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## **Third Evaluation Round**

### **Second *Interim* Compliance Report on Cyprus**

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

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#### **"Transparency of Party Funding"**

Adopted by GRECO  
at its 74<sup>th</sup> Plenary Meeting  
(Strasbourg, 28 November – 2 December 2016)

## **I. INTRODUCTION**

1. The Third Round Evaluation Report was adopted at GRECO's 50<sup>th</sup> Plenary Meeting (28 March – 1 April 2011) and made public on 4 April 2011 following authorisation by Cyprus (Greco Eval III Rep (2010) 9E, [Theme I](#) and [Theme II](#)). It contained a total of eight recommendations: two in respect of Theme I and six in respect of Theme II.
2. The Compliance Report ([Greco RC-III \(2012\) 24E](#)) was adopted by GRECO at its 59<sup>th</sup> Plenary Meeting (18-22 March 2013) and made public on 5 April 2013, following authorisation by Cyprus. GRECO concluded that Cyprus had implemented satisfactorily two of the eight recommendations contained in the Third Evaluation Report. With respect to Theme I – Incriminations, recommendation ii had been implemented satisfactorily and recommendation i partly implemented. With respect to Theme II – Transparency of Party Funding, recommendation iv had been implemented satisfactorily, recommendations i and v had been partly implemented and recommendations ii, iii and vi not implemented.
3. The Second Compliance Report ([Greco RC-III \(2015\) 1E](#)) was adopted by GRECO at its 67<sup>th</sup> Plenary Meeting (23-27 March 2015) and made public on 29 April 2015. With respect to Theme I – Incriminations - the situation remained unchanged. In relation to Theme II – Transparency of Party Funding, recommendation iv had been implemented satisfactorily already in the Compliance Report, while recommendations i, ii, iii, v and vi were partly implemented. GRECO assessed the overall situation as “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure.
4. The Interim Compliance Report, ([Greco RC-III \(2015\) 21E](#)) was adopted by GRECO at its 70<sup>th</sup> Plenary Meeting (30 November - 4 December 2015) and made public on 23 March 2016. With respect to both Theme I – Incriminations - and Theme II – Transparency of Party Funding, the situation remained unchanged as recommendations i, ii, iii, v and vi remained partly implemented. GRECO assessed the overall situation as still “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure and requested Cyprus to provide a report on the progress made in implementing the pending recommendations by 30 September 2016. In accordance with Rule 32, paragraph 2, subparagraph (ii.a), GRECO instructed its President to send a letter – with a copy to the President of the Statutory Committee – to the head of the delegation of Cyprus, drawing his attention to the noncompliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible. Information on the current situation was provided by Cyprus on 30 September 2016.
5. The current Second Interim Compliance Report, drawn up by Mr Dražen JELENIĆ, on behalf of Croatia, and Mr John GARRY, on behalf of Ireland, assisted by the GRECO Secretariat, assesses the further implementation of the pending recommendations since the adoption of the Interim Compliance Report.

## **II. ANALYSIS**

### **Theme I: Incriminations**

6. It is recalled that GRECO addressed 2 recommendations to Cyprus in respect of Theme I and that recommendation ii was implemented satisfactorily in the first Compliance Report. The remaining recommendation is dealt with below.

## **Recommendation i.**

7. *GRECO recommended (i) that firm measures be taken in order to ensure that the provisions concerning the criminalisation of corruption as provided for in the Laws 23(III)/2000 and 22(III)/2006 are applied in practice; (ii) to make these provisions accessible as part of the criminal legislation and (iii) for the sake of legal certainty, create a uniform legal framework for the criminalisation and sanctioning of corruption offences in accordance with the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191), notably by amending and/or abolishing current legislation.*
8. GRECO recalls that this recommendation has been assessed partly implemented from the time of the adoption of the first Compliance Report, as only some limited measures had been taken, such as the issuing of guidelines and circulars by the Attorney General and training of the police. GRECO has maintained its position that the unnecessarily complex legal provisions concerning the criminalisation of corruption offences create uncertainty and that it would be an advantage if all corruption offences were to be gathered in the Criminal Code.
9. The authorities now submit that a draft national strategy, including an action plan, which will cover both prevention of and fight against corruption is under preparation in the Ministry of Justice. For this purpose, a committee has been established with the approval of the Council of Ministers on 9 September 2015, to coordinate the preparation of the said strategy. The strategy will be elaborated within the framework of a public consultation in order to provide for input and views from various stakeholders before its finalisation. Moreover, a study is being carried out by the Ministry of Justice and Public Order regarding the foundation of an independent anti-corruption agency, the mandate, powers, levels of autonomy and resources of which will be prescribed in the above mentioned strategy. Upon completion of these tasks, the Ministry of Justice and Public Order will examine the preparation of a uniform legal framework for the criminalisation and sanctioning of corruption offences in accordance with the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191). The authorities also stress that since 2013, a number of cases have been brought to justice pertaining to actions of natural or legal persons amounting to corruption offences under the provisions of Laws 23(III)/2000 and 22(III)/2006. They particularly mention that several of these cases have led to convictions, including in respect of some high-profile cases.
10. GRECO takes note of the information provided by the authorities of Cyprus. It welcomes that the Ministry of Justice and Public Order has launched a national strategy and an action plan, including a number of measures for preventing and combating corruption. It notes that this work may ultimately result in, *inter alia*, the creation of an anti-corruption agency and a uniform legal framework for the criminalisation and sanctioning of corruption offences. While GRECO commends these very promising signals, the actions are still at an early stage and the complexity and lack of clarity of the current legislation remains the same. GRECO notes, however, the information according to which corruption cases have been brought to justice more frequently in recent years. GRECO encourages the authorities to pursue the initiatives regarding reforms concerning corruption fighting and to proceed swiftly with the process to make the legal framework uniform in respect of the criminalisation and sanctioning of corruption offences, which represent the major issue of this recommendation.
11. GRECO concludes that recommendation i remains partly implemented.

## **Theme II: Transparency of Party Funding**

12. It is recalled that GRECO addressed 6 recommendations to Cyprus in respect of Theme II. Recommendation iv was implemented in the Compliance Report; however, none of the others had been fully complied with according to the Interim Compliance Report. That said, at the time of the adoption of the Second Compliance Report, the Ministry of the Interior had prepared three draft laws dealing, *inter alia*, with the pending matters of Theme II. These draft laws had been examined in the pertinent parliamentary committees, and GRECO had made some preliminary remarks on the draft texts (aiming at amending the Political Parties Law, the Law on the Election of Members of the House of Representatives and the Law on Election of President and Vice-President) and considered them as going in the right direction. At the time of adoption of the Interim Compliance Report, the laws had been amended but the amendments had not entered into force. Furthermore, the amendments only existed in the Greek language, and GRECO was therefore not in a position to assess their compliance with the recommendations. All five recommendations were consequently assessed partly implemented.
13. The Cypriot authorities now report that the Law 171(I)/2015 amending the Political Parties Law entered into force on 2 December 2015. Similarly, the Law on the Election of Members of the House of Representatives was amended by Law 180(I)/2015 (the Election of Members of the House of Representatives [Amendment] Law of 2015), which entered into force on 9 February 2015, and Law 42(I)/2016 (the Election of Members of the House of Representatives [Amendment] Law of 2016), which entered into force on 22 April 2016. The authorities of Cyprus provided GRECO with an English translation of the pertinent sections of these laws.

### **Recommendation i.**

14. *GRECO recommended (i) to ensure that all forms of income, expenditure, assets and debts are accounted for by political parties in a comprehensive manner and following a consistent format and that their accounts also include the finances of local branches of parties; (ii) to seek ways of increasing the transparency of the finances of other entities which are related directly or indirectly to political parties or under their control, and (iii) to ensure that the accounting information is made public in a timely and sufficiently comprehensive manner.*
15. GRECO recalls that this recommendation was partly implemented in the first Compliance Report, Second Compliance Report and Interim Compliance Report as the Political Parties Law and amendments thereto required political parties to keep accounts in accordance with international accounting standards, including income, expenditure, assets and debts, but not sufficiently in respect of features specific to political parties.
16. The authorities of Cyprus now refer to Section 6(1) of the Political Parties Law (PPL) as amended by Law 171(I)/2015 (see also paragraph 13). As far as part (i) of the recommendation is concerned, they stress that the financial statements of political parties, according to the amendments are to include detailed sources of income and expenses such as “*the regular membership fees, state subsidies, revenue from events, contributions in kind, contributions of members and friends, contributions for election campaigns, as well as the way in which capital is distributed, such as administrative expenses, event planning expenses, purchase of fixed assets and election campaign expenses*”. The authorities also report that in relation to the second part of the recommendation, Law 171(1)/2015 provides a definition of “political parties” which explicitly encompasses offices, departments or branches of political parties, within or outside Cyprus. With respect to part (iii) of the recommendation, the authorities explain that according to Section 6(2),

the annual financial statements of the parties are to be submitted to the Commissioner at the latest four months after the end of the year concerned. The Commissioner then submits them to the Auditor General of the Republic, at the latest within 5 months from the end of the year concerned or within one month after the date of their receipt, depending on which of the two deadlines ends first. Section 6(3) requires the Auditor General to conduct an additional audit and to draft a report on his/her findings, and section 6(4) requires the Commissioner to publish the final financial reports in the Official Gazette and the Auditor General to publish his final report, both in the Official Gazette and on the Auditor General's website. Finally, the political parties are also under the obligation to publish the financial statements on their website.

17. GRECO takes note of the information provided and welcomes the entry into force of Law 171(1)/2015 which obliges political parties and their affiliated entities to submit detailed financial statements concerning income, such as membership fees, state subsidies, revenue from events, contributions in kind, contributions from members, and expenses; it was already concluded in the Compliance Report that assets and debts had to be accounted for in accordance with international accounting standards (i). In addition, the law provides that the accounts are to include the financing of various branches of the political parties (ii). Finally, the publication of the statements and reports on the website of the Auditor General and in the Official Gazette, within given time frames is also in compliance with the recommendation (iii).
18. GRECO concludes that recommendation i has been implemented satisfactorily.

#### **Recommendation ii.**

19. *GRECO recommended to introduce a general requirement for political parties, elected representatives and election candidates to disclose all individual donations (including of a non-monetary nature and sponsoring) they receive above a certain value together with the identity of the donor.*
20. GRECO recalls that the recommendation was considered partly implemented in the Second Compliance Report and in the Interim Compliance Report. GRECO welcomed the ongoing reform of the PPL, with particular regard to the total ban on anonymous donations and the obligation to disclose the identity of donors above a certain threshold (€500). As for election candidates, GRECO appreciated that according to the draft amendments to the Election of Members of the House of Representatives Law, individual campaign participants were to publish their financial statements; however, the texts were not fully available at the time.
21. The authorities now refer to the amended text of Law 175(I)/2012, Section 5 paragraph 6(a), which reads: *"Each political party, at the latest until the 31st March of each year, uploads to its website and simultaneously communicates to the Commissioner, a list of the persons who made private donations exceeding five hundred euros during the previous year, which includes the names of the natural and legal persons and the total amount of the donation in each case."* The authorities further explain that a copy of this list is accessible to the public in the office of the Commissioner, as stipulated in paragraph 6(c). As regards election candidates, the authorities report that section 52(1) of the Election of Members of the House of Representatives Law (Law 72/79) has been amended by Law 180(I)/2015 to explicitly include that the electoral representative of the candidate must, within three weeks of the publishing of the result of the election in the Official Gazette of the Republic, submit to the Commissioner a precise report entitled "Electoral Expenses Report" compiling, *inter alia*, all subsidies and donations received by the candidate. The authorities finally state that the Law on the Election of Members of the

European Parliament of 2004 (Law 10(I)/2004) and the Elections (President and Vice President) Law of 1982 both include a general cross reference to Law 72/79 so that the above provisions also apply to European Parliament and presidential elections.

22. GRECO takes note of the information provided. It welcomes the amendments to the PPL and observes that as far as political parties are concerned, this part of the recommendation has now been fully implemented. It notes and regrets however, after careful examination of the text provided by the authorities, that in respect of election candidates, the amendments create an obligation to disclose all donations received but not – as it appears from the text – the value of the donations and the identity of the donors.
23. GRECO concludes that recommendation ii remains partly implemented.

### **Recommendation iii.**

24. *GRECO recommended to introduce specific reporting of all income and expenditure relating to election campaigns by political parties and election candidates in respect of all types of elections, that such information should include non-monetary or benefit-in-kind contributions received by the party or the candidate and expenditure incurred on the party's or candidate's behalf and that such information should be disclosed to the wider public at appropriate intervals.*
25. GRECO recalls that this recommendation was considered partly implemented in the Second Compliance Report and Interim Compliance Report as the draft amendments to the PPL addressed several objectives of the recommendation. GRECO also encouraged the authorities to ensure provisions for a standardised and consistent accounting format for election income and expenditure. It noted that Cyprus had opted for a general disclosure after the elections as opposed to disclosure at appropriate intervals during the campaign and stressed the need for such financial statements to be published in a timely manner.
26. The authorities refer to the information provided under recommendations i and ii pertaining to the amendments to the PPL. As previously mentioned, amended section 6(1) provides that political parties participating in any election are to submit their general financial statements for each calendar year. These financial statements must comprehensively set out their sources of income and expenditure, including monetary and in-kind contributions for election campaigns and election campaign expenses. More particularly, according to section 6A PPL, political parties taking part in any election conducted in the Republic are to keep and submit comprehensive statements of income and expenses related to their campaign. These statements must be submitted to the Commissioner within 3 months following the election. The Commissioner in turn submits the statements to the Auditor General within 4 months of the date of the election. The Auditor General audits the statements and prepares a report on the findings of the audit which s/he sends to the Commissioner and publishes on his website and in the Official Gazette within 9 months of the date on which the statements were submitted for audit. The Auditor General also publishes the parties' statements of election income and expenses. The political parties themselves are also required to publish such statements on their own websites. A timeframe in which the parties must publish their statements is not provided for. The parties' general financial statements are uploaded on their websites and published in the Official Gazette by the Commissioner. In relation to election candidates, the authorities submit that under Section 52(1) the aforementioned "Electoral Expenses Report" must contain all donations received by the candidates and all expenses made by the candidate or his/her electoral representative on his/her behalf. Any payment made by the candidate or the representative must be supported by an invoice or a

receipt (Section 46(1)). Finally, the Electoral Expenses Report must be furnished by the electoral representative to the Commissioner within 3 weeks of the publication of the election results and is to be published by the electoral representative in at least 2 daily newspapers or uploaded on the website of the candidate and/or his/her party prior to its submission to the Commissioner. The Commissioner must forward copies of these reports to the Auditor General who conducts an audit of the reports and publishes a report of his audit.

27. GRECO welcomes the information provided indicating that both political parties and election candidates are now under the obligation to submit specific reporting of all income and expenditure relating to their election campaigns, and that these reports are to be made public. As far as the interval of the disclosure of election campaign financing is concerned, GRECO notes that election candidates must submit their reports to the Commissioner within three weeks from the publishing of the result. Candidates must also publish their election expenses reports in at least 2 daily newspapers or upload the report on the website of the candidate and/or his party prior to its submission to the Commissioner that is within 3 weeks of publication of the result of the election. GRECO also notes that political parties must submit a report of their election expenses to the Commissioner within 3 months following the election. The Commissioner submits these statements to the Auditor General within 4 months of the date of the election. The Auditor General audits the statements and prepares a report on the findings of the audit which s/he sends to the Commissioner and publishes on his website and in the Official Gazette within 9 months of the date on which the statements were submitted for audit. The Auditor General also publishes the parties' statements of election income and expenses. Political parties are also required to publish their election expenses statements on their own websites but a timeframe in which the parties must publish their statements is not provided for. GRECO considers that the new law represents progress as compared with the previous situation where such reports were not made public at all but regrets that the publishing of political parties' election expenses is rather late.
28. GRECO concludes that recommendation iii has been implemented satisfactorily.

#### **Recommendation v.**

29. *GRECO recommended (i) to clarify that the monitoring of political parties' annual accounts goes beyond the auditing of incomes and expenditure; (ii) to ensure that income funding an election campaign and all expenditure incurred in relation to the election are accounted for in the statement furnished to the Auditor General at election campaigns and to provide for clear rules for the submission of such statements to the Auditor General; and (iii) to provide an independent supervisory mechanism in respect of election candidates' income and expenditure.*
30. GRECO recalls that this recommendation was considered partly implemented in the Interim Compliance Report. The first part of the recommendation was fully implemented already in the first Compliance Report through the adoption of amendments to the PPL in 2012. The second and third parts were assessed as partly implemented as amendments to the PPL seemed to meet some of the requirements of the recommendation, but the legislation was not fully available for GRECO's scrutiny.
31. The authorities of Cyprus now refer to the newly introduced section 6A of Law 175(I)/2012, which explicitly provides for the keeping of comprehensive financial records of the parties as well as the submission to the Commissioner of statements of income and expenses related to their election campaigns in the three months following the election (paragraph 1). Under paragraph 2, the Commissioner then submits the election campaign statement of each party to the Auditor General

for auditing purposes, at the latest four months after the election. Concerning election candidates, section 52 of Law 72/79 provides that candidates' Electoral Expenses Reports, which contain all income and expenses in the context of the election, are submitted by the electoral representative of the candidate to the Commissioner within three weeks of the announcement of the election's results. The Commissioner then submits the reports to the Auditor General within 15 days of their receipt. In the event that the Auditor General determines that a candidate has exceeded the allowed electoral expenses, s/he drafts a report which is sent to the Commissioner, and the latter is to impose a monetary penalty on the candidate to the amount of the surplus spent. Finally, as regards the third part of the recommendation, the authorities state that the legislation provides that the Auditor General is responsible for the auditing of the election candidates' income and expenditure, and that under the Constitution, s/he is an independent official of the Republic. Furthermore, it is recalled that the reports of the Auditor General are made available to the public and therefore subject to further scrutiny by the press and the public.

32. GRECO takes note of the information provided. Leaving aside the first part of the recommendation which had already been implemented in the Compliance Report, GRECO acknowledges that the election income and expenditure accounts, whether from political parties or election candidates, are required to be submitted to the Auditor General for auditing purposes, which is in line with what was required in the second part of the recommendation. As regards the third part of the recommendation, GRECO acknowledges that the system has been considerably improved with the involvement of the Office of the Auditor General, which is clearly an independent body and that its audit reports are open for public scrutiny. Although the maintained involvement of the Election Commissioner acting as a depository for financial statements, responsible for identifying at the first control stage possible inaccuracies and for imposing fines (following the audit) does not appear ideal (e.g. for reasons of lack of independence and slowing down the process), GRECO is still of the opinion that the involvement of the Auditor General in this process provides sufficient safeguards for an independent process, which was the aim of the third part of the recommendation.
33. GRECO concludes that recommendation has been implemented satisfactorily.

#### **Recommendation vi.**

34. *GRECO recommended that flexible sanctions be introduced for violations of the legislation concerning the submission of election statements in respect of election candidates.*
35. GRECO recalls that this recommendation was partly implemented in the Second Compliance Report and Interim Compliance Report as Cyprus had in place draft amendments to the Law on the Election of Members of the House of Representatives (Law 72/79) providing a new set of administrative penalties which appeared to be more easily applicable in relation to campaign financing for parliamentary elections. However, the texts were not fully available at the time.
36. The authorities of Cyprus reiterate the information provided in earlier reports and has now submitted the text of the amended legislation for GRECO to assess. The amended section 52 of the Law on the Election of Members of the House of Representatives (Law 72/79) adds a provision, according to which the Commissioner of Elections can impose a pecuniary fine of €500 (plus an additional €50 per day of delay) upon a candidate for not submitting, within the defined time limits, his/her financial statement on income and expenditure pertaining to the campaign. Moreover, paragraph 4 of the said section adds that if a candidate or electoral representative fails to comply with this obligation or with the separate obligation to publish their report of election



expenses for a period exceeding one month from the end of the deadline for the submission/publication of the report, s/he is guilty of an illegal act. The authorities add that under section 55, the sanction in this case has been raised from €342 to €1000 in order to better reflect the seriousness of the offence. Any person found guilty of this illegal act may also be subject to imprisonment for up to 6 months, as well as deprivation of his/her right to vote and his/her registry in the electoral registry for up to 7 years. Also, where campaign expenditures exceed the permissible ceiling with respect to a candidate, the Auditor General shall forward the candidate's election statement to the Commissioner of Elections for the imposition of a pecuniary fine equal to the total amount of overspending.

37. GRECO takes note of the information provided which shows that the new legislation provides a range of sanctions in respect of election candidates violating the legislation concerning the submission of their election statements, as required by this recommendation.
38. GRECO concludes that recommendation vi has been implemented satisfactorily.

### **III. CONCLUSIONS**

39. **In view of the above, GRECO concludes that Cyprus has made tangible progress in respect of the pending recommendations since the adoption of the Interim Compliance report. Cyprus has so far implemented satisfactorily, or dealt with in a satisfactory manner, six of the eight recommendations contained in the Third Round Evaluation Report, and the two pending recommendations have been partly implemented.**
40. With respect to Theme I – Incriminations, recommendation i remains partly implemented. With respect to Theme II – Transparency of Party Funding, recommendations i, iii, v and vi have been implemented satisfactorily and recommendation ii remains partly implemented.
41. Concerning incriminations, GRECO welcomes in particular that it would appear that a more uniform legal framework for the criminalisation of corruption could possibly be underway with the establishment of a national strategy and an action plan under the authority of the Ministry of Justice and Public Order. A new legal framework in respect of corruption offences has long been advocated by GRECO as it would be an important achievement, as compared with the current “patch-work legislation”, made up of provisions contained in various laws and in two international treaties.
42. Concerning political financing, GRECO also welcomes the enhanced transparency in the system of political financing in Cyprus and commends the authorities for the efforts made. It is to be noted that the new obligation for political parties and election candidates to draft and submit, to the appropriate authorities, specific reports relating to election campaigns is a very positive step, as is the involvement of the Auditor General in the monitoring. Some shortcomings remain, however, such as the lack of obligation for election candidates to disclose the identities of donors exceeding a certain threshold.
43. Five years after the adoption of the Evaluation Report, Cyprus has achieved very positive results. GRECO concludes that the current level of implementation of the recommendations is no longer “globally unsatisfactory” in the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure. GRECO therefore decides not to continue applying Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report.

44. In accordance with Rule 31 Revised, paragraph 9 of its Rules of Procedure, GRECO asks the head of the Cypriot delegation to provide a report on the measures taken to implement the recommendations still pending, namely recommendation i for Theme I and recommendation ii in respect of Theme II by 30 September 2017 at the latest.
45. GRECO invites the authorities of Cyprus to authorise, as soon as possible, the publication of this report, to translate it into the national language and to make this translation available to the public.