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Third Evaluation Round

Second Compliance Report on Iceland

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

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"Transparency of Party Funding"

Adopted by GRECO
at its 55th Plenary Meeting
(Strasbourg, 14-16 May 2012)

I. INTRODUCTION

1. The Second Compliance Report assesses further measures taken by the authorities of Iceland, since the adoption of the Compliance Report, in respect of the recommendations issued by GRECO in its Third Round Evaluation Report on Iceland. It is recalled that the Third Evaluation Round covers 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 37th Plenary Meeting (4 April 2008) and made public on 16 April 2008, following authorisation by Iceland (Greco Eval III Rep (2007) 7E, [Theme I](#) and [Theme II](#)). The subsequent Compliance Report was adopted at GRECO's 46th Plenary meeting (26 March 2010) and made public on 4 May 2010, following authorisation by Iceland ([Greco RC-III \(2010\) 2E](#)). In view of the low level of compliance with the recommendations issued in the Third Evaluation Report, GRECO decided to apply Rule 32 of its Rules of Procedure, regarding action in respect of non-complying members, and invited the Icelandic delegation to provide a report on the progress made in implementing the pending recommendations. The Interim Compliance Report was adopted at GRECO's 49th Plenary meeting (3 December 2010) and made public on 7 December 2010, following authorisation by Iceland ([Greco RC-III \(2010\) 2E Interim Report](#)). On the basis of the progress substantiated by Iceland in the Interim Compliance Report, GRECO decided not to continue applying Rule 32 concerning members found not to be in compliance with the recommendations contained in the evaluation report.
3. As required by GRECO's Rules of Procedure, the Icelandic authorities submitted their Second Situation Report with additional information regarding action taken to implement the recommendations that were partly implemented or not implemented, according to the Compliance Report. This report, which was received on 30 September 2011, served as a basis for the Second Compliance Report.
4. GRECO selected Croatia and Sweden to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed for the Second Compliance Report were Mr Dražen JELENIĆ, Deputy State Attorney General, State Attorney's Office (Croatia) and Mr Walo VON GREYERZ, Legal Advisor, Ministry of Justice (Sweden). They were assisted by GRECO's Secretariat in drawing up the Second Compliance Report.

II. ANALYSIS

Theme I: Incriminations

5. It is recalled that GRECO in its Evaluation Report addressed 6 recommendations to Iceland in respect of Theme I. Recommendations i-iii and v were considered as partly implemented; recommendations iv and vi were considered as not implemented.

Recommendations i-iii and v.

6. *GRECO recommended:*

- to ensure that Members of Parliament are covered by the provisions on bribery and trading in influence of the Penal Code (recommendation i);

- to ensure that members of a foreign public assembly exercising administrative powers are covered by the provisions on bribery and trading in influence of the Penal Code (recommendation ii);

- to ensure that foreign arbitrators and jurors are covered by the provisions on bribery of the Penal Code and to ratify the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) as soon as possible (recommendation iii);

- (i) to increase the penalties for bribery offences in the private sector and (ii) to consider increasing the penalties for active bribery in the public sector (recommendation v).

7. GRECO recalls that in the Interim Compliance Report, it welcomed the fact that the authorities had prepared draft legislation with the potential to meet the requirements of the recommendations. Pending adoption of the draft amendments, GRECO assessed recommendations i, ii, iii and v as partly implemented.

8. The authorities of Iceland now report that the draft amendments to the Penal Code are still awaiting adoption. The Standing Committee on Penal Law prepared a draft act to amend the Penal Code on 17 April 2012; the draft has been approved by Government and awaits adoption by Parliament in the second half of 2012. The authorities further indicate that ratification of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) will follow once the amendments to the Penal Code are enacted.

9. GRECO takes note of the recent developments reported; however, the proposed amendments to the Penal Code, which would address bribery of members of national Parliament and foreign public assemblies (recommendations i and ii), bribery of foreign arbitrators and jurors (recommendation iii), an increase in the level of sanctions for bribery offences (recommendation v), and would reportedly lead to ratification of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191), have not yet been adopted.

10. Therefore, GRECO can only conclude that recommendations i, ii, iii and v remain partly implemented.

Recommendation iv.

11. *GRECO recommended to clarify in an appropriate manner what should be considered “due” and/or “undue” gift/other advantage for all forms of bribery offences.*

12. GRECO recalls that, in the Interim Report, the Icelandic authorities indicated that they were to clarify the concept of due and undue advantages for all forms of bribery through the development of a code/codes of conduct. GRECO, nevertheless, considered that the authorities had failed to provide sufficiently detailed information as to the concrete content of the code/s to make it possible to assess to what extent such a code would clarify the concept of due or undue

advantages for all forms of bribery, as required in the recommendation. Consequently, GRECO concluded that recommendation iv was partly implemented.

13. The authorities of Iceland now indicate that the process of adoption and application of codes of ethics is on-going. In particular, the Code of Ethics for Ministers in Government No. 360/2011 was issued in March 2011. It bans remuneration for work other than the office held. It also contains provisions on gifts: records must be kept of protocol gifts, which also become the property of the Ministry the Minister represents when receiving the gift; this rule does not apply to small personal gifts. Ministers may not accept offers of complimentary trips by private individuals, unless a part of the trip's itinerary entails the performance of an official duty.
14. A code of ethics for staff working in the ministries was adopted on 3 May 2012. It includes, *inter alia*, provisions on conflicts of interest and gifts.
15. Finally, the authorities add that the Prime Minister's Office School of Public Administration holds seminars on ethical issues. The most recent seminars on these matters were held in September 2011. Likewise, the Co-ordination Committee on Ethical Standards for the Administration provides guidance, as necessary, with respect to conduct and deontological matters.
16. GRECO notes the updates reported regarding the development of codes of ethics in the public sector and the organisation of training for personnel in public administration on deontological matters. GRECO welcomes these developments, since the adoption of codes of ethics was a specific recommendation made by GRECO in its Second Evaluation Round Report, whose implementation remained pending¹. GRECO considers that the initiatives reported undoubtedly constitute steps in the right direction which should better assist in the clarification of what should be considered due and undue advantages in the context of bribery.
17. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

Recommendation vi.

18. *GRECO recommended that the law enforcement authorities receive specialised training on the content of the existing incriminations of corruption offences, so that they become better prepared to detect, investigate and prosecute instances of corruption.*
19. GRECO considered recommendation vi as not implemented and urged the Icelandic authorities to establish specialised training on the criminalisation of corruption offences.
20. The authorities of Iceland now highlight that a seminar concerning the investigation of corruption cases took place on 14 December 2010, in cooperation with the Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (ØKOKRIM). The target audience was composed of prosecutors and police officers. The lecture dealt with theoretical and practical aspects in the investigation of corruption offences. Given the size of Iceland's population and the number of staff involved in investigating and prosecuting crimes, the aforementioned specialised training event has had significant impact in raising the awareness of the responsible law enforcement officers. Likewise, the Police College has a special cooperation agreement with the European Police College (CEPOL) by which an average of 8-12 police officers participate, each year, in training activities. The Office of the Special Prosecutor which handles investigations and prosecutions of economic crime is assessing further training needs in this area.

¹ Greco Eval II Rep (2003) 7E (recommendation ii, paragraph 59). Greco RC-II (2006) 10E and its Addendum.

21. GRECO welcomes the fact that some training events have already taken place and are being further considered to increase knowledge and specialisation of law enforcement authorities on the criminalisation of corruption offences and the concrete investigation of this type of crime.
22. GRECO further notes that, in the framework of the new envisaged amendments of the Penal Code to implement recommendations i, ii, iii and v of the Third Round Evaluation Report (see paragraphs 8 and 9 of the present report), the provision of specialised training to law enforcement officials on the criminalisation of corruption offences, maintains all its pertinence. GRECO therefore encourages the authorities to keep training needs under continuous review.
23. GRECO concludes that recommendation vi has been dealt with in a satisfactory manner.

Theme II: Transparency of Party Funding

24. It is recalled that GRECO in its Evaluation Report addressed 9 recommendations to Iceland in respect of Theme II and that recommendations i-v and vii-ix were categorised as implemented satisfactorily or dealt with in a satisfactory manner. Compliance with recommendation vi is dealt with below.

Recommendation vi.

25. *GRECO recommended to (i) establish clear rules ensuring the necessary independence of auditors called upon to audit the accounts of political parties and candidates; and (ii) establish procedures for auditors of such accounts, consistent with accepted international auditing standards, on when, how and to whom to report suspicions of significant/substantial infringements of existing legislation on political funding which they may come across in the course of their work.*
26. GRECO recalls that this recommendation was found to be partly implemented. In particular, GRECO welcomed the fact that legislation had been adopted to incorporate international standards in Iceland, which also applies to the auditing of political parties. This step was assessed as sufficient to meet the second part of recommendation vi. With respect to the first part of the recommendation, GRECO called for measures specific to the auditing of political parties.
27. The authorities of Iceland stress that the 2008 Audit Act explicitly provides that, in performing their work, auditors and auditing firms must be independent of their clients, both in reality and in appearance. An auditor shall not carry out an audit if any relations exist with the client which may compromise his/her independence. In assessing potential conflicts of interest, an auditor is bound to observe the provisions of the Code of Ethics established by the Institute of State Authorised Public Accountants. These rules also apply to the auditing of political parties and are aimed at strengthening the necessary independence of auditors called upon to review the accounts of political parties.
28. GRECO accepts the explanations of the authorities, as supplemented with the specific requirements of the 2008 Audit Act laying down rules on the independence of auditors, which are fully applicable to auditors of political finances. GRECO hopes that these new provisions put an end to non-desirable situations identified in the Third Round Evaluation Report (paragraph 78) by which auditors, in Iceland, were in some instances long time members of the party to whom they provided their services

29. GRECO concludes that recommendation vi has been dealt with in a satisfactory manner.

III. CONCLUSIONS

30. **In view of the conclusions contained in the Third Round Compliance Report and the subsequent Interim Report on Iceland and in light of the analysis contained in the present report, GRECO concludes that Iceland has implemented satisfactorily or dealt with in a satisfactory manner in total eleven of the fifteen recommendations contained in the Third Round Evaluation Report.** With respect to Theme I – Incriminations, recommendations iv and vi have been dealt with in a satisfactory manner and recommendations i, ii, iii and v have been partly implemented. Regarding Theme II – Transparency of Party Funding, all recommendations (i to ix) have been implemented satisfactorily or dealt with in a satisfactory manner.
31. Concerning incriminations, Iceland has drafted amendments to the Penal Code with the potential of addressing the present shortcomings of the system, including as regards the application of bribery offences with respect to members of Parliament. However, the draft amendments are yet to be adopted. Ratification of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) is still pending.
32. In so far as the transparency of political funding is concerned, tangible efforts were displayed by the Icelandic authorities to meet all the recommendations issued by GRECO in this area, including by increasing the transparency of private donations, reinforcing the control role of the National Audit Office, setting in place legislative provisions on the independence of external auditors, reviewing the sanctioning system for infringements of party funding rules and introducing transparency requirements in relation to the campaign of presidential candidates.
33. In view of the fact that four key (out of six) recommendations concerning incriminations are yet to be implemented, GRECO in accordance with Rule 31, paragraph 9 of its Rules of Procedure asks the Head of the delegation of Iceland to submit additional information, namely regarding the implementation of recommendations i, ii, iii and vi (Theme I – Incriminations) by 28 February 2013 at the latest.
34. GRECO invites the authorities of Iceland 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.