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Interim Report

Third Evaluation Round

***Interim* Compliance Report on France**

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

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"Transparency of party funding"

Adopted by GRECO
at its 62nd Plenary Meeting
(Strasbourg, 2-6 December 2013)

I. INTRODUCTION

1. The Third Round Evaluation Report on France was adopted at GRECO's 41st Plenary Meeting (19 February 2009) and was made public on 12 March 2009, following authorisation from France (Greco Eval III Rep (2008) 5E, [Theme I](#) and [Theme II](#)).
2. As required by GRECO's Rules of Procedure, the French authorities submitted a Situation Report on measures taken to implement the recommendations. GRECO selected Albania and Belgium to appoint Rapporteurs for the compliance procedure.
3. According to the [first Compliance Report](#), adopted by GRECO at its 50th Plenary Meeting (1 April 2011), France had satisfactorily implemented or dealt with three of the seventeen recommendations contained in the Third Round Evaluation Report. GRECO considered at the time that, in the light of the reforms under way, there was the potential to achieve an acceptable level of compliance and the then low level of compliance with the recommendations was not "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of GRECO's Rules of Procedure. It invited the head of the French delegation to submit further information on the implementation of the recommendations pending.
4. In the [second Compliance Report](#) (adopted at its 59th Plenary Meeting, 18-22 March 2013), GRECO concluded that, as compared with the situation assessed in the first Compliance Report almost two years previously, despite some advances France had in the end made no decisive progress, as might have been hoped, in the implementation of recommendations concerning Themes I and II. The number of recommendations implemented therefore remained very low and no additional progress was expected in the near future. As a result the situation was considered "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of GRECO's Rules of Procedure. GRECO therefore decided to apply Rule 32 in respect of members not in compliance with the recommendations contained in the mutual evaluation report and asked the head of the French delegation to provide a report on progress in implementing recommendations i, iii, iv and v (Theme I – Incriminations) and recommendations i to vii and ix to xi (Theme II – Transparency of Party Funding) by 30 September 2013 at the latest.
5. This [Interim Compliance Report](#) – prepared by Ms Helena PAPA, coordinator/inspector at the Internal Administrative Control and Anti-Corruption Department, Albania, and Mr Guido HOSTYN, Secretary to the Electoral Expenses Supervisory Board of the Belgian Senate, with the assistance of the GRECO secretariat – assesses progress in implementing the recommendations pending since the adoption of the first and second compliance reports and gives an overall evaluation of the level of compliance with the recommendations.

II. ANALYSIS

Theme I: Incriminations

6. It is recalled that, in its Evaluation Report, GRECO addressed six recommendations to France in respect of Theme I and that, to date, recommendations ii and iv have been implemented or dealt with in a satisfactory manner. Recommendations i and vi have been partly implemented and recommendations iii and v have not been implemented; compliance with these recommendations pending is discussed below.

7. The authorities refer to a Bill on combating tax fraud and serious economic and financial crime, which was passed by Parliament on 5 November 2013. In substance, the innovations introduced by the Bill in question are as follows: a) anti-corruption associations are now able to join criminal proceedings as a civil party; b) amendment of the conditions for prosecuting offences of bribery and trading in influence relating to "the public administration and the justice activities of the European Communities, EU member states, other foreign states and other public international organisations" (title of the chapter in which the amendments are made); c) an extension of the aggravating circumstances of the offence of tax fraud; d) a broadening of the protection afforded to whistle-blowers; e) the establishment of a public prosecutor's office in financial matters; f) the application of certain special investigative techniques to a number of customs and financial offences.

Recommendation i.

8. *GRECO recommended to take the necessary measures, such as circulars, training or, if necessary, amendments to legislation, in order to i) make it clear to or remind those concerned, as necessary, that the offences of bribery and trading in influence do not necessarily require an agreement between the parties; ii) ensure that the various offences of passive bribery and trading in influence cover all the material elements included in the Criminal Law Convention on Corruption (ETS 173), including that of "receiving".*
9. GRECO notes that so far no measure consistent with this recommendation has been adopted. It had agreed to consider this recommendation as partly implemented on the basis of the legislative work under way in April 2011, which appeared to be aimed at amending the definitions of the offences in line with GRECO's expectations. The amendments finally adopted in May 2011 (which eliminated any doubt concerning the lifting of the requirement that the act of soliciting, agreeing to, offering, proposing or yielding to a solicitation must have taken place before the impugned action was taken) were nonetheless a response not to the recommendation under consideration here, but to a separate observation in the Evaluation Report. GRECO nonetheless welcomed this change, which was aimed at facilitating the prosecution of acts of bribery. The various other measures cited by the French authorities did not concern this recommendation or were of no relevance to GRECO's work, since France maintains that it is in any case not necessary to establish the existence of a "corrupt agreement". GRECO has held so far that, on the contrary, the case-law and the specialist literature still make abundant reference to this concept as an important condition for a successful prosecution in most cases of bribery (apart from cases where the solicitation is ineffectual).
10. The French authorities report no change in the legislation with regard to the definition of the offences of bribery and trading in influence and reiterate the arguments they already advanced in connection with the previous reports, viz. the current wording of the offences of bribery and trading in influence requires no proof of an "agreement" between the parties; the notion of a "corrupt agreement" should apply only where the prosecution concerns both the active and the passive components of the offence of bribery; it is sufficient to prove that a person sought the payment of a sum of money in exchange for taking the action or decision in question; importance is to be attached to the Court of Cassation's case-law (Cass. Crim., 16 October 1985); there is no offence of attempted bribery; and so on.
11. GRECO notes that the French authorities have reported no new development in these matters, whether concerning the first or the second branch of the recommendation. It seizes this opportunity to reiterate that the aim of this recommendation is first and foremost to ensure that

the largest possible number of practitioners are made aware of the real implications of the current definitions of the offences in compliance with the Criminal Law Convention on Corruption as ratified by France (whereby the concept of a "corrupt agreement" can be deemed obsolete). In view of the fact that, in relation to the wording of the relevant offences, the importance of a "corrupt agreement" continues to be over-rated in practice (the case-law and observations by specialists, even those that are recent in date, still refer to it to a significant extent), it should be explained to practitioners so as to bring about a change in the case-law and thereby facilitate use of the offences in question (first point raised in the recommendation). For the same reasons, and since the notion of "receiving" is not included in the definitions of the offences, GRECO is also awaiting more proactive clarification measures in this area (second point raised in the recommendation).

12. GRECO accordingly concludes that recommendation i remains partly implemented.

Recommendation iii.

13. *GRECO recommended to consider criminalising trading in influence in connection with foreign public officials or members of foreign public assemblies and thus withdrawing or not renewing the reservation relating to Article 12 of the Criminal Law Convention on Corruption (ETS 173).*
14. GRECO notes that, to date, this recommendation has not been implemented. Since April 2011, the date of the first Compliance Report, France has successively a) stated that it wished to keep the reservation; b) reiterated the argument it already advanced in the Evaluation Report and a number of considerations relating to the dual criminality requirement¹ (which GRECO has in point of fact sought to reform in respect of bribery and trading of influence offences in the context of the Third Cycle); c) announced the launch of a comparative law study in 2011, which in the end failed to materialise; d) stated that, since other countries had made reservations to the Convention, France also wished to maintain its own reservation, while nonetheless e) indicating that discussions were to take place with a view to issuing a government bill in this matter. So far there has therefore been no measure consistent with the recommendation, that is to say no proper examination of the advisability of such a measure.
15. The authorities report that during the examination of the Bill on combating tax fraud and serious economic and financial crime, there was much debate on the feasibility and advisability of criminalising trading in influence with regard to foreign public officials or members of foreign public assemblies. It was nonetheless decided not to include this new offence in the Bill, given its substance at the time and in the light of the principal objectives being pursued. Since the parliamentary debate is continuing, the tabling of a parliamentary amendment, proposing the introduction of this offence in the Bill, is nonetheless possible. Should the finally adopted version of the Bill currently being debated satisfy the requirements of the recommendation, the French authorities will submit a new rectifying report to GRECO (see the legislative time-table in point I of the note).

¹ The French authorities indicated, in particular, that they still had doubts in view of the fact that trading in influence was not an offence in a number of countries and they considered it difficult to imagine a French court convicting a foreign public official of passive trading in influence if that official's action was not an offence in his or her own country.

16. GRECO considers that, without further information on the discussions that have taken place, it is difficult to assess the significance of this information. The "window" for discussion was brief² and the supporting documents for the amendments, including the impact assessment, make no mention of information relating to trading in influence.³ The possibility that the point might be taken up during the parliamentary debate, as referred to by the French authorities, is to be welcomed, but remains hypothetical.
17. GRECO therefore concludes that recommendation iii has still not been implemented.

Recommendation v.

18. *GRECO recommended to extend the limitation period for bribery and trading in influence offences, as planned.*
19. GRECO notes that, although the Bill envisaged at one stage has not been adopted,⁴ the French authorities consider that the judicial precedents established introduce greater flexibility into the method of calculating the three-year limitation period for offences of bribery and trading in influence (including, since 2008 and 2009, the possibility of postponing the starting point of the limitation period from the time of the offence's commission to that of its discovery, which was previously permissible only in cases of misuse of company assets – and hence where a company had been offering bribes). GRECO has so far maintained its position that, despite some additional flexibility in the calculation method, the three-year limitation period for bribery and trading in influence offences is insufficient (the reasons have already been set out in detail in the previous report (specific difficulties in proving the offence and the issue of the legal uncertainty that could arise from unlimited flexibility)). It concluded that this recommendation had not been implemented.
20. The French authorities reiterate the explanations given ever since the first Compliance Report in April 2011.
21. GRECO takes note of the lack of any new developments and concludes that recommendation v has still not been implemented.

Recommendation vi.

22. *GRECO recommended i) to abolish the condition that the prosecution of acts of corruption committed abroad by French nationals must be preceded by a complaint or an official report (Article 113-8 Criminal Code); ii) to abolish the condition that the principal offence committed abroad must have been established by a final decision of the foreign courts (Article 113-5 Criminal Code) and iii) to consider withdrawing or not renewing the reservation relating to Article 17 of the Criminal Law Convention on Corruption (ETS 173).*
23. GRECO notes that in May 2010, at a plenary meeting of the OECD Working Group on Bribery in International Business Transactions, the French authorities officially announced that they were

² At the time of the Second Compliance Report of 22 March 2013, the French authorities announced that they intended to conduct inter-ministerial discussions; since the bill currently being debated in Parliament is dated 23 April, these discussions must have taken place within this one-month period.

³ [Link to the information page on the Légifrance web-site](#)

⁴ As already mentioned in the Evaluation Report, the proposal was to extend the limitation period from 3 to 7 years for offences punishable with more than three years' imprisonment, and from 3 to 5 years for those punishable with less than three years' imprisonment.

willing to amend the Criminal Code concerning the first point raised in the recommendation. The Ministry of Justice thus committed itself to seek Parliament's approval for legislation. Concerning the second branch of the recommendation, the authorities announced (after raising a number of technical objections) that a comparative law study had been launched to consider how this issue might be addressed. Lastly, concerning the third branch, at an inter-ministerial meeting of 23 March 2011 it was decided that France's reservation in respect of Article 17, paragraphs 1b and 1c, of the Criminal Law Convention should be maintained at least for the time being. GRECO considered that the last part of the recommendation had been taken into account and therefore concluded that recommendation vi had been partly implemented.

24. The French authorities now report that the first article of the legislation on combating tax fraud and serious economic and financial crime repeals Article 435-6 of the Criminal Code, which provides "The offences referred to in Articles 435-1 to 435-4 may be prosecuted only at the instigation of the public prosecutor, except where the offers, promises, gifts, presents or advantages were either proposed or granted to a person performing his/her duties in a European Union member state or within or on behalf of the European Communities or a body established under the Treaty on European Union, or were solicited or accepted by such a person, with a view to arranging for a favourable decision or performing or abstaining from performing an act falling within or facilitated by his/her duties." It also repeals Article 435-11 of the Criminal Code, providing "The offences referred to in Articles 435-7 to 435-10 may be prosecuted only at the instigation of the public prosecutor, except where the offers, promises, gifts, presents or advantages were either solicited or accepted by a person performing his/her duties in a European Union member state or within or on behalf of the European Communities, or were proposed or granted to such a person, with a view to arranging for a favourable decision or opinion or performing or abstaining from performing an act falling within or facilitated by his or her duties." Concerning the second part of the recommendation, no new development can be reported.
25. GRECO takes note of the amendments envisaged above and welcomes the efforts being made by France to relax the restrictions on its ability to prosecute bribery and trading in influence in respect of foreign or international public officials. At the same time, these amendments only partly comply with the first part of the recommendation, which is more broadly aimed at improving the conditions for prosecuting offences committed abroad by French nationals, who may also perpetrate passive bribery offences, particularly where they are public officials, and active or passive trading in influence offences targeting national public officials, etc. No new developments are reported concerning the second part of the recommendation. GRECO strongly urges France to intensify its commitment to implementing the recommendation, which seeks to end the significant restrictions on the country's ability to prosecute bribery or trading in influence offences involving a cross-border component.
26. GRECO concludes that recommendation vi remains partly implemented.

Theme II: Transparency of political party funding

27. It can be recalled that, in its Evaluation Report, GRECO addressed 11 recommendations to France with respect to Theme II. Upon the adoption of the Second Compliance Report, it was concluded that recommendation viii had been implemented satisfactorily. Recommendations i, ii, iv, v, vi, vii, x and xi remain partly implemented and recommendations iii and ix have still not been implemented. Compliance with these recommendations is discussed below.

28. In the new information submitted the French authorities do not take stock of the new measures introduced or envisaged recommendation by recommendation. They state that, for all the recommendations made under Theme II, the recent adoption of the (ordinary) Law on transparency in public life (which was published and entered into force on 11 October 2013) resulted in a series of amendments to Law 88-227 of 11 March 1988 on financial transparency in politics. The report on the amendments adopted by the National Assembly's Legislation Committee summarised the approach being followed in these terms: "a number of recent cases have highlighted the problem posed by micro-parties, which sometimes make it possible genuinely to flout the rules on political party funding. It is necessary that the bill on transparency in public life include the amendments required to end the various forms of abuses, while preserving the essential level of political pluralism."
29. As far as GRECO can tell, the information provided refers to four series of considerations and amendments. One of these apparently has no direct link with the recommendations.⁵ The other three concern recommendations ii, vi and vii, which will therefore be dealt with specifically. Moreover, in their latest comments, the French authorities also submit additional information in respect of recommendations iii, ix and x which thus need, as well, to be dealt with specifically.

Recommendation ii.

30. *GRECO recommended i) to introduce criteria to extend more systematically the scope of the consolidated accounts of parties and political groups to include associated structures, in particular the party's regional sections, and in parallel to identify the material means of parliamentary groups and ii) to hold consultations on whether or not regulations should be introduced to take account of the activities of third parties, depending on their significance in practice.*
31. GRECO would point out that this recommendation is currently partly implemented, since there have in fact been consultations and a feasibility study concerning the second part of the recommendation (following on from the work done by the Mazeaud Committee in 2009), although this did not lead to any change in the situation. Concerning the first part of the recommendation, no tangible follow-up action has been taken so far.
32. The French authorities report no new developments, but indicate that, regarding the issue of political parties' local bodies, it must be emphasised that the electoral court exercises a form of supervision as to what may or may not be considered as local party bodies, which constitutes an effective safeguard against misconduct. An interesting decision in this connection is that taken by the Constitutional Council on 9 April 2003 (decision CC No. 2002-3149 AN); in cases where the law is silent, this precedent permits the electoral court to fulfil its role by determining whether a given legal entity may or may not fund a candidate.
33. GRECO takes note of the above information, which again shows the unsatisfactory situation reigning at present. If GRECO has properly understood this information, the Constitutional Council (CC) continues to have a very marginal role, since it exercises scrutiny after the event when a complaint is made concerning funds allegedly originating from a legal entity (in which

⁵ **Article 14 of the new legislation** modifies the arrangements for the distribution of public funding of political parties, with the aim of ending certain practices noted in recent years. **With a view to the distribution of the second tranche of the public funding, it will no longer be possible for an MP elected in a district in continental France or overseas, to declare an attachment to a party that put forward candidates solely in districts located overseas.**

Furthermore, **the annual declaration required of each MP concerning his/her attachment to parties eligible for the second tranche will henceforth be made public**, thus endorsing the practice followed within the National Assembly and the Senate since November 2012.

case the CC must determine whether that entity is a party or an association/body related to a party – making the support lawful – or whether the funds have a different origin, in which case the support is unlawful, since donations by legal entities are in principle prohibited). This is perhaps, to some extent, conducive to supervision of the transparency of candidates' financing, but not to supervision of the transparency of electoral funding as a whole, at least not the transparency of political parties' accounts. Nor is it a substitute for objective criteria, which would clarify the situation concerning determination of the scope of parties' consolidated accounts in relation to their structures (as called for in the recommendation). Such objective criteria, which should be foreseeable and familiar to all concerned, placing parties and political groups on an equal footing and providing voters with access to comparable information, could also reflect the Constitutional Council's jurisprudence. There has also been no new development concerning identification of the material means available to parliamentary groups.

34. GRECO concludes that recommendation ii therefore remains partly implemented.

Recommendation iii.

35. *GRECO recommended to take steps to ensure that i) political parties which have funded a candidate's election campaign or which have supported him or her via the media be required to submit to the CNCCFP, details of their involvement, financial or otherwise, during the campaign, and that ii) this statement be verified by the CNCCFP and made public.*
36. GRECO recalls that in the absence of any pertinent follow-up measures taken by France in response to this recommendation, it has not been implemented up to now.
37. The French authorities report in the latest information submitted that a draft piece of legislation, currently discussed in Parliament, aims i.a. to regulate political financing in the context of referenda (by extending the existing rules on transparency and supervision of political financing to such amounts which therefore need to be included and made visible in the political parties' accounts).
38. GRECO takes note of these intended amendments (which are part of the draft law "for the implementation of article 11 of the Constitution"). GRECO welcomes of course this positive development but they concern a matter which is different from the objectives of the present recommendation.
39. GRECO can only conclude that recommendation iii has still not been implemented.

Recommendation vi.

40. *GRECO recommended to consider possibilities for legislating in the subscriptions field so as to reinforce guarantees that the maximum amount of payments by individuals to political parties is not exceeded.*
41. GRECO notes that this recommendation is currently partly implemented, since a study and consultations concerning the manner in which the recommended measures could be envisaged have been conducted in co-operation with the National Commission for Campaign Accounts and Political Funding (CNCCFP). The proposed scenario consisted in the introduction of a limit, which seemed to pose a problem. GRECO nonetheless pointed out that there were various options for attaining the desired objective.

42. The French authorities now indicate that under Article 15 of the Law of 11 October 2013 subscriptions paid by political party members will henceforth be included in the calculation made to verify compliance with the ceiling of 7 500 euros, with the exception of those paid by elected representatives (limited to one quarter of the allowances they receive).
43. GRECO takes note with interest of this legislation and the resulting amendment, which is consistent with the requirements of the recommendation.
44. GRECO concludes that recommendation vi has now been implemented satisfactorily.

Recommendation vii.

45. *GRECO recommended to examine i) the link between the two systems of donations applicable to the funding of parties and to the funding of campaigns, in particular the question of concurrent donations, and ii) ways of laying down an appropriate threshold above which the identity of the donor must be disclosed.*
46. GRECO recalls that this recommendation, so far, has been partly implemented. During the debate on the 2013 Budget Act, the parliamentarians incorporated an amendment of Article 11-4 of Law 88-227 to ensure that an individual could not make concurrent donations to a number of parties (or "offshoots" of the same party) exceeding the ceiling of 7 500 euros. GRECO welcomed this advance, but regretted the continuing lack of progress on the second part of the recommendation, reportedly on grounds of respect for privacy. The new provision referred to above was in the end invalidated by the Constitutional Council, which held that a Budget Act was not the appropriate instrument for making such amendments.
47. The French authorities now report that the same amendment has finally been enacted in Article 15 of the Law of 11 October 2013, which amends Article 11-4 of Law 88-227 by stipulating that the annual ceiling on natural persons' donations to political parties, set at 7 500 euros, shall now apply per donor and no longer per political party. A natural person can therefore no longer donate more than 7 500 euros per year, no matter how many parties benefit therefrom. The same Article 15 also provides that fundraising associations and agents must now submit to the CNCCFP on an annual basis a list of individuals having made donations of at least 3 000 euros.
48. GRECO is pleased to learn that the provision eliminated earlier in the year has in the end been reinstated via this new amendment of 11 October 2013, as a result of which the first part of the recommendation continues to be implemented. Concerning the second part, it is hard to say what objective is being pursued by the requirement to notify the CNCCFP of the identity of major donors, based on a threshold of 3 000 euros – whether the aim is to serve the purposes of the CNCCFP's verification work or whether the data will subsequently be made public. That is the very objective of this recommendation (and one of the requirements of the Committee of Ministers' Recommendation (2003)4) and, to date, the French authorities had maintained that publishing the identity of major donors was incompatible with respect for privacy. Without further explanations, GRECO is unable to conclude that this part of the recommendation has been implemented.
49. GRECO concludes that recommendation vii remains partly implemented.

Recommendation ix.

50. *GRECO recommended to enhance the supervisory functions of the CNCCFP in respect of political parties.*
51. GRECO recalls that up to now, this recommendation has not been implemented given the absence of pertinent measure adopted by France.
52. In the latest information submitted, the French authorities point out that the ordinary law n°2013-907 of 11 October 2013 on financial transparency in public life addresses this recommendation through two of its articles. First, article 17 amends article 11-7 of Law n°88-227 of 11 March 1988 to the effect that the latter now provides that the financial situation of political parties shall be a) kept in an accounting format; b) subject to closure on an annual basis; c) certified by two auditors; d) presented to the CNCCFP within the first half of the year following the financial exercise, the CNCCFP being responsible for publishing a summary in the Official Journal. Moreover, if the CNCCFP uncovers an infringement of the provisions of the present article, the political party or political grouping shall lose the entitlement to public subsidies. In addition, donations and membership fees are not tax-deductible as provided for in article 200 paragraph 3 of the General Tax Code. Furthermore, the above article 11-7 enables the CNCCFP to request as necessary the communication of any accounting or supporting document needed for the accomplishment of its control function. Secondly, article 18 of the new law obliges the Head of the CNCCFP to declare to the national financial intelligence unit (article L561-23 of the Monetary Code), which comprises staff specially appointed by the Ministry of Economy and Finance, any acts for which there are reasons to suspect that they constitute a tax crime.
53. GRECO takes note of the above. The only relevant development, for the purposes of the present recommendation, seems to be the inclusion in the law of the CNCCFP's faculty to request from political parties the submission of accounting documents and related supporting material. The CNCCFP already had this possibility in practice but its inclusion in a law can indeed contribute to strengthening the CNCCFP's authority when requesting information, and thus to facilitating the accomplishment of its duties. GRECO notes, however, that it was not granted an injunction power as such and that no consequences are provided for in case the information requested is not supplied. The real added benefit of this innovation will thus need to be confirmed in practice or jurisprudence, which leaves uncertainty. Above all, GRECO recalls the various weaknesses mentioned in the Evaluation Report (paragraph 123)⁶. In its opinion, the above progress remains clearly insufficient.
54. GRECO concludes that recommendation ix has been partly implemented.

⁶"Since the CNCCFP does not have all the accounting documentation relating to the parties' accounts, and since it does not perform a review of the parties' expenses, the scope of this supervision is obviously limited; the CNCCFP must rely heavily on the work of the auditors who themselves have to work to tight deadlines and are not always able to carry out a detailed or sufficiently extensive audit (...) (for example, on donations from legal persons)...). The CNCCFP's supervision primarily concerns compliance with the formal requirements and enables it to detect only the most flagrant breaches of the law. In view of the large number of parties and files to verify and the need to submit conclusions within a reasonable time, it would be difficult for the CNCCFP to do any better with the resources available to it: it cannot demand the submission of certain documents and does not have the authority to verify supporting documents or conduct on-site checks, the auditors' duty of confidentiality cannot be waived for the CNCCFP, and it is unable to have recourse (unlike in the case of campaign accounts) to the judicial investigation services if it has any serious doubts."

Recommendation x.

55. *GRECO recommended to improve the effectiveness of the arrangements for the declaration of elected representatives' assets and in particular i) to enhance the supervisory functions of the Commission for Financial Transparency in Politics; ii) to broaden the type of information that has to be submitted; and iii) to introduce if necessary a mechanism for penalising untruthful declarations.*
56. GRECO underlines that to date, this recommendation has been partly implemented, following reforms carried out in 2011 which have notably addressed the last part of this recommendation. Concerning the first two elements, some of the faculties of the Commission for Financial Transparency in Politics (CTFVP) had been improved (access was granted to tax declarations) but this remained insufficient since the CTFVP: has still no access to information concerning closely related persons, lack of a declaration of income and of access to information on the various functions and mandates of the persons subjected to declaration, lack of human means, among other insufficiencies.
57. The French authorities refer in the latest information to changes introduced by the constitutional Law n°2013-906 and ordinary Law n°2013-907 on financial transparency in public life, of 11 October 2013 (which entered into force shortly after their adoption): a) the Commission for Financial Transparency in Politics (CTFVP) was replaced by a new body, the High Authority for Transparency in Public Life (HATVP), equipped with increased means of communication with the tax administration (which include notably possibilities of using international legal assistance in this area) and a power of injunction (not complying with such orders and not supplying within one month the information and material requested for the accomplishment of its mission is punishable with imprisonment for up to one year and a fine of 15,000 euro); b) introduction of a new mechanism for the management of conflicts of interest of elected officials and certain senior officials, including a declaration of interests (functions and mandates); c) introduction of a new system for the declaration of assets – which takes into account the various forms of property, whether movable and immovable property, debts and liabilities, including of spouses and similarly related persons (the Constitutional Court considered that including the situation of relatives in the ascending or descending line was disproportionate); d) both mechanisms b) and c) shall include information on the income; e) the system of sanctions in cases of non- declaration or of submission of false information has been maintained.
58. GRECO takes note of the above. As to the first part of the recommendation, France has finally decided to abolish the CTFVP and to replace it with a new institution. Since it will become operational in 2014, GRECO will need to examine in due course such questions as the human resources and the precise scope of control and of powers available to the new authority itself (notably its means of enquiry and verification) which are not entirely clear at this stage (it would appear that just as the current CTFVP, the future authority won't have an enquiry/investigative capacity). As for the second part of the recommendation, GRECO observes that there is clear progress, in particular the fact that declaring officials shall be required in future to disclose all their activities and mandates (this information shall be public), and, to a certain extent the patrimonial situation of related persons (spouses and similar persons). GRECO is also pleased to see that information on the income will be available to the new authority. In conclusion, the second part of the recommendation has been addressed.
59. GRECO concludes that recommendation x remains partly implemented.

Recommendations i, iv, v, xi.

60. GRECO recommended to extend the provisions on party and campaign funding to take into account: i) candidates who campaign but ultimately decide not to stand; ii) elections to the Senate. (recommendation i)

GRECO recommended to take the appropriate measures to ensure that i) incoming funds are received as far as possible via the fundraising association/financial agent and that ii) candidates appoint their agent as early as possible. (recommendation iv)

GRECO recommended to consider the advisability and feasibility of i) improving the public availability and publication of campaign accounts, including on a regular basis in the course of the campaign, ii) including the conditions under which they may be consulted in the Electoral Code, and iii) making the procedure before the court with jurisdiction for the election more effective (for example by specifying a (new) time-frame for consultation and challenges after the submission of campaign accounts), without however affecting the necessary speed with which the case must be dealt. (recommendation v)

GRECO recommended to harmonise and to differentiate the penalties, without abolishing ineligibility, and improving the system of publication of decisions. (recommendation xi)

61. For lack of any fresh developments, GRECO concludes that recommendations i, iv, v and xi remain partly implemented.

III. CONCLUSIONS

62. **In view of the conclusions contained in the Third Round Compliance Reports on France and of the analysis set out above, GRECO concludes that France has so far implemented satisfactorily, or dealt with in a satisfactory manner, only four of the seventeen recommendations contained in the Third Round Evaluation Report.** With respect to Theme I – Incriminations, recommendations i and vi remain partly implemented and recommendations iii and v have still not been implemented (apart from recommendations ii and iv that had been previously implemented). Regarding Theme II – Transparency of Party Funding, recommendation vi can be added to recommendation viii, as concerns the recommendations having been implemented. Recommendations i, ii, iv, v, vii, ix, x and xi remain partly implemented. Recommendation iii has still not been implemented.

63. Concerning incriminations, GRECO regrets the fact that no tangible progress has so far been made. The work on two legislative proposals could offer an opportunity to introduce further relevant amendments, but the outcome remains uncertain and, based on the information available at present, this would constitute an only partial solution.

64. Concerning transparency of political funding, only one decisive progress can be noted, since a new provision settles the question of the link between donations to political parties or groups and members' subscriptions. The reforms which came into force on 11 October 2013, with the adoption of two laws on financial transparency in public life (one ordinary in nature and the other constitutional), involve changes which are welcome but remain insufficient or subject to further clarification. This concerns in particular the arrangements for the supervision of political financing and those for the declaration and verification of elected representatives' assets (recommendation x of Theme II) – concerning which implementing measures still need to be taken so as to make

the changes effective as from 2014. GRECO will have to examine these changes in greater detail once the information becomes available. For the remainder, no other change has been announced or is to be noted. GRECO reiterates its regrets that the existence of these legislative proposals is not being put to greater use in order to take more vigorous steps to introduce the improvements recommended by GRECO.

65. In these circumstances GRECO has no choice but to conclude that the current level of implementation of the recommendations remains "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure.
66. In accordance with paragraph 2(i) of Rule 32 of its Rules of Procedure, GRECO asks the head of the French delegation to provide a report on the measures taken to implement the recommendations still pending, namely recommendations i, iii, v and vi for Theme I and recommendations i, ii, iii, iv, v, vii, ix, x and xi for Theme II by 30 September 2014 at the latest.
67. In accordance with Rule 32, paragraph 2, sub-paragraph (ii.a), GRECO instructs its President to send a letter – with a copy to the President of the Statutory Committee – to the Head of Delegation of France, drawing his attention to the non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.
68. GRECO invites the French authorities to authorise, as soon as possible, the publication of this report.