



Adoption: 18 October 2017
Publication: 1st March 2018

Public
GrecoRC3(2017)14

Third Evaluation Round

Re-Assessment of Greece's compliance with

Recommendation ii(i)
"Transparency of Party Funding"

Adopted by GRECO
at its 77th Plenary Meeting
(Strasbourg, 16-18 October 2017)

I. INTRODUCTION

1. The Third Round Evaluation Report on Greece ([Theme I](#) and [Theme II](#)) was adopted at GRECO's 47th plenary meeting (11 June 2010) and made public on 7 July 2010, following authorisation by Greece. Following reporting on the situation by the Greek authorities, GRECO adopted the [Compliance Report](#) at its 56th plenary meeting (22 June 2012), made public on 2 July 2012, a [first Interim Compliance Report](#) at its 60th plenary meeting (21 June 2013), made public on 26 August 2013, a [second Interim Compliance Report](#) at the 64th plenary meeting (20 June 2014), made public on 7 August 2014, a [third Interim Compliance Report](#) at the 68th plenary meeting (19 June 2015), made public on 22 October 2015 and finally a [Second Compliance Report](#) at its 74th plenary meeting (2 December 2016), made public on 13 December 2016.
2. In this last report, GRECO terminated the compliance procedure but reserved the possibility to reconsider its assessment in respect of Recommendation ii of Theme II if Greece enacted legislation that would, in part, allow for anonymous coupon-based donations, a practice that was the subject of this recommendation and which Greece had previously terminated in response to the GRECO recommendation. The information came to GRECO directly from Greece in the form of a draft law that Greece had submitted to GRECO in the process of providing information for purposes of meeting outstanding recommendations that were the subject of the Second Compliance report. Since these amendments were enacted, GRECO decided at its 76th Plenary meeting (19-23 June 2017) to ask for additional information in that respect. The information was submitted by the Greek authorities on 13 September 2017 and in subsequent correspondence.
3. GRECO had selected the United States of America to appoint a rapporteur for the compliance procedure in respect of Theme II. The Rapporteur, Ms Jane LEY, and the ad hoc expert, Mr Stéphane GAUVIN, France, were assisted by GRECO's Secretariat in drawing up the current Report.

II. ANALYSIS

Theme II: Transparency of Party Funding

Recommendation ii (i).

4. *GRECO recommended (i) to abolish the possibility to use anonymous coupons for donations to political parties, coalitions and candidates [...].*
5. GRECO recalls that this recommendation, which comprises two parts, had been categorised as implemented satisfactorily in the Third Interim Compliance Report of June 2015. The only issue being re-assessed here relates to the first part of the recommendation.
6. Furthermore, GRECO recalls that, in 2014, Article 7 of Law 3023/2002 had been modified by article 5 par. 4 of Law 4304/2014 to require that coupons would be permitted only if the coupons (which are numbered and stamped by the parliamentary Audit Committee) systematically indicated the name and tax identification number or identity card number of the donor. However, at the time of the Second Compliance Report adopted in December 2016 – which terminated the compliance procedure – GRECO was confronted with the provisions of the draft legislation under consideration in Greece that would allow for the anonymous purchases of coupons of a value of 50 Euros or less, a clear reversal of actions taken to meet recommendation ii part (i). These amendments were eventually adopted by Law 4472/2017 (Government Gazette A 74 /

19.05.2017). As a result from 19 May 2017, coupons need only indicate the information on the donor where his/her contribution exceeds 50 euros (article 7 para. 4 of Law 3023/2002 as amended).

7. The Greek authorities provide explanations as to the content and implications of article 7 para. 4 of Law 3023/2002¹. They indicate that coupons are always issued by the Audit Committee with a pre-defined (printed) value which cannot exceed 20 000 euro. As regards the small coupons of a value less than 50 euros, the standard amount is generally in the range of 2, 5 or 10 euros. The law provides for important safeguards in the form of a ceiling on the total amount of anonymous coupons that can be sold by any party or coalition of parties (100,000 euros or the equivalent of 5% of public aid accrued in the previous year). In practice, the Audit Committee does not number and stamp coupons for a total volume which would exceed what a party or a coalition is allowed to sell (and would thus declare in the annual financial statements).
8. While coupons are normally managed centrally by the financial manager of the party, in practice they can be sold by any party section or party member. For coupons below a value of 50 euros, parties or coalitions are not required to keep track of the volume of coupons bought by a specific donor. The authorities furthermore confirm that the rules on coupons are also applicable to the funding of candidates but anonymous donations (below 50 euros) are completely prohibited in this context (except in relation to municipal elections which are not regulated by Law 3023/2002). The authorities also acknowledge that, to date, the Audit Committee has not adopted the implementing rules provided for in article 7 para.4 of the above law – concerning its decision as to the exact amount each party can issue coupons for or the procedure for returning unsold coupons to the Audit Committee, the modalities of disposal and other practical aspects.
9. Finally, the authorities point out that, in comparison to the regulations on small coupons, the establishment of a framework on loans (in line with the second part of GRECO's recommendation) has been particularly instrumental in improving the legal framework relating to donations. They also reiterate that the reintroduction of anonymous coupons for small donations was motivated by the need to maintain the necessary linkage between society and representative institutions and that the absence of a formal identification for very small amounts of financial support simplifies the operation of small donations.

¹ Article 7 (...)

4. The issue of coupons, the purchase of which is a means of funding, is permitted only if they are numbered and stamped by the Audit Committee.

These must mention the name, surname and tax identification number or identity card number of the buyer – sponsor provided the amount of funding exceeds 50 euros.

The maximum total amount of coupons of fifty (50) euros and below, numbered and considered by the Audit Committee, cannot exceed five per cent (5%) of the previous year state funding per party or coalition of parties per year, neither can exceed one hundred thousand (100,000) euros per party or coalition of parties per year.

The exact amount of these coupons which corresponds to each party or coalition of parties, shall be determined by an Indicative Act of the Chairman of the Audit Committee, which is issued in the first 10 days of each year.

This amount, for parties and party coalitions not receiving regular state funding, cannot exceed twenty thousand (20,000) euros per year.

At the end of each year, the Audit Committee is required to cross check if the balance resulting from the difference between the coupons stamped and sold by the party or coalition of parties coincides with the number of unused coupons, which must be returned under the responsibility of the latter.

A decision issued by the President of the Audit Committee provided by this Act, sets out the procedure to return the coupons that have not been sold, the means and bodies confirming their destruction and any other relevant detail.

10. GRECO recalls that, throughout the Third Evaluation Round, in emphasizing the importance of the transparency of political finance, it has stressed the importance of banning anonymous donations except for extremely small, incidental benefits that come from, for example, selling party paraphernalia etc. Recipients of donations should indeed be able to keep a track record of donors in order: a) to comply with such legal requirements as the public disclosure of larger donors who make within a year contributions which exceed a certain threshold (in Greece the threshold is 5,000 euros); b) to limit the risks that the existing rules on donor identification be circumvented or lead to the structuring of donations (sums collected through fund-raising events do not entail by nature any identification of donors).
11. GRECO's initial concern was that just two years after banning anonymous donations completely, Greece reintroduced a certain level of anonymity in respect of donations (in relation to smaller amounts) with amendments effective as of 19 May 2017 carried by Law 4472/2017. The introduction of a certain level of anonymity of donations was, however, accompanied by a series of safeguards, especially ceilings on the overall volume of anonymous coupons/donations which can be collected. Furthermore, donations are reportedly controlled by the Audit Committee, which does not release more than the maximum volume and value of leaflets of coupons that each party is entitled to receive. This legal set up provides a limit on the total of the anonymous donations that can be received by a party (100,000 euros), thus making it more difficult to manipulate financial statements for parties seeking to dissimulate the origin and/or the actual volume of funds collected.
12. Had this still been the case, the reversal of the steps previously taken to meet a recommendation might only have resulted in a short observation by GRECO about whether the new law with its safeguards would still meet the spirit of the initial recommendation. However, in the process of gathering information to make that analysis, information available from public sources show that Greece has again amended its law in July to prohibit anonymous coupons until January 1, 2018.²
13. Concurrently, however, article 7 paragraph 8 of Law 3023/2002 which became effective when anonymous coupons were originally banned, provides for the (alternative) possibility to organise so-called fund-raising events. While this provision became effective after the original GRECO review and was not the subject of a GRECO recommendation, it is nonetheless important to point out the following, as these rules remain in force throughout 2017 and will cease to apply as of 1 January 2018: one could easily interpret the text to mean that funds raised at these events, allowed in addition to, or in lieu of selling coupons (depending on the interpretation of the legal changes – see below), need not comply with important transparency and oversight requirements found in Art. 7 (1)-(4). These requirements include using specified bank accounts, and keeping records of donors.³ These fundraising events have an annual ceiling for each party or coalition of 150,000 euros. Again, while not the subject of a GRECO recommendation, tied as it is with the

² The amended provisions (mentioned above) on coupons were altered on 31 July 2017 (actually suspended), by Law 4483/2017, effective as of 1 August 2017, i.e. shortly after GRECO decided to review the situation with the present update. In their latest submission, the authorities explained that this was meant to correct the situation created in May since the provisions on coupons in the political financing legislation should not be changed in the middle of a fiscal year. These last changes have reinstalled the situation which predated Law 4472/2017 by outlawing again anonymous coupons irrespective of their amount. And the situation is meant to change back again on 1 January 2018 in accordance with article 160 of Law 4483/2017.

³ However, Art.8(1) does state that private funding for a political party or coalition of parties, by the same person during the same year may not exceed the total amount of 20,000 Euros and that Art. 16(3) requires that the books kept by parties and coalitions must record the identity and tax number of the person funding, in any way, a party and coalition of parties. The latter provision seems to contradict the provision providing for anonymous coupons.

prohibition on selling of coupons, it adds to the concerns at least as to the transparency of this fundraising method.

14. In light of the above-mentioned multiple legal changes, GRECO needs to examine both the current situation applicable at the time of the adoption of the present report in October 2017 (ban on anonymous donations) and the situation as it will be as of 1 January 2018 (following legislative amendments adopted in 2017, anonymous donations allowed for small amounts up to 50 euros and a maximum ceiling of 100,000 euros).
15. From the outset, GRECO notes that the approach followed in Greece, with multiple, often divergent legal changes within short periods of time, creates an unpredictable legal framework which may result in ineffective implementation and a substantial lack of transparency. It jeopardizes legal certainty and puts into question the credibility of the system. For instance, given the multiple amendments to the legislation in 2017, the financial reporting by the political parties and the subsequent controls by the Audit Committee for 2017 will be particularly challenging. It should also be borne in mind that the Audit Committee reportedly has not yet adopted the implementing rules and decisions in respect of coupons (especially for the collection and destruction of unused coupons).
16. Moreover, fund-raising events can add for 2017 another layer of unidentified donations for a total amount which is even higher⁴ than that permitted for anonymous coupons. At the same time, these are not subject to the same level of guarantees. Whereas the Audit Committee can always limit, from the outset, the volume of coupons issued, it does not have such an authority in relation to fund-raising events. The sums collected as a result of these events could potentially exceed the permissible ceiling without anyone noticing it, if various events are organised in a short time-span by different party sections across the country, for instance.
17. Last but not least, it would appear that the system of sanctions of Articles 23 to 27 of Law 3023 was never adjusted to reflect the above changes. It is debatable whether sanctions can be imposed in case the requirements of Article 7 paragraphs 2 to 8 – thus encompassing the rules on coupons and fund-raising events – are not complied with: Article 24 does not refer to the various provisions and requirements of Article 7 but only to those of paragraph 1. Moreover, Article 24 is drafted in a manner which is incoherent in itself (also legitimate donations from a natural person, in compliance with the requirements of paragraph 1 potentially attract liability).
18. Under the above circumstances, GRECO cannot maintain its previous assessment as regards the implementation of recommendation ii. (part i), as the possibility to sell coupons at a value less than 50 Euro without keeping information with regard to the purchaser will again become effective on 1 January 2018. It urges the country to put in place a clear and consistent ban on anonymous donations, it being understood that fundraising events will be prohibited once and for all as from the above date. Should the authorities feel the need to accommodate the practice of collecting smaller donations without identifying the donor (if this is really a core condition for smaller donors to support a party), it should consider doing so on the basis of small denomination coupons. Moreover, the ceiling on the total amount of anonymous coupons that can be sold by any party or coalition of parties (100,000 euros) will enter into force as from 1 January 2018 when anonymous coupons of less than 50 euros value will be allowed again. This ceiling would deserve to be reconsidered in the light of the country's economic context⁵ and the stated intention to simplify

⁴ 150,000 euros

⁵ The average annual salary in Greece was 17,347 euro in 2016.

the operation of small donations. In any case, GRECO urges the country to straighten out the confusion and inconsistencies created by these rapid changes in law.

III. CONCLUSION

19. In light of the foregoing, GRECO terminates the re-assessment of Recommendation ii (i). The authorities of Greece are invited to keep GRECO informed of further developments relating to the issues subject to the current re-assessment at one of its forthcoming meetings in 2018.
20. GRECO invites the authorities of Greece to translate the report into the national language and to make this translation public.