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Third Evaluation Round

Addendum to the Second Compliance Report on Cyprus

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

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"Transparency of Party Funding"

Adopted by GRECO
at its 79th Plenary Meeting
(Strasbourg, 19-23 March 2018)

I. INTRODUCTION

1. This Addendum assesses further measures taken by the authorities of Cyprus since the adoption of the previous compliance reports in respect of the recommendations issued by GRECO in its Third Round Evaluation Report on Cyprus. It is recalled that the Third Evaluation Round covers two distinct themes, namely:
 - Theme I – Incriminations: Articles 1a and 1b, 2-12, 15-17, 19 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173), Articles 1-6 of its Additional Protocol (ETS 191) and Guiding Principle 2 (criminalisation of corruption).
 - Theme II – Transparency of party funding: Articles 8, 11, 12, 13b, 14 and 16 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, and -- more generally – Guiding Principle 15 (financing of political parties and election campaigns).
2. The Third Round Evaluation Report was adopted at GRECO's 50th 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](#)).
3. As required by GRECO's Rules of Procedure, the Cypriot authorities submitted situation reports with information regarding actions taken to implement the recommendations within the framework of the compliance procedure. GRECO selected Croatia and Ireland to appoint Rapporteurs for the compliance procedure.
4. The Compliance Report ([Greco RC-III \(2012\) 24E](#)) was adopted by GRECO at its 59th 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.
5. The Second Compliance Report ([Greco RC-III \(2015\) 1E](#)) was adopted by GRECO at its 67th 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” within the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure.
6. The Interim Compliance Report, ([Greco RC-III \(2015\) 21E](#)) was adopted by GRECO at its 70th 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” 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 non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.

7. A Second Interim Compliance Report, was adopted by GRECO's 74th Plenary Meeting (2 December 2016) and made public on 14 December 2016 ([Greco RC-III \(2016\) 17E](#)). GRECO concluded that, with respect to Theme I, recommendation i remained partly implemented. With respect to Theme II, recommendations i, iii, v and vi had been implemented satisfactorily and recommendation ii remained partly implemented. GRECO therefore concluded that the level of compliance with recommendations was no longer "globally unsatisfactory". Application of Rule 32 was discontinued, and Cyprus was requested to submit additional information regarding the implementation of recommendation i (Theme I – Incriminations) and recommendation ii (Theme II – Transparency of Party Funding). Information on the current situation was sent by Cyprus on 8 November 2017.
8. This Addendum to the Second 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 i (Theme I) and ii (Theme II) since the adoption of previous compliance reports.

II. ANALYSIS

Theme I: Incriminations

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

Recommendation i.

10. *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.*
11. GRECO recalls that this recommendation was assessed partly implemented in 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 maintained its position that the unnecessarily complex legal provisions concerning the criminalisation of corruption offences create uncertainty and that it would be beneficial to have all corruption offences gathered in the Criminal Code. In the last Interim Report, GRECO welcomed that the Ministry of Justice and Public Order had started working on a national strategy and an action plan on preventing and combating corruption. It noted that this work could 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. However, it also noted that this initiative was at its early stages, and encouraged the authorities to proceed swiftly with the process of

making the legal framework uniform regarding the criminalisation and sanctioning of corruption offences, which represented the core issue of this recommendation.

12. The authorities now submit that the National Strategy against Corruption has been completed and approved by the Council of Ministers; it has been published and uploaded on the website of the Ministry of Justice and Public Order (www.mjpo.gov.cy). Furthermore, an Action Plan against Corruption implementing the principles enshrined in the National Strategy has been prepared and has been sent to all interested parties for comments before its finalisation. The Plan is still under discussion with all interested parties before its finalisation.
13. Moreover, a Bill pertaining to the establishment and operation of an Independent Anti-Corruption Authority has been drafted by the Ministry of Justice and Public Order and opened for public scrutiny on 19 October 2017. It is to be noted that the Ministry of Justice and Public Order has considered all suggestions submitted during the public scrutiny process and it will proceed with the necessary amendments before forwarding it to the Law Office of the Republic for legal vetting and afterwards to the House of Representatives.
14. The possibility 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), is still under consideration and will be examined in depth after the establishment of the Anti-Corruption Authority. The authorities however stress the difficulty of gathering the various scattered laws dealing with corruption offences and putting them all under a new "umbrella law", and the time required for doing so.
15. GRECO takes note of the information provided by the authorities of Cyprus. It welcomes the adoption of the National Strategy against Corruption and the ongoing work on an Action Plan to implement the principles contained in this strategy. It also considers a positive development the drafting by the Ministry of Justice and Public Order of a bill on setting-up an Independent Anti-Corruption Authority, which was submitted for public consultation and will be amended before being deposited in the House of Representatives. GRECO notes that the issue of creating a uniform legal framework for the criminalisation and sanctioning of corruption offences, which was a crucial aspect of the recommendation, has been linked to the establishment of the Anti-Corruption Authority and therefore remains under consideration. However, to date, other than intentions, no concrete legislative steps have been taken to consolidate the framework of incriminations and sanctions for corruption offences. Therefore, in spite of the positive developments described above, GRECO still cannot consider that this recommendation has been fully complied with.
16. GRECO concludes that recommendation i remains partly implemented.

Theme II: Transparency of Party Funding

17. It is recalled that GRECO addressed 6 recommendations to Cyprus in respect of Theme II. Recommendation iv was implemented in the Compliance Report; recommendations i, iii, v and vi were considered implemented in the last *Interim* Compliance Report. The remaining recommendation is dealt with below.

Recommendation ii.

18. *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.*
19. 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 Political Parties Law (PPL), with particular regard to the total ban on anonymous donations and the obligation to disclose the identity of donors above a certain threshold. In the last Interim Compliance Report, GRECO welcomed that the PPL had been revised so that political parties have to disclose all individual donations above EUR 500, including the names of donors and the amounts of the donations. At the same time, GRECO regretted that, in respect of election candidates, while the amendments create an obligation to disclose all donations received, it did not appear that the value of donations and the identity of donors had to be divulged.
20. The authorities now state that, while the text of the law does not clearly state that candidates must name the contributors of all individual donations to their campaign, the form to be submitted by candidates, which is part of the law as an appendix, requires them to provide information on all income relating to their campaign as well as the name and description of any person (including candidates), club, company or corporation from which the candidates receive money, titles or valuable consideration for expenses incurred on behalf or in relation or incidental to the election. Moreover, the amounts received must be indicated separately and a declaration must be made stating whether it was received as a donation, loan, deposit or otherwise.
21. GRECO takes note of the information provided. It welcomes the clarification provided regarding the revised PPL whereby candidates to an election are required to disclose all income, including individual donations, received for the purpose of their campaign, their amounts as well as the donors. The recommendation can be considered fully complied with.
22. GRECO concludes that recommendation ii has been implemented satisfactorily.

III. CONCLUSIONS

23. In view of the conclusions contained in the previous Third Round compliance reports on Cyprus and in light of the above, GRECO concludes that to date, Cyprus has implemented satisfactorily or dealt with in a satisfactory manner, seven of the eight recommendations contained in the Third Round Evaluation Report. The remaining recommendation remains partly implemented.
24. With respect to Theme I – Incriminations, out of the two recommendations, recommendation ii has been implemented satisfactorily whereas recommendation i remains partly implemented. With respect to Theme II – Transparency of Party Funding, all recommendations have been implemented satisfactorily.
25. Concerning incriminations, GRECO commends the adoption of a series of amendments to the Criminal Code, the Prevention of Corruption Law and the two Laws ratifying the Council of Europe Criminal Law Convention and its Additional Protocol, which have remedied some important shortcomings, namely insufficiently dissuasive pecuniary sanctions for corruption

offences and imprecise definitions of some bribery offences. While it appears that a more uniform legal framework for the criminalisation of corruption could possibly be underway with the adoption of the National Strategy on Anti-Corruption, the preparation of an accompanying action plan and a bill to establish an Anti-Corruption Authority, GRECO can only regret that no concrete legislative steps have been taken so far to prepare such a simplification of the legal framework of corruption offences. GRECO urges the authorities to speed up the process of consolidating corruption offences currently spread out across different instruments and to keep GRECO informed of progress in this context.

26. Concerning political financing, important results have been achieved, which should be commended. In particular, the Political Parties Law (PPL), adopted in December 2012 and revised in December 2015, brought enhanced transparency to political financing in Cyprus. It has introduced an explicit obligation for political parties to keep accounting books and to include information on income, expenditure, assets and debts, including from local branches and affiliated organisations, as well as income and expenses pertaining to election campaigns. The financial statements of political parties are now subject to independent audits and external supervision by the Auditor General of the Republic, which are to be performed on an annual basis, and the results of the latter are to be made available to the wider public. Election income and expenditure accounts, whether from political parties or election candidates, must also be submitted to the Auditor General for supervision. Further, political parties and candidates must disclose individual donations, including the names of the donors and the amount of the donations. A range of sanctions in respect of election candidates violating the legislation concerning the submission of their election statements has also been introduced. Overall, there have been significant improvements regarding the transparency of political parties and campaigns financing in Cyprus, which is to be commended.
27. The adoption of this Addendum to the Second Compliance Report terminates the Third Round compliance procedure in respect of Cyprus.
28. 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.