Auditors cannot audit the annual accounts for the same entity subject to auditing obligations for more than seven consecutive years. Auditors covered by the first sentence cannot take on a new assignment for the same entity subject to auditing obligations before at least two years have passed."

In the consultation memorandum, the Ministry proposes that the person who audits and approves the accounts of a political party cannot have a total assignment period in the party for more than seven years. For auditing firms, this applies to the statutory auditor. Beyond this, the provisions of the Auditors Act apply. In other words, we assume that the requirement is stricter than the requirement in the Auditors Act, as it relates to the *total* assignment period and not a consecutive period. The Ministry's proposal intends to prevent one auditor from being used by the party for many years, even if the assignment period is not consecutive. GRECO has encountered situations in its member countries in which an auditor has had an assignment period of over 30 years for the same party. Based on the wording of the Auditors Act, an auditor with a professional life of 36 years could audit the same party for 28 years, for example.

The Ministry believes that this rule is inadequate to achieve the objectives that the Political Parties Act should be based on with regard to an actual replacement of the auditor. GRECO supports this objective. The proposal in the consultation memorandum regarding this issue will therefore be retained. In other words, an auditor with an assignment period in the party of more than eight years cannot be reappointed. However, this does not prevent the party from engaging another auditor from the same audit firm.

As the Ministry of Finance states in Proposition to the Odelsting no. 78 (2008-2009) quoted above, the starting point in Norwegian law is that the auditor is not engaged for a specific period, but functions in the role until a new auditor is elected by the general meeting. The parties confirm this through the consultation comments made by the parties represented in the Storting. The Ministry sees that the proposal in the consultation memorandum regarding a rotation requirement every seven years can cause the parties to have to change auditors more frequently (at every party conference). This favours the proposal that the Political Parties Act should stipulate a rotation requirement for every eighth years – in other words, the comments from the parties in the Storting should be incorporated. The Ministry recognises that this does not fully comply with the EU rotation directive, but we believe the proposed

strict regulation of reappointments in the Political Parties Act can compensate for any negative effects of an extended period. The Ministry also assumes that GRECO can support these arguments.

In line with the above discussion, the Ministry wants to specify that the *"the person who audits and approves the accounts of a political party"* passage also includes any assignment team members, to the extent that they assist in the audit.

The Ministry suggests that the Act specify that the auditor requirement means that the parties have general auditing obligations pursuant to the Auditors Act, which in turn is in line with the comments from the Norwegian Institute of Public Accountants. This proposal also means that the consultation memorandum's proposal that the competence requirements for the person auditing the accounts of a political party be specified will be incorporated. The Ministry emphasises that the scope of the obligations regarding an auditor's approval in section 21(3) of the current Political Parties Act will be retained unchanged. This means that the requirement for an auditor's approval pursuant to the Political Parties Act only applies to the head organisations of the parties and not to other levels of the party hierarchy.

5.5 Recommendation 5 – appropriate independent monitoring of political funding, including electoral campaigns

GRECO recommends:

"to ensure appropriate independent monitoring of political funding, including electoral campaigns, in line with Article 14 of Recommendation Rec (2003)4"

5.5.1 Follow-up

Implementation of the recommendation will require amendments to the Political Parties Act.

5.5.2 GRECO's evaluation

The basis for the evaluations is Article 14 of Rec 2003/4:

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

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

During the ongoing evaluations, GRECO has kept a strong focus on monitoring that political parties provide correct and complete information to the authorities. It is emphasised that it is the actual (in the meaning of "de facto") control of the correctness of what the parties are reporting that is the topic of this recommendation, not the template or the reporting basis that may apply.

Paragraphs 72 and 87 of the evaluation report show that GRECO is not convinced about Norway's attempt to implement Article 14 of Rec 2003/4 by leaving the monitoring responsibility to the media and the general public. Nonetheless, recommendation no. 5 gives no indication of what the monitoring system should be like. It is also not assumed that a new body needs to be established to attend to the monitoring function. GRECO has noted that neither the Political Parties Act Committee nor Statistics Norway has the authority to investigate the correctness of the parties' reports, accounts or accounting practices. They also have no opportunity to act on the basis of information or tips from the general public concerning irregularities, apart from the fact that Statistics Norway may ask for a clarification for statistical purposes if something is obviously incorrect. The Norwegian system, which is based on trust and the fact that negative media reporting acts as a deterrent, is derived from two assumptions that GRECO believes would not always be fulfilled, notably that:

- the media has close access to information that is capable of disclosing any irregularities, and that
- journalists are keenly interested in political funding

GRECO is also of the opinion that it is unrealistic to assume that party members themselves have any interest in contributing to providing the general public with knowledge of internal issues in the party, particularly during an election campaign. However, the final objection in paragraph 87 of the report is of particular importance to Norway's follow-up: GRECO does not share our understanding that consideration of political freedom of action shall be a decisive obstacle to the establishment of an appropriate system for an actual monitoring of the funding of political parties. As far as monitoring the funding of political parties is concerned, a number of member states that are based on the same democratic traditions and independence ideals have to a greater degree than Norway let the consideration of the public's need for inspection weigh more heavily than the consideration of the parties' freedom of action.

Norway argued strongly to have GRECO delete this recommendation – alternatively change it to a “consider”. We had the support of France during the plenary debate, but GRECO maintained the evaluation team's standpoint with reference to other countries having received the same comments.

5.5.3 International experiences

Most member countries that have been evaluated thus far have received equivalent recommendations to strengthen the real control of parties (and candidates) through some function or other that is independent and has the competence and resources to implement controls on its own initiative and based on tips from the public. To countries that already have sufficient monitoring provisions in their legislation, GRECO has recommended that these be used or that they be strengthened through greater resource allocations. These countries include Iceland, Latvia and the United Kingdom.

A general theme internationally is that where the law includes clear rules regarding what public party funding can be used for, it is the Auditor General or a similar supervisory authority that has the remit to

monitor the parties. The supervisory authorities do not usually go beyond the use of public funds. Varieties of this model can be found in Finland, Denmark and the Netherlands, amongst others.

In Finland, the Ministry of Justice is responsible for verifying that the use of public subsidies complies with the law. The Ministry can appoint an approved auditor to perform such controls. Additionally, the National Audit Office of Finland has the right to verify that the parties (and subsidiary organisations that directly benefit from the subsidy) have used the public funding in accordance with laws and grant decisions. However, there are no regulations that oblige the supervisory authority to report any findings or to take action. Finland has recently amended its legislation in order to follow up on GRECO's recommendations for this area.

In Denmark, there is no systematic oversight of compliance with party funding legislation in terms of a public authority that monitors how correct the reports that are submitted annually to the Danish Parliament and the Ministry of Justice are. The Danish Auditor General's Office, which appears to have the same authority as its Norwegian counterpart in terms of monitoring the accounts of public enterprises, has the authority to verify that political parties have used public funds in line with the applicable terms. This involves some degree of control of the accounts. However, this authority has never been used.

In the Netherlands, the auditing department of the Ministry of the Interior has the authority to investigate whether the parties have used public grant in accordance with the specified objectives. The Court of Audits also has the authority to monitor this, but has never made use of this authority. This supervisory authority also only covers the use of public subsidies. GRECO has concluded that the monitoring is inadequate in relation Article 14 of REC 2003/4.

In Iceland, the National Audit Office plays a central role in party funding. Political parties (and candidates) report annually to the National Audit Office, and the office has broad authority to conduct material control of the submitted information. In the event of discrepancies in the report, the National Audit Office will in principle contact the party or the party auditor for an explanation. If there are indications of corruption, the case may be reported to the police. However, the National Audit Office does not have sufficient resources to fully utilise its authority in relation to parties and candidates. GRECO's recommendation for Iceland is that the National Audit Office must be allocated more resources. GRECO had no further comments about Icelandic legislation, monitoring and control.

Other countries have created dedicated bodies to supervise political parties and candidates:

In the United Kingdom, the Electoral Commission supervises political parties and candidates. This is an independent body created by Parliament to contribute to integrity and to the public's confidence in political processes. The Commission has the authority to inspect and also to copy all relevant documentation related to the income and expenditures of political parties or candidates. Its authority also includes the right to be assisted by a responsible person in the party in connection with the control. However, there are as yet no rules or guidelines regarding what the Electoral Commission can do if it

uncovered illegal situations. The UK is currently considering expanding the authority of the Commission through direct cooperation with other supervisory bodies such as police and prosecutors. GRECO has nevertheless concluded that the Electoral Commission, which has a number of tasks, should increase its focus on party funding, which includes being more proactive with regard to uncovering discrepancies.

In France, the National Commission for Campaign Accounts and Political Funding (CNCCFP) is the supervisory authority for the parties. This is an administrative body with nine members serving for a fixed term, assisted by a secretariat with about 30 members, mainly consisting of personnel from various ministries. CNCCFP monitors whether the parties comply with accounting and funding legislation, in addition to controlling the candidates' election accounts. This is done on the basis of reports from two appointed auditors (who can otherwise withhold confidential information from CNCCFP). Because of the constitutional freedom of political parties in France, the monitoring only covers whether their allocations are legal and not the degree to which they are appropriate. An annual report of the results is prepared for the government. However, CNCCFP does not have access to the accounting documentation the report is based on, and does not have the right to directly inspect the party. GRECO has also pointed out that the supervisory function of CNCCFP must be strengthened – in other words, it has been given a similar recommendation as that given to Norway.

In Latvia, parties report directly to KNAB, an anti-corruption body with broad authority to verify accounting reports and that has full access to all relevant accounting information. KNAB's authority also includes the right to require information from all public bodies, enterprises, organisations, employees and others – regardless of the classification of the information. On request, private donors to political parties must present information about income and assets to KNAB.

5.5.4 Proposals in the consultation memorandum

The consultation memorandum finds that Norway has no tradition of public monitoring of political parties above and beyond what is required by legislation on a general basis for associations with a statutory accounting and audit obligation pursuant to Section 1-2 no. 9 of the Accounting Act and section 2-1 of the Auditors Act. Any monitoring by the tax authorities is additional. Although autonomy in the area is not specifically laid down in any legislation, it appears to be a broad political understanding that political parties' autonomy and independence from the state is important to democracy – which also the Party Funding Committee took into account in its report. In addition to this, when evaluating various models for monitoring political parties' compliance with the Political Party Funding Act, the following must be taken into account:

1. Statistics Norway (SSB) has a professionally autonomous role pursuant to section 4-1 of the Statistics Act. Under the Political Parties Act, the authority and professional expertise of the agency makes it a particularly important player in the reporting system. The agency maps the populations of the political parties with a high degree of accuracy, guides the parties and collects, processes and publishes the reports in an efficient and professional manner. For fear of coming into conflict with

section 4-1 and losing trust in the performance of its primary tasks under the Statistics Act, Statistics Norway has reserved itself against other duties under the Political Parties Act than those that are purely statistical. This has however been no hindrance to Statistics Norway currently undertaking a test of reasonableness of what the parties report, including requesting clarifications for statistical purposes. Given these limitations, it would not be an alternative to expand the agency's authority in the direction of monitoring the political parties' reports.

2. Pursuant to section 24(1) of the Political Parties Act, the Political Parties Act Committee is an autonomous administrative body subordinated to the King and the Ministry. Neither the government nor the Ministry (Ministry of Government Administration, Reform and Church Affairs) can issue instructions as to the Political Parties Act Committee's exercising of authority in individual cases under the Act. The committee has no monitoring function and has only been given one tool, namely withholding party support. The committee consists of five members, of which the chair shall have competence as a judge. Pursuant to section 20 of the regulations relating to the Political Parties Act, at least two of its members shall have experience of political party work. The County Governor of Sogn og Fjordane provides technical office support to the committee. Although the committee would most likely meet the criteria in Article 14 concerning independence, the current form of organisation contains clear limitations on any expanded function. At present, the Political Parties Act Committee currently operates on a part-time basis (hourly) since the members are convened as required and the administrative procedure is conducted via e-mail. Clearly a close follow-up of some 3,200 party units in the form of regular supervision becomes difficult with this manner of working. Also, current regulations make no allowance for giving the committee accounting/auditing skills or other skills of relevance to supervision. Apart from its chair having competence as a judge and the requirement for at least two members having experience from political parties, no requirements relating to competence are imposed on the committee. The committee has also not been given the authority to seek assistance from other government players, apart from receiving annual reports from Statistics Norway on the submitted reports. Annual budgets, including technical office support, amount to approximately NOK 250,000.
3. Pursuant to section 1 of the Auditor General Act, the Auditor General of Norway is the Parliament's auditing and supervisory body: "The Office of the Auditor General shall ensure, through auditing, monitoring and guidance, that the state's revenues are paid as intended, and that the state's resources and assets are used and administered in a sound financial manner and in keeping with the decisions and intentions of the Storting." Without taking a stance as to whether the provision could form the basis for any supervision of the part of the political parties that could be traced back to the state grant, as is the case in several countries, it can be concluded that this would nonetheless be insufficient to meet GRECO's requirements for supervision of all aspects of political party funding.
4. Other established supervisory bodies in Norway with expertise in accounting and auditing are first and foremost the Financial Supervisory Authority of Norway and the Norwegian Competition Authority. The Financial Supervisory Authority of Norway supervises banks, insurance companies,

financing institutions, private pension funds, approved auditors and audit firms, accountants and authorised accounting firms, regulated markets etc. Pursuant to section 2(4), the Financial Supervisory Authority may appoint state-authorised and registered auditors and persons with other expertise to perform assignments within the professional scope of the Authority, and may also appoint committees to undertake independent investigations within the scope mentioned. The Financial Supervisory Authority shall investigate accounts and other statements from the institutions, and shall otherwise make the investigations of their position and activity that the supervisory authority deems necessary. Institutions subject to supervision are at any time obliged to provide the information that the authority may require, including giving the authority access to a number of documents and subjects, cf. section 3 of the Act. Although the authority covers a wide range of various activities and appears to have number of authorisations that are relevant to Article 14 in Rec 2003/4, the Ministry assumes nonetheless that its expertise is not directly relevant to the anti-corruption work in the political system. The Norwegian Competition Authority supervises competition in the various markets, including monitoring compliance with the prohibitions and instructions of the law. Although the Competition Authority has a broad and varied supervisory expertise from various lines of business, with authorisations that in a supervisory context must be said to be comprehensive, it is assumed that its expertise is nonetheless not relevant to undertaking accounting controls of political parties. It could therefore be doubtful whether the Financial Supervisory Authority or the Competition Authority are suited to the supervisory or control function that follows from recommendation no. 5.

5. In an international context, in Norway the population of party branches that are obliged to report is very large and comprises approximately 3,200 units. Apart from a large and multifarious number of parties in itself, this is due to the Norwegian inspection system being founded on a decentralised model whereby all the parties participating in elections, plus youth organisations at central and county levels, have an independent obligation to report to the public authorities. So far in the evaluation round, GRECO has largely related to countries that are based on a consolidated model, i.e. where the central units report for the entire party with the result that the number of autonomous units under supervision is reduced and the supervised objects more clearly laid out and thereby easier to reach.
6. Appropriations over Chapter 1530, Grants to political parties, have seen a steep nominal increase since its inception in the 1970s. Norwegian grants to political parties are high in an international context. This indicates that the use of resources related to access to accounts ought to a limited degree lead to increased grants, and that efficiency considerations must be given great emphasis.

The Ministry observes that it is a challenge to unite the described different and conflicting considerations with GRECO's expectations – at the same time as making use of international experience. The consultation memorandum proposes that the selection of a model should be based on the following principles:

- The monitoring of political parties is to be limited to the lawfulness of dispositions in relation to the provisions and requirements of the Political Parties Act, and is not to concern the appropriateness of dispositions
- Regard is to be paid to the autonomy and political latitude of the parties.
- Information subject to confidentiality and undertaking-internal matters that fall outside the purposes of supervision is not to be exposed to the committee or to the public.
- Control powers are to be clearly defined, neutral, and not open to political abuse.
- Supervision/control is to be effective and not involve unnecessary use of resources or bureaucracy by the authorities or parties.
- Supervision/control should not give rise to role conflicts in the public sector.

On this basis, the Ministry discussed three alternative models:

Model 1

The model is based on the current authority structure outlined in the Political Parties Act. The Political Parties Act Committee will be given legal supervisory authority in addition to the establishment of a competent (supervisory or) monitoring body (Party Auditing Committee) under the committee's leadership. The Ministry sees clear advantages in the strengthening of the monitoring of the political environments being based on the external/internal monitoring which is currently handled by the political party auditors. The proposals for the follow-up of recommendation 4 presented in the above section entail a direct strengthening of the external monitoring by imposing explicit independence requirements on the auditors. This will ensure that the person executing the auditing assignment cannot at the same time be a member of the party and cannot be appointed for more than a specific number of years. The auditor requirement with associated impartiality rules will nonetheless only apply to the central organisations – i.e. 18 units of a population numbering some 3,230. The consultation memorandum proposes that the Party Auditing Committee be established with three to four members with a professional auditing background, preferably from political party auditing. The Office of the Auditor General and the Financial Supervisory Authority could perhaps be represented on the committee to ensure broad expertise. The memorandum does not propose that the Party Auditing Committee be granted authority to make individual decisions within the meaning of the Public Administration Act, but shall only act as a tool for the Political Parties Act Committee by undertaking investigations and reporting relevant findings. The committee is intended to work on an ad hoc basis.

In its report on Norway, GRECO has not questioned the Political Parties Act Committee's independence vis-à-vis political authorities, which makes it possible also in this area to continue building on what has already been established. In connection with recommendation 6, GRECO has indirectly indicated that the committee ought to be given greater authority by the introduction of more sanctions. Regardless of which model is continued (1 or 2), it will be necessary to expand the Political Parties Act's scope of authority, cf. section 26 of the draft bill:

The consultation memorandum also proposes that section 27 of the regulations be expanded so that the Ministry can stipulate more detailed rules about the activities and composition of the Party Auditing Committee.

The consultation memorandum presumes that the proposed amendments about an expansion of the area of responsibility for the Political Parties Act Committee will satisfy the considerations outlined in the above bullet points and in GRECO's recommendations. The memorandum discusses two possible options for the committee in the event that it suspects a discrepancy in a party branch.

Firstly, the committee may require that the party branch presents all documentation of significance for matters that the committee finds to be of particular interest in the report. It is emphasised that the provision applies to individual issues in the report, the legality of which the committee sees the need to consider. The provision does not however give the committee general access to accounting information or other documentation in the party branch. It is suggested that both the right to inspect and the scope of information should be limited to individual cases. It is proposed that the Political Parties Act Committee may do this on its own initiative by Statistics Norway pointing out obscurities in the reports, or on the basis of tips from the media or the general public.

According to the proposal and pursuant to the principles of public administration law, the committee can ask for a written explanation from the party about issues it finds that there is a basis to look into further. If the committee fails to find the party branch's explanation satisfactory, it may be relevant to apply the right to inspect under subsection one (unless the information has already been presented to the committee).

Should this fail to provide the desired result, the committee may request the Party Auditing Committee to inspect the auditing of the party branch and/or the party branch's reporting. The Party Auditing Committee shall be able to request the submission of all written documentation of significance to the circumstances of the entity obliged to report (invoices, receipts, other relevant vouchers, written agreements with donors etc.). The authority covers the inspection in all aspects that are required to inspect the auditing assignment or the reporting. What the Party Auditing Committee discovers of information other than that which is relevant to the compliance with Chapter 4 of the Political Parties Act or sections 387-389 of the General Civil Penal Code will be confidential – also vis-à-vis the Political Parties Act Committee.

It is assumed that the party branch shall be given a de facto opportunity to sort out individual cases vis-à-vis the Political Parties Act Committee prior to any involvement by the Party Auditing Committee. The consultation memorandum considers the proposals to be appropriate and effective means, also from a preventive point of view, as they increase the likelihood of the parties submitting correct information in the first place. The need to limit public inspection in matters concerning the presentation of written documentation concerning individual decisions and/or cases where the Party Auditing Committee is involved must be considered separately by the Ministry in connection with its work on the regulations. If

this involves rules that deviate from the general bases of the Freedom of Information Act and the Public Administration Act, separate justification must be provided.

Model 1 is similar to the one used in France, apart from the fact that the passage concerning section 6-1 of the Auditors Act ensures that the Political Parties Act Committee is given access to confidential information that is relevant to Chapter 4 of the Political Parties Act or the provision relating to corruption in the General Civil Penal Code. What the Party Auditing Committee may discover of other sensitive information or entity-internal information would nonetheless be confidential – also vis-à-vis the committee.

In order to comply with GRECO's requirements for a de facto execution of controls and to reduce the likelihood of the control element of the Act being considered by GRECO as “another paper tiger”, it is appropriate to formulate a new subsection 5 as an unconditional obligation ("shall"). However, it is here a question of purely a routine control which is envisaged to be undertaken independently of any suspicions of irregularities, and which also has a clear guidance motive. The provision concerning the omission of election years, in addition to the neutrality requirement, is proposed to ensure that the means applied cannot be abused, for example to draw negative attention to individual parties in election campaigns or to disturb the party branches during their preparations for elections. The neutrality requirement may for example be met by the Party Auditing Committee inspecting all parties represented at the parliament, the county youth groups in Hordaland or the three largest municipal parties in Moss etc. during a year prior to a general election. Furthermore, the control shall only comprise the compliance with the provision relating to funding/accounting in Chapter 4. The duty to provide guidance to the party branches on how to comply with the Act has been included according to the pattern of section 9, ultimate subsection, of the Competition Act, and shall contribute to the parties benefiting from such control. As mentioned above, GRECO also wants the states to provide guidance to the parties on understanding the law.

It is assumed that the Party Auditing Committee will work on an hourly basis according to the rates for serving on committees outlined in the Civil Service Handbook (SPH). Apart from undertaking routine control assignment, the committee will be convened in special cases (in connection with the control of auditing assignments under the new subsection two). There is a requirement for a legal authority to further regulate the Party Auditing Committee's activity and composition in regulations. The consultation memorandum argues that this proposal would serve to comply with GRECO's recommendations at the same time as it limits the possibilities of the control being abused or being detrimental to democracy.

Model 2

Model 2 is based on the same proposal as model 1 with regard to expanded authorisations in the Political Parties Act. Instead of establishing a Party Auditing Committee, it is suggested that the Financial Supervisory Authority be given the same tasks. Issues such as conflicts of roles, reluctance to accept tasks outside the Financial Supervision Act, extra resources etc. may however be relevant.

Other models

One may be able to envisage mechanisms aimed at strengthening the current regulatory regime through giving the media and the general public expanded authorisations to view invoices, vouchers etc. However, GRECO has stated its doubts regarding the role of the media, cf. above. The Ministry's experiences after the Act came into force on 1 January 2006 (including the initial Act of 1998) is also that the media and general public have a limited interest in political party funding. However, the number of requests the Ministry receives, and searches on partifinansiering.no, suggest that this interest has been on the increase in the past year. Increased direct access to information for the public will also soon come into conflict with the consideration of the parties' autonomy and independence, and would not least create a disproportionate bureaucracy in the parties. Regardless of whether such a model would in fact function, it is not considered to be sufficiently precise in respect of GRECO's expectations: the likelihood of Norway failing to achieve approval of the implementation of recommendation no. 5 is regarded as considerable if we are alone in adopting such a solution.

In the consultation memorandum, the Ministry concludes that model 1 ought to be introduced to safeguard all considerations in recommendation no. 5. This means that the Political Parties Act Committee will be given increased authorities and that a Party Auditing Committee be established as a support function for the committee with the duties mentioned above.

5.5.5 The view of the consultative bodies

The institutions that were consulted have focused on the system not creating conflicts related to the functions of the Financial Supervisory Authority of Norway, among other things. Further, questions have been raised as to whether the Political Parties Act Committee will have the capacity to follow up on all the tasks in the law with its current level of resources.

The Ministry of Finance states:

"The Ministry of Finance agrees that no expanded supervisory tasks should be allocated to the Financial Supervisory Authority of Norway, cf. page 49 of the consultation memorandum. At the same time, the Ministry of Finance believes that the supervision of auditors that is currently performed by the Financial Supervisory Authority of Norway must also be considered sufficient for party auditors. The Ministry of Finance notes that the Party Auditing Committee is to primarily control the accuracy of party reporting. As a starting point, the parties themselves will be responsible for the reporting and there is therefore no basis for a special control of the party auditor's activities in this context. Another issue is that the auditor will be able to provide information and advice about the parties' financial allocations to a Party Auditing Committee. Therefore, the Ministry of Finance believes there may instead be reason to consider a duty of providing information and/or a reporting obligation for the party auditor to the Party Auditing Committee related to the party's accounting. The Ministry of Finance also notes that issues that a possible Party Auditing Committee uncovers in relation to its auditing activities can be reported to the Financial Supervisory Authority of Norway. Such reports will be followed up in the Financial Supervisory

Authority of Norway's general audit supervision. Nor can the Ministry of Finance see that there are compelling arguments against a Party Auditing Committee ensuring that party auditors are sufficiently independent of the parties. However, any consequences of a lack of independence should be addressed to the party, not the auditor. As mentioned, it will also be possible to report breaches of auditing legislation to the Financial Supervisory Authority of Norway. The Ministry of Finance believes that the proposal that the Political Parties Act Committee shall be able to interpret the relevant legislation 'with a binding effect' is inappropriate. The Ministry of Finance refers to the fact that, as we understand it, the accounts of political parties are meant to be kept in accordance with the provisions of the Accounting Act. It would be very inappropriate if a Political Parties Act Committee were to be granted the authority to make binding statements about the interpretation of accounting practices which meant that accounts must be kept in a different way than those for other entities with a statutory obligation to keep accounts. At the same time, the Ministry of Finance does not see any grounds to give the Political Parties Act Committee the authority to issue binding interpretations of accounting legislation for entities other than political parties. Therefore the Ministry of Finance believes that it is sufficient to grant the Political Parties Act Committee the authority to impose sanctions and make decisions in individual cases, for example in the event of breaches of the reporting obligations. In this event, it should be possible to bring such decisions to the courts for ordinary judicial review. Other statements about accounting practices and reporting should be guidelines and not binding."

The Financial Supervisory Authority of Norway states:

"Section 26 of the Bill states that the Party Auditing Committee can control the reporting and audit assignment on the request of the Political Parties Act Committee. The Financial Supervisory Authority agrees that the Party Auditing Committee's tasks should not be allocated to the Financial Supervisory Authority (see page 49 of the consultation memorandum) because it would be inappropriate to the Financial Supervisory Authority's area of responsibility. However, the Financial Supervisory Authority does not agree with the proposal that the Party Auditing Committee should have a control function related to the work of the auditor. The Financial Supervisory Authority notes that it supervises approved auditors. If overlapping supervisory functions are allocated to a different body, this can lead to unfortunate role conflicts, which the consultation memorandum emphasises that it aims to avoid (see page 13). In this context, the Financial Supervisory Authority has noted that GRECO's fifth recommendation does not require any special control of the auditor's approval. Further, section 26 stipulates that the Party Auditing Committee is to act as an advisor. The Financial Supervisory Authority has noted that the consultation memorandum states that the Party Auditing Committee's interpretations are to be legally binding, but this is not reflected in the text of the Bill. To be clear, the Financial Supervisory Authority wants to emphasise that any interpretations by the Party Auditing Committee that may be significant for laws managed by the Financial Supervisory Authority will in no case be binding on the Authority's interpretation of the law."

The Norwegian Labour Party, Harstad states:

"We support the proposal that the Political Parties Act Committee be granted the authority to ask for documentation from the parties if it suspects that something is wrong. We also agree that the committee should not be granted a general access to accounting information."

The Political Parties Act Committee states with regard to section 26(4) of the Bill:

"In principle we support model 1, but we have a significant comment to the model itself. An important question is the basis on which the Political Parties Act Committee is to be able to 'suspect incomplete or incorrect reporting' from the parties. In its role as the collector of data from the party reports, Statistics Norway (SSB) would normally be the source of such suspicions. However, in light of its role as an independent body, SSB has reserved itself against tasks in the Political Parties Act other than those that are currently in effect. The Ministry therefore concludes that '...it would not be an alternative to expand the agency's authority in the direction of monitoring the political parties' reports' (section 4.5.4, page 22 of the consultation memorandum). The Political Parties Act Committee understands SSB's position and will therefore not ask that SSB be given a more extensive role in this work. At the same time, we are concerned when considering our practical options for performing the role the Ministry's proposal entails. In total, about 3,200 party branches report information to SSB. It is obvious that a committee of five members has limited opportunities to perform any sort of monitoring of the party branches, and thus the committee will have a very limited basis on which to 'suspect incomplete or incorrect reporting'. Such suspicions must therefore be based on tips from the media or the public, which can be a rather haphazard approach. The Political Parties Act Committee does not have any specific suggestions for how this might be solved, but points out that this is a significant hindrance to fulfilling the intentions of the proposal. The possibility cannot be discounted that this problem can only be solved if SSB is removed entirely from the process, and SSB's tasks are allocated to the Political Parties Act Committee. This will give the committee its own basis for suspicion. This would have clear financial and administrative consequences that the committee in no way has a complete overview of. In this solution it does not seem possible to avoid having a permanent secretariat, though this seems to be implicit already in other proposed changes, although the Ministry intends the Party Auditing Committee to work on an ad hoc basis (page 46 of the memorandum). The work that SSB currently performs (developing good forms, guiding users, collecting reports, establishing registers for the storage of the information, publishing results, etc.) requires expertise that SSB has and which the committee does not have. It takes time to build such expertise, and there is an obvious question whether it is rational to build such expertise in parallel in multiple locations. Another consequence is that the committee will then clearly have original jurisdiction in such cases, which means that there is a question of whether a dedicated appeals body should be created to maintain the general administrative legal system in Norway, which allows for an administrative appeal to be filed before the courts are approached."

With regard to section 26(5), the Political Parties Act Committee states:

"Given the legal amendments that seem necessary to fulfil GRECO's recommendations, it seems that the creation of a Party Auditing Committee is a good solution. However, experiences from other administrative areas suggest that there should be clear boundaries between guidance and control, in

consideration of both the supervised entity and the supervisory body; the draft of the fifth subsection, last sentence appears to invite some confusion in this regard."

Further, with regard to the Party Auditing Committee's duty of confidentiality, the Political Parties Act Committee states:

"Section 26(4) and 26(5) of the draft, amongst others, state that the members of the Party Auditing Committee will have a duty of confidentiality in relation to the Political Parties Act Committee with regard to several issues; see also page 48 of the consultation memorandum. Given that the Political Parties Act Committee will be superior to the Party Auditing Committee – which is being created as a support function for the Political Parties Act Committee – a duty of confidentiality within this relationship appears somewhat strange. Conflict may, for example, arise between the committees with regard to which issues are to be considered relevant and that must be reported on, and the present proposal places the decision-making authority with the Party Auditing Committee."

The Norwegian Institute of Public Accountants states:

"We believe that it is inappropriate in principle, and, according to the presented information, unnecessary to stipulate that the Political Parties Act Committee can issue binding interpretations of the relevant legislation. In any case, this should not apply to the special accounting provisions in the Political Parties Act, which only represent fragments of the accounting legislation the parties are subject to. (...) section 26 (4): The proposal suggests that the Political Parties Act Committee shall be able to appoint a special supervisory body, the 'Party Auditing Committee' to control the audit and report from the party auditor. We remind the Ministry that the Financial Supervisory Authority of Norway supervises approved auditors. The Norwegian Institute of Public Accountants places great emphasis on no separate statutory systems being introduced. The Financial Supervisory Authority of Norway has the authority to implement the controls and gather the information that the Bill covers. Further, the Financial Supervisory Authority has provisions that entitle it to react to breaches of the auditor's duties. This is important both in principle and in practice. We believe this provision should not be incorporated into the Political Parties Act."

Statistics Norway (SSB) states:

"We interpret the proposed introduction of the measures outlined in model 1 as a continuation of our role in relation to the reporting that is annually submitted to the Political Parties Act Committee. If the Party Auditing Committee is created, or if the Financial Supervisory Authority of Norway is allocated equivalent tasks, this potentially includes an expanded role for SSB as a supporting institution that supplies facts on request. SSB is concerned that such an expanded role must not come in conflict with our defined role as an independent provider of statistics."

5.5.6 The Ministry's evaluations and proposals

The Ministry refers to GRECO's evaluations in the evaluation report referenced above and to the evaluations of the proposals in the consultation memorandum in paragraph 35-39 of the follow-up report:

"The authorities of Norway report that, after consideration of various models for the monitoring of political parties (Statistics Norway, Political Parties Act Committee, Auditor General etc.), it has been decided to expand the mandate of the Political Parties Act Committee. In the abovementioned draft amendments to the Political Parties Act it is foreseen that the Political Parties Act Committee, on suspicion of incorrect reporting, can require the party/party unit in question to present all accounting information. The Norwegian authorities emphasise that – in order not to impede on the autonomy and 'freedom of action' of political parties and not to involve unnecessary use of resources or bureaucracy – this provision will not give the committee general access to accounting information or other documentation of the party: the right of access of the committee will be limited to individual cases in which there is suspicion of wrongdoing. It is foreseen that the Political Parties Act Committee can act ex officio, but may also act up [sic] information received by citizens or the media. In addition, the draft amendments foresee the establishment of a Party Auditing Committee under the Political Parties Act Committee, which – at the request of the Political Parties Act Committee – will be the entity verifying the accounts of parties, if there is such a need, and will have the possibility to request access to all necessary accounting information. This Party Auditing Committee will consist of auditors and/or accounting experts. GRECO takes note of the information provided. It welcomes the fact that despite the apparent sensitivity of the establishment of independent monitoring of party funding in Norway, some definitive steps towards implementation of this recommendation have been taken. Although concerns can be raised about the implications of the fact that the political members of the Political Parties Act Committee outnumber the non-political members, GRECO concedes that knowledge and practical experience of political work may be to the advantage of the Committee's functioning and may create further acceptance of such a mechanism among the parties. Recalling furthermore the statements of the Norwegian authorities in the Evaluation Report that attention would be paid to achieving a balance between the left-centre-right political axis in the composition of the Political Parties Act Committee, GRECO expects that this will be a good basis for the committee's impartial functioning (and for being seen to be doing so, which is crucial for the public's trust in the system). GRECO concludes that recommendation v has been partly implemented."

The Ministry summarises the issues raised in relation to this proposal by the institutions that were consulted as follows:

- The Financial Supervisory Authority of Norway should not be given expanded supervisory tasks.
- There is no basis for any special control of the activities of party auditors, as the Financial Supervisory Authority of Norway supervises approved auditors.

- A consideration should be made of whether to require party auditors to provide information and/or report to the Party Auditing Committee in connection with the party's accounting practices.
- The Party Auditing Committee can possibly monitor whether party auditors are sufficiently independent of the parties.
- It would be highly inappropriate if the Political Parties Act Committee were given the authority to issue binding statements of interpretation regarding accounting practices. Statements from the Political Parties Act Committee about accounting practices and reporting should have an advisory function and not be binding.
- On what basis can the Political Parties Act Committee 'suspect incomplete or incorrect reporting' from the party branches - should Statistics Norway's tasks be moved to the committee?
- The Party Auditing Committee's duty of confidentiality on several matters vis-à-vis the Political Parties Act Committee (to which it is subordinate) seems strange and can cause conflicts about which issues are relevant to the reporting.
- There should be clear distinctions between guidance and monitoring
- Statistics Norway's expanded role in providing support by supplying facts must not conflict with its role as an independent provider of statistics

About granting authority and delimitations

Several of the institutions that were consulted have supported the Ministry's proposal in the consultation memorandum that the supervisory tasks in the Political Parties Act should not be allocated to the Financial Supervisory Authority of Norway and that a separate body should possibly be created for this function (the "Party Auditing Committee"). However, the consultative bodies also provided clear recommendations that the authorities of this body must not overlap the Financial Supervisory Authority's area of responsibility in terms of the supervision of auditors.

The Ministry recognises that the wording of the proposal in the consultation memorandum can be understood to mean that the Party Auditing Committee should be conducting controls of the auditor's professional execution of the assignment. This is not the intended interpretation. The intention behind this proposal is that the Party Auditing Committee can conduct audits *ex officio*; for example, where new information of financial significance has become available about a party. This proposal is based on an understanding of the auditor's role as being to verify that the financial information that the entity subject to audit obligations has presented does not contain material errors. Further, it is based on our understanding that audits are executed based on different standards with different degrees of security. For example, a *simplified audit* is an overarching review of the accounts that is not as thorough as an audit, and does not have the degree of safety that an audit provides. Thus, for the Party Auditing Committee it may be appropriate to audit party branches for which new information is available and

which for various reasons has not previously been presented to an auditor, or for example where a simplified audit has been used instead of a (full) audit. Based on the Auditors Act, this will be considered a control of the audit assignment, not as a control of the auditor. Further, it may be appropriate to conduct an audit in cases where the party branch is not required to use an auditor.

During the consultation round, the Ministry of Finance pointed out that the Party Auditing Committee is primarily to control that the parties' reporting is correct. As a starting point, the parties are themselves responsible for the reporting, and there is therefore no particular reason in this context to subject the activities of the auditor to special control. The Ministry agrees with this. It also seems clear that if the Financial Supervisory Authority of Norway in its supervision of auditors can generally tend to the state's control of whether the parties' reports are correct, there will not be any need for a new body to control party funding, or at least not one that controls party branches that are required to use an auditor. The Ministry accepts that the Political Parties Act should not allocate new supervisory tasks to the Financial Supervisory Authority of Norway. To fulfil recommendation 5, the Ministry nevertheless sees a need to improve the control of party funding at all organisational levels by creating a Party Auditing Committee under the Political Parties Act Committee. Its authority will be delimited in relation to the Financial Supervisory Authority's area of responsibility. According to the proposal, the Political Parties Act Committee and the Party Auditing Committee will cover the areas necessary to fulfil GRECO's recommendation.

The Ministry of Finance envisions that the auditor will be able to provide information and advice about the parties' financial allocations to a Party Auditing Committee. The Ministry of Finance therefore believes that there may be cause to consider granting the party auditor the opportunity to provide information about and/or report issues related to the party's accounting practices to the Party Auditing Committee. The Ministry agrees, and believes that this part of the agreement should be incorporated into the provision about the person who audits the accounts of a political party.

The Ministry of Finance also points out that any issues that a possible Party Auditing Committee might uncover related to audits can be reported to the Financial Supervisory Authority of Norway. The Ministry of Finance does not see any significant arguments against a possible Party Auditing Committee monitoring whether party auditors are sufficiently independent of the party. However, any consequences of the auditor being insufficiently independent should be directed to the party and not the auditor.

As a starting point, the Ministry agrees with both proposals. However, a rule about the reporting to the Financial Supervisory Authority of Norway should be tightened so that the committee will not merely be "entitled" to report, but will have a duty to report issues that it believes violate laws (i.e. the Auditors Act and the provisions about the party auditor in the Political Parties Act). As the Ministry of Finance suggests, any consequences of the auditor being insufficiently independent should be addressed to the party and not the auditor. This can for example be done by the committee asking the party to check whether the auditor is on its membership list, and to select another auditor if necessary. Issues that relate to the independence of the auditor may nevertheless be issues that must be reported to the

Financial Supervisory Authority of Norway. This is based on the assumption that the general requirements to independence, objectivity and ethics in section 4-1 of the Auditors Act apply to the auditor and not to the entity subject to auditing obligations. It will therefore be up to the Financial Supervisory Authority of Norway to follow up with the auditor regarding any suspicions about violations of the independence requirements.

On this basis, the Ministry has changed the proposal to expand the authority of the Political Parties Act from the proposal in the consultation memorandum.

We must specify that "all documentation that is significant to compliance with the duties and prohibitions in chapter 4 and section 24" refers not only to the (basis for) last year's reporting, but also to previous years' reporting. The issue will also be regulated by the limitation period that according to the proposal is five years, cf. the discussion under recommendation 6. The Ministry also carries forward the comments in the consultation memorandum regarding the provisions, as described above.

The third subsection, second sentence of the proposed new section 21a Special provisions on the audit of political parties has been changed based on the discussion under recommendation 4. The fourth subsection is new compared to the consultation memorandum and corresponds to the Ministry of Finance's proposal for an option for the party auditor to provide information and/or report to the Party Auditing Committee about issues related to the accounting practices in the party.

The Ministry agrees with the expectations that the consultative bodies expressed about the Political Parties Act Committee not being given authority to issue binding interpretations of the parts of the legislation that relate to accounting issues. The obligation to keep accounts, which according to the proposal the parties will be subject to in accordance with recommendation 1, is based in the Political Parties Act, but is built on relevant accounting principles and associated standards in the Accounting Act and the Bookkeeping Act. The Ministry therefore assumes that statements from the Political Parties Act Committee about the actual accounting practices of the parties should play an advisory role and not be binding. With regard to the parties' reporting, recommendation 1 proposes that a special system be established for issues subject to reporting requirements pursuant to the Political Parties Act. This is to be administered by Statistics Norway, and means that the current system for reporting income accounts is developed further. This system will (still) be outside of the reporting system of the Accounting Act – the Register of Company Accounts. The Ministry therefore assumes that the Political Parties Act Committee is to have the authority to interpret issues relevant to the parties' reporting according to the Political Parties Act; in other words, that it can make binding interpretations of the rules. The Ministry has changed the wording of the proposed provision to take the comments from the consultative bodies into consideration.

Several factors indicate that a Party Auditing Committee, established in accordance with the Bill, would be an administrative body according to section 1 of the Administration Act. However, there is nothing in the proposal about the committee having the authority to make decisions on individual cases in accordance with section 2(1)(b) of the Public Administration Act (such as issuing binding interpretations) in the manner that one of the consultative bodies may have understood the text.

About the Political Parties Act Committee's prerequisites for monitoring

In its comments, the Political Parties Act Committee has asked how in practice it is to "suspect incomplete or incorrect reporting" from the party branches. There is a discussion of whether Statistics Norway's competence should be transferred to the Political Parties Act Committee in order for the committee to have a better basis for the control.

The Ministry refers to the Political Parties Act's control system being built on systems for media and public control as the Party Funding Committee suggested in NOU 2004:25. The proposed measures in this Proposition build on this. In the consultation memorandum, the Ministry refers to the delimitations that are currently included in the system with regard to the role of the media and the public, Statistics Norway's reservations against tasks that go beyond providing statistics, and the delimitations in the Political Parties Act Committee's competence and resources. The latter is the direct reason for the proposal to create a Party Auditing Committee to strengthen this competence. However, the proposal does not suggest that the system is in any way be an "intelligence service" in relation to the political parties; the Political Parties Act Committee is not expected to continuously "hide in the bushes" to check whether violations of the Political Parties Act occur. There is an expectation that the Political Parties Act Committee can act on the basis of tips from or via the media, the public, party members, etc. Further, the Political Parties Act Committee, represented by the Party Auditing Committee, shall be able to perform controls on its own initiative.

The proposal in section 24(5) means that the Political Parties Act Committee, represented by the Party Auditing Committee, can implement controls of party and party unit funding. This authority will cover situations in which there is no specific suspicion of violations, but where the general compliance with the legislation is being tested. As stated in the comments to the consultation memorandum, the controls are to be routine and neutral and political misuse shall not be possible. We expect that this will be achieved, for example, by the Political Parties Act Committee, represented by the Party Auditing Committee, controlling all local party branches in a constituency, head organisations or central youth organisations across party lines. The neutrality requirement therefore means that the Political Party Act Committee must select party branches from different political parties. According to the proposal, it will not be possible to select party branches from one and the same party for routine controls. It is assumed that the party branches will be alerted in reasonable time before the control pursuant to the fifth subsection is conducted. The Ministry assumes that the abovementioned provisions regarding the implementation of controls are sufficient to fulfil GRECO's expectations under recommendation 5.

About the Political Parties Act Committee's tasks and resources

The Ministry refers to the Political Parties Act Committee's consultative statement, in which the committee discusses whether Statistics Norway's tasks pursuant to the Political Parties Act ought to be moved to the committee in order to compensate for what are seen as weaknesses in the supervisory system, cf. the discussion in the above paragraph. This proposal means that in addition to its supervisory authority, the Political Parties Act Committee would be allocated the task of administering the reporting system by surveying the population of political parties and party branches, creating reporting forms,

receiving all reports (and following up those who have not submitted reports), processing data for publication and advising the parties. The Ministry assumes that these tasks can be seen as statistical and the Statistics Act does not prevent Statistics Norway from performing them. The Ministry assumes that Statistics Norway has the necessary expertise and resources to perform the tasks effectively. In addition to the possible role conflicts that may arise as a result of the tasks in the future being allocated to the Political Parties Act Committee – which the committee points to in its consultative statement – the Ministry believes that even when seen in isolation the resource considerations suggest that the proposal should not be implemented. In this context, we refer to the fact that the Political Parties Act Committee must be strengthened by considerable (unpredictable) administrative resources to enable the proposal to be implemented, and that building the necessary competence will take time. The Ministry therefore expects that the abovementioned tasks should still be performed by Statistics Norway.

There is otherwise nothing in the proposal that suggests that Statistics Norway's authority to perform controls will be expanded compared to the present situation in a way that can cause doubt about Statistics Norway's independence pursuant to section 4-1 of the Act concerning official statistics and the Central Bureau of Statistics; see also Statistics Norway's consultative statement. Nonetheless, the Bill takes account of the possibility of Statistics Norway being given expanded tasks as the supplier of facts as a result of the creation of a Party Auditing Committee and the general supervisory system.

About the duty of confidentiality and role conflicts between guidance and control

The Political Parties Act Committee has commented on the consultation memorandum's expectation that whenever the Party Auditing Committee encounters information other than that which is relevant to compliance with chapter 4 of the Political Parties Act or sections 276a to 276c of the General Civil Penal Code (1902), this will be subject to confidentiality requirements, including in relation to the Political Parties Act Committee. The Political Parties Act Committee believes that this rule may seem strange and that it can cause conflicts about what information is to be considered relevant to the reporting. The Ministry believes that such a rule is crucial in ensuring that the supervisory authority can be established without coming into conflict with other important considerations, as noted in the consultation memorandum. These considerations include the parties' private autonomy. We stress that the system of controls outlined under recommendation 5 and elsewhere in the Proposition exclusively relates to controls of the funding of political parties. However, we cannot exclude the possibility that the Party Auditing Committee may come across other information, for example related to the political strategies of the party, etc. The Ministry believes that the Party Auditing Committee must have a duty of confidentiality regarding such issues. In this context, we refer to the fact that the Political Parties Act Committee consists of political representatives – presumably also from competing parties. The proposal means that the sifting of the information must be done by the Party Auditing Committee. However, we must stress that the proposed Bill means that all issues relevant to compliance with the funding provisions in the Political Parties Act and the corruption provisions in the General Civil Penal Code are not exempt from the duty of confidentiality, and that the Party Auditing Committee must report all such issues to the Political Parties Act Committee.

The Party Auditing Committee will therefore not have an independent responsibility for follow-up beyond monitoring and the reporting of any findings. The Party Auditing Committee will clearly not have any authority to issue formal warnings or impose any sanctions on the party branches. In the extension of the Ministry of Finance's comments, the Bill incorporates a corresponding rule about the duty of confidentiality in section 6-1 of the Auditors Act not preventing the auditor from providing information and advice about the parties' financial allocations to the Party Auditing Committee. This information will also be limited to that which is relevant, as detailed in the discussion above. Against this background, the Ministry maintains all the proposals and associated comments in the consultation memorandum regarding the duty of confidentiality for the Party Auditing Committee.

The Ministry proposes that a provision on the duty of confidentiality be introduced in the Political Parties Act, which will apply to everyone who performs services or work for the Political Parties Act Committee or the Party Auditing Committee. The need for a special provision must be viewed in relation to the extensive supervisory authority for funding and issues subject to reporting obligations that are contained in section 24(1) and 24(2). The Ministry sees it as especially important that the supervisory authority does not contribute to sensitive information about internal party matters falling into the hands of unauthorised third parties, for instance while the control is taking place or when a case is being prepared in the Political Parties Act Committee. As a starting point, "internal party matters" means all issues that relate to the activities of the party – both political and financial. Further, this includes information about personnel, including members and others associated with the party or party units. However, the duty of confidentiality does not include information that is generally known or generally available elsewhere. Exceptions from the provisions on the duty of confidentiality in the Public Administration Act other than those specifically mentioned in the text of the Act have not been considered relevant in this context.

In its consultative statement, the Political Party Act Committee expresses concern that there should be clear distinctions between guidance and control. The Ministry refers to the fact that the proposal in the consultation memorandum has been prepared based on the pattern in section 9 last subsection of the Competition Act: "The Competition Authority is obliged to provide guidance to undertakings as to the interpretation of this Act, its scope and its application in individual cases." A general duty to provide guidance can also be found in section 11 of the Public Administration Act. The Ministry recognises that there are challenges related to, on the one hand, controlling and, on the other hand, guiding the entity for whom one has supervisory authority; this has also been the experience in other areas of society, for instances within safety and preparedness (Norwegian National Security Authority [NSM], the Petroleum Safety Authority Norway, et al.) and competition legislation. We refer to the Competition Authority's general guidelines for its guidance (dated 20/08/2004) regarding the Competition Act, in which it among other things states that "the Authority must provide undertakings with the guidance necessary to avoid errors and omissions and generally use guidance as a tool in the work on promoting the objectives of the Competition Act".

The Ministry sees it as logical that the Party Auditing Committee is also given a guiding function and as a starting point we do not see that this proposal will create challenges beyond those that are common for

these types of diverse tasks. Specifically, the Ministry sees it as logical that the Party Auditing Committee provides guidance that aims to prevent the party branches from making mistakes and omissions in connection with the annual reporting and the compliance with deadlines. We propose that more detailed rules about the tasks of the Party Auditing Committee be provided in regulations. The Ministry therefore retains the proposal that the Party Auditing Committee's tasks shall also include guiding the parties.

On the turnover of the Political Parties Act Committee

The current section 25 first sentence can be interpreted to mean that it is not possible to temporarily extend the Political Parties Act Committee's period of service. More specifically, it is possible to read this provision to mean that each extension must be considered an "appointment" that must be made for six years at a time. In some cases it might be necessary to extend the period of service (mandate) temporarily until a new committee can be appointed. For example, it is not a given that there are qualified people who want to or are able to assume the chair of the committee when the six-year period expires. There may also be situations in which it is not appropriate or possible to appoint an entirely new committee. To ensure that important areas of the law are enforced during such an intermediary phase, the Ministry should have the authority to extend the mandate of the existing committee until a new committee can be appointed. It is (of course) a prerequisite that the existing committee agrees to this. The proposal is perceived to safeguard the need for continuity and impartiality that is emphasised in Proposition to the Odelsting no. 84 (2004-2005). Further, the Ministry sees that there is a need for the rule in section 20 of the Political Parties Act Regulations (that the members of the Political Parties Act Committee may be reappointed) to be incorporated into section 25(2) last sentence.

5.6 Recommendation 6 - appropriate, flexible sanctions for all infractions of the Political Parties Act

GRECO recommends:

"to introduce appropriate (flexible) sanctions for all infractions of the Political Parties Act, in addition to the current range of sanctions"

5.6.1 Follow-up

This will result in separate provisions on sanctions that we propose be added to a new Chapter 6 in the Act.

5.6.2 GRECO's evaluation

The basis for this is Article 16 of Rec 2003/ 4:

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

In its evaluation report, GRECO refers to the fact that the Political Parties Act authorises only one means of sanctioning – withholding of state funding if the party branch has failed to meet its duty to report or if there are doubts as to whether the party branch exists. The Act does not allow for the use of milder sanctions for minor breaches of the law. GRECO has been informed that sanctions under criminal law, such as fines or up to two years in prison, may be applied under the provisions of section 166 of the General Civil Penal Code concerning giving false testimony. Sanctions under criminal law may also be applied for breaches of the Accounting Act, fraud or corruption committed in connection with the funding of political parties. GRECO is nonetheless of the opinion that the current system of sanctions in the Political Parties Act is incomplete in two regards:

- not all breaches of the law can be sanctioned – the Act does not give the party branches sufficient incentive to comply with all provisions
- the lack of flexibility concerning minor infringements – given that the use of sanctions under the General Civil Penal Code would often be irrelevant, cumbersome or time-consuming.

GRECO is of the opinion that more flexible sanctions that cover the entire spectrum of breaches of the Political Parties Act, in addition to withholding party support and possible sanctions under criminal law would create a more complete system. Although they also here omit to provide any guidelines on how the recommendation is to be implemented, it seems very likely that GRECO visualises that the Political Parties Act Committee should be given increased authorisations to impose administrative sanctions. Beyond what follows directly from the wording of Article 16, no guidance has been provided concerning which means of sanctioning should be introduced or about matters that affect trials before the courts, the right to appeal, exemption provisions or proportionality related to the size or finances of the party branch.

5.6.3 International experiences

Administrative and criminal sanctions for political parties and candidates are very common internationally, though their form and strength vary. In its evaluation round, GRECO has focused on *administrative* sanctions that normally require simpler processing procedures.

In Denmark, false information in connection with political parties' reporting of income, expenses or other accounting information can be punished by fines or imprisonment for up to four months. Additionally, a political party can lose its public grant if it does not comply with the annual obligation to submit accounting reports. Contributing to false information is punishable in the same way. There are similar sanctions (fines, imprisonment) for anyone who gives incorrect information or declarations in connection with applications for party/candidate grant. Further, infringements of the bookkeeping legislation are subject to sanctions in the penal code. All sanctions except the withholding of public grants must be imposed by a court. Sanctions can be used for organisations that are legal entities or natural persons. In the event that the party branch is not a legal entity, and therefore cannot be subject to sanctions, natural persons in the party can nevertheless be held responsible through sanctions. Sanctions imposed on a party organisation do not mean that natural persons cannot also be punished,

and vice versa. GRECO has given Denmark a recommendation that it should have a more flexible, effective and dissuasive system of sanctions.

In the United Kingdom, infractions of the party funding and election legislation are punishable both administratively and in criminal law. Sanctions can be imposed on organisations and on natural persons based on a list in the law. For infractions connected to the activities of political parties, it is the registered party treasurer, who is responsible for keeping accounts and submitting reports of income and expenditures, who will primarily be held responsible. It is also possible to hold the actual party organisation responsible for infractions of the rules about gifts. Further, the sanctioning of a party and associated persons are not mutually exclusive. Sanctions include fines of €6,700 (about NOK 53,000) or up to one year imprisonment, and can be used in connection with false testimony, incomplete accounting information (including election campaign accounts), incomplete information about donors and the failure to return illegal gifts. Sanctions can also be imposed on so-called "third parties" – both individuals and organisations. If a third party is an organisation, at the time of registration it must list a natural person as being legally liable for the activities. This ensures that someone can always be held legally liable, regardless of the legal status of the third party. The sanctions in civil law are of a considerably more limited scope and are used in cases where the party reports are submitted too late. The greater the delay, the greater the fine. There is also an option of striking the party from the registration list if the party fails to submit annual confirmations of its registration details. Sanctions must as a general rule be imposed by a court. The Electoral Commission has limited authority to impose sanctions directly. GRECO has given the United Kingdom a recommendation to create a more flexible system of sanctions for minor infractions and has also recommended that the Electoral Commission must be granted greater authority to investigate such cases and impose sanctions.

In Iceland, sanctions such as fines and imprisonments of up to six years can be used in the event of breaches of the party funding legislation. GRECO has nevertheless found the legislation on this issue unclear, for example with regard to whether sanctions can be imposed at all and which persons in the party can be held liable. GRECO has asked Iceland to reconsider this part of its legislation and introduce more flexible sanctions that are appropriate, effective and dissuasive.

In Finland, withholding state funding for parties is the only available administrative sanction. Criminal sanctions such as fines and imprisonment for up to six years can also be used. GRECO's recommendation for Finland is also to re-evaluate the law and introduce sanctions that are appropriate, effective and dissuasive.

In Latvia, civil and criminal sanctions can be used for natural persons and organisations that are legal entities. Among the former, fines between €350 - 14,000 may be imposed, in addition to repayments to the state of the amount by which the party exceeded the permitted election campaign framework. The KNAB anti-corruption body has the authority to impose both types of administrative sanctions. GRECO has found the Latvian regulations too unclear in terms of the spectrum of infractions and when natural persons can be held liable. Further, GRECO has asked that the one-year limitation period for civil infractions be extended.

Poland has a broad spectrum of both administrative and criminal sanctions, and especially the former is in frequent use. Legislation on political party funding is also clear with regard to what will be considered infractions of the law. Administrative sanctions range from withholding public grants to being struck off the party register. Criminal sanctions can only be imposed on natural persons and include fines and imprisonment for up to two years. Additionally, Poland is the only country thus far in the evaluation round that has not been given recommendations regarding sanctions.

5.6.4 Evaluations and proposals in the consultation memorandum

Recently, Norway has undertaken a review of the question of criminalisation – when the reaction against breaches of the law should be punishment, including the significance that alternative sanctions against breaches of the law should have. Reference is made to Proposition no. 90 (2003-2004) to the Odelsting relating to the Act on penalty (the General Civil Penal Code) that is based on the Norwegian Criminal Law Commission's (1980) evaluations and the Committee on Sanctions' report, NOU 2003: 15 Fra bot til bedring ("From penance to improvement"). The Ministry's point of departure has been the principles and terminology that form the basis for the above preparatory work in connection with the discussion of the implementation of recommendation no. 6.

5.6.4.1 Administrative sanctions

On the basis of the wording of Article 16, the Ministry assumes that the sanctions concern breaches of the rules governing the funding of political parties and election campaigns. Breaches of other provisions in the Political Parties Act, such as section 6 (the duty to give information about who the members of the party's executive body are) are not covered by GRECO's recommendations. According to the current version of the Act, the following rules are relevant to party funding:

- A prohibition against receiving donations from anonymous donors, legal persons under the control of the state or other public authorities, or foreign donors (section 17 second and third subsections)
- An obligation to submit annual income reports (section 18(1) - is currently being sanctioned)
- Deficient reporting or exceeding the time limit for reporting (sections 18(2), 19(1) and 21(1))
- Simplified reporting on an incorrect basis (section 18(3))
- An obligation to state the identity of donor above the threshold values and the total value of the donation (section 20(1))
- An obligation to provide a declaration concerning agreements entered into with donors (section 20(2))
- Auditor approval, or other authorisation (section 20(3) and 20(4))
- A duty to allow inspection of the accounts on request (section 23)

To accommodate GRECO, the range of administrative sanctions needs to be expanded – from withholding the entire party grant ("loss of public funding") to other less invasive reactions, including:

- A formal warning

- Partial withholding of party support
- Infringement fees of varying amounts
- Loss of rights
- Confiscations

In addition to the sanctioning system needing to be effective, proportionate (fair) and dissuasive, it should also be predictable and easy to administer. Furthermore, particular consideration ought to be given to the fact that party units are non-profit making organisations, generally with a modest degree of (regular) self-generated earnings or assets, and also form a non-uniform group in terms of administration and resources. On this basis, the Ministry believes that certain considerations may dictate that instead of an infringement fee or a coercive fine, partial or complete withholding of party support may be applied. In particular with regard to small party branches, the effect a possible coercive fine or an infringement fee would have may be highly uncertain. The situation may nonetheless be different for larger and better established party branches. Recovery of fees/fines would require a considerable degree of public administration – and of a different scope than the complete or partial withholding of party grants. The fact that the government grant is important to all party branches would also indicate that complete or partial withholding would be an effective means of sanctioning. Consequently, the consultation memorandum does not go in for coercive fines or infringement fees as possible sanctions in the Political Parties Act.

In addition to deciding which administrative sanctions to introduce, consideration must be given to the degree to which the meting out of sanctions is to be regulated directly in the Act or whether this is mainly to be left to the Political Parties Act Committee's discretion. An extensive freedom to exercise discretion could possibly increase the risk of differential treatment. Beyond what follows from Proposition to the Odelsting no. 84 (2004-2005), there are currently no direct limitations to the committee's exercise of discretion with regard to the (full) withholding of party support. Several considerations dictate that the degree of sanctioning in individual cases should be left to the discretion of the Political Parties Act Committee.

The Ministry is of the opinion that the primary administrative sanction in the Political Parties Act for infringements of the provisions of Chapter 4 ought to be a complete or partial withholding of government grants. Section 24(2)(b) already contains a legal authority for complete withholding of party grants. Even if the party branches comply with the conditions of the Political Parties Act, they nonetheless have no legal entitlement to receive government grants. It is up to the Storting to select the level of funding. If a party grant is allocated, the criteria in chapter 3 of the Act must be applied. In other words, it is only the right to apply for grants that is a statutory right, cf. sections 11 to 13 of the Political Parties Act. This means that the flexibility and strength of the means of sanctioning is dependent on the level of the grant.

To ensure fairness and proportionality, the Act ought to contain some guidance for meting out sanctions, at the same time as it provides a legal authority for presenting further rules on this in regulations – tailored to the pattern of section 29 of the Competition Act, which states:

"The Competition Authority issues administrative fines. In determining the amount of a fine, particular attention should be paid to the turnover of the undertaking, the gravity and duration of the infringement, and leniency pursuant to Section 31."

The wording of Rec 2003/4 Article 16 has also been included to affix the rule to the international standard. When transferring from complete to flexible withholding of party support, the Ministry can no longer see the need for the rule contained in section 15(2) of the regulations relating to the Political Parties Act to limit the validity of the decision to one year at a time. The purpose of amending this aspect of the regulations is to make it easier for the committee to balance the different considerations assumed by the law as a basis for its exercise of discretion. Under the proposal, a party branch could forfeit 15 per cent of its support for two years.

To increase the flexibility of the sanctions system, the committee ought also to be able to use a formal warning, for example for minor first-time infringements of the provisions.

Administrative confiscation, i.e. an order to hand over illegally acquired items, objects, money etc. has already been (partially) accommodated in section 17 of the Political Parties Act. An authority exists to confiscate donations illegally acquired by the party branch from anonymous donors, cf. section 17(2). Furthermore, under the third subsection of the provision, it is illegal to receive donations from legal entities under the control of the state or another authority, and from foreign donors. The consultation memorandum expects that the Act needs to more closely define that administrative confiscation will be a possible sanction for breaches of any of the prohibitions in section 17 – not merely in relation to the second subsection. It also expects the Political Parties Act Committee to be granted this authority. The confiscation shall be fully equal to the value of the illegally received donation. It may also be relevant for the Political Parties Act Committee to confiscate money where the acquisition was initially a utility article which has subsequently fallen in value or is difficult to sell.

The Ministry has also evaluated *administrative loss of civil liberties* in the form of a deletion from the Register of Political Parties as a possible means of sanctioning. As mentioned above, this is a relevant reaction in the United Kingdom and Poland, among other countries. Under section 2(3) of the Political Parties Act, registration means that the party is given exclusive rights to field candidates for election under the registered name. Although the registration in itself only applies to the sole right to the party name, it is also used as a condition for achieving other rights regulated by law:

- More lenient requirements of proposed candidates for registered parties' local organisations than for other groups, cf. section 6-3 of the Election Act. For political parties registered in the Register of Political Parties which received at least 500 votes in one county or at least 5,000 votes in the country as a whole, it is sufficient for the list of proposed candidates to be signed by at least two of the board members of the party's local branch in the county or the municipality to which the list applies. For general elections and county council elections, the list of proposed

candidates from other proposers must be signed by at least 500 persons with a voting right in the county. Separate rules apply for municipal elections, but with a minimum requirement of 300 signatures, cf. section 6-3(2) of the Election Act.

- Official results of general elections. Only the registered parties may be allocated an equalization mandate pursuant to section 11-6 of the Election Act, cf. also section 59 of the Norwegian Constitution⁶.
- Entitlement to apply for vote-based state grants from the first vote for general elections, county council and municipal elections, cf. Section 1(3) of the Political Parties Act and Chapter 3. Furthermore, youth organisations under registered political parties may apply for support under sections 11(3) and 12(3) (central and county levels).

The direct consequence of being deleted from the Register of Political Parties is the loss of the sole right to participate in elections under the party name. It is reasonable to understand this in such a way that that the name then becomes free so that in principle others may apply for registration under this name, cf. section 5 of the Political Parties Act.

In the consultation memorandum, the Ministry argues that the administrative loss of civil rights is an unsuitable mechanism for the Political Parties Act. According to the Committee on Sanctions, administrative loss of civil liberties ought not to apply for more than two years at a time. This excludes permanent deletion from the Register of Political Parties as an alternative. From a “democratic” point of view, the sanction is regarded as having limited effect considering that parties that have had their party names deleted or suspended would nonetheless be able to stand for election as an unregistered list, cf. bullet point 1 above.

The indirect effect of deletion in the form of loss of the government grant/the right to apply for a government grant is essentially concurrent with the sanctioning authority that the Political Parties Act Committee already has and does in principle not add anything new. It may furthermore be argued that the administrative loss of the civil liberties in the Political Parties Act would be a disproportionate interference, in addition to having minimal value as a deterrent: by deleting a party name, for example as a result of notorious shirking from the head organisation, this will have consequences for all the organisations in the party hierarchy that are standing for election or that receive party support, even if these may have fulfilled their duties under the Political Parties Act in an exemplary manner. The latter issue will complicate the question of which actions the sanction shall be linked to and on which criteria of guilt they are to be based. On this basis, the Ministry will not recommend an administrative loss of civil liberties as a sanction in the Political Parties Act.

⁶ This is not explicitly stated in the Norwegian Constitution, but was a prerequisite of the arrangement with equalization mandates that was introduced in 1989.

The consultation memorandum suggests that the independent role of the Political Parties Act Committee pursuant to section 24 of the current Act be retained. This means that the Political Parties Act Committee's decisions will continue to be final without any right to appeal to a superior administrative body (the Ministry or the King in Council). There is nonetheless a need for clearer rules concerning the court of law's rehearing right. According to the current legislation, the courts of law may only declare the decisions made by the Political Parties Act Committee invalid. The consultation memorandum proposes that the court should also be able to determine a "suitable" reduction in the party support and otherwise re-examine all aspects of the committee's decisions. There will also be a need for a certain limitation period for infringements of this nature – in particular applying to the provisions of Section 17 governing prohibitions. The consultation memorandum proposes a limitation period of ten years.

Regarding the committee's use of the sanctions, reference is also made to the general principles for determining, validity and liability in relation to administrative sanctions, outlined in NOU 2003: 15 Fra bot til bedring ("From penance to improvement").

GRECO is concerned that the rules applying to sanctions must be clear as regards when they become applicable and vis-à-vis whom – the party organisation or individuals or both. This gives rise to a particular problem which has not been discussed in the Norwegian report, but which has been the topic of a number of other reports. To be able to impose sanctions, the sanctioned must be a natural person with legal liability or a legal entity.

The Political Parties Act section 2(2) provides that a political party must be registered in the Central Coordinating Register for Legal Entities (ER) before it can be registered in the Register of Political Parties. Registration in the ER assumes that the party can be regarded as a registration unit under the Act relating to the registration of legal entities. Thereby the minimum requirement is that the central unit in a party hierarchy is an independent legal entity. The party branches are thus not required to register as independent legal entities in the Central Coordinating Register for Legal Entities. Approximately 15 per cent of the party branches have nonetheless elected to do so, and therefore have their own organisation numbers. Section 2-1(2) of the Dispute Act states that an organisation has capacity to sue insofar as this follows from a total evaluation where particular emphasis is placed on:

- whether the organisation has a permanent organisational structure
- whether the organisation is represented externally by an executive committee or other body
- whether the organisation has a formalised membership arrangement
- whether the organisation has funds of its own, and
- the purpose of the organisation and the subject matter of the action

On the basis of the above, the Ministry assumes in the consultation memorandum that an essential precondition for sanctioning all party branches subject to the Political Parties Act has been met.

5.6.4.2 *Criminal sanctions*

As far as criminal sanctions are concerned, GRECO has not had any direct comments on the Norwegian regulations. The passage in paragraph 89 of the report “the GET was informed that submission of an income report containing false information could be prosecuted as false testimony pursuant to Section 166 of the Penal Code” could nonetheless, along with questions raised in the round of evaluations, indicate that GRECO is not convinced that deficient or false information in a reporting context is in fact to be regarded as “false testimony” pursuant to section 166 (section 221 of the 2005 Act). This is likely because the application of a similar rule for reporting party/candidates has been discussed in other countries.

In Denmark, there has been a discussion of whether section 162⁷ and 163⁸ of the Penal Code (on incorrect or incomplete information to public authorities) should be used for party reports that are submitted to the Danish Parliament or to the Ministry for Economic Affairs and the Interior as appendixes to applications for party grants. The Ministry of Justice (JM) concluded that in the light of the character of the Danish Parliament's tasks related to the submission and publication of party accounts, it is doubtful that information in party accounts can be seen to be submitted “for or to” the public authorities in accordance with section 162 of the Penal Code. JM also concluded that it is doubtful that party accounts are submitted to be used in “legal matters that concern public authorities” pursuant to section 163 of the Penal Code, when the only purpose of the submission of accounts to the Danish Parliament is to enable Parliament to facilitate public access to the accounts. Further, giving incorrect information about gifts to political parties in accordance with the party accounting act is not considered punishable pursuant to sections 162 and 163 of the Penal Code. However, JM concluded that accounts that form the basis for public grant must be considered “submitted for the use in legal matters”, which as a starting point may suggest that incorrect accounting information can be punished pursuant to section 163. Nevertheless, JM referred to the fact that the Ministry for Economic Affairs and the Interior does not control whether the accounts are correct and that accounting information is not included in the materials on which decisions about party grants are made, because the grants are entirely based on the number of votes in the most recent election. The conclusion was that the relevant provisions in the Penal Code were unlikely to be applicable to incomplete information in party accounts to the degree of certainty required for criminal liability. Denmark has therefore opted to incorporate references to the provisions of the Penal Code in its political parties act. The Act also includes a special provision stipulating that each person who gives incorrect or incomplete information can be punished with fines or imprisonment for up to four months. Further, party organisations can be punished based on chapter 5 of the Penal Code.

⁷ According to section 162 of the Danish Penal Code, the person who gives an incorrect declaration to or for public authorities about issues they are obligated to give testimony about, can be punished by fines or arrest of property or imprisonment by up to four months.

⁸ According to section 163, the person who, in connection with legal matters that concern public authorities, gives a false declaration or witnesses something in writing or in another readable medium, and which person has knowledge of, can be punished by fines, arrest of property or imprisonment by up to four months.

On the basis of the discussion in Denmark, the Ministry has seen the need for a more detailed clarification as to whether section 221 of the General Civil Penal Code in fact is applicable to reporting under the Political Parties Act Chapter 4. In a letter dated 27/10/2009, the Ministry of Justice states:

"Section 166(1) of the General Civil Penal Code of 1902 applies among others to the persons who either orally or in writing make a false testimony to any public authority in cases where the person in question is obliged to make a testimony or where the testimony is "intended to serve as proof ". Questions may be raised both as to whether a duty to give testimony or a testimony is intended to serve as proof.

In order to be able to punish a testimony as a false testimony to a public authority, it must not only have been made to a public authority but it must also have been made during an exercise of authority, cf. The Norwegian Supreme Court Reports 2007, page 28.

The Ministry of Justice assumes that the purpose of the obligation to report in Chapter 4 of the Political Parties Act is to secure public access to the financial matters of political parties. As far as we are aware, public authorities do not undertake any controls of the reported information or use the information as a basis for calculating the government grant. It is right that section 14 of the Political Parties Act provides the Ministry with a legal authority to stipulate the submission of a report as a condition for the disbursement of government grants, but this only provides a possibility to check whether the party branch has submitted income accounts by the determined deadline. In our opinion, it is therefore doubtful whether reporting of income etc. pursuant to Chapter 4 of the Political Parties Act can be regarded as having been submitted in connection with the exercise of authority, and therefore whether incorrect or incomplete information in such reports comes under section 166 of the General Civil Penal Code."

The Ministry of Justice's evaluations, in which the lack of control of reported information is decisive in determining whether or not there is an exercise of authority, is based on the current Political Parties Act. One of the main purposes of the draft bill is precisely to give the Political Parties Act Committee a *de facto* authority and responsibility to check the correctness of the obtained information. It could thereby be said that the information provided by the party branches is of direct significance to the committee's exercise of authority. In the consultation memorandum, the Ministry therefore considers it likely that section 221 of the General Civil Penal Code (section 166 of the 1905 act) can be used if the proposal is implemented.

The Norwegian Criminal Law Commission based its evaluations regarding the use of punishment on the principle of consequential damages. The principle can be understood such that only actions that cause damage/injury or danger of damage/injury may be subjected to penal sanctioning. In paragraph 1.5 of its report, the Committee on Sanctions states:

"In several areas where infringements of norms of action may be sanctioned administratively, there is a need for repeated infringements in order to be subjected to penal sanctioning."

In its letter dated 27/10/2009, the Ministry of Justice states:

"The Ministry of Justice agrees with GRECO that punishment is unsuitable in many cases, partly because it would be a disproportionate sanction and also because meting out punishment may be both time-consuming and laborious. Punishment may nonetheless be a correct and appropriate sanction in exceptional circumstances. Reporting incorrect or deficient information, and thus misleading the public authorities, is assumed to be one of the more serious actions related to the Political Parties Act. As it is doubtful whether section 166 would apply to reporting incorrect information, a separate penal provision in the Political Parties Act may be required for offences of this nature. It is also possible that it may be necessary to include a penal provision in the Political Parties Act to cover repeated or serious contraventions of other duties or prohibitions. Punishment should however be reserved for the most serious breaches of the law. Any penal provision should therefore be formulated to ensure that only reporting materially incorrect information, or also material and repeated breaches of other provisions, is penalised."

Viewed in isolation, incorrect reporting from the party branches could hardly be said to result in significantly negative consequences for the users of party accounting information, and incorrect information would nonetheless have no bearing on the distribution of the public support to political parties. It may therefore be difficult to argue for the direct damage caused by incorrect reporting being sufficient to satisfy the principle of consequential damages – and thus the existence of the key condition for imposing punishment. On the other hand, systematic or conscious incorrect reporting could contribute to undermining the trust of the public in the political parties, thus harming democracy. The consultation memorandum assumes that the latter consideration justifies the use of penalties under the Political Parties Act. Deliberate or systematic reporting of incorrect or incomplete information regarding financial matters in party branches or the party organisation should warrant more stringent sanctions (than administrative). Here we are referring to instances where, for example, information is left out as it is not "suitable for publication" or cannot "stand the light of day", or is compromising – for example in relation to sections 276a to 276c of the General Civil Penal Code (1902). In these cases punishment would be the correct sanction.

The consultation memorandum proposes that a rule be included in the Political Parties Act to ensure that materially incorrect or incomplete information provided in connection with the reporting obligation, including also material or repeated breaches of the prohibitory provisions, could become grounds for prosecution. In this connection, the Danish legislation may serve as a reference, although the proposal below may be somewhat milder since a requirement for materiality is imposed (and not only "incorrect information", as in the Danish Political Parties Act⁹). In Denmark, negligence in connection with incorrect information is also punished.

In addition to fines, the consultation memorandum proposes imprisonment for up to four months for materially incorrect information or significant or repeat violations of the prohibitions. One example of

⁹ "Any person who gives an incorrect statement as mentioned in section 7, subsection 2 and 3, section 7 a, subsection 3, section 10, subsection 2 and 3, section 10 a, subsection 3, section 11 b, subsection 2 and 3 and section 11 c, subsection 3, is punished by a fine or by imprisonment of up to 4 months, cf. section 14a"

“materially incorrect” information would be incorrect or intentionally deficient information related to private funding, including information on private donations and donors, cooperation partners, sponsors, creditors etc. “Material” breaches of the prohibitory provisions could for example be receipts of anonymous donations exceeding an “inappropriate” amount. In the consultation memorandum, the Ministry assumes that if a party branch has received a large amount of money and the identity of the donor is unknown to the party, and the party has failed to forward the donation to the state, this may be a criminal offence according to the proposal. Correspondingly, repeated breaches could be affected even if the amounts are modest. An evaluation of proportionality must also be made here, cf. proposal for the wording of the provision.

In this connection it must be emphasised that when considering the German and Irish report in December 2009 GRECO interpreted the Committee of Ministers' recommendation such that ordinary collections made at the party's meetings – corresponding to what is common in religious communities – are not to be considered as “anonymous donations”. This is because collections by political parties are common in these countries and that the method of collecting renders it impossible for the party to know exactly who gave what. Donations given by collections shall nonetheless be reported in compliance with the regulations. This is in line with the assumption made by the Party Funding Committee in NOU 2004: 25. On the other hand, what GRECO believes to clearly fall under the term “anonymous donations” is a suitcase full of money left on the party's doorstep without any trace of the benefactor.

The consultation memorandum expects that penalties may be imposed on any person in the party organisation who meets the description of the action in the penal provisions and is therefore not linked to individuals with separate liability Basically and as a principal rule, according to the Ministry of Justice's letter dated 27 October 2009 a leader cannot be personally punished for actions committed by subordinates. A reservation should however be made for criminal liability for more aggravated offences. In such cases it would be relevant for the Political Parties Act Committee to forward the case to the prosecution authority for prosecution, if relevant.

5.6.5 Comments from the consultative bodies

The institutions that have commented on this part of the proposal support the introduction of administrative sanctions for all violations of the provisions of the Political Parties Act. In terms of penalties, some want the proposed penalties to be made stricter than those proposed in the consultation memorandum and believe that illegal gifts ought to be confiscated.

The parties in the Storting state:

"We support more flexible sanctions for all violations of the provisions of the Political Parties Act."

The Norwegian Labour Party, Harstad states:

"Stricter sanctions must be introduced for violations of the obligation to report and for receiving illegal funds. Imprisonment must be an option in addition to the confiscation of gifts/funds received illegally."

The Political Parties Act Committee states:

"It is generally positive to have a varied system of sanctions, but it can also open more for differential treatment. The Ministry should therefore consider imposing more detailed rules by issuing regulations. The penal provision in section 31 of the Bill should include both intentional and negligent infractions. Currently, the proposal and consultation memorandum are silent on subjective guilt, which means that the general rule about intent will be applied unless an alternative is adopted. The proposed maximum penalties mean that criminal claims will be time-barred after two years, cf. section 67 of the General Civil Penal Code. A special justification should probably be given if the option to use administrative sanctions and the use of penalties is to be distributed in the uneven way proposed; see the draft of a new section 30(3)".

The Norwegian Institute of Public Accountants states:

"(Illegal donations). The Norwegian Institute of Public Accountants supports the proposal that all illegal donations are to accrue to the public purse, which will apply to donations from publicly controlled companies etc. and foreign donors as well as to donations from anonymous donors. This primarily means that illegal donations that are uncovered are not repaid to the donor. To be effective, this reaction should target both the party and the donor. We also support the proposal that the Political Parties Act Committee is to enforce this by administrative confiscation. Additionally, it should be stipulated that decisions on confiscations of illegal donations are grounds for execution proceedings. The law should also specify that the Political Parties Act Committee can offset a party grant that is not withheld.

(Penalties). The maximum penalties and the penalty level should reflect that incorrect accounting reports and the other reporting requirements for financial matters in the political parties is a serious breach of the trust that voters and society should be able to place in the parties. In our view, the proposed maximum penalties appear to be low given this context. Further, both intentional and negligent infractions should be punishable. Penalties for breaches of the reporting obligations should be coordinated with the penalty provisions for accounting infractions in section 8-5 of the Accounting Act and sections 392-394 of the 2005 General Civil Penal Code (not in force); see also section 286 of the 1902 General Civil Penal Code. It should be clearly stated that the party and party units with a statutory obligation to keep accounts pursuant to the Accounting Act should be penalised in accordance with the stricter rules in the Accounting Act and the General Civil Penal Code. The maximum penalties for infractions of the other reporting obligations should be re-assessed in light of the fact that gross accounting violations are punishable by fines or imprisonment for up to six years. The same penalties apply to violations of the prohibitions, the rules on illegal party donations, etc. Further, the preparatory works should state that the special relationship of trust that political parties depend on should be considered in the evaluation of whether the violations are serious or gross."

5.6.6 The Ministry's evaluations and proposals

The Ministry refers to GRECO's comments on the Norwegian system for monitoring party funding using the media and the public, which are detailed above. The evaluation report does not provide any further directions in terms of the assessment of the proposals made by the institutions that were consulted.

With regard to the consultation memorandum's proposal for the follow-up of recommendation 6, GRECO states in its evaluation report that:

"The authorities of Norway recall that the only sanction currently provided for under the Political Parties Act is the withholding of state subsidies. Amendments to the Political Parties Act have been drafted, which will extend the authority of the Political Parties Act Committee to also issue formal warnings, withhold part of the public grant (as opposed to the current situation in which it is only possible to withhold the whole public grant) and/or use administrative confiscation (in case of unlawful donations). The Political Parties Act Committee will thus be able to impose sanctions for all violations of the provisions on party funding of the Political Parties Act. In addition, the Ministry of Government Administration, Reform and Church Affairs has considered the possibility of introducing further criminal sanctions (in addition to criminal sanctions for accounting offences, fraud etc. committed in the context of party funding): the draft amendments to the Political Parties Act include the possibility of imposing (criminal) fines or up to four months' imprisonment for serious or repeated violations of the Political Parties Act. GRECO takes note of the information provided, which indicates that progress has been made towards the introduction of more flexible sanctions for a wider range of violations of the Political Parties Act. GRECO concludes that recommendation vi has been partly implemented."

The Ministry summarises the issues raised in the consultation as follows:

- Varied system of sanctions can open for differential treatment. The Ministry should therefore consider imposing more detailed rules by issuing regulations
- The consultation memorandum does not discuss subjective guilt and the general rule on intent will therefore apply. The penal provisions should cover both intentional and negligent infractions
- Stricter sanctions must be introduced for violations of the reporting obligation and the receipt of illegal donations
- Penalties for violations of the obligation to report should be coordinated with the penal provisions for accounting violations in the Accounting Act and the General Civil Penal Code. The act should clearly state that parties and party units subject to statutory obligation to keep accounts pursuant to the Accounting Act will be punished in accordance with the stricter rules in the Accounting Act and General Civil Penal Code
- The proposed maximum penalty means that criminal claims will be time-barred after two years. *A special justification should be given if the option to use administrative sanctions and the use of penalties is to distributed in the uneven way proposed*

- It should be stipulated that decisions on confiscations of illegal donations are grounds for execution proceedings

About a varied system of sanctions and the danger of differential treatment

In the consultation memorandum, the Ministry states that the severity of the sanction in individual cases should be left to the discretion of the Political Parties Act Committee. To ensure a just and reasonable distribution, the Act should include some guidelines regarding the severity of the penalties while also authorising more detailed rules to be provided in regulations, on the pattern of section 29 of the Competition Act.

The Political Parties Act Committee's comment that it is generally positive to have a varied system of sanctions, but that it can open somewhat more for differential treatment, is therefore not a new issue. The Ministry recognises that measures to minimise the risk of arbitrary and capricious differential treatment (in accordance with the Public Administration Act) on the part of the Political Parties Act Committee must be given high priority. The legitimacy of the system of monitoring and sanctions will rely heavily on the Political Parties Act Committee exercising its discretionary power in a just and impartial manner. In addition to providing some guidelines in the Act regarding the exercise of discretion, the Ministry refers to the fact that the proposal in the consultation memorandum is that the courts are to be able to review all aspects of the decisions of the Political Parties Act Committee. Media interest in the Political Parties Act Committee's decision in individual cases – which is expected to particularly apply to sanctions imposed on the larger party organisations – may reduce the risk of arbitrary and capricious differential treatment.

With regard to "general" differential treatment, the Ministry recognises that several issues suggest that it will be a challenge to achieve the most finely tuned justice, as it is in other contexts. The party branches have very different resources; a decision to confiscate NOK 10,000 of grant for the same infraction can hurt considerably more and have dramatic consequences for a party that receives a public grant of NOK 12,000, but will not be noticeable for a larger party. As required by GRECO's recommendation and Article 16 of the Committee of Minister's recommendation 2003/4, the sanctions must be "effective, proportionate and dissuasive". The Ministry presumes that the requirement of a reasonable proportionality does not only mean that the sanction must be proportionate to the type of infraction, but must also – and particularly for issues related to curtailing the public grant – be adapted to the situation of the party being sanctioned. In this context, it will be relevant and adequate to take the financial resources of the party branch into account.

The Ministry therefore retains the proposal in the consultation memorandum which states that more detailed guidelines for the exercise of discretion should be regulated in regulations. However, there is a limit to how detailed regulations can be in this area. Some issues must – and in any case should – be left to the freely exercised discretionary power of the Political Parties Act Committee.

As assumed in the consultation memorandum, the general principles for determining scope, validity and liability in relation to administrative sanctions that are outlined in NOU 2003: 15 Fra bot til bedring ("From penance to improvement") will be relevant to the Political Parties Act Committee's use of sanctions. The Political Parties Act Committee can opt to refrain from using its authority to impose sanctions pursuant to section 28(1) whenever indicated by the situation in the specific case. For example, this may be appropriate for very minor infractions with little or no subjective guilt and where the situation is discovered after several years.

The Ministry wants the Act to retain a basic principle in which a party or party unit cannot be funded by or in any other way utilise illegal donations. The proposal in section 29(1) must be seen in the context of the proposed new section 17a about illegal donations. The latter section is a continuation of the prohibitions in section 17(2) and (3) in the current Act, including the definitions of illegal donations; see the comments to sections 17 and 17a in section 7.7. The authority to execute an administrative confiscation pursuant to section 29(1) of the proposal will apply in cases where the Political Parties Act Committee first concludes that the donation is illegal pursuant to section 17a(1) or 17a(2), and where the Committee concludes that the party or party unit has not, or has only partially, fulfilled its obligations pursuant to the fourth subsection of the section regarding the repayment of the donations to the donor or the transfer of the donation to the public purse. When these prerequisites are met, the Political Parties Act Committee *must* wholly or partly confiscate the illegal donations, according to the draft legislation. Administrative confiscations pursuant to section 29(1) will be an alternative to transfers to the public purse pursuant to section 17a(4), in the sense that the Political Parties Act Committee through its authority "neutralises" the illegal donation that the party or party unit has retained. The sanction will be a supplement to repayments or transfers only in cases where the Political Parties Act Committee concludes that the party or party unit has only partly repaid or transferred the illegal donation to the donor or the public purse. This prerequisite is the basis of the statement "*up to* the full value" in the draft of the Act. Also see the comments to section 17a on setting a value.

The authority to execute administrative confiscations pursuant to section 29(1) is therefore not considered a "punitive sanction". The goal of the provision is to prevent the party or party unit from utilising illegal donations. Where an administrative confiscation pursuant to section 29(1) is made, it may also be appropriate for the Political Parties Act Committee to use its authority pursuant to section 28 if other provisions of the Act have also been breached.

The Ministry recognises that it may be appropriate to illustrate the relationship between section 28(1), section 29(1) and section 17a(3) by providing specific examples. The examples below show situations that may arise and do not set guidelines for the Political Parties Act Committee's use of sanctions in specific cases. The examples are not exhaustive.

The starting point is that the party receives an illegal contribution as defined in section 17a(1) or 17a(2):

1. The party returns the entire donation to the donor within four weeks. This is not a case for the Political Parties Act Committee. The duty to return donations in section 17a(4) has been fulfilled and the deadline has been met. Further, the donation shall not be reported as part of the party's

income for the year. This also applies if the donation is from an anonymous donor and is transferred to the public purse. If it is given in connection with an election campaign, cf. section 18(4) of the draft, and is repaid as described above, it does not have to be specially reported even if it exceeds the NOK 10,000 limit.

2. The party is in doubt as to whether the donation is illegal and after two weeks it contacts the Political Parties Act Committee to evaluate the case in accordance with section 24(2)(a). If the Political Parties Act Committee concludes that the donation is illegal, the deadline in section 17a(4) runs from the date of the Committee's statement.
3. The same situation as in example 2, except that the party waits to contact the Political Parties Act Committee until the four-week deadline in section 17a(4) has expired. This case will have a different outcome than in example 2. According to the draft, a donation that the Political Parties Act Committee finds to be illegal will be confiscated in its entirety based on section 29(1). The donation shall not be reported as income if the confiscation takes place in the same fiscal year as the donation was made, cf. the comments to section 17a(4). It will be up to the Political Parties Act Committee to decide whether, based on section 28(1), sanctions ought to be imposed for the violation of the repayment deadline. In this case, the Ministry expects that it will be appropriate to take into consideration that it was the party itself that brought the issue to the Political Parties Act Committee's attention.
4. The party keeps the donation. The Party Auditing Committee discovers the issue in connection with its control the same year. In addition to a confiscation pursuant to section 29(1), it may be appropriate to impose sanctions for the violation of the obligation to transfer the donation to the public purse within the statutory deadline. As in examples 1 to 3, the donation is not subject to reporting obligations in connection with the annual reports pursuant to section 18(2) or 18(3). If the donation is received in an election year, exceeds NOK 10,000 and otherwise fulfils the criteria for election campaign donations in section 18(4), it must be reported within four weeks. If the situation is discovered after the deadline for flagging election campaign donations has expired, the Political Parties Act Committee can in addition sanction this violation.
5. The party keeps the donation. The donation is recognised in the accounts, recorded and is reported as part of the annual reporting by the deadline. The donor's identity is listed in accordance with section 20(5). Through the reporting, the Political Parties Act Committee becomes aware that the party has received an illegal donation. In addition to confiscation pursuant to section 29(1), a sanction may be imposed for the violation of the obligation in section 17a(4) to transfer the donation to the public purse within the statutory deadline. As in example 3, it may be appropriate to take into account that the party itself alerted the Political Parties Act Committee to the issue by meeting its obligation pursuant to section 17a(5) into account.
6. The party keeps the donation. It is not recognised in the accounts, recorded or reported. The Party Auditing Committee discovers the situation after the deadline for annual reports in section 18(2) has expired. This is a typical "worst case" situation in which all relevant provisions have been violated. The party may also have violated section 18(3) if it has used simplified reporting

without having the legal basis to do so. In addition to confiscation pursuant to section 29(1), the Political Parties Act Committee must, based on section 28(1), decide whether other violations have taken place, as in the previous example. This can also be an example of violations for which it may be appropriate for the courts to consider penalties pursuant to section 30(2).

Additionally, the Ministry assumes that section 35(1) of the Public Administration Act will apply in connection with reversals of the Political Parties Act Committee's decisions.

Administrative sanctions can be used for party branches, but not for natural persons in the party system. Based on the discussion in the consultation memorandum that has been detailed above, the Ministry assumes that the authority to impose sanctions can be used against all party branches that are subject to the Political Parties Act.

About mens rea

In the consultation memorandum, the Ministry concludes that the principle of consequential damages indicates the use of penalties for materially incorrect or incomplete information given in connection with reporting obligations in the Political Parties Act; this also applies to serious or repeat violations of the prohibitions. Further, the Ministry concludes that it is intentional or systematic violations that ought to be punished. Though mens rea is not discussed in detail in the consultation memorandum, the draft covers situations where the offender knowingly performs the action that violates the law. The consultation memorandum notes that negligence is a form of guilt in the Danish political parties legislation, but does not discuss further whether that should be the case in the present instance.

As the Political Parties Act Committee, among others, has pointed out, a decision must be made about whether intent is to be the generally required form of guilt in the Political Parties Act or whether negligence should be used. In the absence of a further discussion of mens rea, the consultation memorandum's proposals mean that the penal provisions only affect intentional acts.

In this context, the Ministry refers to the fact that the new General Civil Penal Code stipulates the main form of mens rea for penal provisions in specialised legislation. Based on section 21 on mens rea, the penal code only covers violations with intent, unless otherwise stipulated. If negligence is to be sufficient for penalties pursuant to the Political Parties Act, this must be especially provided for. In accordance with Proposition to the Odelsting no. 90 (2003-2004), we have also presumed that it is gross negligence that will apply unless something else has been decided. We refer to section 10.2 of the Ministry of Justice's statement:

"On this basis, the Ministry advocates that the state should to a greater extent than previously limit itself to stipulating punishment for gross negligence when negligence liability is to be incorporated in statute. This does not necessarily mean that gross negligence must be the actual main rule, but that legislators should be more thoughtful in choosing between gross and ordinary negligence than they have usually been. In the Ministry's view, there is a basis for some tightening in the use of ordinary negligence as the

form of guilt. However, at the same time the Ministry is more willing to use ordinary ('simple') negligence as the form of guilt than expressed by the Norwegian Criminal Law Commission."

The Ministry of Government Administration, Reform and Church Affairs refers to the definition of negligence in section 23 of the General Civil Penal Code.

"Whoever acts in violation of the appropriate conduct requirement in an area, and who, based on their personal characteristics, is reproachable, is negligent."

The negligence is gross if the conduct is very reprehensible and there is a basis for strong reproach."

The Ministry assumes that the penal provisions in the Political Parties Act are based on the subjective guilt requirement. "Subjective guilt" means that the offender must be reproachable for their conduct in order to be punishable. The punishment will otherwise have limited preventative effect. No one should be punished for unfortunate accidents, for example in connection with the reporting of party accounting data or in the receipt of illegal gifts. Acts undertaken with intent are the clearest expression of a conscious violation of law; in other words, where the offender knowingly engages in the conduct that violates the law. Negligence liability means that by engaging in the conduct, the offender has been negligent in a reproachable manner. Both cases assume that the offender is capable of being held responsible (for instance, is not of unsound mind or a minor).

The Ministry believes that several issues indicate that the form of guilt in the Political Parties Act should include negligence. Even with different degrees of intent, as defined in section 22 of the General Civil Penal Code, it will be difficult to prove that a person has performed an act with intent that meets the description in the penal provisions. In particular, a disproportionate burden of proof may be imposed on the prosecuting authority where it cannot be shown to the necessary degree of probability that the accused/person charged gains personal advantages or direct benefits by violating the law or where the context of the violation is unclear. Given how important the Act is for society, the Ministry believes that some violations must be considered punishable even if intent cannot be shown. The Ministry therefore believes that negligence should be the form of guilt in the Political Parties Act.

In terms of the question of what the degree of negligence should be – in other words whether gross or ordinary negligence should be required – we refer to the Ministry of Justice's statement in Proposition to the Odelsting, no. 90 (2003-2004), chapter 10

"In the Ministry's view, the Norwegian Criminal Law Commission's proposal that gross negligence should be the primary degree of negligence is a natural result of punishment needing a moral basis, and that punishment should not be used to a greater extent than necessary and appropriate. (...) At the same time, the significance of using gross negligence as a starting point must not be exaggerated. There should still be a basis for punishing a number of violations that are based on ordinary (simple) negligence. This will be particularly relevant for actions that can have serious consequences, where it is practical that the norm is violated without intent, and where there are no other norms or sanctions that contribute to preventing violations."

The Ministry recognises that ordinary negligence is a common degree of negligence for penalties in special legislation, which as a starting point suggests that this should also apply in the Political Parties Act. In light of the Ministry of Justice's statement, the Ministry nevertheless believes that the prerequisite for penalising violations that are the result of ordinary negligence is unlikely to have been met. In this context, we refer to the fact that recommendation 6 means that a spectrum of administrative sanctions will be introduced that can be considered used for violations that are the result of negligence. GRECO has mentioned effectiveness as an important consideration. That the party branches largely consist of dedicated volunteers rather than primarily professional lawyers and accountants, also suggests that the degree of negligence required for penalties should be higher than "ordinary (simple)". The Ministry therefore proposes that "negligence" as a form of guilt in the Political Parties Act be limited to conduct that is grossly negligent. In accordance with the definition of section 23 of the General Civil Penal Code, this will be situations where "the conduct is very reprehensible and there is a basis for strong reproach".

With regard to issues related to ignorance of the law, we refer to the principles in the General Civil Penal Code, including the relevant discussions in Proposition to the Odelsting, no. 90 (2003-2004).

About maximum penalties. In addition to fines, the consultation memorandum proposes imprisonment for up to four months for materially incorrect information or significant or repeat violations of the prohibitions. Several of the consultative bodies have noted that they think the proposed maximum penalties are too low. The Norwegian Institute of Public Accountants refers to the fact that the maximum penalty for violations of the Accounting Act is three years, and up to six years under particularly aggravating circumstances. The Norwegian Institute of Public Accountants believes that the maximum penalties and the penalties imposed should reflect that incorrect reporting of accounts and other reporting requirements related to financial issues is a serious violation of the trust voters and society must expect to be able to have in the parties. Further, penalties for violations of the reporting obligations should be coordinated with the penal provisions for accounting violations in the Accounting Act and the General Civil Penal Code. Parties and party units with an obligation to keep accounts pursuant to the Accounting Act should be penalised in accordance with the stricter rules in the Accounting Act and General Civil Penal Code.

The Ministry refers to the Norwegian Institute of Public Accountants' consultative comments to recommendation 1, in which the Institute assumes that all parties and party branches are to have general accounting obligations pursuant to the Accounting Act. As the consultation memorandum and the discussion in this Proposition note, the Ministry's proposal does not include a full obligation for large and small party branches to keep accounts in accordance with the Accounting Act. However, a relevant issue is that the largest party organisations, which currently have a full obligation to keep accounts pursuant to the Accounting Act, risk significantly more severe penalties for the same violations under this Act than under the proposed Political Parties Act. Without repeating the discussion under recommendation 1 too much and without discussing the balancing of different concerns in different Acts in too much depth, it is possible to argue that violations of, for example, the reporting obligation in the Accounting Act should be stricter than similar violations of the Political Parties Act. In the event that

accounting information is incorrect, shareholders and creditors can incur direct losses, tax authorities can be misled – and all of this involves a financial loss for the community, etc. Violations of the reporting obligations in the Political Parties Act or material errors in submitted data, will not result in individuals or groups incurring direct financial losses. As the Ministry concludes in the consultation memorandum, and as the Norwegian Institute of Public Accountants also emphasises, this type of violation can harm society by discrediting the democratic system by undermining the trust voters must have in the parties and the governing bodies. This is the direct reason that the principle of consequential damages is considered to have been met and that penalties should be used in the Political Parties Act. The same consideration may also indicate that the maximum penalties should be strict. Yet party branches mainly consist of unpaid workers and volunteers who have no training in accounting. To exist, the parties depend on recruiting persons with the interest, time and energy to participate in associations. The importance of sanctioning violations with more severe penalties must therefore be evaluated against the risk that more severe sanctions scare people away from taking on positions in a party.

As mentioned in the consultation memorandum (and presented above), the Ministry believes that a consideration of section 221 of the General Civil Penal Code on false testimony would be relevant to the present Bill. The maximum penalty in this section is fines or imprisonment for up to two years. If the parties are subject to this provision, in that the reporting is considered a part of the Political Parties Act Committee's exercise of authority, the result will be that the parties are faced with different maximum penalties for otherwise identical violations. The Ministry also refers to the fact that the proposed maximum penalty of fines or imprisonment for up to four months is based on an equivalent rule in the Danish party legislation, but must otherwise be said to be low when viewed in an international context.

The Ministry has therefore changed this part of the Bill from the proposal put forward in the consultation memorandum. We propose that the maximum penalty in the Political Parties Act should be the same as in section 221 of the General Civil Penal Code, or in other words fines or imprisonment for up to two years.

About the limitation period

In the consultation memorandum, the Ministry proposes that the limitation period for violations of the provisions of the Political Parties Act should be 10 years. The Political Parties Act Committee questions the proposal and refers to section 67 of the General Civil Penal Code (1902) about limitation periods. The Political Parties Act Committee believes that a special justification must be given if the option to use administrative sanctions and the use of penalties are to have the different limitation periods proposed.

Section 67(1) states:

"The period of limitation is:

two years when the maximum penalty prescribed is fines or imprisonment for a term not exceeding one year,

five years when the maximum penalty prescribed is imprisonment for a term not exceeding four years,

10 years when the maximum penalty prescribed is imprisonment for a term not exceeding 10 years,

15 years when a penalty for a specified period not exceeding 15 years may be imposed,

25 years when imprisonment for a term not exceeding 21 years may be imposed. "

The Ministry shares the Political Parties Act Committee's view about the lack of consistency with the General Civil Penal Code, and therefore holds that the period of limitation for violations of the provisions of the Political Parties Act is to be five years.

About the transfer of illegal donations to the public purse and set-offs

Please refer to section 7.7 of the Bill, which among other things discusses clarifying the provisions on illegal donations in the current act.

6 Other relevant amendments

In the consultation memorandum, the Ministry discusses amendments to the Political Parties Act that can be said to indirectly follow from GRECO's recommendations. In other words, these are not amendments that are specifically discussed in the report but those that are regarded as necessary or in other ways relevant for implementation to have full effect.

6.1.1 The organisational units to which the reporting obligation ought to apply

Indirectly, Article 6 of Rec/2003-4 is part of GRECO's evaluation basis in that reference is made to it in Article 11 about accounts:

"Rules governing gifts to political parties, except the rules concerning the entitlement to tax deductions mentioned in Article 4, ought in relevant cases also to apply to units that are directly or indirectly linked to a political party or in other ways controlled by a political party."

With reference to this article, GRECO has in several evaluation reports placed focus on the reporting system having to apply to all parts of the party organisations, and not just to party units standing for election. It has been found that the regulations may otherwise easily be circumvented by political parties establishing units whose sole purpose is to collect money for the party or candidates during election campaigns, or that donations are channelled through entities/enterprises within the party hierarchy. Such entities would not be comprised by the legislation. Although the transactions appear in the political party's income accounts as "transfers from another party organisation", no names of individual organisation will appear. Thus the identity of the donors and the amount of the individual donation may be kept hidden from the public authorities.

Section 18(1) of the Political Parties Act states that the Act applies to *"all political parties, including organisational units of parties that are comprised by this Act."* An interpretation of this must be based on the Political Party Funding Committee's proposal being that the reporting obligation should be linked to the right to apply for governmental support, cf. the comments contained in NOU 2004:25. Although Proposition no. 84 (2004-2005) to the Odelsting made some modifications to the committee's comments regarding the fulfilment of the obligation as a condition for applying for support, no adjustments were made concerning which party branches the reporting obligation was to apply to. This in turn entails that "that" in section 18, first subsection, refers to party units entitled to apply for support under sections 11, 12 and 13 – i.e. the central unit, the county unit, the municipal unit and central youth organisations and youth organisations at county level. Thus the Act represents no hindrance to the establishment of organisational units outside the reporting regime whose purpose is, for example, the collection of money. Currently, such units would not come under any part of the Political Parties Act.

6.1.2 Proposals in the consultation memorandum

In the consultation memorandum, the Ministry notes that several parties have established subordinate companies to handle the more commercial aspects of party operations. The Ministry mentions Forlaget Folkets Framtid AS (wholly owned by the Norwegian Christian Democratic Party), Tidens Tegn AS, Høyres Hus (wholly or partially owned by the Conservative Party of Norway), Youngstorget AS (wholly owned by the Norwegian Labour Party), etc. Some parties have also established party organisations in other countries.

Although GRECO for unknown reasons has failed to address this in the Norwegian report, the existence of entities/ organisations in the party hierarchy that are not directly affected by the Political Parties Act would be a potential loophole in the legislation – primarily in terms of private donations as defined in section 19(3). To retain the principle in Article 6 of Rec 2003/4, the consultation memorandum proposes that the provisions on reporting donations should also cover donations made to organisations or enterprises that can be linked to a political party, regardless of the objectives of the enterprises. The same will apply to political party organisations established abroad, including in Svalbard.

6.1.3 Views of the consultative bodies

Statistics Norway (SSB) is the only consultative body that has commented on this proposal.

Statistics Norway states:

"Statistics Norway supports the proposal regarding the addition to section 18 that is to ensure that units that are under the control of the parties are included in the reporting obligation, including party organisations established abroad."

6.1.4 The Ministry's evaluations and proposals

The Ministry notes that GRECO has stated that it is positive to this proposal; see paragraph 29 of the follow-up report:

GRECO "furthermore welcomes the drafting of further amendments to ensure that donations to entities related to the party/party unit will also have to be reported on (and that, if need be, candidates may also be required to report on the funding of their campaigns)."

The Ministry therefore retains the proposal in this Bill stipulating that donations under sections 19 and 22 to party organisations or party activities, for which support cannot be applied for under sections 11, 12 and 13 but which are directly or indirectly linked to a political party or in other ways controlled by a political party or party unit, shall be included in the party unit's reporting. According to the draft, enterprises under the central party will have a threshold value for donations of NOK 35,000. For regional or local enterprises, the threshold value will be NOK 23,000 and NOK 12,000, respectively. According to the proposal, the rule would also apply to donations made during the election campaign period.

6.2 Only parties or candidates as well?

With to reference Article 8 of Rec 2003/4, GRECO assumes that the rules relating to political parties' funding should also comprise candidates standing for election. In countries with election systems that are typically person-oriented, GRECO has provided recommendations concerning equal rules for election campaign reporting for parties and candidates. This issue is particularly relevant when the candidates dominate the election campaigns and when the roles of the political parties are more as election campaign offices or as facilitators for these. By only having rules for the funding of candidates, it would be possible to circumvent these by supporting the parties directly and vice versa.

The following aspects cause the Norwegian regime to be regarded as typically party-oriented:

- It is uncommon for candidates other than those nominated by a registered political party to win representation in the Norwegian Parliament (Stortinget).¹⁰
- Changes made to the list of candidates by the electorate rarely influence the choice of person significantly.¹¹
- The election campaigns are dominated by the parties – the listed candidates rarely conduct personal election campaigns.

For all the mentioned issues the situation could nonetheless be different at county council and municipal council levels where the Election Act gives the electorate a better opportunity to influence the

¹⁰ The last time this happened was with the "Aune list" in 1989.

¹¹ If the votes for individuals are to have an effect during general elections and elections at the county council level, more than half of a party's voters must re-prioritise the same candidates. Only then can the party's ranking of these candidates be offset. According to the Ministry of Local Government and Regional Development, this has never happened.

choice of person. The most obvious exception to bullet point three is the trial scheme for the direct election of mayors, which is practised in about 50 municipalities.

Norway has presented these arguments to GRECO. In line with countries such as Sweden, Denmark and Latvia, Norway has avoided a recommendation to make candidates equal to political parties.

6.2.1 Proposals in the consultation memorandum

Although the current system is considered to be strongly party-oriented, changes to the present election legislation may take place over time. The Election Law Commission (NOU 2001:3) held that the election of a person will become more important since the schisms in a number of fundamental political questions are increasingly going just as much through the political parties as between them. The consultation memorandum assumes that the Political Parties Act should have a certain degree of flexibility in terms of changes in the relationship between electing individuals/parties. In the memorandum, the Ministry proposes a provision which stipulates that the reporting system is to wholly or partially include the funding of the election campaigns of candidates who represent political parties or party units that win representation in elected bodies.

The way the legal authority has been formulated means that it will only cover the funding of *election campaigns* for elected candidates, i.e. deferred reporting. Based on the above discussion of recommendation 3, this will apply to donations from private persons received during the election campaign period, and, according to the proposal, above NOK 10,000. The "wholly or partially" wording opens for the regulations being limited to one electoral level, for example, elections for municipal councils, for example municipal elections where developments towards elections of persons has so far gone the farthest.

The consultation memorandum takes into account the fact that a proposal for reporting by candidates could be resource-intensive for the public authorities even if the actual reporting procedure is simplified for the candidates. At municipal level alone there would be some 11,000 elected representatives, which could represent a technical challenge to Statistics Norway and also affect the technicalities of compiling statistics. In the consultation memorandum, the Ministry therefore envisions that the proposal ought to be limited to candidates representing political parties, and that the reporting could possibly become part of the party's or the party unit's ordinary annual report.

6.2.2 Views of the consultative bodies

Statistics Norway is the only institution that has commented on this section:

Statistics Norway (SSB) states:

"We support the proposal that would require candidates to report funding related to election campaigns, but want this requirement to be limited to apply to candidates who represent political parties and that

the reporting is included in the party's general reporting. In the event that this expansion is included, the reporting form will be adapted."

6.2.3 The Ministry's evaluations and proposals

The Ministry refers to GRECO's positive statements about this in paragraph 29 of the follow-up reported, referenced above.

The Ministry therefore retains the proposal that allows provisions to be included in regulations that determine that the reporting system in whole or in part is to include the election campaign funding of candidates who represent political parties or party units and who win representation to elected bodies. The Ministry has amended the proposal to conform better to Statistics Norway's comments. If the provision is used, the reporting must be done as part of the party's or party unit's annual statutory report.

7 Proposals for amendments that do not follow from GRECO's recommendations

In the consultation memorandum, the Ministry advises against the presentation of proposals for amendments to the Political Parties Act that GRECO can perceive as "countermoves" and that do not directly or indirectly follow from the recommendations. The consequence may be that the member country only achieves "partly implemented" or "not implemented" in the follow-up rounds. Countermoves can also be seen as an indirect violation of the evaluation procedures that the member countries have signed on to.

In the consultation memorandum, the Ministry nevertheless sees a need for some amendments to the current Act. We assume that the proposed amendments do not impact the effect of GRECO's recommendations. In its follow-up report, GRECO has not commented on the amendments proposed in the consultation memorandum.

Further proposals for amendments have emerged in the consultation round. These will also be discussed in this chapter. Further, during the work on the Proposition, the Ministry has seen a need for specific measures to be taken to improve the security of the system. Specifically, these must prevent party grants from falling into the hands of third parties and prevent false reports being submitted on behalf of the party or party branch. Furthermore, the provisions on illegal contributions must be made clearer.

7.1 Omission of sections 21(2) and 23 on transparency for the accounts of political parties?

7.1.1 Proposals in the consultation memorandum

The consultation memorandum proposes the omission of sections 21(2) last sentence and 23 about the parties' obligation to, on request, give the public access to political or business agreements with donors and to their accounts. Today, everyone is entitled to ask party branches for access to any agreements with donors and to the accounts that have been prepared for the last year, such as are available. However, the provisions do not include any obligation to keep accounts. The basis for the consultation memorandum's proposed simplification is that recommendation 1 on complete accounts makes the provision redundant.

7.1.2 Views of the consultative bodies

The following have commented on the proposal:

The Norwegian Union of Journalists, Norsk Presseforbund and Mediebedriftenes Landsforening state:

"As a starting point, we see no major objections to removing the provisions in sections 21 and 23 of the Political Parties Act on the parties' obligation to provide access, as long as the obligation to provide access to all income and expenditures is included elsewhere. To avoid any doubt, it is important to specify – whether in the preparatory works or in the text of the Act – that the Public Administration Act applies to the central register of the parties' income/expenditures."

The Association of Norwegian Editors states:

"The Association of Norwegian Editors understands the Ministry's consultation memorandum to intend to provide the same access to the compilations of the expanded reporting documents proposed in the amendment as for the current, more limited, reporting. As a starting point, we too do not have any great objections to the omission of section 23 of the current Political Parties Act, though it could just as well have been retained. However, we are very sceptical to the fact that the section is proposed omitted without section 25 about publication specifying that, on request, access must be provided to the accounts the parties submit to the central register – not just to the 'compilations' that the register is required to prepare – and that the Public Administration Act applies to the register. If the right of access that the public currently has to party accounts is to be completely replaced by 'compilations' that are made public, this will weaken the transparency of party finances. The way we understand GRECO's evaluation, the intent is the opposite. This must therefore be specified, either in the text of the Act or in the comments."

7.1.3 The Ministry's evaluations and proposals

The Ministry refers to the fact that the parties currently report their income on a form prepared by Statistics Norway. In other words, accounts are not submitted to Statistics Norway which then processes

and prepares the figures for publication on www.partifinansiering.no. All information that is reported is therefore published. Therefore, we do not see a need to include a statutory right of access related to this part of the reporting.

Nevertheless, the Ministry partly shares the objection the Association of Norwegian Editors have to the weakening of access to party finances if the current public right of access to party accounts is replaced in its entirety by "compilations". The Ministry believes that the present proposal for the follow-up of recommendation 1 adequately attends to public access to party funding for parties that are subject to a statutory obligation to report complete accounting data and the associated notes. Nevertheless, the Ministry recognises that the proposed omission of section 21(2) last sentence and section 23 would weaken transparency in relation to small party branches that are subject to the simplified system in section 18(3). These will only be required to make an annual declaration that their income has not exceeded the statutory limit. The proposals in the consultation memorandum mean that the public will no longer have access to this information from small parties.

The Ministry therefore withdraws the proposal to omit section 21(2) last sentence and section 23 from the Act. We therefore propose to carry forward the provisions, which are based on the unanimous recommendation of the Party Funding Committee.

7.2 Signature requirements

7.2.1 Proposals in the consultation memorandum

In the consultation memorandum, the Ministry proposes that the number of signatures from party branches in connection with reporting pursuant to section 21(4) of the current Act be reduced from two to one. The background for the proposal is that Statistics Norway believes the current requirement for two signatures delays the submission process for party branches, which means that the deadline is breached more frequently and there is a greater need for reminder notices. In other words, the proposals in the consultation memorandum on the simplification of the Act in this regard are based on a consideration of the party units and of the public authorities.

7.2.2 Views of the consultative bodies

In the consultation round, the proposal was commented on by the Norwegian Institute of Public Accountants and Statistics Norway:

The Norwegian Institute of Public Accountants states:

"Sections 21(3) and (4) of the Bill stipulate who are to sign the 'reporting'. For all parties and party units that are to be subject to obligations to keep accounts, this will be a special rule about the signing of the annual accounts. We doubt that there is a need to specify the general requirement for signatures on annual accounts and directors' reports in section 3-5 of the Accounting Act. Regardless, significant deviations such as in the proposal should not be made. Both the chair of the party and all members of

the executive (national executive) should sign the annual accounts of the party's head organisation. The equivalent should apply to local party units and the party's youth organisation. In this context it is important that considerations regarding the awareness and documentation of the entire executive's and party (unit) chair's responsibility for the annual accounts is prioritised above any problems related to delayed reporting to Statistics Norway (consultation memorandum p. 70). As for all other entities subject to statutory obligations to keep accounts, it would be better to impose a fine for delays in order to ensure that the reports are submitted by the deadline. If this constitutes a special problem for parties, one may, for instance, give the central register (Statistics Norway) the authority to impose additional fines. For the small party units that are not subject to statutory obligations to keep accounts, a stipulation could be made regarding the signing of the declaration that they do not exceed the threshold value".

Statistics Norway (SSB) states:

"Statistics Norway supports the proposal that the requirement to two signatures from parties or party units at the municipal or county council levels, including the parties' central youth organisation, be reduced to a requirement of a single signature, from the person who applies for or signs off on party grants or from another executive member. This would ease our data collection process."

7.2.3 The Ministry's evaluations and proposals

The Ministry views the Norwegian Institute of Public Accountants' comments as a natural consequence of the Institute's proposal that political parties and party branches are to be subject to a full obligation to keep accounts pursuant to the Accounting Act. As is clear from the discussion under recommendation 1, the Ministry does not share this view. The Ministry nevertheless agrees that several considerations suggest that the party chair and members of the executive should sign the annual accounts of the party's head organisation. The Norwegian Institute of Public Accountants emphasises that it is important that due consideration is made of the awareness and documentation of the entire executive and party chair's responsibility for the annual accounts, and that this should be given priority over any problems with delayed reporting to Statistics Norway.

The Ministry agrees that considerations regarding awareness and documentation should be given more weight than the more practical considerations related to the reporting. The Ministry envisions the following solution in order to incorporate both the Norwegian Institute of Public Accountants' comments about the emphasis on awareness and documentation and Statistics Norway's wish to simplify the data collection process:

We propose to introduce a requirement in section 21(2) that all issues that are included in the reporting obligation must be approved and signed by the chair of the party branch and at least one other executive member. This will apply to all party branches subject to reporting requirements, including those who submit simplified reports pursuant to section 18(3). It is important that the party branch itself ensures that such approval takes place in time to meet the reporting deadline, which the Bill sets to 1 June.

In terms of the technical reporting to Statistics Norway, please refer to the proposal below about party branches being required to annually authorise at least one person to be in contact with the "public register for the system". According to the proposal, the person(s) appointed by the party will be the point of contact between the party and Statistics Norway for all issues covered by the reporting, including the transfer of accounting data. When such authorisation has been presented, there will be no need for signatures in connection with this part of the process. This is because the identification for example can be done electronically in the same way as for the reporting of election campaign donations – in other words by using a username and password.

7.3 Heading of section 26 of the Bill:

7.3.1 Input from the Political Parties Act Committee

The Political Parties Act Committee addresses the following in its consultative statement:

"The Committee is aware that the heading in the draft is a continuation of the heading of the current section 24. However, the heading is misleading. The Committee does not currently distribute grants, and there is nothing in the proposal that will allocate this task to the Committee. A better heading that is more in line with the proposed tasks, would be 'Committee for the control of party funding, appeals processing, etc.'"

7.3.2 The Ministry's evaluations and proposals

The Ministry confirms that the Political Parties Act Committee does not currently distribute public grants and that there is nothing in the Bill regarding the Committee doing so in future. With regard to public grants for parties, the Committee's task in section 24(d) is to "decide on appeals concerning decisions relating to government grants, cf. section 15".

The Ministry therefore proposes that the Political Party Act Committee's proposal be followed up by the heading being changed.

7.4 Increased security

In the aftermath of the consultation round the Ministry has, in part through follow-up meetings with the consultative bodies and public authorities that are involved, been made aware of the need to increase the security of the system. This includes issues related to the awarding of public grants by the Ministry and the County Governors as well as reporting to Statistics Norway. If it is impossible to control that the person applying for grants for a political party or party branch in fact represents the party, and if it is also impossible to have the bank verify that the listed bank account number in fact belongs to or can be traced to the party, there is a risk that public grants fall into the hands of unauthorised persons. For example, this can happen if the person who applies has previously held a position in the party but for various reasons no longer represents the party. Further, examples have been seen in which parties split and where the fractions fight about the party grant without public authorities being clear about who

legitimately represents the party, which provides opportunities for private persons to benefit from the grant.

The County Governor of Sogn og Fjordane, who is responsible for the electronic application module for public grants to parties at the county and municipal level, and who coordinates the payments on behalf of all County Governors, has stated the following in a memorandum to the Ministry:

"Payment to the 'wrong' account number

There are about 2,850 party branches that receive payments every year. Several party branches change accounts numbers during a year, and it is difficult to always have the correct account number for these parties. It must be duty of the party branches themselves to inform FMSF [the County Governor of Sogn og Fjordane] when the account number has changed. In the 2011 payment, there were about 40 parties that had the wrong account number and where the money was returned to us. As of 18 June, the payments to these branches have been completed. The figure was about the same for 2010.

This issue with the account numbers has been constant in all four years of payments. Ideally, we believe that each party branch should have its own account number. We do not know, but it is clear from a number of the phone calls we get that party funding is going to private accounts. Seen from the perspective of the public administration, this is not a good practice. On the other hand, it can be claimed that the party branches themselves must decide what kind of financial management and system they want to have around this issue. (...) For this section, we propose that the Political Parties Act/Regulations should be amended with an order to report changes to accounts to the County Governor. If things remain unchanged compared to today, a statement must be made that the responsibility for payment to the right account lies with each party branch and whatever they have reported at any given time.

Receiving applications with 'erroneous' information

The issue we are thinking of here is that an individual can currently use the electronic application form and enter their 'personal' account number and submit the application.

The counter measure here is to use MinID and link it to the application form, and introduce a pre-registration of those persons who are to have access to the application form for, for example, a municipal party. In such cases, only one or two persons should be registered as those who are going to fill in and submit an electronic application form. The plan is to start using such a system in 2012.

On this point, we propose that the party branches (at all times) are required to list a contact person with the County Governor and Statistics Norway. This will ease the County Governor's work."

The Ministry also refers to the fact that it is important to ensure that it is the party or party unit that reports to Statistics Norway, and that it is impossible for third parties to submit incorrect reports on behalf of the party with the intention of harming the party's reputation, etc.

7.4.1 The Ministry's evaluations and proposals

The Ministry believes that it is reasonable that the application period for public grants should remain four years as the payments are based on the votes achieved in the most recent election (and thus is constant for the entire election term). However, a requirement should be introduced stipulating that parties or party units that can apply for a public grant pursuant to sections 11 to 13 must confirm their account number, account owner and who are entitled to access the account. Further, it should be stipulated that all parties or party units who are covered by the Act must appoint/authorise a (or more than one) contact person(s) for communication with Statistics Norway, which pursuant to section 22(1) is the central register for reports. Information about contact persons for Statistics Norway must, as currently, be confirmed by the central party. Necessary personal information such as a national identity number is a prerequisite for the use of electronic signature solutions for the issues mentioned above. With reference to, for example, the County Governor of Sogn og Fjordane's comments that such information can change quickly and often in the parties, the Ministry believes that an (at minimum) annual update of relevant information should be required. The Ministry assumes that section 26(5) of the Public Administration Act applies.

The Ministry emphasises that the proposal does not give public authorities the right to test or control the person or persons appointed by the party, beyond verifying that the person the authorities are in contact with is in fact the person the party has authorised for this purpose.

The Ministry is more uncertain with regard to the County Governor of Sogn and Fjordane's proposal to require parties to create a separate bank account in the name of the party. Among other things we refer to the fact that the banks generally set relatively high fees for business accounts and that this can impose unreasonable costs on small parties in comparison to the grant they receive. The Ministry is therefore open to the idea that bank accounts to which party grants for organisations at the county and municipal level are paid can still be in the name of a private person, but that the party or party unit, as proposed above, is ordered to authorise the account, the account owner and who have the right to access the account. We expect central parties to have business accounts. At the moment, central parties receive single payments of up to NOK 20 million every quarter. The Ministry assumes that both the parties and public authorities will benefit from the regulation of issues related to security.

Violations of the above-mentioned obligations are not seen as violations of the funding provisions of the Act. The failure to fulfil the obligations will therefore not be tied to the system of sanctions that is proposed under recommendation 6. In the event that the obligation to provide updated information is violated, the parties are nevertheless responsible for the public grant being paid to the right account and for the submitted accounting data having come from the correct source.

7.5 Opportunity to apply on behalf of multiple party branches

The consultative statements submitted on behalf of the Norwegian Labour Party, the Conservative Party of Norway, the Progress Party, the Socialist Left Party of Norway, the Norwegian Christian Democratic Party and the Centre Party (described as the "parties in the Storting" in the text) propose that the

parties' organisational units that are responsible for one or more counties or one or more municipalities should be able to apply for grants on behalf of other party branches. Further, it is proposed that the party organisation that is responsible for Oslo should be able to apply for grants as both a municipal and county organisation.

The Ministry refers to section 12(1) first sentence of the Political Parties Act, which is about grants for the county organisations:

"A party's county organisation may apply for a grant."

and equivalently in section 13(1) first sentence about grant for the municipal organisations:

"A party's municipal organisation may apply for a grant."

Proposition to the Odelsting no. 84 (3004-2005), page 79, expressly states that the provisions are a continuation of the requirement that there must be a county organisation and a municipal organisation in order for the organisation to receive grants pursuant to sections 12 and 13. The requirement is also based on section 6-3(1) of the Election Act, which requires a registered political party to have a local branch in the constituency in order to propose a list in that constituency, which means having the signatures of two executive members. Pursuant to the Act, the persons who sign must be eligible to vote in the constituency. Though the Election Act does not contain provisions about how the political parties in fact organise their activities in the county or municipality, the requirement to have some form of organisational unit seems clear. We refer to the Ministry of Local Government and Regional Development's comments to section 6-3(1) of the Election Act ; cf. Proposition to the Odelsting no. 45 (2001-2002) Om lov om valg ("About the Election Act"):

"Further, as in the current electoral legislation it is assumed that the registered political party must have a local branch. There is no longer a requirement in the Act that it is the chair of the local unit and the secretary (or two executive members if the two former cannot vote in the municipality/county) who must sign the list proposal. It is sufficient that two executive members eligible to vote in the constituency sign."

7.5.1 The Ministry's evaluations and proposals

In order for a party branch to be entitled to apply for a party grant pursuant to chapter 3 of the Political Parties Act, it must have fielded a list as a registered political party and received votes in the most recent election in the constituency in question. Though the requirement to have an established party organisation to receive a grant is clearly stated in Proposition to the Odelsting no. 84 (2004-2005), neither the text of the Act nor the preparatory works can as a starting point be seen as a hinder to a party organisation applying for grants on behalf of others who are eligible to apply. Nevertheless, we refer to the Ministry's comment to section 12 in the above-mentioned Proposition (page 79) about the county youth organisations:

"As previously, an application for a grant applies to the entire period. It is new that the youth organisation applies for a grant itself and is paid directly."

The Ministry refers to the fact that the Political Parties Act is practised in a way that allows county branches to apply for party grants on behalf of the local branches in the county. There are also examples of county branches having applied on behalf of other county branches. The Ministry sees no need to specify in the text of the Act that this is possible. In relation to the proposal about contact persons in the previous section, in such cases information must be specially included (and confirmed) regarding which other party branches the person may represent. Further, information must be included about the account numbers of each party branch included in the application. The Ministry emphasises that it is important that efficiency in the application process on this point is not used to circumvent the above-mentioned requirements about established party organisations in the relevant constituency.

7.6 Prohibition on gifts from companies

7.6.1 Proposal from the Ministry of Trade and Industry

In the view of the Ministry of Trade and Industry, the further work on the Political Parties Act should consider the need for a prohibition on gifts from companies:

The Ministry of Trade and Industry states:

"The reason is that companies and economic actors are not political citizens. By definition, money to political parties therefore has a financial aspect. Questions will therefore always be raised about whether the parties' standpoints and decisions are made independently of the donations when such gifts have been received. The donations can therefore also distort competition between companies that have the resources to pay the parties and those who do not. If the owners of the companies as political citizens want to give gifts to the parties, they can take out profits and donate from their private funds."

7.6.2 The Ministry's evaluations and proposals

The Ministry refers to the fact that the Council of Minister's Recommendation 2003/4 on common rules against corruption in the funding of political parties and electoral campaigns does not contain recommendations suggesting that gifts from private companies and economic actors, or from private legal entities generally, should be prohibited.

Article 5 on gifts from legal entities states:

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

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

- *States should take measures aimed at limiting, prohibiting or otherwise strictly regulating donations from legal entities which provide goods or services for any public administration.*
- *States should prohibit legal entities under the control of the state or of other public authorities from making donations to political parties."*

The last bullet point is implemented in section 17(3)(a) of the Political Parties Act, on the suggestion of the Party Funding Committee. With regard to the second-to-last bullet point, we refer to the discussion in Proposition to the Odelsting no. 84 (2004-2005) pages 38 and 39. Article 5 is not part of the basis for GRECO's evaluation. The Ministry refers to the fact that among the GRECO member countries there are examples of prohibitions on gifts from private legal entities based on the same justifications as that given by the Ministry of Trade and Industry. Though this cannot be traced to GRECO's work, such a prohibition will as a starting point be relevant in the Norwegian Act. Nevertheless, the Ministry believes that a prohibition on receiving donations from private companies and economic actors will involve a too significant limitation of the private sector's right to support political parties. It is, as the Party Funding Committee also concluded, desirable to have a certain percentage of private funding to prevent the parties from being too dependent on public funds. In recent years, public grants have constituted between 70 and 90 per cent of party funding, in part depending on the size of the party. The Ministry expects that the system of transparency that is already established in the Political Parties Act, and which this Proposition suggests strengthening, will fulfil the considerations the Ministry of Trade and Industry stresses. Therefore, the Ministry does not support the Ministry of Trade and Industry's proposal.

7.7 Illegal donations

7.7.1 Proposals in the consultation memorandum

In the consultation memorandum, the Ministry proposed a clarification of section 17(3) by stipulating in the Act that all illegal donations are to accrue to the public purse, implicitly meaning unless the donation has already been returned to the donor. None of the consultative bodies had any direct objections to the proposal. The Norwegian Institute of Public Accountants believes that illegal donations should not be repaid to the donor; see the discussion at the end of the section.

Though the Ministry's proposal below is based on the issues discussed in the consultation memorandum, it represents a significant further development of the proposal in the memorandum.

7.7.2 Current legislation

The current Act prohibits parties from receiving any kind of donation, whatever the size, from donors mentioned in section 17(2) and 17(3). This includes donations from anonymous donors, from legal entities controlled by the state or another public authority and from foreign donors. Whether the donation is in the form of money or non-monetary benefits is irrelevant, cf. section 17(4) and the preparatory works.

However, what is to happen to the illegal donation once the party has received it does not follow from either the text of the Act or the preparatory works. With regard to anonymous donations, the Act nevertheless assumes that "Such donations fall to the public purse", cf. section 17(2) second sentence. However, it is difficult to interpret section 24 about the Political Parties Act Committee's exercise of authority to mean that the Committee can confiscate such donations. Based on the context of the Act, it is therefore likely that the party is obligated to pay or transfer donations from anonymous donors to the public purse.

With regard to donations pursuant to section 17(3) – in other words where the donor is a legal entity controlled by the state or another public authority or where the donor is foreign – neither the text of the Act nor the preparatory works say anything specific about such donations having to be repaid to the donor or transferred to the public purse.

The Ministry assumes that as a starting point it is not possible for a political party to prevent donations from a donor the law defines as "illegal". For example, payments may be made to the party's or party unit's account. However, the party can prevent itself from keeping the donation. With the exception of anonymous donations, the party will in principle always have the opportunity to return an illegal donation. There is reason to believe that the Party Funding Committee considered the possibility of repaying the donor to be self-evident and that it therefore only discussed situations in which the party does not know the identity of the donor and repayment is impossible. We also refer to the comments to section 17(2) in Proposition to the Odelsting no. 84 (2004-2005) and to section 6.4 in NOU 2004: 25.

Further, the Ministry assumes that the Act must be understood to mean that donations that are returned to the donor are not "donations" within the law because they are not used to fund the party or party unit. The same will, in principle, apply to donations that are transferred to the public purse. The Party Funding Committee uses the phrase "make use of the donation" in connection with its discussion of anonymous gifts on page 88 of the report:

"On the other hand, there are several considerations that argue against the party being able to use donations of unknown origins."

The Ministry believes that this delimitation will also be relevant to donations pursuant to section 17(3). However, there will not always be a clear link between "using" and "receiving". Illegal donations frozen in special accounts will for instance be able to generate interest. Though the actual donation (principal) is untouched, any interest accrued or other revenue can be included in the funding of the party or party unit. Seen from another angle, it is difficult to argue that illegal donations, or revenue from such donations, that the party in some way or other has included in the party funding (or in other party units or organisations) is not to be seen as "received". Given the lack of a specification in the text of the Act regarding where this limit is to be drawn, which procedures are to be followed and which deadlines may apply to the disposal of illegal donations, it is difficult for both the parties and the Political Parties Act Committee to relate to this part of the Act.

Further, the Ministry assumes that the current Act requires illegal donations to be reported as income. We refer to section 17(4), which states:

"In this provision, donation means any form of support that the party would be obliged to report pursuant to Section 19."

The text of the Act corresponds to the proposal from the Party Funding Committee, with the exception that the Committee suggested the phrase "as income" be incorporated in the text:

"In this provision, donation means any form of support that the party would be obliged to report as income pursuant to Section 19."

Although the wording here can be said to be formulated ambiguously, it is reasonable to understand the Act to mean that illegal donations should be reported as income. This interpretation is also supported by the definition of donations subject to reporting obligations pursuant to section 19(3) first sentence, where no distinction is drawn between legal and illegal donations. It would also be strange if the Act institutes an extensive system of transparency solely for legal donations while illegal donations could remain unreported. The Ministry assumes that in terms of transparency it is precisely illegal donations to political parties that can be of special interest.

In the extension of this reasoning and based on the above-mentioned interpretation, the Ministry understands the Act to mean that illegal donations that the party has transferred to the public purse or returned to the donor are not counted as "income" and that these therefore shall not be listed as income and reported in accordance with section 19.

7.7.3 The Ministry's evaluations and proposals

The Ministry believes that it is necessary that the current Act is made clearer regarding the above point. Rules about what the party or party branch is specifically required to do if it receives an illegal donation, how long they can keep and to what extent they can use illegal donations before the law considers these to have been received are necessary supplements to the current provisions on illegal donations. Further, the rules must address which reporting routines are to apply if the party for whatever reason chooses to retain the illegal donation. The need for rules about this should also be seen in the context of the Political Parties Act Committee's authority to impose sanctions pursuant to the proposed sections 28 and 29(1) – the latter is about the administrative confiscation of illegal donations. A specification of the text of the Act should particularly be made in relation to the proposed penalty in section 30(2) for "Any person guilty of material breaches or repeated breaches" of these provisions; this should clarify the criteria that must be fulfilled in order for the law to have been breached.

The Ministry does not propose any substantive amendments to the current section 17(1) about everyone being permitted to donate to political parties. With the limitations that are imposed in the second and third subsections, the Ministry interprets the Act to mean that the party is nevertheless free to select who it wants to receive contributions from. The principle that it is up to the party to decide whether it wants to receive a grant or not has been the basis for public grants since this system was

established in the early 1970s. A technical legal specification has been made in the text regarding the permission to donate applying to both "parties *and party units*", which is equivalent to the general terms used in the Act. This specification has also been made elsewhere as needed.

The Ministry does not propose any amendments with regard to which donors the parties cannot receive donations from, cf. section 17(2) and 17(3) of the current Act. Further, no amendments have been proposed with regard to what are to be considered illegal donations, cf. section 17(4). In line with the proposal from the Political Parties Act Committee and the current Act, the definition will still cover all forms of donations, whatever their value and regardless of whether the donation is monetary or non-monetary. The Ministry also sees a need for the rules on illegal donations to be separated in their own section (section 17a) in order to make the Act clearer and more comprehensible.

The Ministry wants the Act to be unambiguous with regard to the expectation that illegal donations be returned to the donor. However, this will naturally (still) not apply where the party or party unit does not know who the donor is, which the Act refers to as "anonymous donations". If such repayment is not carried out or cannot be carried out, the party or party unit is required to transfer the entire donation to the public purse. This obligation follows directly from the text of the Act and the Political Parties Act Committee therefore does not need to first make a decision on this.

The Ministry proposes that the principle that the party or party unit shall not be able to avail itself of any part of the illegal donation, directly or indirectly, should form the basis for the valuation. However, the Ministry sees that yields or changes in purchasing power will primarily come into consideration in cases where a long time has passed since the illegal donation was received. Even if, as a starting point, the above-mentioned principle is used, in individual cases it should be up to the Political Parties Act Committee to use its discretion to set the value of what is to be returned, transferred or confiscated; see the comments to section 29(1). The Ministry also sees a need to be able to issue more detailed rules in regulations about the valuation, repayment and transfer of illegal donations, cf. section 22a(1) of the Bill.

In the extension of this, the Ministry proposes that a full or partial transfer of illegal donations or yields to other party units, organisations or units in the party hierarchy should be considered "use" under the Act, and should therefore not be permitted.

The Ministry proposes that the party or party unit is to be given a reasonable period to relate to the issue if it receives donations from a donor who is not permitted to donate to the party. It may be that the party is in doubt as to whether the donor in fact is to be considered "illegal" and that it wants the Political Parties Act Committee to consider the case before any repayment to the donor or transfer to the state takes place. There may also be other reasons that mean that repayment cannot take place immediately or is difficult. The Ministry proposes that the deadline should be four weeks; in other words, the same deadline as proposed for the reporting of election campaign donations pursuant to section 18(4) of the Bill. When the case is being evaluated or processed by the Political Parties Act Committee, the Ministry assumes that the deadline starts to run from the time the Committee's final evaluation (statement) or decision has been presented.

In cases where the party or party unit for whatever reason has chosen to keep an illegal donation, the Ministry proposes that the Act state with greater clarity that the donation must be reported along with all other income pursuant to section 19. For parties covered by section 18(1) and 18(2), the donation must also be entered into the accounts and recorded. According to the Bill, the only difference between legal and illegal donations will be that in the latter cases, the donor's identity must be listed in the reporting regardless of the size of the donation. However, donations that have been repaid to the donor or transferred to the public purse during the accounting year shall not be included in the annual reporting. This is because such donations have not affected the funding of the party or party unit, when the accounting year is seen as a whole. Decisions on administrative confiscations are here equal to transfers to the public purse; see also the comments to section 29(1).

The Ministry assumes that the obligation to report illegal donations pursuant to section 17a(5) second sentence of the Bill is additional to other reporting obligations in the Act. For example, where a party or party unit elects to keep an illegal election campaign donation of NOK 10,000 or more, the amount and the identity of the donor must be reported pursuant to section 18(4) of the Bill and within the deadlines stipulated therein. The Ministry sees no need to make set special deadlines in the Act for the reporting of illegal donations.

As stated above, the Ministry proposes an either/or rule for the disposal of illegal donations. Within the deadline in section 17a(4), the party can choose between repaying the illegal donation to the donor or transferring the donation to the public purse. Nevertheless, the Ministry recognises that in this context it may be relevant to discuss a third option: that the party or party unit alternatively is given the option to transfer the donation to a purpose that benefits the common good. Such a rule would require a special definition of what is to be considered the "common good" in the Political Parties Act. Without discussing this in detail, the Ministry sees that in this context it may be appropriate to distinguish between purposes that are closely related to the party's political programme or values, and other, more neutral, purposes. A possible question may be whether illegal donations to a party that is primarily focused on the environment should be transferable to an environmental organisation or others who work for the same cause. Further, whether donations from a foreigner should be transferable to a faith community that builds on the same religious or ethical values as the party.

In the extension of such a third alternative, the Ministry recognises that in some cases doubt may arise about whether the principle that the party cannot use illegal donations, directly or indirectly, is sufficiently safeguarded. Though the party or party unit has not had any direct financial benefit from the donation, it may be argued that the party has had some political benefit in that the donation has been transferred to others who work for the same cause.

Further, it may be argued that the opportunity to transfer illegal donations to a third party opens for laundering of the donation in that the party later receives the money back from a "legal" donor.

Another related issue is that in the event that illegal donations are transferred to an organisation working for a purpose that is neutral in its relation to the party's political standpoint, there is a risk that the donation will be seen as "fishing for votes" by the public or by competing parties.

The Ministry does not support opening for the Act to permit parties or party units to transfer illegal donations to third parties, including to those working for the common good. The Ministry believes that the Act must be straightforward and clear on this issue. The Party Funding Committee assumed that illegal donations were rarely made to political parties. The Ministry is of the opinion that in this context clear rules about the reception and disposal of such donations will also be a clear signal to donors, and thus may contribute to a further reduction of what is assumed to be an already low level of illegal donations.

We also refer to the comments to sections 28 and 29 in section 5.6.6.

The Ministry refers to the Norwegian Institute of Public Accountants' view that illegal donations should not be repaid to the donor. "To be effective, this reaction should target both the party and the donor." The Ministry partially agrees with this view, but refers to the discussion above in which we found that the Act should allow the party or party unit to repay the illegal donation to the donor, within a deadline of four weeks. In order to partially follow the Norwegian Institute of Public Accountants' comment, the Ministry proposes that the deadline should be strictly enforced.

The proposal in the consultation memorandum and the Bill is that the confiscation should be fully equivalent to the illegal donation the party received. The Political Parties Act Committee may also confiscate money where the retained donation as a starting point was an item that has since depreciated or is difficult to sell. In this context, the Norwegian Institute of Public Accountants proposes that it should be stipulated that decisions on the confiscation of illegal donations are a basis for execution proceedings.

The Ministry notes that execution proceedings are generally important to the enforcement of monetary claims. "Execution proceedings" mean that those who are owed money are given security in the debtor's assets or a settlement through deductions in the debtor's outstanding claims. The Ministry nevertheless does not consider "execution charges" to be an option in the Political Parties Act. This would entail that the Political Parties Act Committee or the enforcement officer claim security in the assets of the party branch (such as real estate, car, boat or another valuable moveable property), and the security interest could form the basis for a forced sale to cover the state's claims. This view is among other things based on a belief that there may be few assets in terms of real estate and valuables, in particular in the smallest party branches, and that the rule for several reasons would be difficult to practice. However, a parallel to "deductions based on execution proceedings"¹² may be appropriate. This means that the Political Parties Act Committee makes deductions from the party grant in order to

¹² "Deductions based on execution proceedings" take place by the enforcement officer ordering the employer or the Norwegian Labour and Welfare Administration or others who pay benefits to the defendant to make deductions from the defendant's salary or benefits. Those who are ordered to make deductions from the defendant's salary are called "trekkpliktig" ("obligated to make deductions").

cover the outstanding state claim on illegal donations that have not been transferred. This is already incorporated into the proposal, and the Ministry sees no need to specify this option further in the text of the Act.

Technical amendments are also proposed; see chapter 9 below.

8 Financial and administrative consequences

The Ministry has endeavoured to find solutions that are administratively preferable for all six recommendations and for the other proposals made in this Proposition. The wish to limit the need for an increased use of resources in the parties, party units and the public sector has been given weight.

As a result of the transition from the current income reporting regime to reporting complete accounts in addition to donations made in connection with election campaigns, Statistics Norway's Internet-based form needs to be changed. Statistics Norway will also be given an extended task of guiding political parties and party units in filling in the forms and with accounting support. The latter will mainly be handled via the preparation of clear guidelines for the lay-out of party accounts based on the rules and relevant accounting standards provided by the Accounting Act.

The establishment of a complete accounting system for political parties and party branches is discussed under recommendation 1. As stated there, the Ministry finds the proposal interesting, but nevertheless advises that it not be implemented due to the high expected costs compared to the expected benefits. However, no further specification has been made of the costs related to the proposal.

The proposal will assign further duties to Political Parties Act Committee. This also entails the establishment of a support function under the committee, the Party Auditing Committee, which will supervise the parties and the party units in understanding the Act and in keeping accounts. At present, the chair of the Political Parties Act Committee does all the administrative processing personally, albeit with technical office support from the Sogn og Fjordane County Governor. There will be a need to strengthen the committee with at least one regular position. In future there will be a further need for hourly payment for the Party Auditing Committee, presumably according to the rates stated in the Civil Service Handbook. The total costs of the Party Auditing Committee will depend on the committee's activity level and composition. This will in turn depend on the needs of the Political Parties Act Committee.

The Ministry will moreover experience a certain increase in its responsibility for administrating the Act, preferably for a brief period.

The Ministry holds that all operating expenses relating to the Political Parties Act should in future be covered over Chapter 1530 Support for political parties, item 01 Operation. This means that the grants for the parties will be reduced correspondingly. The Ministry presumes that the Bill will result in the need for an increase of approximately NOK 5 million to Chapter 1530, which is proposed to be covered by a re-prioritisation between the items. The figure is to cover expenses for case processing help for the

Political Parties Act Committee, remuneration for the Party Auditing Committee, the development and operation of an online guidance and reporting module for the keeping of accounts, and for special administrative costs for the Ministry.

9 Comments to each provision

Special comments to the amendments are provided below. We also refer to the general comments above. We propose significant changes to the system and structure of the Act (compared to the consultation memorandum).

Comments to section 1(3)

We find it necessary to specify in the Act who the Act applies to. The wording of the first sentence corresponds to the comments to section 1(3) of the current Act; cf. Proposition to the Odelsting no. 84 (2004-2005) (Political Parties Act) page 68.

Comments to section 11, new fifth subsection

The proposal aims to increase the security around the payments. This type of information and confirmation must be available at a central level from both the head organisation and the youth organisation (if the party has established one). A business account is required. Necessary personal data such as a national identification number is a prerequisite for the use of electronic signatures. We assume that section 26(5) of the Public Administration Act permits exemptions from access to national identity numbers and numbers with an equivalent function.

Comments to section 12, new sixth subsection

The proposal corresponds to section 11(5) of the Bill and has the same justification and prerequisites. The obligation to provide information and confirmation applies to county branches, county youth organisations and joint lists that can apply for funding pursuant to the provisions. It will still be possible to have the party unit's account be in the name of a private person. Necessary personal data such as a national identification number is a prerequisite for the use of electronic signatures. We assume that section 26(5) of the Public Administration Act permits exemptions from access to national identity numbers and numbers with an equivalent function.

Comment to section 13, new fifth subsection

The provision is equivalent to the aforementioned proposal. The obligation to provide information and confirmation applies to the municipal organisations and joint lists that can apply for grants pursuant to the provisions. Necessary personal data such as a national identification number is a prerequisite for the use of electronic signatures. We assume that section 26(5) of the Public Administration Act permits exemptions from access to national identity numbers and numbers with an equivalent function.

Comments to section 17(1)

The provision is retained unchanged, with the exception that we propose to specify in the text of the Act that the donation applies to both political parties and *party units*. This reflects how the Act is practised. Corresponding technical legal changes have been made elsewhere in the Act as necessary.

Comments to a new section 17a

The Ministry proposes that the rules in the current Political Parties Act about illegal donations be retained unchanged in a separate section. There is still a need for some amendments and clarifications with regard to the criteria for returns to the donor and/or transfers to the public purse for donations that are covered by section 17(3) in the current Act. In this context, it is necessary to introduce a deadline for how long the party or party unit can "sit on" the illegal donation before it must be repaid to the donor or transferred to the public purse. It is also necessary to specify the obligation to report illegal donations, which is assumed to follow from the current Act. We also refer to the general comments in section 7.7.3.

Comments to section 18

We refer to the discussion in section 5.1.8. The provision is built on section 18 in the current Act and on the consultation memorandum. The proposal also covers GRECO's recommendation 1 and 3. The deadline has been moved up to 1 June in order to take into consideration the wishes of the parties represented in the Storting. Further, the threshold value in the third subsection has been increased to NOK 12,000 on the basis of the proposal about CPI adjustments.

The obligation to keep accounts and accounting records pursuant to the first subsection of the provision is additional to any accounting and accounting records obligations that parties or party units may be subject to in accordance with other legislation.

The third subsection also specifies that according to the Act, party units that are below the threshold value do not have a statutory obligation to keep accounts or an obligation to submit annual reports.

However, in election years, all parties and party units are required to report donations above NOK 10,000 pursuant to the fourth subsection. What is considered a "donation" is defined in section 19(3) in the current Act. This definition has been retained unchanged in the Bill. The information about the identity of the donor is to be presented in accordance with section 20(5).

All reporting in accordance with chapter 4 must still be submitted to the "central register for the scheme", which is Statistics Norway (SSB).

Comments to a new section 18a and a new section 18b

These provisions have been added after the consultation memorandum. The provisions are seen as minimum requirements to fulfil the obligation to keep accounts in section 18(1) and to make it possible for the Political Parties Act Committee to monitor party funding. The general provisions of the

Bookkeeping Act apply to all parties and party units that are covered by section 2 of the Bookkeeping Act. Please see the discussion in section 5.1.8.3.

Comments to section 19(4) and 19(5)

Technical amendments have been made to the section. The provision is otherwise equivalent to the current Act.

The Ministry assumes that the obligation to list/book all business agreements on "conditions similar to a donation" follows from the definition of "donation" in section 19(2) litra i to m and 19(3) of the current Act. However, there may be a need to include a specification in the comments that information must be provided separately for one-off donations in the form of goods or services above the threshold values in section 20(1); see also section 20(5). We also refer to the Ministry's guidelines; see recommendation 2 above.

Comments to section 20

We propose to correct the provisions in the first subsection in line with the above proposal for a CPI adjustment of the tariffs.

The system has been amended in that the rule about political and business agreements with donors in the current section 21(2) first sentence has been moved to the new second subsection of section 20. It will be specified that a declaration must (still) be made about each political agreement with donor(s).

Sponsorship of political parties has reached a certain scale internationally. Within the meaning of the Accounting Act, sponsoring is not to be regarded as gifts ("donations") since the agreements require a certain reciprocal contribution or consideration. The Ministry believes that there is a need to specify that declarations must be made about sponsorship agreements if the agreement includes an annual payment to the party or party unit that exceeds the threshold values in section 20(1). The value of the party's payment to the partner(s) in the agreement has no effect on the valuation. The obligation also applies if the party or the party unit has failed to meet its part of the agreement at the time of reporting.

With regard to the new fourth subsection, we refer to the comments in section 6.1.4.

A stipulation that sponsors and creditors must be identified in the same way as donors has been added to the fifth subsection. The subsection is otherwise equivalent to section 20(2) in the current Act.

Comments to a new section 20a

The structure of the provision has been changed from the consultation memorandum in order to take the Norwegian Institute of Public Accountants' comments into account. Costs must at a minimum be categorised in accordance with this template; see the discussion in section 5.1.8.4.

Information must also be provided about transfers to other party units. Together with section 19(2)(n), this will provide more transparency with regard to transfers between party units.

Comments to a new section 20b

The proposal is retained unchanged from the consultation memorandum. We refer to the discussion in the general comments above, section 5.1.8.4.

Further, the proposal means that the party or party unit must provide information about the amount of its loans and the identity of the creditor in notes when the debt (short/long term) exceeds the threshold value in section 20(1); see section 5.1.8.4.

Comments to section 21

The first subsection is equivalent to the current Act, but with the changes that follow from this Bill in terms of the issues subject to reporting obligations. With regard to the obligations that follow from section 21, the Ministry assumes that the current Act makes no distinction between parties or party units that provide "declarations" (simplified income reports) pursuant to section 18(3) and those who provide a "report" (complete income report) pursuant to section 18(2). The Ministry's proposal is built on this, cf. section 18(3) last sentence.

The current section 21(2) first sentence has been moved to the new second subsection of section 20 in order to achieve a better structure in the Act; see above comments. The current section 21(2) second sentence has been moved and is now the new second subsection of section 23.

The current section 21(3) stipulates that the report from the party's head organisation must be signed by the party chair. The two-signature requirement for other party units is stipulated in the fourth subsection, and must be seen in the context of the Act not requiring an auditor's approval for the reporting from these units. To ensure the documentation and awareness of their responsibility for the reports, it is proposed that the party or party unit's chair and at least one other executive member must approve and sign the reporting from the party or party unit. As mentioned above, this will apply to all party units that are subject to section 18(1), including those that submit simplified reports pursuant to section 18(3). It is important that the party unit itself ensures that such approval is made in time to comply with the reporting deadline. We refer to the general comments in section 7.2.3.

The assumption that the auditing obligation does not apply to other units than the party's head organisation is retained and is stipulated in section 21a(1) second sentence of the Bill.

In order to improve security around the reporting process and to simplify data collection for Statistics Norway, we propose that an obligation be introduced to authorise at least one person each year be the contact person for Statistics Norway. The person can be the party or party unit's chair. Necessary personal data such as national identity numbers are a prerequisite for the use of the electronic signature solution in ALTINN. The verification and collection of personal data must still take place between the

party's central unit (the "party's head organisation") and Statistics Norway. We do not envision that Statistics Norway will contact each party unit directly to confirm the information. We presume that exceptions can be made for access to national identity numbers and numbers with an equivalent function pursuant to section 26(5) of the Public Administration Act. As mentioned in the general comments in section 7.4.1, violations of the obligation to appoint and provide information about a contact person will not be covered by the sanctions in chapter 6.

Comments to a new section 21a

This provision is new, and is created to achieve a better structure and system in the Act. The content has changed from the consultation memorandum, in part to take the Norwegian Institute of Public Accountants' comments into account. The provision does not introduce anything new compared to the current section 21(3) about who is required to use an auditor. According to the current Act, all head organisations are required to use an auditor. Other party organisations or party units are not required to have their annual report "approved by an auditor".

The Ministry notes that the current Political Parties Act is unclear in terms of the authorisation requirements for the person who audits the accounts of a political party. The statutory auditing obligation in section 2-1 of the Auditing Act includes a requirement to use a state authorised or registered auditor.

In order to take the Ministry of Finance's comments and proposals into account, it is necessary to clarify what the role of the auditor is and which frameworks are to apply to the auditing assignment. In addition to the general auditing requirement in the Accounting Act, the Bill specifies that an auditor's declaration must be provided for all issues subject to reporting obligations pursuant to chapter 4 of the Act. The requirement in the current Act that the auditor must approve "reports" does not make sense, in part because the transfer of data to Statistics Norway in many cases is done electronically (by typing). In the Ministry's proposal, the issues that form the basis for the reporting will be covered by the auditing assignment; in other words, the accounts pursuant to section 18(1), in addition to the documentation and registrations associated with other statutory reporting obligations. There is no requirement for a separate auditor's report (apart from the annual report) for election campaign contributions pursuant to section 18(4). Further, there is no requirement that the annual auditor's report must be submitted to Statistics Norway.

The second sentence of the third subsection of the provision has changed compared to the consultation memorandum in order to take the comments from the parties in the Storting into account. We refer to the general comments in section 5.4.6 about who is covered by the prohibition.

Comments to section 22(2)

The provision corresponds to the current Act, but has been updated in line with the Bill. It is necessary to define more closely that the duties of the central register for the regime (i.e. Statistics Norway) be extended under the Act.

Comments to a new section 22a

For technical legal reasons, the Ministry recognises a need to move the authority to issue regulations in the current section 22(3) to a separate section on regulations, as is done in chapters 2, 3 and 5.

There is also a requirement to include an extended legal authority in regulations to further regulate relevant accounting principles and valuation rules based on the rules of the Accounting Act and relevant standards of the Norwegian Accounting Standards Board. It is also necessary to issue more detailed rules about the definition of donations and services and the use of an auditor, in part to provide more extensive regulations about the prohibition on membership in the party for the auditor. Further, it is necessary to stipulate more detailed rules about how repayment, valuation and the transfer of illegal contributions to the public purse is to take place; see the comments in section 7.7.3.

With regard to the authority in the second subsection, we refer to the discussion in section 6.2.3.

Comments to section 23

The changes to the heading and the text of the law is editorial, in that section 21(2) last sentence has been moved to this section in order for the Act to be more systematised. From a technical legal perspective, the obligations should be located in different subsections. A specification is made that "anyone" has a right of access, which corresponds to the assumptions in the current Act; see Proposition to the Odelsting no. 84 (2004-2005) page 21.

Comments to section 24

Several aspects of the proposal have been changed from the proposals in the consultation memorandum; see the general comments in section 5.5.6. To conform better to the Committee on Sanctions' recommendations, "shall" is replaced in the text of the Act by "given the authority to". The Ministry believes that the current phrasing "the relevant regulations" in subsection two litra a is too imprecise. The Ministry assumes that the Political Parties Act Committee's interpretation of the Political Parties Act's provision will also apply to regulations issued in accordance with the Act, but nevertheless not in relation to regulations or guidelines about accounting and bookkeeping principles. In these instances, the Political Parties Act Committee's interpretations will only provide guidance. This corresponds to the way the Act is currently practised and accommodates the comments from the consultative bodies.

In the seventh subsection, we propose to introduce a regulation regarding the duty of confidentiality that will apply to everyone who performs services or work for the Political Parties Act Committee or the Party Auditing Committee. The need for a special provision on the duty of confidentiality must be viewed in the context of the extensive supervisory authority related to funding and issues subject to reporting obligations that follow from the first and second subsection of the section, and that the system must not lead to sensitive information about the parties being accessed by unauthorised

persons. We also refer to the general comments in section 5.5.6 under the section on "About the duty of confidentiality and role conflicts between guidance and control".

Comments to section 25

In some situations there may be a need to temporarily extend the appointment until a new Political Parties Act Committee can be appointed. To ensure that important areas of the law are enforced during such an intermediary phase, the Ministry should have the authority to extend the mandate of the existing committee until a new committee can be appointed. Further, the Ministry sees a need for the rule in section 20 of the Political Parties Act Regulations about the reappointment of the members of the Committee to be incorporated into section 25(2) last sentence. We also refer to the general comments in section 5.5.6.

Comments to section 27

The proposal is retained unchanged from the consultation memorandum. It is necessary to clarify further the fact that the Ministry's competency to issue regulations also includes the composition of the Committee to ensure that considerations of gender, geography and different party political backgrounds are fulfilled. The proposal covers how the Act is currently understood and practised. It is necessary to have a corresponding regulatory provision for the Party Auditing Committee. We also refer to the discussion about the regulatory authority in section 5.5.6.

Comments to a new section 28

The proposal has been changed slightly from the consultation memorandum in order to take the comments from the consultative bodies into account. As required by GRECO's recommendation and Article 16 of the Committee of Minister's recommendation 2003/4, the sanctions must be "effective, proportionate and dissuasive". A similar general principle for sanctions can also be found in EU/EEA law, without it having been common to incorporate these in the text of the act that implements the international obligations. Though the phrase is not incorporated into the text of the Act, it signals the types of considerations sanctions must be based on. See also section 5.6.6. under the heading "About a varied sanction system and the danger of unequal treatment"

The court's right of review pursuant to the second subsection will nevertheless not apply to the "can" discretionary power.

The limitation period is five years.

Comments to a new section 29

The authority of the Political Parties Act Committee pursuant to section 29 must be seen in the context of section 17a(4). Administrative confiscations pursuant to section 29(1) will only be relevant where the party has received an illegal contribution and where the return to the donor or the obligation to transfer the entire donation to the public purse has not been completed by the proposed four-week deadline. In addition to section 5.6.6, we refer to section 7.7.3 in the general comments.

Comments to a new section 30

Changes have been made from the proposal in the consultation memorandum with regard to the specification of mens rea in that gross negligence can also be penalised. The maximum penalty is proposed set at two years (compared to four months in the consultation memorandum). The limitation period is five years. We refer to the general comments in section 5.6.6.

Comments to a new section 31

We aim for the Act to come into force on 1 January 2013.

The Ministry of Government Administration, Reform and Church Affairs

recommends:

That Your Majesty approves and signs the presented proposal for a Proposition to the Storting regarding amendments to the Political Parties Act.

We HARALD, King of Norway,

confirm:

Stortinget is asked to make a decision on amendments to the Political Parties Act in accordance with the enclosed proposal.

Proposal for amendments to the Political Parties Act

I

In Act 2005-06-17 no. 102 Act on certain aspects relating to the political parties the following amendments will be made:

Section 1(3) shall read as follows:

(3) The Act applies to the head organisations of all political parties, their central youth organisation, county organisation, county youth organisation and municipal organisation. The groups in the Storting, county councils and municipal councils are not included in the Act. Chapter 3 and 4 apply to parties that are registered in accordance with chapter 2.

The new section 11(5) shall read as follows:

(5) Before a public grant can be paid, the applicant must provide the Ministry with information about which bank account the payment is to be made to and who are authorised to access the account. A confirmation must be submitted at least once a year.

The new section 12(6) shall read as follows:

(6) Before a public grant can be paid, the applicant must provide the County Governor with information about which bank account the payment is to be made to, the name of the account holder and who are authorised to access the account. A confirmation must be submitted at least once a year.

The new section 13(5) shall read as follows:

(5) Before a public grant can be paid, the applicant must provide the County Governor with information about which bank account the payment is to be made to, the name of the account holder and who are authorised to access the account. A confirmation must be submitted at least once a year.

The heading of chapter 4 shall read as follows:

Chapter 4. Funds from others. Accounting, bookkeeping and reporting. Publication

Section 17 shall read as follows:

Section 17 The right to receive donations

Anyone is permitted to donate to political parties and *party units* within the limitations that follow from *section 17a*.

The new section 17a shall read as follows:

Section 17a Prohibition on receiving donations from certain donors. Special obligations associated with illegal donations

(1) Political parties and *party units* cannot receive donations if the donor is unknown to the party (anonymous donations).

(2) Political parties and *party units* cannot receive donations from:

- a) legal entities controlled by the state or another public authority,
- b) foreign donors, which means private persons who are not Norwegian citizens or who do not fulfil the criteria for voter eligibility for municipal and county elections, cf. section 2-2 of the Election Act, or legal entities registered abroad.

(3) In this *section* donation refers to any form of support.

(4) Illegal donations must be repaid to the donor within four weeks of having been received. Donations that cannot be repaid to the donor must be transferred to the public purse within the same deadline.

(5) All political parties and party units are required to report any donation pursuant to this section that has not been repaid to the donor or transferred to the public purse by the deadline in the fourth subsection. The rules in section 19(1) and 19(2) and section 20(5) apply correspondingly. Such reports must be submitted at the latest five months after the end of the accounting year.

Section 18 shall read as follows:

Section 18 Obligation to keep accounts, bookkeeping obligation, reporting obligation, etc.

(1) All political parties and *party units* mentioned in section 1(3) second sentence have a statutory obligation to keep accounts pursuant to this Act and to regulations issued on the basis of this Act.

(2) Parties and *party units* mentioned in the first subsection must submit annual reports about income and expenditures in the period from 1 January to 31 December, as well as of assets and liabilities as at 31 December. The report must at the latest be submitted five months after the end of the accounting year.

(3) Political parties or units of political parties whose total income during the year is less than 12,000 kroner after the deduction of all public grants are exempted from the obligation to *keep accounts, the bookkeeping obligation and the reporting obligation in the first and second subsection*. These parties are obliged to submit a declaration (*simplified report*) that their income for the year has been below this level. *The same provisions of the Act also apply to such declarations as to reports pursuant to the second subsection.*

(4) *In election years, all parties and party units are required to submit separate reports for donations above 10,000 kroner received in the period from 1 January and up to and including the Friday prior to the date of the election. The report must be submitted within four weeks of the donation having been received. Donations that were received later than four weeks before the expiry of the period in which the reporting obligation in the first sentence applies, must be reported by the end of the Friday prior to the date of the election.*

(5) Reports *pursuant to this section* must be submitted to the central register for the system.

The new section 18a shall read as follows:

Section 18a *Obligation to register and accounting system requirement*

(1) *Any transaction or disposition that affects the composition and size of the party or party unit's income, costs, liabilities or assets, must be registered in an accounting system. The information must be recorded and specified in a correct and accurate manner and in such a way that it can be reconstructed afterwards.*

(2) *The accounting system must be organised in a proper and clear manner and in a way that enables reporting to the central register for the system and verification of the information submitted.*

The new section 18b shall read as follows:

Section 18b *Documentation and storage of accounting materials*

(1) *Documentation, specifications and other accounting materials must be stored for at least five years. Storage must be in a form that retains the option to read the material.*

(2) *The storage obligation for party units subject to accounting and reporting obligations that are closed down is transferred to the closest party or party unit in the party hierarchy.*

(3) *Materials subject to a storage obligation must be properly safeguarded against unauthorised changes, deletion or loss.*

Sections 19(4) and the (new) 19(5) shall read as follows:

(4) Donations other than monetary donations must be valued at their market value.

(5) Donations other than monetary donations valued below the threshold values in section 20(1) can be exempted from the reporting obligation.

Section 20 shall read as follows:

Section 20. Identification of donations, donors and sponsors. Declaration about agreements

(1) If during the period a donor has made one or more donations to the party's head organisation to a total value of 35 000 kroner or more, the value of the donation and the identity of the donor shall be reported separately. This also applies to donations to party units at the county council level to a total value of 23 000 kroner or more, and to donations to party units at the municipal level to a total value of 12 000 kroner or more. Donations to the parties' youth organisations are governed by the rules for donations to the parent party at a corresponding level.

(2) If political or business agreements have been made with any donors, a declaration about this must be included in the report. The declaration requirement applies to any agreement, independently of the threshold values in the first subsection. The identity of the donor must be listed in accordance with the fifth subsection.

(3) A declaration must be made about sponsorship agreements if the value of the benefit(s) from those with whom the agreement has been entered exceeds the threshold values in the first subsection. The identity of the sponsor must be listed in accordance with the fifth subsection.

(4) Donations to organisations or units that are directly or indirectly controlled by or otherwise affiliated with a party or party unit mentioned in section 1(3) must be listed separately in the affiliated party unit's report if the total value exceeds the threshold values in the first subsection. The identity of the donor must be listed in accordance with the fifth subsection.

(5) Private individuals shall be identified by name and the municipality in which they live. Other donors, creditors or sponsors shall be identified by name and postal address.

The new section 20a shall read as follows:

Section 20a Costs that must be reported

(1) The report must contain a complete overview of the costs the party or party unit has incurred during the period.

(2) The costs must be categorised as follows:

Costs according to type

- a) Salary costs*
- b) Cost of goods*
- c) Costs of purchasing services*
- d) Finance charges*

Costs according to activity

- e) Administrative costs*
- f) Costs related to party activities*
- g) Election campaign costs*
 - i. marketing costs*
 - ii. other costs*

(3) Transfers to other party units must be specified in a note.

The new section 20b shall read as follows:

Section 20b Balance sheet figures that must be reported

(1) The party or party unit must provide complete information about assets divided by fixed and current assets as well as short- and long-term liabilities.

(2) The identity of the creditor and the amount of the loan must be listed separately if the value of the loan agreement exceeds the threshold value in section 20(1). Section 20(5) applies in a corresponding manner.

Section 21 shall read as follows:

Section 21 Declarations, signature and contact persons

(1) Reports, including declarations under section 18(2) and 18(3), shall contain a declaration that the party or the party unit has had no income, costs, liabilities, or assets that deviate from those reported.

(2) Reports shall be signed by the party or party unit's chair and at least one other member of the executive.

(3) The party or party units must at least once a year provide the central register for the system with information about who has been appointed contact person. The information must be confirmed by the party's head organisation.

The new section 21a shall read as follows:

Section 21a Auditing obligation. Special provisions on the audit of political parties.

(1) The party's head organisation has an audit obligation pursuant to the Auditors Act section 2-1. The exceptions in section 2-1(2) of the Auditors Act do not apply. Other party units mentioned in section 1(3) second sentence are not subject to audit obligations according to this Act.

(2) In addition to the accounts, an annual auditor's declaration must be provided about all issues subject to reporting obligations pursuant to chapter 4 of this Act.

(3) The person who audits and approves the accounts of a political party pursuant to the first subsection cannot at the same time be a member of the party or have had a total period of assignment in the party that exceeds eight years. For audit firms, this only applies to the person who is appointed as the statutory auditor.

(4) The rules on the duty of confidentiality in section 6-1 of the Auditors Act do not prevent the auditor from giving information about the party's accounting dispositions to the Political Parties Act Committee and the Party Auditing Committee.

(5) In other respects the provisions of the Auditors Act apply.

Section 22(2) shall read as follows:

(2) The central register shall collate the information concerning the party and party unit's reports and make this available to the public in an appropriate manner, for example by electronic means. The register shall send an overview to the Political Parties Act Committee and to the Ministry of any parties or party units that have failed to comply with the requirement to report within the time limit.

Section 22(3) will be repealed.

The new section 22a shall read as follows:

Section 22a Regulations

(1) Further rules on accounting and bookkeeping, definitions of donations and performances, the use of auditors, repayment, valuation and transfers of illegal donations to the public purse, the method of reporting and the organisation of the central register will be set by the Ministry in regulations.

(2) The Ministry can set rules in regulations so that the reporting system wholly or partially also includes the funding of the election campaigns of candidates who represent political parties or party units and who win representation to elected bodies. Reporting is done as part of the party or party unit's annual reporting pursuant to this Act.

Section 23 shall read as follows:

Section 23 *Transparency of party accounts and agreements with donors*

(1) Parties or party units comprised by this Act are obliged on request to allow *anyone* to inspect the accounts that have been prepared for the previous year.

(2) The party or party unit are obliged on request to allow *anyone* to inspect agreements entered with donors.

The heading of chapter 5 shall read as follows:

Chapter 5 *Committee for the control of party funding, appeals processing, etc.*

The heading of section 24 shall read as follows:

Section 24 *Committee for the control of party funding and appeals processing*

Section 24(2) to 24(7) shall read as follows:

- (2) The Political Parties Act Committee *is granted the authority to:*
- a) interpret the rules in this Act *and in regulations issued on the basis of this Act*
 - b) *control compliance with the funding provisions of this Act*
 - c) *make decisions about the use of administrative sanctions and confiscations*
 - d) *make decisions on appeals regarding registration, cf. section 8*
 - e) *make decisions on appeals of decisions on the awarding of public grants, cf. section 15*

(3) *The Political Parties Act Committee can demand that the party or party unit presents all documentation that is significant for compliance with the obligations in chapter 4 of this Act and that the Committee finds reason to examine specially.*

(4) *If the Political Parties Act Committee finds it necessary, the party or party unit's compliance with its duties in chapter 4 can be controlled. This control is carried out by a specially appointed supervisory body, the Party Auditing Committee. The Party Auditing Committee can demand that the party or party unit presents all documentation that is significant to the aforementioned issue. Issues related to auditing activities that the Party Auditing Committee believes may violate the Auditors Act or section 21a of this Act, must be reported to the Financial Supervisory Authority of Norway.*

(5) *In years other than election years, the Party Auditing Committee must, on request from the Political Parties Act Committee, conduct routine controls of the compliance of parties or party units subject to reporting obligations with the obligations in chapter 4. The control must be politically neutral*

and cannot include areas that touch on the party or party unit's independence or political freedom of action. The Party Auditing Committee must guide the party or party unit in its understanding of the obligations in chapter 4.

(6) Section 6-1 of the Auditors Act about the duty of confidentiality does not prevent the Party Auditing Committee from presenting information relevant to compliance with this Act or with sections 276a to 276c of the General Civil Penal Code (1902) to the Political Parties Act Committee.

(7) Anyone who performs services or work for the Political Parties Act Committee or the Party Auditing Committee is required to prevent others from gaining access to, or knowledge of, the knowledge they gain about internal party issues as a result of their service or work. Section 13a(1) nos. 1 to 3 and section 13b(1) no. 2 to 6 of the Public Administration Act nevertheless applies.

Section 25 shall read as follows:

Section 25 Appointment of the Political Parties Act Committee. *Composition*

(1) The members of the Political Parties Act Committee are appointed by the King in Council for six years at the time. Towards the end of the period, the Ministry may extend the mandate until a new Committee can be appointed.

(2) The Political Parties Act Committee must have at least five members. The chair must have the qualifications required of a judge. The members of the Committee may be reappointed.

Section 27 shall read as follows:

Section 27 *Regulations*

The Ministry may through regulations issue more detailed rules concerning the activity *and composition* of the Committee. The Ministry may also issue regulations concerning the opportunity to appeal the Committee's decisions in cases concerning inspection of documents pursuant to the Public Administration Act and the Freedom of Information Act and the costs of bringing cases under section 36 of the Public Administration Act. *The Ministry may in regulations issue corresponding provisions about the Party Auditing Committee.*

The new chapter 6 with sections 28 to 30 shall read as follows:

Chapter 6 Administrative sanctions, confiscations and penalties

Section 28 *Administrative sanctions*

(1) In the event of violations of the rules in chapter 4, the Political Parties Act Committee determines by how much the party's public grant is to be reduced. A first violation of limited scope can be sanctioned by a formal warning. In determining the amount by which the grant is to be reduced, emphasis should be placed on how large a grant the party or party unit may apply for in the relevant year, and the severity and duration of the violation, among other things. The Ministry can issue further rules about the reduction in regulations.

(2) The courts can review all aspects of the Political Parties Act Committee's decision pursuant to this section.

Section 29 Confiscation

(1) For violations of the provisions in section 17a, first to fourth subsection, the Political Parties Act Committee shall make a decision on the confiscation of up to the full value of the donation that has been received illegally.

(2) Section 28(2) applies in a corresponding manner.

Section 30 Penalty

(1) Whoever intentionally or by gross negligence gives materially incorrect information in connection with the reporting obligation in chapter 4 will be penalised by fines or imprisonment for up to two years.

(2) Whoever intentionally or by gross negligence is guilty of significant or repeat violations of the provisions in section 17a will be penalised by fines or imprisonment for up to two years.

The current chapter 6 will become chapter 7.

The current section 28 will become section 31.

II

The Act comes into force from the date set by the King. The Ministry may issue transitional rules.
