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Third *Interim* Report

Third Evaluation Round

Third *Interim* Compliance Report on the Slovak Republic

“Incriminations (ETS 173 and 191, GPC 2)”

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“Transparency of Party Funding”

Adopted by GRECO
at its 61st Plenary Meeting
(Strasbourg, 14-18 October 2013)

I. INTRODUCTION

1. GRECO adopted the Third Round Evaluation Report on the Slovak Republic at its 36th Plenary Meeting (15 February 2008). This report (Greco Eval III Rep (2007) 4E [Theme I](#) / [Theme II](#)) addressed 16 recommendations to the Slovak Republic and was made public on 14 March 2008.
2. As required by GRECO's Rules of Procedure, the Slovak authorities submitted a situation report on measures taken to implement the recommendations. GRECO selected Austria and Latvia to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Christian MANQUET, Head of Unit, Directorate for Penal Legislation, Federal Ministry of Justice, Austria, and Ms Inese TERINKA, Senior Specialist, Corruption Prevention and Combating Bureau, Latvia. They were assisted by GRECO's Secretariat.
3. In the Compliance Report, adopted at its 46th Plenary Meeting (22-26 March 2010), GRECO concluded that the Slovak Republic had implemented satisfactorily only one of the sixteen recommendations (Theme I: recommendation i implemented, recommendations ii, iii and v partly implemented and recommendations iv and vi not implemented. Theme II: none of the ten recommendations had been implemented). This very low level of compliance with the recommendations was considered "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure and GRECO decided to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report.
4. GRECO adopted a first Interim Report at its 49th Plenary Meeting (29 November – 3 December 2010). It concluded with respect to Theme I – Incriminations, that recommendations ii, iii and v remained partly implemented; recommendations iv and vi had not been implemented. With respect to Theme II – Transparency of Party Funding, recommendations i to x remained not implemented. As no tangible progress had been achieved by the Slovak Republic the level of compliance remained "globally unsatisfactory". In accordance with Rule 32, paragraph 2 subparagraph (ii), GRECO decided to apply step 2 of the compliance enhancing procedure¹ and invited the Slovak authorities to report on actions regarding the implementation of the pending recommendations.
5. A Second Interim Report was adopted by GRECO at its 53rd Plenary Meeting (5-9 December 2011). Since all six Theme I recommendations at this stage had been implemented or dealt with in a satisfactory manner and four of the ten recommendations concerning Theme II had been partly implemented (with legal reforms underway), GRECO decided to terminate the compliance enhancing procedure (the level of compliance was no longer "globally unsatisfactory"). The Slovak authorities were requested to report back on the action taken to implement the pending recommendations.
6. In the Second Compliance Report, adopted at its 58th Plenary Meeting (3-7 December 2012), – based on the new information submitted by the Slovak authorities – GRECO concluded that the Slovak Republic had not accomplished any progress since the Second Interim Report; none of the ten Theme II recommendations had been implemented and recommendations iv and viii had only been implemented partly. GRECO considered that the level of compliance with the recommendations was again "globally unsatisfactory" in the meaning of paragraph 8.3 of Rule 31 revised of the Rules of Procedure and decided to apply – anew – Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report and

¹ "(ii) the President of GRECO sending a letter, with a copy to the President of the Statutory Committee, to the Head of Delegation concerned, drawing his/her attention to non-compliance with the relevant recommendations".

invited the authorities to report on actions taken to implement the pending Theme II recommendations. This report was received by GRECO on 26 June 2013. The Slovak authorities submitted additional information on 9 September 2013.

7. The current Third Interim Report assesses the further actions taken by the Slovak authorities for the implementation of the pending Theme II recommendations since the adoption of the Second Compliance Report and performs an overall appraisal of the level of the Slovak Republic's compliance with these recommendations.

II. ANALYSIS

Theme II: Transparency of Party Funding

8. In its **Evaluation Report**, GRECO addressed 10 recommendations to the Slovak Republic in respect of Theme II. GRECO recommended:
 - *to require candidates for elections to the National Council to disclose all donations they have received in relation to their political activities - including their source (at least above a certain threshold), nature and value - and details of the expenditure incurred (recommendation i);*
 - *to take measures to enhance the transparency of income and expenditure of parties and candidates at local and regional level (in particular in connection with mayoral elections) (recommendation ii);*
 - *to introduce proportionate disclosure rules for expenditure incurred by entities outside the party structure, related directly or indirectly to the party, in connection with election campaigns (recommendation iii);*
 - *(i) to ensure that the annual reports of political parties are easily accessible to the public and (ii) to establish a standardised format (accompanied by appropriate instructions, if necessary) for the campaign and annual reports to be submitted by political parties (recommendation iv);*
 - *to provide a single body with a mandate and adequate resources to supervise and investigate party funding (both from private and public sources) and election campaign finances, including those of election candidates, and to ensure that this body is in a position to exercise its functions in an independent and impartial manner (recommendation v);*
 - *to review the sanctions available for violations of the rules on political funding, to ensure that these are proportionate and dissuasive (recommendation vi);*
 - *to ensure that the mechanism by which sanctions are imposed for violations of the rules on political funding is independent, impartial and effective in practice (recommendation vii);*
 - *to provide advice and training to political parties and election candidates on the applicable political funding regulations (recommendation viii);*
 - *to establish liability of election candidates for infringements of political funding rules, in line with the rules applying to political parties (recommendation ix);*

- *to assess whether there is a need to amend the provisions of Act No 46/1999 on the Method of Election of the President with a view to enhancing the transparency of the funding of presidential candidates (to ensure that the amended provisions, if any, are in line with the requirements of Act No. 85/2005 Coll. on Political Parties and Political Movements) (recommendation x).*
9. In the **Compliance Report**, GRECO assessed all these recommendations as not implemented. In the first **Interim Report**, the Slovak authorities reported that the implementation of the ten recommendations was considered in a Policy Statement of the Government for the period of 2010-2014, in which the Government committed itself to draw up an Election Code in order to comply with these recommendations. GRECO concluded that there had not been sufficient progress and that certain recommendations could have been implemented without legal changes. In the **Second Interim Report**, it was indicated that the Government had instructed the Minister of the Interior to prepare a new Election Code and that a working group had been established to draft the legislation. Some parts of the draft texts were made available to GRECO. As a result of this information, GRECO considered recommendations i, ii, ix and x as partly implemented. Recommendations iii to viii were not implemented.
10. In the **Second Compliance Report**, the Slovak authorities informed GRECO that following a constitutional reform and parliamentary elections in March 2012, the new Government had committed itself, through a Government Manifesto and a legislative plan, to elaborate a new legal framework that would take into account the recommendations issued by GRECO; the drafting elements provided earlier to GRECO would be complemented by some new provisions concerning third party financing and increased attention would be paid to the creation of an independent supervisory body etc. On the basis of this additional information, GRECO noted that the work initiated earlier – preliminary drafts – was not completed and that the partial results were not even endorsed officially. In this report, GRECO made it clear that it would need to re-examine the drafts in the light of more accurate information concerning the drafting process as a whole and that the information provided was too vague for the purpose of the compliance process. GRECO could therefore not maintain its previous conclusion concerning recommendations i, ii, ix and x and held that recommendations i, ii, iii, v, vi, vii, ix and x had not been implemented. Furthermore, GRECO concluded that recommendation iv was partly implemented as steps had been taken concerning the first part of it (annual reports of political parties were accessible on-line). Also recommendation viii was partly implemented (training had been carried out in respect of some political parties).
11. The Slovak authorities now indicate the following: The Government has duly taken note of GRECO's evaluation and conclusions, in particular that the current level of compliance with the recommendations in the field of funding of political parties is "globally unsatisfactory". In its policy statement for 2012-2016, the Government has committed itself to reviewing the rules on funding of political parties to move towards more accurate and transparent regulation of political financing, identification of the contributions and donors and disclosure of information on financing. To this end, the Ministry of the Interior has informed GRECO that a government bill of the Electoral Code and a bill of the Election Campaign Act have been elaborated and that the Act on Political Parties is to be amended. As regards election campaigns, definitions and the length of election campaigns are to be included. Limitations on funding that can be incurred by parties and individual candidates to fund their election campaigns are being suggested as well as obligations to make public the information on expenditures incurred. The so-called transparent accounts are to enable the general public to access such information. Furthermore, a political party is to be allowed to accept financial donations only via transfer to its account and be required to maintain a

register of donations, donors etc. Moreover, it is foreseen to oblige political parties and individual candidates to provide supervisory authorities and the general public with interim and final reports on election campaigns. Sanctions for violations of the rules governing campaigning activities etc are also foreseen. In order to safeguard the impartiality of elections, the intention is to allow for publishing public opinion polls only until the 21st day before the date of the elections and a moratorium has been suggested on campaigning activities to end 48 hours before any election.

12. The authorities add that the above mentioned draft legislation was adopted by the Government on 14 August 2013; it has been submitted to Parliament for discussion and a first reading took place on 11 September 2013 and a second reading in Parliament is foreseen in October 2013. Since this process attracts a lot of attention and profound discussions, extensive modifications of the draft texts are expected. For this reason, the Slovak Republic intends to communicate a translated version of the above laws to GRECO once they are adopted by Parliament, which is envisaged in November 2013.
13. GRECO takes note of the information provided by the Slovak authorities that legal reforms concerning political financing are underway and even at an advanced stage. However, no precise draft legislation has been made available to GRECO and the outcome of the parliamentary process remains vague, according to the authorities. Consequently, GRECO maintains the position taken in the Second Compliance Report as to the level of implementation of the recommendations.
14. GRECO concludes that Theme II - recommendations i, ii, iii, v, vi, vii, ix and x have not been implemented and recommendations iv and viii have been partly implemented.

III. CONCLUSIONS

15. **In view of the above, GRECO concludes that no tangible results have been achieved by the Slovak Republic since the Second Compliance Report, although a legislative process is underway.** With respect to Theme II – Transparency of Party Funding – GRECO can only conclude that none of the ten recommendations has been implemented; recommendations iv and viii have only been partly implemented².
16. Reforms in Slovakia relevant to Theme II (Transparency of Party Funding), initiated in 2011 with a view to adopting new legislation in this area are being pursued by the new Government, following parliamentary elections in 2012, but have still not produced tangible results that can be assessed in detail by GRECO. Overall, only limited information is available as regards the content of the intended new legislation. GRECO has understood, however, that the intention is to finalise the legislative process towards the end of 2013.
17. In view of the above, GRECO can only conclude that the current level of compliance with the recommendations remains “globally unsatisfactory” in the meaning of paragraph 8.3 of Rule 31 revised of the Rules of Procedure. GRECO therefore decides to apply again Rule 32 concerning members found not to be in compliance with the recommendations contained in the evaluation report.

² With respect to Theme I – Incriminations – it is recalled that all of the six recommendations have been implemented satisfactorily or dealt with in a satisfactory manner, as already established in the Second Interim Report.

18. Pursuant to Rule 32, paragraph 2(i) of the Rules of Procedure, GRECO requests the Head of the Slovak delegation to provide a report regarding the action taken to implement the pending recommendations (i.e. recommendations i to x regarding Theme II) by 31 July 2014.
19. GRECO furthermore decides, in accordance with Rule 32, paragraph 2 subparagraph 2 (ii) that the President of GRECO will send a letter, with a copy to the President of the Statutory Committee, to the Head of delegation of the Slovak Republic, drawing the attention to the non-compliance with the Theme II recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible.
20. Finally, GRECO invites the authorities of the Slovak Republic to authorise, as soon as possible, the publication of the present report, to translate it into the national language and to make this translation public.