

Strasbourg, 4 December 2009

Public
Greco RC-III (2009) 2E

Third Evaluation Round

Compliance Report on Finland

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

"Transparency of Party Funding"

Adopted by GRECO
at its 45th Plenary Meeting
(Strasbourg, 30 November – 4 December 2009)

I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Finland to implement the 17 recommendations issued in the Third Round Evaluation Report on Finland (see paragraph 2), covering 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 35th Plenary Meeting (3-7 December 2007) and made public on 12 December 2007, following authorisation by Finland (Greco Eval III Rep (2007) 2E, [Theme I](#) and [Theme II](#)).
3. As required by GRECO's Rules of Procedure, the Finnish authorities submitted a Situation Report on measures taken to implement the recommendations. This report was received on 23 June 2009 and served as a basis for the Compliance Report. The Finnish authorities submitted additional information on 19, 20 and 27 November 2009.
4. GRECO selected Norway and the United Kingdom to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Jens-Oscar Nergård, Senior Adviser, Ministry of Government Administration and Reform, Norway and Ms Chiara MacCall, Criminal Law and Policy Unit, Ministry of Justice, United Kingdom. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
5. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

II. ANALYSIS

Theme I: Incriminations

6. It is recalled that GRECO in its evaluation report addressed 7 recommendations to Finland in respect of Theme I.
7. The authorities of Finland report that on 1 December 2008, the Ministry of Justice appointed a Working Party to evaluate any legislative measures prompted by the recommendations issued by GRECO in its third Round Evaluation Report on Finland and to propose amendments to current legislation or draft new legislation wherever necessary. On 6 November 2009, the Working Party submitted its proposals to the Ministry of Justice, which has included them in its response to GRECO.

Recommendation i.

8. *GRECO recommended to verify the coverage of the notion of foreign arbitrators in Finnish law and, if need be, to transpose in an unequivocal manner the definition of foreign arbitrators as provided for in Article 4 of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) into Finnish legislation and, to sign and ratify this Instrument as soon as possible.*
9. The authorities of Finland acknowledge that the current legislation concerning criminal liability for bribery of domestic and foreign arbitrators is not unambiguous and the above mentioned Working Party has therefore suggested inserting the wording “*a person serving as an arbitrator*” into the provisions of active and passive bribery in the private sector (sections 7 and 8 of Chapter 30 of the Penal Code). The Working party has also proposed that the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) be signed and ratified.
10. GRECO takes note of the draft amendments referred to above, which appear to be wide enough to cover bribery of arbitrators, whether in the domestic or the foreign context. GRECO welcomes the proposal to sign and ratify the Additional Protocol to the Criminal Law Convention.
11. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

12. *GRECO recommended to review the legislation concerning bribery of members of the Finnish Parliament, members of foreign parliaments and members of international parliamentary assemblies, in order to comply with the requirements of Articles 4, 6 and 10 of the Criminal Law Convention on Corruption (ETS 173).*
13. The authorities of Finland report that the Working Party has proposed that the legislation concerning bribery of members of the Finnish Parliament, which also covers members of foreign parliaments and members of international parliamentary assemblies, be amended so as to ensure that the provisions comply fully with Articles 4, 6 and 10 of the Criminal Law Convention on Corruption (ETS 173). The draft legislation (sections 14a and 14b of Chapter 16 of the Penal Code) is appended to this report.
14. GRECO recalls that it was concluded in the Evaluation report that the current legislation covers situations where a member of Parliament “*in exchange for the benefit and in his/her parliamentary mandate, act[s] so that a matter being considered or to be considered by Parliament would be decided in a certain way*”, and that this wording is more narrow than what is foreseen in Article 4 of the Criminal Law Convention. GRECO notes with satisfaction that this restriction does not appear in the draft legislation. However, the proposed new wording which states that the bribery act is to be “*conducive towards seriously undermining the independence of the exercise of the parliamentary mandate*” appears to limit this offence in comparison with the requirements of Articles 4, 6 and 10 of the Convention, which have no such requirements. Consequently, the proposed wording of section 14a, Chapter 16 of the Penal Code appears to require further review by the Finnish authorities in order to fully comply with the text of the Convention.
15. GRECO concludes that recommendation ii has not been implemented.

Recommendation iii.

16. *GRECO recommended to clarify in an appropriate manner what should be considered “due” and/or “undue” gifts/benefits, both in terms of material and immaterial advantages for all forms of bribery offences.*
17. The authorities of Finland stress that the Working Party has reported that it would not be feasible to make binding clarifications on what should be considered due or undue advantages as that could infringe upon the principle of independence of the courts, which are the ultimate reference points for interpreting the law. However, the Working Party has interpreted GRECO’s request as a call for an analysis of the already existing case law, which could be done, however, it appears that the Working Party is uncertain of the usefulness of such an exercise as the few court cases dealing with the issue of due/undue advantage are easily accessible anyway. This issue is currently under consideration by the Government.
18. GRECO wishes to stress that the reasons in essence for the current recommendation were that the existing law is worded in a rather general way and that there is only limited case-law on bribery offences in Finland. As a consequence, there is a “grey zone” between what should be considered due and undue advantages, including material and immaterial benefits, which makes it difficult for public officials and others to know what benefits are acceptable and which are not (Evaluation report, paragraph 99). GRECO stresses that the recommendation is drafted in an open ended way and the Finnish authorities are free to choose suitable measures to remedy the shortcoming identified. Currently, no concrete measures have been reported.
19. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv.

20. *GRECO recommended to consider increasing the penalties for aggravated bribery offences in the public sector.*
21. The authorities of Finland explain that they consider that the penal scale for aggravated bribery offences in the public sector is equivalent to the penal scale for aggravated financial offences. An overall reform of the criminal law, which has lasted for decades in Finland, has recently been completed and there ought to be cogent reasons for deviating from the generally-applied penal scales in respect of aggravated offences. As this is not the case, the penal scale available as well as sanctions applied, although few in number, do not appear to be exceptionally lenient, according to the authorities. In addition, the authorities see no other significant advantages for providing more severe penalties in respect of aggravated bribery. The authorities add that more severe sanctions than those foreseen in the bribery provisions, are possible to apply if corruption offences are committed in conjunction with other serious offences. On the basis of these reasons, the Working Party has not suggested increasing the penalties for aggravated bribery offences in the public sector.
22. GRECO takes note of the reasons provided for not increasing the sanctions in respect of aggravated bribery in the public sector. GRECO notes that Finland maintains its previously criticised position reflected in the Evaluation Report (paragraph 102) to compare the level of sanctions for corruption offences only with financial offences and not with any other types of serious offences of the Penal Code (for example falsification of evidence) which may lead to more

severe sanctions. It regrets the position taken by the Finnish authorities, but accepts that the issue has been considered as required by the recommendation.

23. GRECO concludes that recommendation iv has been implemented satisfactorily.

Recommendation v.

24. *GRECO recommended to consider abolishing the requirement of dual criminality in respect of bribery offences in the private sector when committed abroad and thus withdrawing or not renewing the reservation relating to Article 17 of the Criminal Law Convention on Corruption (ETS 173).*
25. The authorities of Finland report that this recommendation has been considered by the Working Party which has come to the conclusion that the requirement of dual criminality in respect of bribery offences in the private sector committed abroad is to be abolished in order to establish the same situation as is the case for bribery in the public sector where there is no dual criminality requirement. To this end, the Working Party has proposed an amendment to section 11, Chapter 1 of the Penal Code. The authorities report that the amendment – if adopted by Parliament – will make the current reservation relating to Article 17 of the Criminal Law Convention on Corruption (ETS 173) superfluous and that it can be withdrawn.
26. GRECO welcomes that this recommendation has not only been subject to scrutiny, but that amendments to the law to abolish the dual criminality requirement in respect of private sector bribery have been proposed. The draft law (seen by GRECO) would – if adopted – make Finnish' legislation more coherent and would strengthen Finland's possibilities to fight corruption committed abroad.
27. GRECO concludes that recommendation v has been implemented satisfactorily.

Recommendation vi.

28. *GRECO recommended to increase the penalties for bribery offences in the private sector.*
29. The authorities of Finland report that they do not see a need to maintain the current difference between the penal sanctions in respect of private sector bribery, where the maximum sanction is 2 years' imprisonment and bribery in the public sector where the maximum sanction is 4 years for aggravated offences. The Working Party has therefore proposed that, in addition to the offences of active and passive bribery in the private sector (sections 7 and 8 of Chapter 30 of the Penal Code), to include sections (7a and 8a) for aggravated forms of this offence, with stipulated sanctions of between 4 months' and 4 years' imprisonment.
30. GRECO has taken note of the draft legal amendments, which – if adopted – would comply with the recommendation.
31. GRECO concludes that recommendation vi has been partly implemented.

Recommendation vii.

32. *GRECO recommended to consider criminalising trading in influence in accordance with Article 12 of the Criminal Law Convention on Corruption (ETS 173) and thus withdrawing or not renewing the reservation relating to this article of the Convention.*
33. The authorities of Finland emphasise that the criminalisation of the offence “trading in influence” would contribute to a more comprehensive legal framework in Finland for different forms of corruption. To this end, the Working Party has drafted legal provisions (sections 14c and 14d of Chapter 16 of the Penal Code), which are appended to this report. The authorities have furthermore stated that should this draft legislation be adopted, it would no longer be necessary to maintain the current reservation in respect of Article 12 of the Criminal Law Convention on Corruption (ETS 173).
34. GRECO takes note of the information provided and accepts that this recommendation has not only been considered but, more importantly, draft legislation has been established, which appears to be in line with the requirements of Article 12 of the Criminal Law Convention. Having said that, GRECO notes that the maximum penalties foreseen in respect of active and passive trading in influence (2 years’ imprisonment) and the fact that there is no aggravated form of these offences, appear to be rather lenient in comparison with the maximum sanctions for other corruption offences in Finland. The draft legislation may therefore fall short of the requirements of Article 19 of the Criminal Law Convention, according to which sanctions are to be effective, proportionate and dissuasive. GRECO urges the Finnish authorities to review this part of the draft legislation before its submission to Parliament.
35. GRECO concludes that recommendation vii has been implemented satisfactorily.

Theme II: Transparency of Party Funding

36. It is recalled that GRECO in its Evaluation report addressed 10 recommendations to Finland in respect of Theme II.
37. The authorities of Finland report that on 30 May 2008, the Ministry of Justice appointed the *Committee on Election and Party Funding* to prepare a proposal for the reform of the laws regulating the funding of political parties and election candidates in accordance with the principles outlined in a Government Programme. This Programme makes specific reference to GRECO’s recommendations stating that the Government will review the need for legal amendments and procedural changes relating to election and party funding.
38. The authorities describe the Committee on Election and Party Funding as a broad-based working party in which all the political parties represented in Parliament and several universities participate as well as the Ministry of Justice. The Committee was tasked to evaluate the funding received by political parties and election candidates and the current oversight procedures, and to prepare proposals to increase the transparency of such funding with due regard to the views and recommendations issued by (GRECO).
39. The Committee’s work was divided into two parts. Proposals concerning the first part of the work, which only relates to the funding of election candidates, were submitted to the Ministry of Justice in January 2009. The Government presented a Bill to Parliament on 27 February 2009, and the Act on a Candidate’s Election Funding (*Laki ehdokkaan vaalirahoituksesta 273/2009*), based on

the findings of the Committee, entered into force on 1 May 2009. The Committee's second part of the work, concerning transparency of party funding, was submitted to the Government on 13 October 2009, including draft amendments to the 1969 Act on Political Parties. The Ministry of Justice has included the Committee's proposal and draft legislation in its response to GRECO.

Recommendation i.

40. *GRECO recommended to consider introducing a more frequent reporting on election activities, including income received and expenses incurred, during election campaigns.*
41. The authorities of Finland report that the Act on a Candidate's Election Funding which entered into force on 1 May 2009 includes a specific provision on the duration of the election campaign and what is deemed to constitute election funding for a candidate (section 2). For the purposes of the Act, *election funding* means the funding raised to cover the costs of the candidate's election campaign incurred over a period starting no earlier than six months before the election day and ending no later than two weeks after the election day irrespective of when such costs are paid. The definition covers the period of active campaigning. Only expenditures are linked to the campaign period as defined in the Act. By contrast, the source of revenues must be reported for all funding raised before the campaign if it is used by the candidate to pay expenses incurred during the campaign. This means that the funding may have to be reported within a reporting period, which may even exceed the accounting year. The new Act stipulates that only persons elected to positions of trust and their substitutes are required to file an election funding disclosure (section 5), in order to avoid cumbersome administrative procedures. A disclosure of potential ties to third parties is of significance primarily for people who take part in decision-making. Moreover the new Act provides for a voluntary advance disclosure that may be filed by all candidates. A candidate and a political party nominating a Presidential candidate and the polling representative of a constituency association nominating a candidate may file an advance disclosure with the National Audit Office (see also recommendation ix) containing an estimate of campaign funding and costs before the election day but not before the completion of the master list of candidates and the list of candidates in the case of a Presidential election. The National Audit Office of Finland is required to make the advance disclosures available to the public without delay (section 11).
42. The authorities add that the new procedure allows voters to evaluate a candidate's funding before voting. Advance disclosure is not mandatory because in Finland's candidate-centred electoral system, the final campaign costs may not be clear until just before or even after the election day. The final election funding disclosure is to be filed within two months of the confirmation of the election results.
43. The issue of reporting routines in respect of election activities of political parties, has been considered by the Government, which now proposes that the Act on Political Parties be amended in order to make political parties as well as corporations and foundations involved in campaign financing obliged to report donations exceeding the threshold of 1500 Euros at the same frequency as is the case for election candidates.
44. GRECO takes note of the information provided. It welcomes the new legislation introduced in order to increase the transparency on income and expenditure of election candidates. Furthermore, GRECO is pleased that Finland is also considering introducing more frequent reporting requirements in respect of political parties on election activities. However, this process has not yet resulted in more than draft legislation.

45. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

46. *GRECO recommended to strengthen the reporting obligations in respect of the required level of itemisation of income and expenditure, including the nature and value of individual donations and expenditure.*
47. The authorities of Finland report that under the 2009 Act on a Candidate's Election Funding, election candidates are required to itemise their campaign costs in the disclosures to be filed in connection with all general elections (section 6). The provision on the itemisation of campaign costs was added to the Act by way of a partial amendment (Act 604/2008) which was already applied in the municipal elections held in October 2008. As a result of the amendment, the Ministry of Justice has prepared a new disclosure form and issued new instructions for the municipal elections. Those obligated to file the disclosure were required to itemise their campaign costs by reporting the expenditure incurred for any advertisements in the various media, campaign planning, organisation of rallies, etc. Under the new instructions, the source of funding raised by a candidate's personal support group was to be disclosed in accordance with the same principles as applied to the direct funding received by the candidate. The obligation to report campaign costs has been extended to all general elections, i.e. Parliamentary elections, the Presidential election, municipal elections and elections to the European Parliament. The total election campaign costs are to be reported, accompanied by an itemised list of promotional expenditure for advertisements in newspapers, periodicals, radio, television and data networks, as well as other communications media; outdoor advertising; the production of self-published campaign newsletters, brochures and other printed documents; campaign planning; the organisation of rallies; and other expenditure (section 6(1)(3)). Moreover, the total election funding is to be reported and accompanied by an itemised list of the candidate's own funds and loans; all campaign contributions received by the candidate, his/her support group or other entity operating exclusively for the purpose of promoting the candidate, grouped into the amounts received from private individuals, companies, the registered associations of political parties and other sources (section 6(1)(4)). Additionally, if the candidate, his or her support group or other entity operating exclusively for the purpose of promoting the candidate, has taken a loan to cover the cost of the election campaign, the disclosure must be accompanied by a repayment plan for such a loan. Furthermore, those obliged to file the disclosure are encouraged to report other information on election funding and campaign costs as deemed appropriate by the candidates themselves (section 6(1)(5)). Compliance with the disclosure obligation is monitored by the National Audit Office (see also recommendation ix. below), which has prepared a new reporting form and related instructions that are available on the website of the National Audit Office.
48. The authorities stress that political parties will also be subject to strengthened reporting obligations as a consequence of a proposed increase of the required level of itemisation in respect of their reporting of income and expenditure, similar to the rules already applying to election candidates.
49. GRECO welcomes the measures taken by the Finnish authorities, to meet GRECO's concern in this recommendation that was mainly that the level of detail required for election financing reporting was too low to provide for the production of meaningful information. The new legislation and accompanying disclosure forms established appear to remedy this shortcoming in respect of election candidates. Furthermore, the Government is in the process of proposing new regulations with similar effect in respect of political parties.

50. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii.

51. *GRECO recommended to ensure that donations in kind to political parties (other than voluntary work from non-professionals) are evaluated and accounted for at their commercial value.*

52. The authorities of Finland stress that the 2009 Act on a Candidate's Election Funding includes a specific provision stating that the value of campaign contributions provided in forms other than money is to be estimated and the contributions reported in figures (section 3(3)). According to the preparatory works to the Act, this refers to the fair value of such contributions. With regard to political parties, a similar definition is included in the draft amended Act on Political Parties

53. GRECO welcomes the new legislation which clarifies that donations in kind to election candidates are to be declared according to their appropriate monetary value. However, what has been reported by the authorities in this respect is outside the scope of the current recommendation, which is limited to political parties, in respect of which only draft legislation exists.

54. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

55. *GRECO recommended to introduce a general ban on donations from donors whose identity is not known to the political party/candidate and to consider lowering the threshold of donations above which the identity of the donor is to be disclosed.*

56. The authorities of Finland report that the 2009 Act on a Candidate's Election Funding includes an express ban on receiving contributions if the identity of the donor cannot be determined. No candidate, his or her support group or other entity operating exclusively for the purpose of promoting a candidate may accept any campaign contributions unless the donor can be identified. However, this does not apply to campaign contributions received as a result of ordinary fund-raising activities (section 4(1)).

57. The authorities further submit that the thresholds for donations to be specifically reported have been lowered concerning all elections. Under the 2009 Act, each individual campaign contribution and its donor must be disclosed separately, if the value of such a contribution exceeds EUR 800 in municipal elections, EUR 1,500 in Parliamentary elections or EUR 2,000¹ in the European Parliamentary elections and Presidential elections. If such a contribution is made by purchasing identifiable goods or services or otherwise (for example, when a donor buys something overpriced from a candidate), only the net value of such contributions is to be disclosed and itemised (section 6(2)).

58. In so far as political parties are concerned, the authorities submit that draft amendments to the Act on Political Parties have been established, prohibiting political parties from accepting contributions from donors who cannot be identified, similarly to the legislation already in place in respect of election candidates.

¹ The Finnish authorities stated during the adoption of this report that the threshold would be changed from 2000 EUR to 1500 EUR.

59. GRECO welcomes the ban on anonymous contributions introduced in respect of election candidates. GRECO accepts that ordinary fund raising activities, such as public collections, lotteries, small scale selling and “rallies” etc. are not covered by the ban. Moreover, Finland has significantly lowered the reporting thresholds in respect donations to candidates at all types of elections. Obviously, this serves the purpose of bringing more transparency into the domain of financing of election candidates. GRECO furthermore notes that a ban on anonymous donations in respect of political parties is proposed in the draft amendments to the Act of Political Parties.
60. GRECO concludes that recommendation iv has been partly implemented.

Recommendation v.

61. *GRECO recommended to introduce provisions specifying that the disclosure thresholds, as established under the Act on the Disclosure of Election Financing, also apply to the total sum of all donations received from the same donor in each calendar year.*
62. The authorities of Finland underline that the 2009 Act on a Candidate’s Election Funding, a specific provision is included stating that all campaign contributions received from the same donor are to be added up and reported as a single campaign contribution item (section 3(4)). The 2009 Act addresses funding used to cover campaign expenditure incurred during the period starting six months before and ending two weeks after the elections. Contributions received from a single donor are added up into a single donation if they have been used for the same campaign. Consequently, the reporting period may be longer than the calendar year recommended by GRECO. Similar explicit requirements concerning political parties are included in the draft amendments to the Act of Political Parties
63. GRECO takes note of the information provided, which makes it clear that several donations from the same donor are to be added together. The overall purpose of such a requirement is to avoid circumvention of the threshold rules. The fact that the reporting period may not coincide with the calendar year does not alter GRECO’s position that this part of the recommendation has been implemented. Furthermore, draft legislation to resolve the same issue in respect of donations to political parties have been established.
64. GRECO concludes that recommendation v has been partly implemented.

Recommendations vi and vii.

65. *GRECO recommended to bring the rules on disclosure of donors’ identities of the political parties in line with those applicable to election candidates (recommendation vi).*
66. *GRECO recommended to find ways to increase the transparency of contributions by third parties (e.g. interest groups, political education foundations) to political parties (recommendation vii).*
67. The authorities of Finland report in respect of both these recommendations, that the draft amended Act on Political Parties requires that political parties as well as associations directly or indirectly linked to the party will be obliged to report to the National Audit Office donations exceeding the value of 1500 Euros (in total), indicating the value of the donation(s) and name of each donor.

68. GRECO takes note of the positive indications to increase the transparency in respect of donations to political parties, as well as related issues of third parties.
69. GRECO concludes that recommendations vi and vii have been partly implemented.

Recommendation viii.

70. *GRECO recommended to consider making candidates' election financing subject to proper auditing procedures taking into account the different needs of the existing constituencies and municipalities.*
71. The authorities of Finland report that auditing candidates' campaigns has been discussed by the Government; however, it was concluded that it would not be appropriate to require regular audits of all campaigns to be performed and that random checks would not treat all candidates equally. Instead, it was decided to include in the 2009 Act on a Candidate's Election Funding a specific provision stating that liability for the accuracy of the disclosure rests with the discloser (section 7). Additionally, this Act includes a provision establishing that the candidate – upon request – is obliged to submit supplementary information and reports in the form of bank statements or other such records as may be necessary in order to verify the accuracy and completeness of disclosures (section 8(3)).
72. GRECO takes note of the information and the reasons given for not introducing auditing in respect of election candidates' financing, as opposed to political parties' accounts in respect of which such auditing is already in place. GRECO recalls that this recommendation was phrased in order for the authorities to examine the particular situation and needs in Finland and GRECO accepts that the matter has been subject to proper consideration by the authorities.
73. GRECO concludes that recommendation viii has been implemented satisfactorily.

Recommendation ix.

74. *GRECO recommended to strengthen considerably the independence of the monitoring of political funding at central and local level; and to ensure proper substantial supervision - in addition to the existing formal control - of the accounts of political parties and the expenses linked to electoral campaigns.*
75. The authorities of Finland report that under the 2009 Act on a Candidate's Election Funding, the responsibility for overseeing the system of financing of election candidates rests with the National Audit Office. The Office's general mission is to verify the legality and propriety of the State's financial management and compliance with the state budget. Its independence is secured by the Constitution of Finland (section 90(2)).
76. The National Audit Office receives all the election funding disclosures to be filed in connection with general elections and is to monitor the compliance with the disclosure obligation. To this end, the Office verifies that all election candidates have filed the disclosures. The Office makes all the funding disclosures received available to the public without delay and, if necessary, after examining the funding disclosures, may request disclosers to add information or to submit new disclosures etc.

77. The authorities add that it is foreseen in the draft amended Act on Political Parties that monitoring of political parties in respect of their accounting of income and expenditure will be given to the National Audit Office, but that the monitoring of the use of government funds is to remain with the Ministry of Justice as well as the overall supervision of the Act on Political Parties.
78. GRECO welcomes that the National Audit Office, which is clearly a body of independence and of high reputation, has been selected as the supervisory authority over political financing of election candidates. GRECO furthermore notes the authorities' intention that the National Audit Office is to have a similar role in respect of the monitoring of the accounts of political parties, but not in respect of parties' use of government funds and the overall compliance with the Act on Political Parties, which remain a task of the Ministry of Justice. GRECO takes the view that what has been reported, if implemented, will improve the system considerably.
79. GRECO concludes that recommendation ix has been partly implemented.

Recommendation x.

80. *GRECO recommended to review the sanctions available for the infringement of rules concerning the funding of political parties and election campaigns and to ensure that these sanctions are effective, proportionate and dissuasive.*
81. The authorities of Finland report that the 2009 Act on a Candidate's Election Funding provides that the National Audit Office is to seek through its actions primarily to persuade election candidates to file the disclosures properly; however, if they fail to comply with a reminder or a given instruction, a penalty payment may be imposed (section 10 (2)). Such administrative sanctions can be repeated several times.
82. The authorities furthermore report that it has been proposed in draft legislation (Political Parties Act) that the National Audit Office in its future monitoring role in respect of political parties be provided with the authority to issue penalty payments in line with what is reported in respect of candidates.
83. GRECO takes note of the information provided. It welcomes that administrative sanctions are available to the National Audit Office in its monitoring of election candidates and it appears that these may be used in a flexible way. GRECO is hopeful that such sanctions will also be available within the framework of the future monitoring of political parties.
84. GRECO concludes that recommendation x has been partly implemented.

CONCLUSIONS

85. **In view of the above, GRECO concludes that Finland has implemented satisfactorily four of the seventeen recommendations contained in the Third Round Evaluation Report.** With respect to Theme I – Incriminations, recommendations iv, v and vii have been implemented satisfactorily, recommendations i, and vi have been partly implemented and recommendations ii and iii have not been implemented. Regarding Theme II – Transparency of Party Funding, recommendation viii has been implemented satisfactorily and recommendations i – vii, ix and x have been partly implemented.

86. In particular, concerning incriminations, Finland has entered into a substantial reform process: A working party has been established under the Ministry of Justice and it has delivered its proposals, including draft legislation to the Government. The legislative process is at an advanced stage and it appears that the Finnish authorities have the clear intention to comply with the large majority of the recommendations issued by GRECO in due course. However, the draft legislation has not yet been submitted to Parliament. GRECO is confident that the Finnish authorities are making serious effects to comply with its pending recommendations.
87. Insofar as the transparency of political funding is concerned, new promising legislation is in place to further develop the transparency and monitoring of political financing regarding election candidates. Furthermore, in order to address the pending recommendations, a working party has prepared draft legislation in respect of financing of political parties - approved by the Government - which, if adopted by Parliament, will increase considerably the transparency of party funding in Finland. GRECO is confident that the authorities are doing their utmost to fully implement these recommendations in due course.
88. In the light of what has been stated in paragraphs 85 to 87, GRECO notes that Finland has been able to demonstrate that substantial reforms with the potential of achieving an acceptable level of compliance with the pending recommendations within the next 18 months are underway. GRECO therefore concludes that the current low level of compliance with the recommendations is not globally unsatisfactory in the meaning of Rule 31, paragraph 8.3 of GRECO's Rules of Procedure. GRECO invites the Head of the delegation of Finland to submit additional information regarding the implementation of recommendations i-iii and vi (Theme I – Incriminations) and recommendations i-vii, ix and x (Theme II – Transparency of Party Funding) by 30 June 2011 at the latest.
89. Finally, GRECO invites the authorities of Finland to translate the report into the national languages and to make these translations available to the public.

APPENDIX

Draft amended legislation:

Penal Code, Chapter 16: Offences against the public authorities

Section 14a – *Giving of bribes to a member of Parliament*

A person who promises, offers or gives a member of Parliament or another person a gift or other benefit intended for him or her or another person in order to have the member of Parliament act in his or her parliamentary mandate in a certain manner or in order to achieve a certain goal or as a reward for such action, and the act is conducive towards seriously undermining the independence of the exercise of the parliamentary mandate, shall be sentenced for *giving of bribes to a member of Parliament* to a fine or imprisonment for a maximum of two years.

Section 14b – *Aggravated giving of bribes to a member of Parliament*

If in the giving of bribes to a member of Parliament

- 1) the gift or benefit is intended to make the member of Parliament act in his or her parliamentary mandate to the considerable benefit to the briber or to another person, or to the considerable loss or detriment of another person,
- 2) the gift or benefit is of considerable value,

and the giving of a bribe to a member of Parliament is aggravated also when assessed as a whole, the offender shall be sentenced for *aggravated giving of bribes to a member of Parliament* to imprisonment for a minimum of four months and a maximum of four years.

Section 14c – *Rewarding the trading in influence*

A person who, as a reward for a person who trades in influence and who states that he or she is able to exert improper influence over the decision-making or the preparation of the decision-making of an official, or on the decision-making or the preparation of decision-making in Parliament of a member of Parliament promises, offers or gives said person a gift or other benefit intended for such person or for another, shall be sentenced for *rewarding the trading in influence* to a fine or to imprisonment for a maximum of two years.

Section 14d – *Trading in influence*

A person who states that he or she is able to exert improper influence over the decision-making or preparation of the decision-making of an official or on the decision-making or the preparation of decision-making in Parliament of a member of Parliament and, for himself or herself as a reward for exerting influence

- 1) requests a gift or other benefit, or otherwise takes the initiative to obtain such a benefit
- 2) receives or accepts a gift or other benefit, or accepts the promise or offer of such a gift or benefit,

shall be sentenced for *trading in influence* to a fine or to imprisonment for a maximum of two years.