

Adoption: 24 March 2017
Publication: 1st August 2019

Public
GrecoRC3(2017)2

Third Evaluation Round

Second Addendum to the Second Compliance Report on Hungary

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

* * *

"Transparency of Party Funding"

Adopted by GRECO
at its 75th Plenary Meeting
(Strasbourg, 20-24 March 2017)

I. INTRODUCTION

1. The Second Addendum to the Second Compliance Report assesses further measures taken by the authorities of Hungary since the adoption of the First and Second Compliance Reports in respect of the recommendations issued in the Third Round Evaluation Report on Hungary, covering 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 47th Plenary Meeting (7-11 June 2010) and made public on 29 July 2010, following authorisation by Hungary (Greco Eval III Rep (2009) 8E, [Theme I](#) and [Theme II](#)). The subsequent Compliance Report was adopted at GRECO's 56th Plenary meeting (18-22 June 2012) and made public on 11 September 2013, following authorisation by Hungary ([Greco RC-III \(2012\) 3E](#)). The Second Compliance Report was adopted at GRECO's 64th Plenary meeting (16-20 June 2014) and made public on 13 March 2015, following authorisation by Hungary ([Greco RC-III \(2014\) 10E](#)). In its Addendum to the Compliance Report ([GRECO RC-III \(2015\) 11E](#)), which was made public on 23 November 2015, GRECO concluded that all five recommendations given with respect to Theme I – Incriminations had been implemented satisfactorily or dealt with in a satisfactory manner. Regarding Theme II – Transparency of Party Funding, recommendations v, vi, ix and x remained partly implemented and recommendations iii, iv, vii and viii remained not implemented. In view of the fact that only two of the recommendations concerning this theme had been implemented satisfactorily, GRECO requested the authorities to submit additional information in regard to the outstanding recommendations. This additional information was provided on 4 October 2016.
3. The purpose of this Second Addendum to the Second Compliance Report is, in accordance with Rule 31, paragraph 9 of GRECO's Rules of Procedure, to appraise the implementation of recommendations iii, iv, v, vi, vii, viii, ix and x (Theme II – Transparency of Party Funding) in light of the most recent information submitted by the authorities of Hungary.
4. GRECO selected Switzerland to appoint a rapporteur for Theme II of the compliance procedure. The Rapporteur appointed was Mr Ernst GNAEGI, Head of the International Criminal Law Unit of the Federal Office of Justice. He was assisted by GRECO's Secretariat in drawing up the Second Addendum to the Second Compliance Report.

II. ANALYSIS

Theme II: Transparency of Party Funding

5. It is recalled that GRECO in its evaluation report addressed ten recommendations to Hungary in respect of Theme II. Recommendation i was considered to have been dealt with in a satisfactory manner and recommendation ii as implemented satisfactorily. Recommendations v, vi, ix and x

were considered as partly implemented and recommendations iii, iv, vii and viii as not implemented. Compliance with these recommendations is dealt with below.

Recommendations iii to v, recommendations vii and viii, recommendation x.

6. *GRECO recommended:*

- *to introduce a legal requirement for political parties – bearing in mind factors such as the size of parties and their level of activity – (i) to keep proper books and accounts in accordance with accepted accounting standards and (ii) to ensure that appropriate information contained in the annual books and accounts is made public in a way which provides for easy and timely access by the public (Recommendation iii);*
- *to seek ways to consolidate the books and accounts of political parties to include the accounts or other relevant information of entities which are related directly or indirectly to a political party or otherwise under its control (for example, party foundations proper and other foundations) (Recommendation iv);*
- *(i) to ensure that political parties and party foundations are subject to equivalent legal requirements in respect of donations over a certain value, in particular, that political parties are obliged to publish the identity of such donors; (ii) to establish precise rules for the evaluation of in-kind donations; and (iii) to take measures to prevent the ban on anonymous donations to political parties from being circumvented through such donations via other entities or election candidates (Recommendation v);*
- *to introduce, as a main rule, independent auditing of party accounts by certified experts (Recommendation vii);*
- *to ensure that the supervision of political parties be extended to cover the books and accounts of entities which are related directly or indirectly to a political party or are otherwise under the control of a political party (Recommendation viii);*
- *to review current sanctions relating to infringements of political financing rules and to ensure that existing and yet-to-be-established rules on financing of political parties and election campaigns are accompanied by appropriate (flexible) sanctions, which are effective, proportionate and dissuasive (Recommendation x).*

7. GRECO recalls that it noted in the Second Compliance Report that the Party Act had been amended, *inter alia*, so as not to allow anonymous donations, nor donations from legal entities or organisations without legal personality and so as to ban foreign donations. Furthermore, the different types of property a party can hold had been clarified. GRECO had thus assessed recommendation v as partly implemented. Recommendation x was also assessed as partly implemented, on account of amendments introduced by Act LXVI of 2011 on the State Audit Office, obliging all political parties to co-operate with this Office during all stages of the audits, subject to disciplinary or penal sanctions. Recommendations iii, iv, vii and viii had been assessed as not implemented, as indicated above.

8. The authorities of Hungary report again that almost all of the acts relevant to party funding have to be amended by a two-thirds majority in parliament. As was the case in the previous report, such a

wide consensus among political parties is yet to be reached and no progress can therefore be reported with respect to recommendations iii to v, vii, viii and x.

9. GRECO takes note of the information provided and concludes that recommendations v and x remain partly implemented and recommendations iii, iv, vii and viii remain not implemented.

Recommendation vi

10. *GRECO recommended (i) to review the length of the election campaign period and to ensure that the financial campaign income and expenditure during that period is properly accounted for and (ii) to consider the introduction of reporting of income and expenditure during election campaigns to the public at appropriate interval.*
11. GRECO recalls that this recommendation had been assessed as partly implemented in the Second Compliance Report. The first part of the recommendation had namely been addressed *inter alia* by shortening the length of the election campaign period, raising the spending cap and changing the rules on advertising during election campaigns. However, no considerations had been reported regarding the second part of the recommendation.
12. The Hungarian authorities now explain that the second part of the recommendation had been considered by the government and the National Assembly in 2013. Draft legislation to amend the legislative framework on political financing had been submitted by three MPs in March 2013. The proposed bill provided that parties and candidates would be obliged to publish the amount and sources of their campaign income, as well as their use, within 60 days following the elections. The draft bill had been immediately published on the National Assembly's website in line with the regulation on the legislative process.
13. Among the amendments proposed during the parliamentary process, two were relevant to the second part of the recommendation¹. The bill and amendments were debated in plenary by the National Assembly and then by the Standing Committee on Constitutional and Justice Matters. During the latter debate, representatives of the government had the opportunity to express the government's position on the proposals. The Committee drew up a report including the summaries of the proposed amendments and opinions of the relevant parties. The bill and amendments were then debated again by the plenary of the National Assembly but were not adopted.
14. GRECO takes note of the information submitted. While it regrets that the draft legislation and amendments introducing public reporting of income and expenditure during election campaigns were not adopted, it accepts that proper consideration has been given to the second part of the recommendation during the parliamentary process.
15. GRECO concludes that recommendation vi has been implemented satisfactorily.

Recommendation ix.

16. *GRECO recommended (i) to ensure more frequent, pro-active and swift monitoring of political financing by the State Audit Office, including preventive measures as well as more in-depth*

¹ Amendment No. T/11191/3 proposed that candidates used a single bank account for their campaign incomes and expenses. In line with GRECO's recommendation, information on the bank account was to be public and updated daily. Amendment No. T/11191/6 proposed a similar solution with the difference that a weekly bank account statement was to be published instead of a daily update.

investigations of financing irregularities; and (ii) to adjust the financial and personnel resources accordingly.

17. GRECO recalls that this recommendation had been assessed as partly implemented, as positive developments had been reported in the latest Compliance Report with respect to a more in-depth monitoring of political parties and party foundations receiving state subsidies, as well as of election campaign funding. This had been reflected in an increase of irregularities reported to the prosecution service. Moreover, the State Audit Office's (SAO) staff had temporarily been increased to manage the heavier workload brought about by the monitoring of the 2014 election campaign. However, the time-frames for monitoring of party, foundations and campaigns accounts remained unchanged and not all parties were subject to monitoring.
18. The Hungarian authorities now report that three interim elections took place between November 2014 and April 2015 to fill three vacant seats in the National Parliament. Further to the auditing of the campaign expenditure, the SAO detected two infringements, namely that two candidates had purchased services from the state campaign subsidy that were partially incurred after the campaign period. Moreover, a newspaper had published political advertisements but had not sent its price list to the SAO prior to the campaign period, as requested by law.
19. GRECO takes the view that the new information reported does not change its previous assessment. Although it is positive that irregularities are detected by the SAO, the shortcomings previously identified regarding the time-frames for monitoring remain unaddressed. In the absence of a more frequent and swift monitoring, as required by the first part of the recommendation, and accordingly adjusted financial and personnel resources of the SAO, as required by the second part of the recommendation, the level of implementation remains the same.
20. GRECO concludes that recommendation ix remains partly implemented.

III. CONCLUSIONS

21. **With the adoption of this Second Addendum to the Second Compliance Report on Hungary, GRECO concludes that out of the fifteen recommendations issued to Hungary, eight in total have been implemented satisfactorily or dealt with in a satisfactory manner.** Of the remaining recommendations three remain partly implemented and four remain not implemented.
22. More specifically, with respect to Theme I – Incriminations, all five recommendations have been implemented satisfactorily or dealt with in a satisfactory manner. With respect to Theme II – Transparency of Party Funding, recommendations i, ii and vi have now been implemented satisfactorily or dealt with in a satisfactory manner; recommendations v, ix and x remain partly implemented; and recommendations iii, iv, vii and viii remain not implemented.
23. Concerning incriminations, GRECO commends Hungary for having implemented all recommendations thanks to amendments to the Criminal Code, which explicitly criminalise foreign passive bribery in the private sector, active trading in influence and bribery of domestic arbitrators. The limitation periods for bribery and trading in influence have been increased to five years and the automatic and mandatory character of the 'effective regret' provisions has been abolished. Hungary has also ratified the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) and withdrawn its reservation concerning Article 8 of the Criminal Law Convention on Corruption (ETS 173).

24. By contrast, in so far as transparency of party funding is concerned, the overall picture is disappointing. Some steps have been taken, e.g. to ensure that the registries of political parties are transparent and up-to-date, to clarify the sources of party income and the election campaign period, and to ensure a more in-depth monitoring of political parties and party foundations receiving state subsidies. Beyond these measures, the overall situation regarding the transparency of political financing remains to a large extent the same as it was at the time the Evaluation Report was adopted. This is all the more regrettable as the Party Act and the Election Procedure Act have been amended to some extent during the compliance procedure. GRECO cannot but regret that the legislative measures necessary to implement most of the recommendations have not taken place. The Hungarian authorities are urged to pursue this matter further and may wish to keep GRECO informed in this respect.
25. The adoption of this Second Addendum to the Second Compliance Report terminates the Third Round compliance procedure in respect of Hungary.
26. GRECO invites the authorities of Hungary to authorise, as soon as possible, the publication of the current report, to translate it into the national language and to make the translation public.