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Third Evaluation Round

***Interim* Compliance Report on Cyprus**

“Incriminations (ETS 173 and 191, GPC 2)”

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“Transparency of Party Funding”

Adopted by GRECO
at its 70th Plenary Meeting
(Strasbourg, 30 November – 4 December 2015)

I. INTRODUCTION

1. The Third Round Evaluation Report was adopted at GRECO's 50th Plenary Meeting (28 March – 1 April 2011) and made public on 4 April 2011 following the authorisation by Cyprus (Greco Eval III Rep (2010) 9E, [Theme I](#) and [Theme II](#)). It contained a total of eight recommendations: two in respect of Theme I and six in respect of Theme II.
2. The first Compliance Report ([Greco RC-III \(2012\) 24E](#)) was adopted by GRECO at its 59th Plenary Meeting (18-22 March 2013) and made public on 5 April 2013, following the authorisation by Cyprus. GRECO concluded that Cyprus had implemented satisfactorily two of the eight recommendations contained in the Third Evaluation Report. With respect to Theme I – Incriminations, recommendation ii had been implemented satisfactorily and recommendation i partly implemented. With respect to Theme II – Transparency of Party Funding, recommendation iv had been implemented satisfactorily, recommendations i and v had been partly implemented and recommendations ii, iii and vi not implemented.
3. The Second Compliance Report ([Greco RC-III \(2015\) 1E](#)) was adopted by GRECO at its 67th Plenary Meeting (23-27 March 2015) and made public on 29 April 2015. With respect to Theme I – Incriminations - the situation remained unchanged. In relation to Theme II – Transparency of Party Funding, recommendation iv had been implemented satisfactorily already in the Compliance Report, while recommendations i, ii, iii, v, vi were partly implemented. GRECO assessed the overall situation as “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure and requested Cyprus to provide a report on the progress made in implementing the pending recommendations by 30 September 2015. Following an extension of the time-limit the requested information was submitted on 12 October 2015.
4. The current Interim Compliance Report, drawn up by Mr Dražen JELENIĆ, on behalf of Croatia, and Mr Aidan MOORE, on behalf of Ireland, assisted by the GRECO Secretariat, assesses the further implementation of the pending recommendations since the adoption of the Second Compliance Report.

II. ANALYSIS

Theme I: Incriminations

5. It is recalled that GRECO addressed 2 recommendations to Cyprus in respect of Theme I and that recommendation ii was implemented satisfactorily in the first Compliance Report. The remaining recommendation is dealt with below.

Recommendation i.

6. *GRECO recommended (i) that firm measures be taken in order to ensure that the provisions concerning the criminalisation of corruption as provided for in the Laws 23(III)/2000 and 22(III)/2006 are applied in practice; (ii) to make these provisions accessible as part of the criminal legislation and (iii) for the sake of legal certainty, create a uniform legal framework for the criminalisation and sanctioning of corruption offences in accordance with the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191), notably by amending and/or abolishing current legislation.*
7. GRECO recalls that the recommendation was assessed partly implemented in the first Compliance Report as well as in the Second Compliance Report, as only some limited measures

had been taken, such as the issuing of guidelines and circulars by the Attorney General and training of the police.

8. The authorities now reiterate, with regard to part (i) of the recommendation that circulars exist for the law enforcement agencies and guidelines for members of the Office of the Attorney General when dealing with cases relating to corruption offences. They again highlight that the Police Academy continues to organise special training seminars on the fight against corruption five times per year. As for the other parts of the recommendation, the authorities do not refer to any new development. However, they reaffirm the opinion that the existing legal framework of the criminalisation and sanctioning of corruption offences is comprehensive and effective enough and that it reflects the provisions of ETS 173 and ETS 191.
9. GRECO takes note of the position of the authorities of Cyprus, which in essence remains the same now as at the time of the adoption of the Evaluation Report. GRECO recalls that the legal provisions concerning the criminalisation of corruption offences in Cyprus, although in compliance with the evaluated provisions of the Criminal Law Convention and its Additional Protocol, are unnecessarily complex and raise concern in terms of clarity as they are scattered in various laws and, on top of that, in two international treaties. This creates uncertainty for the law enforcement, the judiciary and even more so in respect of the wider public. GRECO maintains the position that it would be an advantage if all corruption offences were to be gathered in the Criminal Code. GRECO regrets that no move in this direction has been taken and observes that there has been no decisive change to the situation assessed in the previous compliance reports.
10. GRECO concludes that recommendation i remains partly implemented.

Theme II: Transparency of Party Funding

11. It is recalled that GRECO addressed 6 recommendations to Cyprus in respect of Theme II. Recommendation iv was implemented in the Compliance Report; however, none of the others had been fully complied with according to the Second Compliance Report. That said, at the time of the adoption of the Second Compliance Report, the Ministry of Interior had prepared three draft laws dealing, *inter alia*, with the pending matters of Theme II. These draft laws have been examined in the pertinent parliamentary committees. GRECO made some preliminary remarks on the draft texts (aiming at amending the Political Parties Law, the Law on the Election of Members of the House of Representatives and the Law on Election of President and Vice-President) and considered them as going in the right direction. However, since none of the drafted amendments had been adopted by Parliament at the time, all five recommendations were assessed partly implemented.
12. The Cypriot authorities now report that the pertinent parliamentary committees have examined the draft amendments to the Political Parties Law, the Law on the Election of Members of the House of Representatives and the draft amendments to the Election (President and Vice-President) Law. The amendments are all expected to be adopted by the House of Representatives (Parliament) before the end of 2015.
13. Furthermore, according to the authorities of Cyprus, on 19 November 2015, the Political Parties Law (PPL) was amended by Parliament. It was enacted and made public on 2 December 2015. On 26 November 2015, the Amending Law on the Election of Members of the House of Representatives was adopted by Parliament. The amended laws have not yet entered into force. Furthermore, these recent amendments only exist in the Greek language. Therefore, GRECO is

not in a position to assess the compliance of the amended legislation with any of the related recommendations at the time of the adoption of the current report.

14. Moreover, the authorities report that on 9 September 2015, the Council of Ministers decided to establish a Committee aimed at preparing a national strategy plan against corruption. The Committee is to consist of members appointed by the Office of the Attorney General, the Ministry of Justice, the Ministry of Home Affairs and the Office of the President. One of the main objectives of the Committee is the development of the existing regulation on political party and election candidate funding, including the draft amendments currently under examination by Parliament. At the same time, the Council of Ministers has set up an inter-ministerial committee, whose members include the Ministers of Justice, Home Affairs, Finance, Interior and Education. This Committee is to have supervisory functions over the National Strategy Plan against corruption.

Recommendation i.

15. *GRECO recommended (i) to ensure that all forms of income, expenditure, assets and debts are accounted for by political parties in a comprehensive manner and following a consistent format and that their accounts also include the finances of local branches of parties; (ii) to seek ways of increasing the transparency of the finances of other entities which are related directly or indirectly to political parties or under their control, and (iii) to ensure that the accounting information is made public in a timely and sufficiently comprehensive manner.*
16. GRECO recalls that this recommendation was partly implemented in the first Compliance Report, as well as in the Second Compliance Report, as the draft legislation (amendments to the Political Parties Law) were a step in the right direction; however, not adopted by Parliament at the time.
17. The authorities of Cyprus now refer to the recent amendments to the Political Parties Law (PPL) (see also paragraph 13). As far as part (i) of the recommendation is concerned, they stress that the financial statements of political parties, according to the amendments are to include detailed sources of income, allocation of funds, state funding, revenue from events, donations in-kind, contributions from members and friends, election campaign donations, expenditure for events and pre-election campaigns. The authorities also report that the amendments explicitly provide that local branches, offices and sections of political parties are considered as part of the party's structure (part ii of the recommendation). With respect to part (iii) of the recommendation, the authorities explain that the annual financial statements, which are to be prepared in accordance with international accounting standards, are to be submitted to the Registrar (the Director General of the Ministry of the Interior, who is responsible for the Register of Political Parties) within four months after the end of the year concerned, then to the Auditor General (within five months after the end of the year or within one month following receipt). Finally, the report by the Auditor General, with his/her findings, is to be published in the Official Gazette and on the Auditor's website. The draft law also requires political parties to publish the audited consolidated financial statements on their website. Moreover, the Registrar is to publish the financial statements of each political party in the Official Gazette of Cyprus.
18. GRECO takes note of the information provided which remains largely the same as at the time of the adoption of the Second Compliance Report, despite amendments to the Law on Political Parties, which address the first and second parts of the recommendation. Without a final text on the current status of the amendments, GRECO cannot make any further assessment other than that the measures taken appear to go in the right direction and have the potential to comply at least partly with the various elements of the recommendation.

19. GRECO concludes that recommendation i remains partly implemented.

Recommendation ii.

20. *GRECO recommended to introduce a general requirement for political parties, elected representatives and election candidates to disclose all individual donations (including of a non-monetary nature and sponsoring) they receive above a certain value together with the identity of the donor.*

21. GRECO recalls that the recommendation was considered partly implemented in the Second Compliance Report. GRECO welcomed the ongoing reform of the PPL, with particular regard to the total ban on anonymous donations and the obligation to disclose the identity of donors above a certain threshold (€500). As for election candidates, GRECO appreciated that according to the draft amendments to the Election of Members of the House of Representatives Law, individual campaign participants were to publish their financial statements. Thus, GRECO encouraged Cyprus to finalise legal amendments and to ensure legal consistency across the various electoral laws.

22. The authorities now confirm that the recently amended legislation contains a series of changes to the current law (see also paragraph 13). These comprise, *inter alia*, a general ban on anonymous donations; the draft foresees that political parties are to keep a special registry where the identity number (in case of a natural person) or the registration number (in case of a legal person) of the persons who provide donations are to be listed. Furthermore, the draft introduces a cap on donations above EUR 5 000 per year for private donations. Political parties and affiliated organisations are to submit, by 31 March each year, to the Registrar and make available online, the identity of natural or legal persons who have made donations, as well as the amounts concerned where these exceed EUR 500. Failure to publish this information within the above deadline is considered a criminal offence. The authorities also submit that, according to the amendments to the Election of Members of the House of Representatives, candidates running for election are to publish an election statement at least in one daily newspaper before its submission to the Election Commissioner.

23. GRECO welcomes the reported amendments to the pertinent legislation, which appear to go in the right direction. That said further assessment is called for once the new legislation is made available for GRECO's assessment.

24. GRECO concludes that recommendation ii remains partly implemented.

Recommendation iii.

25. *GRECO recommended to introduce specific reporting of all income and expenditure relating to election campaigns by political parties and election candidates in respect of all types of elections, that such information should include non-monetary or benefit-in-kind contributions received by the party or the candidate and expenditure incurred on the party's or candidate's behalf and that such information should be disclosed to the wider public at appropriate intervals.*

26. GRECO recalls that this recommendation was considered partly implemented in the Second Compliance Report as the draft amendments to the PPL would appear to address several objectives of the recommendation. GRECO also encouraged the authorities to ensure provisions for a standardised and consistent accounting format for election income and expenditure. It noted

that Cyprus had opted for a general disclosure after the elections as opposed to disclosure at appropriate intervals during the campaign and stressed the need for such financial statements to be published in a timely manner; this had not been addressed in the draft law.

27. The authorities now report that, according to the recently amended legislation (see also paragraph 13), political parties participating in any election - including to the European Parliament - were to be obliged to submit to the Registrar statements of their income and expenditure, including those related to election campaign, no later than three months from the date of elections, and the Registrar to submit the statements to the Auditor General within four months from the date of the election. The Auditor General is to submit a report with the findings of the audit, within nine months to the Registrar and the report of the Auditor General is to be published together with the analytical statements of income and expenditure incurred in relation to the election campaign of political parties in the Official Gazette as well as on its own website within nine months from the date of their submission. Concerning the submission of financial statements by election candidates, the authorities state that the amendments to the Election of Members of the House of Representatives Law, the "Returning Officer" (Election Commissioner) is to submit for auditing to the Auditor General the election statements of all candidates (who are listed in the existing section 52 of that Law (72/79) within fifteen days from the date of their reception. The Auditor General is also to audit these statements and to prepare a report, which is to be published in the Official Gazette. The authorities also stress that the existing section 52 of Law 72/79 provides an obligation for every election candidate to submit to the Commissioner of Elections, within three weeks after the publication of the election result, a statement regarding all his/her income and expenditure incurred in relation to the election. Draft legislation is also being prepared to amend the Law on the Election of the President and Vice-President and it is envisaged to make the provisions of Law 72/79 regarding the elected representatives' and candidates' expenditure also applicable to presidential elections.
28. GRECO takes note of the information provided which remains largely the same as at the time of the adoption of the Second Evaluation Report, despite legislative amendments. These amendments have the potential to address several elements of the recommendation. However, the amended legislation has not yet been made available for GRECO's assessment. GRECO encourages the authorities to pursue their efforts.
29. GRECO concludes that recommendation iii remains partly implemented.

Recommendation v.

30. *GRECO recommended (i) to clarify that the monitoring of political parties' annual accounts goes beyond the auditing of incomes and expenditure; (ii) to ensure that income funding an election campaign and all expenditure incurred in relation to the election are accounted for in the statement furnished to the Auditor General at election campaigns and to provide for clear rules for the submission of such statements to the Auditor General; and (iii) to provide an independent supervisory mechanism in respect of election candidates' income and expenditure.*
31. GRECO recalls that this recommendation was considered partly implemented in the Second Compliance Report. While the first part of the recommendation was fully implemented already in the first Compliance Report through the adoption of amendments to the PPL in 2012, the second and third parts were assessed as partly implemented as there were amendments to the PPL according to which political parties were to include and detail in the financial statements all income and expenditure related to an election campaign. Similar measures were planned in respect of election candidates (amendments to the Law on the Election of Members of the House

of Representatives Law 72/79). The provision of an independent supervisory mechanism in respect of election financing as requested in the third part of the recommendation had not been addressed.

32. The authorities of Cyprus now refer to the recently amended legislation (see also paragraph 13) and reiterate the information supplied in relation to recommendation iii. As far as election candidates are concerned, they explain that the detailed format of expenditure subject to the supervisory control of the Auditor General is further defined by the amendments to Law 72/79.
33. GRECO takes note of this information which indicates that the amended legislation has the potential to provide that all the information submitted by political parties as well as by election candidates are to be subject to the financial control of the Auditor General. However, since the amended legislation is not available for GRECO's scrutiny, it is premature to determine whether or not they would meet all the requirements of the recommendation. As for part (iii) of the recommendation, GRECO notes that the amendments to the legislation referred to do not take into account the concerns expressed with regard to the lack of independence of the Election Commissioner (i.e. the General Returning Officer), who acts as the depository of financial statements in respect of election candidates.
34. GRECO concludes that recommendation v remains partly implemented.

Recommendation vi.

35. *GRECO recommended that flexible sanctions be introduced for violations of the legislation concerning the submission of election statements in respect of election candidates.*
36. GRECO recalls that this recommendation was categorised as partly implemented in the Second Compliance Report as Cyprus had reported on draft amendments to the Law on the Election of Members of the House of Representatives (Law 72/79) providing a new set of administrative penalties which appeared to be more easily applicable - and possibly flexible - in relation to campaign financing for parliamentary elections. However, the draft amendments were not adopted at the time.
37. The authorities of Cyprus reiterate the earlier information provided and report that the law on amendments to the Law on the Election of Members of the House of Representatives (Law 72/79) adds a provision, according to which the Commissioner of Elections can impose a pecuniary fine of €500 (plus an additional €50 per day of delay) upon a candidate for not submitting, within the defined time limits, his/her financial statement on income and expenditure pertaining to the campaign. Moreover, where campaign expenditures exceed the permissible ceiling with respect to a candidate, the Auditor General shall forward the candidate's election statement to the Commissioner of Elections for the imposition of a pecuniary fine equal to the total amount of overspending.
38. GRECO takes note of the information provided which it cannot assess as the amended legislation is not yet available for scrutiny.
39. GRECO concludes that recommendation vi remains partly implemented.

III. CONCLUSIONS

40. **In view of the above, GRECO concludes that Cyprus has not made tangible progress in respect of any pending recommendation since the adoption of the Second Compliance report.**
41. With respect to Theme I – Incriminations, recommendation i remains partly implemented. With respect to Theme II – Transparency of Party Funding, recommendations i-iii, v and vi remain partly implemented.
42. Concerning incriminations, GRECO regrets in particular that no further progress has been achieved to create a more uniform legal framework for the criminalisation of corruption, which currently is made up of provisions contained in various laws and in two international treaties.
43. Concerning transparency of political funding, the situation – as assessed –remains largely the same as it was at the time of the adoption of the Second Compliance Report. According to the Cypriot authorities, the Political Parties Law as well as the Law on the Election of Members of the House of Representatives have recently been amended (but not the Law on Election of the President and Vice President). The amended laws have not yet entered into force. Moreover, the amendments only exist in the Greek language. GRECO was therefore not in a position to assess the compliance of the amended legislation with the recommendations at the time of the adoption of the current report. That said, it would appear that the amended and draft legislation have the potential to improve the transparency of political financing and the supervision thereof.
44. Under these circumstances, GRECO can only conclude that the current level of compliance with the recommendations remains “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO requests the Head of the delegation of Cyprus to provide a report regarding all actions taken to implement the pending recommendations (i.e. recommendation i regarding Theme I and recommendations i-iii, v and vi regarding Theme II) by 30 September 2016 at the latest.
45. In accordance with Rule 32, paragraph 2, sub-paragraph (ii.a), GRECO instructs its President to send a letter – with a copy to the President of the Statutory Committee – to the Head of the Delegation of Cyprus, drawing the attention to the non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.
46. GRECO invites the authorities of Cyprus to authorise, as soon as possible, the publication of this report, to translate it into the national language and to make this translation available to the public.