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Third Evaluation Round

Compliance Report on the Russian Federation

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

***

"Transparency of Party Funding"

Adopted by GRECO
at its 64th Plenary Meeting
(Strasbourg, 16-20 June 2014)

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I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of the Russian Federation to implement the 21 recommendations issued in the Third Round Evaluation Report on the Russian Federation (see paragraph 2), covering two distinct themes, namely:

   - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption ETS 173), Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).

   - **Theme II – Transparency of party funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and - more generally - Guiding Principle 15 (financing of political parties and election campaigns).

2. The Third Round Evaluation Report was adopted at GRECO's 54th Plenary Meeting (20-23 March 2012) and made public on 13 August 2012, following authorisation by the Russian Federation (Greco Eval III Rep (2011) 6E, Theme I and Theme II).

3. As required by GRECO's Rules of Procedure, the authorities of the Russian Federation submitted a Situation Report on measures taken to implement the recommendations. This report was received on 30 September 2013 and served, together with the information submitted subsequently, as a basis for the Compliance Report.

4. GRECO selected the Czech Republic and Slovenia to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Helena LIŠUCHOVÁ, Head of International Co-operation Department, the Ministry of Justice, on behalf of the Czech Republic, and Ms Vita HABJAN BARBORIČ, Chief Project Manager for Corruption Prevention, Commission for the Prevention of Corruption, on behalf of Slovenia. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.

5. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

II. ANALYSIS

Theme I: Incriminations

6. It is recalled that GRECO, in its Evaluation Report, had addressed 9 recommendations to the Russian Federation in respect of Theme I. Compliance with these recommendations is dealt with below.

Recommendation i.

7. *GRECO recommended to ensure that bribery of all members of international parliamentary assemblies and judges and officials of international courts is criminalised unambiguously, in accordance with Articles 10 and 11 of the Criminal Law Convention on Corruption (ETS 173).*

8. The authorities of the Russian Federation report that, in pursuance of this recommendation, on 9 July 2013, the Plenum of the Supreme Court of the Russian Federation had adopted Resolution No. 24 "On Court Practice in Cases of Bribery and Other Corruption Offences". In accordance with paragraph 1 of said Resolution, it is brought to the attention of courts that persons falling into the category of officials of public international organisations mentioned in Articles 290 (bribe-taking), 291 (bribe-giving), and 291.1 (intermediation in bribery) of the Penal Code shall be those recognised as such by the international treaties of the Russian Federation in the field of combating corruption and, in particular, members of international parliamentary assemblies of which the Russian Federation is a member, and holders of judicial office in any international court whose jurisdiction is recognised by the Russian Federation.

9. The authorities further report that the Ministry of Justice has prepared a draft Federal Law "On Making Amendments to Certain Legislative Acts of the Russian Federation in View of Carrying Out International Obligations in the Field of Combating Corruption", which has been conceptually supported by the Institute of Legislation and Comparative Law under the Government of the Russian Federation, the Prosecutor General's Office and the Supreme Court. After the necessary endorsements, it will be posted on the Ministry's official web site for public discussion the results of which will be used in deciding whether the draft can be submitted to Government or recommitted for further consideration. Some of the amendments contained in the draft pertain to Article 285 (abuse of official powers) and are as follows:

> ***The first paragraph of Part 1 of Article 285 of the Penal Code – Abuse of Official Powers***
>
> *"The use by an official, foreign official or official of a public international organisation of their respective office powers counter to the interests of the official service and in order to gain material and (or) non- material advantage for himself / herself or for other persons or to cause damage to other persons";*
>
> *"Note 5. For the purposes of the present Article as well as Articles 290, 291 u 291[1] of the Code, […] "official of a public international organisation" shall be construed as an international civil servant, or as any person authorised by such organisation to act on its behalf, including members of international parliamentary assemblies, judges, and officials of international courts."*

10. GRECO takes note of the interpretive clarifications contained in the Resolution of the Plenum of the Supreme Court which are in line with the requirements of the recommendation. The planned amendments to Article 285 PC are also a welcome development; however, in their regard, GRECO reiterates its earlier concerns expressed in paragraph 52 of the Evaluation Report, namely that members of parliamentary assemblies of public international organisations cannot generally be considered as officials of a public international organisation acting on its behalf. GRECO consequently calls upon the authorities to refine the text of the draft Federal Law so as to ensure its full conformity with Article 10 of the Criminal Law Convention. Bearing in mind that the Resolution of the Supreme Court is in force and mandatory for execution, GRECO concludes that this recommendation has been dealt with in a satisfactory manner.

11. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

12. *GRECO recommended to ensure that bribery of domestic and foreign arbitrators criminalised unambiguously and to proceed swiftly with the ratification of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191).*

13. The authorities of the Russian Federation refer, first of all, to a draft Federal Law "On Making Amendments to Legislative Acts of the Russian Federation with a View to Reinforcing Liability for Corruption" elaborated by the Prosecutor General's Office, considered at the visiting session of the State Duma Committee for Security and Anti-Corruption and currently subject to a public debate, under which it is proposed to supplement the Penal Code with Article 202.2 criminalising the bribery of arbitrators. The text of the draft Article is provided below:

Draft Article 202.2 of the Penal Code - Bribery of Arbitrators

"1. Unlawful handing over to an arbitrator of money, securities, and any other assets, rendering of property or non-property services, granting other property or non-property rights and other undue advantages, including when the said property or other advantages are destined for another natural or legal person, as well as an offer made to the arbitrator to accept or promise to grant money, securities, and any other assets, render property or non-property services, grant other property or non-property rights and other undue advantages, including when the said property or other advantages are destined for another natural or legal person, for exercising his/her authority of arbitrator in behalf of the giver or other persons, contrary to the objectives of his/her activities,

shall be punished by a fine in an amount not less than ten-fold nor more than fifty-fold the amount of the bribe along with deprivation of right to hold certain offices or to engage in certain activities for a term not exceeding two years, or by restriction of liberty for a term not exceeding two years, or by mandatory labour for a term not exceeding three years, or by deprivation of liberty for the same term.

2. Actions provided for in Part 1 of this Article, if they were

(a) committed by a group of persons by previous concert or by an organised group,
(b) committed for performing knowingly unlawful actions (omission of actions),

shall be punished by a fine in an amount not less than forty-fold nor more than seventy-fold the amount of the bribe along with deprivation of right to hold certain offices or to engage in certain activities for a term not exceeding three years, or by mandatory labour for a term not exceeding four years, or by arrest for a term not less than three nor more than six months, or by deprivation of liberty for a term not exceeding six years.

3. Unlawful receipt by an arbitrator of money, securities, and any other assets, as well as unlawful use of property or non-property services, or exercising property or non-property rights, and getting other undue advantages, including when the said property or other advantages are destined for another natural or legal person, as well as a consent to accept money, securities, and any other assets, or to unlawfully use property or non-property services, or exercise property or non-property rights, or get other undue advantages, including when the said property or other advantages are destined for another natural or legal person, for exercising his/her authority of arbitrator in behalf of the giver or other persons, contrary to the objectives of his/her activities,

shall be punished by a fine in an amount not less than fifteen-fold nor more than seventy-fold the amount of the bribe along with deprivation of right to hold certain offices or to engage in certain activities for a term not exceeding three years, or by mandatory labour for a term not exceeding five years along with deprivation of right to hold certain offices or to engage in certain activities for a term not exceeding three years or without the said deprivation of right, or by deprivation of liberty for a term not exceeding seven years along with a fine in an amount not more than forty-fold the amount of the bribe.

4. Actions provided for in Part 3 of this Article, if they were

(a) committed by a group of persons by previous concert or by an organised group,
(b) committed jointly with the extortion of the bribe item,
(c) committed for performing unlawful actions (omission of actions),

shall be punished by a fine in an amount not less than fifty-fold nor more than ninety-fold the amount of the bribe along with deprivation of right to hold certain offices or to engage in certain activities for a term not exceeding three years, or by deprivation of liberty for a term not exceeding twelve years along with a fine in an amount not more than fifty-fold the amount of the bribe.

Note: The person who committed the actions provided for in Parts 1 or 2 of this Article shall be exempt from criminal liability if he/she has actively contributed to the solution of and/or investigation in a criminal case, and if extortion has taken place in respect of the said person or the person has voluntarily reported the bribe to the authority having the right to institute a criminal case."

14. Secondly, reference is made to a draft Federal Law "On Amendments to certain legislative acts of the Russian Federation in connection with the adoption of the Federal Law "On Arbitration in the Russian Federation", developed jointly by the Ministry of Justice, the Ministry of Economic Development, the Russian Union of Industrialists and Entrepreneurs and the Chamber of Commerce of the Russian Federation, which will supplement the Note under Article 285 (abuse of official powers) of the Penal Code with paragraph 6 as follows: "6. *For the purposes of application of Articles 290, 291, 291.1 and 304 of this Code, an official shall mean an arbitrator considering a dispute in accordance with the Russian legislation on arbitration courts and international commercial arbitration*". Additionally, by virtue of the same draft, the Note under Article 290 of the Penal Code will be complemented with paragraph 3 as follows: "3. *An offence under the first paragraph of this Article shall be deemed committed by an arbitrator in case of receipt personally or through an intermediary of a bribe in the form of money, securities, and any other assets, rendering of property services, granting other property rights and other undue advantages for committing (omission of) acts related to the office held by this arbitrator, on behalf of the giver or other persons*." Following a public discussion and an independent anti-corruption expertise, in May 2014, the draft was presented for approval to the Government and is to be submitted to the Parliament.

15. The authorities further report that the Russian Federation is considering the ratification of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) and that the Ministry of Justice has prepared a draft Action Plan (a "Roadmap") aimed at improving the existing legislation for the purposes of its alignment with the Additional Protocol. The Roadmap provides for concrete measures in pursuance of the provisions of the Protocol, determines the necessary deadlines and responsible authorities. Recently, a conceptual agreement on the draft Action Plan

was obtained from all concerned bodies, and by Order No. 432-r of 13 March 2014, the Ministry of Justice has fixed December 2014 as the deadline for preparing a draft ratification law.

16. Regarding the first part of the recommendation, GRECO is satisfied with the development of the draft Federal Law the objective of which is to introduce new Article 202.2 PC criminalising the bribery of domestic arbitrators under the Chapter covering crimes against the interests of service in commercial and other entities. The proposed regulation, however, falls short of the requirements of Articles 2 and 3 of the Additional Protocol. This concerns notably the absence of liability of intermediaries (for both active and passive bribery), although it would appear that the general rules on participation would apply, the omission of the element of "request" under provisions on passive bribery and the narrow scope of the bribe-taker's and bribe-giver's acts or omissions, which must be "contrary to the objectives of his/her activities". Similarly, GRECO welcomes the criminalisation of bribery of domestic arbitrators under the Chapter covering crimes against the public service, under Articles 290 (bribe-taking), 291 (bribe-giving), 291.1 (intermediation in bribery) and 304 (provocation of a bribe/commercial bribe). The alleged extension of the criminalisation to foreign arbitrators - by virtue of both the Note under Article 290 PC and the aforementioned Resolution of the Supreme Court - is however questionable since, generally, these do not fall under the category of "public officials" in foreign jurisdictions. GRECO encourages the authorities to promptly rectify the existing deficiencies so that the texts of both drafts fully correspond to the Additional Protocol. In view of the foregoing and the fact that the drafts have not been formally submitted to the Parliament, this part of the recommendation cannot be assessed as implemented.

17. With respect to the second part of the recommendation, GRECO welcomes the intention to proceed with the ratification of the Additional Protocol, the development of the Roadmap and the intention to prepare the draft ratification instrument by December 2014. In view of the foregoing, it is premature to draw the conclusion of partial compliance with this part of the recommendation. GRECO encourages the authorities to speed up the ratification process and concludes that this part of the recommendation has not been implemented.

18. GRECO concludes that recommendation ii has not been implemented.

Recommendation iii.

19. *GRECO recommended to introduce the concepts of "offering", "promising" and "requesting" an advantage and "accepting an offer or a promise" in the provisions of the Criminal Code on active and passive bribery, in line with the Criminal Law Convention on Corruption (ETS 173).*

20. The authorities of the Russian Federation invoke, firstly, the draft Federal Law "On Making Amendments to Legislative Acts of the Russian Federation with a View to Reinforcing Liability for Corruption" and the planned amendments to Articles 291 (1) and 290 (1) PC as provided below:

Draft Article 290 of the Penal Code – Passive Bribery

"1. Receipt by an official, a foreign official, or an official of a public international organisation, whether personally or through an intermediary, of a bribe in the form of money, securities, and any other assets, or in the form of unlawfully rendering him/her property or non-property services, granting other property or non-property rights and other undue advantages, including when the said property or other advantages are destined for another natural or legal person, as well as a

consent to accept money, securities, and any other assets, or property or non-property services, property or non-property rights, and other undue advantages, including those destined for another natural or legal person."

Draft Article 291 of the Penal Code – Active Bribery

"1. The giving of a bribe to an official, a foreign official, an official of a public international organisation, as well as an offer or a promise of a bribe, directly or indirectly […]."

21. Secondly, the authorities refer to the previously mentioned Resolution No. 24 of the Plenum of the Supreme Court "On Court Practice in Cases of Bribery and Other Corruption Offences" and its paragraph 14, which reads as follows:

Resolution of the Plenum of the Supreme Court of the Russian Federation No. 24 dated 9 July 2013 "On Court Practice in Cases of Bribery and Other Corruption Offences"

Paragraph 14

"a promise or offer to hand over or accept an unlawful gratuity for committing (omission of) actions of office is to be deemed as knowingly creating conditions for committing appropriate corruption offences in case when the intention to hand over or receive a bribe or a commercial bribe item that was expressed by the person, was directed at bringing this intention to the knowledge of other persons with a view to giving to or receiving from them valuables as well as in case when the said persons have reached an agreement.

If, due to circumstances beyond their control, the said persons have not been able to commit any other actions for the realisation of the promise or offer, the actions committed by them shall be categorised as preparation for giving a bribe (Article 30, Part 1 and, accordingly, Article 291, Parts 3 to 5 of the Criminal Code of the Russian Federation) or receiving a bribe (Article 30, Part 1 and, accordingly, Article 290, Parts 2 to 6 of the Criminal Code of the Russian Federation) or also for commercial bribery (Article 30, Part 1 and, accordingly, Article 204, Parts 2 to 4 of the Criminal Code of the Russian Federation)."

22. GRECO takes note of the information provided. The planned amendments to the Penal Code, are generally in line with the recommendation, bar the omission of the element of "request" in the provision on passive bribery. In view of the fact that the draft law is still to be formally presented to the Parliament, GRECO concludes that no tangible progress has been achieved in the implementation of this recommendation. As concerns both provisions of paragraph 14 of the Resolution of the Supreme Court, they resemble a *corpus delicti* of preparation of crimes and criminal attempt, as covered by Article 30 PC. This is at variance with the Criminal Law Convention on Corruption, which considers the actions of "offering", "promising" and "requesting" an advantage and "accepting an offer or a promise" as sufficient actions to compose the completed bribery offence, and creates situations where perpetrators of several basic types of corrupt conduct are subjected to a lighter punishment. Additionally, as clearly stems from the wording of paragraph 14 of the Resolution, crimes of average or little gravity, such as bribery offences without (certain) aggravating circumstances under Articles 290 (1) and 291 (1) and (2) PC continue to fall outside the scope of Article 30 PC.

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

Recommendation iv.

24. *GRECO recommended to broaden the scope of the bribery provisions of the Criminal Code so as to ensure that they cover clearly any form of (undue) advantage (in the meaning of the Criminal Law Convention on Corruption, ETS 173), including any non-material advantages – whether they have an identifiable market value or not.*

25. The authorities of the Russian Federation refer, firstly, to the previously mentioned draft Federal Law "On Making Amendments to Legislative Acts of the Russian Federation with a View to Reinforcing Liability for Corruption" developed by the General Prosecutor's Office, under which amendments are planned to be made to Parts 1 of Articles 290 and 291 of the Penal Code (see paragraph 20 above).

26. Secondly, the authorities refer to the draft Federal Law "On Making Amendments to Certain Legislative Acts of the Russian Federation in View of Carrying Out International Obligations in the Field of Combating Corruption", where it is proposed to broaden the concept of corruption provided for in item "a" of paragraph 1 of Federal Law No. 273-FZ "On Combating Corruption" by means of replacing the words "or property services, other property rights" with: "[…] material or non-material advantages, and other advantages". By virtue of the same draft, it is proposed to amend Articles 201 (abuse of powers) and 285 (abuse of powers of office) of the Penal Code as follows:

Draft Article 201, paragraph 1 of Part 1 of the Penal Code – Abuse of Powers

"The use by the person, performing managerial functions in a commercial or another organisation, of his/her powers contrary to the lawful interests of the organisation and in order to obtain material and/or non-material advantage for him/herself or for other persons or to cause damage to other persons […]."

Draft Article 285, paragraph 1 of Part 1 of the Penal Code – Abuse of Powers of Office

"The use by an official, a foreign official, or an official of a public international organisation of his/her powers of office contrary to the interests of office and in order to obtain material and/or non-material advantage for him/herself or for other persons or to cause damage to other persons […]."

27. GRECO welcomes the steps to redress the concerns underlying this recommendation, namely the inclusion in the notion of a bribe, as contained in Part 1 of Article 290 PC (passive bribery) and also applicable to Article 291 PC (active bribery), of a reference to any form of undue advantage, in line with the Criminal Law Convention. However, bearing in mind that none of the two drafts has been officially presented to the Parliament, GRECO cannot conclude that this recommendation has been implemented.

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

Recommendation v.

29. *GRECO recommended to ensure that the bribery offences of the Criminal Code are construed in such a way as to cover, unambiguously, instances where the advantage is not intended for the official him/herself but for a third person, whether natural or legal.*

30. The authorities of the Russian Federation refer to the previously mentioned draft Federal Law "On Making Amendments to Legislative Acts of the Russian Federation with a View to Reinforcing Liability for Corruption", prepared by the Prosecutor General's Office, and the planned amendments to Article 290 (1) of the Penal Code (see paragraph 20 above).

31. GRECO welcomes the preparation of the draft Federal Law, which, when adopted, will ensure that the instances where an undue advantage is not intended for the bribe-taker him/herself but for a third person, whether natural or legal, are unambiguously covered by the provisions on passive and active bribery. In view of the fact the draft Federal Law has not been officially submitted to the Parliament, GRECO cannot attest the authorities' compliance with this recommendation.

32. GRECO concludes that recommendation v has not been implemented.

Recommendation vi.

33. *GRECO recommended to (i) to align the criminalisation of bribery in the private sector, as provided for in Article 204 of the Criminal Code, with Articles 7 and 8 of the Criminal Law Convention on Corruption (ETS 173), in particular as regards the categories of persons covered, the different forms of corrupt behaviour, the coverage of indirect commission of the offence, of instances involving third party beneficiaries and of non-material advantages; and (ii) to abolish the rule that in cases of bribery offences in the private sector which have caused harm exclusively to the interests of a commercial organisation, prosecution is instituted only upon the application of this organisation or with its consent.*

34. As regards part (i) of the recommendation, the authorities of the Russian Federation refer to the previously mentioned draft Federal Law "On Making Amendments to Legislative Acts of the Russian Federation with a View to Reinforcing Liability for Corruption" developed by the Prosecutor General's Office and, more specifically, the amendments to Article 204 of the Penal Code establishing criminal liability for bribing any person working for a commercial or any other organisation, as well as broadening the scope of persons for whose benefit the offence is committed. The text of the draft Article is provided below:

Draft Article 204 of the Penal Code - Commercial Bribery

Paragraph 1 of Part 1:

"Unlawful handing over to a person performing managerial functions in a commercial or other organisation of money, securities, and any other assets, rendering of property or non-property services, granting other property or non-property rights and other undue advantages, including when the said property or other advantages are destined for another natural or legal person, as well as an offer to accept or promise to grant to the said person money, securities, and any other assets, render property or non-property services, grant other property or non-property rights and

other undue advantages, including when the said property or other advantages are destined for another natural or legal person, for committing (omission of) actions related to the office held by this person, in behalf of the giver or other persons,—;

Paragraph 1 of Part 3:

Unlawful receipt by a person performing managerial functions in a commercial or other organisation of money, securities, and any other assets, including when the said property or other advantages are destined for another natural or legal person, as well as unlawful use of property or non-property services, or exercising property or non-property rights, and getting other undue advantages, as well as a consent to accept money, securities, and any other assets, or to unlawfully use property or non-property services, or exercise property or non-property rights, or get other undue advantages, including when the said property or other advantages are destined for another natural or legal person, for committing (omission of) actions related to the office held by this person, in behalf of the giver or other persons,—

Parts 5 and 6 (are to be added to the Article):

5. Unlawful handing over to a person working for a commercial or other organisation of money, securities, and any other assets, rendering of property or non-property services, granting property or non-property rights and other undue advantages, including when the said property or other advantages are destined for another natural or legal person, as well as an offer to accept or promise to grant to the said person money, securities, and any other assets, render property or non-property services, grant property or non-property rights and other undue advantages, for committing (omission of) unlawful actions related to the commercial activities conducted by the said organisation, in behalf of the giver or other persons,

shall be punished by a fine in an amount not less than ten-fold nor more than fifty-fold the amount of the commercial bribe along with deprivation of right to hold certain offices or to engage in certain activities for a term not exceeding two years, or by restriction of liberty for a term not exceeding two years, or by mandatory labour for a term not exceeding three years, or by deprivation of liberty for the same term.

6. Unlawful receipt by a person working for a commercial or other organisation of money, securities, and any other assets, as well as unlawful use of property or non-property services, or exercising property or non-property rights, and getting other undue advantages, as well as a consent to accept money, securities, and any other assets, or to unlawfully use property or non-property services, or exercise property or non-property rights, or get other undue advantages, for committing (omission of) unlawful actions related to the commercial activities conducted by the said organisation, in behalf of the giver or other persons,

shall be punished by a fine in an amount not less than fifteen-fold nor more than seventy-fold the amount of the commercial bribe along with deprivation of right to hold certain offices or to engage in certain activities for a term not exceeding three years, or by mandatory labour for a term not exceeding five years along with deprivation of right to hold certain offices or to engage in certain activities for a term not exceeding three years or without the said deprivation of right, or by deprivation of liberty for a term not exceeding seven years along with a fine in an amount not more than forty-fold the amount of the commercial bribe."

35. Concerning part (ii) of the recommendation, reference is made to the adoption on 2 November 2013 of Federal Law No. 302, by virtue of which clauses 2 and 3 of Note No. 1 under Article 201 of the Penal Code were abolished. It is recalled that both clauses were applicable to the entire

Chapter 23 of the Penal Code (crimes against the interests of service in commercial and other entities), including Article 204 PC, and provided for the prosecution of private sector bribery that have caused harm exclusively to the interests of a commercial entity that is not a governmental or municipal enterprise, only upon the application or with consent of its head. By virtue of the same law corresponding amendments have been introduced also in Article 23 of the Criminal Procedure Code (criminal prosecution upon the application of a commercial or other entity).

36. With respect to part (i) of the recommendation, GRECO takes notes of the information provided. It welcomes the elaboration of new draft Article 204 PC which remedies several shortcomings identified in the Evaluation Report (see paragraph 60). In particular, draft paragraphs 1 and 5 on active bribery cover all forms of corrupt behaviour ("handing-over", "offering" and "promising"), and the involvement of third party beneficiaries in the active and passive bribery offences is explicitly provided for in the relevant paragraphs. Nevertheless, a number of gaps can still be observed. The element of "request" has been omitted from the concept of passive bribery, the coverage of indirect commission of the active and passive bribery offences has not been provided for, although it would appear that general rules on participation would apply. Furthermore, GRECO has doubts on the usefulness of splitting the provisions on bribery in the private sector into the two sub-categories, depending on the perpetrator: a) a person performing managerial functions in a commercial or other organisation; and b) a person working for a commercial or other organisation, which entails the graduation of punishment in their regard. In view of these deficiencies as well as the fact that the aforementioned amendments have not been officially submitted to the Parliament, GRECO concludes that this part of the recommendation has not been implemented. It urges the authorities to eliminate the remaining inconsistencies and proceed as soon as possible with the completion of this vital legislative reform.

37. Turning to part (ii) of the recommendation, GRECO commends the adoption on 2 November 2013 of Federal Law No. 302, by virtue of which clauses 2 and 3 of Note No. 1 under Article 201 of the Penal Code were abolished. Nevertheless, it is concerned that the amendments entered into in respect of Article 23 of the Criminal Procedure Code have retained the previous wording with one exception: inflicting damage to the interests of entities with the participation of the state or a municipality in their charter capital has been equated with inflicting damage to the interests of the state or municipality, which essentially makes these entities subject to the general prosecution regime applicable to other corruption offences. While welcoming such a positive development, GRECO remains concerned that the important steps taken to amend the Penal Code may be offset by the proliferation of the old criminal procedure rules. It therefore calls upon the authorities to amend the Criminal Procedure Code so as to mirror the amendments introduced in the Penal Code. It also recalls that the Criminal Law Convention aims to limit the differences between public and private sector bribery as corruption in the latter form may also cause significant damage to society at large. GRECO concludes that this part of the recommendation has been partly implemented.

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

Recommendation vii.

39. *GRECO recommended to criminalise trading in influence in accordance with Article 12 of the Criminal Law Convention on Corruption (ETS 173).*

40. The authorities of the Russian Federation refer to the previously mentioned draft Federal Law "On Making Amendments to Legislative Acts of the Russian Federation with a View to Reinforcing

Liability for Corruption", prepared by the Prosecutor General's Office, which will supplement the Penal Code with the following article:

> **Article 291.2 of the Penal Code – Undue Influence**
>
> "1*. Unlawful handing over, offer and promise to an individual of money, securities, and any other assets, rendering of property or non-property services, granting other property or non-property rights and other undue advantages, including when the said property or other advantages are destined for another individual or legal entity, it order to use his/her influence in the decision-making by any official, foreign official or an official of a public international organization -*
>
> *shall be punished by a fine in an amount not less than fifteen-fold nor more than thirty-fold the amount of the commercial bribe or by mandatory labour for a term not exceeding three years, or by deprivation of liberty for a term not exceeding two years along with a fine in an amount not less than ten-fold the amount of the commercial bribe.*
>
> *2. An individual's consent to use its influence in the decision-making by any official, foreign official or an official of a public international organization in connection with the handing over, offer and promise to an individual of money, securities, and any other assets, rendering of property or non-property services, granting other property or non-property rights and other undue advantages, including when the said property or other advantages are destined for another natural or legal entity –*
>
> *shall be punished by a fine in an amount not less than twenty-fold nor more than forty-fold the amount of the commercial bribe or by mandatory labour for a term not exceeding three years, or by deprivation of liberty for a term not exceeding three years along with a fine in an amount not less than fifteen-fold the amount of the commercial bribe."*

41. GRECO commends the planned criminalisation of trading in influence as a separate offence under the Penal Code. However, when comparing draft Article 291.2 PC with Article 12 of the Criminal Law Convention, several inconsistencies can still be observed: the passive trading in influence has not been covered, and the elements of the indirect commission of the offence are missing, although it would appear that general rules on participation would apply. Moreover, the Convention addresses trading in influence irrespective of "whether or not the influence is exerted or whether or not the supposed influence leads to the intended results". In view of the foregoing and the fact that the draft has still not been officially submitted to the Parliament, GRECO concludes that the recommendation has not been implemented.

42. GRECO therefore concludes that recommendation vii has not been implemented.

Recommendation viii.

43. *GRECO recommended to extend the two year minimum limitation period for bribery offences under Articles 291 and 184 of the Criminal Code.*

44. The authorities of the Russian Federation report on the adoption on 23 July 2013 of the Federal Law No. 198, by virtue of which the statute of limitation for the crimes established by Article 184 (bribery in sport and commercial entertainment contests) of the Penal Code has been increased to ten years. As concerns Article 291 (bribe-giving) of the Penal Code, information on two draft amendments has been submitted: one developed by the Prosecutor General's Office (the draft

Federal Law "On Making Amendments to Legislative Acts of the Russian Federation with a View to Reinforcing Liability for Corruption") and another one by the Ministry of Justice (the draft Federal Law "On Making Amendments to Certain Legislative Acts of the Russian Federation in View of Carrying Out International Obligations in the Field of Combating Corruption"). Under the first draft, it is proposed to extend the statute of limitation under Article 291 PC to three years, and under the second - to six years.

45. GRECO takes note of the information provided. It commends the adoption of Federal Law No. 198 which extends the statute of limitation, in line with the requirements of this recommendation, for the offences established by Article 184 PC. As concerns the developments under Article 291 PC, GRECO takes the view that the legislative amendments as prepared by the Prosecutor General's Office are steps in the right direction. However, bearing in mind the existence of two contradictory drafts and the fact that neither of them has been officially submitted to the Parliament, it cannot be concluded that this part of the recommendation has been even partly implemented.

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

Recommendation ix.

47. *GRECO recommended to analyse the provisions of the Criminal Code on the special defence of effective regret and recent cases in which this defence has been invoked, with a view to ascertaining the potential for misuse of this defence and, if need be, to take further appropriate measures.*

48. The authorities of the Russian Federation report that, in pursuance of this recommendation, the Prosecutor General's Office had conducted an analysis of the criminal law provisions on the release from criminal liability, in accordance with Notes to Articles 204 (commercial bribery), 291 (bribe-giving), and 291.1 (intermediation in bribery) of the Penal Code and their practical application. More than 500 procedural decisions of this category made in 2012 by bodies of the preliminary investigation and courts in the territory of some 50 regions of the Russian Federation had been examined. The conclusions demonstrated that the possibility of releasing from criminal liability on the grounds of the aforementioned Notes was protected to a necessary degree from possible abuse as regards substantive as well as procedural issues for the following reasons:

(a) the wording of the rules providing for release from criminal liability on the said grounds is clear, the law enforcer enjoys a margin of discretion necessary for taking decisions, taking into account the specific circumstances of a case;
(b) a court has the right to release from criminal liability on the said grounds independently, at its own discretion;
(c) the decision-taking is transparent;
(d) the lawfulness and justification of release from criminal liability is checked more than once by agencies that are independent from each other, in the course of internal control or prosecutorial supervision, due to a possibility of reviewing of decisions by the director of an investigating body, a prosecutor or court; and
(e) the Penal Code provides for liability for unlawfully releasing a person suspected or accused of having committed an offence, from criminal liability (Article 300 of the Penal Code).

49. On 1 March 2013, the results of the aforementioned analysis had been forwarded by the Prosecutor General's Office by means of an information letter entitled "On the Practice of Release

from Criminal Liability in Accordance with Notes to Articles 204, 291, and 291.1 of the Penal Code of the Russian Federation" to prosecutors of the subjects of the Russian Federation and prosecutors of specialised prosecution bodies equated to them.

50. Additionally, by virtue of Decree of the President of the Russian Federation No. 297 of 13 March 2013 "On the National Anti-Corruption Plan for 2012-2013 and Making Amendments to Certain Acts of the President of the Russian Federation on the Issue of Combating Corruption", a similar analysis had been undertaken by the Supreme Court of the Russian Federation. Relevant conclusions had been included in the previously mentioned Resolution of its Plenum, excerpts from which are provided below:

Resolution of the Plenum of the Supreme Court of the Russian Federation No. 24 dated 9 July 2013 "On Court Practice in Cases of Bribery and Other Corruption Offences"

"29. Voluntary reporting of giving a bribe, mediation in bribery or commercial bribery which was made to the authority having the right to institute a criminal case after the offence had been committed, as well as actively contributing to the solution of and/or investigation in a criminal case shall be among the indispensable conditions for absolution from criminal responsibility for having committed offences provided for in Articles 291, 291.1, and Part 1 or Part 2 of Article 204 of the Criminal Code of the Russian Federation, on account of the notes to the said Articles.

Reporting of the offence (made in writing or orally) must be recognised as voluntary, irrespective of the motives of the submitter of the report. However, a report made due to the fact that giving a bribe, mediation in bribery or commercial bribery had become known to the authorities cannot be recognised as voluntary.

Actively contributing to the solution of and/or investigation in a criminal case must consist in that the person performs actions aimed at the exposure of persons involved in the commission of the offence (bribe giver, bribe taker, mediator, persons who accepted or handed over the commercial bribe item), discovery of the assets handed over as the bribe or the commercial bribe item, etc.

30. Absolution from criminal responsibility of the bribe giver or perpetrator of commercial bribery who have actively contributed to the solution of and/or investigation in a criminal case and in respect of whom an extortion of the bribe or the commercial bribe item has taken place shall not mean that the elements of an offence are absent in the actions of the said persons. Therefore these persons cannot be recognised as victims and shall have no right to claim return of valuables handed over to them as the bribe or the commercial bribe item.

Handing over of a bribe or a commercial bribe item under extortion should be distinguished from the actions—not being an offence—of a person forced to hand over money, securities, and any other assets, grant property rights, or render property services to an official or a person performing managerial functions in a commercial or other organisation, in a state of extreme necessity or as a result of mental coercion (Article 39 and Part 2 of Article 40 of the Criminal Code of the Russian Federation), in the absence of other legitimate means for preventing harm to the interests, guarded by law, of the owner of the assets or persons whose representative he/she is. In this case, the assets received by the official or person performing managerial functions in a commercial or other organisation shall be subject to return to their owner.

No elements of an offence provided for in Article 291 or Part 1 and 2 of Article 204 of the Criminal Code of the Russian Federation are present in the actions of a person in respect whereof giving a bribe or performing commercial bribery had been requested, if before handing over the valuables the said person voluntarily reported it to the authority having the right to institute a criminal case or

conduct special investigative activities, and the handing over of the assets, granting of property rights, or rendering of property services were carried out in a controlled way with a view to apprehend the person who had expressed the said requests, in flagrante delicto. In such cases, money and other valuables handed over as the bribe or the commercial bribe item shall be subject to return to their owner."

51. GRECO welcomes the examination by the Prosecutor General's Office and by the Supreme Court of the provisions of the Penal Code on the special defence of effective regret and the recent cases in which this defence was invoked. It is also satisfied that the Resolution of the Plenum of the Supreme Court has clarified the concepts of "voluntary reporting" of an offence and of "actively contributing to the solution of and/or investigation of a criminal case" as the requirements which are compulsory for these provisions to be applied in practice. While observing that both of these concepts are still referred to in paragraph 29 of the Court's Resolution as "indispensable elements for the release from criminal liability" (i.e. the mandatory nature of the effective regret has not been abolished), GRECO accepts that the risks of the misuse of this defence in the specific circumstances of the Russian Federation are minimised by its fairly limited application (22 persons released from criminal liability in 2013) and the stringent legal requirements that are to be met. GRECO furthermore understands that the maintenance of the effective regret is regarded by the country as an important tool for stimulating reporting. It is concluded therefore that this recommendation has been dealt with in a satisfactory manner.

52. GRECO concludes that recommendation ix has been dealt with in a satisfactory manner.

Theme II: Transparency of Party Funding

53. It is recalled that GRECO in its evaluation report addressed 12 recommendations to the Russian Federation in respect of Theme II. Compliance with these recommendations is dealt with below.

Recommendation i.

54. *GRECO recommended to examine the various laws and regulations pertaining to election campaign financing at federal level so as to eliminate duplications and inconsistencies and to provide for a clear and robust legal framework.*

55. The authorities of the Russian Federation report that, in pursuance of this recommendation, several legislative acts have been prepared with a view to optimising and ensuring the consistency of pertinent legal norms at federal level. First of all, on 22 February 2014, the new Federal Law "On Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation" was adopted. According to the authorities, this law has introduced significant modifications in the procedure for election of deputies of the Lower Chamber of Parliament, by adapting it to the modern social and political realities and ensuring the necessary unambiguous regulation of *inter alia* issues pertaining to the transparency of election campaign financing.

56. Secondly, the Central Election Commission of the Russian Federation (CEC) has prepared a draft Federal Law "On amendments to some legislative acts of the Russian Federation pertaining to financial statements of political parties, electoral associations, candidates in elections to state and self-governing bodies". The draft makes provision for reducing the thresholds for the disclosure of information on donors within the framework of presidential elections and adds several entirely new articles in Chapter 5 of the Code of Administrative Offences establishing the

administrative liability of political parties, their regional branches and other registered structural units for infringements of general party financing rules. The draft Federal Law has been developed in consultation with the Ministry of Justice and the Prosecutor General's Office and has taken into account the comments submitted by the Presidential Administration. On 12 June 2014, it was submitted by the President to the State Duma of the Federal Assembly of the Russian Federation in the exercise of his right to initiate legislation.

57. Thirdly, the draft Federal Law "On introducing amendments to the Federal Law "On Political Parties" has been prepared by the Ministry of Justice with participation by the Ministry of Finance, the CEC and the Institute of Legislation and Comparative Law under the Government of the Russian Federation. It will introduce new regulations on membership dues and loans (credits) contracted by a political party. On 18 June 2014, it was adopted by the State Duma.

58. Furthermore, the regulations of the Central Election Commission of the Russian Federation have also undergone a review, and more than 100 of them were identified as requiring invalidation. This work is entering its final phase.

59. GRECO commends the authorities for having launched a legislative reform which is meant to address the many gaps and shortcomings as evidenced by the subsequent paragraphs of this Report. However, most of the information presented by the authorities does not seem to respond directly to the concerns underlying this recommendation. GRECO recalls the findings of its Evaluation Report (paragraph 90), which referred to the high degree of detail and fragmentation of the rules governing specifically the financing of election campaigns. These included, at federal level, not only three very voluminous laws (the Federal Laws "On Basic Guarantees of Electoral Rights and the Right to Participate in Referendums of Citizens of the Russian Federation" (LBG), "On Elections of the President of the Russian Federation", and "On Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation") but also a great number of resolutions and decisions of election commissions and banking institutions, which were adopted anew for every upcoming election and whose prime objective was to provide instructions as regards the uniform application of the law. The legislative acts themselves had undergone frequent alterations (several per year) and were transformed, in effect, into a compilation of normative acts and instructions, which gave reason for many to claim that the legislation and regulations were overly complex, to the detriment of precision and clarity. From this perspective, it would appear that the relevant examination of various laws and regulations pertaining to election campaign financing, as suggested by the recommendation, has not been undertaken by the authorities, and that the existing legal framework has not been simplified nor have duplications and inconsistencies been eliminated. One such inconsistency, pointed out in paragraph 91 of the Evaluation Report, is still in place and refers to the possibility of electoral funds being formed *inter alia* of contributions by election commissions, if that is provided for by law (Article 58, paragraph 5, letter d) LBG). Also, the text of the new Federal Law "On Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation" has not been provided for GRECO's scrutiny and, since no reference to it is made elsewhere in this Report, it is difficult to ascertain how specifically it has helped rectify the deficiencies, as is claimed by the authorities. As concerns the revision of regulations issued by the Central Election Commission, the sheer volume of those requiring invalidation is impressive and only affirms the system's complexity. While acknowledging the importance and welcoming their review, GRECO expresses a hope for these to be replaced by less numerous, more succinct and long-lived rules. In conclusion, there is no evidence that the situation described in the Evaluation Report has undergone any significant change and that a clear and robust legal framework is now in place as required by the recommendation.

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

Recommendation ii.

61. *GRECO recommended to carry out an independent inquiry into political financing (comprising both general party and election campaign financing) in respect of financial flows outside the regulated area and, based upon its conclusions, to design the necessary remedial action.*

62. The authorities of the Russian Federation report that, on 24 October 2012, the CEC adopted Resolution No.146/1102-6 launching the Research Programme of its Public Scientific and Methodological Advisory Council with the aim of providing scientific, methodological and consultative assistance to the participants of the electoral process in 2012. Clause 2.6 of this Programme envisaged the carrying-out of scientific and analytical research entitled "Russian and international experience of applying legislation on financial transparency of activities of political parties". Within it, a study focusing on political financial flows outside of the regulated area had been commissioned by means of an open public tender[1] to a team of independent experts consisting, *inter alia,* of the Director of the Foundation for the Study of Democracy Issues, who is also a member of the Public Chamber of the Russian Federation and Co-chair of its Working Group on the Public Control over the Electoral Process, and of the Assistant Professor of the Department of Constitutional and Municipal Law of the Kutafin University (Moscow State Law Academy). As part of the study, a survey had been conducted, based on a tailor-made methodology, ascertaining possible risks related to the manifestation of political corruption, violation of rules on donation thresholds, permissible donors and expenses. Experts, such as leading academics, professionals directly involved in the analysis of electoral technologies, human rights activists, representatives of key public organisations and political parties, were also invited to contribute to the study's development. The suggestions formulated at the end of the study refer to the desirability of enhancing the disclosure of data on donations and donors and of further expanding the mechanisms and tools at the CEC's disposal to prevent, identify and sanction possible illegal financial flows. The authorities report that the aforementioned suggestions had been taken into account in the already adopted and the currently prepared federal laws, all of which allows for the solving of problems identified by the study.

63. GRECO welcomes the carrying-out of an independent inquiry into political financing in respect of financial flows outside of the regulated area, which appears to have been carried out in conformity with effective public procurement rules. Nevertheless, as regards the scope, contents and findings of the study, more information is needed in order to ascertain its compliance with the recommendation, notably as regards the analysis of the specific challenges surrounding the general party finances and the funding of election campaigns (i.e. the different forms of donations' misuse, cash payments for works and services, the alleged widespread abuse of public office, etc.) and how it is proposed to address them. Similarly, the information on measures taken in pursuance of the study's conclusions and suggestions is inconclusive and requires further clarifications. Last but not least, it is unclear whether the study has already been published and/or shared and discussed with political parties.[2] For these reasons, it cannot be concluded that all the aspects of this recommendation have been duly addressed.

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[1] The authorities state that the rules for holding such a tender conformed to Federal Law No.94-FZ dated July 21, 2005 "On placement of orders on supply of goods, performance of work, rendering of services for government and municipal needs" and to the UNCITRAL Model Law on the Procurement of Goods (Works) and Services, notably as regards the posting of the announcement on the web site, reasonable deadline for receiving the applications, and competition among four bidders, among whom the winner had been chosen by means of independent evaluation of specified criteria.

[2] GRECO understands that, on 12 November 2013, it was discussed with those selected party representatives who are members of the CEC's Public Scientific and Methodological Advisory Council.

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

Recommendation iii.

65. *GRECO recommended to take appropriate measures to ensure that the regulation of party and election campaign financing is not undermined by the misuse of public office.*

66. The authorities of the Russian Federation report that, in the course of corresponding electoral campaigns, the election commissions and law enforcement, as well as other state bodies, have "re-doubled their attention" in terms of prevention of cases of taking advantage of official capacity or status for the purposes of funding political parties and election campaigns. Furthermore, the facts of initiation of administrative proceedings and criminal cases, including those stipulated by Articles 5.21 (delayed transfer of public funds to election commissions, candidates and electoral associations) and 5.45 (taking advantage of official powers or status in the period of election and referendum campaign) of the Code of Administrative Offences (CAO) and Article 141 (precluding the exercise of electoral rights and the performance of tasks by election commissions) of the Penal Code) for the period between the second quarter of 2012 and September 2013 had been subject to scrutiny. As a result, three cases of administrative delinquency stipulated by Article 5.45 CAO had been initiated but no criminal cases. The authorities furthermore indicate that, during the 2013 elections, no complaints alleging the misuse of public office were received, and where such misuse had been identified, perpetrators carried administrative liability. There is moreover an intention to continue preventing the abuse of office "while regulating the funding of political parties and electoral campaigns on a constant basis" by law enforcement authorities.

67. As concerns the financing of political parties and election campaigns via bank transfers (the issue that was specifically raised in the Evaluation Report), by virtue of Letter No. 146-T of 24 October 2012, the Central Bank of the Russian Federation issued new instructions to banks regarding the procedure for filling in of electronic transfer forms when making donations to parties and election subjects. As a result of this measure, in 2013, out of all donations less than 5% were returned to natural or legal persons due to incomplete payment orders. In the first quarter of 2014, less than 2% of such donations were returned. Furthermore, between 2011 and 2014, a major increase in the share of legal entities' financing some political parties has been recorded.

68. GRECO commends the new rules on the filling in of wire transfer forms for making donations to parties and election subjects (previously, the use of deficient banking programmes was a deterrent). While welcoming the review of cases under the relevant provisions of the Codes of Penal and Administrative Offences, GRECO is not persuaded of the thoroughness of this exercise as it was only based on the facts of initiation of relevant cases and not on the basis of the complaints received. Also, the three reported cases do not seem to be representative of the potentially very widespread problem as established in the Evaluation Report (see paragraph 93). Additionally, what is concretely meant by the phrase "re-doubling of attention" and how the law enforcement bodies can prevent the misuse of office while *regulating* funding of political parties and election campaigns, as indicated in the Situation Report, remains unclear. It would have been preferable, for example, that the authorities supply information and/or examples on how abidance by the relevant – and very comprehensive and detailed – rules forbidding the abuse of public office was ensured in practical terms in the course of the 2013 elections. Moreover, no data has been provided on the measures taken in connection with the specific problems identified during the aforementioned elections or any other problems enumerated in paragraphs 93 and 94 of the Evaluation Report (i.e. abuse of the public media and public facilities, the misuse of state power to intimidate political opponents and the lack of enforcement of the guarantees intended to

prevent public officials from misuse of power). In view of the foregoing, GRECO concludes that the recommendation has been only partly implemented.

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

Recommendation iv.

70. *GRECO recommended to take appropriate measures to ensure that membership fees are not used to circumvent the transparency rules applicable to donations.*

71. The authorities of the Russian Federation refer to draft Federal Law No. 385644-6 "On introducing amendments to the Federal Law "On Political Parties" developed by the Ministry of Justice with participation by the Ministry of Finance, the CEC and the Institute of Legislation and Comparative Law under the Government of the Russian Federation. The draft introduces an amendment to sub-clause "a" of clause 1 of Article 29 of Federal Law No. 95 "On Political Parties" as follows: "a) the admission and membership dues, if their payment is provided for by the charter of the political party. The amount of the admission and membership dues payable by one party member shall not exceed the maximum limit of donations from one natural person established by clause 8 of Article 30 of this Federal Law." The authorities further report that, on 18 June 2014, the aforementioned draft Federal Law was adopted by the State Duma.

72. GRECO welcomes the adoption by the lower Chamber of Parliament of amendments to the draft Federal Law which will ensure that membership fees are not used to circumvent the transparency rules applicable to donations. It notes, in particular, that the caps established for donations by a natural person to a political party per year (i.e. 4 million 330 000 RUB/approximately 89 546 EUR) will now apply to entrance and membership dues of party members. However, in view of the fact that the amendments are yet to enter into force, GRECO can only conclude that the recommendation has been partly implemented.

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

Recommendation v.

74. *GRECO recommended to elaborate practical guidelines to political parties on the valuation of in-kind donations.*

75. The authorities of the Russian Federation report that, in pursuance of this recommendation, the CEC, jointly with the Ministry of Finance and the Ministry for Economic Development has developed guidelines for parties on the valuation of in-kind donations. These guidelines were circulated to all political parties by means of Information Letter No.15-07/2463 issued by the CEC on 12 July 2013. The Letter describes the valuation and reporting procedure recommended for execution by parties and their regional branches. In particular, the Letter recalls that, in accordance with Clause 7 of Article 30 of the Federal Law "On Political Parties", in the event that a donation is not made in cash, a party (or its regional branch) must establish its value in monetary terms and enter relevant data, including the donor's details, in the annual consolidated and financial (accounting) reports. The assessment of the monetary value of such a donation is to be carried out pursuant to Federal Law No. 402 "On Accounting", adopted on 6 December 2011. By virtue of its provisions, political parties (and their regional branches) are recognised as economic entities obliged to maintain financial accounting covering facts of economic life, assets, liabilities, the sources of financing of activities, revenues, expenditures and any other objects, if

established by federal standards. According to Clause 23 of Regulation No. 34n "On accounting record-keeping and reporting in the Russian Federation" of 1998, the current market value of property received by a legal entity, including a political party, free of charge is to be calculated on the basis of prices prevailing on the market for this or similar type of property on the date of entering it into the books. The formation of the current market value should be based on the price effective on the date of acceptance of the property received free of charge or any similar kind of property. Information on the property's current value should be evidenced by a document or confirmed via independent expert examination. Identical provisions apply in respect of any kind of property.

76. In the absence of documentary evidence confirming the market value of an in-kind donation, the Letter recommends that political parties (their regional branches) resort to independent expert valuation, in accordance with Federal Law No. 135 "On valuation activities in the Russian Federation" of 1998. Covered by this law is the appraisal of separate tangible assets (things), sets of things which make up the property of any person, including certain types of property (movable and immovable, including enterprises), ownership rights and other real rights in respect of property or separate things comprised therein, right of claim and liabilities (debts), works, services, information, other objects of civil rights, which may participate in the civil turnover under the national legislation. In case the established price exceeds the annual caps on donations (i.e. 4 million 330 000 RUB/ approximately 89 546 EUR for a natural person and 43 million 300 000 RUB/approximately 895 464 EUR for a legal person), the general rules on illegal donations apply, i.e. they must be returned to the donor or transferred to the state budget. Finally, the Letter recalls liability for failure to comply with accounting rules established by the Federal Law "On Political Parties" and Article 15.11 of the Code of Administrative Offences (on gross violation of rules on accounting, the submission of financial statements and the order and period of retention of accounting documents, where the "gross violation" refers to the distortion of contents of any article (line) of the standard financial statement by not less than 10%).

77. GRECO is satisfied with the circulation to all political parties of information on the legal requirements applicable to the valuation of in-kind donations that may be received by a party (its regional branch) in the exercise of its activities, in order for these to be included in the annual consolidated and financial (accounting) reports. Although such requirements are not new, the objective was to remind the parties of the two options for the valuation of in-kind donations available under the existing regulations, namely their proper documentation by means of invoices, bills or other financial documents *or* valuation via an independent expertise. GRECO welcomes the express invitation contained in the CEC's Information Letter for the parties to solicit independent expertise in cases where the exact value of an in-kind donation cannot be properly documented. However, as concerns the first option, it recalls the findings of the Evaluation Report (paragraph 97), which referred to the substantial variations observed in the valuation of similar in-kind donations by the different political parties. In this light, the issuance of additional guidance might be needed in order to prevent situations where in-kind donations are used to circumvent the rules on donation limits. GRECO encourages the authorities to take additional steps to ensure compliance with this recommendation and concludes that it has been partly implemented.

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

Recommendation vi.

79. *GRECO recommended to ensure that loans granted to political parties are not used to circumvent political financing regulations, in particular when their terms deviate from customary market conditions and when they are fully or partially written off.*

80. The authorities of the Russian Federation refer to the previously mentioned draft Federal Law "On introducing amendments to the Federal Law "On Political Parties"", by virtue of which several articles relevant to the purposes of this recommendation, namely Articles 29 (finances of a political party), 30 (donations to a political party and its regional branch) and 34 (financial reporting by a political party) will be amended. Pursuant to the proposed new provisions, a political party and its regional branches will be entitled to conclude loan and credit agreements for an amount not exceeding five times the amount of annual donations from one natural person and one legal entity, respectively, as established by Clause 8 of Article 30. If the obligation under such an agreement is terminated for reasons other than its performance or because its performance is undertaken by another lender or creditor, the sum of the non-performed obligation shall be subject to the provisions of Article 30 on illegal donations, namely their return or transfer to the state budget. Additionally, the information on the receipt and expenditure of funds by a political party covered by Article 34 shall now include the information on loan and/or credit agreements concluded by a party, the lender (creditor), the requisite details and terms, the principal amount (less interest), the annual interest rate, the property pledged and the guarantees and sureties issued to secure obligations. The authorities recall that, on 18 June 2014, the aforementioned draft Law was adopted by the State Duma.

81. GRECO welcomes the adoption by the lower Chamber of Parliament of the draft Federal Law, which is meant to ensure that loans granted to political parties are not used to circumvent political financing regulations, including in cases when their terms deviate from customary market conditions and when they are fully or partly written off. GRECO notes that the receipt of such loans has been made proportional to donations from natural persons and legal entities, respectively, that there is a requirement to report on the terms and conditions of each loan and, if the obligation under a loan or credit agreement is terminated for reasons other than its performance or because its performance is undertaken by another lender or creditor, the sum of the non-performed obligation is made subject to conditions on illegal donations. Pending the entry into force of the new legal provisions, GRECO can only conclude that the recommendation has been partly implemented.

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

Recommendation vii.

83. *GRECO recommended to consider lowering the current disclosure thresholds of 10 000 EUR (donations from legal persons received by political parties) and of 1 000 EUR (donations by natural persons to an electoral fund of a candidate in presidential election) to an appropriate level.*

84. The authorities of the Russian Federation refer, first of all, to CEC's Resolution No. 234/1483-6 of 5 June 2014 applicable to parties' annual consolidated financial reports, which has decreased the disclosure threshold for donations from a legal person to a political party to 300 000 RUB/ approximately 6 250 EUR. Secondly, reference is made to the previously mentioned draft Federal Law "On amendments to some legislative acts of the Russian Federation pertaining to financial statements of political parties, electoral associations, candidates in elections to state and self-

governing bodies" by virtue of which it is planned to amend Clause 8 of Article 62 of Federal Law No. 19 "On elections of the President of the Russian Federation" (LPRE) and Clause 13 of Article 58 of Federal Law No. 67 "On basic guarantees of electoral rights and the right to participate in referendums of citizens of the Russian Federation" (LBG) by reducing the current disclosure thresholds to 200 000 RUB/ approximately 4 136 EUR in respect of a legal entity and 20 000 RUB/ approximately 413. 6 EUR in respect of a natural person. The authorities indicate that on 12 June 2014, the draft Federal Law was transmitted to the State Duma for adoption. The authorities furthermore report their intention to lower the existing disclosure threshold for donations to parties from any legal person in elections to the State Duma.

85. GRECO is satisfied that due consideration had been given by the authorities to the fulfilment of this recommendation. It welcomes the launching of the legislative reform the objective of which is to reduce by 50% the existing disclosure thresholds for donations by natural and legal persons under the LPRE and the LBG (the latter being a framework legislative act applicable to all types of elections). When adopted, the amendments to the LPRE would reduce such a threshold for a natural person to 413.6 EUR, fully in line with the recommendation. As concerns the amendments to the LBG, these would not only introduce similar amendments in respect of donations to a relevant electoral fund by a natural person but also decrease the thresholds in respect of a legal person as follows: for donations to a party or a candidate in election to 4 136 EUR and for donations to a regional party branch to 25 000 RUB/approximately 517 EUR. These are commendable legislative efforts, which are meant to be followed by identical changes in the Federal Law "On Election of Deputies of the State Duma of the Federal Assembly of the Russian Federation". GRECO furthermore welcomes the revision of the disclosure rules applicable to the consolidated annual financial reports of political parties (these would become effective in January 2015). Although the authorities were merely asked to give consideration to this recommendation, GRECO is satisfied that it has triggered promising legislative and other initiatives. It is therefore concluded that this recommendation has been implemented satisfactorily.

86. GRECO concludes that recommendation vii has been implemented satisfactorily.

Recommendation viii.

87. *GRECO recommended (i) to clarify the concept of an alliance between a political party and a public association; (ii) to seek ways of increasing the transparency of funding provided to organisations such as interest groups and non-incorporated public associations whose purpose is to support a political party, including during election campaigns.*

88. Concerning part (i) of the recommendation, the authorities of the Russian Federation refer to the previously mentioned draft Federal Law "On introducing amendments to the Federal Law "On Political Parties"", by virtue of which it is planned to clarify the concept of an alliance between a political party and a public association. Thus, sub-Clause (h) of Clause 1 and Clause 1.1 of Article 26 thereof will now stipulate that such an alliance can only be formed "for the purpose of participation in an election". The authorities also recall that the draft Federal Law was adopted in the first reading by the State Duma. Furthermore, for the purpose of implementing Article 32, paragraph 3 of the Federal Law No. 7 "On non-profit organisations," the Ministry of Justice, as a supervisory organ, has approved financial reporting forms for such entities, along with the relevant guidelines. These reports, in the authorities' view, contribute to greater financial transparency of the said entities, including those, which are related to political parties; therefore, control over the funding of parties and of non-profit organisations sharing their goals is ensured. All financial reports are posted at: http://unro.minjust.ru.

89. As regards part (ii) of the recommendation, the authorities report on a number of measures taken. On 6 December 2012, the CEC held a round table on “Financial assurance of activities of political parties in times of a political reform.” The meeting had been attended by representatives of political parties, state bodies, public associations specialising in the field of electoral law and transparency of elections, scientists and experts. The funding of interest groups and unregistered public associations, acting in support of political parties, was also addressed. Several proposals had been made by participants on how to enhance the transparency of political financing, notably: a) for the CEC, to organise training for political parties in order to enhance the quality of mutual interaction and internal control within the parties themselves; b) to expand public control over the funding of political parties; c) to increase financial and human resources of the CEC, as an independent body exercising control over the financial activities of political parties; d) to consider the possibility of preparing a legal act regulating political advertising outside election campaigns; and e) to set tax benefits for donors. Many of these suggestions have already been translated into concrete acts and are described below.

90. The CEC has been regularly holding training courses for party representatives. The most meaningful one on “The practical interaction of election commissions and political parties on the enforcement of the latter’s right to participate in elections to state government bodies of the subjects of the Russian Federation” was organised on 24 April 2013 in the format of a videoconference. According to the authorities, in addition to representatives of election commissions of all federation subjects, it had been attended by more than 60 representatives from 39 registered political parties and their regional branches. As stems from its title, one of the issues debated was the working methods and forms of the election commissions’ interaction with political parties at the stage of election preparation, taking account of the considerable recent increase in the number of the country’s political parties.

91. Additionally, twice a year, meetings are held with representatives of political parties on the preparation and submission of their financial statements, and more specifically on: the legislative innovations; clarifications on the recording of the various types of transactions, including the financing by parties of other legal entities (such as youth and women’s associations, research foundations, etc.) and any support with financial implications from such entities to the parties themselves so as to avoid circumventing e.g. the rules on donations; the results of the quarterly reporting by the parties’ regional branches, etc. The outcomes of the meetings form the basis for improving pertinent regulations.

92. Also, the CEC had concluded an agreement with the international information group “Interfax” (Interfax CJSC), a partner of the world’s largest agency Dun & Breadstreet corporate information, under which the CEC had pledged to make available information on the financing of political parties, receipt and expenditure of assets from electoral funds, the results of inspection of financial statements of political parties, candidates in elections and electoral associations. In return, the CEC had acquired the right, for the purposes of inspecting the financial statements and the data on receipt and expenditure of assets from electoral funds, to use the international database containing information on legal entities and individual entrepreneurs. The system allows for the prompt checking e.g. of data on the formation of assets of authorised capital of a legal entity, transfer of donations to electoral funds and political parties, other data with legal significance for identifying illegal donors. According to the CEC, the recourse to this system in the first quarter of 2014 has enabled it to reveal and suppress the use of illegal donations by political parties in the total amount of 35 million RUB/ approximately 729 433 EUR.

93. GRECO takes note of the information provided. Concerning part (i) of the recommendation, the foreseen amendments to the Federal Law "On Political Parties" (LPP), once they enter into force, will clearly circumscribe the purpose of an alliance concluded - in writing - between a political party and a public association, that is a joint participation in an election. GRECO also welcomes the development by the Ministry of Justice of financial reporting forms for non-profit entities, which allows for the annual financial monitoring of those, which share their goals with political parties. Nevertheless, GRECO remains concerned that, in times of elections, such non-profit entities are not subject to the same monitoring regime and disclosure rules (i.e. the requirement to submit information on donors and expenditure) as the political parties themselves. For this reason as well as pending the entry into force of the draft Federal Law, it is concluded that this part of the recommendation has been partly implemented.

94. As concerns part (ii) of the recommendation, virtually nothing meaningful has been done to increase the transparency of funding provided to non-incorporated public associations and interest groups, which operate without accounts due to their specific legal nature and whose purpose is to support a political party within or outside an election campaign. As emphasised in paragraphs 100 and 101 of the Evaluation Report, the financing of the aforementioned and similar types of entities is not regulated by the LPP or the election laws. Their accounts, therefore, are not reflected in the accounts and records of political parties and their election-related expenditure (for instance, in the form of their own campaigning activities) escapes the established reporting on electoral funds. This may also explain the existing perceptions regarding the predominantly shadow financing of election campaigns. In view of the foregoing, GRECO cannot conclude that this part of the recommendation has been implemented.

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

Recommendation ix.

96. *GRECO recommended to introduce clear provisions determining the commencement of the "campaigning" period so that the financial activity during this period is accurately and comprehensively recorded.*

97. The authorities of the Russian Federation report on the carrying out of an analysis of the effective regulations and law enforcement practices. The conclusion drawn is that of the clarity and sufficiency of the established criteria providing for the transition in the reporting obligation of a political party: from reflecting financial flows generated by regular party activities (subject to the Federal Law "On Political Parties") to that of the party's involvement in an election campaign (regulated by the appropriate electoral laws). The authorities also recall that the parties' annual consolidated financial reports are to include – under a separate heading – their election-related income and expenditure. Still, in order to address GRECO's concerns, the previously mentioned draft Federal Law "On amendments to some legislative acts of the Russian Federation pertaining to financial statements of political parties, electoral associations, candidates in elections to state and self-governing bodies" will introduce several new articles to Chapter 5 of the Code of Administrative Offences (CAO) establishing liability for the infringement by political parties, their regional branches and other registered structural units of financial rules, including specifically from the moment a party launches the process of nomination of a candidate in election/list of candidates until the beginning of the election campaign of a candidate/an electoral association (a political party), in other words, until the moment of submission of relevant nominating documents to election commissions.

98. GRECO recalls its findings (paragraph 102 of the Evaluation Report), namely, that, currently, the campaigning period commences on the day of nomination of a candidate/electoral association and the campaigning expenses can only be incurred from the day of establishing an electoral fund/setting up a special election account. By contrast, other provisions define "campaigning" as an activity carried out during the election campaign, the latter having a much longer duration: from the day of the official publication of a decision to hold the election. In GRECO's opinion, the existing regulations created confusion and led to incomplete financial records specifically during the election campaign. In this light, GRECO observes that, instead of reforming pertinent electoral laws, the authorities have opted for revision of the CAO and only in respect of political parties. As clearly flows from their texts, draft Articles 5.64 (violation of the procedure and periods for the submission of information on the receipt and expenditure of funds, the consolidated financial statement), 5.65 (the use of illegal funds and other property in the financing of activities of a political party), 5.66 (the unlawful financing of activities of a political party), 5.67 (violation of the period established for the return to the donor or transfer to the state budget by a political party of illegal donations in cash and other property) CAO apply exclusively to the general finances of political parties and reporting thereon and are unrelated to the financing and conduct of election campaigns (this, by the way, is clearly stated in the text of Article 5.65 CAO). This essentially means that the expenses incurred by political parties during the period specified by the authorities would continue to be recorded in the quarterly and annual financial reports of a political party but not the reports pertaining to an election campaign. In this way, they would escape monitoring and disclosure regimes applicable in times of elections. In conclusion, GRECO can only underscore the lack of meaningful steps to introduce clear provisions in the relevant electoral laws with a view to determining more clearly the commencement of the "campaigning" period, in line with the recommendation, and ensuring that the financial activity of political parties during this period can be accurately and comprehensively recorded in relevant campaign documentation and be subject to monitoring and disclosure rules applicable in times of elections. Nevertheless, since some steps have been taken in an attempt to address the expressed concerns, it is concluded that the recommendation has been partly implemented.

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

Recommendation x.

100. *GRECO recommended (i) to ensure that political parties are subject to independent auditing in respect of their party and election campaign accounts by certified auditors, in line with the federal legislation; and (ii) to provide for the compliance of such auditing practices with international standards.*

101. The authorities of the Russian Federation refer to the previously mentioned draft Federal Law "On introducing amendments to the Federal Law "On Political Parties", by virtue of which it is planned to add Clause 6 in Article 35 (verification of compliance with the requirements on book-keeping and expenditure of funds by a political party) thereof reading as follows: "A political party receiving government funding or whose total amount of annual donations comprises at least 60 million RUB/approximately 1 250 460 EUR or whose expenditure in a calendar year is at least 60 million RUB, carries out compulsory audit in the order prescribed by the legislation of the Russian Federation on audit activities." This legislative proposal was prepared subsequent to a review of a state of play in some 28 countries with different levels of economic development carried out by the Ministry of Justice mainly through desk research. The authorities recall that, on 18 June 2014, the aforementioned draft Law was adopted by the State Duma.

102. The authorities furthermore report that, according to Clause 4 of paragraph 1 of Article 5 of Federal Law No. 307 "On audit activities", auditing is compulsory for those organisations, the total amount of assets of which in the balance sheet as at the end of the previous fiscal year exceeds 60 million RUB. Additionally, in accordance with sub-Clause 5 of part 1 of Article 5 of the same law, a compulsory audit is carried out if an organisation submits and/or publishes consolidated accounting (financial) statement.

103. The recommendation on applying mandatory audit to special election accounts of subjects in federal elections – in view of the significant financial flows involved – was also considered and the conclusion drawn was negative for several reasons: the targeted nature of funding generated on the special election accounts, the relatively short time-limit on their maintenance, and the need to reserve a significant funding early on in the campaign for an audit to be conducted after it is over (a requirement for a relevant amount to be frozen on a special election account would have to be enforced by a bank or a relevant election commission), this being an additional financial barrier.

104. As concerns audits' compliance with international standards, in October 2013 the State Duma adopted in the first reading draft Federal Law No. 316841-6 "On amendments to […] the Federal Law "On auditing in terms of introduction of International Auditing Standards", which provides for the application of the international auditing standards approved by the International Accounts Federation.

105. GRECO welcomes the legislative reform aimed at subjecting the general finances of political parties to independent auditing compliant with international audit standards. It is satisfied that such a requirement is based on objective and transparent criteria, notably the level of income generated or the level of disbursement of funds, fully in line with the requirements of the Federal Law "On accounting activities", applicable to a broad range of organisations, but not as yet the political parties (see paragraph 104 and footnote 138 of the Evaluation Report). GRECO is similarly pleased that the issue of extending a mandatory auditing to the finances generated and disbursed in the course of federal elections was given due consideration, albeit with a negative result. GRECO commends the authorities for these major steps forward and encourages them to bring the reform to a speedy and successful completion. In view of the fact that one of the two drafts is currently pending before the Parliament and another one is not yet in force, it is concluded that this recommendation has been partly implemented.

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

Recommendation xi.

107. *GRECO recommended (i) to designate an independent body to supervise effectively the implementation of the regular financing of political parties and to provide it with adequate powers (including the ability to apply sanctions) and resources; (ii) to strengthen the independence of the election commissions in relation to the supervision of party and election campaign financing; (iii) to increase the financial and personnel resources available to the election commissions in order for them to ensure a more substantial and pro-active monitoring of the financial reports covering both general party and election campaign financing.*

108. As concerns part (i) of the recommendation, the authorities of the Russian Federation refer to the previously mentioned draft Federal Law "On amendments to some legislative acts of the Russian Federation pertaining to financial statements of political parties, electoral associations, candidates in elections to state and self-governing bodies" proposing to add new Articles 5.64-5.67,

establishing administrative liability for infringements of rules on general financing of political parties, their regional branches and other registered structural units, to Chapter 5 of the Code of Administrative Offences (CAO) (see paragraphs 97 and 98 above). The administrative proceedings under those articles will be initiated by specifically designated members of relevant election commissions with a right to vote elected by the commission themselves by a simple majority voting. The authorities claim this will strengthen the commissions' independence as bodies exercising control over the financing of parties and election campaigns, as required by part (ii) of the recommendation.

109. In respect of part (iii) of the recommendation, in accordance with the CEC's Resolution No.155/1166-6 of 26 December 2012, the personnel of the CEC's Administrative Office had been increased to a total of 302 employees, meaning the size of the branch monitoring the political financing had increased from 24 to 33 employees. Additionally, on 26 December 2013, the CEC had concluded a co-operation agreement with the Federal Financial Monitoring Service providing for an in-depth data exchange between the two agencies. Furthermore, measures are being taken to integrate the CEC into the system of inter-agency electronic collaboration thus ridding it of the paper-based correspondence.

110. As regards part (i) of the recommendation, GRECO welcomes the foreseen transfer of power for imposing sanctions for violations of the general party funding rules away from the Ministry of Justice, as the body in charge of the overall control over public associations, including political parties. It is recalled that, under the previous regulations, although the practical supervision was exercised by the CEC and the Federal Tax Service, recourse had to be made to the Ministry of Justice which had the right to impose sanctions (i.e. a written notice and, following two such notices, a six-month suspension of activity and liquidation of a political party). GRECO notes that, under the new system, the relevant administrative proceedings will be initiated by relevant election commissions, whereas, the imposition of sanctions themselves will be determined by judges of the peace or general courts. This would signify a major improvement, particularly from the point of view of subjecting both general party and election campaign financing to broadly similar supervisory and sanctioning regimes. Despite this positive development, one observation is to be made. It would appear that the dual external control over the general political financing, which was split between the CEC and the Federal Tax system, has been maintained. GRECO recalls that the CEC was only in charge of monitoring quarterly reports on income and expenditure and parties' annual financial reports as far as they concerned the sources and value of property received in the form of entrance and membership fees and donations from any person, whereas the Federal Tax Service oversaw financial (accounting reports) and annual consolidated financial reports as far as these covered other sources of income, amounts of cash received, party expenses and taxes. This state of affairs was criticised in the Evaluation Report (see paragraph 106) for overlapping of tasks performed by two services. It would also flow from the new legal provisions that, in case of any identified infringements, the Federal Tax Service would need to apply to the CEC for the initiation of administrative proceedings, which may be too cumbersome an arrangement. Bearing in mind this shortcoming as well as the fact that the draft Federal Law is pending before the Parliament, GRECO concludes that this part of the recommendation has been partly implemented. As concerns the element of this recommendation dealing with the attribution of adequate resources, relevant analysis is contained in paragraph 112 below.

111. As concerns part (ii) of the recommendation, GRECO regrets that the information, as furnished by the authorities, does not allow a positive conclusion to be drawn on the strengthening of the independence of the election commissions in relation to the supervision of party and election

campaign financing. The mode of the commissions' election has not changed[3] and there is no evidence of any specific measures taken to overcome the significant public mistrust, which is due to election commissions allegedly being subject to influence by the state apparatus (see paragraph 108 of the Evaluation Report).

112. As regards, part (iii) of the recommendation, the increase in the number of staff of the CEC's Administrative Office and the conclusion of an agreement between the CEC and the national financial intelligence unit are welcome developments. GRECO observes, nevertheless, that such personnel increases have not apparently led to the carrying out of in-depth checks and complex analysis, as required by the recommendation, as opposed to relying on a purely formalistic control performed by the state automated system "Elections" and only aimed at establishing the mathematical correctness of the accounting (see paragraph 108 of the Evaluation Report). Furthermore, no information has been provided to confirm the increase in the financial resources specifically for the purpose of a more substantial and proactive monitoring of financial reports covering both general party and election campaign financing. In view of the foregoing, it can only be concluded that this part of the recommendation has been partly addressed.

113. Since one element of this recommendation has been partly implemented (although the other two have not been implemented), GRECO concludes that recommendation xi has been partly implemented.

Recommendation xii.

114. *GRECO recommended (i) to define the infringements of general party funding rules; (ii) to ensure that pertinent party representatives can be held liable for infringements of party and campaign funding rules; (iii) to review the existing sanctions relating to infringements of political financing rules in order to ensure that they are effective, proportionate and dissuasive.*

115. The authorities of the Russian Federation refer to the previously mentioned draft Federal Law "On amendments to some legislative acts of the Russian Federation pertaining to financial statements of political parties, electoral associations, candidates in elections to state and self-governing bodies". It will insert new Articles 5.64-5.67 (see paragraphs 97 and 98 above) establishing administrative liability for the infringement of rules on general financing of political parties, their regional branches and other registered structural units in Chapter 5 of the Code of Administrative Offences (CAO). The authorities stress that the draft law provides for personal liability of representatives of political parties and ensures efficiency, adequacy and the restraining effect of sanctions. Finally, it is recalled that the draft law is currently pending before the State Duma.

116. GRECO reaffirms its satisfaction with the legislative reform aimed at establishing the administrative liability of political parties for violation of rules governing their general finances. As regards part (i) of the recommendation, it welcomes the definition of concrete infringements, namely violation of the procedure and statutory limits for the submission of information on the receipt and expenditure of funds and of the consolidated financial statements (including the submission of incomplete or deliberately falsified information); the use of illegal funds and other

[3] GRECO recalls that the CEC members are appointed by Parliament - which consists primarily of representatives of the governing party - and by the President who usually supports the governing party; members of regional commissions are appointed based on proposals made by political parties, other public associations, on condition that half of them are appointed by the regional legislative body and the other half by a senior public official of the federal subject concerned (half of their membership can be composed of state and municipal servants); members of lower election commissions are composed at the discretion of the superior election commissions.

property for financing party activities (e.g. funds received from sources prohibited under the law or in excess of established caps); the financing of a political party through fake persons; and violation of the period established for the return of illegal donations. When adopted, these provisions will clearly respond to the requirements of the recommendation; therefore, GRECO draws the conclusion that this part of the recommendation has been partly implemented.

117. Concerning part (ii) of the recommendation, to ensure that pertinent party representatives can be held liable for infringements of party and campaign rules, GRECO recalls first and foremost that the draft Federal Law only applies to the general funding of political parties and not the financing of election campaigns. It observes that the draft will provide for the imposition of sanctions in respect of violations committed by a) persons responsible for the conduct of party financial activities appointed as such in accordance with the party's charter, b) party (chief) accountants, and c) any party member (for some specific infringements, e.g. receipt of funds from an illegal source). Such a strengthening of the sanctioning regime is a major development and, when adopted, will respond to the part of the recommendation focusing on the sanctioning of infringements pertaining to general party funding. As concerns infringements by party representatives of campaign rules, no new information has been supplied. Recalling its findings included in paragraph 110 of the Evaluation Report, GRECO encourages the authorities to proceed, as suggested, with introducing amendments to Article 5.19 (use of illegal material support for the election campaign) CAO, so as to ensure that pertinent sanctions can be imposed in respect of all subjects listed therein, as well as any party member. In view of the above and the fact that the draft Federal Law is pending before the Parliament, GRECO concludes that this part of the recommendation has been partly implemented.

118. As regards part (iii) of the recommendation, with respect to general party finances, GRECO welcomes the planned introduction of administrative sanctions in the form of more flexible monetary fines to be imposed on parties for any relevant infringements. That being said, the authorities need to clarify the correlation between the provisions of Articles 39 and 41 of the Federal Law "On Political Parties" (suspension of activity and liquidation of a political party) and the provisions of draft articles 5.64-5.67 CAO, namely which of the two sanctioning regimes would prevail and whether they could be applied simultaneously. The latter, in GRECO's view, would be too strict a measure. Additionally, GRECO has misgivings about the dissuasive effect of the newly proposed sanctions. Ranging between 2 000 RUB/approximately 41.93 EUR and 50 000 RUB/ approximately 1 048 EUR, they appear to be insignificant in cases of infringements involving potentially much larger amounts, irrespective of whether committed by a party or any natural or legal person. The same considerations were expressed by GRECO in respect of the sanctions applicable for violations of rules on election campaigns (see paragraph 110 of the Evaluation Report). In the absence of any new information, GRECO cannot conclude that all aspects of this part of the recommendation have been duly addressed; therefore it has not been implemented.

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

III. CONCLUSIONS

120. **In view of the foregoing, GRECO concludes that the Russian Federation has implemented satisfactorily only three of the twenty-one recommendations contained in the Third Round Evaluation Report.** Of the total number of recommendations, twelve have been partly implemented and six have not been implemented.

121. With respect to Theme I – Incriminations, recommendations i and ix have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations vi and viii have been partly implemented and recommendations ii-v and vii have not been implemented. With respect to Theme II – Transparency of Party Funding, recommendation vii has been implemented satisfactorily, recommendations ii-vi, viii-xii have been partly implemented and recommendation i has not been implemented.

122. In so far as incriminations are concerned, GRECO welcomes the legislative proposals, particularly those emanating from the Prosecutor General's Office and the Ministry of Justice aimed at bringing the relevant provisions of the Penal Code more broadly in line with the requirements of the Criminal Law Convention and its Additional Protocol. It notes, in particular, positive developments regarding the (future) broadening of the scope of the bribery provisions to include any material or non-material advantages, third party beneficiaries in the cases of passive bribery in the public sector and passive and active bribery in the private sector, the extension of the statute of limitation for bribe-giving, and the criminalisation of bribery of members of international parliamentary assemblies, domestic and foreign judges and officials of international courts and domestic arbitrators. GRECO also welcomes the intention expressed by the authorities to proceed with the ratification of the Additional Protocol, which it hopes would be completed as soon as possible. Nevertheless, relevant drafts contain many deficiencies which remain to be rectified (i.e. some forms and elements of corrupt behaviour continue to be excluded from relevant articles; the rule that in cases of bribery in the private sector which have caused harm exclusively to the interests of a commercial organisation, prosecution continues to be instituted only upon the application of its head or with his/her consent has not been abandoned) and their definite versions, following the completion of public and other consultations, remain to be formally presented to the State Duma.

123. Regarding the transparency of political funding, GRECO expresses its satisfaction with the imminent entry into force of the amendments to the Federal Law "On Political Parties" and the development of amendments to some other legislative acts, namely the Federal Law "On Basic Guarantees of Electoral Rights and the Right to Participate in Referendums of Citizens of the Russian Federation", the Federal Law "On the Election of the President of the Russian Federation" and the Code of Administrative Offences. It welcomes, in particular, the planned measures which are meant to ensure that membership fees and loans are not used by political parties to circumvent the established caps on donations, lower significantly the disclosure thresholds for donations from natural and legal persons (with certain exceptions), subject general party finances above certain thresholds to mandatory audit compliant with international audit standards and establish administrative liability of representatives of political parties for violations of general party funding rules. All of these would represent major steps in the right direction and GRECO urges the authorities to complete the initiated legislative process as soon as possible. In spite of these promising initiatives, a number of significant concerns remain: the various laws and regulations pertaining to election campaign financing at federal level have still not been reviewed so as to provide for a clear, robust and unambiguous legal framework, insufficient measures have been taken to ensure that the regulation of political financing is not undermined by the misuse of public office, the funding of non-incorporated public associations and interest groups whose

purpose is to support political parties, including during election campaigns, has not been made transparent, the independence of the election commissions needs to be strengthened, the more substantial and pro-active monitoring of financial reports covering both general party and election campaign financing remains to be ensured, and the sanctions provided for the infringement of political funding rules are to become proportionate and dissuasive. GRECO calls upon the authorities to give their urgent attention to the tackling of these important yet still pending issues.

124. In the light of what is stated in paragraphs 120-123, GRECO notes that the Russian Federation has initiated a number of reforms with the potential of achieving an acceptable level of compliance with the pending recommendations within the next 18 months. It must be recalled that slightly less than a third of the recommendations have not been implemented and, apart from the three recommendations, all the others have been categorised as only partly implemented, as the planned measures have not been adopted or not entered into force. Some of them were also insufficient to fully meet GRECO's requirements. However, on the understanding that the Russian authorities will further pursue their efforts, it is concluded that the current low level of compliance with the recommendations is not "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of GRECO's Rules of Procedure. It invites the Head of delegation of the Russian Federation to submit additional information regarding the implementation of recommendations ii-viii (Theme I – Incriminations) and recommendations i-vi and viii-xii (Theme II – Transparency of Party Funding) by 31 December 2015.

125. Finally, GRECO invites the authorities of the Russian Federation 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.