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## **Third Evaluation Round**

### **Compliance Report on Cyprus**

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

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

Adopted by GRECO  
at its 59<sup>th</sup> Plenary Meeting  
(Strasbourg, 18-22 March 2013)

## **I. INTRODUCTION**

1. The Compliance Report assesses the measures taken by the authorities of Cyprus to implement the eight recommendations issued in the Third Round Evaluation Report on Cyprus (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 50<sup>th</sup> Plenary Meeting (1 April 2011) and made public on 4 April 2011, following authorisation by Cyprus (Greco Eval III Rep (2010) 9E, [Theme I](#) and [Theme II](#)).
3. As required by GRECO's Rules of Procedure, the authorities of Cyprus had submitted a Situation Report on measures taken to implement the recommendations. This report was received on 26 October 2012, with supplementary information provided on 25 January 2013. Both served as a basis for the Compliance Report
4. GRECO selected Croatia and Ireland to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Dražen JELENIĆ, Deputy State Attorney General, on behalf of Croatia, and Mr Aidan MOORE, Assistant Principal Officer, Standards Commission Secretariat, Standards in Public Office Commission, on behalf of Ireland. 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 two recommendations to Cyprus in respect of Theme I. Compliance with these recommendations is dealt with below.

#### **Recommendation i.**

7. *GRECO recommended (i) that firm measures be taken in order to ensure that the provisions concerning the criminalisation of corruption as provided for in the Laws 23(III)/2000 and 22(III)/2006 are applied in practice; (ii) to make these provisions accessible as part of the criminal legislation and (iii) for the sake of legal certainty, create a uniform legal framework for the*

*criminalisation and sanctioning of corruption offences in accordance with the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191), notably by amending and/or abolishing current legislation.*

8. The authorities of Cyprus report that, in relation to the first part of the recommendation, several measures have been taken. Firstly, the issue was discussed at the meetings of the Co-ordinating Body against Corruption. Secondly, in May and November 2011, circulars were issued by the Police Chief with instructions for the police chief inspectors, that when investigating corruption offences, they must apply provisions of the 2000 Law Ratifying the Criminal Law Convention on Corruption (23(III)/2000) and the 2006 Law Ratifying the Additional Protocol to the Criminal Law Convention on Corruption (22(III)/2006). Thirdly, guidelines were elaborated by the Attorney General for subordinate officers to consider the application of the aforementioned legal acts when dealing with corruption-related cases. At an international seminar held on 26 September 2012, the Attorney General also stressed the need for the national law enforcement bodies to familiarise themselves with the provisions of both laws. Lastly, the issue was brought to the attention of the Parliamentary Committee on Legal Affairs, which concluded similarly to above, that the practical application of ETS No. 173 and 191 could be achieved, through wider familiarisation of law enforcement authorities and lawyers with the provisions of the relevant domestic legislation.
9. In relation to the second and third parts of the recommendation, the authorities report that the aforementioned Laws 23(III)/2000 and 22(III)/2006, the Criminal Code and the Prevention of Corruption Law have been amended so as to ensure consistency of their respective provisions, as well as their compliance with ETS No. 173 and 191. In particular:
  - Law 22(III)/2012 amending Law 23(III)/2000 Ratifying the Council of Europe Criminal Law Convention on Corruption had entered into force on 6 July 2012. It has raised the pecuniary sanction provided for corruption offences from EUR 17,000 to EUR 100,000. Following such modifications, Article 4 of Law 23(III)/2000 now reads: "The acts and conduct referred to in the Articles of the Convention set out below constitute offences which are punishable with seven years of imprisonment or a pecuniary sentence of up to EUR 100,000 or both."
  - Law 23(III)/2012 amending Law 22(III)/2006 Ratifying the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption had entered into force on 6 July 2012. It was adopted with a view to ensuring compatibility with Laws 23(III)/2000 and 22(III)/2012 and has introduced the definition of the term "Law Ratifying the Convention", as meaning both the 2000 and 2012 Laws Ratifying the Council of Europe Criminal Law Convention on Corruption. The authorities contend that this amendment was necessary in view of Article 4 of Law 22(III)/2006, which provides that "Articles 4 to 9 of the Law Ratifying the Convention (i.e. Law 23(III)/2000) are also implemented in relation to this Law (i.e. 22(III)/2006)."
  - Law 95(I)/2012 amending the Criminal Code had entered into force on 6 July 2012. The sanctions provided for the offences of passive and active bribery contained in Article 100 thereof, have been revised to the effect that any person convicted for such offences is now subject to a punishment of imprisonment of up to seven years or a fine of up to EUR 100,000 or both. The authorities submit that this provision of the Criminal Code is now in line with the legal changes introduced in Law 23(III)/2000 mentioned above.

- Law 97(I)/2012 amending the Prevention of Corruption Law (Cap. 161) had also entered into force on 6 July 2012 and introduced the same penalties as above. Moreover, definitions of passive and active bribery of public officials have been amended so as to include elements “directly or indirectly”, “the request, the acceptance of an offer or a promise”, “from any person” (in respect of passive bribery<sup>1</sup>) and “directly or indirectly” “the promising, offering”, “for himself or herself or for anyone else” (in respect of active bribery<sup>2</sup>). Additionally, the definition of the term “agent” has been revised so as to cover foreign public officials and officials of international organisations.<sup>3</sup>

The authorities conclude, that as a result of the above legal reforms, Laws 23(III)/2000 and 22(III)/2006 have become part of the national criminal legislation, and a uniform legal framework has been created for the criminalisation and sanctioning of corruption offences.

10. In so far as the first part of the recommendation is concerned, GRECO takes note of the series of measures, notably the issuance of two circulars by the Police Chief, the elaboration of guidelines by the Attorney General and the organisation of discussions by the Co-ordinating Body against Corruption and the Parliamentary Committee on Legal Affairs. GRECO remains concerned however, that Laws 23(III)/2000 and 22(III)/2006 which ratify the Criminal Law Convention on Corruption and its Additional Protocol have still not been invoked in a criminal case of corruption.<sup>4</sup> Additionally, it would appear that, apart from the calls to the national law enforcement bodies to familiarise themselves with the content of both laws, no concrete steps have been taken by the authorities to ensure their full application in practice through means such as rigorous training of law enforcement staff and the judiciary<sup>5</sup>, elaboration of information materials for legal practitioners, facilitated awareness via targeted campaigns, web sites, etc. GRECO is of the opinion that more efforts are needed in order to comply with this part of the recommendation and concludes that it has been partly implemented.
11. As concerns the second and third parts of the recommendation, GRECO notes that, instead of gathering all corruption crimes in a single legal instrument, the authorities have opted for the revision of the “new” legal acts (i.e. Laws 23(III)/2000 and 22(III)/2006), so as to ensure their compatibility with ETS No. 173 and No. 191 and modification of the Criminal Code and the Prevention of Corruption Law to make them compliant with the “new” legal acts. It would appear that amendments to the Criminal Code and the Prevention of Corruption Law have eliminated certain past inconsistencies. This concerns in particular, the insufficiently dissuasive pecuniary sanctions for corruption offences and the missing elements of some bribery offences. Yet, the full harmonisation has not been achieved. For example, it is unclear whether the offences of trading

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<sup>1</sup> Article 3, subparagraph (a) of Cap. 161 now reads as follows: “[I]f *any agent directly or indirectly accepts or obtains or agrees to accept or request or attempts to obtain from any person* for himself or for any other person, any gift, or consideration as an inducement or reward for doing or forbearing to do, or for having after the passing of this Law done or forborne to do, any act in relation to his principal’s affairs or business or for showing or forbearing to show favour or disfavour to any person in relation to his principal’s affairs or business; or...”

<sup>2</sup> Article 3, subparagraph (b) of Cap. 161 now reads as follows: “[I]f *any person directly or indirectly gives or agrees to give or promises or offers or attempts to give for himself or for any other person* any gift or consideration to any agent as an inducement or reward for doing or forbearing to do, or for having after the passing of this Law done or forborne to do, any act in relation to his principal’s affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his principal’s affairs or business...”

<sup>3</sup> The definition of the term “agent” contained in Article 2 of Cap. 161 is as follows: “agent includes any person employed by or acting for another and any person serving the Republic or any public body or any foreign public official or any official of an international organisation”.

<sup>4</sup> Notwithstanding one pending investigation of corruption in the private sector reported by the authorities.

<sup>5</sup> According to paragraph 123 of the Evaluation Report, none of the judges met on-site were familiar with the content of the Laws ratifying the Convention and its Additional Protocol.

in influence and bribery of jurors and arbitrators have been properly covered by the revised Prevention of Corruption Law.

12. GRECO accepts that, since many of the provisions of Laws 23(III)/2000 and 22(III)/2006 have been integrated into the Criminal Code and the Prevention of Corruption Law, the former have in fact been made accessible as part of the criminal legislation. Yet the objective of coherence and legal certainty has not been achieved, due to the coexistence of laws with different material and personal scope. For example, despite the greater level of approximation, important divergences still persist between the two groups of laws as regards certain aspects of incriminations (as highlighted above), standard of evidence and regime for prosecution. GRECO is of the opinion that more determined steps are necessary in order to fully harmonise the existing legislation. As stated in paragraph 123 of the Evaluation Report, this preferably should be done via gathering all corruption crimes in a single legal instrument. GRECO concludes that the second and third parts of the recommendation have been partly implemented.
13. GRECO concludes that recommendation i has been partly implemented.

#### **Recommendation ii.**

14. *GRECO recommended (i) to abolish the requirement of dual criminality with respect to the offences of bribery and trading in influence committed abroad and (ii) to establish jurisdiction over corruption offences committed abroad by domestic public officials and members of domestic public assemblies who are not citizens of Cyprus.*
15. In relation to the first part of the recommendation, the authorities of Cyprus report that, by virtue of Law 22(III)/2012, Article 6 of Law 23(III)/2000 Ratifying the Criminal Law Convention on Corruption has been amended and now reads as follows: “*Notwithstanding* the provisions of Article 5 of the Criminal Code on the jurisdiction of the courts of Cyprus, offences committed in breach of the provisions of this Law, shall be tried by the courts of Cyprus in the cases set out in *Article 17(1)(b) and 17(1)(c) of the Convention*”. With regard to the second part of the recommendation, the authorities refer to the aforementioned expanded jurisdiction of the Cypriot courts, namely that pursuant to Article 3(b) of Law 22(III)/2012, the Cypriot courts have now acquired jurisdiction in respect of corruption offences committed abroad by domestic public officials, and members of domestic public assemblies who are not citizens of the Republic of Cyprus. The authorities reiterate that the amendments introduced by Law 22(III)/2012 also apply in relation to Law 22(III)/2006 Ratifying the Additional Protocol to the Criminal Law Convention on Corruption.
16. GRECO recalls that at the time of the on-site visit, Laws 23(III)/2000 and 22(III)/2006 Ratifying the Criminal Law Convention on Corruption and its Additional Protocol, incorporated provisions on jurisdiction only in so far as Article 17(1)(c) of the Convention was concerned; other pertinent rules, particularly relevant to Articles 17(1)(a) and 17(1)(b) were contained in Article 5 of the Criminal Code. Furthermore, an offence committed by a citizen of Cyprus fell under the Cypriot law provided it was punishable in Cyprus by at least two years’ imprisonment and constituted an offence under the law of the country where it was committed.<sup>6</sup> GRECO welcomes amendments to Law 23(III)/2000 which have established jurisdiction of the Cypriot courts over corruption offences provided by Articles 17(1)(b) and 17(1)(c) of the Criminal Law Convention on Corruption. These ensure in particular, that Article 6 of the Law Ratifying the Convention is applied independently of Article 5 of the Criminal Code, which continues to safeguard the principle of dual criminality.

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<sup>6</sup> Article 5(d) of the Criminal Code (cf. paragraph 124 of the Evaluation Report).

Similarly, GRECO is satisfied that the same amendments have extended the jurisdiction of the Cypriot courts to corruption offences committed abroad by domestic public officials and members of domestic public assemblies who are not citizens of Cyprus, as is specifically requested by Article 17(1)(b) of the Criminal Law Convention on Corruption. It is concluded that both parts of the recommendation have been implemented satisfactorily.

17. While this issue has not been addressed by paragraph 124 of the Evaluation Report, and, therefore not reflected in the recommendation, GRECO nevertheless notes with concern, that the offences covered by the Prevention of Corruption Law remain subject to the general jurisdiction rules contained in Article 5 of the Criminal Code. In line with what has been stated under paragraph 12 above, it concludes that more efforts are needed in order to provide for the full harmonisation of relevant provisions, including those dealing with jurisdictional matters.
18. GRECO concludes that recommendation ii has been implemented satisfactorily.

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

19. It is recalled that GRECO in its Evaluation Report addressed six recommendations to Cyprus in respect of Theme II. Compliance with these recommendations is dealt with below.
20. The authorities now report that, following the adoption of the Evaluation Report, new legislation concerning the transparency of political financing was adopted in Cyprus. On 17 December 2012, the Political Parties Law<sup>7</sup> was enacted by its publication in the Official Gazette of the Republic. This Law, which repeals the Political Parties Law of 2011,<sup>8</sup> has been the outcome of several meetings and extensive discussions held within the Parliamentary Committee on Institutions, Merit and the Commissioner for Administration (Ombudsman).

### **Recommendation i.**

21. *GRECO recommended (i) to ensure that all forms of income, expenditure, assets and debts are accounted for by political parties in a comprehensive manner and following a consistent format and that their accounts also include the finances of local branches of parties; (ii) to seek ways of increasing the transparency of the finances of other entities which are related directly or indirectly to political parties or under their control, and (iii) to ensure that the accounting information is made public in a timely and sufficiently comprehensive manner.*
22. With regard to the first and second parts of the recommendation, the authorities state that Section 6(1) of the new Political Parties Law (PPL) stipulates that: “The political parties shall ... be bound to keep detailed information and proper account books and prepare separate and consolidated with the affiliated organisations financial statements for each financial year in accordance with the International Financial Reporting Standards...”. The authorities indicate that, in accordance with the aforementioned Standards, the notion of ‘the financial administration’ covers all forms of income, expenditure, assets and debts of a political party, including its local branches, which are all to be accounted for. Additionally, the obligation to keep ‘detailed information’ and ‘proper account books’ pre-supposes that the information on income, expenditure, assets and debts is comprehensive and follows a consistent format. As concerns the obligation to prepare consolidated financial statements with affiliated organisations, the PPL clarifies that an “affiliated organisation” means a body or an association of persons with or without legal personality which is

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<sup>7</sup> L.175(I)/2012.

<sup>8</sup> L.20(I)/2011.

associated with a political party by its statute and instruments or serves or promotes the purposes of a political party and includes youth organisations, women's organisations, agriculture, cultural, adult organisations, etc."<sup>9</sup> Lastly, the authorities report that these provisions are strengthened by Section 8(1) PPL, according to which a pecuniary administrative fine is imposed by the Commissioner of the Political Parties' Register in case of infringements of any provision in the PPL.

23. With regard to the third part of the recommendation, the PPL requires that, within three months at the latest, following the expiration of the year concerned, the accounting information be submitted to the Commissioner of the Political Parties' Register under the Ministry of the Interior; and within four months at the latest, following the expiration of the year concerned, the Commissioner is to present the consolidated financial statements for audit to the Auditor-General of the Republic.<sup>10</sup> Having analysed the statements, the Auditor-General shall "prepare a report in relation to the audit findings and publish the same in the Official Gazette."<sup>11</sup> The authorities state that the Auditor General is the competent authority, which takes all necessary actions and performs its functions in relation to the parties' accounts. As concerns the Commissioner of the Political Parties' Register, s/he is entrusted with the supervision over the parties' registration, and in respect of political financing, his/her role is limited to the transmission of parties' annual financial statements to the Auditor-General.
24. GRECO welcomes the enactment of the new Political Parties Law of 2012 (PPL), and the enhanced transparency that it aims to bring in the sphere of political financing in Cyprus. With regard to the first part of the recommendation, GRECO is satisfied that Section 6(1) PPL has introduced an explicit obligation for political parties to keep comprehensive accounting books, in accordance with the International Financial Reporting Standards, which integrate information on income, expenditure, assets and debts of a political party, including its local branches. However, GRECO has doubts that the consistent format prescribed by these standards can be applied appropriately to matters which are relevant to understanding the accounts of political parties. For example, in so far as sources of funding of a political party are concerned, they may include membership fees, state subsidies, revenue-generating activities (party press, public relations agencies, etc.), donations in kind, contributions from members, revenues from the organisation of events, etc. GRECO concludes that, as compared to the preceding legal act, the accounting rules laid down by the new PPL provide for a more robust framework for party accounting; however, this framework needs to be complemented with further regulations in order to properly address features specific to political parties and in particular to identify clearly and consistently sources of funding of political parties and their expenditure. GRECO concludes that this part of the recommendation has been partly implemented.
25. As concerns the second part of the recommendation, the PPL includes a special provision mandating the parties' annual financial statements to consolidate financial data with those entities directly or indirectly related to them. A definition of such organisations is contained in the law. GRECO concludes that this part of the recommendation has been implemented satisfactorily.
26. With respect to the third part of the recommendation, GRECO takes note of the Auditor-General's obligation to audit, on an annual basis, parties' financial statements, prepare a report and publish it in the Official Gazette. Section 6(3) PPL is worded in such a manner which presupposes that the disclosure obligation only applies to the Auditor-General's report and its findings, but not the

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<sup>9</sup> Section 2 PPL.

<sup>10</sup> Section 6(1-2) PPL.

<sup>11</sup> Section 6(3) PPL.

financial statements of the political parties as such. At the same time, the law is silent as regards the obligation of the parties themselves to annually publish their accounts, or as a minimum a summary, as required by Article 13(b) of Recommendation Rec(2003)4. While it could be argued that some accounting information (i.e. the Auditor-General's report) is being made public, it should be recalled that the purpose of the recommendation is to ensure that the accounting information is disclosed "in a timely and sufficiently comprehensive manner." From this perspective, it is regrettable that there is no timeline for the publication of the Auditor-General's report, which may be of critical importance given that the parties' campaign accounts form part of their ordinary annual accounts. GRECO concludes that this part of the recommendation has not been implemented.

27. Finally, while acknowledging that this issue is beyond the scope of the recommendation, GRECO remains concerned by the continuous involvement of the Commissioner of the Political Parties' Register in the external monitoring of political financing. Under the new PPL, s/he still acts as a depository of the parties' financial statements, transmits them to the Auditor-General, and imposes fines on political parties based on the findings and orders of the Auditor-General. In paragraph 70 of the Evaluation Report, GRECO already stressed that the Commissioner appointed by the Minister of the Interior, could not be regarded as sufficiently removed from the Government to meet the requirements of independence as envisaged under Article 14 of Recommendation Rec(2003)4. For this reason, GRECO renews its calls to the authorities to set up a fully independent monitoring system of political financing in Cyprus.

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

#### **Recommendation ii.**

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

30. The authorities of Cyprus report that, as far as political parties are concerned, according to the new Political Parties Law (PPL), private donations to political parties and their affiliated organisations may be named or anonymous and provided in a monetary form, in-kind, in equipment or services. In the case of named donations, Section 5(2)(c) PPL provides that each named donation from the same physical person or legal entity to any political party or its affiliates, is permitted up to the amount of EUR 50,000 per year. This includes non-monetary donations of any nature, which are to be evaluated according to the current market value.<sup>12</sup> As regards anonymous donations, they are permitted up to the amount of EUR 1000 per year for a party or its affiliate, and any other donation over the aforesaid amount has to be named.<sup>13</sup> The aggregate amount of the anonymous donations received by a political party or an affiliated organisation per year is to be published in the daily press. In addition, each political party or an affiliated organisation may accept named donations of any kind from legal entities of public or private law over which the state exercises control in their capacity as sponsors in events, up to the amount of EUR 20,000 per year for each legal entity of public law, according to the case.<sup>14</sup>

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<sup>12</sup> Section 5(2)(a) PPL.

<sup>13</sup> Section 5(2)(d) PPL.

<sup>14</sup> Section 5(3) PPL.

31. As concerns the applicability of this recommendation to elected representatives and election candidates, the authorities refer to possible future amendments to Law 72/79 on the Election of Members of the House of Representatives, the examination of which falls under the competence of the Parliamentary Committee on Internal Affairs.
32. GRECO takes note of the provisions mentioned by the authorities. It observes that the disclosure of named private donations above a certain value, together with the identity of the donor, so far has not been achieved neither in respect of political parties nor in respect of election candidates. With regard to donations, there is only one disclosure requirement contained in the new Political Parties Law (PPL). This requirement is for a political party and its affiliated organisations to publish in the daily press the aggregate amount of anonymous donations received per year. Furthermore, GRECO expresses concern over the high threshold established for the identification of donations to political parties and their affiliates, which is set at EUR 1000 per each case. GRECO considers that this provides significant scope for circumventing the established caps on named donations, and diminishes the transparency of political financing. This is an issue which has often been emphasised by GRECO in other evaluation reports. In its Evaluation Report, GRECO had already noted that the permissible acceptance limits for donations “go much beyond the threshold levels that GRECO has accepted in respect of other member states”. The permissible acceptance limit has been further increased in the 2012 PPL. In view of the foregoing, it concludes that the measures reported so far fall short of the requirements laid down in the recommendation.
33. Finally, while this issue may not strictly be within the scope of the recommendation, GRECO wishes to recall paragraph 66 of the Evaluation Report, in which it criticised the possibility for a political party to accept contributions of any kind from a public body as a sponsor of events organised by the party without any restrictions or reporting obligations. While Section 5(3) PPL has introduced some restriction on the amount of sponsorship which can be provided by a public body, GRECO notes with concern, that legal entities of public law over which the state exercises control, can in their capacity as sponsors in events, still provide donations to political parties and their affiliates up to the amount of EUR 20,000 per year for each legal entity. As such a provision creates potential for the misuse of public subsidies, GRECO recalls Article 5(c) of Recommendation Rec (2003)4 which requires states to prohibit legal entities under control of the state or other public authorities from making donations to political parties.
34. GRECO concludes that recommendation ii has not been implemented.

**Recommendation iii.**

35. *GRECO recommended to introduce specific reporting of all income and expenditure relating to election campaigns by political parties and election candidates in respect of all types of elections, that such information should include non-monetary or benefit-in-kind contributions received by the party or the candidate and expenditure incurred on the party’s or candidate’s behalf and that such information should be disclosed to the wider public at appropriate intervals.*
36. The authorities of Cyprus report that, as far as political parties are concerned, this issue is dealt with by the aforementioned Section 6(1) of the Political Parties Law (PPL), which confers an obligation on political parties to submit all accounting information annually, within certain time limits, to the Commissioner of the Register of Political Parties, and ultimately, to the Auditor-General of the Republic. Such requisite accounting information on the financial administration of the political parties, includes income and expenditure relating to election campaigns, whether in

monetary form or in-kind. Regarding the part of the recommendation which requires that such information be disclosed to the wider public at appropriate intervals, the authorities state that, pursuant to the aforementioned Section 6(3) PPL, the Auditor-General's report is published annually in the Official Gazette.

37. As concerns the reporting and disclosure of income and expenditure relating to election campaigns by election candidates, as before, the authorities report on possible future amendments to Law 72/79 on the Election of Members of the House of Representatives.
38. GRECO notes that both incomes and expenses pertaining to political parties' election campaigns are now subject to monitoring by the Auditor-General, as part of the audit of the party's ordinary annual accounts. Also, the information on incomes and expenses pertaining to a specific election campaign, is no longer limited to monetary contributions but also encompasses non-monetary and benefit-in-kind donations, which may be received by a party. The recommendation, however, calls for "specific" reporting of income and expenditure at elections. From this perspective, it is doubtful whether proper identification of election finances in the parties' accounts is feasible in the absence of a separate specifically prescribed and consistent accounting format for election income and expenditure. Also, while election-related incomes and expenditures are to be reported annually to an appropriate body, their disclosure to the wider public during an on-going election campaign, as was suggested in paragraph 67 of the Evaluation Report and has become a standard in many of GRECO member states, has not been achieved. Furthermore, no concrete steps have been taken to introduce the reporting of income and expenses relating to election campaigns by election candidates.
39. GRECO concludes that recommendation iii has not been implemented.

#### **Recommendation iv.**

40. *GRECO recommended to ensure independent auditing in respect of political parties' books and accounts, as appropriate, prior to their submission for external monitoring.*
41. The authorities of Cyprus refer to the aforementioned Section 6(1) of the new Political Parties Law (PPL), which explicitly obligates political parties to subject their annual financial statements to independent internal audit, prior to their submission to the Auditor-General of the Republic. The audit is to be carried out by independent professional auditors/accountants acting as natural persons or audit companies. The guarantees of their independence include the selection procedure, the conditions of integrity, objectivity, professional behaviour and avoidance of conflicts of interest, which are prescribed by Law 42(I)2009 on Auditors and Statutory Audits of Annual and Consolidated Accounts as well as the Code of Ethics for Professional Accountants.<sup>15</sup> The authorities also stress that Section 6(1) PPL is further strengthened by Section 8(1) PPL, according to which a pecuniary administrative fine is imposed by the Commissioner of Political Parties' Register in case of any infringement of the law.
42. GRECO notes that the new Political Parties Law (PPL) provides that the accounts of political parties be subject to independent audit before being submitted to the Auditor-General for external monitoring, and that the guarantees of auditors' independence have been laid down in the Law on Auditors and Statutory Audits of Annual and Consolidated Accounts as well as the Code of Ethics of Professional Accountants.

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<sup>15</sup> Effective as of January 2011

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

**Recommendation v.**

44. *GRECO recommended (i) to clarify that the monitoring of political parties' annual accounts goes beyond the auditing of incomes and expenditure; (ii) to ensure that income funding an election campaign and all expenditure incurred in relation to the election are accounted for in the statement furnished to the Auditor General at election campaigns and to provide for clear rules for the submission of such statements to the Auditor General; and (iii) to provide an independent supervisory mechanism in respect of election candidates' income and expenditure.*
45. As concerns the first part of the recommendation, the authorities of Cyprus report that pursuant to the aforementioned Section 6(1) of the Political Parties Law (PPL), it is the financial administration of political parties that is subject to audit by the Auditor-General. As was previously explained, in accordance with the International Financial Reporting Standards, the term 'financial administration' covers income, expenditure, assets and debts of a political party. In order for the financial administration of political parties to be audited by the Auditor-General, there is an obligation for the parties to keep 'detailed information', as well as to keep 'proper account books and prepare separate and consolidated with the affiliated organisations financial statements for each financial year'.
46. Regarding the second part of the recommendation, the authorities reiterate that Section 6(1) PPL establishes the obligation on political parties to submit to the Auditor-General annual accounting information, which includes all income and expenditure in relation to election campaigns, and that these are to be submitted to the Auditor-General by the Commissioner of the Political Parties' Register within four months, following the expiration of the year concerned.
47. With respect to the third part of the recommendation, the authorities state that the issue of the establishment of an independent supervisory mechanism in respect of election candidates' income and expenditures was brought before the Co-ordinating Body against Corruption and the Parliamentary Committee on Institutions, Merit and the Commissioner for Administration (Ombudsman). However, it became clear that this issue did not fall under the latter's competence and was transmitted to the Parliamentary Committee on Internal Affairs, which will consider it jointly with the possible amendments to Law 72/79 on the Election of Members of the House of Representatives, subsequent to the Presidential Elections of February 2013.
48. GRECO welcomes the authorities' endeavours to implement some elements of the recommendation. With respect to its first part, GRECO notes that the new Political Parties Law provides for external monitoring of not only incomes and expenditures but also assets and debts of political parties, which form part of their annual financial statements. It is concluded that the first part of the recommendation has been implemented satisfactorily.
49. With regard to the second element of the recommendation, GRECO notes that incomes and expenditures pertaining to election campaigns form part of political parties' annual accounts, and that these are to be submitted to the Auditor-General of the Republic within four months following the expiration of the year concerned. The recommendation however pursues the goal of ensuring the external supervision of parties' finances specifically in the course of an election campaign. From information submitted by the authorities, it would appear that such a requirement has not been fulfilled. As concerns the third part of the recommendation, GRECO regrets that there has been no tangible progress as regards the external supervision of election candidates' income and

expenditures. It is concluded that the second and the third parts of the recommendation have not been implemented.

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

**Recommendation vi.**

51. *GRECO recommended that flexible sanctions be introduced for violations of the legislation concerning the submission of election statements in respect of election candidates.*
52. The authorities of Cyprus report that, as concerns the sanctions to be imposed for violations of the political financing legislation by candidates in elections, the Parliamentary Committee on Internal Affairs is expected to examine this issue in due course as part of the possible revision of Law 72/79 on the Election of Members of the House of Representatives. The authorities additionally state that, in comparison to the Political Parties Law 20(I)/2011 (which has been repealed and superseded by the Political Parties Law of 2012), the new law has increased the range of administrative fines for violations thereof to a maximum amount of up to EUR 20,000.<sup>16</sup> It is expected that future amendments to Law 72/79 would provide for a range of sanctions consistent with those introduced by the new PPL.
53. GRECO takes note of the information provided by the authorities, particularly as regards the increased administrative fines envisaged under the new Political Parties Law. It recalls however that the subject of this recommendation is candidates in elections and not political parties. GRECO understands that the sanctioning regime for election candidates, will be part of a broader discussion on the future rules for election campaign financing, as announced in paragraphs 31 and 47 above. At this stage, GRECO notes the lack of substantial progress as regards the proposed revision of Law 72/79 on the Election of Members of the House of Representatives. More specifically, flexible sanctions have not been introduced so far for violations of the legislation concerning the submission of election statements in respect of election candidates.
54. GRECO concludes that recommendation vi has not been implemented.

**III. CONCLUSIONS**

55. **In view of the above, GRECO concludes that Cyprus has implemented satisfactorily two of the eight recommendations contained in the Third Round Evaluation Report.** With respect to Theme I – Incriminations, recommendation ii has been implemented satisfactorily and recommendation i has been partly implemented. With respect to Theme II – Transparency of Party Funding, recommendation iv has been implemented satisfactorily, recommendations i and v have been partly implemented and recommendations ii, iii and vi have not been implemented.
56. In so far as incriminations are concerned, legislative reforms aimed at ensuring greater coherence of the existing provisions are to be commended. Thus, a series of amendments introduced in the Criminal Code, the Prevention of Corruption Law and the two Laws ratifying the Council of Europe Criminal Law Convention and its Additional Protocol have remedied some important deficiencies, namely insufficiently dissuasive pecuniary sanctions for corruption offences, and imprecise definition of some bribery offences. Yet, more steps are needed in order to create a coherent and robust legal framework free from inconsistencies, preferably through gathering all corruption crimes in a single legal instrument, as was recommended in the

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<sup>16</sup> Section 8(1) PPL.

Evaluation Report. For the moment, the coexistence of legal instruments with different personal and material scope breeds legal uncertainty, including through lack of practical application of the two laws ratifying the Council of Europe anti-corruption standards.

57. As regards the transparency of political financing, important efforts have been deployed in order to comply with the recommendations. The new Political Parties Law (PPL) was adopted in December 2012, replacing the previously existing legal act and bringing enhanced transparency into political financing in Cyprus. In particular, it has introduced an explicit obligation for political parties to keep accounting books, in accordance with the International Financial Reporting Standards, and to integrate therein information on income, expenditure, assets and debts, including from local branches and affiliated organisations, as well as income and expenses pertaining to election campaigns. The financial statements of political parties are now subject to independent audit and external supervision by the Auditor-General of the Republic, which are to be performed on an annual basis, and the results of the latter are to be made available to the wider public. As concerns the remaining weaknesses, in respect of political parties, they include the lack of a consistent format for political parties' accounts, the absence of an external supervision of incomes and expenditures in connection specifically with election campaigns, as well as the lack of publication of the parties' accounts and individual donations above a certain threshold. With regard to candidates in elections, Law 72/79 on the Election of Members of the House of Representatives, which was subject to criticism in the Evaluation Report, has remained unchanged; therefore, adequate external supervision and effective, proportionate and dissuasive sanctioning of candidates in elections for violations of the legislation concerning the submission of financial statements, has until today not been provided for.
58. In light of what has been stated above, GRECO notes that Cyprus has been able to demonstrate that 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 the Rules of Procedure. GRECO invites the Head of the delegation of Cyprus to submit additional information regarding the implementation of recommendation i (Theme I – Incriminations) and recommendations i, ii, iii, v and vi (Theme II – Transparency of Party Funding) by 30 September 2014 at the latest.
59. Finally, GRECO invites the authorities of Cyprus 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.