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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**SUMMARY OF THE REPLIES ON THE QUESTIONNAIRE  
ON THE ESTABLISHMENT, ORGANISATION  
AND ACTIVITIES OF POLITICAL PARTIES**

prepared by

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This summary has been prepared from the replies to the Questionnaire on Establishment, Organisation and Activities of Political Parties, which was adopted by the Sub-Commission on Democratic Institutions (Venice, 13 March 2003, CDL-DEM (2003) 1rev). The questionnaire is a follow-up to a similar document, which was sent out earlier, as part of preparations for the adoption of Guidelines and Report on the Financing of Political Parties (Venice, 9–10 March 2001, CDL-INF (2001) 8).

This time 41 countries responded. They are listed here in alphabetical order:

Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Estonia, Finland, Georgia, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, The Netherlands, Poland, Romania, Russia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and The United Kingdom.

The replies to the questionnaire differed considerably both in volume and in their degree of detail. It is obvious, that some questions touched upon complex matters, which were not easy to deal with in brief answers to a questionnaire. And it is also obvious that answers not always could be given on legal grounds only, but had to take into account the political framework.

It is not possible to describe in detail all the solutions to the many problems, which are reported in the replies. At this stage only a few countries will be cited in this summary of the national replies as examples of the points which we will try to make. As was the case with the earlier project on financing of political parties, the aim of this project is merely to identify and explain major general principles – if any – which have been adopted by the different countries, to highlight the implications of applying those principles, and to bring to the fore the similarities and differences between solutions, with the aim of possibly suggesting improvements that might be made, here or there, to ensure that the functioning of political parties in the future gives rise to fewer difficulties, and possibly even fewer abuses.

It has been said many times before that political parties are absolutely essential to all democracies. The core part of their activities is to make democracy work – to work with politics and to do that within the framework of the constitution and the political, historical and social experience of the country. But parties are organisations – many of them very large – which have to function in everyday matters, too, and therefore to a large extent have to use standard legal instruments and procedures which generally are used to handle these matters, but may not be drafted for that purpose.

## ***1. General***

### **1.1 Are there any constitutional, statutory or other legal provisions on political parties or on private associations with political goals?**

Almost all responding countries protect and regulate core activities of political parties by means of constitutional provisions concerning the classical freedoms of assembly and opinion. Many countries explicitly recognise in constitutional documents political parties as associations with a special mandate (*Germany* and *Hungary*: participation in the forming of the political will of the people; *Spain*: fundamental instruments for political participation) or for a special purpose (*Sweden*, participation in elections; *Greece*: to serve the free functioning of democratic government; *Italy*: with the aim of concurring through democratic means to the formation of the national policy). Some states, however, do not at all mention political parties in their constitutions as for example *Austria*, *Ireland* and *Japan*.

Constitutional provisions – if any – give only basic guidance concerning everyday activities of political parties. More detailed provisions are reported to be found elsewhere, usually in other statutory provisions, i.e. organic laws, ordinary legislation, ordinances etc. The character and contents of these provisions varies considerably.

Very detailed legislation on political parties regulating a plethora of both external and internal matters can be found for example in *Ukraine*.

The opposite position – very little regulation of political parties – can also be found. In *Sweden* legislation has been avoided as far as possible and as a matter of principle; the constitutional protection of the freedoms of association and opinion has been interpreted as so far reaching that any additional legislation could lead to infringements of these freedoms. *Belgium* and *Ireland* apparently also avoid legislation, and similar reluctance – at least in the past – can be found in the *United Kingdom*. All these countries, however, have enacted basic rules for the participation of political parties in elections and for the financing of political parties and election expenditure.

Most countries, however, have enacted solutions somewhere in between the positions of very detailed regulation on the one hand and strong reluctance to legislate on the other.

## **1.2 To which extent is the law on private associations applicable to political parties?**

It is well known, that the constitutional history of the freedoms of association and opinion has been closely connected to the development of private law provisions on associations. For these associations European civil law legislation of the late 19th and early 20th century usually offered status of legal person and a comprehensive civil law framework similar to company law, but access to this status and application of these civil law rules required registration and to some extent publicity of basic information concerning the legal situation of the association. The latter could and should facilitate public control. For associations with political ambitions the possibility of public control brought with it the potential danger of restrictions and infringements of the fundamental freedoms of association and opinion. Political parties all over Europe have therefore been reluctant to accept the trade-off – clarification of legal status against acceptance of public control – which has been and is still essential for the straightforward and full applicability of the law on private associations in many European jurisdictions. To meet the obviously justified demands of political parties, however, a general pattern evolved in Europe either to modify application of the traditional law on private associations, when political parties were in question, or to enact separate legislation aimed only at them. The replies to the questionnaire offer a good overview of current solutions. The law on private associations may for example be applicable as far as legislation on political parties does not provide otherwise (*Estonia*), if the law on political parties does not regulate the issue (*Finland*) or to the extent that its provisions are not contrary to those of the law on political parties (*Turkey*). But a large number of countries explicitly do not apply at all the law on private association to political parties; *Albania*, *Macedonia*, *Russia*, the *Slovak Republic* and *Sweden* may be mentioned as examples.

## **1.3 Is there a definition of the term “political party” in a constitutional, statutory or other normative text or has it been defined in the case-law of the courts?**

Political parties are essential elements of the parliamentary systems of all responding states, but not all of them define the term “political party” in any normative text; there are, for example, no definitions in *Andorra*, *Austria*, *Bulgaria*, the *Czech Republic* and the

*Netherlands*. In other states there are definitions, but these definitions vary considerably: *Ireland*, for example, defines the term for the purposes of electoral legislation “as a party registered in the register of political parties in accordance with” the applicable legislation and Poland defines it as “a voluntary organisation acting under a specific name, aiming at participation in public life through influencing by democratic means the shape of state policy or the exercise of public power”. In one of its constitutional documents *Sweden* defines a political party as “any association or group of voters which puts itself forward in an election under a particular designation”. *Slovenia* defines the term as “an association of male and female citizens, who realize their political goals, adopted in the party’s program, by democratic formation of the political will of the citizens and by nominating male and female candidates on parliamentary, presidential and local elections”. *Russia* and *Ukraine* use even more elements in their definitions, but it is difficult to assess, why these complex definitions are necessary. The more elaborate the definition is, the greater the danger will be to lose the status of political party and the special constitutional protection of provisions on fundamental freedoms of opinion and association, if there is lack of compliance with one single element of the definition.

#### **1.4 Does the law distinguish between political parties on the local, the regional and the national level?**

The majority of responding countries do not distinguish between political parties on different levels of government, no matter whether the governmental system of the country is unitary, federal or other; *Austria, Greece, Finland, Italy, Japan, Luxembourg, Malta* and *Spain* may be mentioned as examples. There are exceptions, however. *Canada* distinguishes between political parties on the federal and on the provincial level. *Georgia* prohibits explicitly establishment of political parties on the grounds of regional or territorial basis. *Germany* does not include political activities on the local level as aiming at taking part in the forming of the will in the representation of the people, i.e. the *whole* of the people; associations which are politically active on the local level only, therefore, do not fall within the concept of political party in the sense of the Constitution and the German legislation on political parties.

#### **1.5 Is: a) the participation in elections; b) or are other political activities reserved to recognised political parties?**

Participation in elections is at the heart of the activities of political parties. By participating in elections parties can get acceptance of and support for their program and confirmation of their political efforts. Some countries have established monopolies in the participation in elections of political parties as is the case, for example, in *Albania, Bulgaria, Croatia, Latvia, Lithuania, the Slovak Republic* and *Sweden*. In *Germany* it is explicitly said that there is no monopoly in the participation in elections for political parties, other organisations and single candidates have to be treated equally in electoral matters. The *Netherlands* and *Slovenia* have similar provisions, and neither are there established monopolies, for example, in *Andorra, Austria, Belgium, Cyprus, Liechtenstein, Romania, Switzerland, Turkey* and the *United Kingdom*. Some countries restrict participation in elections in ways other than by establishing a monopoly for political parties. In *Bosnia and Herzegovina*, for example, the participation in elections is reserved for the political parties, independent candidates, coalitions and groups of independent candidates, and in *Latvia* lists of candidates may be submitted only by a legally registered political organisation (party), jointly by two or more legally registered political

organisations (parties) or by a legally registered association of political organisations (parties).

There appears to be no established monopoly when it comes to other political activities. However, associations other than political parties might get no or only limited support for political activities. In *Ukraine*, for example, only political parties, not other entities, “have a right to ... use state-controlled media and set up their own media as provided by the laws of Ukraine.” And in almost all countries public funds for support of political activities seem to be available to political parties only.

## **2. Establishment**

All member countries or observers co-operating in the framework of the Venice Commission agree on the fact that political parties are essential in a democratic society. The right of an individual or a group of individuals to create an association with an aim to participate in political life of the country is an integral part of human rights list protected by the European Convention of Human Rights (ECHR), the UN Convent on Civil and Political Rights of 1966 and other international instruments to which most States, that have provided answers to the Venice Commission questionnaire, are Parties.

However, every State has adopted its own approach as to what extent it interferes with the existence of political associations or regulates this right to create a political formation. This attitude towards political parties ranges from a formal recognition in Constitution of political parties as specific type of association to a full non-interference, i.e. when no legislative norm relates to parties directly.

### **2.1 Are there any constitutional, statutory or other legal provisions on the establishment of political parties?**

All countries can be divided in two major groups. The first group recognises political parties on constitutional or legislative level. The second one either deals with parties in the framework of a general legislation on associations or does not foresee any regulation of such unions at all.

Within the first group one can distinguish two types of regulations:

- a) Some States recognise parties already on constitutional level (*Albania* (art. 9), *Azerbaijan* (art. 58), *Bulgaria*, *Croatia*, *Cyprus* (art. 21), *Georgia*, *Greece* (art. 29 para.1), *Lithuania*, *Poland*, *Russia* and *Slovakia*).
- b) Countries like *Armenia*, *Austria*, *Czech Republic*, *Estonia*, *Germany*, *Latvia*, *the Former Yugoslav Republic of Macedonia*, *Romania*, *Spain* and *the United Kingdom* regulate political parties through ordinary legislation.

Other countries do not give to political parties any specific definition in their legislation. They either consider them as any other association (*Belgium*, *France*, *Finland* and *the*

*Netherlands*), or they do not give to them any legal definition at all (*Ireland, Italy<sup>1</sup>, Sweden or Switzerland*).

## **2.2 What are the substantive and procedural requirements to establish a political party**

A number of countries have a specific legal framework for the activities of political parties and their establishment.

- in general**
- concerning its political programme**
- concerning founding members or concerning other individuals, who in some way have to support the establishment (and their number, citizenship, geographical distribution etc.)**

Some countries impose on political parties an obligation to go through a registration process. Almost all countries mentioned in the first group in paragraph 2.1 have to go through a registration process or at least through deposition of their articles of association with the competent authorities of their country. This process is justified by the need of formal recognition of an association as a political party. Some of these additional requirements can differ from one country to another:

- a) convocation of the assembly on the establishment of the party (*Albania, Armenia, Azerbaijan, Bosnia and Herzegovina and Romania*);
- b) establishing articles of association/charter (*Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, Czech Republic, Estonia, Lithuania and Romania*);
- c) drafting of a programme (*Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Canada, Croatia, Czech Republic, Estonia, Germany, Latvia, Lithuania, Romania and Slovakia*);
- d) minimum membership (*Azerbaijan, Bosnia and Herzegovina, Canada, Croatia, Czech Republic, Estonia, Georgia, Germany, Greece, Kyrgyzstan, Latvia, Lithuania, Russian Federation, Slovakia and Turkey*);
- e) election of the board/presidency/permanent committee (*Albania, Armenia, Croatia, Cyprus, Romania and United Kingdom*);
- f) permanent address of its offices/leaders (*Armenia, Azerbaijan, Canada, Croatia, Cyprus, Romania, Russian Federation and United Kingdom*);
- g) principles of internal organisation (*Czech Republic, Germany, Lithuania, Poland, Romania, Russian Federation, Spain and Turkey*);
- h) payment of the registration fee (*Armenia and Azerbaijan*);
- i) signatures attesting certain territorial representation (*Moldova, Russian Federation, Turkey and Ukraine*); and

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<sup>1</sup> Italy does not regulate the status of political parties. However, there is only a limitation provided for by the XII Transitory and Final Provision of the Constitution, which forbids the re-organisation of the dissolved Fascist party, whichever shape it might take.

- j) publication of information on the establishment of the party in mass media (*Austria*).

After these requirements are met, a competent body (Ministry of Justice, for example) proceeds with official registration. In the case of such countries as, for example, *Austria* and *Spain*, the Charter (articles of association) are just submitted to the competent authority in order to be added to a special State register.

### **2.3 Are there legally defined limits for what may be legally acceptable as a political programme of a political party.**

Most countries included in this survey have very general limitations as to the programme of political parties. A general rule applied is that no party aiming at changing a constitutional order by violent means is tolerated. Paramilitary formations are forbidden as well. A number of countries explicitly forbid parties based on racial, ethnic and religious discrimination (for example, *Albania, Austria, Germany*). However the margin of appreciation differs from country to country.

In some States like *Austria, Germany* and *Italy* there is a formal prohibition to establish parties whose programmes include national-socialist or fascist ideology. Other countries like the *Czech Republic, Lithuania* and *Poland* do not tolerate programmes, which can be perceived as advancing “legal continuity with totalitarian regimes”.

Another trend consists in prohibiting parties and unions «concerned in terrorism» (*Spain, Turkey* and *the United Kingdom*).

### **2.4 When is a political party recognised as such “is registration required for recognition” and, if the latter is the case, under which conditions is registration granted?**

Most countries consider registration as a necessary step for recognition of an association as a political formation. However, some countries, as it has been already mentioned, consider that State registration is a pure formality. For example, in *Austria*, the Ministry of the Interior cannot refuse the deposition or a registration of the Charter of a party.

There is an other criteria of distinction as to the status given to a party. In some countries registration of such associations is required in order to give a full legal personality to such association. If such registration is not carried out, a party cannot have bank accounts, receive founding from public funds or hold property (*Azerbaijan, Croatia, Georgia* and *Ukraine*).

Certain States have a stricter rule as to the registration process. For example, in *Moldova*, current legislation on political parties imposes a duty on political parties to provide the Ministry of Justice with its membership lists every year for having its registration re-effected<sup>2</sup>.

Other countries, like *Ireland*, give political parties a possibility to be registered if they wish to do so. This serves the only purpose of being included on the ballot paper on the election day as member of a certain party. A similar practice exists in Japan where the Central Election Committee can register a party and since 2003 in *Switzerland* a political party can be registered at the Federal chancellery if it wishes to do so.

## **2.5 If registration is required:**

- a) Which authority conducts the registration procedure, and which rules govern the registration procedure?**
  - b) Is there a legal remedy, if recognition or registration is denied? Is there any recourse to a court of law?**
  - c) Are there any restrictions on the activities of the party pending its registration?**
- a) In countries where registration of political parties is required mostly three types of State authorities deal with this issue. This task falls either to the Ministry of Justice (for example, in *the Russian Federation, Moldova, Ukraine*), Ministry of the Interior (for example, in *Austria, Czech Republic, Slovakia*) or bodies of the Judiciary (*Albania, Poland, Romania*). Some countries have a more complex procedure, involving several state authorities. In *Turkey* the procedure consists of two stages: the party registration is carried out by the Chief Public Prosecutor of the Court of Cassation, who transmits certain documents to the Ministry of the Interior. In the case of *Japan*, since notification is needed only when public funds are involved, it is addressed either to the Minister of Public Management, Home Affairs or to another appropriate body.
  - b) Generally, any party can appeal to a correspondent court if registration is denied. Depending on the country it can be an ordinary court (*Albania, Cyprus, Czech Republic, Turkey*) or the Constitutional court (*Croatia*). In the case of *Ireland* there is a choice between the special appeal board and the High Court.
  - c) Most countries where parties have to be recognised as such through an official registration, they cannot otherwise act as political parties or associations in general (*Armenia, Azerbaijan, Croatia, Georgia, Greece, Romania*). Countries where the fact of registration is a formality or does not exist, certain restrictions can be observed only for the electoral campaign (like, for example, in *Canada or Sweden*).

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<sup>2</sup> The Venice Commission has not received a reply on its questionnaire from Moldova. This information was received during the work on the opinion on the law on political parties of Moldova in 2003 (CDL-AD (2003) 08).



### 3. *Organisation*

#### 3.1 **Are there any constitutional, legislative or regulatory texts on the organisation of political parties?**

A number of countries have enacted legislation, which to some extent covers the organisation of political parties; there are reports of legislation for example in *Albania, Germany, the Slovak Republic* and *Turkey*. But there are also remarkable examples of the opposite position. It has already been mentioned that *Belgium, Ireland, Sweden* and the *United Kingdom* have been reluctant to legislate on political parties. The reports concerning these countries mention no constitutional, legislative or regulatory texts on organisational matters at all; it appears that the organisation of parties is a matter entirely for the parties themselves to decide upon and that the basic texts can be found in the party statutes or comparable statutes alone; the situation appears to be similar in – among other countries – *Canada, Liechtenstein, Luxembourg, Malta* and the *Netherlands*.

#### – **Who can be a member?**

To decide on membership seems to be a matter for the political party alone in all countries, and in principle everyone can become a member. *Georgia* prohibits expressly any restriction on the grounds of race, skin color, language, sex, religion, national, ethnic and social origin, property, title of nobility or place of residence. Some explicit restrictions apply however in a number of countries.

For example in the *Czech Republic* and *Germany* only natural persons – not legal persons – can be members of political parties.

Many countries have legislation on a minimum age for membership – for example 18 years for full membership in *Canada, the Czech Republic, Estonia, Macedonia, Poland, Russia* and *Turkey*. But membership in youth organisations may start earlier, in *Spain*, for example, if the person is over 14 years of age, in *Germany* 16 years or older.

One remarkable requirement – sex – is reported from the *Netherlands*: One Dutch party accepts only males as full members.

Restrictions for public officials concerning political activities in general and membership in political parties in particular have been a controversial matter of discussion since the 1970s. The acceptability of such restrictions with regard to the ECHR had to be clarified by the European Court of Human Rights in a number of judgments<sup>3</sup> – the latest of these by the Court sitting as Grand Chamber in the case of *Rekvényi* in 1999 – and some countries – *Armenia, the Czech Republic, Georgia, Hungary* (with reference to the *Rekvényi*-case) and *Turkey* report exclusion of certain public officials, namely law enforcement officials, members of the armed forces and to some extent judges and civil servants, and pre-university students from membership of political parties.

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<sup>3</sup> See *Engel v. the Netherlands*, judgment 8.6.1976; *Leander v. Sweden*, judgment 26.3.1987; *Vogt v. Germany*, judgment 26.9.1995; *Ahmed v. UK*, judgment 2.9.1998; *Rekvényi v. Hungary*, judgment (Grand Chamber) 20.5.1999.

- **Is membership open for national citizens only, or are foreign citizens and stateless persons accepted as members?**
- **Are there other legal requirements for membership as for example residence in the country or knowledge of a certain language?**

In many countries, constitutional or legislative provisions restrict membership in political parties to national citizens only; this is the case for example in *Albania, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Georgia, Greece, Latvia, Lithuania, Macedonia, Russia* and *Turkey*. According to *German* legislation membership in political organisations is open for foreign citizens, but political organisations do not qualify as political parties, if the majority of their members or the members of their executive committees are foreign citizens.

In the *Netherlands*, the political parties can regulate membership internally, and citizenship used to be a requirement for the membership in some parties, since the right to vote was restricted to citizens. However, that restriction no longer applies to local elections, and consequently aliens are also admitted as members (and not all parties require residency in the Netherlands). In *Slovenia*, the situation is similar: before 2002 legislation required citizenship, but from 2002 also aliens, who are EU citizens and have the right to vote in Slovenia (which they have in local elections, if they are residents of Slovenia), can become members of political parties. In *Finland* non-citizens may become members, if their residence is in Finland. In *Spain* foreigners enjoy the right to become members of any type of associations, on the same terms as Spanish citizens, and that applies also to political parties; there is however one exception: illegal aliens, who do not hold a residence permit, are excluded from the right of association.

Knowledge of a certain language has not been reported to be a requirement for membership in a political party in any of the responding countries.

It is obvious that the right to membership in political parties is closely related to the right to vote in elections and the right to be a candidate in elections – both rights which were and in many countries still are reserved to nationals only. The development since the 1980s to admit foreign citizens and stateless persons to some participation in the political life of their country of residence has changed that, and by the Maastricht Treaty the concept of EU citizenship was introduced for the Member States of the European Union. The changes in the concept of membership in political parties which were reported from the *Netherlands, Slovenia* and other countries lead to, on one hand, consistency of election rules and rules on membership in political parties, on the other.

### **3.2 Can membership be denied or can membership be terminated against the will of the person concerned? Can denial or termination be challenged within the party organisation or by appeal to an external authority? Can other decisions of the party be challenged by members within the party organisation or through appeals to courts?**

Almost all countries report that these questions concern matters which have to be regulated by internal provisions of the political party. Examples are *Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Canada, Cyprus, the Czech Republic, Finland, Greece, Hungary, Ireland, Korea, Lithuania, Malta, Switzerland* and *Turkey*. Some of these countries – for example *Finland, Hungary, Ireland, Korea, Lithuania, Malta* and *Turkey* – report that internal decisions can be challenged in courts. However, concerning Malta it is added that the courts are extremely reluctant to be drawn into an inquiry of the merits of particular cases.

Conventional political wisdom has it that political parties have to forge heterogeneity into homogeneity; their members have to rally behind the program and behind their political leadership and therefore there are limits to diversity in opinion within one party. The freedom of opinion is conceived as not being without limits within a party, and in this context this fundamental freedom has to be protected as freedom of choice between parties. With this concept as point of departure far reaching autonomy in questions concerning membership seems to be a common denominator.

**3.3 Are there regulations concerning the internal registration of party members and concerning access to and disclosure of information on membership, e.g. in matters concerning public financing, taxation or upon dissolution?**

There are no regulations in some countries, for example in *Albania, Bulgaria, Cyprus, Finland, Germany, Ireland, Italy, Latvia* and *Lithuania*, while legislation in *Turkey* requires party organisations at all levels to keep a membership registration book. For privacy reasons and with regard to personal data protection legislation, information about members of political parties is explicitly not disclosed for example in the *Czech Republic, Germany* and the *Netherlands*. The opposite position has been reported for *Estonia*: the board of a political party has to maintain a list of members of the party with detailed personal information about each member. Each year a list has to be submitted to the registration department of the court at its location, and the list will be made public on an Internet site of the register.

**3.4 Which individual or body represents a political party in legal matters?**

The official or body, which is legal representative of a political party is in many countries designated in the statutes of the party. Legal representatives can for example be the president (*Austria, Canada, Greece, Italy, Macedonia* and *Turkey*), the speaker or secretary general (*Austria*), the board or individual board members (*Estonia, Finland* and the *Netherlands*), the executive committee (*Germany* and *Italy*) or trustees (*Ireland* and the *United Kingdom*).

In some countries the representatives have to be registered (*Croatia, Japan, Korea, the Slovak Republic* and *Slovenia*).

**3.5 Are there legal requirements concerning internal democracy in a political party?**

Political parties are integral parts of democratic systems. In some countries they are therefore required by law to observe democratic principles in their decision-making and activities; see for example *Albania, Andorra, Croatia, the Czech Republic, Finland* and *Germany*. In other countries no such requirements are imposed by law on a political party, see for example *Belgium, Canada, Cyprus, Georgia, Greece, Ireland, Italy, Japan* and the *United Kingdom*. In the report for the *United Kingdom* it is pointed out that in practice, the major parties lay varying stress upon the extent of internal democracy, that this is a matter of each party's own traditions and that there is no general law applying to all parties.

**3.6 Is a political party required to maintain national, regional or local branches or offices?**

There are no requirements in law to maintain branches or offices in a particular way in *Andorra, Austria, Belgium, Canada, Estonia, Finland, Georgia, Hungary, Italy, Latvia, Liechtenstein, Luxemburg, Sweden* and *Switzerland*. *Romania* requires political parties to

maintain le siège central, *Ireland* requires headquarters and *Turkey*, a national office in Ankara. *Germany* requires parties to maintain regional branches, and in the *United Kingdom* a party must state whether it intends to operate in *the United Kingdom* as a whole, in part of *the United Kingdom* or at a local level; however, this is no more than a statement of intention, and the law does not appear to impose a legal obligation on the party to carry out this statement of intention. In *Ukraine*, within six months from the date of registration a political party shall secure the formation and registration of its regional, city and district organisations in most regions of *Ukraine*, in the cities of Kyiv and Sevastopol and in the Autonomous Republic of the Crimea.

#### **4. Political activities**

##### **4.1 Are there any constitutional, statutory or other legal provisions on the political activities of political parties?**

In general, political activities of parties are covered in a very general way. As it has been already mentioned before, a certain type of political propaganda is explicitly forbidden in *Austria*, *Germany* (national-socialist ideas), *Czech Republic* (ideology of “totalitarian nature”), *Italy* (ideas related to the fascist party). Questioning of the laic character of State, can be a reason for suspending a political party in *Turkey*.

Of course, one should bear in mind that some of the activities of political parties fall under different fields of legislation. Some limitations could be part of legislation on public gatherings and meetings. Another aspect could be that of activities, which fall under criminal offences such as incitement to violence, propagation of ideas of racial or ethnic hatred, etc. Certain States reserve the right to limit certain activities for the interest of protection of public order (as in the *Netherlands*) and protection of rights of third parties.

Most countries have adopted specific legislation concerning political parties during elections. For example, in *Russia* there is extensive legislation on nomination of candidates for elections, pre-election campaign and so on. *Canada* also has a very elaborated legislation and extensive case law in this area.

##### **4.2 Is it mandatory for political parties, e.g. as a prerequisite for maintaining registration or for access to public financing,**

- **to present individual candidates or lists of candidates for general elections on the local, regional or national level?**
- **to participate in local, regional or national election campaigns?**
- **to get a minimum percentage of votes or a certain number of candidates elected in local, regional and national elections?**
- **to conduct other political activities specified by law?**

Regulations on the participation of political parties in the political process of the country are more diverse in the case of States where there is a requirement for party registration. However, financing from public sources is subject to detailed legislation in most countries.

Such general trends can be observed in countries for party registration and party financing:

- a) only parties participating in general elections, which attain a certain threshold can receive public founding (*Austria, Belgium, Bosnia and Herzegovina, Canada, Czech Republic, Estonia, Former Yugoslav Republic of Macedonia, Georgia, Germany, Greece, Japan, Liechtenstein, Lithuania, Luxembourg, the Netherlands, Poland, Russia, Spain, Slovenia, Sweden*);
- b) registration is revoked if a party:
  - 1) does not take part in a certain number of elections (*Armenia*);
  - 2) does not receive a minimum number of votes (*Armenia*); or
  - 3) fails to prove a minimum membership and/or regional representation (*Estonia, Moldova, Ukraine*);
- c) The party is removed from the official list of parties but can continue to exist as an association if it does not take part in a certain number of elections (*Finland*)

Some countries have introduced an interesting practice of stimulating certain democratic practices within political parties. For example, in *Croatia*, political parties receive additional 10% compensation for each elected female candidate.

## **5. Supervision and control**

**Are there any mechanisms to control or supervise the activities of political parties outside the financial field not mentioned in the replies to the earlier questions?**

Many countries report that there are no mechanisms to control or supervise the activities of political parties other than in the financial field; see for example *Belgium, Bulgaria, Canada, Croatia, Cyprus, Georgia, Greece, Ireland, Italy, Liechtenstein, Luxembourg, Malta, the Slovak Republic, Sweden* and *Switzerland*. In *Germany* the Constitutional Court can decide that a political party has to be considered as unconstitutional, and such a political party can be prohibited. In *Ukraine*, finally, there are very elaborate mechanisms of state control of the activities of political parties, which can lead to a warning because of unlawful activity and even an outright ban on the political party at fault. A ban entails termination of that party's activities, dissolution of its executive bodies, dismantling of its organisation and termination of membership in it.