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## **Third Evaluation Round**

### **Second Addendum to the Second Compliance Report on the Russian Federation**

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

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#### **"Transparency of Party Funding"**

Adopted by GRECO  
at its 83<sup>rd</sup> Plenary Meeting  
(Strasbourg, 17-21 June 2019)

## I. INTRODUCTION

1. This Second Addendum assesses the additional measures taken by the authorities of the Russian Federation, since the adoption of the Addendum to the Second Compliance Report, to implement the recommendations issued by GRECO in its Third Round Evaluation Report. 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 containing twenty-one recommendations (nine in respect of Theme I and eleven in respect of Theme II) was adopted at GRECO's 54<sup>th</sup> Plenary Meeting (23 March 2012) and made public on 13 August 2012, following authorisation by the Russian authorities (Greco Eval III Rep (2011) 6E, [Theme I](#) and [Theme II](#)).
3. As required by GRECO's Rules of Procedure, the authorities of the Russian Federation have submitted situation reports on the measures taken to implement the recommendations prior to the adoption of each of the compliance reports referred to below.
4. The [Compliance Report](#), adopted by GRECO at its 64<sup>th</sup> Plenary Meeting (20 June 2014) and made public on 24 November 2014, concluded that the Russian Federation had implemented satisfactorily three of the twenty-one recommendations, twelve recommendations had been partly implemented and six not implemented. The [Second Compliance Report](#), adopted at GRECO's 73<sup>rd</sup> Plenary Meeting (21 October 2016) and made public on 21 November 2016, acknowledged that the Russian Federation had implemented satisfactorily eleven of the twenty-one recommendations and ten recommendations had been partly implemented. The [Addendum to the Second Compliance Report](#), adopted at GRECO's 79<sup>th</sup> Plenary Meeting (23 March 2018) and made public on 25 June 2018 acknowledged that the Russian Federation had implemented satisfactorily twelve of the twenty-one recommendations and nine recommendations remained partly implemented.
5. The Situation Report on measures taken to implement the outstanding recommendations, submitted by the Russian authorities on 26 December 2018 served as a basis for the present Second Addendum to the Second Compliance Report.
6. GRECO selected the Czech Republic and Slovenia to appoint Rapporteurs for this compliance procedure. The Czech Republic appointed Ms Helena KLIMA LIŠUCHOVÁ and Slovenia appointed Ms Vita HABJAN BARBORIČ. The Rapporteurs were assisted in drawing up this second addendum by the GRECO Secretariat.

## II. ANALYSIS

### Theme I: Incriminations

7. It is recalled that in its Evaluation Report GRECO addressed nine recommendations to the Russian Federation in respect of Theme I. GRECO previously concluded that recommendations i, v and ix have been implemented satisfactorily and recommendations ii-iv and vi-viii have been partly implemented. Compliance with the pending recommendations is assessed below.

#### **Recommendations ii-iv and vii.**

8. *GRECO recommended:*
- *to ensure that bribery of domestic and foreign arbitrators is criminalised unambiguously and to proceed swiftly with the ratification of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) (recommendation ii);*
  - *to introduce the concepts of “offering”, “promising” and “requesting” an advantage and “accepting an offer or a promise” in the provisions of the Criminal Code on active and passive bribery, in line with the Criminal Law Convention on Corruption (ETS 173) (recommendation iii);*
  - *to broaden the scope of the bribery provisions of the Criminal Code so as to ensure that they cover clearly any form of (undue) advantage (in the meaning of the Criminal Law Convention on Corruption, ETS 173), including any non-material advantages – whether they have an identifiable market value or not (recommendation iv);*
  - *to criminalise trading in influence in accordance with Article 12 of the Criminal Law Convention on Corruption (ETS 173) (recommendation vii).*
9. GRECO recalls that recommendations ii-iv, and vii were previously considered partly implemented. In particular, legislation implementing the majority of elements of these recommendations had been presented to the State Duma in July 2017 and has been pending since then.
10. The authorities report that draft federal laws No. 232807-7 and 235984-7, submitted to the State Duma, are still being considered. The authorities state that the political support behind these draft laws is demonstrated by an Instruction of the President of the Russian Federation of 8 November 2016 which asks the Prosecutor General’s Office, together with the Ministry of Justice and other stakeholders, to take the necessary measures to implement GRECO’s recommendations under the Third Evaluation Round and report on a regular basis on progress achieved. Moreover, GRECO’s recommendations are regularly reviewed at meetings of the Presidential Anti-Corruption Council Presidium, including with representatives of the State Duma. Both draft laws were discussed, notably with civil society, at a meeting of this Council. The authorities add that the draft laws were discussed a number of times at various expert forums in the State Duma between 2017 and 2019. They add that when the procedure of public discussion has been completed and an updated version of the draft laws has been revised, they will be considered by the State Duma.
11. GRECO notes with concern that the State Duma has not adopted yet the draft federal laws that are meant to respond to the requirements of its recommendations ii to iv and vii. Ratification of the Additional protocol to the Criminal Law Convention on Corruption (ETS 191) has not been

processed either. At the same time, GRECO notes the political support at the level of the President for bringing domestic legislation in line with its recommendations. However, it also notes that consultations on the draft laws are still ongoing and final drafts have not been completed to allow for the final examination by the State Duma to go ahead. GRECO regrets that no concrete results have been achieved since the last report.

12. GRECO concludes that recommendations ii-iv and vii remain partly implemented.

**Recommendation vi.**

13. *GRECO recommended (i) to align the criminalisation of bribery in the private sector, as provided for in article 204 of the Criminal Code, with Articles 7 and 8 of the Criminal Law Convention on Corruption (ETS 173), in particular as regards the categories of persons covered, the different forms of corrupt behaviour, the coverage of indirect commission of the offence, of instances involving third party beneficiaries and of non-material advantages; and (ii) to abolish the rule that in cases of bribery offences in the private sector which have caused harm exclusively to the interests of a commercial organisation, prosecution is instituted only upon the application of this organisation or with its consent.*
14. GRECO recalls that, concerning part (i) of the recommendation, it had found in the Second Compliance Report that the proposed amendments to Article 204 (commercial bribery) of the Criminal Code and new Article 204.3 (promise, offer or request to participate in commercial bribery) contained in draft Federal Laws No. 232807-7 and No. 235984-7, as they stood at the time, did not fully satisfy the requirements of this part of the recommendation. As to part (ii) of the recommendation, it had been found partly implemented as the contentious provision under Article 201 of the Criminal Code had been abolished. However, for this part of the recommendation to be considered completed, GRECO had called for Article 23 of the Criminal Procedure Code to be amended so as to mirror the new text of Article 201 of the Criminal Code in order to avoid discrepancies.
15. The authorities report no tangible results since the last report as draft federal laws No. 232807-7 and 235984-7, submitted to the State Duma, are currently being the subject of consultation and will need to be revised before the State Duma's final examination (see also paragraph 10).
16. GRECO notes that part (ii) of the recommendation had been considered partly implemented as Article 201 of the Criminal Code has been amended to remove the criticised rule mentioned in the recommendation, although the Criminal Procedure Code needed to be revised to mirror the new text of Article 201. That said, the aforementioned draft laws that aimed to fully implement this recommendation – part (i) and (ii) – have not been adopted yet. GRECO underlines that part (i) of the recommendation depends on the adoption of the draft laws, whose text is yet to be finalised as consultations continue, before adoption by the State Duma. As to part (ii), the required amendment to the Criminal Procedure Code also depends on the adoption of one of the pending draft federal laws. Therefore, GRECO regrets that no tangible results have been made since the last report.
17. GRECO concludes that recommendation vi remains partly implemented.

**Recommendation viii.**

18. *GRECO recommended to extend the two year minimum limitation period for bribery offences under Articles 291 and 184 of the Criminal Code.*

19. GRECO recalls that, in the Compliance Report, it had noted that statute of limitation for offences covered by Article 184 (bribery in sport and commercial entertainment contests) of the Criminal Code had been increased to 10 years, in line with the requirements of the recommendation. In its Second Compliance Report it had noted that the statute of limitation for the commission of active bribery offences under Article 291 of the Criminal Code had been increased to six years but only in aggravated cases involving a substantial bribe. It considered this as going in the right direction, justifying that the recommendation be considered partly implemented, but regretted that the short limitation period of two years for cases of active bribery had not been extended. In the Addendum to this report, GRECO noted that draft Law No. 232807-7 aimed at tightening the sanctions for basic cases of active and passive bribery and thus extend the period of limitation to six years.
20. The authorities report that there have been no tangible results since the last report as draft federal law No. 232807-7, submitted to the State Duma, is currently the subject of consultation and will have to be revised before final examination by the State Duma (see also paragraph 10).
21. GRECO notes this recommendation had been partly implemented following the extension of the statute of limitation to 10 years for offences under Article 184 CC and six years in cases involving a substantial bribe under Article 291 CC. However, in respect of the latter, GRECO had asked it to be expanded for all cases of active bribery. It notes that consultations on draft law No. 2320807-7, which is intended to amend the Criminal Code, are not over yet and that the text will need to be revised before its final examination by the State Duma. Therefore, GRECO regrets that no tangible results have been achieved since the last report.
22. GRECO concludes that recommendation viii remains partly implemented.

## **Theme II: Transparency of Party Funding**

23. It is recalled that in its Evaluation Report GRECO addressed twelve recommendations to the Russian Federation in respect of Theme II. In the preceding stages of the compliance procedure, GRECO concluded that recommendations i, ii, iv, v-viii, x and xii had been implemented satisfactorily and recommendations iii, ix and xi had been partly implemented. Compliance with the pending recommendations is dealt with below.

### **Recommendation iii.**

24. *GRECO recommended to take appropriate measures to ensure that the regulation of party and election campaign financing is not undermined by the misuse of public office.*
25. In the Addendum to the Second Compliance Report, GRECO welcomed that election commission members are subject to anti-corruption measures which had the potential to deter the misuse of public office in the appointment process and the exercise of duties and that the number of cases adjudicated by the courts under Article 5.8 Code of Administrative Offences (CAO) showed that more prominence is being given to sanctioning violations of the procedure and requirements for election campaigning in the media. However, there was not enough evidence that systematic inquiries were being made into the widespread allegations of violations of Article 40 of the Law on Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federations (LBG) referred to in the Evaluation Report. Moreover, lacunae in the regime for preventing the misuse of public office in election campaigning, including campaigning in the media, had been recognised by the Central Election Committee (CEC) itself.

26. The authorities now report that the CEC, together with the Prosecutor General's Office, the Ministry of Internal Affairs and the Investigative Committee of the Russian Federation, have prepared a summary analysis of the complaints received during the preparation and conduct of the presidential elections (December 2017 – April 2018) on the issue of misuse of official status. The CEC received 143 651 complaints, of which 471 concerned possible abuse of official status (0.3% of the complaints received). Only information submitted in writing (186 submissions) was considered (oral complaints were referred to the CEC to complement in writing). The information contained in only 9 complaints was partially confirmed, other information was found to be unreliable. In those 9 cases appropriate measures were applied by the relevant authorities. The analysis of the complaints considered showed that none related to the misuse of official status in election campaign funding.
27. Other state bodies received 52 complaints alleging misuse of public office during the presidential election campaign in 2018, of which 26 were considered by the Prosecution Service, 21 by internal affairs bodies and 5 by the state authorities of the constituencies of the Russian Federation. In 39 out of the 52 complaints, it was found that the complainant's argument were unfounded. In the 13 other complaints, the internal affairs bodies initiated administrative proceedings under the provisions of the CAO relating to campaigning,<sup>1</sup> but none were specifically initiated under Article 5.45 (taking advantage of an individual's office or official status during an election campaign or a referendum campaign).
28. State bodies also proactively identified violations of the electoral provisions and a number of inspections were carried out that were not prompted by complaints from citizens/local authorities. The authorities further report that instructions were issued by the Prosecutor General and regional prosecutors related to monitoring compliance with electoral legislation during the presidential elections of 2018 and the setting up of working groups responsible for that monitoring. The authorities consider that the above demonstrates that there is a system in place to ensure regular consideration of information on violations involving the misuse of public office within the meaning of Article 40 LBG. The authorities report that in the light of the analysis of possible regulatory lacunae considered in the context of research carried out and conferences held by the CEC in 2016 and 2018, no supplementary measures were deemed necessary.
29. GRECO takes note of the information provided indicating that monitoring of irregularities in the 2018 presidential election campaign was undertaken and that a review on the complaints procedures took place. However, as already expressed in the Second Compliance Report where a similar review showed no cases of abuse of official position, GRECO has serious doubts as to whether the results of this review, also concluding to the absence of any cases of abuse of official position, are representative given the potentially very widespread problem highlighted in the Evaluation Report (see paragraph 94). This may seem all the more surprising given the broad scope of prohibitions and restrictions on public officials in the framework of election campaigns established by Article 40 LBG.<sup>2</sup> It also notes the observations regarding the likelihood of misuse of

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<sup>1</sup> Articles 5.10 (conducting an election campaign or a referendum campaign not within the time period intended for it and in places where it is prohibited by the laws on elections and referendums), 5.11 (conducting an election campaign or a referendum campaign by persons whose participation therein is prohibited by federal laws), 5.12 (production, distribution or placement of promotional materials in violation of provisions of the legislation on elections and referendums) and 5.14 (intentional destruction or damage of promotional materials or information materials relating to elections or a referendum) of COA.

<sup>2</sup> According to Article 40 LBG, abusing public office in the context of elections is forbidden. That prohibition applies to candidates, registered candidates, other persons who occupy state or elected municipal posts, who are public officials, state or municipal officials, members of management boards of organisations regardless of the form of ownership, journalists, creative staff of mass media organisations. The following, *inter alia*, constitute abuse of public office: engaging persons who

public office and administrative resources made in the OSCE-ODIHR Election Observation's report following the 2018 presidential elections.<sup>3</sup> In addition, GRECO regrets that the consideration of supplementary measures to complement current provisions against the misuse of official power or official position has produced no tangible results. In view of the above, it continues to consider that further should be done to detect and establish misuse of public office in the framework of campaigning and measures be taken accordingly.

30. GRECO concludes that recommendation iii remains partly implemented.

**Recommendation ix.**

31. *GRECO recommended to introduce clear provisions determining the commencement of the "campaigning" period so that the financial activity during this period is accurately and comprehensively recorded.*
32. In the Addendum to the Second Compliance Report, GRECO noted that discrepancies in how the commencement of the "campaigning" period is determined in various provisions of the key legal act governing elections persisted. To ensure that the expenses that might be incurred during that initial stage are accurately and comprehensively recorded, GRECO had recommended to explicitly state that campaigning activities may start immediately after the official announcement of the election campaign and that related financial obligations may be taken by a candidate/electoral association with respect to any such campaigning activities but that the actual expenses may only be incurred from the moment the candidate/electoral association establishes an electoral fund. In order to implement the recommendation GRECO also proposed to ensure that all campaigning-related activities carried out by a candidate from the moment of the announcement of an election campaign and until the submission by him/her of the final financial report to the respective election commission, are adequately recorded, reported and made public.
33. The authorities now report that on 21 November 2018 the CEC adopted Clarifications concerning some issues related to reporting on political parties' and candidates' election campaign funding during the preparation and conduct of elections. That document deals with the terms "election campaign", "candidate's election campaign", "pre-election campaign", the starting date and duration of pre-election activities by candidates and other issues as they currently appear in domestic law. The document also recalls that all expenditure related to the election campaign and pre-election promotion activities prior to the nomination of candidates be reflected in the accounts of political parties.
34. GRECO takes note of the adoption of the Clarifications published by the Central Election Committee. GRECO recalls that the Evaluation Report was concerned about the legal definitions of the period of "election campaigns" in several laws, including the LBG, which starts with the nomination of a candidate/electoral association,<sup>4</sup> and the apparent inconsistency with other provisions of the LBG where campaigning is set to begin on the day of the official publication of a decision to hold an election, thus representing a much longer period. The recommendation therefore asked to introduce clear provisions in electoral laws determining the beginning of the

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are subordinate to or otherwise dependent on a candidate, using premises occupied by state bodies or bodies of local self-government, using telephone, fax and other telecommunication means, information services, office equipment of state and municipal bodies and institutions, using state or municipal transportation free of charge or at low cost, in order to promote a candidate/list of candidates.

<sup>3</sup> OSCE Election Observation Mission report, <https://www.osce.org/odihr/elections/383577?download=true>

<sup>4</sup> In addition, campaign expenses can only be incurred from the day of establishing an electoral fund and the setting up of a relevant special account (section 58, paragraph 1 LBG).

“campaigning” period so as to leave no grey areas regarding the reporting of related expenses in campaign financial reports (paragraph 102). In the First and Second Compliance Reports, it specified that all expenses incurred by political parties during the whole campaign, including its initial stages before the nomination of candidates, ought to be reported in campaign financial reports, rather than their general finance reports, and thus be subject to monitoring and disclosure rules applicable in times of election (respectively, paragraphs 98 and 101). As indicated above, in its Addendum to the Second Compliance Report, GRECO indicated that definitions should be aligned so that all campaign-related expenses of any candidate are reported from the announcement of the campaign up to the candidate’s submission of his/her final financial report to the competent election commission (paragraph 62). GRECO notes that the CEC’s Clarifications are in essence limited to re-stating what the LBG and other relevant laws say on campaigning and therefore cannot be considered as enough to eliminate all ambiguity on the notion of campaign period existing in domestic law, as pointed out in the Evaluation Report, and the need for reporting all campaign-related expenses from parties and candidates, including individual candidates not nominated by a party, during this period in campaign financial reports. Therefore, the recommendation still cannot be considered as fully implemented.

35. GRECO concludes that recommendation ix remains partly implemented.

**Recommendation xi.**

36. *GRECO recommended (i) to designate an independent body to supervise effectively the implementation of the regular financing of political parties and to provide it with adequate powers (including the ability to apply sanctions) and resources; (ii) to strengthen the independence of the election commissions in relation to the supervision of party and election campaign financing; (iii) to increase the financial and personnel resources available to the election commissions in order for them to ensure a more substantial and pro-active monitoring of the financial reports covering both general party and election campaign financing.*
37. In the Second Compliance Report, GRECO had found that parts (i) and (iii) of the recommendation had been implemented satisfactorily. In respect of part (ii), GRECO had welcomed the dialogue launched by the CEC around the perceived deficit of trust in and independence of the system of election commissions and that the CEC had noted with interest the many avenues for improvement suggested in the Addendum to the Second Compliance Report. Nevertheless, it had concluded that this part of the recommendation had been partly implemented and urged the authorities to review the way in which commissions are appointed as suggested previously and to follow through on the many initiatives the CEC was considering to better safeguard the independence and impartiality of election commissions at all levels.
38. The authorities now refer to an analysis carried out by the CEC in 2018 which concluded that the procedure already applied for appointing the election commissions in fact ensures that they have a high degree of independence. In particular, election commissions at all levels (except for the CEC) are formed on the basis of proposals by political parties that have appointed candidates for mandates in the relevant representative bodies. The independence of election commissions is also ensured by a legal requirement that state and municipal employees may only constitute up to 50% of the total number of members of an election commission and it was also noted that those numbers are constantly decreasing. The independence of election commissions is also protected by criminal and administrative provisions against obstructing the work of election commissions.



39. As previously reported, during the conference on “The Electoral System of Russia: the formation experience and development prospects” organised by the CEC in November 2016, different ideas were tabled: 1) to provide for the CEC’s status in the Constitution or in a separate federal law; 2) to empower the CEC to draw up annual reports containing a summary of law enforcement practices, the analysis of electors’ legal culture and any identified infringements; 3) to endow the election commissions with the right of a legislative initiative; 4) to expand the CEC’s oversight over lower-level commissions; 5) to elaborate additional measures precluding the interference of municipal bodies in activities of territorial and precinct election commissions; and 6) to develop a “Code of Ethics” for election organisers. The authorities now report that it was concluded (see para. 26) that no further action was necessary to ensure the independence of the election commissions: consolidating the status of the CEC in a separate federal law, and making amendments to the Constitution of the Russian Federation would not contribute to strengthening the independence of election commissions; annual summarised reports monitoring the application of electoral law were already submitted; conferring on electoral commissions powers to initiate legislation would be an excessive expansion of their competence; the current legal provisions provide for sufficient control over lower-level commissions; there are sufficient guarantees against interference in the activities of election commissions by local authorities; and instead of a code of ethics “working notebooks” had been developed and approved for the precinct election commissions. These notebooks regulate in detail all the actions of the members of the precinct election commission during the whole election process, including for the counting of votes and approving the results. The authorities state that such detailed regulation precludes possible violations on the part of the election commissions.
40. The authorities add that Federal Law No. 104 adopted on 29 May 2019 has amended the LBG. As a consequence, the federal executive body or its territorial body, on advice of the commission and upon the request of the body that appoints members of the commissions, can conduct a verification of the persons to be appointed members of commissions and provide a report on their criminal record and administrative liability for breaching legislation on elections and referendums. The authorities state that these amendments seek to exclude the possibility of nominating to election commissions individuals having been found in breach of criminal or administrative legislation.
41. GRECO takes note of the adoption of Federal Law No. 104 amending the LBG so that the possible convictions or administrative liability (including on breaches of election legislation) can be checked before individuals are appointed commission members. While this appears to be a positive step to better verify the candidates’ background in terms of prior convictions, GRECO recalls however that the concern expressed in the Evaluation Report was the significant public mistrust and allegations of them being influenced by the state apparatus (see para. 108 of the Evaluation Report). In this context, it regrets that the authorities did not follow up on the proposals made to address concerns stated by GRECO in the Evaluation Report and subsequent compliance reports. The independence and impartiality of election commissions at all levels is of the utmost importance for securing free and independent elections and the right to vote of every citizen. While the Russian authorities submit that the system currently presents sufficient safeguards, GRECO notes that no new steps have been taken as regards the way in which election commissions are appointed to ensure their independence which was the remaining issue in order to comply with the recommendation.
42. GRECO concludes that recommendation xi remains partly implemented.

### III. CONCLUSIONS

43. **In view of the previous compliance reports and information presented above, GRECO concludes that the Russian Federation has implemented satisfactorily or dealt with in a satisfactory manner twelve of the twenty-one recommendations contained in the Third Round Evaluation Report.**
44. With respect to Theme I – Incriminations, recommendations i and v have been implemented satisfactorily and recommendations ii-iv and vi-viii have been partly implemented. With respect to Theme II – Transparency of Party Funding, recommendations i, ii, iv-viii, x and xii have been implemented satisfactorily and recommendations iii, ix and xi have been partly implemented.
45. Regarding incriminations, GRECO is concerned that progress has been insufficient to bring the situation regarding incriminations in compliance with its recommendations more than seven years after the adoption of the Evaluation Report. To date, the Criminal Code (CC) has been amended to ensure the criminalisation of bribery of all members of international parliamentary assemblies and judges and officials of international courts; that the provisions on active and passive bribery include an explicit reference to third parties; that the statute of limitation for bribery in sports and commercial entertainment contests is increased to 10 years and for the commission of aggravated offences of active bribery to six years; the removal of the rule whereby in cases of bribery offences in the private sector, which have caused harm exclusively to the interests of a commercial organisation, prosecution is instituted only upon the application of this organisation or with its consent. At the same time, in the Second Compliance Report, GRECO was deeply concerned that a recent reform of the corruption-related provisions of the Criminal Code represented a significant step backwards compared to the previous draft legislation referred to in the First Compliance Report: the amendments to the provisions on public sector bribery no longer include all the various forms of corrupt behaviour, nor do they explicitly cover any (including non-material) undue advantages; provisions on private sector bribery are restricted to persons performing managerial functions, contrary to the requirements of the Criminal Law Convention on Corruption (ETS 173). Moreover, the amendments did not introduce specific provisions on trading in influence, as had been foreseen in the previous draft. Finally, the authorities' plans to criminalise bribery of arbitrators and to ratify the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191), and to extend the limitation period for bribery offences, have not yet materialised.
46. The submission to Parliament of new draft legislation aimed at strengthening liability for corruption was a welcome development as it was to address many of the above concerns. At the same time, GRECO regretted that the proposed amendments to the bribery-related provisions of the CC do not fully conform to the standards of the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191). For example, the provisions which criminalise the giving and receiving of a commercial bribe by an employee of a commercial or other organisation omit the elements of indirect commission of the offence, of third party beneficiaries and of non-material advantages. The provision on passive commercial bribery by persons exercising managerial functions in a commercial or other organisation, and by domestic and foreign arbitrators, only criminalises the “unlawful participate in commercial bribery exclude the elements of “requesting” an undue advantage and of indirect commission of the offence, and the concept of “acceptance of an offer or a promise” is not properly incorporated. The offence of active public sector bribery lacks the elements of “promising” and “offering”, and the offence of passive public sector bribery that of “requesting” an undue advantage. As for the offence of passive trading in influence, it omits the concepts of “receipt”, “acceptance of an offer or promise” and of “whether or not the influence is exerted or whether or not the supposed influence leads to the intended result”. GRECO was

satisfied nonetheless with the proposed removal from the Criminal Procedure Code of the rule whereby, in cases of private sector bribery where harm has been caused exclusively to the interests of a commercial organisation, it is only upon the application or consent of that organisation that the case can be prosecuted. Furthermore, the proposed extension from two to six years of the limitation period for basic active and passive bribery was welcomed.

47. GRECO is disappointed that, seven years after the adoption of the evaluation report, the legislative process in the State Duma is still ongoing. The aforementioned draft laws are still subject to consultation and will subsequently be revised before a final examination can take place. GRECO urges the authorities to ensure that the legislative process is completed without delay and that its recommendations and specific concerns on the drafts are fully taken into account.
48. Regarding the transparency of political funding, GRECO welcomes that overall a number of steps have been taken to improve transparency. The Federal Law “On Political Parties” has been amended to increase transparency of party funding from different sources such as membership fees and loans, to require independent audit of party accounts, to assign the supervision of party financing mainly to the election commissions and to establish a single cap for party entrance/membership fees and donations to parties by natural persons. The Federal Law “On Basic Guarantees of Electoral Rights and the Right to Participate in Referendums of Citizens of the Russian Federation” and the special election laws have been subject to review in order to remove duplications and inconsistencies. Furthermore, a reform of the Code of Administrative Offences has introduced specified offences providing for administrative sanctions in the field of general party financing, significantly increased the fines available for violations of campaign financing rules and extended administrative liability to a wider range of party officials. As a complement, several practical measures have been taken, including amendments by the Central Election Commission (CEC) to the forms for party accounts and annulment of numerous normative acts which were no longer relevant. As for the risk of circumvention of the disclosure rules, it has been redressed by means of a CEC resolution.
49. At the same time, several issues remain to be addressed in order to comply with all GRECO’s recommendations. While noting that some steps have been taken by the authorities to monitor irregularities during the Presidential campaign, including on the misuse of public office, GRECO has misgivings about the results of the reviews showing that, out of all the complaints received by different competent public bodies, there had been no established cases of misuse of public office at all. This is somewhat at odds with GRECO’s findings that this appeared to be a widespread problem. In addition, the ambiguity regarding the notion of electoral campaign period in electoral laws and the related obligations to report all expenses in campaign financial reports remains. Furthermore, GRECO has underscored the importance of securing the election commissions’ independence from the executive in law and in practice as the key pre-requisite for proper administration of the electoral process and for demonstrating in a palpable, effective and determined manner their resistance to politically motivated manipulation and pressure. While GRECO had welcomed the dialogue launched by the CEC around the perceived deficit of trust in and independence of the system of election commissions, it regrets that the authorities did not follow through on the many initiatives the CEC was considering to better safeguard the independence and impartiality of election commissions at all levels.
50. The adoption of this Second Addendum to the Second Compliance Report terminates the Third Round compliance procedure in respect of the Russian Federation. However, in view of the recommendations still outstanding, both in the field of incriminations and the transparency of

political party funding, GRECO invites the Russian authorities to keep GRECO informed of future progress on the implementation of these recommendations.

51. GRECO invites the authorities of the Russian Federation to authorise, as soon as possible, the publication of the present report, to translate it into the national language and to make the translation public.