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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

**2nd DRAFT
GUIDELINES
FOR
FINANCING OF POLITICAL PARTIES**

Note by the Secretariat

The draft guidelines contained in this document were drawn up by the Commission's Rapporteur Group composed of Messrs Robert (Chairman of the Group), Özbudun, Luchaire, Ms Err and Mr Vogel at the meeting held in Paris on 30 November 2000.

These draft guidelines were examined by the **Sub-Commission on Democratic Institutions** at its 11th meeting held in Venice on 14 December 2000¹.

The preamble and points 1 to 7 of the draft which follows were examined at the above-mentioned meeting of the Sub-Commission on Democratic Institutions; modifications made during this meeting appear in bold type.

In conformity with the Sub-Commission's decision, points 13 and 14 of the original version of the guidelines, have been moved to the end of Section A and have now become points 8 and 9 of this draft.

Points 8 to 16 were not examined at the Sub-Commission meeting and appear in this draft unchanged from the original version of document CDL-PP (2001) 6.

¹ *The following members participated in this meeting : Messrs. Steinberger (Chairman of the Sub-Commission), Robert, Luchaire, Ms Err, Messrs Economides, Tuori, Klucka, Omari, Lapinskas, Lavin, Svoboda, Torfasson, Spirovski, Farcas, Ms Janu, Messrs Gotzev and Beaudouin.*

The Venice Commission:

Being engaged in the promotion of fundamental principles of democracy, of the rule of law and the protection of human rights, and in the context of improving democratic security for all;

Noting with concern problems relating to the illicit financing of political parties recently uncovered in a number of Council of Europe member states;

Taking into account the essential role of political parties within democracy and considering that freedom of association, including that of political association, is a fundamental freedom protected by the European Convention on Human Rights and is one of the primordial elements for true democracy, such as that envisaged by the Statute of the Council of Europe;

Paying particular attention to state practice in the area of financing of political parties;

Recognising the need to promote in particular future norms in this area through the application of the values of European legal heritage;

Has adopted the following guidelines:

- 1 As a result of the current guidelines, it is considered that a political party is an association of **persons** of which **one of** the aims is to **participate in the management of public affairs** by the presentation of candidates to free and democratic elections.
- 2 Such political parties may seek out and receive funds for the purposes of public or private financing.

A Regular Financing

- Public Financing

- 3 Public financing must be aimed at each party represented in Parliament.
- 4 In order, however, to ensure the equality of opportunity for the different political forces, public financing cannot only be limited to those parties represented in Parliament, but must rather be extended to political bodies representing a significant section of the electoral body and presenting candidates for election. The level of financing could be fixed by legislator on periodic basis according to objective criteria.

Tax exemptions can be granted for operations strictly connected to the parties' political activity.

- Private Financing

- 5 Political parties may receive private financial donations. Donations **from foreign States or enterprises** must in all cases be prohibited. **This prohibition should not prevent financial donations from nationals living abroad.**

- 6 Other limitations may also be envisaged. Such consist notably of:
- a maximum level for each contribution;
 - a prohibition of contributions from enterprises of an industrial, commercial or religious nature;
 - an *a priori* control by public organs specialised in electoral matters relating to contributions by members of parties which **wish to present** at elections.
- 7 The transparency of private financing of each party should be a main ~~objective~~ **guarantee**. In achieving this aim, each party should make public each year the annual accounts of the previous year, which would incorporate a list of all donations other than subscriptions. All donations that are of a sum higher than ~~the subscription fee~~ **an amount fixed by the legislator** must be recorded and made public.
- 8 The financing of political parties through public funds should be on the condition of a control on the compatibility of political parties by specified public organs (for example by an Audit Court). States would favorise a policy of financial transparency of political parties that benefit from public financing.
- 9 Any irregularity in the financing of a political party should encompass for the following year the loss of all or part of public financing as proportionate to the severity of the violation.

B Electoral Campaigns

- 10 Electoral expenses of each candidate may be limited by a certain maximum amount fixed each year in proportion to the number of relevant voters.
- 11 The public power would participate in campaign expenses through an additional payment equal to a certain percentage (as established by law, for example, 50%) of this maximum. This contribution may in any case be refused to candidates who do not obtain a certain amount of suffrage (for example, 2 – 3 %).
- 12 Private contributions may be attributed to each candidate, but the total of such should not exceed the stated maximum. Contributions from abroad should be forbidden, furthermore those from commercial or industrial enterprises could also be prohibited.
- 13 Electoral campaign accounts will be submitted to the organ charged with supervising election procedure, for example, an election committee, no later than one month after the elections.
- 14 The transparency of electoral expenses should be attained through the publication of campaign accounts.

- 15 Any irregularity in the financing of an electoral campaign could encompass for the party or candidate in question:
- the loss or total or partial reimbursement of the public contribution;
 - the payment of a fine by the defaulting party from the public funds designated for party financing.
 - For the elected candidate, the annulment of office.
- 16 The control of such laws including the imposition of sanctions should be enforced by the judge of the election (constitutional or other).