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**Public**  
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## **Third Evaluation Round**

### **Second Compliance Report on Estonia**

#### **"Incriminations (ETS 173 and 191, GPC 2)"**

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#### **"Transparency of Party Funding"**

Adopted by GRECO  
at its 55<sup>th</sup> Plenary Meeting  
(Strasbourg, 14-16 May 2012)

## **I. INTRODUCTION**

1. The Second Compliance Report assesses further measures taken by the authorities of Estonia, since the adoption of the Compliance Report, in respect of the recommendations issued by GRECO in its Third Round Evaluation Report on Estonia. It is recalled that the Third Evaluation Round covers two distinct themes, namely:
  - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173), Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
  - **Theme II – Transparency of party funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).
2. The Third Round Evaluation Report was adopted at GRECO's 37<sup>th</sup> Plenary Meeting (31 March - 4 April 2008) and made public on 15 April 2008, following authorisation by Estonia (Greco Eval III Rep (2007) 5E, [Theme I](#) and [Theme II](#)). The subsequent Compliance Report ([Greco RC-III \(2010\) 1E](#)) was adopted at GRECO's 46<sup>th</sup> Plenary Meeting (22-26 March 2010) and made public on 23 September 2010, following authorisation by Estonia.
3. As required by GRECO's Rules of Procedure, the Estonian authorities submitted their Second Situation Report with additional information regarding actions taken to implement the recommendations that, according to the Compliance Report, were partly implemented or not implemented. The Situation Report was received on 30 September 2011 and served as a basis for the Second Compliance Report.
4. GRECO selected Hungary and the United States of America to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed for the Second Compliance Report were Ms Jane LEY, Deputy Director, US Office of Governmental Ethics, USA, and Ms Viktória SOÓS, Legal Advisor, Department of Criminal Law Legislation, Ministry of Public Administration and Justice, Hungary. They were assisted by GRECO's Secretariat in drawing up the Second Compliance Report.

## **II. ANALYSIS**

### **Theme I: Incriminations**

5. It is recalled that GRECO in its Evaluation Report addressed 8 recommendations to Estonia in respect of Theme I and that recommendation v was considered implemented satisfactorily in the Compliance Report. The remaining recommendations are dealt with below.
6. The authorities of Estonia indicate that the draft legislation aimed at amending the Penal Code (PC), which had been taken into account in the Compliance Report and which was relevant to recommendations i to iv, vii and viii, has not been adopted. Due to the parliamentary elections of 6 March 2011, the draft legislation which had been pending before Parliament had to be withdrawn from legislative proceedings. The authorities add that under the new Government, new draft legislation to amend the PC – including the issues addressed by GRECO's recommendations – is being prepared by the Ministry of Justice.

### **Recommendation i.**

7. *GRECO recommended to ensure that active and passive bribery of members of domestic public assemblies, members of foreign public assemblies and members of international parliamentary assemblies are criminalised in accordance with Articles 4, 6 and 10 of the Criminal Law Convention on Corruption (ETS 173).*
8. GRECO recalls that new legislation criminalising bribery of foreign and international members of public assemblies had been adopted. However, draft legal amendments concerning the definition of a public official, aimed at criminalising active and passive bribery of members of domestic assemblies, were pending before Parliament. Therefore, compliance with this recommendation was not yet complete.
9. The authorities now report that the draft legal amendments concerning the definition of a public official were withdrawn from legislative proceedings and that new draft legislation amending the PC is under preparation.
10. GRECO regrets that the draft legal amendments concerning the definition of a public official, aimed at criminalising active and passive bribery of members of domestic assemblies, have not been adopted. It urges the authorities to include this issue in the new draft legislation amending the PC and to have it adopted as soon as possible.
11. GRECO concludes that recommendation i remains partly implemented.

### **Recommendation ii.**

12. *GRECO recommended to amend current legislation in respect of bribery in the private sector in order to clearly cover the full range of persons who direct or work for, in any capacity, private sector entities as provided for in Articles 7 and 8 of the Criminal Law Convention on Corruption (ETS 173).*
13. GRECO recalls that the recommendation was partly implemented according to the Compliance Report, as draft amendments to section 288 (2) PC providing for a wider definition of the circle of persons covered by private sector bribery were pending before Parliament.
14. The authorities now report that the draft legal amendments were withdrawn from legislative proceedings and that new draft legislation amending the PC is under preparation.
15. GRECO regrets that the draft legal amendments concerning the definition of the circle of persons covered by private sector bribery have not been adopted. GRECO notes that a new bill amending the PC is currently under preparation, but as the draft legislation has not yet been finalised nor been presented to Parliament, and in the absence of any concrete information on its content, GRECO can only conclude that the recent development is a step backwards compared to the situation at the time of adoption of the Compliance Report. GRECO urges the authorities to include the issue of the definition of the circle of persons covered by private sector bribery in the bill amending the PC and to have this bill adopted as soon as possible.
16. GRECO concludes that recommendation ii has not been implemented.

### **Recommendation iii.**

17. *GRECO recommended to criminalise active and passive bribery of domestic and foreign arbitrators in accordance with articles 2, 3 and 4 of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) and to sign and ratify this instrument as soon as possible.*
18. GRECO recalls that the recommendation was considered partly implemented in the Compliance Report as draft amendments to Section 288 (2) PC, extending the definition of an official to explicitly cover domestic and foreign arbitrators, were pending before Parliament and the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) was to be signed and ratified following the adoption of the draft amendments.
19. The authorities indicate that the draft legal amendments were withdrawn from legislative proceedings and that new draft legislation amending the PC is under preparation.
20. GRECO regrets that the draft legal amendments to Section 288 (2) PC extending the definition of an official to explicitly cover domestic and foreign arbitrators have not been adopted and urges the authorities to include this issue in the new draft legislation amending the PC, to have it adopted and to sign and ratify the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191), as soon as possible.
21. GRECO concludes that recommendation iii has not been implemented.

### **Recommendation iv.**

22. *GRECO recommended to ensure that a gratuity-based offence following an earlier bribe-based offence (and vice versa) can give rise to an aggravated sentence.*
23. GRECO recalls that the recommendation was considered partly implemented in the Compliance Report as draft amendments to Section 293 PC (accepting of gratuities) and to Section 294 PC (accepting of bribes) – according to which an earlier acceptance of either a bribe or a gratuity in respect of any of these offences may lead to a five year prison sentence instead of up to 3 years' imprisonment – were pending before Parliament and it was planned to amend Section 297 PC (granting of gratuities) and Section 298 PC (giving a bribe) following the same logic.
24. The authorities now report that the draft legal amendments were withdrawn from legislative proceedings and that new draft legislation amending the PC is under preparation.
25. GRECO regrets that the draft legal amendments, according to which an earlier acceptance of either a bribe or a gratuity in respect of both the bribe-based offences and the gratuity-based offences might lead to an aggravated sentence, have not been adopted. GRECO urges the authorities to include this issue in the new draft legislation amending the PC and to have it adopted as soon as possible.
26. GRECO concludes that recommendation iv has not been implemented.

#### **Recommendation vi.**

27. *GRECO recommended (i) to criminalise active trading in influence as a principal offence; (ii) to include the request of an advantage in the offence of passive trading in influence; and (iii) to clarify what should be considered “illegal use of influence” in order to ensure that all instances of an asserted or confirmed improper influence are covered.*
28. GRECO recalls that the recommendation had not been implemented. Plans to do so had only been included in a Ministry of Justice work plan at the time of adoption of the Compliance Report.
29. The authorities now stress that the implementation of this recommendation, which is dependent on the 2011 Ministry of Justice work plan and on the ongoing analysis of the rules on lobbying (a first draft of which has already been prepared), is being examined in the course of the current preparation of draft legislation amending the PC.
30. GRECO concludes that recommendation vi remains not implemented.

#### **Recommendation vii.**

31. *GRECO recommended to abolish the requirement of dual criminality with respect to the offences of bribery and trading in influence committed abroad.*
32. GRECO recalls that Chapter 1, Section 7 PC, which deals with the rules on criminal jurisdiction, had been amended in order to enlarge the scope of Estonian jurisdiction in respect of bribery offences (including gratuities) and trading in influence. However, Section 7 (2) PC only partially abolished the dual criminality requirement concerning corruption offences – it appeared, for example, that private sector bribery abroad was not included in the definition – and the recommendation was therefore considered only partly implemented.
33. The authorities reiterate that new draft legislation amending the PC is under preparation.
34. GRECO concludes that recommendation vii remains partly implemented.

#### **Recommendation viii.**

35. *GRECO recommended to establish jurisdiction over offences of bribery and trading in influence committed abroad by/or involving Estonian public officials and members of domestic public assemblies who are not Estonian citizens.*
36. GRECO recalls that the recommendation had not been implemented, as GRECO could not see that the revised wording of section 7 (2) PC addressed situations where corruption offences are committed abroad by/or involving domestic public officials and members of domestic public assemblies even if they are not citizens of the State where they hold a public position.
37. The authorities reiterate that new draft legislation amending the PC is under preparation.
38. GRECO concludes that recommendation viii remains not implemented.

## **Theme II: Transparency of Party Funding**

39. It is recalled that GRECO in its Evaluation Report addressed 9 recommendations to Estonia in respect of Theme II. Following the preparation of draft legislation named “*Political Parties and Persons Running as a Candidate for Elections Financing Act*” (hereinafter “the draft PPA”) by the Ministry of Justice, which had been approved by the Government and was foreseen to replace the Political Parties Act (PPA), all recommendations (i – ix) were considered partly implemented in the Compliance Report.
40. The authorities now report in respect of all 9 recommendations that new legislation has been adopted in order to meet their requirements. The “Political Parties Act and Associated Acts Amendment Act”, which was adopted on 25 November 2010 and entered into force on 1 April 2011, introduced new regulations applicable to the financing of political parties and election candidates. It amended the existing legislation, in particular the PPA, instead of establishing a completely new legal framework as previously envisaged through the draft PPA, referred to above. The authorities stress, however, that the amendments adopted are to a large extent identical to those foreseen in the draft PPA. They state that as a result of the reform, the PPA stipulates uniform rules for political parties, candidates running on political party lists, election coalitions, candidates running on election coalition lists and individual candidates. Moreover, the Political Party Funding Supervision Committee (hereinafter “the Supervision Committee”) was established and entrusted with the control of political financing.

### **Recommendation i.**

41. *GRECO recommended to broaden the definition of entities related, directly or indirectly, to political parties or otherwise under their control, and to oblige political parties to include such entities both in their annual reports and in their reports on election campaign financing.*
42. GRECO recalls that the draft PPA – which was pending before Parliament at the time of adoption of the Compliance Report – envisaged a broader definition of entities related to a political party and an obligation on parties to include financial information on such entities in their accounts.
43. The authorities now report with regard to the first part of the recommendation that in the framework of the 2010 amendments to the PPA, the definition of an entity related to a political party has been broadened. The amended definition of an “affiliated organisation” in § 12<sup>6</sup> (1) PPA includes not only non-profit organisations but also foundations with a political party as founder or member and whose activities are targeted at achieving the aims of the political party (except for political foundations at European level whose conduct, financing and control are not regulated by the PPA but by Regulation (EC) No. 2004/2003 of the European Parliament and of the Council). According to the PPA, there does not have to be a legal connection between a political party and the related entity. Furthermore, in order to avoid party activities being carried out through other legal persons, parties are prohibited from establishing any other legal persons or from being a member of, or a shareholder in, other legal persons.
44. As concerns the second part of the recommendation, the authorities indicate that according to § 12<sup>6</sup> (5) PPA, political parties are obliged to inform the Supervision Committee of its affiliated organisations. According to §§ 12<sup>8</sup> (1) and 12<sup>9</sup> (4) PPA, parties are also obliged to include the accounts of affiliated organisations in their election campaign expenses report as well as to include information on the expenses incurred by such organisations in their annual report. The authorities add that the obligation on political parties to report on their websites donations and

membership fees received (§ 12<sup>3</sup>(7) PPA) extends to donations and membership fees (if any apply) received by affiliated organisations (§ 12<sup>6</sup>(1) PPA).

45. Finally, the authorities state that if an affiliated organisation tries to conceal from the Supervision Committee expenses incurred or income received, the Committee must issue a precept and request that the received funds be transferred to the State budget (§ 12<sup>8</sup>(9) PPA). The authorities indicate that the Committee can request additional information concerning the expenses incurred and income received by the affiliated organisation.
46. GRECO welcomes the amendments adopted which introduce a broader definition of entities related to political parties – including, in particular, foundations – as well as a requirement on parties to include financial information on such entities in their election campaign reports, in their annual reports and on their websites.
47. GRECO concludes that recommendation i has been implemented satisfactorily.

#### **Recommendation ii.**

48. *GRECO recommended to ensure that membership fees are not used to circumvent the transparency rules concerning donations.*
49. GRECO recalls that the draft PPA included regulations aimed at enhancing transparency of membership fees, in particular, by requiring parties to disclose information on the identity of the fee paying member and the amount of the fee in a public register.
50. The authorities indicate that in the framework of the 2010 reform, the PPA was complemented by new provisions obliging parties to register donations and membership fees separately and to publish them on the tenth day of the first month of the calendar quarter in the public register maintained by the parties on their websites. The public register must include the name and personal identification of the fee paying member as well as the amount of the fee and date of payment, see § 12<sup>3</sup>(7) and (9) PPA. The authorities add that these requirements on political parties extend to membership fees (if any apply) received by affiliated organisations (§ 12<sup>6</sup>(1) PPA).
51. GRECO takes note of the amendments adopted which introduce transparency rules applicable to membership fees similar to those concerning donations and which thus appear to remedy the shortcomings underlying this recommendation.
52. GRECO concludes that recommendation ii has been implemented satisfactorily.

#### **Recommendation iii.**

53. *GRECO recommended to require political parties, independent candidates and election coalitions to provide more detailed and complete reports on election campaign financing, in respect of the required level of itemisation of income and expenditure.*
54. GRECO recalls that the draft PPA provided for more detailed regulation concerning the content of election campaign reports than the old law and that new instructions had been prepared by the Anti-Corruption Select Committee for the purpose of assisting political parties with their reporting of campaign expenditure.

55. The authorities stress that in 2010, the PPA was amended to provide more detailed regulations concerning the itemisation of election campaign funds and expenditure in the election campaign reports, which are applicable to political parties and also to independent candidates and election coalitions (see § 5<sup>1</sup> (1) and § 5<sup>2</sup> (5) PPA). *Inter alia*, the reports are to specify the type of funds received, the name and personal identification code or registry code of the person who allocated the funds, their value and the date of accrual (§ 12<sup>8</sup> (4) to (6) PPA). Furthermore, requirements for the reporting of expenditure to be included in the reports – such as costs relating to communication, labour, advertising, publication etc. – are regulated in detail, such as the obligation to disclose the identity of the beneficiary, a description and the amount of the payment and the number of the invoice serving as the basis for the payment. The authorities also stress that in addition to these rules on election campaign reports, political parties are to disclose donations and membership fees quarterly on their respective websites. Moreover, the reporting requirements on election coalitions have been further developed. In particular, election coalitions have to submit election campaign reports even if they are expected to end prior to election day or to the deadline for submission of the election report; in addition, they have to submit to the Supervision Committee quarterly reports on donations received. Moreover, it has been established that the person entitled to manage the election coalition is liable for performing the obligations imposed on the election coalition by law (§ 5<sup>1</sup> PPA).
56. The authorities also underline that the verification by the Supervision Committee of election campaign reports is based on guidelines developed by the Select Committee of the *Riigikogu* for the Application of the Anti-Corruption Act, which was the responsible monitoring body before the 2010 reform. The Supervision Committee has sent to all political parties the guidelines for harmonisation of reporting of donations and membership fees and for ensuring their conformity with the requirements arising from the law. The guidelines were updated in the context of the 2011 parliamentary elections.
57. GRECO takes note of the information provided, according to which the requirements on political parties, election coalitions and independent candidates to report on election campaign financing have been regulated in detail and guidelines for the correct and uniform application of these regulations have been established by the competent monitoring body.
58. GRECO concludes that recommendation iii has been implemented satisfactorily.

#### **Recommendation iv.**

59. *GRECO recommended that political parties, independent candidates and election coalitions be required to publish at regular intervals, defined by law, the donations (cash and non-cash) received, including, if appropriate, during the electoral campaign period.*
60. GRECO recalls that the draft PPA envisaged a requirement on political parties to publish donations received at regular intervals. By contrast, no progress had been substantiated in respect of disclosure obligations on election coalitions and independent candidates.
61. The authorities now report that following the 2010 legal amendments, political parties are obliged to disclose donations (as well as membership fees), including those received by affiliated organisations, on the tenth day of the first month of the calendar quarter in the public register maintained by the parties on their websites (§ 12<sup>3</sup> (7) PPA). This rule also includes donations in kind, the value of which has to be calculated. As far as election coalitions are concerned, they are



now required to submit quarterly reports on donations received to the Supervision Committee (§ 5<sup>1</sup>(2) PPA). The authorities add that it was not deemed necessary to establish additional reporting during election campaigns in addition to the above quarterly reporting. They stress, however, that political parties and election coalitions are required to provide the Supervision Committee with their bank account details to ensure supervision of financial movements (§§ 12<sup>5</sup> and 5<sup>1</sup>(1) PPA).

62. As concerns independent candidates for election, the authorities refer to their obligation to include information on donations received in their election campaign reports. They add that such candidates also have to notify the Supervision Committee of current accounts that were used in relation with the election campaign (§§ 5<sup>2</sup>(1) and 12<sup>5</sup> PPA) and that in cases of suspicion, the Supervision Committee may turn to the Tax and Customs Board to receive information about the economic interests of the persons running as candidates to the extent that is necessary for the performance of its functions. Finally, the authorities stress that the political system in Estonia is dominated by the parties and that an additional disclosure requirement concerning donations on independent election candidates prior to elections would place a disproportionate burden on both candidates and the Supervision Committee.
63. GRECO welcomes the fact that clear rules on regular disclosure of donations to political parties and election coalitions have been adopted. However, GRECO regrets that no similar rules are applicable to independent candidates for election, who only have to include information on donations received in their election campaign reports after elections. GRECO notes that the authorities would consider an additional disclosure requirement on independent candidates prior to elections as disproportionate, but it wishes to stress that such additional disclosures are clearly required by the recommendation, for the sake of optimum transparency.
64. GRECO concludes that recommendation iv has been partly implemented.

#### **Recommendation v.**

65. *GRECO recommended that the timeframes for publication of annual reports by political parties be clearly specified by law.*
66. GRECO recalls that according to the draft PPA, political parties would have had to submit to the registration department of the pertinent court their annual accounts no later than 30 June of the year following the financial year.
67. The authorities indicate that the 2010 legal amendments introduced a provision similar to the one contained in the draft PPA pending before Parliament at the time of adoption of the Compliance Report. Pursuant to the new § 12<sup>9</sup> PPA, the financial year of a political party is the calendar year and parties are to submit their annual accounts no later than on the 30<sup>th</sup> of June the following year to the registration department of the pertinent court, which in turn is responsible for the publishing of the accounts on the Internet (web search system).
68. GRECO welcomes the amendments adopted, according to which the past system, where the publication of party accounts lay with the parties themselves, has been replaced by a system where the public authorities, i.e. the competent courts, are responsible instead. Coupled with the legal timeframe for submission of party accounts to the competent courts, such a model is likely to overcome the problem of parties publishing their accounts in an uncoordinated manner and as late as possible, if at all, as described in the Evaluation Report.

69. GRECO concludes that recommendation v has been implemented satisfactorily.

**Recommendations vi and vii.**

70. *GRECO recommended that the monitoring of campaign financing should be complemented by a supervision of political parties' accounts. (recommendation vi)*

71. *GRECO recommended to assign the monitoring in respect of the funding of political parties and electoral campaigns to an independent body which is given the mandate, the authority, as well as the financial and personnel resources to effectively supervise such funding, to investigate alleged infringements of political financing regulations and, as appropriate, to impose sanctions. (recommendation vii)*

72. GRECO recalls that in the draft PPA it had been foreseen to replace the system of monitoring of political financing by the Select Committee of the Parliament – which was restricted to election campaign financing – with a model where all monitoring of political financing (regular party financing as well as election campaign financing) would have been under the responsibility of the National Electoral Committee.

73. The authorities now report that in the framework of the 2010 amendments to the PPA, it had been decided to establish a new body, the Supervision Committee, modelled on the National Electoral Committee. In accordance with § 12<sup>10</sup> PPA, the Supervision Committee has the mandate to verify whether political parties, election coalitions and independent candidates adhere to the requirements provided for in the PPA. The Committee consists of a member appointed by the Chancellor of Justice, a member appointed by the Auditor General, a member appointed by the National Electoral Committee and a member – who is not a member of Parliament or of the Government – appointed by a political party represented in Parliament. The term of office of committee members is five years. The operational and technical services of the Supervision Committee are provided by the Chancellery of Parliament. In particular, the Chancellery has hired one official – a specialist in economics with long-term experience in financial work – to exclusively serve the Committee. The latter is also supported by an official of the Select Committee on the Establishment of the Anti-Corruption Act and by the Legal and Analysis Department of the Chancellery of Parliament. The budget of the Supervision Committee for 2012 is 111 980 EUR, in addition to the maintenance costs of the Chancellery of Parliament (which include the salary of officials rendering services to the Supervision Committee, expenses relating to the Committee's premises, IT and legal service expenses as well as accounting expenses).

74. As regards the tasks and competences of the Supervision Committee, the authorities stress that it has a mandate to monitor both regular party financing and election campaign financing. In order to fulfil this task, the Supervision Committee has to check annual party accounts, party registers on donations, election coalition quarterly reports on donations, as well as election campaign reports and quarterly reports by political parties, election coalitions or independent candidates on payment of outstanding contractual payments and outstanding invoices and on claims against third parties (until the claims are settled or the debt relationship is terminated). The authorities add that according to the Taxation Act, the Supervision Committee may ask the Tax and Customs Board to provide information on the economic interests of independent candidates and of members of election coalitions even if such information is subject to tax secrecy. Moreover, investigative services are provided by the officials of the Select Committee and by the Chancellery of Parliament. The Supervision Committee has to issue a precept to political parties,

election coalitions and independent candidates who do not comply with their obligations specified in § 12<sup>11</sup> PPA, such as the requirement to submit a correct election campaign report within the legal timeframe, the obligation to return prohibited donations or transfer them to the State budget, etc. In cases of failure to comply with a precept, the Supervision Committee may impose penalty payments or default interests on a party, election coalition or candidate concerned. Finally, the authorities indicate that the Supervision Committee has, during recent elections, discovered several violations of the campaign financing rules and has issued precepts in these cases, that it has prepared an overview of the financing of the 2011 parliamentary elections and that it has made this information available on its website, together with recent election campaign reports.

75. GRECO takes note of the information provided, according to which monitoring of campaign financing has been complemented by supervision of political parties' accounts and has been entrusted to a newly established body, the Supervision Committee. GRECO welcomes that the Committee, whose members are appointed by, in particular, the Chancellor of Justice, the Auditor General and the National Electoral Committee, has the status of an independent body. GRECO considers that an overall satisfactory framework has thus been established which appears to be in line with the requirements of recommendations vi and vii. At the same time, GRECO encourages the authorities to keep under review the question of whether the investigative competences and personnel resources available to the Supervision Committee need to be further developed in the future, in order to ensure effective supervision of both regular party financing and election campaign financing.

76. GRECO concludes that recommendations vi and vii have been implemented satisfactorily.

#### **Recommendation viii.**

77. *GRECO recommended to establish, in addition to the existing arsenal of criminal sanctions, more flexible sanctions with regard to the infringement of rules concerning the funding of political parties and electoral campaigns, including administrative sanctions.*

78. GRECO recalls that the draft PPA provided the National Electoral Committee with the power to issue precepts and to impose penalty payments (up to 100 000 kroons – 6 390 EUR) to political parties, election coalitions or independent candidates, in case of failure to comply with precepts issued.

79. The authorities indicate that in accordance with the new provisions of § 12<sup>12</sup> PPA, the recently established Supervision Committee may directly, without having resort to the courts, impose penalty payments of up to 6 400 EUR to political parties, election coalitions or independent candidates, in case of failure to comply with precepts issued in order to enforce the following non-monetary obligations: submission of a correct election campaign report within the legal timeframe; return of prohibited donations; recognition of accepted donations. Moreover, in case of failure to comply with a precept issued in order to enforce the obligation to transfer a prohibited donation to the State budget within the prescribed timeframe, the party, election coalition or candidate concerned has to pay into the State budget a default interest on the overdue amount at the rate of 0.85% per calendar day of delay. The authorities furthermore indicate that pursuant to § 36<sup>1</sup> of the Non-profit Associations Act, in case of failure by a political party to submit the annual financial report to the registration department of the competent court, sanctions may be applied which range from warnings and publication of such failure to the liquidation of the party concerned.

80. GRECO acknowledges the amendments adopted, which clearly broaden the range of sanctions applicable in cases of infringements of the rules concerning political financing, including administrative sanctions which are supposed to be used without having to involve the more cumbersome criminal procedure. At the same time, GRECO encourages the authorities to keep under review the question of whether the administrative sanctions introduced – in particular, penalty payments of up to 6 400 EUR, which could well be seen as relatively lenient – will prove to be sufficiently effective, proportionate and dissuasive.
81. GRECO concludes that recommendation viii has been implemented satisfactorily.

### **Recommendation ix.**

82. *GRECO recommended to provide for effective, proportionate and dissuasive sanctions with regard to the infringement of rules concerning electoral campaigns by candidates for election or by election coalitions, and to require candidates and election coalitions to return illegal donations to the donor or to the State budget.*
83. GRECO recalls that under the draft PPA, sanctions for violations of political financing regulations as well as the obligation to return prohibited donations to the donor or to the State budget would have been applicable not only to political parties but also to election coalitions and independent candidates.
84. The authorities now report that following the 2010 amendments to the PPA, the sanctions referred to under recommendation viii – namely penalty payments and payment of default interest to the State budget (see § 12<sup>12</sup> PPA) – and the obligation to return prohibited donations to the donor or to the State budget (see § 12<sup>4</sup> PPA in connection with §§ 5<sup>1</sup> (1) and 5<sup>2</sup> (5) PPA) also apply to election coalitions and independent candidates.
85. GRECO takes note of the information provided and considers that the measures reported constitute significant improvements, in line with the requirements of the recommendation. That said, GRECO encourages the authorities to keep under review the question of whether the administrative sanctions introduced will have to be complemented in the future by further sanctions such as higher penalty payments or criminal fines.
86. GRECO concludes that recommendation ix has been implemented satisfactorily.

### **III. CONCLUSIONS**

87. **In view of the conclusions contained in the Third Round Compliance Report on Estonia and in view of the above, GRECO concludes that Estonia has implemented satisfactorily or dealt with in a satisfactory manner in total nine of the seventeen recommendations contained in the Third Round Evaluation Report.** With respect to Theme I – Incriminations, recommendation v has been implemented satisfactorily, recommendations i and vii have been partly implemented and recommendations ii-iv, vi and viii have not been implemented. Regarding Theme II – Transparency of Party Funding, recommendations i, ii, iii, v, vi, vii, viii and ix have been implemented satisfactorily and recommendation iv has been partly implemented.
88. Concerning incriminations, Estonia has not made any progress since the adoption of the Compliance Report. On the contrary, the draft legislation aimed at amending the Penal Code, which had been taken into account in the Compliance Report and which was relevant to the

majority of recommendations, was withdrawn from legislative proceedings, due to the parliamentary elections of 6 March 2011. Although new draft legislation to amend the Penal Code is being prepared by the Ministry of Justice, GRECO can only conclude that there has been a step backwards compared to the situation at the time of adoption of the Compliance Report. GRECO urges the authorities to include the issues addressed by recommendations i-iv and vi to viii in the new draft bill amending the Penal Code and to have this bill adopted as soon as possible.

89. In so far as the transparency of political funding is concerned, Estonia has shown remarkable progress since the adoption of the Evaluation Report. GRECO is very pleased that the substantial reform process, already welcomed in the Compliance Report, has been completed by Estonia through the enactment of significant amendments to the Political Parties Act, which positively respond to the requirements of almost all the recommendations issued in the Evaluation Report. GRECO acknowledges that a solid legal framework for political financing – both regular party financing and election campaign financing – has thus been established and that improvements to the transparency regulations, the establishment of a new monitoring mechanism and the further development of the regime of sanctions have been accomplished. Given the far-reaching changes introduced by the 2010 reform, GRECO encourages the authorities to ensure that the new regulations and mechanisms are fully operational and effective in practice and to keep their functioning under review in order to further perfect the system in the future.
90. In view of the fact that only one out of eight recommendations concerning incriminations have so far been implemented and in the absence of any progress made in implementing the seven outstanding recommendations, GRECO in accordance with Rule 31, paragraph 9 of its Rules of Procedure asks the Head of the delegation of Estonia to submit additional information, namely regarding the implementation of recommendations i-iv and vi-viii (Theme I – Incriminations) and of recommendation iv (Theme II – Transparency of Party Funding), by 28 February 2013 at the latest.
91. GRECO invites the authorities of Estonia to authorise, as soon as possible, the publication of the current report, to translate it into the national language and to make the translation public.