



Adoption: 7 December 2012
Publication: 17 January 2013

Public
Greco RC-III (2012) 23E
Second Compliance Report

Third Evaluation Round

Second Compliance Report on the Slovak Republic

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

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"Transparency of Party Funding"

Adopted by GRECO
at its 58th Plenary Meeting
(Strasbourg, 3-7 December 2012)

I. INTRODUCTION

1. This Second Compliance Report assesses further measures taken by the authorities of the Slovak Republic since the adoption of the second Interim Report to the first Compliance Report in respect of the recommendations issued by GRECO in its Third Round Evaluation Report this country. It is recalled that the Third Evaluation Round covers two distinct themes, namely:
 - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173), Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption);
 - **Theme II – Transparency of party funding:** Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and more generally Guiding Principle 15 (financing of political parties and election campaigns).
2. GRECO adopted the Third Round Evaluation Report on the Slovak Republic at its 36th Plenary Meeting (15 February 2008). This report (Greco Eval III Rep (2007) 4E [Theme I](#) / [Theme II](#)) addressed 16 recommendations to the Slovak Republic and was made public on 14 March 2008.
3. GRECO selected Austria and Latvia to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Christian MANQUET, Head of Unit, Directorate for Penal Legislation, Federal Ministry of Justice, Austria, and Mrs Inese TERINKA, Senior Specialist, Corruption Prevention and Combating Bureau, Latvia¹. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
4. In the First Compliance Report it adopted at its 46th plenary meeting (Strasbourg, 22-26 March 2010), GRECO concluded that the Slovak Republic had implemented satisfactorily only one of the sixteen recommendations in the Third Round Evaluation Report. GRECO, therefore, concluded that the very low level of compliance with the recommendations was “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO, therefore, decided to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report.
5. GRECO adopted a first Interim Report at its 49th Plenary Meeting (Strasbourg, 29 November - 3 December 2010). It concluded that no tangible progress had been achieved by the Slovak Republic and in accordance with Rule 32, paragraph 2 subparagraph (ii). It decided to apply step 2 of the compliance enhancing procedure². It invited the country to provide a report regarding the action taken to implement the pending recommendations by 30 September 2011. This report was submitted on 23 September 2011, followed by additional information and clarification on 18 November. A Second Interim Report was adopted by GRECO at its 53rd Plenary Meeting (5-9 December 2011). Since all six recommendations on theme I had been implemented or dealt with in a satisfactory manner and four of the ten recommendations on theme ii had been partly implemented (with legal reforms being undertaken), GRECO decided to terminate the compliance enhancing procedure (the level of compliance was no longer “globally unsatisfactory”).

¹ She replaced Mr. Alvis VILKS, former CPCB Deputy Director.

² “(ii) the President of GRECO sending a letter, with a copy to the President of the Statutory Committee, to the Head of Delegation concerned, drawing his/her attention to non-compliance with the relevant recommendations”.

6. As required by GRECO's Rules of Procedure, the authorities of the Slovak Republic submitted their Second Situation Report with additional information regarding the actions taken to implement those recommendations that were still partly implemented or not implemented according to the second interim report. This report was received on 2 October 2012 and served as a basis for the present Second Compliance Report.

II. ANALYSIS

7. Since all six recommendations addressed to the Slovak Republic in respect of Theme I had been implemented or dealt with in a satisfactory manner (see second interim report of December 2011 to the First Compliance Report), the outstanding recommendations to be examined in this matter concern Theme II only.

Theme II: Transparency of Party Funding

8. It is recalled that GRECO in its **Evaluation Report** addressed ten recommendations to the Slovak Republic in respect of Theme II. In March 2010, given the absence of any meaningful follow-up, the **Compliance Report** assessed all these recommendations as not implemented. In the **first Interim Report** of December 2010, the Slovak authorities reported that the implementation of the ten recommendations was considered from a global perspective and that, in its Policy Statement for the period of 2010-2014, the Government of the Slovak Republic committed itself to draw up an Election Code in order to comply with these recommendations. The Slovak authorities provided information on the initiation of a process aimed at gathering input for the "GRECO" Working Group to commence work in this area. GRECO concluded that there had been no meaningful progress and that certain recommendations could have been implemented without legal changes. In the **second Interim Report of early December 2011**, it was indicated that the government had instructed the Minister of Interior in December 2010 to prepare a draft Election Code (hereinafter, the EC). Given the political and technical challenge of this codification³, the Minister of the Interior had set up a working group involving the political parties represented in parliament, selected categories of professionals, NGOs and representatives of local government:

- the draft was finalised and parts of it (4 Sections) were made available in English by the authorities. It was expected to be submitted to the Government later in December 2011 and then to the National Council for adoption. The Slovak authorities point out that the objective was that it enters into force on 1st January 2013;
- the Slovak authorities also pointed out that act No. 85/2005 Coll. "On Political Parties and Political Movement" will be amended as well in order to address several GRECO recommendations. A proposal to that effect was expected to be submitted to the Government in the third quarter of 2012.

9. As a result of the above, recommendations i, ii, ix and x had been considered as partly implemented, and recommendations iii to viii as non-implemented.

³ The current legal framework governing elections consists of six acts which have been modified over the years and as a result, this framework is inconsistent. This has led in recent years political actors, professionals but also the general public to discuss the need for consolidation in a single Electoral Code the rules governing the different elections (e.g. as regards the conduct and limitations to campaigns and campaigning activity, ways to avoid the manipulation of election results and to increase transparency of campaign financing) also in connection with the GRECO recommendations issued in 2008

10. The Slovak authorities indicate at present that following a constitutional reform decided in 2011, the term of the National Council was shortened and as a result, early parliamentary elections took place on 10 March 2012.
11. The new government has committed itself, through a Government Manifesto of April 2012 and a subsequent legislative plan, to elaborate a new legislative framework that would take into account the recommendations issued in the Evaluation Report:
 - after an evaluation of progress achieved in the elaboration of a new Electoral Code, the minister of Interior decided to pursue the work undertaken so as to finalise the draft and submit it to the legislative adoption procedure; the elements already provided to GRECO in December 2011 would be complemented with articles on the financing of political parties by third parties. Increased attention would be paid to the creation of a permanent professional Central electoral commission as an independent and impartial body in its functions with an adequate mandate and resources needed for the supervision of the financing of political parties and election campaigns, including in respect of independent candidates; the Government has decided to complete the process in December 2013;
 - a working group consisting of representatives of the National Council's Committee for finance and budget, the representatives of the Ministry of Finance of the Slovak Republic, representatives of the Slovak Chamber of Auditors, representatives of the Office for control of execution of auditing and experts of ministry of interior of the Slovak Republic. The main aim of this working group is to amend the act No. 85/2005 Coll. on political parties and political movements; at this stage, the basic statutory text is being finalised and after it has been discussed by the experts, the draft will be communicated to GRECO; the legislative work plan of the Government foresees the finalisation of these amendments in the course of 2013.
12. The Slovak authorities have submitted specific information in respect of recommendations iv and viii.

Recommendations i, ii, iii, v, vi, vii, ix and x.

13. GRECO recommended *to require candidates for elections to the National Council to disclose all donations they have received in relation to their political activities - including their source (at least above a certain threshold), nature and value - and details of the expenditure incurred.* (recommendation i)
14. GRECO recommended *to take measures to enhance the transparency of income and expenditure of parties and candidates at local and regional level (in particular in connection with mayoral elections).* (recommendation ii)
15. GRECO recommended *to introduce proportionate disclosure rules for expenditure incurred by entities outside the party structure, related directly or indirectly to the party, in connection with election campaigns.*(recommendation iii)
16. GRECO recommended *to provide a single body with a mandate and adequate resources to supervise and investigate party funding (both from private and public sources) and election campaign finances, including those of election candidates, and to ensure that this body is in a position to exercise its functions in an independent and impartial manner.* (recommendation v)

17. GRECO recommended *to review the sanctions available for violations of the rules on political funding, to ensure that these are proportionate and dissuasive.* (recommendation vi)
18. GRECO recommended *to ensure that the mechanism by which sanctions are imposed for violations of the rules on political funding is independent, impartial and effective in practice.* (recommendation vii)
19. GRECO recommended *to establish liability of election candidates for infringements of political funding rules, in line with the rules applying to political parties.* (recommendation ix)
20. GRECO recommended *to assess whether there is a need to amend the provisions of Act No 46/1999 on the Method of Election of the President with a view to enhancing the transparency of the funding of presidential candidates (to ensure that the amended provisions, if any, are in line with the requirements of Act No. 85/2005 Coll. on Political Parties and Political Movements).* (recommendation x)
21. GRECO recalls that recommendations i, ii, ix and x had been considered partly implemented in the light of the amending reform process undertaken in respect of the Electoral Code (hereinafter, the EC) and on the basis of information provided by the authorities as regards the general direction of the drafting work carried out within the Ministry of the Interior. GRECO was provided with excerpts of the draft amendments but it was clear that the exact situation would need to be re-examined in the light of more detailed and concrete information, once the drafting process is more advanced.
22. The information provided as regards further amendments to the EC and about intended amendments to the act No. 85/2005 Coll. "On Political Parties and Political Movement" was inconclusive or not related to the subject-matter under consideration; GRECO therefore could only conclude that recommendations iii, v, vi and vii had not been implemented.
23. The Slovak authorities, as indicated in paragraph 11, provide assurances that the work already initiated in respect of the reform of the EC will be pursued and that a) excerpts already communicated to GRECO will normally be taken over; b) these excerpts would be complemented with articles on the financing of political parties by third parties; c) increased attention would be paid to the creation of a permanent professional Central electoral commission as an independent and impartial body, with an adequate mandate and resources and responsibility for the supervision of party and election campaign financing (including in respect of independent candidates); d) the Government has decided to complete the process in December 2013.
24. In addition, a new working group was appointed to look at the possible amendments to the act No. 85/2005 Coll. "On Political Parties and Political Movement". It is pointed out that the basic statutory text is being finalised and after it has been discussed by the experts, the draft will be communicated to GRECO.
25. GRECO takes note of the above assurances given by the Slovak authorities that the work will be pursued on the basis of earlier drafted elements for the planed Electoral Code. Given that the work previously initiated was not completed and that the partial results were not even endorsed officially, GRECO has never had a possibility to look at more than preliminary drafts. As indicated in paragraph 21 above, GRECO had made it clear that it would need to re-examine the drafts in the light of more accurate information concerning the drafting process as a whole. However, at

this stage the outcome of this process remains too uncertain for the purposes of this compliance procedure and GRECO would have to rely on mere assurances given by the Slovak authorities. GRECO is therefore not in a position to maintain its previous conclusions as regards the recommendations which had been considered partly implemented until now (i, ii, ix and x). For the same reasons and given the lack of any new development, it is obvious that no change can be envisaged in respect of the other recommendations (iii, v, vi and vii).

26. GRECO concludes that recommendations i, ii, iii, v, vi, vii, ix and x have not been implemented.

Recommendation iv.

27. GRECO recommended (i) to ensure that the annual reports of political parties are easily accessible to the public and (ii) to establish a standardised format (accompanied by appropriate instructions, if necessary) for the campaign and annual reports to be submitted by political parties.
28. GRECO recalls that paragraph 89 of the evaluation report had underlined that “the reports published on the website of the National Council are very hard to find due to the fact that they are categorised by a number and not by their name⁴. Furthermore, neither Act No. 85/2005, nor any other (secondary) regulation prescribes the format in which parties are required to report on their routine and campaign finances.” In the compliance procedure, the Slovak authorities had then indicated that the problem of accessibility and format will be addressed through appropriate amendments to the Act No. 85/2005 Coll. on Political Parties and Political Movements, as amended, and that the proposal would be submitted to the Government of the Slovak Republic in the third quarter of 2012. As a result, GRECO’s conclusion was that this recommendation had not been implemented.
29. The Slovak authorities reiterate that the annual reports of political parties are easily accessible to the public on the main website of the National Council of the Slovak Republic. They provide a link to the relevant webpage (http://www.nrsr.sk/web/default.aspx?sid=financne_spravy_stran) which appears under the chapter “documents” on the Council’s website. It appears that the reports are all there for the years 2003-2011, under the corresponding name of each political party. The authorities take the view that the recommendation has therefore been fully implemented.
30. GRECO welcomes that steps have been taken to address the first part of the recommendation. However, in the absence of any further development reported in respect of the second part of the recommendation, it can only be concluded that recommendation iv has been partly implemented.

Recommendation viii.

31. GRECO recommended to provide advice and training to political parties and election candidates on the applicable political funding regulations.
32. GRECO recalls that no appropriate follow-up initiative had been reported by the Slovak authorities since the adoption of the Evaluation Report in February 2008. The latter had only underlined that this recommendation was being addressed by the then draft EC (under Section 16, paragraph 2), and that Central Election Commission would be required to provide and ensure methodological support and advice to political parties, movements and candidates. GRECO had

⁴ The GET was informed that it was foreseen, in the near future, to categorise the annual reports by their title, instead of by their file number.

pointed out that this recommendation could have easily been implemented since it did not require necessarily any legislative change, before concluding that recommendation viii had not been implemented.

33. The Slovak authorities indicate at present that the Slovak Chamber of Auditors has been organising regular training events since the year 2008, in co-operation with the Ministry of Finance of the Slovak Republic and that as a result, this recommendation has been fully implemented. These training events focused on book-keeping, as well as on the auditing of financial management and financial statements of political parties (those which are subject to auditing). This training is provided to auditors drawn by lots and to representatives of political parties. Training in Book-keeping is provided by lecturers from the Ministry of Finance. The following chart was provided on attendance of representatives of political parties at such training events:

Year	Number of registered political parties at the date of training events	Number of political parties which took part in the training
2008	44	13
2009	45	12
2010	55	12
2011	56	14
2012	62	11

34. GRECO welcomes the fact that after all, there have been some pertinent initiatives taken since 2008, although this has not been mentioned earlier by the Slovak authorities. It appears that some political parties have benefited from accounting/auditing training; this being said, more comprehensive initiatives have not been taken for the broadest number of them as well as for election candidates as regards the various requirements of the legislation on transparency of political financing (and not just accounting and auditing), as outlined in recommendation viii. Such initiatives could also have included, for instance, the dissemination of information material and general or specific advice on the implications of the various applicable rules. GRECO can therefore not conclude that this recommendation has been fully implemented.
35. GRECO concludes that recommendation viii has been partly implemented.

III. CONCLUSIONS

36. **In view of the above, GRECO concludes that the Slovak Republic has not accomplished any progress since the second Interim Report.** With respect to Theme I – Incriminations – it is recalled that all of the six recommendations had been implemented satisfactorily or dealt with in a satisfactory manner, as already established in the second Interim Report. With respect to Theme II – Transparency of Party Funding – GRECO can only conclude that none of the ten recommendations has been implemented; recommendations iv and viii have only been partly implemented.
37. GRECO had already expressed appreciation for the fact that the Slovak Republic had implemented all of the six recommendations addressed in the context of Theme I. As regards Theme II (Transparency of Party Funding), the process which has been initiated in 2011 with a view to adopting an Election Code (which is meant to introduce significant improvements as regards transparency of campaign financing) has not materialised and anticipated elections have taken place in the meantime. The same applies to the amendments that the previous government intended to introduce in respect of the rules on party financing contained in Act No. 85/2005 Coll.

“On Political Parties and Political Movement”. Overall, no information is available as regards the precise content of the intended amendments to Act 85/2005 and the above-mentioned Election Code. No precise time-table of the reform process is available either. It is disappointing that no tangible progress has been achieved after almost five years in respect of Theme II and that none of the recommendations concerned has been implemented. GRECO also observes that the level of compliance has decreased since the second Interim report.

38. In view of the above, GRECO can therefore only conclude that the current level of compliance with the recommendations is “globally unsatisfactory” in the meaning of paragraph 8.3 of Rule 31 revised of the Rules of Procedure. GRECO therefore decides to apply again Rule 32 concerning members found not to be in compliance with the recommendations contained in the evaluation report.
39. Pursuant to Rule 32 paragraph 2(i) of the Rules of Procedure, GRECO requests the Head of the Slovak delegation to provide a report regarding the action taken to implement the pending recommendations (i.e. recommendations i to x regarding Theme II) by 30 June 2013.
40. Finally, GRECO invites the authorities of the Slovak Republic to authorise, as soon as possible, the publication of the present report, to translate it into the national language and to make this translation public.