

Adoption: 8 December 2017  
Publication: 21 December 2017

Public  
GrecoRC3(2017)17

## Third Evaluation Round

### Addendum to the Second Compliance Report on Monaco

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

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"Transparency of Party Funding"

Adopted by GRECO  
at its 78<sup>th</sup> Plenary Meeting  
(Strasbourg, 4-8 December 2017)

## I. INTRODUCTION

1. This addendum to the Second Compliance Report assesses the additional measures taken by the Monegasque authorities since that report's adoption to implement GRECO's recommendations in the Third Round Evaluation Report on Monaco (see paragraph 2). It should be noted that the third evaluation round covered two distinct themes:
  - 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 at its 54<sup>th</sup> plenary meeting (20-23 March 2012) and it was published on 29 March 2012, with Monaco's authorisation (Greco Eval III Rep (2011) 5E, [Theme I](#) and [Theme II](#)). GRECO adopted the First Compliance Report at its 64<sup>th</sup> plenary meeting (20 June 2014) and it was published on 26 June 2014, again with Monaco's authorisation ([Greco RC-III \(2014\) 4E](#)). The Second Compliance Report was adopted by GRECO at its 73<sup>rd</sup> plenary meeting (17-21 October 2016) and was published on 24 November 2016 ([Greco RC-III \(2016\) 4E](#)).
3. As required by GRECO's Rules of Procedure, on 28 July 2017 the Monegasque authorities submitted their situation report, which provides additional information on the implementation of the outstanding recommendations and has served as the basis for this addendum.
4. GRECO selected San Marino and France to appoint rapporteurs for the compliance procedure. They duly nominated Mr Eros GASPERONI, Adviser at the Ministry of Foreign Affairs (San Marino) and Ms Agnès MAITREPIERRE, Special Adviser, Legal Affairs Directorate, Ministry of Foreign Affairs (France). The Secretariat has assisted the rapporteurs with the drafting of this Second Compliance Report.

## II. ANALYSIS

### Theme I: Incriminations

5. GRECO made 14 recommendations to Monaco in its evaluation report concerning Theme I. Following the second compliance report, all had been implemented except recommendations xii and xiv, which remained partly implemented. Compliance with these recommendations is considered below.
6. From a general standpoint, the Monegasque authorities state that draft legislation to amend Law No. 1 362 of 3 August 2009 on combating money laundering, terrorism financing and corruption and other legislation was tabled in the National Council (parliament) on 9 November 2017<sup>1</sup>. This proposal, entitled "draft law to strengthen the framework for combating money laundering,

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<sup>1</sup> Secretariat note: the draft legislation was registered on this date as no. 972 and the PDF document also includes an explanatory report: see <http://www.conseil-national.mc/index.php/textes-and-lois/projets-de-loi/item/595-n-972-projet-de-loi-renforcant-le-dispositif-de-lutte-contre-le-blanchiment-de-capitaux-le-financement-du-terrorisme-and-la-corruption>

terrorist financing and corruption” responds to the recommendations made by both the MONEYVAL committee and by GRECO. It introduces changes to the Criminal Code and the Code of Criminal Procedure that reflect the Theme I recommendations.

7. The authorities also state in connection with recommendation iii,<sup>2</sup> which the second compliance report considered to have been implemented, that in addition to the circular from the Director of Judicial Services to the State Prosecutor providing additional guidance on how the offence of bribery should be interpreted, it was planned to amend the Criminal Code by introducing a new Article 113-4 to apply the GRECO recommendation. The article states that evidence of the intentional nature of the offences specified in Articles 113-1 to 113-3 may be adduced from objective factual circumstances.
8. GRECO notes with interest this change to the legislation, which has very significant practical implications for the fight against corruption, since the relevant explanatory report states that “this new provision of the Criminal Code reverses the burden of proof, thereby facilitating the task of judges and prosecutors. It is now for defendants to establish that disputed assets or income in their possession have been lawfully acquired”.

Recommendation xii.

9. *GRECO recommended (i) to criminalise active and passive bribery of domestic and foreign arbitrators and jurors, while ensuring and making clear, in an appropriate manner, that the wording of the proposed new provisions of the Criminal Code reflects the various elements of Articles 2 to 6 of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) and (ii) to sign and ratify the said Protocol as soon as possible.*
10. GRECO notes that this recommendation is still currently deemed to have been partly implemented. The Additional Protocol to the Criminal Law Convention on Corruption has been ratified by Monaco (second part of the recommendation). To dispel the remaining doubts expressed in the evaluation report and reiterated in the subsequent compliance reports, the Principality finally stated that their legal departments had been asked to incorporate a specific reference to active and passive bribery of domestic and foreign arbitrators in the Criminal Code (first part of the recommendation).
11. The authorities again state that they already consider domestic arbitrators and jurors to be covered by the notion of “domestic public official”, as defined in paragraph 1 of the new Article 113 of the Criminal Code, and that their foreign counterparts come within the scope of “foreign public official”, as defined in paragraph 2 of that same article. However, as stated above, the draft law to strengthen the framework for combating money laundering, terrorist financing and corruption was tabled in the National Council. In particular, the bill will alter Articles 113 and 113-2 of the Criminal Code to include arbitrators specifically within the scope of passive bribery, as defined in this article (see the wording below).

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<sup>2</sup> GRECO made the following recommendation: “to take the appropriate measures (such as circulars, training sessions or additions to the explanatory report of the draft legislation) to specify or recall, according to circumstances, that the future offence(s) of bribery (and trading in influence, should it be criminalised) do not necessarily entail an agreement between the parties and that evidence of a link between the undue advantage and its consideration may also be based on objective factual circumstances.”

*Amended Article 113 of the Criminal Code:*

"Article 113 of the Criminal Code is amended as follows:

*For the purposes of this paragraph, a domestic public official, irrespective of nationality, is a person exercising public authority, or carrying out public service duties or vested with an elected public office.*

*A foreign or international public official is a person exercising public authority, or carrying out public service duties or vested with an elected public office in a foreign state or in a public international organisation.*

*A private official is a person who, without exercising public authority, or carrying out public service duties or being vested with an elected public office, as part of a commercial activity, performs a management function or works for a private sector body.*

*An arbitrator is a person chosen by several parties to settle or rule on a dispute between them."*

*Amended Article 113-2 of the Criminal Code:*

"Article 113-2 of the Criminal Code is amended as follows:

*Passive bribery is the request, acceptance or receipt by a public or private official, or by an arbitrator, directly or indirectly, of any undue advantage, for himself or herself or for anyone else, in exchange for acting or refraining from acting, or for having acted or refrained from acting, in the exercise of his or her functions or facilitated thereby.*

*Active bribery is the promising, granting or giving by any person, directly or indirectly, of any undue advantage, for himself or herself or for anyone else, so as to induce a natural or legal person to act or refrain from acting, or in exchange for having acted or refrained from acting, in the exercise of his or her functions or facilitated thereby."*

12. Concerning the subject of jurors, the Monegasque authorities also point out that these are referred to in the current Article 116 of the Criminal Code on the penalties liable to be imposed in cases of aggravated passive bribery<sup>3</sup> (when this involves a magistrate or a juror).
13. GRECO notes the information provided and welcomes the fact that the authorities have prepared amendments that, *inter alia*, would make active and passive bribery of domestic and foreign arbitrators explicit criminal offences. The evaluation visit had, in fact, revealed significant differences of opinion as to whether the offence of bribing a public official actually included bribery of arbitrators, for example in the commercial or civil domains. GRECO therefore welcomes the submission in parliament, on 9 November 2017, of the draft law to strengthen the framework for combating money laundering, terrorist financing and corruption. Turning to jurors, it must be acknowledged that the 2012 amendments introduced a "catch-all" notion of public official, whether domestic, foreign or international, and extended the basic provisions on active and passive bribery. GRECO therefore accepts the explanation that both domestic and foreign jurors are fully covered by the provisions on bribery of public officials since they are explicitly placed on the same footing as magistrates (judges and prosecutors) for the purposes of the offence of passive bribery in Article 116 of the Criminal Code. Monaco might nevertheless take steps to ensure that the relevant rules are fully consistent with one another.<sup>4</sup> Overall, Monaco will have fully responded to this recommendation when the above-mentioned draft legislation is adopted.

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<sup>3</sup> The Criminal Code is available at:

<http://www.legimonaco.mc/305/legismclois.nsf/ViewCode!OpenView&Start=1&Count=300&RestrictToCategory=CODE%20P%C3%89NAL>

<sup>4</sup> The definition of active bribery does not reflect that of passive bribery covered by Article 116, despite lawmakers' wish – as regards the latter – to penalise bribery affecting the judicial system more severely. On the other hand, there is still an Article 121, which partially overlaps with it.

14. GRECO concludes that recommendation xii remains partly implemented.

Recommendation xiv.

15. *GRECO recommended (i) to consider establishing the jurisdiction of the Principality of Monaco with regard to offences of corruption and trading in influence committed by public officials or members of assemblies whatever their nationality, and to offences committed by foreign nationals and involving Monegasque public officials, members of Monegasque assemblies or Monegasque citizens vested with functions at international level, in accordance with Article 17 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173); (ii) to consider abolishing the restrictions on jurisdiction established in law (dual incrimination, need for the authorisation of the prosecuting authorities and need for a complaint from the injured party or an official report from the foreign authorities) and, therefore (iii) withdrawing or not renewing the reservation to Article 17 of the said Convention.*
16. GRECO notes that this recommendation is still currently deemed to have been partly implemented. The Government had sought the advice of its legal advisers and its legal departments were considering their conclusions with a view to determining what action to take. Changes to Article 6-2 of the Code of Criminal Procedure and Article 113 of the Criminal Code appeared to offer potential responses to the measures proposed in the first and second parts of the recommendation. However, in the absence of any jurisdictional connection, such as territoriality or nationality, it was stated that it was not possible to extend jurisdiction to offences involving a Monegasque public official committed outside the national territory. GRECO previously stated that “an extension of Monaco’s jurisdiction to cover acts of bribery committed abroad by foreign nationals, in accordance with Article 17, paragraph 1, of the Criminal Law Convention on Corruption, would not be devoid of any jurisdictional connection given that in all cases it would involve Monegasque public officials”. It therefore concluded that the consultation process was still ongoing and that the government had not yet had an opportunity to state its position on the various changes recommended.
17. The Monegasque authorities now state that in connection with the aforementioned draft “law to strengthen the framework for combating money laundering, terrorist financing and corruption”, it is planned to modify Article 6-2 of the Code of Criminal Procedure. This would establish Monaco’s jurisdiction with regard to offences of bribery and trading in influence committed by public officials (a concept which includes assembly members), irrespective of their nationality, in accordance with Article 17 of the Criminal Law Convention on Corruption.

*Article 6-2 of the Code of Criminal Procedure*

*“Additional Article 6-2*

*By way of derogation to paragraph 1 of Article 6, any official of the Principality within the meaning of Article 113 of the Criminal Code who is guilty of an offence of bribery or trading in influence under Monegasque law committed outside the territory of the Principality may be prosecuted and tried in Monaco, irrespective of his or her nationality. In such a case, the provisions of paragraph 2 of Article 6 shall not apply.”*

18. Once this draft legislation is passed, Monaco will lift its reservation to Article 17 of the Criminal Law Convention on Corruption.

19. GRECO notes the information supplied. It welcomes the proposed amendments of the draft law “to strengthen the framework for combating money laundering, terrorist financing and corruption” concerning Monaco’s jurisdiction with regard to bribery and trading in influence offences committed by its public officials. However, the authorities do not appear to have given further consideration since the second compliance report to all the implications of Article 17 of the Convention and the various changes proposed. Thus, as GRECO has already made clear, the Principality must also establish its jurisdiction more generally over offences involving Monegasque public officials or assembly members, irrespective of where they are committed or the perpetrator’s nationality. GRECO also recalls that possible restrictions – for instance in form of a dual criminality requirement – would need to be abolished. The Government has therefore still failed to take a decision on all the recommended changes. GRECO hopes that in the perspective of the final decision to lift the Monegasque reservation – which it again urges on the authorities – the necessary additional measures will be taken first.
20. GRECO concludes that recommendation xiv remains partly implemented.

## Theme II: Transparency of Party Funding

21. In its evaluation report, GRECO made four recommendations to Monaco on Theme II. Following the Second Compliance Report of October 2016, the four recommendations remained partly implemented. Compliance with them is now considered below.
22. In its Second Compliance Report, GRECO stated that *“on 21 June 2012, the National Council (Parliament) passed a law on the funding of election campaigns, which had been published in the Journal de Monaco on 6 July 2012 as Law No. 1 389 of 2 July 2012 and which had come into force on 7 July 2012 (hereafter, “Law No. 1 389”). This law establishes six fundamental principles: a legal limit on campaign expenses; reorganisation of electoral campaigning based on an extension of the duration of the “official” campaign and the “pre-campaign”; appointment of financial agents by candidates; the keeping, by these agents, of campaign accounts in which all expenses linked to the election campaign must be recorded in detail and on a daily basis; the establishment of an independent consultative authority to scrutinise the funding of election campaigns, the Campaign Accounts Supervisory Commission (hereafter “the Commission”) and the existence and effective imposition of sanctions, particularly against candidates who breach the rules laid down in the new legislation.”*
23. This earlier compliance report also stated that the reform did not address the general funding of political parties and that the authorities had drawn attention to certain particularities of Monegasque politics which weakened the influence of political parties. The latter reportedly had no significant permanent structures and had only scant funding needs apart from when campaigns were in progress.
24. It is important to recall that draft legislation, reference F-1-14 of 4 June 2014, was tabled in the National Council on 17 June 2014 (Bill no. 924 amending Law No. 1 389 of 2 July 2012 on the funding of election campaigns).<sup>5</sup> One of its aims was to strengthen the implementation of the GRECO recommendations but because of the bill’s late presentation to GRECO, the latter was only able to consider it in its Second Compliance Report.

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<sup>5</sup> See <http://www.conseil-national.mc/index.php/textes-and-lois/projets-de-loi/les-projets-de-loi-reteres/item/364-924-projet-de-loi-modifiant-la-loi-n-1389-du-2-juillet-2012-relative-au-financement-des-campagnes-electorales>

25. In the situation report of 28 July 2017, the authorities again refer to the aforementioned draft legislation. However, GRECO understands that the Government has withdrawn the bill – which had not been included on any order paper – and that it has been replaced by another bill (no. 970) which was tabled on 3 October 2017, and debated and passed in a public session on 6 October 2017. The text (Law no. 1 453 of 16 October 2017 – Law to amend Law No. 1 389 of 2 July 2012 on the funding of election campaigns) was published on 20 October 2017<sup>6</sup> and it came into force the day after.

Recommendation i.

26. *GRECO recommended (i) to introduce full and adequate rules concerning political party and election campaign accounts; (ii) to ensure that income, expenditure and the various assets and liabilities are presented in the accounts in adequate detail, in full and in a coherent form and (iii) to ensure that political party and election campaign accounts are made accessible by the public in an easy and timely way.*
27. *Le GRECO recalled that this recommendation was partly implemented. In the Second Compliance Report, GRECO welcomed the fact that “draft law No. F-1-14 of 4 June 2014 amending Law No. 1 389 of 2 July 2012 on the funding of election campaigns provides a response to several aspects of the recommendation which had not yet been dealt with at the time the Compliance Report was adopted. It is provided, in particular, that electoral income shall be included in campaign accounts and that associations providing financial support to a candidate or a list of candidates (political associations) shall be required to keep accounts. GRECO is convinced that this draft legislation, if passed, will be a major step in the right direction and will help ensure a satisfactory degree of transparency in the financing of politics in Monaco as a whole. With regard to the third point in the recommendation, GRECO finds it regrettable that the anticipated amendments are limited to the publication of campaign account reports as drawn up by the supervisory authority. The authorities are requested to also include in the draft law the publication of campaign accounts and the accounts of political parties/political associations in a timely way, as was recommended ...”.*
28. *The authorities repeat the information already supplied in the Second Compliance Report but GRECO notes the adoption of legal amendments already contemplated in 2014, with the recent legislative improvement resulting from Law no. 1453 of 16 October 2017 amending law no.1389 of 2 July 2012 on the funding of election campaigns (see paragraph 25).*
29. *GRECO notes that this recent law makes various improvements. A new Article 3bis specifies the items that are to be considered to be electoral income: candidates' contributions, bank and other loans and financial products, donations and other contributions from individuals or legal persons received by each candidate or list of candidates in the election up to presentation of their campaign accounts. Article 11 now requires financial agents to account for all income but also expenditure. The newly introduced article 14bis requires that a detailed account of elements of income, including these elements, be included in the campaign accounts. The new Article 14ter spells out that all supporting material shall be appended to the campaign accounts. The law also provides at present (Article 20) for the publication in full or in part of the final report established by the Campaign Accounts Supervisory Commission concerning the campaign accounts. This report shall be published in the official journal as soon as it is finalised, i.e. after the end of timeline for the verification of campaign accounts, which is four months.*

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<sup>6</sup> Link to the bill, the explanatory report and the final published version: <http://www.conseil-national.mc/index.php/textes-and-lois/lois/item/585-1453-loi-modifiant-la-loi-n-1-389-du-2-juillet-2012-relative-au-financement-des-campagnes-electorales>

30. These arrangements, which constitute undeniably an improvement, are not sufficient to fully satisfy the recommendations issued by GRECO. First of all, the law fails to make explicit provision for publication of political parties' general and campaign accounts. Moreover, the supervisory commission may still choose to publish only extracts in its final report, in which case voters may obtain copies of the unpublished parts, but at their own expense. This situation is unsatisfactory from the viewpoint of the last part of the recommendation and the objective of transparency. This is all the more unsatisfactory since the recent law (Article 25) has given any voter the right to challenge the validity of the election when the Commission finds in its report certain exhaustively enumerated breaches (exceeding the statutory ceiling for elections, absence of deposit of the campaign account, serious irregularity in the counting of election revenues). It would have been welcome to accompany this new legal procedure by a full publication of the Commission's reports. Finally, the legislation still fails to deal with party political funding as such, and it limits itself – as this was already the case in the 2014 draft legislation – to introducing certain elements of transparency concerning the support provided by certain political groups to the financing of elections campaigns: according to the new Article 14ter, the financial accounts that financial agents are required to submit to the Commission must include a summary statement of the campaign income and expenditure of associations that have financed candidates. A ministerial order still needs to be issued to lay down more detailed accounting regulations governing the registered associations which provide support to a candidate or list of candidates. This is clearly also a step in the right direction but it is regrettable that Monaco has still not taken more precise and specific measures regarding party activities outside the context of election funding. The explanatory report prepared by the National Council (parliament) when the Government's new draft legislation was adopted in October 2017 also expressed concern about the continued uncertainty surrounding the activities of political parties and movements, outside the campaign financing context.
31. In conclusion, undeniable progress has been made in increasing the transparency of election funding. However, GRECO regrets that Monaco has not taken steps to regulate directly and explicitly political party funding, in accordance with the first two parts of the recommendation. Moreover, there are significant improvements to be made concerning the publication of political party and campaign accounts, as laid down in the third part of the recommendation.
32. GRECO concludes that recommendation i remains partly implemented.
- Recommendation ii.
33. *GRECO recommended (i) to provide a regulatory framework for political party and campaign finances which will inter alia address donations – including donations in kind, which must be assessed at their real market value – loans and contributions from elected members and candidates; (ii) in this connection, to introduce a ban on donations from individuals or institutions that fail to disclose their identity to the political party or candidate, and (iii) to make provision for publication in due course of donations above a certain level and the donor's identity.*
34. GRECO recalled that this recommendation has been partly implemented. As noted in the Second Compliance Report *“the proposed reform provides for rules governing income, in particular donations obtained by candidates or lists of candidates, including disclosure of donations and the identity of donors (except for donations below €1 000) and a prohibition of any means of concealing the identity of the donor. These proposed changes clearly go towards implementing the recommendation. Nevertheless, it would appear that certain parts of the recommendation*



warrant even more attention: first, the proposed changes make no provision for a mechanism to evaluate donations in kind at real actual market value (see the first point of the recommendation). Second, it would appear that the new rules relate, at present, only to donations and other income obtained by candidates/lists of candidates but not those obtained by political parties/political associations,<sup>7</sup> whereas the recommendation concerns the financing of both political parties and election campaigns. Lastly, with regard more particularly to the third point in the recommendation, it would appear that the proposed amendments do not provide for the publication of donations and the identity of donors as they do not lay down a requirement to publish campaign accounts and the accounts of political parties/political associations in full (they provide only for the publication of the campaign account reports as drawn up by the supervisory authority – see under recommendation i above)....."

35. In substance, the authorities repeat the information already provided in the Second Compliance Report but GRECO notes the adoption of Law no. 1453 of 16 October 2017 amending law no.1389 of 2 July 2012 on the funding of election campaigns (see paragraph 25).
36. GRECO notes that with regard to the first part of the recommendation - beyond the fact that the financing of political parties is still not regulated outside the electoral context – Monaco has still not adopted rules fully satisfactory in terms of financial support. While the expression "donations and other contributions", which is frequently used by the law, must be interpreted broadly, as the authorities state in their latest comments, it would have been preferable to pay more attention to certain forms of donations, such as in-kind donations, their identification and their necessary valuation at market value. This is not always understood by the actors concerned, and clarification in this matter would have been beneficial in order to ensure proper implementation of the new legislative arrangements. And while the law refers to third-party expenses, it would be preferable that they be registered as income items since they constitute a form of support which would normally lead to the publication of the donors' identity where a certain threshold is exceeded, as indicated in the recommendation and discussed hereinafter.
37. With regard to the second and third parts of the recommendation, the principle of prohibiting the concealment of the identity of a donor has been retained in the new amendments and now appears at the end of the text. Article 14bis of Law No. 1389. The authorities specify that this implies that the beneficiary must keep a record of the origin of all donations. They add that the rule of non-disclosure of the identity of the donor when the donation is less than 1000 euros, provided for in the previous bill has been abandoned. GRECO notes that if the CNCC will thus be informed of all individual sources of income, the law is still silent on the publication of the identity of donors beyond a certain amount, contrary to the expectations of the last element of the recommendation.
38. GRECO concludes that recommendation ii remains partly implemented.  
  
Recommendation iii.
39. *GRECO recommended to ensure the effective and independent public monitoring of political party and campaign financing, in accordance with Article 14 of Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns.*

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<sup>7</sup> In this context, it is planned to introduce additional regulations for such associations: according to Article 8 of the draft legislation, the arrangements for drawing up the accounts of declared associations giving financial support to a candidate or list of candidates in a local or national election will be laid down in a ministerial order.

40. GRECO recalls that this recommendation has been partly implemented. Law No. 1 389 of 2 July 2012 introduced the principle of the scrutiny of national and local election campaign accounts by a new independent consultative body, the Campaign Accounts Supervisory Commission, which is non-permanent and sits after each election. GRECO welcomed this reform in its First Compliance Report but expressed concern that it did not provide for the income of candidates or candidate lists or the accounts of political parties and associations to be monitored, as had been recommended. The Second Compliance Report noted the proposed changes to the legislation in Bill F-1-14, which would plug various gaps. The authorities were invited to complete the reforms they had initiated and ensure that the powers and resources allocated to the commission would allow it to exercise real and proactive oversight.
41. The authorities mainly repeat the information already supplied in the Second Compliance Report but GRECO notes the adoption of Law no. 1453 of 16 October 2017 amending law no.1389 of 2 July 2012 on the funding of election campaigns (see paragraph 25).
42. GRECO notes that one of the significant changes introduced by the newly enacted legislation in October 2017 was to make the Campaign Accounts Supervisory Commission (the Commission) a standing body chaired *ex officio* by the President of the Court of Auditors. The other six members, most of whom are from the Court of Auditors or the highest courts, are appointed for five years by sovereign order. The legislation does not specify whether or not the term of office is renewable. The Commission is specifically responsible for ensuring the accuracy of the accounts and it must carry out a certain number of checks not listed exhaustively, covering, *inter alia*, failure to declare income and/or election expenditure. The Commission has four months to examine campaign accounts, including one month to receive any comments from candidates' agents.
43. The election report is published and submitted at the same time to the Minister of State. It notes any irregularities observed, which may result in the partial or total loss of public funding of election expenditure or even in the election being declared null and void by the court of first instance, or, in the event of a criminal offence, automatic referral to the public prosecutor. Article 19 empowers the Commission to require political parties and any individuals or legal persons who have made contributions, granted loans or otherwise been involved in election expenditure to supply any relevant supporting documentation. However, refusal to co-operate is not clearly covered.
44. Overall, GRECO welcomes the above developments and the undeniable improvements. However, the Commission remains an advisory body to the executive, which is not bound by the Commission's findings. Whether or not the mandate of the Commission's members can be extended or renewed also remains to be clarified. Overall, improvements can therefore still be made in the direction of independence of control. GRECO also recalls that for the time being the framework on transparency of political financing does not directly cover the financing of political parties. For these reasons, it cannot therefore consider that this recommendation has been fully implemented.
45. GRECO concludes that recommendation iii remains partly implemented.

Recommendation iv.

46. *GRECO recommended that the future rules on political party and election campaign financing be accompanied by effective, proportionate and dissuasive sanctions for breaches of the various requirements of these rules.*

47. GRECO has so far considered this recommendation to be partly implemented. The amendments set out in the previous draft legislation, No. F-1-14, were intended to extend the sanctions arrangements to irregularities in candidates' declarations of income or the accounts of political parties or associations, as was described in the First Compliance Report. With regard to the Commission's right to itself impose sanctions in the event of any breach of the rules governing political funding, GRECO previously accepted the arguments submitted by the authorities to the effect that it would be inexpedient at present to grant it this right, as this would constitute a major upheaval of the Monegasque judicial system.
48. In substance, the authorities repeat the information already provided in the Second Compliance Report but GRECO again notes the adoption of law no. 1453 of 16 October 2017 amending law no.1389 of 2 July 2012 on the funding of election campaigns (see paragraph 25).
49. GRECO notes that the October 2017 amendments extend chapter VII, on sanctions, of law no. 1 389 by introducing the power to sanction (by the nullity of the election of the candidate(s) concerned) serious irregularities in the campaign accounts. In addition, criminal sanctions are now applicable (to the candidate concerned) in case of manipulation of the campaign accounts in relation to the reimbursement of expenses by the State (public aid), or to conceal large donations. On the other side, law no. 1389 does still not regulate the financing of political parties as such, contrary to the recommendation, even though a summary of their financial intervention is to be attached to the campaign accounts submitted for verification and the "*absent or improper accounting by a registered association which has supported a candidate or a list of candidates in accordance with the fourth paragraph of the Article 14a*" (Article 17 indent 6)" constitutes an irregularity (which can attract a sanction impacting on the amount to be reimbursed by the State).
50. GRECO concludes that recommendation iv remains partly implemented.

### III. CONCLUSIONS

51. In the light of the conclusions of the Third Round Compliance Report on Monaco and of the foregoing, GRECO now concludes that Monaco has implemented satisfactorily or dealt with in a satisfactory manner twelve of the eighteen recommendations in the Third Round Evaluation Report. The remaining six recommendations have been partly implemented.
52. More specifically, with regard to Theme I – Incriminations – recommendations i to xiii have been implemented satisfactorily whereas recommendation xiv remains partly implemented. In the case of Theme II – Transparency of Party Funding – all four recommendations remain partly implemented.
53. Regarding incriminations, GRECO welcomes the fact that Monegasque legislation now unequivocally includes the bribery of commercial, civil and other arbitrators and of jurors and that, generally speaking, the Principality meets the requirements of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191). Monaco must now give further consideration to extending its jurisdiction, in accordance with Article 17 of the Criminal Law Convention on Corruption (ETS 173), to cover offences of bribery and trading in influence committed outside the national territory, in particular by Monegasque public officials, whether or not they are Monegasque nationals. Monaco also needs to ensure that this extended competence is not affected by certain limitations such as a dual criminality requirement.

54. Regarding the transparency of party funding, the Principality finally abandoned the initial legislative project (F-1-14 of 4 June 2014) amending Law No. 1.389 of 2 July 2012 on the financing of elections campaigns. Another bill, with the same title was tabled on October 3, 2017 (project No. 970), discussed and adopted at the public meeting of October 6, 2017, now *Law No. 1453 of 16 October 2017 amending the law No. 1.389 of 2 July 2012 on the financing of election campaigns*. It was published on 20 October 2017. This amending law introduces further improvements, for example as to the content of campaign accounts, the contribution of regularly declared associations which provide support to candidates, the different forms of support during the campaign period. The Campaign Accounts Supervisory Commission has been re-established as a permanent body with certain supervisory powers, but its role remains purely advisory and its guarantees of independence could be strengthened. Progress has also been made in terms of penalties for breaches of established rules. However, there is still a significant gap as the funding of political parties themselves remains unregulated. Because of the logic of "communicating vessels" between political parties and elections, a coherent legislative framework should also address the financing of parties in normal times, outside the context of elections campaigns. Moreover, the activity of political parties is not limited to competition in elections, but also involves legislative activity, among others.
55. In conclusion, GRECO again invites the authorities to pursue their efforts to complete the reform process as rapidly as possible. Even though the country has fully implemented a majority of the recommendations in the Third Round Evaluation Report, all four recommendations on political party funding are still currently outstanding.
56. The adoption of this Addendum to the Second Compliance Report terminates the Third Round Compliance Procedure concerning Monaco. The authorities may nevertheless wish to keep GRECO informed of any future developments.
57. Lastly, GRECO invites the Monegasque authorities to authorise publication of this report as soon as possible.