

Strasbourg, 2 December 2016

**Confidential**  
**GrecoRC3(2016)14**

## **Third Evaluation Round**

### **Second Compliance Report on Greece**

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

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#### **“Transparency of Party Funding”**

Adopted by GRECO  
at its 74<sup>th</sup> Plenary Meeting  
(Strasbourg, 28 November - 2 December 2016)

## I. INTRODUCTION

1. The Third Round Evaluation Report on Greece was adopted at GRECO's 47<sup>th</sup> Plenary Meeting (7-11 June 2010) and made public on 7 July 2010, following authorisation by Greece (Greco Eval III Rep (2009) 9E, [Theme I](#) and [Theme II](#)).
2. As required by GRECO's Rules of Procedure, the Greek authorities submitted a Situation Report on measures taken to implement the recommendations.
3. In the Compliance Report (adopted by GRECO at its 56<sup>th</sup> Plenary Meeting of 20-22 June 2012), it was concluded that Greece had implemented satisfactorily only one of the 27 recommendations contained in the Third Round Evaluation Report. In view of this result, GRECO had qualified the very low level of compliance with the recommendations as "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the 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 Greek delegation to provide a report made on the progress in implementing the pending recommendations (i.e. recommendations i-viii and x-xi regarding Theme I, and recommendations i-xvi regarding Theme II).
4. In the Interim Compliance Report (adopted at the 60<sup>th</sup> Plenary Meeting of 17-21 June 2013), the level of compliance had been assessed again as "globally unsatisfactory" since out of the 26 recommendations which were outstanding, only eight had been partly implemented and all the rest had remained not implemented.
5. In the Second Interim Compliance Report (adopted at the 64<sup>th</sup> Plenary Meeting of 16-20 June 2014), the level of compliance had been assessed again as "globally unsatisfactory" since out of the 26 recommendations pending, only three had been implemented satisfactorily, six had been partly implemented and 17 had remained not implemented.
6. The Third Interim Compliance Report, (adopted at the 68<sup>th</sup> Plenary Meeting of 15-19 June 2015) concluded that significant progress had been achieved, especially as regards Theme II with the adoption in October 2014 of a new Law 4304/2014 for the "*Audit of financial and political parties and elected Members in the Hellenic and the European Parliaments and other provisions*", which entered into force on 1 January 2015. The new situation was thus as follows: 19 of the 27 recommendations had now been implemented or dealt with in a satisfactory manner, six recommendations remained partly implemented and two not implemented. GRECO concluded that the level of compliance was not anymore "globally unsatisfactory", it decided to stop applying the compliance enhancing measures and it requested the Head of the Greek delegation to provide a report, regarding the action taken to implement the pending recommendations – i.e. recommendations v, vii, viii, x and xi of Theme I and recommendations i, iii and vii of Theme II – by 31 May 2016 (after the initial deadline was extended to accommodate GRECO's workload). This report was submitted on 1 June 2016 and served as a basis for this Second Compliance Report.
7. GRECO selected Georgia and the United States of America to appoint Rapporteurs for the compliance procedure. The rapporteurs – Ms Mariam MAISURADZE, on behalf of Georgia and Ms Jane LEY, on behalf of the United States – were assisted by GRECO's Secretariat in drawing up this Second Compliance Report.

## II. ANALYSIS

### Theme I: Incriminations

8. It is recalled that, in its Evaluation Report, GRECO addressed 11 recommendations to Greece in respect of Theme I. To date, following the latest assessment of the situation in the Third Interim Compliance Report, recommendations v, vii and viii remain partly implemented and recommendations x and xi not implemented. All the other recommendations (i, ii, iii, iv, vi and ix) were categorised as implemented satisfactorily or dealt with in a satisfactory manner). Compliance with the pending recommendations is dealt with below.
9. The Greek authorities indicate in their submission of 1 June 2016, that the General Secretariat Against Corruption (hereinafter GSAC) held consultations on further amendments to the Penal Code (articles 159 par.2 and 263A) and the Code of Penal Procedure (article 30 par.2), which would implement the various pending recommendations. The GSAC has subsequently submitted to the Ministry of Justice some proposals. As soon as these proposals are included in a draft law, the text will be communicated to GRECO.

#### **Recommendation v.**

10. *GRECO recommended to incriminate more broadly bribery of domestic, foreign and international members of public assemblies, in accordance with Articles 4, 6 and 10 of the Criminal Law Convention (ETS 173), in particular as regards the “giving” and “receipt” of an undue advantage, intermediaries, third party beneficiaries and the scope of the bribe-taker’s actions/omissions.*
11. It is recalled that this recommendation was assessed as partly implemented up until now. GRECO welcomed earlier amendments to Articles 159 and 159A of the Penal Code (PC)<sup>1</sup> and stated the following: “[A]ctive and passive bribery of a member of parliament or local council “*in relation to any election or vote*” if it impels him/her to refrain from taking part in an election or vote, support a specific issue subject to vote or vote in a certain way falls under the scope of new Articles 159 and 159A PC, whereas cases not related to the performance of legislative functions are covered by the general provision of Article 235 PC. As concerns foreign and international

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#### **<sup>1</sup> Article 159 - Passive Bribery**

1. The President of the Republic or the person exercising presidential power, the Prime Minister, members of government, deputy ministers, prefects, deputy prefects and mayors shall, if they request or receive, directly or through a third party, for themselves or for another person, any undue advantage of any manner, or accept the promise to provide such an advantage for an action or inaction on their part, future or already completed, relating to the performance of their duties in exercising presidential or executive power, be punished by imprisonment and a fine of EUR 15 000 to 150 000.

2. The same penalty shall apply to punish **members of Parliament**, local government councils and their committees if in relation to any election or vote carried out by the above bodies or committees they accept the offer or promise of any manner of undue advantage for themselves or for a third party, or request such undue advantage to refrain from taking part in such election or vote, to support a specific issue subject to vote or to vote in a certain way.

3. Paragraphs 1 and 2 shall apply accordingly also when the act is committed by members of the European Commission or the European Parliament.

4. The provisions of Articles 238, 263(1) and 263B(2-5) shall apply also to the crimes referred to in the previous paragraphs.

#### **Article 159A - Active Bribery**

1. The penalties of the previous article shall apply to punish whoever promises or offers any manner of undue advantages, directly or through a third party, to the persons mentioned in that article, for themselves or for another person, for the purposes referred to respectively therein.

2. Heads of business or persons who have decision-making or control power in a business shall also be punished by imprisonment, if the act is not punished more severely under another criminal provision, if they failed to prevent a person under their command or subject to their control from committing, to the benefit of the business, the act under the preceding paragraph.

members of public assemblies, active and passive bribery in their regard is criminalised by virtue of new paragraph 2, Article 263A PC, which makes them subject to new Articles 235 (1) and (2) and 236 PC. Despite these noticeable improvements, several gaps can be observed in Article 159, paragraph 2 on passive bribery of members of parliament. Thus, references are only made to the “*acceptance of an offer or a promise*” or a “*request*” of an undue advantage, with the element of “*receipt*” still being omitted. The possibility for the benefit to be received indirectly, through an intermediary, has also been overlooked. GRECO concluded that further steps need to be taken in order to criminalise more broadly bribery of domestic, foreign and international members of public assemblies, particularly as regards the “*receipt*” of an undue advantage and intermediaries.” For the purposes of the Third Interim Report, the Greek authorities did not provide new information in respect of this recommendation.

12. The Greek authorities indicate that the GSAC has submitted possible draft amendments to the Ministry of Justice (see paragraph 9) but for the time being, no further new development has taken place.
13. GRECO can only conclude that recommendation v remains partly implemented.

#### **Recommendation vii.**

14. *GRECO recommended to ensure that bribery of foreign public officials, judges, members of public assemblies, arbitrators and jurors is criminalised in respect of bribe-takers from any foreign State, in line with Articles 5 and 6 of the Criminal Law Convention (ETS 173) and Articles 4 and 6 of its Additional Protocol (ETS 191).*
15. It is recalled that this recommendation was considered partly implemented up until now. Following amendments to paragraphs 2 and 3 of Article 263A of the Penal Code (PC), which extended the application of Articles 235 (1) and (2) and 236 PC to a broad category of foreign actors including, specifically, foreign public officials, judges, members of public assemblies, arbitrators and jurors, GRECO expressed its satisfaction with the alignment of the provisions of the Penal Code with the requirements of Article 5 and 6 of the Criminal Law Convention and Article 6 of its Additional Protocol. However, GRECO remained concerned that bribery of foreign arbitrators who are not qualified as “*performing a public function or service*” under domestic law is not captured by the new provision under Article 263A PC. For the purposes of the Third Interim Report, the Greek authorities did not provide new information in respect of this recommendation.
16. The Greek authorities indicate that the GSAC has submitted possible draft amendments to the Ministry of Justice (see paragraph 9) but for the time being, no further new development has taken place.
17. GRECO can only conclude that recommendation vii remains partly implemented.

#### **Recommendation viii.**

18. *GRECO recommended to incriminate trading in influence in a consolidated manner, making sure that all the requirements of Article 12 of the Criminal Law Convention on Corruption (ETS 173) are met, in particular as regards the elements of improper influence, the active side of trading in influence, the requesting of an undue advantage, immaterial advantages, intermediaries and third party beneficiaries.*

19. GRECO recalls that up until now, this recommendation had been assessed as partly implemented. GRECO welcomed new Article 237A PC which covers not only the passive but also the active side of trading in influence and encompasses the elements of the offence which were previously missing: improper influence, the requesting of an undue advantage, immaterial advantages, intermediaries and third party beneficiaries. Yet, the newly adopted Article covers a limited range of officials. In contrast to the requirements of Article 12 of the Criminal Law Convention, which criminalises improper influence over the decision-making of domestic public officials (Article 2), members of domestic public assemblies (Article 4), members of foreign public assemblies (Article 6), officials of international organisations, members of international parliamentary assemblies, judges and officials of international courts (Articles 9 to 11), Article 237A PC – as clearly stems from its text – only applies to persons listed under Article 159 PC (members of domestic legislative, executive and self-governing bodies), Article 235 (1) PC (domestic public officials) and 237 (1) PC (domestic judges, jurors and arbitrators). Similarly, there is no provision in the text of the new law or its Explanatory Memorandum that would make, for example, the previously mentioned paragraphs 2 and 3 under Article 263A PC applicable to Article 237A PC. Moreover, it is not explicitly mentioned that for the offence to be constituted, the influence does not have to be actually exerted or lead to the intended results. While being satisfied with the significant improvement in the criminalisation of trading in influence, GRECO invited the authorities to further refine relevant provisions so as to bring them into full conformity with Article 12 of the Criminal Law Convention on Corruption. For the purposes of the Third Interim Report, the Greek authorities did not submit new information in respect of this recommendation.
20. The Greek authorities indicate that the GSAC has submitted possible draft amendments to the Ministry of Justice (see paragraph 9) but for the time being, no further new development has taken place.
21. GRECO can only conclude that recommendation viii remains partly implemented.

#### **Recommendation x.**

22. *GRECO recommended to abolish the special statute of limitation for the prosecution of members of government and former members of government.*
23. It is recalled that this recommendation was assessed as not implemented up until now. The abolition of the special statute of limitation established for members of government and former members of government required a change in the Constitution, which had not taken place. GRECO also recalled that Law 3126/2003 on the penal liability of members and former members of government had put in place a five-year statute of limitation from the commitment of the offence for both misdemeanours and felonies, as opposed to five and 15 years respectively in the common regime. It had been previously emphasised that such a derogatory limitation period for felonies – which are by definition more serious offences – constituted an obstacle to the effective prosecution of current and former members of government for bribery offences and that it was regarded as unjustified and likely to undermine the public trust. For the purposes of the Third Interim Report, the Greek authorities only referred to the need for a constitutional amendment in order to comply with this recommendation.

24. The authorities of Greece reiterate that the implementation of this recommendation would require a constitutional amendment. A discussion was opened recently on this matter but it has not lead as yet to concrete developments<sup>2</sup>.
25. GRECO takes note of the absence of new tangible developments and it can only conclude that recommendation x remains not implemented.

#### **Recommendation xi.**

26. *GRECO recommended to amend current legislation to expressly exclude the operation of Article 30 (2) of the Code of Penal Procedure concerning the postponement or suspension of prosecution of “political acts” and “offences through which international relations of the State may be disturbed” in the context of all domestic and foreign bribery offences.*
27. It is recalled that up until now, this recommendation was assessed as not implemented as no action had been reported. GRECO also recalled that, pursuant to Article 30 (2) of the Code of Penal Procedure (CPP), “*political offences*” and “*offences through which the international relations of the State may be disturbed*” may be exempted from prosecution by a decision of the Minister of Justice, following a concurring opinion of the Council of Ministers. Following a recommendation by the OECD, this provision is no longer applicable under the OECD Convention on combating bribery of foreign public officials in international business transactions; nevertheless, it continues to apply to all other bribery offences, both in the domestic and international contexts. GRECO had previously underlined that the aforementioned tailor-made exception conveyed the wrong message as regards the commitment of Greece to tackling corruption with determination. In order to facilitate the effective prosecution of corruption offences, it called upon the authorities to remove corruption-related offences from the scope of application of Article 30 (2) CPP, as is suggested in the recommendation. For the purposes of the Third Interim Report, the Greek authorities did not submit new information in respect of this recommendation.
28. The Greek authorities indicate that the GSAC has submitted possible draft amendments to the Ministry of Justice (see paragraph 9) but for the time being, no further new development has taken place.
29. GRECO can only conclude that recommendation xi remains not implemented.

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

30. It is recalled that GRECO in its Evaluation Report had addressed 16 recommendations to Greece in respect of Theme II. Following the adoption of Law 4304/2014 for the “*Audit of financial and political parties and elected Members in the Hellenic and the European Parliaments and other provisions*”, which entered into force on 1 January 2015, several provisions of Law 3023/2002 on “*Funding of political parties of the State-Income, expenses, promotion, publicity and audit of the finance of political parties and parliamentary candidates*” were amended. The situation re-assessed in the third Interim Compliance Report of June 2015 lead GRECO to conclude that recommendations ii, iv, v, vi, viii, ix-xvi had been implemented satisfactorily or dealt with in a satisfactory manner and that recommendations i, iii and vii remained partly implemented.

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<sup>2</sup> <http://www.ekathimerini.com/209505/article/ekathimerini/news/greece-turns-to-new-reforms-pushes-institutional-change>  
<http://www.ekathimerini.com/210699/article/ekathimerini/news/constitution-next-project-for-tsipras>

31. Compliance with the three pending recommendations i, iii and vii is examined below. GRECO also considers that since the new draft amendments signalled below aim to re-amend the situation with regard to coupon-based donations, the implementation of recommendation ii – which is dealing with this subject-matter – must be examined again.
32. The Greek authorities indicate in their submission of 1 June 2016, that the General Secretariat Against Corruption (hereinafter GSAC) has prepared a new draft law “*On combating Corruption, reinforcing Transparency and audit of the finances of the political parties and the elected members of Hellenic and European Parliament*”. It addresses the three pending recommendations and an official translation will be made available as soon as the law is adopted. For the time being, the draft is still in the early stage of preparation.

### **Recommendation i.**

33. *GRECO recommended to extend the financial reference period applicable to election campaigns so that the financial activity during this period is accurately and comprehensively recorded.*
34. GRECO recalls that this recommendation was considered partly implemented in the Third Interim Compliance Report. According to Article 1 par.1 section d (da and db) of the Law 4304/2014, the pre-election expense audit period is now defined as six months prior to the announcement of the regular general parliamentary elections and the elections for members to the European Parliament. With the extension of the reference period, the financial reporting on election campaigns and campaign financing has thus been provided with a precise framework in time. However, GRECO noted that this extended period only covers information on the audit of expenses, while the previous situation appears to be maintained in respect of various forms of income (including donations).
35. The Greek authorities indicate that according to the draft amendments the definition of the notion of “Pre-election expense Audit Period” makes a reference to the fact that *Wherever this Law refers to the “Pre-election expense Audit Period”, it shall be understood as meaning the “Pre-election expense and revenues period”* (see also in annex the selected provisions of Law 3023/2002, with the last amendments).
36. GRECO is pleased to see that its last concerns relating to this recommendation are being addressed and it encourages Greece to proceed with the final adoption of these changes.
37. GRECO concludes that, for the time being, recommendation i remains partly implemented

### **Recommendation ii. – general observation**

38. *GRECO recommended (i) to abolish the possibility to use anonymous coupons for donations to political parties, coalitions and candidates and (ii) to introduce a requirement that all donations above a certain threshold to political parties and coalitions and, if appropriate, to election candidates, be made by bank transfer.*
39. GRECO recalls that this recommendation had been implemented satisfactorily. Specifically with regard to the first part of the recommendation, article 7 of Law 3023/2002 had been modified by article 5 par. 4 of Law 4304/2014 in a way such that issuing coupons would be permitted only if the coupons (which are numbered and stamped by the Audit Committee) systematically indicated the name and tax identification number or identity card number of the donor. GRECO notes,

however, that the new draft amendments presented by the Greek authorities in relation to other, outstanding recommendations discussed in the present report, undermine this earlier improvement. Under the new amendments, coupons must only indicate the above information on the donor where his/her contribution exceeds 50 euros (see the amendments to article 7 para 4 of Law 3023/2002 in the annex to this report.). The authorities indicate that according to the explanatory report of the draft law, this change was motivated by the fact that coupons are traditionally in Greece one of the most common methods for citizens to provide financial support to political parties and political coalitions. This small financial support of citizens keeps alive the necessary linkage between society and representative institutions. The Greek authorities take the view that the absence of a formal identification for very small amounts of financial support is also a situation which prevails in most European Union countries. This regulation simplifies the operation of small donations, which are given spontaneously by people to finance the campaign of political parties and political coalitions.

40. GRECO also recalls that the purpose of the system of coupons used in Greece was originally intended to ensure the highest level of transparency of private support by requiring the registration and identification of all donations. The first part of the present recommendation was thus aimed at strengthening the existing arrangements and the effectiveness of the overall objective set by the Greek legislature. This was also consistent with GRECO recommendations that Members should, as a rule, prohibit donations from donors whose identity is not known to the party (or candidate), if that ban did not already exist.
41. However, by reintroducing a certain degree of anonymity for donations, Greece reopens the door to risks connected with the sale of coupons and the excessive use of cash in connection with political financing (see paragraph 113 of the Evaluation Report). Should the intended amendments concerning coupons be adopted in their current wording, the level of compliance of Greece with the first part of the recommendation – which prohibits in general the possibility to use anonymous coupons for donations – would need to be reassessed.
42. On the other side, GRECO is pleased to see that the latest amendments intend to repeal paragraph 8 of article 7 of Law 3023/2012: it had been inserted by Law 4304/2014 and was drafted in excessively broad terms (see appendix). These currently allow political parties to derogate completely from all requirements concerning the use of the banking system and the identification of donors where “campaigns to collect financial aid” are organised. GRECO expresses the hope that this problematic exception will be abolished once and for all.

### **Recommendation iii.**

43. *GRECO recommended to take appropriate measures to ensure that loans granted to political parties, coalitions and candidates are not used to circumvent political financing regulations, by ascertaining in particular whether loans are reimbursed in conformity with the terms under which they were granted.*
44. GRECO recalls that this recommendation was categorised as partly implemented in the Third Interim Compliance Report. Law 4304/2014 had tightened-up the accounting rules for political funding and reviewed the situation of loans. Accordingly, benefits connected to loans are considered as any other form of support, they are to be included in the accounts and information on new bank accounts is to be communicated to the Audit Committee. However, GRECO expected further initiatives to circumscribe risks that loans are written off and the resulting advantage not adequately accounted for (see also paragraph 114 of the Evaluation Report).



45. The Greek authorities report that according to article 2 par. 6 of the new draft law “beneficiaries of state support based on a public funding guarantee may not take bank loans beyond the current financial year”. Moreover, political parties and coalitions must inform in writing the Audit Committee and the Bank of Greece of each new loan agreement or any changes in the terms of an existing loan one within 10 days. Likewise, in case of total or partial remission of debts linked to a loan, the political party or coalition of parties concerned must notify in writing and not later than 10 days the Audit Committee and the Bank of Greece, indicating the financial institution and the amounts concerned. Non-compliance with this obligation entails the penalty provided for in article 24 paragraph 10 of Law 3023/2002 (added by article 14 of Law 4304/2014), i.e. the total or partial loss of public aid<sup>3</sup>. The Audit Committee shall publish the written notification received from the party on its website within fifteen days following receipt (article 21 para. 2, id) of Law 3023). Finally, the Audit Committee would be required to forward the document, within fifteen (15) days, to the Bank of Greece for further review. The draft explanatory report makes it clear that the remission of a bank debt (written-off loan) is an indirect form of funding, which should be included by the beneficiary parties and coalitions in their tax books and made visible and easily accessible to the citizens in order to ensure transparency..
46. GRECO takes note of the new draft amendments reported above. These new provisions go in the direction of the present recommendation. As required by the present recommendation, Greece needs to extend the draft rules also to the financing of election campaigns of candidates.
47. GRECO concludes that recommendation iii remains partly implemented.

#### **Recommendation vii.**

48. *GRECO recommended to introduce requirements for the timely publication of private donations to political parties, coalitions and candidates above a certain threshold.*
49. It is recalled that this recommendation was considered partly implemented up until now. Some amendments were introduced by Law 3870/2010 concerning election expenses at local level, obliging party coalitions and candidates in elections to municipalities with more than 10 000 inhabitants to disclose revenue and expenditure publicly. Subsequently, Law 4304/2014 introduced an official public website, run by the Audit Committee, which publishes among other elements the full details of each legal entity providing support, at any value, to political parties, party coalitions, election candidates or members of parliament. For candidates or elected MPs running for elections, the website publishes the full details of donors providing funding in excess of 3000 euros per year and the identity of the beneficiary. The same applies in respect of funding in excess of 5000 euros per year provided to political parties or coalitions of parties by donors who are natural persons (all donations from legal entities must be published). GRECO welcomed the fact that the situation had radically changed since the time of the evaluation since private donations at the time were not subject to any publication requirements. But GRECO insisted on the need for Greece to have clear and adequate timelines for the submission of the information to the Audit Committee and for the subsequent publication of the information.
50. The authorities now report that according to article 4 par.2, and to article 6 par. 4 of the draft law: article 16 and 21 para. 2 of Law 3023/2002 would be amended as follows:

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<sup>3</sup> Article 24 para.10 of Law 3023/2002 reads ~~not~~ as follows: “A political party or a coalition of parties refusing to accept, in whole or in part, and in any way, the audit of the Audit Committee, as provided for in Part V of this Act, shall not receive, proportionally, in whole or in part, the State funding it is entitled to. This sanction is established by decision of the Audit Committee and it is implemented as from the fiscal year following the one when the offense was identified”.

In Article 16 of Law 3023/2002, as amended by the Law 4304/2014, paragraphs 5, 6 & 7 are inserted as follows:

**"5. Political parties and coalitions of parties which receive regular state funding shall publish annually the balance sheet of revenues and expenditures in accordance with the applicable accounting standards. The balance sheet shall be published within the first two months of each year on their official website.**

**6. Political parties and coalitions of parties which receive regular state funding are required to prepare and publish on their website a special report on the electoral income and expenditure regarding the election period, which shall be published no later than three (3) months on their website after the National elections or the elections for representatives to the European Parliament.**

**7. The parties and coalitions are obliged to keep their accounting and tax records for a period of ten (10) years.**

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In Article 21(par. 2) of Law 3023/2002, as amended by article 19 of Law 4304/2014, a case numbered as "idk" is inserted as follows:

"idk. The Audit Committee shall publish the aforementioned information **within thirty (30) days upon their receipt or the completion of the audit. The abovementioned information shall remain published on the Committee's website for a ten (10) years period.** In any other case the Audit Committee must update regularly its official website, making directly accessible to the citizens the whole information included within the provisions "na" to "idj" of this Article" [4]

51. GRECO takes note of the above intended changes. It understands that these revert back to the restrictions in place before 2014 in that donations from legal entities would be prohibited (again). With the newest draft amendments, the public register run by the Audit Committee would provide at present information concerning the identity of natural persons whose support exceeds a) of 3 000 euros in a year to candidates or elected Members of the Hellenic or the European Parliament; b) of 5 000 euros in a year to political parties or coalitions of parties. GRECO is pleased to see that in accordance with the intended rewording of article 21 paragraph 2, the Audit Committee would have to publish this information on its website within 30 days of receipt or following the completion of the audit. The amendments to article 16 of Law 3202/2002 appear to

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<sup>4</sup> According to art. 19 of law 4304/2014, the information to be published is the following:

na) The State funding communicated by the Ministry of Interior, received by each recipient thereof.

nb) A list showing all loans received from all banks, by each political party and / or coalition of parties of parties, as well as a copy of the text of each loan agreement between the party and / or coalition of parties on the one hand and the credit institution on the other.

idg) A detailed record showing the donations, loans and any kind of financial assistance, as well as the contribution in kind, evaluated in cash, received by each list of candidates for elections, for nominating local government representatives of the first and second degrees, from political parties and / or coalition of parties.

~~nd) Full details of each legal entity funding, with any amount of money, the funding recipients referred to in Article 1 (1) (ea' and eb') of this Act, as well as the exact particulars of the funded person and the exact amount thereof.~~ [to be repealed according to the new draft law]

ne) Full details of each sponsor supporting the recipients referred to in Article 1 (1) (eb') of this Act [Candidates or elected Members of the Hellenic and the European Parliaments], if the funding exceeds the amount of three thousand (3.000) euros per year, as well as the exact particulars of the funded person and the exact amount thereof.

idf) Full details of each sponsor of the funding recipients referred to in Article 1 (1) (ea') of this Act [Political parties or coalitions of parties], if funding exceeds the amount of five thousand (5.000) euros per year, and the exact particulars of the funded person and the exact amount thereof.

idg) The annual budgets, balance sheets and statements of accounts of political parties and coalitions of parties, as they arise from the accounting records kept in accordance with Article 1 (16) of this Act and the annual reports prepared, together with the audit results of these records.

idh) The reasoned findings for the audits conducted by it, including the opinion of the minority.

idi) The electoral expenses of each party or coalition of parties and the total amount spent by all parties and coalitions of parties in the electoral expense audit period.

idj) Regulatory documents, decrees, reports, consultations and information.

add value to the existing arrangements since under the new draft provisions, the parties themselves or the coalitions of parties would publish also on their website important economic data (balance sheet of revenues and expenditure) which include information on the above-mentioned donations. These amendments go in the direction expected. Finally the Audit Committee shall publish the aforementioned information within thirty (30) days upon their receipt or the completion of the audit.

52. GRECO encourages Greece to proceed with the final adoption of these amendments. In that context, Greece may wish to extend also in relation to communal election campaigns the duty to publicly disclose the larger donations to ensure consistency of the arrangements; this would be particularly important in those years where both local and general elections are held. It would further contribute to the overall consistency of the new arrangements if also the parties and coalitions which do not receive regular State support were required to disclose donations above the established thresholds.
53. GRECO concludes that recommendation vii remains partly implemented.

### III. CONCLUSIONS

54. **In light of the foregoing, GRECO concludes that the overall situation has not evolved in the last eighteen months and that Greece has implemented satisfactorily or dealt with in a satisfactory manner in total nineteen of the twenty-seven recommendations contained in the Third Round Evaluation Report.** Of the remaining recommendations, six have been partly implemented and two not implemented. The situation has thus remained unchanged since GRECO's previous assessment in June 2015.
55. With respect to Theme I – Incriminations – recommendations i, ii, iii, iv, vi and ix were categorised as implemented satisfactorily or dealt with in a satisfactory manner in previous reports on compliance, while recommendations v, vii and viii remain partly implemented and recommendations x and xi not implemented. With respect to Theme II – Transparency of Party Funding – recommendations ii, iv, v, vi, viii, ix-xvi had been implemented satisfactorily or dealt with in a satisfactory manner. Recommendations i, iii and vii still remain partly implemented.
56. There have been no tangible developments with regard to Theme I (Incriminations). The Greek authorities indicate that the General Secretariat Against Corruption – GSAC held consultations on further amendments to the Penal Code (articles 159 par.2 and 263A) and the Code of Penal Procedure (article 30 par.2), which would implement the various pending recommendations. The GSAC has subsequently submitted to the Ministry of Justice some proposals for possible inclusion in draft legislative amendments. GRECO welcomes of course this new initiative but the measures announced are at a very early stage and GRECO encourages the country to show greater determination in that process.
57. As for Theme II, draft amendments are being prepared and according to the current wording, the financial reference period applicable to election campaigns now includes not only the expenses but the revenues as well. Under the new draft provisions, a party or a coalition of parties shall notify in writing the Audit Committee about any new loan agreement or any changes in the terms of the an existing loan. In case of total or partial remission of a loan-related debt, the political parties or coalitions must notify in writing and not later than ten (10) days the Audit Committee and the Bank of Greece. The Audit Committee can impose administrative sanctions. However, by reintroducing a threshold of 50 EUR below which donations may remain anonymous, Greece

reopens the door to risks connected with the sale of coupons and the excessive use of cash in connection with political financing. Greece is of course to be commended for the achievements since the evaluation round but GRECO wishes to reiterate the fundamental importance of ensuring that the new draft law will be adopted as soon as possible and applied properly in practice. Greece is also encouraged to further reflect on the pending shortcomings as detailed in this report in respect of both themes.

58. The adoption of this Second Compliance Report terminates the Third Round compliance procedure in respect of Greece. Since amendments are still in the process of preparation and/or adoption regarding both themes, Greece may wish to keep GRECO informed about the outcome of these reforms.
59. GRECO invites the authorities of Greece to translate the report into the national language and to make this translation public.

## APPENDIX

Selected excerpts of Law 3023/2002 as amended in 2014 (and with the current draft amendments, should these be adopted in the wording presented to GRECO)

### Article 1 - Definitions, Distinctions - amount and recipients of State funding

- 1.a) Funding: donation, contribution, deduction, contribution in kind, financial aid to funding recipients.
- b) State funding: the legally provided financial aid to State funding recipients. State funding is further divided into:
- ba) Regular State funding: the financial aid provided annually from part of the realized net proceeds of the annual National Statement of Accounts of the previous fiscal year, to political parties and coalitions of parties, to cover their operating expenses.
  - bb) Electoral State funding: the financial aid provided by a part of the realized net proceeds of the annual National Statement of Accounts of the fiscal year preceding the elections, to political parties and coalitions of parties, to cover their electoral expenses, and
  - bc) State funding for research and educational purposes: annual financial aid from part of the realized net proceeds of the annual National Statement of Accounts of the previous fiscal year, to political parties and coalitions of parties - State funding recipients, to establish and operate research and study centres, and organize training courses for their staff.
- c) Private funding: the financial aid of any kind provided to beneficiaries **by individuals** ~~from natural or legal persons not being a part of the narrow or broader public sector.~~
- d) Pre-Election Expense Audit Period:
- da) The period of six (6) months prior to the announcement of the regular general parliamentary elections or the elections for Greek members in the European Parliament **and the period of two (2) months after the regular or anticipated Parliamentary elections or the elections for Greek representatives in the European Parliament.**
  - db) The period set out by decision of the Audit Committee of Article 3 of Act 3213/2003, as applicable, in case of announcement of extraordinary general parliamentary elections, not exceeding six (6) months before the election date.
  - dc) Wherever this Law refers to the "Pre-election expense Audit Period", it is provided hereinafter as a "Pre-election expense and revenues period**
- e) Funding recipients:
- ea) Political parties or coalitions of parties.
  - eb) Candidates or elected Members of the Hellenic and the European Parliaments.
- f) Recipients of State funding: the persons having a claim for State funding, namely:
- fa) Political parties and coalitions of parties represented in the Hellenic Parliament, with members having been elected in the last general parliamentary elections, from lists of the same party or coalition of parties.
  - fb) Political parties and coalitions of parties, which in the last general parliamentary elections have prepared complete lists, in at least seventy percent (70%) of the electoral regions of the country and have received a number of votes at least equal to one point five percent (1.5%) of the total valid ballot papers of the country.
  - fc) Political parties and coalitions of parties that have elected members in the last elections for Greek members in the European Parliament.
  - fd) Political parties and coalitions of parties which, in the last elections for Greek members in the European Parliament, have received a number of votes at least equal to one point five percent (1.5%) of the total valid ballot papers of the country.
- g) Revenues of political parties and coalitions of parties:

- ga) The funds collected by political parties and coalitions of parties from any kind of financial aid, from any source, in particular from regular and extraordinary membership fees, Members of the Parliament, supporters, voters and friends, fundraising, donations, loans, dividends, interest, the use of their movable or immovable property or any other activity **during the parliamentary period and the period of audit prior to elections expenditures and revenues.**
- gb) The State funding of recipients thereof.
- h) Income of candidates and / or elected Members of the Hellenic and the European Parliaments: any kind of financial aid collected by the candidates and / or elected Members of the Hellenic and the European Parliaments, from any source, in particular from supporters, voters and friends, fundraising, donations, loans, dividends, interest, use of their movable or immovable property or any other activity, during the pre-election expense audit period and their term respectively.
- i) Expenses of political parties and coalitions of parties: funds of all kinds and origin spent by political parties and coalitions of parties to deal with their needs of all kinds during the electoral period and the electoral expense audit period.
- j) Expenses of elected Members of the Hellenic and the European Parliaments: funds of all kinds and origin spent by the elected Members of the Hellenic and the European Parliaments to deal with any kind of needs during the electoral period.
- k) Electoral expenses of candidates and / or elected Members of the Hellenic and the European Parliaments: the funds paid for the needs of candidates and / or elected Members of the Hellenic and the European Parliaments during the electoral expense audit period. Any kind of offers, gifts, pecuniary benefits in kind and facilities, paid work for their benefit, any amount paid to rent rooms and political offices, to purchase, publish, circulate and transport printed material, to record and promote messages in the press and receive any kind of services from advertising, press and public relations companies.
- l) Bank Account: an account exclusively held with a Greek credit institution, incorporated and established in the Greek territory, through which all income and expenses of any political party and coalition of parties, as well as those of candidates and / or elected Members of the Hellenic and the European Parliaments, **at a share of at least ninety percent (90%)** must be moved.
- m) Contributions in kind: any kind of benefits and facilities to recipients, which are not monetary ones but are valued in money, such as, in particular, work offered by civil servants seconded or made available to funding recipients. In kind contributions are included in the income of funding recipients.
- n) Regulated entities: The entities within the competence of the Audit Committee of this Act, in terms of their expenses and income, namely:
- na) Funding recipients, as set out under case ea' of this Article.
  - nb) Candidates Members of the Hellenic and the European Parliaments.
  - nc) Elected Members of the Hellenic and the European Parliaments.
  - nd) Candidate electoral lists of the first and second degree local government organisations, as provided in Article 1 (16) (e') of this Act.
  - ne) Advertising, polling and media companies.
- o) Audit Committee: The Audit Committee for Asset Declarations provided by Article 3A of Act 3213/2003, as amended.

(...)

7. State funding is not subject to tax. A share of ~~forty percent (40%)~~ **twenty percent** of the total State funding received by each party and coalition of parties **and provided this share is intended exclusively for professional fees associated with the salaries of the employees of the political parties and coalitions** is immune from seizure and unassignable. The amount of private funding given to funding recipients is deducted from the entire taxable income of the sponsor **at a rate of fifty percent (50%) of the amount of private funding.**

Article 7 - Methods and limitations of private funding for political parties and coalitions of parties

1. Funding is realised by nominal deposits to the bank accounts referred to in Article 5 (1 and 2), respectively. Funding can be realised by any other method allowing the connection of the funds being offered with a natural or legal person who can be identified.

2. For each private funding collected by a political party and coalition of parties and / or a legal entity operated by them, as research and study centre, without a bank deposit to the bank accounts referred to in Article 5 (1 and 2) of this Act, respectively, a receipt must be issued for the collection, mentioning the name and tax identification number or identity card number of the depositor.

3. Each private funding to a political party and coalition of parties exceeding the amount of ~~one thousand five hundred (1.500)~~ **five hundred (500)** euros, must be made only through the bank accounts **held by the political parties and coalitions with the mandatory indication of the donor's identity referred to in Article 4 (1) of this Act.**

4. Issuing vouchers, 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 and tax identification number or identity card number of the buyer – sponsor **when the funding exceeds fifty (50) euros**. At the end of each year, the Audit Committee is required to cross check if the balance resulting from the difference between the vouchers stamped and sold by the party or coalition of parties coincides with the number of unused vouchers, 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 vouchers not sold, the means and bodies confirming their destruction and any other relevant detail.

5. A deposit to the accounts referred to in paragraph 1 of this Article is permitted only if made by name, on the responsibility of the bank as to the establishment of the depositor's identity particulars.

6. Funding and any kind of contributions to parties or coalitions of parties by:

- a. Natural persons not being Greek nationals and legal entities not having their seat in the Greek territory.
- b. Public law legal entities and legal entities within the narrow or broader public sector.
- c. Local government organisations of any degree.
- d. Natural persons, owners or publishers of daily or periodical printed matter, of panhellenic or local circulation or owners of radio and television stations, in general, **and by the wives and their descendants**
- e. **legal entities of private law**

are prohibited.

7. ~~Granting loans by banks to State funding recipients, guaranteed by the State funding beyond the current fiscal year, is prohibited.~~ **Loans from banks to state funding beneficiaries which are based on state funding guarantee is prohibited beyond the current financial year. Political parties and coalitions must inform in writing the Audit Committee and the Bank of Greece for each new loan agreement or any amendment to an existing one within ten (10) days of the signing. The repayment of loans of political parties or coalitions of parties in accordance with the terms of banking conduct and practice, as defined and applied by the Bank of Greece. In case of total or partial remission of a loan debt the political parties or coalitions must notify in writing and not later than ten (10) days the Audit Committee and the Bank of Greece, with necessary reference to the financial institution and the amount of the extinguished debt. The omission of this obligation incurs the penalty of the paragraph 10 of article 24 of Law 3023/2002 as added by Article 14 of Law 4304/2014 (Government Gazette A´ 234) . The Audit Committee shall publish the**

**letter on the official website of the Internet according to Article 21(§2, id) of this Law within fifteen days (15) after receipt.**

8. (inserted by Law 4304/2014) ~~As an exception to the provisions of paragraphs 1, 2, 3 and 4 of this Article, political parties and coalitions of parties may organize campaigns to collect financial aid. The total proceeds of each political party and coalition of parties from organizing campaigns to collect financial aid may not exceed the amount of one hundred and fifty thousand (150.000) euros per year.~~

Article 7B (inserted by Act 4303/2014) - Methods and limitations of funding candidates and / or elected Members of the Hellenic and the European Parliaments

1. Funding is realised by nominal deposits with the bank account referred to in Article 6 (1) of this Act, held by each candidate and / or elected Member of the Hellenic and the European Parliaments. Funding may also be realised by any other method allowing the connection of the amount being offered with a natural or legal person which can be identified.

2. For each private funding collected by the above candidate and / or elected Member of the Parliaments, without a bank deposit at the account referred to in Article 6 (1) of this Act, a receipt must be issued, stating the name and tax identification number or identity card number of the depositor. Each private funding to the above candidate and / or elected Member of the Parliaments exceeding the amount of five hundred (500) euros must be made only through the bank account referred to in Article 6 (1) of this Act.

3. A deposit with the account referred to in paragraph 1 of this Article is permitted only if there is prior consent of the above candidate and / or elected Members of the Parliaments and is made by name only, on the responsibility of the bank with regard to the establishment of the depositor's identity particulars.

4. Funding and any kind of contributions to parties or elected representatives by:

- a. Natural persons not being Greek nationals and legal entities not having their seat in the Greek territory.
- b. Public law legal entities and legal entities within the narrow or broader public sector.
- c. Local government organisations of any degree.
- d. Natural persons, owners or publishers of daily or periodical printed matter, of panhellenic or local circulation, or owners of radio and television stations, in general, **and by the wives and their descendants.**
- e. **legal entities of private law**

are prohibited».