



The Political Finance Framework in Lebanon

An analysis of the
oversight
mechanisms put in
place for the 2009
Parliamentary
elections

Dr Magnus Ohman,
IFES Political Finance Advisor

The analysis was conducted by Magnus Ohman as the result of an IFES and Carter Center initiative, and was conducted during visits to Beirut in March and August 2009. The opinions expressed are those of the author and do not represent IFES or the Carter Center.

Introduction

This analysis focuses on the political finance regulatory system that was put in place in Lebanon through the 2008 Parliamentary Election Law, and which was first applied in relation to the 7 June 2009 Parliamentary elections. The purpose is to analyse the system that has been introduced, to identify possible difficulties and to make recommendations for improvements in advance of future elections.

Money is an unavoidable part of politics and elections. Money is the means through which political parties and candidates can reach the electorate with their message, through media advertisements, posters, rallies and door to door campaigning. However, money can also serve to skew the political process so that election results do not reflect the wishes of the voters. These are some of the main problems with the role that money may play in politics;

- Money risks making large and wealthy interests more important in election campaigns than the wishes and interests of the electorate. Smaller and less established groups may find themselves having no voice in the competition for voters' attention.
- Related to this, money can lead to the distortion of electoral campaigns and ultimately of electoral outcomes. Vote buying, corruption of electoral officials and the abuse of state resources can result in election results that do not accurately reflect the wishes of the electorate.
- Finally, once politicians have been elected, they are supposed to represent those who elected them. However, if they have won power through accepting significant contributions from specific interests, there is a significant risk that they end up serving these interests to the detriment of the public good. This form of conflict of interest may be very difficult to avoid completely, but various forms of regulation can reduce such conflicts, and the most important antidote is to let the people know where the politicians received their funds.

This was the first time that campaign finance was controlled and monitored in Lebanese history, and it must be accepted that not everything can be perfect straight away. If the history of political finance regulation and transparency enhancement has taught us anything, it is that it is a time consuming process without an end point. In line with this, it should be expected that not all candidates will submit financial reports, and that not all reports will be complete. The SCEC may also not be able to audit all submitted financial statements completely. Such good faith shortcomings should be noted but accepted as part of the learning process that Lebanon is undergoing.

Nonetheless, there are some principles that should be established immediately, as they may otherwise be difficult to implement. The unbiased implementation of reporting regulations and sanctions is an absolute must. While it may not be universally accepted, I would also argue that the principle of transparency should also be extended to making received reports available to the public, whom political parties and candidates are after all striving to represent.

“Political finance” is often divided into “political party finance” and “campaign finance”, with the former relating to the ongoing finances of political parties (not necessarily related to elections), and the latter referring to the income and expenditure of political parties and candidates in relation to electoral campaigns. While each country has its own way of regulating these matters, it is common that political party finance is considered in an Act relating to political parties, whereas campaign finance is a topic in an Act dealing with elections.

Political party finance

The situation is however very different in Lebanon, where political parties have played an ambiguous role for several decades. The particular electoral system used in Lebanon, where each Parliamentary seat is de facto assigned to a particular religious group, does not encourage the formation of broad based and ideological political parties. There is no specific Political Parties Law in Lebanon, and the activities of parties are also not regulated in other legislation.¹ Most importantly, political parties do not nominate candidates in Lebanese elections, though there is seldom any doubt to which political party individual deputies belong.

It is noticeable that the 2008 Parliamentary Elections Law does not even mention political parties, and the campaign finance regulation contained therein is exclusively focused on candidates. Political parties are subsequently not required to submit any reports on their income and expenditure in relation to election campaigns. However, expenses incurred by parties (and others) on behalf of candidates need to be included in the reports submitted by the candidates.

Campaign finance

Campaign (candidate) finance, is regulated in Chapter five of the Elections law, and developed further in the Rules and Procedures for the Supervisory Commission on the Election Campaign. Note that in this case, there is a direct definition of the campaign period in the finance section of the law (this is normally regulated separately). The campaign period starts on the date the candidate applies for nomination and ends on polling day.

As will be described in more detail below, there are no reports to be submitted before elections, but after an election each candidates needs to report on both income (in cash and in kind) and expenditure. The system adopted in Lebanon is largely based on the French system, which itself is a fairly new invention (having been introduced in 1988 and existing in its current form since 1995). In France, candidates report after elections to the Commission Nationale des Comptes de Campagne et des Financements Politiques (CCFP), which can also refer cases to the legal system for sanctions, and which similarly to the SCEC in Lebanon does not make received reports public.²

Political finance oversight institutions in Lebanon

Three institutions are directly involved in the regulation of political finance in Lebanon; the Supervisory Commission on the Electoral Campaign (SCEC), established through the 2008 Elections Law; the Minister of Interior and Municipalities (and the Council of Ministers); and the Constitutional Council.

The SCEC focuses mainly on two aspects of the electoral process; campaign finance regulation and the activities of the media. The Commission is not entirely independent as its meetings are chaired by the above mentioned Minister, who also suggests the members from those nominated by groups defined in the law (the Council of Ministers makes the actual

¹ With the exception of an Ottoman law dating back to 1909, which mainly stipulates that political parties should register as associations.

² There are admittedly significant differences between the French and the Lebanese systems. For example, French political parties submit reports in relation to elections, and only natural persons are allowed to make contributions. Public funding is also available in France, creating a carrot for candidates and parties to comply, whereas actions from the CCFP can lead to candidates being disqualified, providing a stick (though a weakened stick since the 1996 legislation making exceptions for good faith cases). Finally, campaign donations in France are (partially) tax deductible, providing an incentive for contributors to make this information available. See further Austin, Reginald & Tjärnström, Maja (eds) (2003) *The Funding of Political Parties and Election Campaigns*. International IDEA, Stockholm. Thanks to Alexandra Hovelacque of the EC Electoral Assistance Project for emphasising some of these points.

appointment).³ In addition, the said Minister is set to supervise the Commission's work, and he also decides on its internal regulations (Elections Law Article 14). The ten members of the SCEC are set to supervise the 2009 elections from the start of its work in December 2008 until six months after the 7 June polling day, when their term ends. In accordance with the Elections Law (Article 22), the SCEC has decided to create a Committee on Campaign Finance (Rules and Procedures Article 12), consisting of some of the Commissioners. However, it seems that such a committee was not created.

The Minister of Interior and Municipalities (hereinafter referred to as the "Minister") oversees the work of the SCEC, and his Ministry is responsible for large parts of the organisation of elections in Lebanon. Apart from his role in the work of the SCEC described above, the Minister also suggests the level of the variable part of the candidate spending limit, which is then decreed by the Council of Ministers (Article 57).

The Constitutional Commission is established through Article 19 of the 1923 Constitution of Lebanon. However, although the law on the Council being amended in late 2008, its membership was not complete until the end of May 2009, less than two weeks before the elections. The Council takes decisions on challenges against the election of candidates in accordance with the Law on the Establishment of the Constitutional Council. In the case of a challenge, the Council will contact the SCEC which will submit its report on the financial activities and statement submitted by the candidate in question.

In brief, the roles of the various institutions in the field of political finance can be illustrated through the below tables.

Mandate of the SCEC

Task	Deadline	Reference
Compliance with opening and maintaining an Electoral Campaign bank account	Must be reported by the candidate to the SCEC	§55(1)
Compliance with the sources and type of campaign funding and contributions	Through ongoing analysis and studying received reports	§56
Compliance with the ceiling on campaign spending	Trough ongoing analysis and studying received reports	§57
Compliance with permitted items of campaign spending	Trough ongoing analysis and studying received reports	§58-59
Compliance with reporting requirements on campaign spending	The SCEC can take cases of non-compliance to the courts	§62(1)
Referring documents to the Constitutional Council	The SCEC report shall be attached to legal challenges (by candidates) against election of particular candidate	§62(2)

Mandate of the Council of Ministers/Minister of Interior and Municipalities

Task	Comment	Reference
Make decision on campaign spending limit	Suggestion by Minister decreed by Council	§57

Mandate of Constitutional Council

Task	Deadline	Reference
Make decision on challenges (including such concerning breaches of political finance regulations)	Challenges submitted by losing candidates	§62(2)

³ Article 12. While the Minister chairs the meetings of the SCEC, he does not have a vote.

Aspects of Lebanese campaign finance disclosure

Income

Article 56 of the Elections Law lists the allowed sources of income for candidates during campaigns. These are limited to his/her personal funds (including those of her/his family), and contributions by Lebanese natural or legal persons. Contributions by foreign sources are explicitly banned, and candidates and political parties do not receive any funds from the Lebanese government.⁴ In-kind contributions (goods and services) are also perceived as contributions, with the exceptions of services provided free by volunteers.

The Elections Law further states that candidates are not allowed to receive more funds than they are allowed to spend (see further below). On the other hand, nothing seems to hinder candidates from receiving more funds than they spend, allowing for possible profits to be made. In addition, since there is no ban on receiving or spending funds on campaigning before the official campaign finance reporting period starts, campaign fundraising up until two months before polling day need not be reported (assuming the candidate registers at the end of the nomination period).

Expenditure

Article 58 enumerates allowed expenses, though these are not exclusive;

- Rental of electoral offices and all related charges
- Organisation of rallies, festivals, public meetings and election-related banquets
- Preparation, publication and distribution of advertising and promotional materials such as books, booklets, bulletins, publications and letters sent by regular or electronic mail
- Design, printing, distribution and posting of pictures, posters and billboards
- Compensation paid to party agents and persons involved in the electoral campaign
- Transportation fees of electoral campaign staff and voters
- Electoral advertising costs and any other costs paid to any radio, TV, newspaper, magazine or any other publication as means for electoral campaigning

Not only expenses incurred by the candidates him/herself are perceived as expenses, but also expenses made “in their favour or with their express or tacit consent by other persons” (as long as these expenses are “directly related” to the electoral campaign).

A rather unusual regulation is contained in Article 59 in the Elections Law. This article bans the provision of money to voters by candidates, and such a ban is common practice in many countries.⁵ However, it also bans candidates and political parties from giving money to charities, social and cultural organisations and sports clubs etc during the campaigning period. This regulation targets a common practice of candidates concealing campaign spending as charitable donations to communities, often publicly. There is however an exception for candidates and political parties who have supported and “owned or run” such an organisation for at least three years. The SCEC clarified this ban in a statement dated 25 March 2009 by noting that the support provided during the campaign period should remain the same as previous.

⁴ See further Sarkis, Chantal & Elmekji-Boladian, Karma (2009) “Public Funding of Political Parties: The Case of Lebanon” in *Public Funding Solutions for Political Parties in Muslim-Majority Societies*. IFES, Washington.

⁵ Though banned, monitoring organisations such as LTA and LADE noted that several candidates engaged in such activities.

The use by sitting Parliamentarians of the not insubstantial “deputy allowances” is not affected by the article in question, allowing MPs to conduct development activities in their constituencies during the election campaign. While many incumbent deputies have chosen not to stand for re-election in previous elections in Lebanon, such development activities could give a significant advantage to those who do, and could amount to an abuse of state resources.

The Elections Law also contains a threshold for the expenditure of candidates (including spending done in favour of the candidate as described above). To a flat amount of 150,000,000 million Lebanese pounds (USD 100,000) is added an amount per voter decided for each election by the Council of Minister on the suggestion of the Minister of Interior and Municipalities). For the 2009 elections it was the decided that candidates can spend 4,000 Lebanese pounds (around USD 2.65) per voter, above the flat amount.⁶

There is no explicit ban against the use of state resources in the elections. However, public media is banned from favouring any candidate at the expense of others (Elections Law Article 67). Candidates are also not allowed to disburse more than 50% of its advertising spending to any one media outlet (Article 66(8)).

Auditing

The Election law states that during his/her nomination, the candidate should submit a notarised letter declaring name of the candidate’s financial auditor (Article 55(6)). It is however unclear if this is a requirement for a person to be nominated, as the document is not included in the required documents for nomination listed in Article 47(2).

It is not clear what the task of the candidate’s auditor is, as it is not stated in the Act that the report submitted by each candidate needs to be audited before submission. Information received from the SCEC indicates that the candidate’s auditor is intended to have an informal role in advising the candidate on his/her financial activities and submission of financial statements. The Elections Law (Article 19(1)) and the Rules of procedure of the SCEC (Article 16) state that the Commission will audit the financial statements received by candidates, but gives no details as to how this will be done.

Reporting

To ensure compliance with the Elections Law, all candidates must open an account in an operating bank in Lebanon, and information about this account should submitted together with the candidate nomination documents (cf Articles 47(2) and 55(1)). All income and expenses must go through this account, and transactions exceeding 1 million LBP must be made with a cheque.

Candidates need not make any financial reports to the SCEC before the elections, although a special committee formed by the Commission is mandated to request information and documents, and to inspect the candidate’s bank account.

After the election, all candidates must submit a report to the SCEC including information about both the income and the expenditure related to the candidate during the reporting period. The reporting period is noted as the time from the candidate’s nomination (between 2 March and 7 April) and polling day. This period is referred to as the “electoral campaign” in the chapter on “Electoral Funding and Spending”, but it is important to note that the notion of “electoral campaign” is not further defined in the Elections Law. Among other things, there is no ban on

⁶ The SCEC published a table with ceilings for each district, and the total ceiling (including the flat amount, varied from 335,772,000 LBP in Becharre to 1,172,548 LBP in Baalbeck/Hermel.

campaigning before the start of this period, only a statement that no campaigning must take place on polling day itself (Article 51). However, the SCEC declared in a statement dated 25 March 2009 that posters and other materials produced and paid before the submission of the candidate’s nomination is included in the definition of campaign expenses.

The submitted report should include detailed information about each transaction, and also supporting documents such as receipts and disbursement notes, along with an “exhaustive bank statement” (Article 61(2)).

While these reports will allow the SCEC to monitor the political parties’ adherence to the Elections Law, the Commission is itself not obligated to make the submitted information, nor even summaries thereof, available to the Lebanese public. Information received unofficially from the SCEC indicates that the report that they will provide to Parliament will only include information on which elected deputies that did not submit reports to the Commission.

Summary of information that candidates need to report to the SCEC.

Item to be reported	Deadline	Reference
Certificate from bank on “electoral campaign account”	Attached to candidacy application	§55(1)
Notarised letter declaring candidate auditor	Attached to candidacy application	§55(6)
Financial statement of income and expenditure including supporting documentation	30 days after polling day	§61

Apart from this, the SCEC also received additional reports which, while they directly relate to the media part of the Commission’s work, allowed the SCEC to do some direct cross-checking of the information received by candidates. Owners of billboards shall deposit copies of contracts with candidates with the SCEC, and media outlets first had to report their price list for advertising to the SCEC, and then report on a weekly basis on its broadcasted advertisements.⁷

Sanctions and enforcement

The Elections Law calls for sanctions in case anyone “intentionally” breaches the provisions contained in the chapter on Electoral Funding and Spending (Article 62(1)).⁸ Sanctions include fines of between 50 and 100 million Lebanese pounds (around USD 33 to 67 thousand), imprisonment of six months or both.

The Elections Law further stipulates that in the case of legal appeals against any successful candidate relating to the political finance regulations, the SCEC report on the candidate in question will be submitted to the Constitutional Council to assist the Council in its decision (Article 62(2)). Such processes do otherwise not concern the SCEC.

In practice, there are significant question marks regarding the whether these sanctions against breaches of the political finance regulations can be enforced (see further below).

⁷ See further the untitled declaration reported in al Nashra newspaper regarding the use of billboards in the election campaign (24 February 2009) and the Elections Law (Article 66).

⁸ As the Chapter almost exclusively relates to the obligations of candidates, it is difficult to imagine the sanctions mentioned here being applied in relation to anyone other than a candidate.

Potential difficulties with effectively enforcing the current regulatory system

Disclosing information about campaign finance to the Lebanese electorate

The most important concern is that the law does not oblige the SCEC to make reports received from candidates public, and the Commission has indicated that it will not do so. This will make it difficult or impossible for outsiders to monitor the work of the SCEC in this regard, including their impartiality in seeking sanctions for non-compliers.⁹ Equally important, it makes it impossible for civil society and the media to work to verify the accuracy of submitted reports.

One way for civil society groups and journalists to gain access to campaign finance information could be through Article 55, which states that all candidates must open a specific bank account through which the campaign funds will flow, and that these accounts will not be subject to bank secrecy. The law specifically mentions that the SCEC will have access to these accounts (Article 60(2)), but does not state whether others will have the same right. Information received from the SCEC indicates that will not be the case, but other interpretations of the law are possible. Making access to the information public would be an important step forward in ensuring transparency in Lebanese election campaigns.

Information available to candidates on reporting requirements

Campaign finance disclosure was first introduced through the 2008 Elections Law, meaning that no candidate will have experience in complying with such regulation. The difficulties that will follow from this will be compounded by two factors.

The first is that 30 days is not an especially long amount of time to compile an exhaustive report, especially as the statements need to be accompanied by detailed supporting documentation. While candidates with significant resources at hand and/or the backing of a major political party will be able to access professional assistance to produce the required reports, less wealthy independent candidates may find it significantly more difficult to comply.

The second is that Article 62(1) makes non-compliance an offense punishable by a fine or imprisonment or both. While the threat of such sanctions can function as an effective tool in getting candidates to comply, it can make it more difficult for the SCEC to create positive interaction with candidates who may be willing to comply but who face challenges in doing so. Of great importance will be the interpretation of the term “intentionally” in the text “whoever intentionally breaches any of the provisions of this chapter shall be sentenced to...” (62(1)). If candidates can escape sanction by claiming that any breach of the regulation was not intentional, the paragraph may be of limited use. If on the other hand a more strict interpretation is adopted, candidates who in spite of their best intentions failed to submit reports may be severely penalised.

In relation to this, stakeholder information and trainings could be of crucial importance for the effectiveness of the disclosure system. Though the SCEC provided some information through the Ministry, it only distributed the manual two weeks before the elections, and did not provide training. This is an area where there is room for future improvements in elections to come.

⁹ Not surprisingly, political party representatives met during visit were not in favour of disclosing the reports to the public, whereas people working with civil society groups were such a move.

Auditing burden on the SCEC

The Elections Law (Article 19(1)) and the Rules of procedure of the SCEC (Article 16) state that the Commission will audit the received reports. However, with 587 registered candidates, the Commission may find it prohibitively time-consuming to audit all reports. If a selection is to be done, this should follow previously agreed procedures (for example a random selection or based on received complaints).

Expenditure by others than the candidate

A peculiarity of the Lebanese system is that candidates should report not only on expenditure by themselves, but also those “paid in their favour or with their express or tacit consent by other persons” (Elections Law Article 58). The Commission issued a statement dated 7 March 2009 specifying the interpretation of this Article (even though the Article is not referred to directly, and the statement only relates to expenses relating to media, thereby combining the two main areas of the SCEC work, as described in Article 19 of the Elections Law).

The statement clarifies that any advertisement including the image, symbol or name of the candidate; the list or political party to which the candidate belongs; the president or party leader(s) of the list or political party to which the candidate belongs; or a coalition of political parties related to the candidate, shall be counted as a campaign expense by the candidate. While it is not specified exactly, this presumably means that the total cost of advertisements in favour of a political party or list shall be divided equally between the related candidates. Two SCEC statements both dated 7 April 2009 further added expenses for rallies, renting campaign offices and the transport of voters from within and without Lebanon to the list.

This statement is in line with the Elections Law, as each candidate could be assumed to have given at least tacit consent to its political party or list to campaign on her or his behalf. It is also an innovative solution to the problem that campaign expenditure need not be channelled through the candidate or the political party, which in most cases means that part of the funds used in a campaign are never reported. In Lebanon, the focus has shifted from who spends money on a campaign to who benefits from such expenditure.

While this is a very interesting notion, it is hard to see how it could work in practice. One difficulty lies in how candidates will be able to access information as to the value of expenses which they were not themselves responsible for. As the reports submitted by candidates should also include supporting documentation, copies of receipts for advertising expenses would presumably need to be distributed to the candidates for submission. This shows the weakness of not having political parties report on their campaign finances separately, as tends to be the norm.

It becomes even more complicated when it is considered that advertising might be paid by others than the candidate or the party or list to which the candidate belong. Such spending by third parties is normally not included in financial reporting requirements, although in the US system the Federal Election Commission monitors the spending by so called Political Action Committees.¹⁰ As the statement by the SCEC thereby requires that the cost of advertisements should be reported by candidates, *regardless of who incurred the expense*, it is difficult to conceive how this would function in practice, especially if tested through the legal system. There is for example no clear definition on electoral coalitions in Lebanon, nor is it always possible to establish which candidate belongs to which coalition without applying political interpretations, and such interpretation seldom hold in a Court of Law.

¹⁰ See further http://www.fec.gov/ans/answers_pac.shtml

It seems that the SCEC has adopted the view that the notion of “tacit consent” will be interpreted such that candidates are assumed to consent to all expenditure against which they do not lodge a complaint. However, the fact that candidates would need to lodge complaints against campaigning *in their favour* in case they do not wish or are not able to report on it seems an undue burden on candidates. In either case, a procedure of this kind would leave unresolved any case of expenditure of which the candidate is not aware.

Furthermore, given this situation, it becomes nigh on impossible for candidates to calculate their own expenditure in order not to exceed the spending ceiling established by the Minister of the Interior and Municipalities. It even becomes possible for political rivals to force each other to break the law by campaigning in their favour. Also note that if candidates representing a political party withdraw their nomination, the cost of campaigning efforts by the political party in question will have to be divided over a smaller number of candidates, thereby increasing the expense they have to report in a manner impossible to foresee in advance.

Avenues for enforcement and sanctions

There seems to be significant disagreement on how the provision to sentence non-complying candidates to fines or imprisonment can actually be enforced (Elections Law Article 62(1)). Information received from the SCEC indicates that they are mandated to take such matter to the regular court system. However, other knowledgeable persons have expressed doubt that this interpretation is legally valid, and that this subsection may prove without effect. On August 25, the SCEC submitted to the Public Prosecutor the list of names of those Parliamentary candidates who had not submitted their financial report. The actions taken by the Public Prosecutor will be of the outmost importance for the future of political finance oversight in Lebanon.

In addition to this, it is unclear whether the immunity provided elected Members of Parliament can be lifted to allow such sanctions to be provided. If not, breaching the political finance regulations may prove unproblematic as long as the candidate is elected.¹¹ This issue is not likely to be tested in relation to these elections, as all successful candidates submitted their financial reports.

The issue is further complicated by the fact that it is unclear if breaches of the articles on political finance can be grounds for appeals (Elections Law Article 62(2)). Such appeals can be made by losing candidates against the election of a candidate, in accordance with the law on the establishment of the Constitutional Council (Chapter four). However, and importantly, there is no indication in the Elections Law that breaching Chapter five of this law can invalidate a candidate’s election. It seems that the current possibilities for sanctioning breaches will not become clear unless one or several cases are brought to the legal system.

The ban on contributions to charities, sports clubs etc.

The ban on political parties and candidates to provide funds to individuals, charities, sports clubs etc is an interesting approach, and may have beneficial effects. A risk with a ban of this kind is however that it leads to candidates making such contributions secretly, thereby reducing transparency without enhancing equality.

Also, contributions to organisations “owned or run” by a candidate or a political party for at least three years are excluded from this rule. In practice, this means that older and more established

¹¹ This may however depend on *when* the infraction incurred, as the immunity granted to MPs is not retroactive.

political parties that have run such organisations for a longer period are not affected, whereas new, smaller political parties, are banned from such activities. This risks skewing electoral competition in a manner hardly conducive to a level playing field.

Recommendations

The following recommendations are made to further improve the political finance regulatory framework in future elections in Lebanon. References have here as applicable been made to international documents for guidance purposes.

1. The information belongs to the Lebanese public

The UN Convention Against Corruption states that “Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties“. The issue of transparency needs to be discussed more thoroughly, and as an important step, the SCEC should make received reports public. While arguments have been presented that easing the bank secrecy in Lebanon may undermine the work of the country’s banking sector, the electoral campaign accounts are a very specific type of bank accounts for which the secrecy has been lifted through law. Publicising the information received will allow the Lebanese electorate to make judgements as to who they should support in future elections. In addition, the current veil of secrecy is likely to encourage unhelpful speculation as to the financial dealings of candidates and political parties, and may also weaken public confidence in the SCEC and potentially in the electoral process as a whole.¹²

Some guidance can be found in the Venice Commission¹³ Guidelines on the Financing of Political Parties, which states that “The transparency of electoral expenses should be achieved through the publication of campaign accounts” (Article 12). See also the Council of Europe, Committee of Ministers Recommendation (2003)4, which has recommended that “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.” (Article 14b).

Overall, there is need to review the secrecy surrounding political finance and its regulation in Lebanon. Without transparency, any effort to control abuse of financial resources in relation to elections is unlikely to be successful.

2. The rules regarding political finance in Lebanon need to be clarified

While some aspects of political finance are regulated in significant detail, substantial gaps exist in other areas. The notion of candidates being obligated to report on expenses that they did not approve and may not be aware of is such an area, and another is the role of the candidate auditors. In addition, article 59 of the electoral law should ban monetary contributions to individuals during the campaign period, even if such contributions have been ongoing for more than three years. While ongoing contributions to charities and sport clubs that have lasted for more than three years can be excluded from the spending limits, such contributions should be

¹² While reports are also not made public in the French system which has inspired the Lebanese, it should be noted that the French system has subsequently been criticised for its lack of transparency. See for example Austin, Reginald & Tjärnström, Maja Ibid.

¹³ The European Commission for Democracy through Law, better known as the Venice Commission, is the Council of Europe's advisory body on constitutional matters. See further at http://www.venice.coe.int/site/main/Presentation_E.asp

included in the financial reports submitted by candidates to avoid a potentially significant loophole in the efforts to track campaign funding.

Future election laws, or revisions of the current law, should aim to fill these gaps. The lack of clarity makes it difficult for committed candidates to comply with the reporting requirements, while providing those unwilling to disclose their financial information with opportunities to avoid doing so.

3. The SCEC must be given the capacity to carry out its mandate

The information received indicates that the SCEC does not have the resources available to effectively monitor the finances of candidates during the election campaign, and may not have the capacity to effectively review the reports due to be submitted by candidates after the Parliamentary elections. The Commission was also created too late to be able to effectively reach out to stakeholders. For future elections, it is recommended that the institution set to monitor campaign finance starts its work earlier and is endowed with additional resources. Also, future electoral legislation should clarify the mandate of the SCEC in the oversight of campaign finance, not least in relation to sanctions.

4. Dialogue with stakeholders is necessary for effective compliance

The short period that the SCEC was in existence before the elections, and its lacking capacity makes it understandable that that the Commission had little time to reach out to candidates to inform them regarding their reporting responsibilities. This however has to be rectified for future elections, when the SCEC in accordance with its own rules of procedures, should provide detailed information to political parties and candidates. In addition, training sessions should be organised so that all candidates have the capacity to comply with the reporting requirements.

In addition, the SCEC should interact with civil society organisations that work with related issues to exchange information and ideas to the benefit of the monitoring of campaign finance in Lebanon. For example, it is difficult to see how the adherence to spending limits can be effectively controlled without the assistance of interested non-state actors.

5. Political parties should submit financial reports

While the limited attention aimed at political parties in the current structure is understandable given their unclear legal and occasionally political status, it is difficult to conceive of the SCEC receiving a complete picture of campaign expenses unless political parties are also required to report on their expenses. This may be done in connection with the creation of overall legislation related to political parties, which has been recommended by, among others, the 2005 European Union Election Observation Mission.¹⁴

In line with this recommendation, the SCEC or its successor should be given the mandate to conduct ongoing monitoring also of the income and expenditure of political parties.¹⁵

¹⁴ Final Report of the European Union Election Observation Mission, page 9.

¹⁵ It may be advisable to extend the political finance regulations also to bodies related to political parties. See Parliamentary Assembly of the Council of Europe, Recommendation 1516 (2001), para 8F "The legislation on financing political parties and on electoral campaigns should also apply to entities related to political parties, such as political foundations."

Reference can be made to the Council of Europe, Committee of Ministers Recommendation (2003)4, which affirms that “ States should require political parties to present the accounts referred to in Article 11 [consolidated accounts that include those of directly or indirectly related entities] regularly, and at least annually, to the independent authority”.¹⁶

6. Sanctions against non-compliance must be clear and must be applied

Article 62(1) states that anyone who breaches Chapter five of the Electoral Law (which for example bans the receipt of foreign funding and obligates candidates to submit reports) shall be sentenced to not more than six months imprisonment and/or a fine of 50 to 100 million.

Information received indicates that more than 100 candidates have not submitted their post-election financial reports, and are therefore in clear violation of article 61 of the same act. The SCEC submitted the name of these non-complying candidates to the Public Prosecutor on August 25. It is imperative that sanctions are applied against such evident violations of the law.

It is unclear whether the sanctions against breaching the political finance regulations included in the Election Law can be applied against winning candidates, as they may have been sworn in and subsequently acquired immunity by the time they are due to submit their financial reports to the SCEC. It is also unclear if any activity related to political finance can be the basis for a challenge against the election of a candidate (brought by losing candidates to the Constitutional Council).

Guidance can be found in the Venice Commission Guidelines on the Financing of Political Parties that “Any irregularity in the financing of an electoral campaign shall entail, for the party or candidate at fault, sanctions proportionate to the severity of the offence that may consist of the loss or the total or partial reimbursement of the public contribution, the payment of a fine or another financial sanction or the annulment of the election” (Article 14).

¹⁶ See [http://www.coe.int/t/dg1/greco/general/Rec\(2003\)4_EN.pdf](http://www.coe.int/t/dg1/greco/general/Rec(2003)4_EN.pdf)