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Third Evaluation Round

Fourth Interim Compliance Report on Switzerland

"Transparency of Party Funding"

Adopted by GRECO
at its 76th Plenary Meeting
(Strasbourg, 19-23 June 2017)

I. INTRODUCTION

1. The [Third Round Evaluation Report](#) on Switzerland was adopted at GRECO's 52nd Plenary Meeting (21 October 2011) and was made public on 2 December 2011, following authorisation by Switzerland (Greco Eval III Rep (2011) 4E, [Theme I](#) and [Theme II](#)).
2. As required by GRECO's Rules of Procedure, the Swiss authorities submitted a Situation Report on measures taken to implement the recommendations.
3. In the [Compliance Report](#) adopted at its 61st Plenary Meeting (18 October 2013), GRECO concluded that Switzerland had satisfactorily implemented three of the eleven recommendations contained in the Third Round Evaluation Report. In view of this outcome, it qualified the very low level of compliance with the recommendations so far as "globally unsatisfactory" within 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 Swiss delegation to provide a report on progress made in implementing the pending recommendations (i.e. recommendations i and iii regarding Theme I, and recommendations i to vi regarding Theme II) at the latest by 30 April 2014, pursuant to paragraph 2(i) of that rule.
4. In the [Interim Compliance Report](#) and the [Second Interim Compliance Report](#) adopted at its 64th and 68th Plenary Meetings respectively (20 June 2014 and 19 June 2015), GRECO again qualified Switzerland's level of compliance with the recommendations as "globally unsatisfactory" since the total number of recommendations outstanding remained unchanged.
5. In the [Third Interim Compliance Report](#), adopted at its 72nd Plenary Meeting (1 July 2016), GRECO found that the two pending recommendations regarding Theme I were now satisfactorily implemented. GRECO therefore ended the compliance procedure for this theme, as all the recommendations had been implemented. However, given the lack of positive developments with regard to Theme II, GRECO concluded that Switzerland's overall level of compliance with recommendations remained "globally unsatisfactory" and therefore asked the head of the Swiss delegation to provide it with a report on progress made in implementing the pending recommendations (ie recommendations i-vi regarding Theme II) by 30 April 2017 at the latest. That report, submitted on 12 May 2017, has served as the basis for the Fourth Interim Compliance Report.
6. GRECO tasked France with appointing a rapporteur for the compliance procedure. France appointed Ms Agnès MAITREPIERRE, Adviser at the Legal Affairs Directorate of the Ministry of Foreign Affairs, who was assisted by the GRECO Secretariat in drawing up the Compliance Report.

II. ANALYSIS

Theme II: Transparency of political party funding

7. In its evaluation report GRECO addressed 6 recommendations to Switzerland concerning Theme II. In the Compliance Report and the three Interim Compliance Reports, GRECO considered that none of the recommendations had been implemented.

Recommendations i to vi.

8. GRECO had recommended:

- *(i) introducing accounting rules for political parties and election campaigns that provide for full and appropriate accounts to be kept; (ii) ensuring that income, expenditure and the various elements of assets and liabilities are accounted for in detail and in full and presented in a coherent format; (iii) exploring ways of consolidating accounts to include parties' cantonal and local branches and bodies directly or indirectly linked to them or otherwise under their control; (iv) ensuring that adequate financial information is readily available to the public in good time; (v) where appropriate, inviting the cantons to adapt their own regulations in line with this recommendation. (recommendation i)*
- *(i) introducing a general obligation for political parties and candidates to elections to provide information on all donations received, including donations in kind, above a certain size together with the identity of the donors; (ii) introducing a general ban on donations from persons or bodies that fail to reveal their identity to the political party or candidate concerned; (iii) inviting cantons that do not yet have such measures to adopt them. (recommendation ii)*
- *(i) seeking ways of increasing the transparency of the financing of political parties and election campaigns by third parties; (ii) inviting also the cantonal authorities to consider these matters. (recommendation iii)*
- *(i) ensuring that, as far as possible, independent audits are carried out on political parties subject to the obligation to maintain accounts and on election campaigns accounts; and (ii) inviting cantons to do the same. (recommendation iv)*
- *(i) ensuring the effective and independent supervision of the financing of political parties, and election campaigns, in accordance with Article 14 of Council of Europe Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and election campaigns; and (ii) inviting cantons to do the same. (recommendation v)*
- *that the future rules on the financing of political parties and election campaigns be accompanied by effective, proportionate and dissuasive sanctions. (recommendation vi)*

9. As in the case of the previous reports, the information provided by the Swiss authorities is general in nature and does not specifically concern the individual recommendations. In the absence of anything new to report at cantonal level, the authorities describe fresh developments at federal level since the Third Interim Compliance Report.

10. The authorities reiterate that, on 12 November 2014, after holding talks with the chairs of the governing parties and the parliamentary groups, the Swiss government decided not to legislate in this field. It considered that the particularities of the Swiss political system were scarcely reconcilable with a law on party funding and election campaigns. The system of direct democracy, with its frequent popular votes, meant that the parties were far from being the only political players in Switzerland. At the same time, the cantons enjoyed a broad degree of autonomy. It would therefore go against the principles of federalism to impose uniform national legislation on them in respect of party funding. In addition, in Switzerland politics and party funding were perceived as a largely private matter, rather than a State responsibility. Because of the system of part-time

politicians, the parties' financial needs were far smaller in Switzerland than in other countries. The Swiss government's position has not changed since then.

11. On 1 June 2017 the National Council (one of the two chambers of Parliament) examined two motions tabled on 19 June 2015 by the Greens group: Motion 15.3715 "Funding of parties. Transparency"¹ and Motion 15.3714 "Funding of election campaigns and referendums. Transparency"². These motions sought to task the Federal Council with submitting a draft law intended to ensure transparency of funding of political parties and funding of election campaigns and referendums; the draft should have stipulated that donations to parties or political campaigning by natural or legal persons should be made public if they exceed a certain amount. The Federal Council was against these motions and proposed that Parliament rejects them. The National Council indeed decided to reject these two motions by 121 votes against 67 and 2 abstentions and by 122 votes against 67 and 1 abstention, respectively.
12. The Swiss authorities also point out that a federal popular initiative calling "For greater transparency in the funding of politics (initiative on transparency)" has been launched³. This initiative seeks to have a new Article 39a "Making public of funding of political parties, election campaigns and referendum campaigns" inserted in the Federal Constitution. The text of the initiative underwent preliminary examination by the Federal Chancellery on 12 April 2016⁴.
13. The draft of this new constitutional article states that the Swiss Confederation shall legislate on the publication of funding for political parties, campaigns for elections to the Federal Assembly and finally campaigns for federal-level referendums (Art. 39a para. 1). The political parties represented in the Federal Assembly would have to disclose to the Federal Chancellery their balance sheet, profit and loss account and the origin of any donations received in cash or in kind above 10,000 francs per person per annum; in each case it must be possible to identify the donor (Art. 39a para. 2). Anyone spending in excess of 100,000 francs with a view to election to the Federal Assembly or a federal referendum should disclose to the Federal Chancellery, prior to the election or referendum, their total budget, the amount they have funded themselves and the amount and origin of any donation received in cash or in kind above 10,000 francs per person; in each case it must be possible to identify the donor (Art. 39a para. 3).
14. The Federal Chancellery would have to annually publish information on the balance sheets and profit and loss accounts of political parties. It would be required to publish information concerning donations sufficiently in advance of an election or referendum and to publish the final statement of finances after the ballot has taken place (Art. 39a para. 4).
15. Accepting anonymous donations in cash or in kind would be prohibited, subject to certain exceptions established in law (Art. 39a para. 5). A system of sanctions would be provided for (Art. 39a para. 6).
16. Finally, the initiative also stipulates that if Parliament fails to enact the implementing provisions required within three years following the acceptance of this new Art. 39a of the Federal Constitution by the people and the cantons, the Federal Council should enact them within one year (Art. 197, ch. 12).

¹ <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20153715>

² <https://www.parlament.ch/fr/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20153714>

³ <https://www.admin.ch/ch/f/pore/vi/vis466.html>

⁴ Federal gazette 2016 3447, <https://www.admin.ch/opc/fr/federal-gazette/2016/3447.pdf>

17. For this initiative to be put to a popular vote, 100 000 signatures must be collected by its initiators by 26 October 2017. If that is achieved, the Federal Council and the Parliament will have to adopt a position on the initiative. There are three possible options: recommending that the initiative be rejected, recommending that the initiative be accepted or producing a counter-proposal. The people would then vote in 2020 or possibly 2021.
18. GRECO once again notes with regret that the federal government is maintaining its stance of not legislating on the transparency of party and election campaign funding, which was once more backed up by the latest National Council's decisions. GRECO also notes the developments in connection with the popular initiative for which the collection of signatures is on-going. Since this popular initiative is broadly in keeping with its recommendations on the funding of politics, GRECO greatly hopes that the initiative will be supported by the competent authorities.
19. GRECO concludes that recommendations i-vi remain not implemented.

III. CONCLUSIONS

20. **In the light of the foregoing, GRECO concludes that Switzerland has not made tangible progress as regards the overall implementation of the recommendations considered in the Third Round Evaluation Report as not having been acted upon. The total number of recommendations implemented or addressed satisfactorily – five out of eleven – remains unchanged in relation to the Third Interim Compliance Report.**
21. With respect to Theme I – Incriminations, all recommendations (i-v) have been implemented satisfactorily at the stage of the Third Interim Compliance Report. As regards Theme II – Transparency of party funding, all the recommendations (i-vi) remain unimplemented.
22. As regards the transparency of party funding, GRECO regrets that the federal authorities are maintaining their position of not legislating on the transparency of party and election campaign funding. It recalls that a GRECO delegation was received by two members of the Federal Council in April 2013, but that this meeting did not lead to any positive development in the situation. In the current absence of a political majority in favour of legislation in this area, GRECO hopes the popular initiative on transparency – for which signatures are being collected – will lead to a public debate on this issue, bring developments in the situation and put an end to the Swiss exception regarding the transparency of party funding.
23. In the light of the foregoing, GRECO concludes that the present very low level of compliance with the recommendations remains “globally unsatisfactory” within the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure.
24. Pursuant to paragraph 2(i) of Article 32 of its Rules of Procedure, GRECO asks the Head of the Swiss delegation to provide a report on progress in implementing the outstanding recommendations (i.e. recommendations i to vi of Theme II) by 31 March 2018.
25. Furthermore, in accordance with Rule 32, paragraph 2 (ii) c), GRECO asks the Swiss authorities to receive a high-level mission with a view to examining, on the spot, with all the stakeholders, means for speeding up the legislative and policy changes called for in the present report.
26. Lastly, GRECO invites the Swiss authorities to authorise publication of this report as soon as possible and to translate it into the other official languages and make these translations public.