

Adoption: 4 December 2015  
Publication: 12 February 2016

**Public**  
**Greco RC-III (2015) 18E**

## **Third Evaluation Round**

### **Third *Interim* Compliance Report on the Czech Republic**

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

\* \* \*

**“Transparency of Party Funding”**

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

## I. INTRODUCTION

1. The Third Round Evaluation Report on the Czech Republic was adopted at GRECO's 50th Plenary Meeting (28 March – 1 April 2011) and made public on 29 April 2011, following authorisation by the Czech authorities (Greco Eval III Rep (2010) 10E, [Theme I](#) and [Theme II](#)). As required by GRECO's Rules of Procedure, the authorities submitted a Situation Report on measures taken to implement the thirteen recommendations contained in the Evaluation Report. GRECO selected Italy and Hungary to appoint Rapporteurs for the compliance procedure.
2. The [Compliance Report](#) was adopted at GRECO's 59th Plenary Meeting (22 March 2013) and made public on 4 April 2013, following authorisation by the Czech authorities. It concluded that of the four recommendations under Theme I – Incriminations, recommendation ii had been dealt with in a satisfactory manner, recommendations iii and iv had been partly implemented and recommendation i had not been implemented. In respect of Theme II – Transparency of Party Funding, none of the nine recommendations had been implemented. This made the overall level of compliance “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore applied Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report.
3. The First [Interim Compliance Report](#) was adopted at GRECO's 62nd Plenary Meeting (6 December 2013) and made public on 4 April 2014, following authorisation by the authorities. It concluded, with respect to Theme I that recommendations i, iii and iv had been partly implemented and, with respect to Theme II, that recommendations i-ix remained not implemented. Since the level of compliance was assessed again as “globally unsatisfactory”, in accordance with Rule 32, paragraph 2 subparagraph (ii), GRECO had instructed its President to send a letter to the Head of Delegation of the Czech Republic to GRECO, drawing her attention to the non-compliance with the relevant recommendations.
4. The [Second Interim Compliance Report](#) was adopted at GRECO's 66<sup>th</sup> Plenary Meeting (8-12 December 2014) and made public on 5 February 2015, following authorisation by the authorities. It concluded that no changes had occurred in the rating of the pending recommendations under Theme I and Theme II. The level of compliance was therefore again assessed as “globally unsatisfactory” and, in accordance with Rule 32, paragraph 2 subparagraph (i), GRECO instructed its President to transmit a letter to the Permanent Representative of the Czech Republic to the Council of Europe, drawing his attention to the need for determined action to be taken with a view to achieving tangible progress as soon as possible. GRECO also requested the Head of Delegation of the Czech Republic to GRECO to provide a report on the action taken to implement the pending recommendations by 30 September 2015.
5. As required by the GRECO's Rules of Procedure, the authorities of the Czech Republic submitted their Situation Report with additional information regarding the action taken to implement those recommendations that were partly implemented or not implemented according to the Second *Interim Compliance Report*. That report was received on 29 September 2015 and served as a basis for this Third *Interim Compliance Report*.
6. The Third *Interim Compliance Report* was drawn up by Ms Maria Laura PAESANO, Magistrate in the Cabinet, Ministry of Justice, on behalf of Italy and Ms Nora BAUS, Anti-corruption Officer, Department for European Cooperation, Ministry of the Interior, on behalf of Hungary, with assistance from the GRECO Secretariat. It evaluates further steps made by the authorities in

order to comply with the pending recommendations and underscores the progress achieved since the adoption of the Second *Interim* Compliance Report.

## II. ANALYSIS

### Theme I: Incriminations

#### **Recommendation i.**

7. *GRECO recommended to clarify that bribery of all categories of employees in the public sector is covered, regardless of whether they are able to fundamentally influence a final decision in connection with procuring affairs in the public interest or not.*
8. At the stage of the Second *Interim* Compliance Report this recommendation had been partly implemented. No new court cases had been reported and no supplementary measures taken by the authorities in order to clarify that bribery of all categories of employees in the public sector is covered regardless of whether they fundamentally influence a final decision in connection with procuring affairs in the public interest or not.
9. The authorities of the Czech Republic now report that the interpretation of the text of bribery offences remains the same as in the previous Situation Reports.
10. GRECO recalls that bribing someone “in connection with procuring affairs in the public interest” is understood by the Supreme Court to refer to “a person deciding or co-deciding on the affair in the public interest” or “a person who does not have any decision-making authority but – for example – prepares background information for a decision” or conducting other activities which could “fundamentally influence the final decision”. An almost identical interpretation is found in the 2010 Methodological guidance issued by the Supreme Prosecutor’s Office. Although in one court case reported to GRECO previously a broader interpretation was given to the concept “in connection with procuring affairs in the public interest”, GRECO had concluded that this remained a solitary case which did not establish with certainty that the rule is that all public sector employees, in particular those exercising ancillary jobs, whose tasks or actions cannot be considered as “fundamentally influencing the final decision”, fall within the scope of the bribery and trading in influence provisions. Given that no new case law has been provided, GRECO cannot but underscore once more the lack of meaningful progress and calls upon the authorities to ensure full compliance with this recommendation.
11. GRECO concludes that recommendation i remains partly implemented.

#### **Recommendation iii.**

12. *GRECO recommended to amend Section 333 of the Criminal Code on trading in influence, ensuring that all the requirements of Article 12 of the Criminal Law Convention on Corruption (ETS 173) are met, in particular as regards the acceptance of an offer or promise of an undue advantage and instances of supposed influence.*
13. This recommendation had been assessed as partly implemented in the Second *Interim* Compliance Report. Although GRECO had found that the proposed amendments to Section 333 of the Criminal Code would satisfy the requirements of the recommendation, full compliance had not been attained since the bill had only been presented to but not adopted by the Parliament.

14. The authorities of the Czech Republic now report that the proposal to amend Section 333 of the Criminal Code (Trading in influence) underwent the inter-ministerial commentary procedure in August-September 2014. On 12 November 2014, it was approved by the Government and, two days later, was submitted to the Chamber of Deputies. Following adoption by both Chambers of Parliament, the draft law was signed by the President of the Republic on 24 June 2015 and published as an amendment to Act No. 40/2009 Coll., Criminal Code no. 165/2015 Coll. The amendment reads:

**Section 333 - Trading in influence**

*(1) Whoever requests, **accepts a promise** or accepts a bribe for exerting his/her influence or by means of someone else on the execution of the authority of a public official or for having done so, shall be sentenced to imprisonment for up to three years.*

*(2) Whoever shall provide, offer, or promise a bribe to another person for the reason given in paragraph (1), shall be sentenced to imprisonment for up to two years.*

15. GRECO acknowledges that the revised Section 333 of the Criminal Code (trading in influence) now explicitly refers to the acceptance of a promise of an undue advantage, as demanded by the recommendation. GRECO also recalls explanations provided by the authorities previously on the application of trading in influence provisions to those who merely claim to be in a position to influence decision making in exchange of an undue advantage. In such a case, the active party acts in factual error and therefore is punishable only with respect to provisions on attempting to trade in influence. As for the passive party in these instances, fraud or attempt thereof are deemed to have been committed.
16. GRECO concludes that recommendation iii has been implemented satisfactorily.

**Recommendation iv.**

17. *GRECO recommended to clarify in an unequivocal manner the way in which bribery of foreign arbitrators and foreign jurors is criminalised in the Czech Republic and to sign and ratify the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) as soon as possible.*
18. GRECO had previously found this recommendation to be partly implemented due to the lack of progress made towards the signature and ratification of the Additional Protocol to the Criminal Law Convention on Corruption. The Second *Interim* Compliance Report mentioned the authorities' intention to present a proposal to that effect to the Government at the beginning of 2015.
19. The authorities of the Czech Republic now report that the signature and ratification of the Additional Protocol are still being prepared.
20. GRECO notes the lack of any notable developments under this part of the recommendation and urges the authorities to deploy additional efforts to speed up the signature and ratification process.
21. GRECO concludes that recommendation iv remains partly implemented.

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

22. In the Second *Interim* Compliance Report GRECO had welcomed the inception of a new legislative process aimed at modifying the Assembly in Political Parties and Movements Act (AAPP). The preparation of an additional draft (the so-called "Election Code") had been noted as well. Given the very early stage of the procedure and the fact that neither of the drafts were presented for GRECO's scrutiny, it had been premature to establish even partial compliance; therefore all nine recommendations had been qualified by GRECO as not implemented.
23. The authorities of the Czech Republic now report that a package of amendments not only to the AAPP but also to the Parliamentary Elections Act (APEA), the Regional Assembly Elections Act (ARAE), the Elections to the European Parliament Act (AEEP) and the Presidential Elections Act (APE) was approved by the Government on 29 July 2015. The amendments are now being considered by Parliament, and had passed a first reading by the Chamber of Deputies on 20 October 2015. Depending on the swiftness of the process, a majority of the amendments are scheduled to enter into force on 1 January 2017.
24. The authorities furthermore point out that the currently proposed amendments do not apply to the Municipal Elections Act.<sup>1</sup> Since the majority of candidates in this type of election are individual candidates or candidates running in association with other candidates (informal groupings with no legal status), it was considered that applying to them the same rules as to candidates in other types of elections would be excessive and discourage them from running for office, particularly in small municipalities which are likely to have no candidates for election. Currently, the discussion is on-going on whether similar rules to those that are proposed for other types of elections should apply to larger municipalities, however a feasible legal solution has so far not been found. This issue will be addressed in the General Election Code which is under preparation and aims to harmonise the legal regulation of all types of elections currently governed by individual election laws (i.e. the APEA, the ARAE, the APE and the AEEP).

### **Recommendation i.**

25. *GRECO recommended to take measures to ensure that donations by party members are adequately reflected in the financial reports of political parties and movements.*
26. The authorities of the Czech Republic refer to several draft amendments to the AAPP. These provide that the total value of donations, whether monetary or in-kind, including membership fees exceeding CZK 50 000/EUR 1 847, from one natural or legal person shall not exceed CZK 3 000 000/EUR 110 819 per year.<sup>2</sup> The annual party/movement financial statement is to include: (a) a list of all donors, the amounts donated by them and the usual price of any in-kind donations (also when the donor is a party member)<sup>3</sup>; (b) a list of party members whose membership fee exceeds CZK 50 000/ EUR 1 847 in one calendar year<sup>4</sup>; and (c) a list of all services provided free of charge if their overall value exceeds CZK 50 000/ EUR 1 847 or at a discount rate (the usual price of such services is to be noted, the donors identified and their party membership indicated).

---

<sup>1</sup> For detailed explanation of the Czech legal system in this respect see paragraph 7 of GRECO's 2011 Evaluation Report on the Czech Republic on Transparency of Political Financing.

<sup>2</sup> Article 18(2) AAPP. Parent and subsidiary companies are considered as one legal person for the purposes of the Act.

<sup>3</sup> Article 19h(1)(h) AAPP.

<sup>4</sup> Articles 19h(1)(k) and 6 (2)(b) (b) AAPP.

27. GRECO recalls that the currently effective provisions of the AAPP do not provide for any limits on the amount/size/periodicity of private donations or membership fees and while all donations and donors are to be reported and disclosed, membership fees are only to be identified in the annual financial statements of a party if they exceed CZK 50 000/EUR 1 847. GRECO acknowledges that, by establishing caps for donations by a natural or legal person to a political party or movement per year, by making such caps applicable to membership dues, and by identifying in the annual statements the donors who are members of a party or movement, the proposed amendments to the AAPP do introduce safeguards that would ensure that membership fees are not used to circumvent the transparency rules applicable to donations. Pending the adoption and entry into force of the proposed amendments, the recommendation remains partly implemented.
28. GRECO concludes that recommendation i has been partly implemented.

#### **Recommendation ii.**

29. *GRECO recommended to establish precise rules for the valuation and reporting of in-kind donations, including loans (whenever their terms or conditions deviate from customary market conditions or they are cancelled) and other goods and services (other than voluntary work by non-professionals) provided below market value.*
30. The authorities of the Czech Republic report that, by virtue of a series of amendments to the AAPP, the APEA, the ARAE, the AEEP and the AEP, the valuation of donations, including in-kind donations, services provided by donors and loans will have to be carried out in accordance with the Property Evaluation Act (No. 151/1997 Coll.). This Act “regulates the property evaluation, legal rights and other monetary values (hereinafter “property”), and services for purposes determined by special laws”.
31. GRECO welcomes the proposed extension of the requirements of the Property Evaluation Act. However, due to the scant information provided, it is difficult to ascertain what specific valuation and reporting rules will apply to loans granted under terms or conditions that deviate from those prevailing in the market or when they are cancelled, and to goods and services provided below market value. In view of the foregoing and pending the adoption of the amendments, GRECO concludes that the recommendation has been partly implemented.
32. GRECO concludes that recommendation ii has been partly implemented.

#### **Recommendation iii.**

33. *GRECO recommended to seek ways to consolidate the books and accounts of political parties and movements to include the accounts of entities related, directly or indirectly, to a political party or movement or otherwise under its control.*
34. The authorities of the Czech Republic recall that political parties may not engage in business activities under their own name. However, they may form, or own a share in, a corporation or a co-operative conducting business in certain areas. Pursuant to amendments to the AAPP, the final accounts of such entities will be audited in accordance with the Auditors’ Act and the annual financial statement of a party shall refer to the corporations/co-operatives in which the party holds shares, the amount of those shares and the total income obtained through those shares. The amendments to the AAPP will furthermore enable a party to establish a “political institute” - a legal person that carries out research, publishing, educational or cultural activities in certain

domains<sup>5</sup> - and the annual financial statement of a party shall include references to the name and the address of the institute and the expenses paid by the party in support of it. As for the other financial data on entities related directly or indirectly to a political party or movement, they are accessible through the public register of legal persons<sup>6</sup>.

35. GRECO is satisfied that the amendments to the AAPP will bring greater transparency around the shareholding of political parties/movements in commercial companies. Specifically, the information on any shareholding and the income derived from it will now be reported in the annual financial statement. Also, the information on political institutes affiliated with a political party or movement will be included in the annual statement, while any other financial data on the entities related directly or indirectly to a political party or movement or otherwise under its control will be made accessible through the public register of legal persons. Pending the adoption and entry into force of the aforementioned amendments, this recommendation remains partly implemented.
36. GRECO concludes that recommendation iii has been partly implemented.

#### **Recommendation iv.**

37. *GRECO recommended to ensure that the financial reports of political parties and movements are published in a way that provides for easy access by the public.*
38. The authorities of the Czech Republic refer to new Article 19h(1) AAPP which will oblige political parties to file annual financial statements with the Office for the Oversight of Financing of Political Parties and Movements by April 1 of each year. The reports are public and to be made accessible, not later than 7 days following their submission, at the premises of the Office and on its website. Moreover, the different bank accounts held by a party<sup>7</sup> for state contributions, income from donations (including in-kind) and expenses related to the party representation or that of a political institute affiliated to it are considered as “special” (or “transparent”), meaning that they are accessible to the public at any moment free of charge. Parties and political institutes are to provide the Office with the address of the website of their special accounts and the Office shall make this information public, while the financial institutions where special/transparent accounts are open shall enable the public to view the transaction history of each account for the last 12 months. As for election campaign reports, pursuant to the amendments to the APEA, the ARAE, the AEEP and the APE, these will be published by the parties running, movements and independent candidates not later than 90 days after the relevant elections<sup>8</sup>.
39. GRECO welcomes the authorities’ intention to ensure that the annual financial reports of political parties and movements will be published in a way that would provide for easy access by the public, in line with the recommendation. It is recalled that, at present, parties and movements are to file their reports with the Chamber of Deputies and only one copy is accessible in the library of

---

<sup>5</sup> These domains are as follows: (a) development of democracy, rule of law, pluralism and protection of fundamental rights and freedoms; (b) development of civil society and social cohesion; (c) support of active participation of Czech citizens in public life; (d) improvement of the quality of political culture and public discourse; and (e) contribution to international co-operation and understanding.

<sup>6</sup> Pursuant to the Public Registers of Legal and Natural Persons Act, the public register shall contain among others “annual reports, regular and exceptional final accounts, if they are not included in the annual report, ... allocation of profits, way of handling losses and auditors report regarding the final account.”

<sup>7</sup> By virtue of new Article 17a(1) AAPP, political parties may only use finances stored on bank accounts in financial institutions in the Czech Republic. This excludes expenses below CZK 5 000/EUR 185, which may be paid in cash.

<sup>8</sup> Parties, movements and independent candidates will also be obliged to submit these reports to the Office alongside the completed books of accounts on the relevant election campaign.

the Chamber (often barely legible). Therefore, on-line access to the annual statements and to certain party accounts will be an important step forward in terms of transparency. Pending the adoption of those amendments to the AAPP, GRECO concludes that the recommendation remains partly implemented.

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

**Recommendation v.**

41. *GRECO recommended to require (i) more detailed disclosure of campaign expenditure in the annual financial reports and (ii) more frequent reporting on and disclosure of donations above a certain value received by political parties and movements, in connection with election campaigns.*

42. The authorities of the Czech Republic refer, first of all, to the contents of annual financial statements of political parties as defined in the previously cited Article 19h(1) AAPP. These will include *inter alia* expenses pertaining to election campaigns sorted according to the type of election a political party/movement has participated in during the previous year. Secondly, a series of amendments to the APEA, the ARAE, the AEEP and the APE will oblige a political party to open a “special” (“transparent”) bank account for the purpose of an election campaign not later than five days from the announcement of the date of an election. Thirdly, election participants, including political parties/movements, will be required to keep a book of accounts in accordance with relevant legislation and a record of donations of any nature. Fourthly, the list of all donations and donors supporting a party/movement will have to be published not later than three days prior to the day of an election. Finally, election campaign reports will be published not later than 90 days after the elections and will include *inter alia* a list of all donations, including in-kind, services received as donations with an indication of their usual value, as well as a list of all loans.

43. GRECO acknowledges, with regard to part one of the recommendation, that election-related expenses will no longer be included as an aggregate amount in the party annual financial statements but broken down according to the type of election in which a party has taken part in the previous year. This would provide more detailed information on election expenditure as is required. As for the second part of the recommendation, GRECO recalls that at present the applicable legal provisions do not require more frequent reporting on and disclosure of election-related donations above a certain value, except in the annual financial report of a party that is to be published in the year following an election. From this perspective, the revised legislation does provide for a more elaborate and frequent reporting and disclosure mechanism (access to the “transparent” bank account established specifically for the purpose of an election campaign, publication of information on all donations, including in-kind, and donors, three days prior to the date of an election and the publication of election campaign reports 90 days after the elections). Taking into account the current draft status of the legislative amendments, the recommendation is considered as only partly implemented.

44. Additionally, and although this has no direct relevance to the substance of the recommendation, GRECO notes that the term “election campaign financing” is defined in the APEA as covering “all expenses related to an election campaign”. GRECO is of the opinion that this definition needs to embrace not only the expenses but also the sources of election financing. Therefore, it urges the authorities to deal with this omission by introducing relevant changes to the draft legislation.

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

### **Recommendation vi.**

46. *GRECO recommended to subject, to the greatest extent possible, election candidates campaigning separately from political parties/movements to transparency standards, which are comparable to those applying to the political parties/movements themselves.*
47. The authorities of the Czech Republic point to several amendments to the APEA, the ARAE, the AEEP and the APE and to the following obligations they will establish for independent election candidates which will be broadly identical to those applicable to political parties/movements. First, election candidates will have to open “special” (“transparent”) bank accounts within five days of the announcement of the day of an election and this account will be used exclusively for the execution of all transactions pertaining to the financing of an election campaign. Secondly, candidates will have to keep a book of accounts in accordance with the relevant legislation and a record of all donations of any nature. Thirdly, candidates will have to publish the list of all donors no later than three days prior to the date of an election. Fourthly, candidates will make their “transparent” bank accounts accessible on the Internet and inform the public and the Office for the Oversight of Financing of Political Parties and Movements of the exact internet address of those accounts. Finally, an election campaign report will have to be published not later than 90 days after the election and the requirements regarding its contents will be made identical for parties and election candidates.
48. GRECO welcomes the many foreseen revisions to the effective legislative acts, which, once adopted, would subject independent election candidates to transparency standards largely comparable to those applying to political parties and movements. One concern however persists and it pertains to the lack of such standards specifically for independent candidates participating in elections in large municipalities. GRECO urges the authorities to address this issue as a matter of priority when preparing the General Election Code (cf. paragraph 24).
49. GRECO concludes that recommendation vi has been partly implemented.

### **Recommendation vii.**

50. *GRECO recommended to consider taking further measures to strengthen the independence of auditors who are to certify the accounts of parties and movements.*
51. The authorities of the Czech Republic refer to new draft Articles 17(9) and 17 (10) AAPP. These will stipulate that final party accounts must be verified by an auditor (as specified in the Auditors’ Act) to be appointed by an advisory board of a party for a consecutive period not exceeding five years. The same limitation on the duration of an appointment will also apply to auditors who verify the final accounts of a corporation or a co-operative in which a party holds shares.
52. GRECO takes note of the aforementioned provisions. It recalls that the requirements for the independence of auditors are also contained in the Auditors’ Act and in the Code of Ethics of Auditors. As for the lack of a prohibition on auditors to be (active) members of the party to whom they provide services, the Constitutional Court had previously ruled that such a prohibition would amount to an undue, indirect interference by the state into the internal affairs of a party or movement. In this light, GRECO accepts that the rotation of auditors is an appropriate measure that is likely to strengthen the credibility of the audit and that it meets the requirements underlying the recommendation. Yet, given the low public confidence in the audit of annual party financial statements and the allegations of a lack of thoroughness in this process, the authorities are called

upon to keep this matter under review and to assess the necessity of taking further appropriate steps to reinforce the independence of auditors, in particular by requiring large parties to appoint a second auditor as suggested in paragraph 64 of the Evaluation Report. Given that the amendments to the AAPP are yet to be endorsed by Parliament, GRECO concludes that the recommendation has only been partly implemented.

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

**Recommendation viii.**

54. *GRECO recommended to (i) ensure that an independent mechanism is in place for the monitoring of the funding of political parties/movements and election campaigns (including those of candidates), in line with Article 14 of Recommendation Rec (2003)4 on common rules against corruption in the funding of political parties and election campaigns; (ii) provide this mechanism with the mandate, the authority, as well as adequate resources to effectively and pro-actively supervise the funding of political parties/movements and election campaigns, to investigate alleged infringements of political financing regulations and, as appropriate, to impose sanctions, and (iii) establish a clear process for the submission (and subsequent) investigation of citizens' and media complaints as regards the funding of political parties/movements and election campaigns.*
55. The authorities of the Czech Republic refer to several draft amendments to the AAPP. These will establish the Office for the Oversight of Financing of Political Parties and Movements as an independent institution whose activities will be governed solely by law and other legal enactments. The Office will be composed of the Chair, four members and other employees. The Chair will be appointed for a six-year term, renewable once, by the President of the Republic from two candidates nominated by the Chamber of Deputies and the Senate<sup>9</sup>. The four members will be appointed for a renewable six-year term by the same from among candidates elected by the Senate on the basis of nominations made by the President of the Supreme Audit Office, the Chamber of Deputies and individual Senate members. It will be within the competence of the Office *inter alia* to: (a) supervise, monitor and verify the financing of political parties/movements; (b) publish the annual financial statements of parties and its related findings and provide methodological guidance; (c) sanction breaches of the AAPP; and (d) publish its own annual activity reports. The Office will act *ex officio* or following a complaint and have access to relevant information from the state register of residents and foreigners. An amendment to the Banks Act will furthermore enable the receipt of information normally shielded by bank secrecy. Additionally, by virtue of amendments to the APEA, the ARAE, the AEEP and the APE, the Office will supervise the due financing of election campaigns and sanction breaches of those acts.
56. GRECO commends the authorities for their determination to set up an independent mechanism to supervise the funding of political parties/movements and election campaigns. The establishment of the Office for the Oversight of Financing of Political Parties and Movements will represent an important milestone and compare favourably to the current state of affairs where the external supervision of political financing is exercised by the parties themselves within the Supervisory Committee of the Chamber of Deputies whose 15 members are appointed by the political groups represented in Parliament. The Office will be given a mandate allowing for the in-depth monitoring of annual financial statements of parties and election campaign reports. Such supervision would go beyond the existing formal controls which rely predominantly on the opinion of party auditors. GRECO notes nonetheless that the financing of elections in large municipalities is currently

---

<sup>9</sup> Several articles of the AAPP establish eligibility requirements for the Chair person.

excluded from the Office's competence and it remains to be seen whether the scope of its powers will be expanded in line with the requirements of the recommendation by the future General Election Code (cf. paragraph 24). Furthermore, until the amendments to the various laws are adopted and the Office has become operational, it is impossible to establish whether it has been equipped with the necessary resources and is in a position to effectively and proactively perform its duties, whether *ex officio* or following a complaint, as demanded by the second and third elements of the recommendation. In view of the foregoing and pending the adoption of the aforementioned amendments, it is concluded that the present recommendation has been partly implemented.

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

**Recommendation xi.**

58. *GRECO recommended to (i) introduce appropriate (flexible) sanctions for all infractions of the Political Parties Law, in addition to the current range of sanctions and (ii) provide for the possibility to impose sanctions for violations of Law No. 424/1991 Coll. on the Association in Political Parties and Movements on candidates on an electoral list.*
59. The authorities of the Czech Republic refer, first of all, to the list of sanctions established by draft amendments to the AAPP which will be made applicable to parties, political institutes, natural, natural business and legal persons. A political party, for example, will be liable to a fine of up to CZK 200 000/EUR 7 380 for violations such as failure to open a separate bank account or a "special" ("transparent") bank account, the non-submission of an annual financial statement on time, or failure to supply other information to the Office for the Oversight of Financing of Political Parties and Movements. Failure to correct deficiencies in the annual statement found by the Office in due time will be punishable by a higher fine – up to CZK 2 000 000/EUR 73 808. Failure to return a donation, including an in-kind donation or failure to transfer such a donation or an amount equivalent to its usual value to the state budget will be subject to a fine equal to double the value of the donation, or forfeiture of the item. Political institutes will be liable to a fine of up to CZK 200 000/EUR 7 380 for violations such as failure to open a separate, including "transparent", bank account or failure to supply the requested information to the Office. A fine of up to CZK 2 000 000/EUR 73 808 will be introduced for natural, natural business and legal persons e.g. for carrying out a transaction to or from a "special" ("transparent") bank account without indicating its purpose.
60. Secondly, the amendments to the APEA, the ARAE, the AEEP and the APE will introduce sanctions in respect of participants in elections, i.e. independent candidates, political parties or their coalitions, as well as natural, natural business and legal persons. Offences committed by candidates will be subject to differentiated administrative fines. For example, failure to indicate the name of the candidate or political party on the campaign material and breaches of the legal provisions governing the election campaign reports will be punishable by a fine ranging from CZK 10 000/EUR 369 to CZK 100 000/EUR 3 690. The non-publication of the information on the identity of a donor will be punishable by a fine ranging from CZK 20 000/EUR 738 to CZK 300 000/EUR 11 072. Breaches of the provisions on the "transparent" bank account or failure to keep books of accounts as required by law will be punishable by a fine ranging from CZK 30 000/EUR 1 107 to CZK 500 000/EUR 18 455. Failure to ensure that election-related expenses are kept below the statutory limit will be punishable by a fine ranging from CZK 10 000/EUR 369 to up to 150% of the election campaign expenses that have exceeded the statutory limit. The sanctions to be established for parties and their coalitions will be largely identical. As for natural,

natural business and legal person, these may be liable to a fine ranging from CZK 10 000/EUR 369 to CZK 100 000/EUR 3 690 for offences such as, for example, enabling the media owned by local authorities to be used for the purpose of an election campaign or failure to ensure that the campaign material in favour or against a party, coalition or candidate contains details on the person who has submitted/processed it.

61. The Office for the Oversight of Financing of Political Parties and Movements will act as an administrative authority for the adjudication and sanctioning of the aforementioned breaches, with minor exceptions<sup>10</sup>. A decision imposing a sanction will have to take into account the seriousness of the offence, the way in which it was committed, its circumstances and consequences, including consequences for the future existence of the party/movement. Liability for the offence will cease if proceedings are not initiated within the two years after the Office has learnt about it, or the three years after the offence has been committed. It will not be possible to appeal against the decisions of the Office but it will be possible to bring an action against its decision before a court of law.
62. GRECO acknowledges that the amendments to the AAPP and to the electoral laws will introduce flexible administrative sanctions for all infractions established therein and that these sanctions will be made applicable to political parties/movements and to election candidates. Yet, election candidates in larger municipalities remain beyond the scope of the reform and adequate sanctions in their regard are yet to be established. Also, the adequacy of the proposed penalties is questionable. For example, failure to open a permanent “transparent” bank account (i.e. for the purpose of carrying out regular financial party activities)<sup>11</sup> or failure to return a donation from a non-permissible donor will only be subject to a maximum penalty of CZK 200 000/EUR 7 380. This, according to the sources available to GRECO, represents approximately 0,01% of the annual budget of a large political party and is unlikely to serve as a strong incentive to such parties to abide by the rules and regulations once they enter into force. The authorities are therefore encouraged to reconsider the range of applicable fines so as to make them dissuasive. In view of the foregoing, it is concluded that the recommendation has only been partly implemented.
63. GRECO concludes that recommendation ix has been partly implemented.

### **III. CONCLUSIONS**

64. **GRECO concludes that some progress has been attained by the Czech Republic as regards the implementation of the twelve recommendations found to be partly or not implemented in the Second Interim Compliance Report (i.e. twelve of the thirteen recommendations addressed to the authorities in the Third Round Evaluation Report).**
65. With respect to Theme I – Incriminations, recommendation iii has now been implemented satisfactorily and recommendations i and iv remain partly implemented. With regard to Theme II – Transparency of Party Funding, recommendations i-ix have all been only partly implemented.
66. As for incriminations, GRECO is pleased that amendments to Article 333 of the Criminal Code (trading in influence) have brought its provisions in line with the requirements of Article 12 of the

---

<sup>10</sup> Some breaches, e.g. of the obligation established by the electoral laws not to publish the results of the opinion polls regarding the elections three days prior to the date of an election, will fall within the jurisdiction of regional authorities depending on the residence of the person in question.

<sup>11</sup> By contrast, failure to open a temporary “transparent” bank account for the purpose of carrying out an election campaign by a political party is subject to a fine equal to CZK 500 000/EUR 18 500.

Criminal Law Convention on Corruption. The authorities are now urged to address the two remaining concerns, namely the need to clarify that all public sector employees, in particular those exercising ancillary jobs, fall within the scope of the bribery and trading in influence provisions of the Criminal Code and to accelerate the process of signing and ratifying the Additional Protocol to the Criminal Law Convention on Corruption.

67. With regard to transparent political financing, GRECO is pleased that, after a substantial delay, a package of amendments to the Political Parties and Movements Act and to several electoral laws has finally been agreed and passed a first reading in the lower chamber of Parliament. When adopted, these amendments will remedy many deficiencies. For example, they will oblige political parties/movements to consolidate the books and accounts, including the accounts of entities related directly or indirectly to a party/movement or otherwise under its control, provide easier access by the public to annual financial reports by parties/movements and, most importantly, they will establish an independent monitoring mechanism in this field - the Office for the Oversight of Financing of Political Parties and Movements. Still, some of the foreseen amendments fall short of meeting the requirements of GRECO's recommendations. No provision has been made for extending relevant transparency and monitoring standards to individual candidates for election in larger municipalities. Also some of the sanctions for breaches of the rules on transparent political financing are not sufficiently dissuasive. GRECO reiterates its firm support for the on-going reform, including the development of the General Election Code, and urges the authorities to promptly address the pending matters highlighted in the present report.
68. In view of the above, in particular the fact that the legislative amendments of relevance to Theme II are yet to be adopted by Parliament, GRECO has to underscore once again that the current level of compliance with the recommendations remains "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure.
69. Pursuant to Rule 32, paragraph 2 subparagraph (i) of the Rules of Procedure, GRECO requests the Head of Delegation of the Czech Republic to provide a report regarding the action taken to implement the pending recommendations (i.e. recommendations i and iv under Theme I and recommendations i-ix under Theme II) by 30 September 2016.
70. GRECO further decides that, in pursuance of Rule 32, paragraph 2 (ii) c) of its Rules of Procedure, it will invite the Secretary General to send a letter to the Foreign Minister of the Czech Republic, drawing his attention to the non-compliance with the relevant recommendations and the need to take firm action so that tangible progress can be made as expeditiously as possible.
71. Finally, GRECO invites the authorities of the Czech Republic to authorise as soon as possible, the publication of the present report, to translate it into the national language and to make the translation public.