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Interim Report

Third Evaluation Round

Interim **Compliance Report** **on Slovenia**

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

“Transparency of Party Funding”

Adopted by GRECO
at its 59th Plenary Meeting
(Strasbourg, 18-22 March 2013)

I. INTRODUCTION

1. The Third Round Evaluation Report was adopted at GRECO's 35th Plenary Meeting (7 December 2007) and made public on 13 June 2008, following authorisation by Slovenia (Greco Eval III Rep (2007) 1E, [Theme I](#) and [Theme II](#)).
2. As required by GRECO's Rules of Procedure, the Slovenian authorities submitted a Situation Report on measures taken to implement the recommendations. GRECO selected Germany and Finland to appoint Rapporteurs for the compliance procedure.
3. In the first Compliance Report, which was adopted by GRECO at its 46th Plenary Meeting (Strasbourg, 22-26 March 2010) it was concluded that Slovenia had implemented satisfactorily or dealt with in a satisfactory manner four of the nineteen recommendations contained in the Third Round Evaluation Report. In view of the fact that Slovenia had made tangible efforts to comply with the recommendations issued in respect of Theme I – Incriminations and that some preliminary steps had also been taken to meet the concerns raised in respect of Theme II – Transparency of Party Funding, GRECO categorised the overall response to the recommendations as not “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure and invited the Head of the Slovenian delegation to submit additional information regarding the implementation of pending recommendations.
4. In the second Compliance Report (adopted by GRECO at its 55th Plenary Meeting (Strasbourg, 14-16 May 2012), GRECO concluded that Slovenia had not made any tangible progress in Theme II – Transparency of Party Funding as compared to the situation assessed in the first Compliance Report more than two years ago. Given the fact that none of the thirteen recommendations addressed to the country in the aforementioned area had been implemented satisfactorily or dealt with in a satisfactory manner, GRECO considered the overall response as “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of its 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, and asked the Head of the Slovenian delegation to provide a report on the progress made in implementing recommendations iii and iv (Theme I – Incriminations) and recommendations i to xiii (Theme II – Transparency of Party Funding) by 30 November 2012.
5. The current Interim Compliance Report, drawn up by Mr Markus BUSCH, Head of Division Economic, Computer, Corruption-related and Environmental Crime, Federal Ministry of Justice (Germany) and Mr Kaarle J. LEHMUS, Inspector General of the Police, National Police Board (Finland), assisted by the GRECO Secretariat, assesses the further implementation of the pending recommendations since the adoption of the first Compliance Report and the second Compliance Report, and performs an overall appraisal of the level of compliance with these recommendations.

II. ANALYSIS

Theme I: Incriminations

6. It is recalled that GRECO addressed 6 recommendations in its Evaluation Report to Slovenia in respect of Theme I and that in the first Compliance Report recommendations i, ii and vi were considered satisfactorily implemented and recommendation v was deemed to be dealt with in a

satisfactory manner. The remaining recommendations (namely recommendations iii and iv), dealt with below, were considered as remaining partly implemented in the second Compliance Report.

Recommendations iii and iv.

7. *GRECO recommended to abolish the requirement of double criminality with respect to the offences of bribery and trading in influence.*
8. *GRECO recommended to extend the scope of Article 122 (articles 10-14 after the amendments to the Criminal Code which entered into force in May 2012) of the Criminal Code in order to allow for the exercise of jurisdiction over bribery and trading in influence offences committed outside Slovenia by/or involving Slovenian public officials and members of domestic public assemblies who are not Slovenian citizens.*
9. *The authorities of Slovenia report that there has not been any further progress towards the full implementation of these recommendations, which were categorised as partly implemented in the Compliance Reports.*
10. *GRECO regrets to observe that no action has been taken by the authorities to fulfil the requirements of these recommendations since the adoption of the first Compliance Report in 2010.*
11. *GRECO therefore concludes that recommendations iii and iv remain partly implemented.*

Theme II: Transparency of Party Funding

12. It is recalled, that GRECO in its Evaluation Report addressed 13 recommendations to Slovenia in respect of Theme II, and none of these thirteen recommendations were concluded to be implemented satisfactorily or dealt with in a satisfactory manner in the Compliance Reports. Compliance with these recommendations is dealt with below.
13. GRECO recommended:
 - *to require parties and election campaign organisers to disclose their income and expenditure in greater detail, including the nature and value of individual (cash and in-kind) donations and loans (recommendation i).*
 - *to (i) require parties to provide separate details on the finances of organisations within the party structure as part of their annual and campaign reports, and; (ii) adequately regulate the involvement of entities outside the party structure, related directly or indirectly to the party, in election campaigns (recommendation ii).*
 - *to facilitate public access to the unabridged annual reports of political parties (recommendation iii);*
 - *to assess whether there is a need to adjust the current spending limits for election campaigns, in order to promote transparency of the actual costs of campaigns (recommendation iv);*
 - *to seek ways to increase transparency as regards substantial corporate donations to political parties, and acts and decisions which could be beneficial to these donors (recommendation v);*

- (i) to undertake a comprehensive audit of the finances of political parties represented in Parliament, both as regards public and private funding, in accordance with international audit standards; (ii) to provide more resources to the Court of Audit to carry out these audits, as well as those of election campaign organisers; and (iii) to give the Court of Audit a mandate and resources to investigate routine party finances and to enhance its capacity to investigate campaign finances (recommendation vi);

- to clarify the jurisdiction and scope of competences of all authorities entrusted with supervisory tasks as regards party and campaign finances (recommendation vii);

- to (i) increase the maximum level of sanctions included in the Political Parties Act and the Elections and Referenda Campaigns Act to ensure that these can be effective, proportionate and dissuasive in practice and (ii) ensure that donations received in violation of the Elections and Referenda Campaigns Act and/or Political Parties Act are not kept by the party (recommendation viii);

- to provide sanctions for all infringements of the Elections and Referenda Campaigns Act, in particular for accepting funds from non-permitted sources and of non-permitted amounts, for intentionally submitting a false, incorrect or incomplete report and for undertaking campaign activities outside the campaign period which extend into the prescribed election campaign period (recommendation ix);

- to raise awareness on the possibility to impose sanctions for violations of the campaign finance provisions even after an election campaign organiser ceases to exist in this capacity (recommendation x);

- to consider providing an institutionally independent entity with the responsibility for imposing sanctions for political finance offences (recommendation xi);

- to raise public awareness on the importance of political funding and the damage caused by questionable political finance practices (recommendation xii); and

- to examine the advisability of entrusting a single, independent body (whether existing or yet to be created) with the mandate and resources to effectively supervise, investigate and enforce political finance regulations (recommendation xiii).

14. In GRECO's Second Compliance Report, recommendations i-iv and vi-xiii were considered as partly implemented and recommendation v was considered as not implemented. The provisions of the two draft laws that were underway and expected to introduce improvements in this area, i.e. the draft amendments to the Elections and Referenda Campaigns Act and the Political Parties Act were the main reason why GRECO classified the responses to the bulk (twelve out of thirteen) of its recommendations as partly implemented in its first and second Compliance Reports.

15. The authorities of Slovenia now report that the responsible authorities were not able to reach consensus on the previous draft bill including amendments to the Political Parties Act and that therefore they decided to repeal the process and start a completely new process of drafting amendments to the Political Parties Act which is still at too early a stage to present any of its provisions. They also report that no progress has been made with regard to enactment of the Elections and Referenda Campaigns Act which remains on the government's agenda.

16. GRECO notes with disappointment that the situation largely remains the same as it was at the time of the adoption of the Compliance Reports. Moreover, in the light of the information that the previous draft of the Political Parties Act whose provisions were assessed by GRECO is no longer in the legislation process, GRECO is not in a position to maintain its previous conclusion as regards the recommendation (iii) which had been considered partly implemented in its previous Compliance Reports.
17. GRECO concludes that recommendations iii and v have not been implemented, and recommendations i,ii, iv,vi-xiii remain partly implemented.

III. CONCLUSIONS

18. **In view of the above, GRECO concludes that no tangible progress has been achieved by Slovenia as regards the implementation of the recommendations found to be partly or not implemented in the Third Round Compliance Reports.** All pending recommendations pertaining to Theme I – Incriminations (recommendations iii and iv) and to Theme II – Transparency of Party Funding (recommendations i-xiii) have yet to be addressed satisfactorily well over five years since the Evaluation Report was adopted.
19. Concerning incriminations, Slovenia has not shown any progress in abolishing the requirement of double criminality with respect to the offences of bribery and trading in influence and in extending the scope of Article 122 (*articles 10-14 after the amendments to the Criminal Code which entered into force in May 2012*) of the Criminal Code in order to allow the exercise of jurisdiction over bribery and trading in influence offences committed outside the country by/or involving Slovenian public officials or members of domestic public assemblies who are not Slovenian citizens. Moreover, Slovenia has not managed to address properly concerns as to the role the Minister of Justice is to play when granting permission for the prosecution in Slovenia of corruption offences committed abroad, and in particular, the risk of political interference.
20. In so far as the transparency of political funding is concerned, Slovenia has not made any substantial progress since the adoption of the first Compliance Report in 2010. They have, in fact, repealed one of the two drafts - draft amendments to the Political Parties Act - that were underway to introduce improvements in this area. It is most regrettable that no concrete material improvements have occurred over recent years and the draft amendments to the Elections and Referenda Campaigns Act have also not been adopted. Slovenia clearly needs to take more convincing action in this field.
21. Under these circumstances GRECO has no choice but to conclude that the current level of compliance with the recommendations remains “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure.
22. Pursuant to paragraph 2(i) of Rule 32 (revised) of the Rules of Procedure, GRECO requests the Head of the Slovenian delegation to provide a report regarding the action taken to implement the pending recommendations (i.e. recommendations iii and iv regarding Theme I and recommendations i-xiii regarding Theme II) by 31 December 2013 the latest.
23. In accordance with Rule 32 (revised), paragraph 2 subparagraph (ii.c), GRECO invites the Secretary General of the Council of Europe to send a letter to the Minister of Foreign Affairs of Slovenia, drawing his/her attention to non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.

24. GRECO invites the authorities of Slovenia 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.