Adoption: 7 December 2012
Publication: 11 February 2013

Greco RC-III (2012) 18E

Third Evaluation Round

Compliance Report on Romania

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

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"Transparency of Party Funding"

Adopted by GRECO
at its 58th Plenary Meeting
(Strasbourg, 3-7 December 2012)

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I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Romania to implement the 20 recommendations issued in the Third Round Evaluation Report on Romania (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 49th Plenary Meeting (3 December 2010) and made public on 15 March 2011, following authorisation by Romania (Greco Eval III Rep (2010) 1E, Theme I and Theme II).

3. As required by GRECO's Rules of Procedure, Romanian authorities submitted a Situation Report on measures taken to implement the recommendations. This report was received on 10 July 2012 and served as a basis for the Compliance Report.

4. GRECO selected Turkey and France to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Harun MERT, on behalf of Turkey, and Mr Paul HIERNARD on behalf of France. 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 Romania in respect of Theme I. Compliance with these recommendations is dealt with below.

7. As a starting point, it should be recalled that at the time of adoption of the Evaluation Report, Romania had engaged in an important civil law and criminal law reform process, including the adoption of a new Criminal Code and of a new Criminal Procedure Code. The New Criminal Code (hereinafter the NCC) was adopted in July 2009 and published in the Official Journal of Romania but it was still awaiting formal promulgation. The GRECO evaluation report adopted in December 2010 took into account the current and the future legal provisions, when analysing the situation. It is also recalled that the current provisions are contained in the Criminal Code (hereinafter the CC) as well as in the *Law N° 78/2000 on preventing, discovering and sanctioning corruption acts* and that the future NCC will consolidate the various existing incriminations.

8. It was indicated that the draft Law for the Implementation of the New Criminal Code (hereinafter the "LNCC") – could be amended in order to take into account GRECO recommendations for further improvements that would not have already been contemplated in the NCC. The NCC was initially expected to enter into force in October 2011. In their latest comments, the Romanian authorities indicate that the LNCC was adopted recently by Parliament and became Law no.187/2012 (published in the Official Journal of Romania no.757 of 12 November 2012). It provides that both the LNCC and the NCC will enter into force on 1 February 2014.

9. The authorities of Romania point out that a new Anti-Corruption Strategy and its implementing Action Plan were adopted in 2012 for the period 2012-2015. These documents, as a starting point, are based on the assumption that Romania has already in place a well-developed legislative and institutional anti-corruption framework and that emphasis is thus to be put in priority on its implementation and stability.

10. In their comments on the implementation of recommendation vi, the Romanian authorities also recall that "The European Union Cooperation and Verification Mechanism (CVM) on Romania, contains a benchmark on the efficiency of the fight against corruption (…) as well as the stability of the legal and institutional anti-corruption framework, in order not to affect in any way the pending corruption cases". It is added that "This GRECO recommendation, regarding the amendments of the CC and Law no.78/2000, contradicts the CVM benchmark". The Romanian authorities confirm also that the way they have found to address the recommendations – on a transitional basis – is to provide in the LNCC for amendments to the (future) NCC.

Recommendation i.

11. *GRECO recommended criminalising active and passive bribery in the public sector and trading in influence so as to cover all acts/omissions in the exercise of the functions of a public official, whether or not within the scope of the official's competence.*

12. The authorities of Romania report that acts that fall outside the official competence of the public official committed by him/her (irrespective of the fact that s/he received an advantage for it), are prosecutable as "usurpation of a position" under article 300 of the NCC. Pursuant to this new provision, if a deed/act of a public official which falls outside of his/her competence leads to one of the consequences stated in article 297, i.e. a loss or harm to the rights or interests of a natural or legal person, s/he shall be punished with imprisonment from one to five years or a fine.

13. GRECO takes note of the information provided and recalls the concerns expressed in the Evaluation Report (theme I – incriminations, paragraph 101), i.e. that the need for prosecutorial authorities to demonstrate that the undue advantage was requested/given in exchange for an act falling within the official duty attributions adds an – excessively restrictive – additional element to the criminalisation of bribery and trading in influence. It is also clearly at variance with the wording and the spirit of the Criminal Law Convention. GRECO considers that the introduction of the new offence described above would not fill the gap and that, on the contrary, it might contribute to complicate the issues at stake even more.

14. GRECO concludes that recommendation i has not been implemented.

Recommendation ii.

15. *GRECO recommended to take the appropriate measures to ensure that all offences of bribery and trading in influence unambiguously cover instances where the advantage is not intended for the official him/herself but for a third party who may not be involved in the offence.*

16. The authorities of Romania state that the committee in charge of drafting the LNCC discussed the issue and decided to supplement the LNCC with a provision that would amend article 292[1] (active trading in influence) of the NCC, by adding the words "for himself or herself or for anyone else".

17. They also recall that in their opinion, the existing incriminations of bribery and trading in influence in the CC and the Law 78/2000 would already be interpreted in practice as covering third party beneficiaries. This was also the conclusion of a recent analysis of court cases: in the context of its biannual study on *the individualisation of sentences in cases of bribe-taking, trading in influence and buying of influence,* the High Court of Cassation has examined 69 final court decisions, passed in the second half of 2011. It observed that in some of these decisions (the information submitted by Romania refers to three convictions for passive bribery and three convictions for trading in influence), the convictions pronounced for passive bribery and trading in influence concerned cases involving a third party beneficiary.

18. GRECO takes note of the above information. Regarding the current situation and the case-law analysis carried out in 2011, GRECO notes that only six decisions do not constitute a convincing illustration for the fact that the current provisions would already allow to prosecute an offender for bribery and trading in influence where the undue advantage is intended for a third person: the cases in question concern convictions imposed on persons who acted as intermediaries as well, or who were part of an organised corruption-scheme, e.g. where the bribe was (meant to be) shared with accomplices (colleagues such as teachers, hospital employees, members of a local construction inspectorate). As already pointed out in the Evaluation Report, the on-site discussions of 2010 had already shown that many cases had been taken to court in circumstances such as those illustrated by the six cases in question. GRECO's concerns are related to the coverage of third party beneficiaries where these are not necessarily accomplices and/or where the offender is not a mere facilitator or intermediary. GRECO recalls that the present recommendation leaves room for Romania to adopt the most appropriate measures to clarify the situation, including for instance general guidance for prosecutors, besides a legal amendment. GRECO regrets that no action has been taken on this basis.

19. GRECO welcomes the recent amendment to the future incrimination of active trading in influence. As indicated in the Evaluation Report, this was in fact the only (relevant) offence, besides passive trading in influence, and active and passive bribery, that did not contain a reference to third party beneficiaries in the NCC (which is aimed at consolidating in future the various incriminations of bribery and trading in influence offences currently provided for in the CC and Law N°78/2000). On the assumption that the NCC will enter into force as expected on 1 February 2014, i.e. within the next 18 months for the purposes of the present compliance procedure, GRECO considers that this recommendation has been partly implemented.

[1] The LNCC provides in article 245 that: "Art. 292 para. (1) shall be amended and shall have the following text: (1) Promising, offering or giving money or other advantages, directly or indirectly, for himself or herself or for anyone else, to a person who has influence or lets the other believe she/he has influence over a public official, in order to determine the latter to accomplish, not to accomplish, to expedite or delay the accomplishment of an act falling within the duties of his office or to perform an act contrary to these duties, shall be punished with imprisonment from 2 to 7 years and prohibiting the exercise of rights."

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

Recommendation iii.

21. *GRECO recommended to repeal article 8[2] of Law 78/2000 as it is envisaged in the draft law on the implementation of the New Criminal Code, or to otherwise harmonise the incrimination of bribery involving officials and assembly members of foreign countries, international organisations and international courts.*

22. The authorities of Romania report that the article 79 of the LNCC foresees the deletion of articles 8, 8[1], 8[2] and 9 of the Law 78/2000 on Preventing, Discovering and Sanctioning of Corruption Acts[2].

23. GRECO takes note of the above information which reflects the situation which existed at the time of the on-site visit and of the subsequent adoption of the Evaluation Report (see paragraph 103). Pending the entering into force of the NCC, the present recommendation cannot be considered as implemented.

24. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv.

25. *GRECO recommended to ensure that the incrimination of bribery in the private sector – including in the New Criminal Code – covers as bribe-taker the full range of persons who work, in any capacity, for private sector entities whether legal persons or not.*

26. The authorities of Romania indicate that they introduced new amendments to the LNCC which would extend the scope of the persons that could be held criminally liable for corruption offences under Law N° 78/2000[3]. They state that by inserting a reference to the application of article 308 NCC in relation to bribery and trading in influence offences, persons who temporarily or permanently, with or without remuneration, exercise a task of any kind in the service of a natural person referred to in article 175 paragraph (2), or within any legal person would be punishable for committing bribery or trading in influence.

27. The authorities also stress the difficulty inherent to the identification of entities without legal personality, given in particular risks of confusions with temporary associations of persons.

28. GRECO takes note of the information provided and regrets that no initiative was taken to address the underlying concerns of this recommendation. The new amendments introduced in respect of Law 78/2000 will lead to the extension of the scope of Law 78/2000 and thus for extended powers of investigation also in respect of private sector bribery offences, among other consequences.

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[2] Art. 79 item 5 of the LNCC reads as follows: "*Art. 79 – Law no. 78/000 on preventing, discovering and sanctioning corruption deeds, published in the Official Journal of Romania, part I, no. 219 from May 18, 2000, with the subsequent amendments and completions, shall be amended as following:(…) 5. Art. 8, 8[1], 8[2] and 9 shall be repealed.*"

[3] The above mentioned amendment provides that: "*1. Art. 5 of Law 78/2000 on preventing, discovering and sanctioning corruption deeds shall have the following content: Art. 5 – (1) In the meaning of the present law, the offences provided under art. 289-292 of the Criminal code, including when these were committed by the person provided under art. 308 of the Criminal code, are corruption offences." "2. Art. 6 of Law 78/2000 on preventing, discovering and sanctioning corruption deeds shall have the following content: Art. 6 – The offences of taking bribe, provided by art. 289, of giving bribe, provided by art. 290, of trading in influence, provided by art. 291 and of buying of influence provided by art. 292 shall be punished according to those texts. The provisions of art. 308 of the Criminal Law shall apply accordingly*".

Although GRECO very much welcomes this, it has no implications on the way the private sector bribery offence is defined, which is the actual underlying concern of recommendation iv. GRECO recalls that the current definition refers to activities conducted by natural and legal persons: theoretically, bribery offences related to business activities involving civil companies, joint ventures, branches of foreign undertakings (which have no legal capacity under Romanian law) as well as – in general – companies which have not (yet) accomplished all formalities needed to acquire legal capacity etc. may not be captured by the current and future incriminations.

29. GRECO concludes that recommendation iv has not been implemented.

Recommendation v.

30. *GRECO recommended providing for clear incriminations of bribery of domestic and foreign arbitrators and foreign jurors, in line with the provisions of articles 2 to 6 of the Protocol to the Criminal Law Convention on Corruption (ETS 191).*

31. The authorities of Romania indicate that the LNCC was amended in order to take into account this recommendation. An amendment to article 294 now provides for the applicability of the future incriminations of active and passive bribery also to acts involving jurors from foreign courts[4]. Furthermore, a new article was introduced in the LNCC's chapter on Interpretative provisions in order to ensure the applicability of article 293 of the NCC (which incriminates active and passive bribery of arbitrators) to make it clear that the future provisions are applicable irrespective of the nationality of the arbitrator[5].

32. GRECO welcomes these steps and considers that the above amendments, once effective, would fill the gap identified in the Evaluation Report. For the time being and pending the enactment of the revised NCC, this recommendation cannot be considered as fully implemented.

33. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi.

34. *GRECO recommended i) to analyse and accordingly revise the automatic – and mandatorily total – exemption from punishment granted to perpetrators of active bribery and trading in influence in cases of effective regret; ii) to clarify the conditions under which the defence of effective regret can be invoked; iii) to abolish the restitution of the bribe to the bribe-giver in such cases.*

35. The authorities of Romania report that an analysis was carried out on the final court decisions passed in 2011 in cases of bribery and trading in influence handled by the DNA (the prosecutor's office specialised in combating high and medium level corruption) and by the regular prosecutorial authorities. The authorities have provided a detailed assessment, especially as regards the cases handled by the DNA.

36. As regards cases handled by the DNA, the analysis focused on the 63 cases which have led to a final conviction (the total number of persons who received a final conviction for corruption offences in DNA's competence was 298 in 2011). The analysis showed i.a. that a) in some cases,

[4] The provision reads as follows: "Art. 245 item 28 - *In art. 294, after letter f), a new letter, g), shall be introduced, with the following content "jurors from foreign courts.*"

[5] The provision reads as follows "*Art. 243 – The provisions of art. 293 of the Criminal code shall apply irrespective if the arbitrators are Romanian or foreign.*"

the initiative for a criminal conduct came from the bribe-taker (82% of the cases), and in some other cases from the bribe-giver (11% of the cases); b) the interval between the time of commission of the offence and the reporting to the authorities varied between 24 hours and one year; late reporting was sometimes observed for situations in which bribery was taking place in an organised and repeated manner (8 cases); c) sometimes, the reporting of the offence allowed to set-up a controlled delivery operation with the payment of a bribe with money made available by the authorities, or the bribe had actually not been paid yet (22+6 cases); in all the other cases, the court ordered the restitution of the bribe to the offender benefiting from the effective regret mechanism; d) as to the circumstances which had determined the offender to report the act, the authorities indicate that this is difficult to analyse: sometimes the official taking the bribe subsequently delayed the action or did not comply with his/her promise in return for the undue advantage, or the bribe was extorted through threats connected with an abuse/misuse of controlling and other official powers etc. Situations have occurred where the motivation of the person denouncing the act cannot be understood (for instance where payments were a long-lasting and organised practice).

37. The second part of the analysis looked into cases for which an indictment had been issued in 2011 by the DNA and by "regular" prosecutors in respect of bribery and trading in influence offences (178 indictments in total). The information is in fact succinct as far as non-DNA cases are concerned. The effective regret mechanism was used in nearly half of these cases and in 12 of the 45 indictments handled by the "regular" prosecutors, the initiative for a criminal conduct had come from the bribe-giver who later benefited from an exemption of liability (the denunciation took place before the finalisation of the corrupt dealings in 36 cases and within 6 months after it in 9 cases).

38. In the light of the above cases, the authorities' conclusion is that there has not been any case where the effective regret mechanism was applied abusively. On the contrary, the latter has been an essential tool and the Romanian authorities notably underline that without it, the DNA would have been able to carry out only one third of the investigations (into bribery and trading in influence) which have actually led to final convictions until now. They also underline that currently, there is no other legal tool allowing for an exemption of liability (as other countries have for collaborators of justice) or for controlled deliveries in the context of investigations concerning corruption.

39. Reference was made to the fact that the stability of the legal anti-corruption framework is a benchmark under the EU policy in respect of Romania (see paragraph 10 above).

40. GRECO takes note of the information provided and welcomes the comprehensive results of the study carried out in respect of cases handled by the DNA and, to a lesser extent, by other prosecution services of Romania. GRECO recalls that it has always recognised the usefulness of effective regret mechanisms, provided these are subject to adequate limits and safeguards (paragraph 112 of the Evaluation Report). At present, there are no such safeguards whatsoever in the legislation and GRECO considers, unlike the Romanian authorities, that the results of the afore-mentioned analysis do clearly confirm the need to amend the provisions. For instance, it has been shown that exemption of liability is granted indistinctively whether or not it is the bribe-giver/person buying influence who has initiated the criminal conduct. An element of constraint or victimisation of the person who has denounced the act seems also to be missing in most of the cases and the fact that the act is often reported several months or sometimes years after its commission also raises serious questions as to why judicial immunity should be granted to a person who has him/herself contributed to the perpetuation of a criminal culture. The same

applies to the issue of the undue advantage, which is restituted systematically in practice. This arrangement just increases the risks of misuse of the effective regret provisions.

41. In conclusion, GRECO welcomes that the authorities have analysed the implementation of the effective regret mechanism but it is regrettable that no further measures have been taken to revise the automatic exemption from punishment, to clarify the conditions under which the defence of effective regret can be invoked and to abolish the restitution of the undue advantage in such cases.

42. GRECO concludes that recommendation vi has been partly implemented.

Recommendation vii.

43. *GRECO recommended to ensure that jurisdiction for bribery and trading in influence offences is established in accordance with article 17 of the Criminal Law Convention on corruption (ETS173) without the condition of dual criminality, as is already foreseen in the – yet to be enacted – new Criminal Code.*

44. The authorities of Romania indicate that in accordance with article 11(1), paragraph a of the NCC, Romania will assume universal jurisdiction for any crime that it has undertaken to combat by virtue of a valid international treaty (which is the case of ETS 173 and its Protocol); this jurisdiction would not be subject to dual criminality anymore and it is enough that the person to be prosecuted is voluntarily present in Romania (should any State where the suspect was located have refused his/her preliminary extradition).

45. GRECO recalls that this situation was the one already taken note of in the Evaluation Report. GRECO expressed support for the adoption of the new provisions of the NCC since these would eliminate the restriction of dual criminality and allow Romania to comply with the jurisdictional requirements of the Convention. GRECO strongly encourages Romania to complete the legislative process for the enactment of the NCC. Since there have not been any new development in this area up to now, this recommendation cannot be considered as implemented.

46. GRECO concludes that recommendation vii has not been implemented.

Theme II: Transparency of Party Funding

47. It is recalled that GRECO in its evaluation report addressed 13 recommendations to Romania in respect of Theme II. Compliance with these recommendations is dealt with below.

48. As a general information, the authorities of Romania report that after the publication of the Evaluation report, the Permanent Electoral Authority (PEA) held a series of meetings with representatives of the Court of Accounts (CoA), the National Integrity Agency (NIA), the National Agency for Fiscal Administration (NAFA) and representatives of parliamentary political parties and NGOs. They discussed a series of proposals from the PEA concerning the implementation of the recommendations and ways of improving and increasing the effectiveness of supervision over the financing of political parties and election campaigns. Following an agreement reached by the actors involved in the above discussions, the PEA and the United Nations Development Programme (UNDP) developed the joint project „*Support to the Permanent Electoral Authority (PEA) and local public administration in Romania to implement best practices in electoral processes management",* under which the PEA benefited from the consultancy of 2 international experts in the field of political parties and electoral campaign financing.

49. These international experts completed their reports between March and April 2012, and on the basis of their conclusions, the PEA finalised the draft law amending Law no. 334/2006 on financing of political parties and electoral campaigns (hereinafter the "Draft Law"), submitted it to public debate and sent it to various ministries for endorsement, prior to its submission to the Government for approval.

50. Moreover, the Parliament expressed support for the adoption of revised legislation regarding the financing of political parties and electoral campaigns, with a view to increasing transparency and consolidating integrity in those areas, whilst taking into consideration the present recommendations issues by GRECO. This materialised in Declaration no. 2/2012 for the implementation of the new National Anticorruption Strategy 2012 – 2015, which was adopted in a joint session of the Chamber of Deputies and the Senate.

51. Lastly, the authorities add that the entry into force of the legislative amendments described above will subsequently entail the modification of Government Decision no. 749/2007 on approving the Methodological Norms for applying Law no. 334/2006 on financing activities of political parties and electoral campaigns.

Recommendation i.

52. *GRECO recommended i) to clarify how the financial activity of the various types of structures related to political parties is to be accounted for in the accounts of political parties; ii) to examine ways to increase the transparency of contributions by "third parties" (e.g. separate entities, interest groups) to political parties and candidates.*

53. Concerning the first part of the recommendation, the authorities of Romania report that the PEA issued Instruction no.1/2012, article 2[6] of which aims to clarify some theoretical aspects (that may be a source of problems in practice) of the Order of the Ministry of Economy and Finance (OMEF) no.1969/2007 *on the approval of accountancy regulations for legal persons without patrimonial interest*. This instruction was sent to all political parties and published on the PEA website. Additionally, the authorities refer to the methodological guide on financing and controlling political parties and electoral campaign, published in 2012, which contains the accounting requirements applicable to the structures related to political parties and to the checks carried out by the PEA experts during which the experts provide counselling to the treasurers of political parties regarding the accounting requirements. A long list of information is also provided about the current autonomy of entities related to political parties, in particular political institutes. The UNDP review carried out earlier this year came reportedly to the conclusion that further legal clarification is needed concerning the definition of persons connected to a political party or candidate.

54. The Draft law *amending Law no. 334/2006 on financing of political parties and electoral campaigns Law* foresees an amendment in the Law 334/2006[7] which will oblige political parties to

[6] Article 2 of the PEA Instruction no. 1/2012 stipulates that as: *"Art 2. - (1) The territorial organizations of political parties and structures of political parties referred to in art. 4. para. (4) of Law no. 14/2003 on political parties, as amended and supplemented, organize and lead their own accounts to trial balance level without preparing annual financial statements. (2) Political parties organize and lead the accounting so that the necessary information regarding the activity of regional organizations and structures referred to in para. (1) shall be available. "*

[7] Proposed article of the Draft Law reads as: "*„Art. 38[1]. – (1) Annually, until the 30th of April, political parties shall submit to PEA a detailed report on the income and expenditure incurred in the previous year*.(2) Reports referred to in para. (1) shall also include details on the income and expenditure of internal structures of political parties set out by art. 4 para. (4) of Law

submit detailed reports on the income and expenditure incurred in the previous year both by them and by the persons directly or indirectly connected to the political parties, as well as of all forms of associations laid down in art 13 of Law no. 334/2006. Moreover, in order to ensure the consolidation of the accounts, political parties will be required to designate, at national and county level, persons responsible with the recording of all financial activities according to the legal provisions in place[8]. At the moment, the financial situation of all territorial units of a party are consolidated at county level, and then at national level, under the rules described under recommendation ii.

55. Concerning the second part of the recommendation, following similar conclusions reached by the UNDP review about the need for clarification concerning relations between third parties on the one hand, and political parties or candidates on the other hand, the Draft Law was amended; it now provides for the following: a) a set of criteria which allow to determine when a legal person is related to a party, political alliance, or a candidate and is to be considered directly or indirectly under the control of a political party or as a third party to be included in the financial statements of a campaign participant (party, candidate etc.); these criteria take into account the ownership structure, the control power through voting rights, other forms of control etc. (art. 34^5) b) the establishment of a public register of third parties, managed by the PEA (art. 34^6); c) an upper limit on expenditures incurred by third parties, depending on the type of elections (parliamentary, presidential, local and Euro-parliamentary); d) the competence of electoral bureaus to determine when a third party engages in propaganda without being registered and to notify such cases to the PEA; the latter may apply the appropriate penalty provided by law; e) third parties are also obliged to submit to the PEA, within 15 days from the date of elections, detailed reports of the electoral campaign expenditure (art. 38 paragraph 2). The Romanian authorities stress that all contributions made by natural and legal persons during the local elections of June 2012 were published weekly on the PEA website.

56. GRECO takes note of the above information and the assurances given by the Romanian authorities according to which all territorial structures must be taken into account for the consolidation of the parties' financial statements. The amendments contemplated by the draft law *amending Law no. 334/2006 on financing of political parties and electoral campaigns* appear to be timely to ensure the overall consolidation of accounts with the inclusion of all entities related directly or indirectly to political parties, and additional clarification and criteria as to the determination of entities concerned. The same applies for the second part of the recommendation and the new provisions contemplated by the draft Law seem to meet the underlying concerns of the recommendation in this respect, when it comes to third parties in the context of election campaigns. For the time being, these various improvements are still in the drafting and adoption process.

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

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no. 14/2003, on the income and expenditure of the persons directly or indirectly connected to the political parties, as well as of all forms of association laid down in art. 13 of the present law."

[8] Proposed draft article reads as: *"Political parties are obligated to designate, at national and county level, persons responsible with ensuring the evidence of financial operations, according to legal provisions in force."*

Recommendation ii.

58. *GRECO recommended to ensure that all entities under the control of political parties and county branches (including the district sections in Bucharest) of political parties keep proper books and accounts.*

59. The authorities of Romania report about various rules and principles that were already mentioned in the Evaluation Report. Law no. 334/2006 requires political parties to organise their own accounting books according to the accounting provisions currently in force. They also indicate that the pertinent accounting rules are the general ones, laid down in Law no. 82/1991 on accountancy but also the specific ones provided for in an Order no. 1969/2007 *on approval of accountancy regulations for legal persons without a patrimonial interest*. The Evaluation Report indicated that this Order requires all parties and related entities which have legal personality to keep a double entry accounting and to prepare annual financial statements. The Order lists the categories of entities subjected to these requirements, including political parties and associations.

60. They also stress that in 2010, the PEA identified several irregularities in the way territorial units of the parties conduct their books and accounts; these were all sanctioned with warnings. The Romanian authorities however refer to the fact that contraventions are normally subject to a broad variety of fines (up to 40.000 lei) in accordance with Law no. 82/1991 on accountancy. At the same time, reference is made to the sanctions provided for by Law no 334/2006 concerning fines in the range of 5.000 to 25.000 lei.

61. Reference is made to the Methodological Guide of July 2012, adopted by the PEA (Instruction no. 1/2012), which would contain the applicable accounting regulations for the territorial organisations of political parties. A copy of it was provided: the document, which comprises five articles, deals briefly with the above matter: "*Art 2 - (1) Territorial organisations of political parties and structures of political parties referred to in art. 4. para. (4) of Law no. 14/2003 on political parties, as amended and supplemented, organize and lead their own accounts to trial balance level without preparing annual financial statements. (2) Political parties organize and lead the accounting so that necessary information regarding the activity of regional organizations and structures referred to in para. (1) shall be available.*"

62. The authorities reiterate that the Draft Law (article 38^1 para. (1) and (2)) aims at imposing on the political parties to submit to the PEA the annual financial statements within 15 days following submission to the tax authorities, and to submit before 30 April a report on income and expenditure for the previous year. The latter shall include details on the income and expenditure of all internal structures of political parties, persons directly or indirectly connected to the political parties, as well as of all forms of association laid down in art. 13 of Law no. 334/2006. As also indicated earlier, and in order to ensure the consolidation of accounts, the political parties will be obliged to designate at national and county level, persons responsible for the recording of all financial activities according to the legal provisions in force. During the discussion of the present report, the Romanian authorities provided assurances that as a result of the existing rules, a) all entities of a political party are required to keep books and accounts in a way that allows the central structures to prepare consolidated versions, and b) that this also applies – in practice – to the lowest territorial units, i.e. district sections (which exist only in Bucharest). The intended amendments will consecrate this duty for district sections but the above-mentioned controls already aim at ensuring compliance with the rules at all territorial/organisational levels.

63. GRECO takes note of the above and of the clarification and assurances provided by the Romanian authorities. The supervisory efforts and the attention paid in particular to local party

structures go in the direction indicated by the recommendation. The designation of persons responsible for the purposes of consolidation is another proposal which addresses the underlying concerns of the recommendation. GRECO encourages, of course, the Romanian authorities to ensure the intended amendments do materialise and overall, it is satisfied with the follow-up given to this recommendation.

64. GRECO concludes that recommendation ii has dealt with in a satisfactory manner.

Recommendation iii.

65. *GRECO recommended to require political parties to present their consolidated accounts to the Permanent Electoral Authority and to make an adequate summary available to the public.*

66. The authorities of Romania indicate that article 38 of the Draft Law will oblige political parties to submit their financial statements to the PEA annually, within 15 days from their submission to the tax authorities (this obligation applies to all legal persons without any distinction based on turnover or activity). The PEA will publish these financial statements on its website within 5 days following receipt. The PEA staff already asked political parties during their annual controls in 2011 and 2012 to present, in addition to other documents, their annual financial statements.

67. GRECO welcomes that the draft Law provides explicitly for the submission of financial statements to the PEA, and their subsequent publication on the PEA's website, in accordance with the recommendation. Once adopted, the provisions foreseen in the Draft Law will fill an important gap in relation to the overall transparency of political parties by giving also access to the information to the general public – provided the issue of consolidation mentioned earlier will have been addressed.

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

Recommendation iv.

69. *GRECO recommended to take appropriate measures i) to ensure that in-kind donations to parties and election campaign participants (other than voluntary work by non-professionals) are properly identified and accounted for at their market value, as donations; ii) to clarify the legal situation of loans.*

70. The authorities of Romania report that the Government Ordinance no. 24, which sets a series of rules on the valuation of assets including in-kind donations, entered into force in 2011. The valuation of assets shall be carried out by any person who is an authorised valuator pursuant to this ordinance. Reference was also made to the fact that the International Accounting Standards Board (IASB) published IFRS 13 on *Fair Value Measurement* in May 2012. This new standard replaces the *fair value measurement guidance* contained in individual IFRSs. IFRS 13 defines fair value as the price that would be received to sell an asset or paid to transfer a liability date, i.e. an exit price, in a regular transaction between market participants at the measurement date.

71. The Draft Law includes new provisions[9] which require the valuation of movable and immovable (real estate) assets donated to political parties, as well as the valuation of free of charge services

[9] The proposed article of the Draft Law reads as follows: *„(8¹) Assets and free of charge services stipulated under para. (8) shall be valuated according to Government Ordinance no. 24/2011 regarding measures in the field of asset valuation. (2) Donations of goods and free of charge services will be registered in the accounting books at their market value. At the*

carried out by authorised valuators in accordance with the Government Ordinance no. 24/2011 and recording of these contributions at their market value.

72. Concerning the second part of the recommendation, the authorities refer to the afore-mentioned methodological guide on financing and controlling political parties and electoral campaigns which contains the applicable norms pertaining to the admissible sources of income for political parties and to the PEA instruction no. 1/2012, article 1 of which states that *"The financing of political parties with loans is forbidden* [and may be liable to] *the sanction prescribed at article 41 paragraph (1) of Law no 334/2006".* Moreover, the Draft Law includes new provisions[10] prohibiting loans as a source of financing for the political parties, as well as candidates involved in election campaigns.

73. GRECO welcomes the measures already taken or in the process of being adopted. As regards the first part of the recommendation, GRECO is pleased to see that practical measures have already been adopted for the proper valuation of benefits in kind. GRECO hopes that the matter will nonetheless be kept under review given the risk of contradiction between certain rules[11]. But GRECO is pleased to see that this part of the recommendation has been addressed. As for the second part of the recommendation, PEA instruction no. 1/2012 makes it clear that political parties may not use loans (which was one of the possible interpretations of the Law no. 334/2006 currently applicable). The issue still needs clarification as regards loans in the context of campaign financing and GRECO is pleased that the intended amendments will clarify this matter as well.

74. GRECO concludes that recommendation iv has been partly implemented.

Recommendation v.

75. *GRECO recommended i) to require that all donations be, as a rule, recorded and included in the accounts of political parties and campaign participants; ii) to introduce a requirement that all donations above a certain threshold be made through the banking system.*

76. The authorities of Romania acknowledge the problematic distinction between donations and "hand gifts" identified in the Evaluation Report, which leads to the duty to register only donations above the equivalent of 420 Euro (at the time of the visit). In order to clarify the interpretation of the provisions, the last sentence of art. 6 para. (1) of GD no. 749/2007 will be repealed when the GD no. 749/2007 is amended. The amendment process is expected to be initiated after the Draft Law is adopted. The latter stipulates (article 8 paragraph 1) that: "*All donations, **regardless of their value**, shall be registered and highlighted in a proper way in the accounting documents, mentioning the date when the donations were made, as well as other information allowing the **identification of** the financing sources and **the donators**".*

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registration in the accounting books, the valuation shall be made by valuators authorized according to Government Ordinance no. 24/2011 regarding measures in the field of asset valuation."

[10] The proposed draft article reads: *"(2) Political parties shall not take or grant money loans. (3) Candidates shall not take or grant money loans in order to finance political parties or electoral campaigns. (4) Political parties are not allowed to have ore use other financing sources than the ones stipulated at para (1)."*

[11] GRECO recalls that the current version of Law 334/2006 contains two sets of provisions on in-kind support: a) article 6 requires that discounts above 20% of the value of goods and services offered to parties and candidates shall be considered as donations and recorded "according to regulations issued by the Ministry of Public Finance"; b) article 8 paragraph 2 requires that all donations in the form of goods or services free of charge need to be registered at their actual value "settled according to law".
This could be problematic in case certain services or goods are provided at a symbolic price; it would appear that the above lack of consistency will persist.

77. In response to the second part of the recommendation, the Draft Law obliges all financial contributions exceeding 1 minimum gross salary at national level (approx. 140 Euro) be made only through the banking system; this concerns the general rules applicable to the financing of political parties as well as the specific rules on the financing of election campaigns[12].

78. GRECO takes note of the information provided. The proposed provisions of the Draft Law, if adopted, seem to meet all the concerns underlying this recommendation (paragraph 116). For the time being, these are still draft amendments.

79. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi.

80. *GRECO recommended to provide clarification as to the permissible funding generated by "internal services" and the organisation of events, and as to how the income generated hereby is to be accounted for.*

81. The authorities of Romania report that in addition to the guidance provided to the treasurers of political parties about the modalities of registering income generated from other sources that are not explicitly listed in Law no 334/2006, PEA Instruction no. 1/2012 includes provisions aimed at clarifying the expression income "raised by internal services", as well as from the organisation of meetings and seminars with a political, economic or social theme, and sporting and recreation activities[13]. At the same time, it refers back to the Order of the Ministry of Economy and Finance no. 1969/2007 *on approval of accountancy regulations for legal persons without a patrimonial interest* for the modalities of registration of such income in the accounting books (under this order, the income generated for instance by the sale of tickets is to be registered under a specific account no 739 "other revenues" which is subdivided into sub-accounts dealing with revenues from organising meetings and seminars, revenues from editing and the sale of propaganda material, revenues form cultural, sports and recreation activities etc.).

82. Another proposal, currently contemplated in the Draft Law, is to abolish in art. 12 para. (1) of Law no. 334/2006 the reference to income generated by internal services but to retain the reference to income generated by events whilst detailing these sources of income: "*income from the sale of tickets or participation fees for cultural, sporting and entertainment meetings as well as to seminars with a political, economic or social topic*". The Romanian authorities indicate that in practice, the PEA has not been confronted with situations where the above sources of income could have been misused to dissimulate certain donations: political parties do not obtain income from the sale of member cards or fees during special events due to the difficulty for parties to attract persons who would pay for this.

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[12] Proposed amendment reads as; "*Art. 5[1]. – Money donations whose value exceeds 1 minimum gross salary at national level shall be made only through bank accounts. Art. 23[1]. – After the beginning of the electoral period, money donations received from natural or legal persons, which exceed 1 minimum gross salary at national level, shall be made only through bank accounts."*

[13] Articles 3-5 of PEA Instruction no. 1/2012 stipulate that: *"Art. 3. – (1) The income generated by internal services shall mean income generated by delivering services to political parties members, such as the following: a) services delivered by using office equipment owned by the party; b) selling member cards; c) selling promotional materials with the insignia of the political party, such as badges, pens, notebooks and calendars. Art. 4. – Income generated by organizing meetings and seminars with a political, economic or social theme, cultural, sports and recreation activities shall mean income from the sale of tickets or participation fees at these events."*

83. GRECO takes note of the above. It would appear that PEA Instruction no. 1/2012 has introduced additional and adequate clarification. GRECO is also pleased to see that the PEA has not been confronted with situations where the rules on donations have been circumvented by those on the sources of income generated by the parties' own income.

84. GRECO concludes that recommendation vi has been implemented satisfactorily.

Recommendation vii.

85. *GRECO recommended to amend the rules on the presentation of financial statements concerning election campaigns to the Permanent Electoral Authority (PEA) so that all legitimate claims and debts are adequately followed-up by the PEA.*

86. The authorities of Romania report that draft provisions to this effect have been included in the Draft Law[14]; if adopted, these would require; a) political parties and independent candidates to spend all donations and legacies received for the campaign by the time of submission of the report on electoral income and expenses, and for paying the costs incurred during the election; b) financial representatives to submit detailed reports to the PEA on revenue and expenditure of the political parties, political alliances and electoral alliances, the organisations of Romanian citizens belonging to national minorities and of independent candidates within 15 days from the date of elections; c) political parties and independent candidates to submit a list of their creditors in relation to the financing of their campaign, and the amount of those debts; d) political parties and individual candidates to report quarterly to the PEA the status of their debts until they are paid in full.

87. GRECO very much welcomes these provisions of the Draft Law. If adopted, they will enhance the transparency of election campaign financing in Romania.

88. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii.

89. *GRECO recommended to require that the annual accounts of political parties – to be presented to the Permanent Electoral Authority, as recommended earlier – are subject to independent auditing prior to their submission.*

90. The authorities of Romania state that the Law no. 82/1991 on accountancy was amended by the Emergency Government Ordinance no. 37/2011, which was published in the Official Gazette on

[14] The proposed amendments read as follows: "*Art. 34[3] - (1) Political parties and independent candidates shall use donations and inheritances received for the electoral campaign, to pay the costs incurred during the elections by the deadline for submitting the report of electoral income and expenses. (2) All amounts not spent referred by para. (1) shall be made revenue at the state budget." Art. 38 - (1) Within 15 days from the date of elections, financial representatives shall submit detailed reports to the Permanent Electoral Authority on revenue and expenditure of the political parties, political alliances and electoral alliances, the organizations of Romanian citizens belonging to national minorities and of independent candidates, as well as lists of persons to whom debt is owed as a result of the election campaign, and the amount of the debts. (4) Reports referred to by para (1) and (2), lists of persons to whom debt is owed as a result of the election campaign, and the amount of the debts shall be published in the Official Gazette of Romania, Part I, by Permanent Electoral Authority, in a term of 60 days since the publication of the election results. (5) If at the time of submission of the detailed report on electoral income and expense, candidates or political parties will record debts, they shall report to the PEA, quarterly on debt payment, until the debts are fully paid."*

22 April 2011. Pursuant to the above-mentioned amendment[15] political parties which benefit from state funding (currently 5 political parties), shall have their annual accounts audited by authorised auditors. This rule, which is not specific to political parties, concerns "all legal persons without a patrimonial interest which receive public subsidies". This recently introduced requirement will also be included in legislation and a provision to this effect was inserted in the Draft Law[16], which also foresees that the audit reports are to be communicated by the political parties to the PEA. In their latest comments, the Romanian authorities also refer to the general standards on auditors' independence, objectivity and professional integrity contained in the recent Government Decision no. 433/2011; the latter also includes an article 59 on the prevention of conflicts of interest in the relationship with the client. They also indicate that after amendments to Law 334/2006 are adopted, additional rules will be included to avoid that the audit can be done by a party member or by the same audit service provider for more than 4 years in a row.

91. GRECO welcomes the above changes already effective following the amendments of 2011 concerning the obligations of "legal persons without a patrimonial interest which receive public subsidies". GRECO had acknowledged in the Evaluation report that audit requirements should at least apply to the major political parties in order to avoid overly cumbersome procedures in respect of small parties with little or no administrative means. The number of parties currently subjected to auditing requirements seems rather low in comparison to the overall number of parties registered (47 at the time of the visit, of which 15 were considered as active) but it would appear that the major parties are captured by the criteria of public subsidisation. GRECO also welcomes the recent introduction of general principles on independence and integrity, and rules on conflicts of interest with the client. The latter are for the time being, based on the assumption that the audited entity is a business entity. GRECO therefore encourages the Romanian authorities to complement, as planned, the existing rules with additional safeguards that take into account the specificity of the customer relationship with political parties.

92. GRECO concludes that recommendation viii has been partly implemented.

Recommendation ix.

93. *GRECO recommended i) to give the Permanent Electoral Authority (PEA), the full responsibility of monitoring compliance with the Law no. 334/2006 on the financing of activities of the political parties and election campaigns; ii) to strengthen the effectiveness of the PEA's supervision over party and election campaign financing, including endowing the PEA with additional control powers regarding party expenditure and entities other than political parties, and sufficient human and other resources to perform this task.*

94. The authorities of Romania explained that the confusion between the tasks of the Court of Accounts (CoA) and those of the PEA are more apparent than real: a) the CoA is competent for the control of public subsidies, in accordance with article 35 paragraph (2) of Law no 334/2006 (which states that „The control of the subsidies from the state budget shall be also made simultaneously by the Court of Accounts, according to the provisions of the Law no. 94/1992 on the organisation and functioning of the Court of Accounts"); b) other than the above-mentioned simultaneous control power given to the CoA, the sole authority fully responsible for monitoring

[15] The proposed amendment of Accounting Law no. 82/1991 reads as follows: "The annual accounts of public legal persons shall be subject to statutory audit, done by statutory auditors, natural or legal persons, as requested by law. In the meaning of the present law, the term public legal persons shall mean (…) legal persons without a patrimonial interest which receive public subsidies."

[16] The proposed amendment reads as follows: "Political parties which receive public subsidies shall have an annual external audit of their financial statements. The audit reports shall be submitted to the PEA".

compliance with Law no. 334/2006 and for enforcing sanctions is the PEA; c) additionally, the PEA signed a protocol with the CoA detailing how these simultaneous controls are to be carried out; d) in the National Anticorruption Strategy (NAS) approved by Government Decision no. 215/2012, it is the PEA which has been designated as the sole authority responsible for implementing the objective *Increasing transparency of political party and electoral campaigns financing*..

95. Regarding the second part of the recommendation, the authorities refer; a) to the recently adopted National Anti-Corruption Strategy which proposes supplementing the human resources for the Department of Control of Political Party Financing, with an increase of 11 positions in the organisational chart and additional financial resources; it is planned to hire further additional staff in 2013; b) to the project entitled *"Support to the Permanent Electoral Authority (PEA) and local public administration in Romania to implement best practices in electoral processes management"*, carried out by PEA and UNDP; c) to article 35 paragraph (1) of the Draft Law which proposes that "PEA shall be empowered to monitor compliance with legal provisions concerning revenues and expenditures of political parties, political alliances or election of independent candidates, as well as the legality of campaign financing."; d) to article Art. 35^1 of the Draft Law which stipulates that *"(1) In order to check the legality of income and expenditure of political parties, the PEA may request documents and information from natural and legal persons who provide services, remunerated or non-remunerated, to political parties, as well as from third parties. (2) Natural and legal persons referred to at para (1) are under the obligation to submit to PEA representatives requested documents and information. (3) Political parties are under the obligation to allow control bodies of PEA with access to their premises. (4) Political parties shall provide PEA all documents and information required within 15 days of the request."*

96. GRECO welcomes the developments reported regarding the clarification of responsibilities of the PEA and the CoA for monitoring the implementation of the Law no 334/2006. GRECO is not opposed to a certain level of overlap but it recalls that concern was expressed in the Evaluation Report regarding the fact that in practice, both the PEA and CoA where focusing only on the major parties which receive public subsidies and that the former was exerting its supervision only with regard to the income of political parties whilst the latter had taken responsibility for the control of spending. Also, there was no clear responsibility acknowledged in practice by either of these bodies as regards the supervision of election campaign financing. It would appear that the Draft Law, once adopted, will spell out that the PEA is to monitor the overall financial activity of political parties and candidates for election. The Draft Law also foresees the introduction of additional control powers for the PEA. It is also envisaged to increase the staffing of the PEA; GRECO welcomes of course this proposal but it reiterates the importance of filling all positions actually provided rather than creating new positions which will never be filled (at the time of the visit, the problem was that only half of the staff that the PEA was entitled to had been appointed). Pending the final adoption of the measures envisaged, including additional clarification and improvements, GRECO can only conclude that the present recommendation has not been fully implemented yet.

97. GRECO also expects that convincing elements will be provided demonstrating the PEA's ability to address major recurring problems including overspending during election campaigns and undeclared sources of funding, which were mentioned in the Evaluation Report. Information provided by the authorities in respect of sanctions applied to date suggests that the PEA is

progressively confirming its position and authority, but also that the infringements detected concern formal requirements[17].

98. GRECO concludes that recommendation ix has been partly implemented.

Recommendation x.

99. *GRECO recommended to strengthen the cooperation and coordination of efforts on an operational and executive level between the Permanent Electoral Authority, the Court of Accounts, the tax administration and the National Integrity Agency.*

100. The authorities of Romania report that various meetings were held in 2011 (seven in total[18]) to analyse the modalities of enhanced cooperation. Representatives of the four bodies mentioned in the recommendation were involved in those consultations and as a result, the PEA signed cooperation protocols with NIA and CoA, and a further one with NAFA is in preparation.

101. GRECO welcomes the steps taken by the authorities in order to increase cooperation and coordination in the field of political financing supervision.

102. GRECO concludes that recommendation x has been implemented satisfactorily.

Recommendation xi.

103. *GRECO recommended to provide in Law no. 334/2006 on the financing of activities of the political parties and election campaigns that the Permanent Electoral Authority report suspicions of criminal offences to the competent criminal law bodies.*

104. The authorities of Romania state that the Draft Law includes a provision[19] which explicitly compels the PEA to notify the criminal investigation bodies whenever a suspicion of criminal offence arises in the course of controls carried out by the PEA.

105. GRECO takes note of the information provided and looks forward to the final adoption of the draft proposal.

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[17] 1) One county section of a party failed to send to its headquarters the list of natural persons who made in a fiscal year donations whose cumulated value exceeded 10 minimum gross salaries at national level, in order to be published in the Official Gazette of Romania, Part I, sanctioned with a warning and the confiscation of 18.540 lei; 2) for the same violation, another party was sanctioned with a warning and the confiscation of 8.516 lei; 3) or failing to publish the personal identification number of the donors, a party was sanctioned with a warning; for failing to present documents allowing for the identification of donors, the same party was sanctioned with a fine of 5.000 lei and the confiscation of 10.819,21 lei.; 4) one party received a donation from the a County Prefect Institution for which it was sanctioned with a fine of 5.000 lei and the confiscation of 6.070 lei; 5) one party accepted donations from 4 foreign citizens for which it was sanctioned with a warning and the confiscation of 8.271 lei; 6) one party obtained income from commercial activities (sublet its premises) for which it was sanctioned with a fine of 5.000 lei and the confiscation of 3.700 lei; 7) one party failed to publish in the Official Journal of Romania, Part I, all revenues obtained from other sources, until the 31st of March, for which it was sanctioned with a fine of 5.000 lei and the confiscation of 6.012,49 lei; 8) also, PEA sanctioned with a warning and the confiscation of 312,10 lei one party for using public subsidies to pay delay penalties to suppliers as well as a fine; 9) in the context of local elections in 2012, PEA controllers have proposed sanctions against 986 independent candidates who had not submitted the detailed income and expenditure report to the PEA, and the sanctioning of a political party with the confiscation of 698 lei; these proposals are currently under review by the management.

[18] On 20 April, 11 May, 18 May, 8 June, 22 June, 17 November and 14 December

[19] The Draft proposal reads as follows: "If suspicions related to the commission of a crime arise during a control carried out by PEA on the compliance to the legal provisions regarding political party and electoral campaign financing, PEA notifies the organs of penal pursuit."

106. GRECO concludes that recommendation xi has been partly implemented.

Recommendation xii.

107. *GRECO recommended to increase the penalties applicable in accordance with Law no. 334/2006 on the financing of activities of the political parties and election campaigns and thus to ensure that all infringements are punishable by effective, proportionate and dissuasive sanctions.*

108. The authorities of Romania report that it is foreseen, in the article 41 of the Draft Law, to divide the fines applicable in case of breaches to Law no. 334/2006 in 2 categories and to increase these: in the first category from 1.100-5.600 Euro to 2.250-11.200 Euro and in the second category from 1.100-5.600 Euro to 11.200-22.500 Euro. In addition, a series of new contraventions will be included, which would be punishable with fines up to 11.200 or 22.500 Euro, depending on the case, for instance in case of failure to use the banking system for donations above the threshold, or failure to comply with the ceiling on spending for a given campaign. The new wording for article 42 of the Draft law provides for the forced transfer to the State budget of the amount of money and/or the money equivalent to the assets and services which constitute the object of the contravention; this provision is applicable in respect of all breaches to the law specified as such.

109. GRECO welcomes these draft amendments and considers that once adopted, they will enhance the effectiveness of the administrative sanctions applicable for breaching the rules on the financing of political parties and election campaigns. The possibility to transfer to the State budget any illegal funding compensates for the still limited fines[20] in case of major illegal donations or overspending.

110. GRECO concludes that recommendation xii has been partly implemented.

Recommendation xiii.

111. *GRECO recommended to extend the statute of limitation applicable to violations of Law no. 334/2006 on the financing of activities of the political parties and election campaigns.*

112. The authorities of Romania state that in light of the GRECO's recommendation, it is proposed to increase the statute of limitation for the application of sanctions provided by Law no. 334/2006 from 6 months to 3 years in accordance with article 41 paragraph 5 of the Draft Law.

113. GRECO takes note of the proposal to extend the limitation period applicable to the sanctioning of violations of the legislation on political financing, which is in line with the underlying concern of this recommendation. GRECO is looking forward to the final adoption of the Draft Law.

114. GRECO concludes that recommendation xiii has been partly implemented.

[20] The Romanian authorities indicated this is the maximum level of fines applicable in cases of misdemeanours, in accordance with Government Ordinance no. 2/2001, as amended.

III. CONCLUSIONS

115. **In view of the above, GRECO concludes that Romania has implemented or dealt with in a satisfactory manner three of the twenty recommendations contained in the Third Round Evaluation Report.** Thirteen of the seventeen remaining recommendations have been partly implemented. The four other recommendations have not been implemented. With respect to Theme I – Incriminations, recommendations ii, v and vi have been partly implemented and recommendations i, iii, iv and vii have not been implemented. With respect to Theme II – Transparency of Party Funding, recommendations vi and x have been implemented satisfactorily and recommendation ii has been dealt with in a satisfactory manner. All the other recommendations (i, iii to v, vii to ix, xi to xiii) have been partly implemented.

116. Concerning incriminations, Romania has gone through a very comprehensive and commendable legislative reform process regarding its criminal law. Together with the recently introduced proposals for amendments to the Law on the implementation of the New Criminal Code, the provisions of the New Criminal Code (adopted by the parliament in 2009 and waiting for final promulgation with the entering into force of the LNCC on 1 February 2014), can be expected to respond to the requirements of most of the recommendations. That said, GRECO regrets that the authorities have not changed their adverse stance to widening the application of bribery and trading in influence provisions to the acts/omissions that are not under the official's competence and to revising and amending the effective regret provisions. GRECO can only urge the authorities to complete the reform process and to finally enact the New Criminal Code.

117. Insofar as the transparency of political funding is concerned, GRECO notes with satisfaction the process engaged to amend the legislation on the financing of political parties and election campaigns, and the support expressed by the Parliament to this process. If adopted, the amendments would fill a number of gaps identified in the Evaluation Report. In particular, the public will have access to the annual financial statements of political parties. GRECO is particularly pleased to see that all recommendations are being taken into consideration and that the Permanent Electoral Authority seems to be progressively consolidating its position and authority. GRECO encourages Romania to pursue its efforts towards the completion of the reform process and the broadest implementation of all recommendations addressed to it.

118. In view of the above, GRECO notes that Romania has been able to demonstrate that substantial reforms with the potential of achieving compliance with the pending recommendations within the next 18 months are underway. It should be added that the new Criminal Code will enter into force on 1 February 2014 and this is an important factor for the implementation of recommendations of Theme I. 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 Romania to submit additional information regarding the implementation of recommendations i to vii (Theme I – Incriminations) and recommendations i, iii to v, vii to ix and xi to xiii (Theme II – Transparency of Party Funding) by 30 June 2014 at the latest.

119. Finally, GRECO invites the authorities of Romania to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.