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Second Compliance Report

Third Evaluation Round

Second Compliance Report on Turkey

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

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"Transparency of Party Funding"

Adopted by GRECO
at its 63rd Plenary Meeting
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I. INTRODUCTION

1. The Second Compliance Report assesses further measures taken by the authorities of Turkey since the adoption of the Compliance Report in respect of the recommendations issued by GRECO in its Third Round Evaluation Report on Turkey. It is recalled that 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 was adopted at GRECO's 46th Plenary Meeting (26 March 2010) and made public on 20 April 2010, following authorisation by Turkey (Greco Eval III Rep (2009) 5E, Theme I and Theme II). The subsequent Compliance Report was adopted at GRECO's 54th Plenary Meeting (23 March 2012) and was made public on 2 May 2012, following authorisation by Turkey (Greco RC-III (2012) 4E).

3. As required by GRECO's Rules of Procedure, the Turkish authorities submitted their Second Situation Report with additional information regarding the actions taken to implement the 17 recommendations that were partly implemented or not implemented according to the Compliance Report. The Situation Report was received on 11 October 2013 (Theme I) and 15 November 2013 (Theme II) and served as a basis for the Second Compliance Report.

4. GRECO selected Bulgaria and Norway to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Jens-Oscar NERGÅRD on behalf of Norway and Mr Georgi RUPCHEV on behalf of Bulgaria. They were assisted by GRECO's Secretariat in drawing up the Second Compliance Report.

II. ANALYSIS

Theme I: Incriminations

5. It is recalled that GRECO addressed eight recommendations to Turkey in respect of Theme I in its Evaluation Report. In the subsequent Compliance Report, GRECO concluded that all of the recommendations (i to viii) had been partly implemented.

6. The authorities of Turkey indicate that the draft legislation aimed at amending the Turkish Penal Code (TPC), which had been taken into account in the Compliance Report and was pending before Parliament at the time of the Report's adoption, was further amended by the Justice Commission of Parliament taking into consideration GRECO's assessment of the corruption-related provisions. The amended bill was adopted by Parliament on 2 July 2012 as Law No. 6352 and entered into force on 5 July 2012.

Recommendation i.

7. *GRECO recommended to revise existing criminal law in order to (i) provide for comprehensive, consistent and clear definitions of bribery offences; and (ii) to capture unambiguously a) promises, offers and requests for a bribe, irrespective of whether or not the parties have agreed upon the bribe; and b) all acts/omissions in the exercise of the functions of a public official, irrespective of whether or not they constitute a breach of duty and whether or not they lie within the scope of the official's competence.*

8. GRECO recalls that, according to the Compliance Report, draft legal amendments to article 252 TPC which appeared to provide for more comprehensive and consistent definitions of bribery offences were pending before Parliament. However, GRECO was concerned that the complicated structure of the bribery offences had not been remedied but rather amplified by the draft legislation. Furthermore, GRECO maintained the misgivings it had expressed in the Evaluation Report as regards the fact that unilateral acts of bribery – namely the (refused) offer, promise or request of a bribe – were not subject to the same sanctions as bribery agreements, and it was concerned that requests for a bribe with a compelling character were only criminalised in respect of the bribe-taker (i.e. the public official concerned), under the extortion provisions. Therefore, given i) that only parts of the recommendation had been dealt with and ii) that the measures taken had not yet resulted in adopted legislation, GRECO concluded that the recommendation was only partly implemented.

9. The authorities now report that following the adoption of the Compliance Report, the above-mentioned draft legislation was further amended and adopted on 5 July 2012. The bribery provisions of article 252 were completely overhauled and now read as follows.

> ***Article 252 TPC: Bribery***
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> *(1) Any person who provides any undue advantage directly or through intermediaries to a public official or anyone else to be indicated by the public official, in order to act or refrain from acting in the exercise of his/her duty, shall be sentenced to a penalty of imprisonment for a term of four years to twelve years.*
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> *(2) Any public official who procures any undue advantage directly or through intermediaries for himself/herself or for anyone else to be indicated by himself/herself, in order to act or refrain from acting in the exercise of his/her duty, shall also be sentenced to the same penalty stipulated in the first paragraph.*
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> *(3) Where the parties agree upon a bribe,[1] they shall be sentenced as if the offence were completed.*
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> *(4) In cases where a public official requests a bribe but this is not accepted by the person or a person offers or promises any undue advantage to a public official but this is not accepted by the public official, the penalty imposed in accordance with the provisions of the first and second paragraphs shall be decreased by one-half.*
>
> *(5) Any person acting as an intermediary for transferring the offer or the request for a bribe to the other party, for agreeing on bribery or for providing the bribe to the other party shall be sentenced as a principal offender, irrespective of whether s/he is a public official or not.*

[1] The authorities explain that the term "bribe" which is employed in several provisions of article 252 TPC is to be understood as a reference to the elements of bribery defined in paragraphs 1 and 2 of this article. In particular, it implies that the object of the bribery act is any undue advantage directed at an act or omission of an act in the exercise of an official's duty.

(6) Any third person who has been provided any undue advantage indirectly within the bribery relation or as a representative of the legal entity accepting the undue advantage shall be sentenced as a principal offender, irrespective of whether s/he is a public official or not.

(7) Where a person who receives or requests a bribe, or agrees to such, is a person in a judicial duty, an arbitrator, an expert witness, a public notary or a professional financial auditor, the penalty to be imposed shall be increased by between one-third and one-half.

(8) The provisions of this article shall also apply in the case of providing, offering or promising of any undue advantage, directly or through intermediaries, to persons – irrespective of whether they are public officials or not – who act on behalf of the legal entities enumerated below; requesting or accepting [any undue advantage][2] by such persons; intermediating to such activities; providing any undue advantage to another person through this relation, for him/her to act or refrain from acting in the exercise of his/her duties:

a) public professional institutions,
b) companies incorporated by the participation of public institutions or public corporations or public professional institutions,
c) foundations operating within the framework of public institutions or public corporations or public professional institutions,
d) associations acting in the public interest,
e) co-operatives,
f) public joint stock companies.

(9) The provisions of this article shall also apply in the event that the persons enumerated below, directly or through intermediaries, are provided, offered or promised any undue advantage, or request or accept such an undue advantage,

- in order to act or refrain from acting in the exercise of their duties, or

- in order to secure or preserve a business activity or any undue advantage due to international commercial transactions [in the exercise of their duties][3]:

a) elected or appointed public officials in a foreign State,
b) judges, jurors or other officials working for international or supranational courts or foreign courts,
c) international or supranational parliamentarians,
d) persons carrying out a public activity for a foreign country including public institutions and public enterprises,
e) national or foreign arbitrators assigned within the framework of the arbitration procedure applied for the settlement of a legal dispute,
f) officials or representatives of international or supranational public organisations established on the basis of an international agreement.

(10) Where a bribery offence that falls within the scope of paragraph 9 is committed, although by a foreigner abroad, with regard to a dispute to which

a) Turkey,
b) a public institution in Turkey,
c) a private legal person established in accordance with Turkish legislation, or
d) a Turkish citizen

[2] The original version of article 252, paragraph 8 TPC does not include the words “any undue advantage” at this place, it has been added in the translation in order to facilitate the reading.
[3] The original version of article 252, paragraph 9 TPC does not include the words “in the exercise of their duties” at this place, it has been added in the translation in order to facilitate the understanding.

is a party, or to perform or not to perform a transaction concerning these institutions or persons, ex-officio investigation and prosecution shall be initiated against the persons who give, offer or promise a bribe; who receive, request, accept the offer or promise of a bribe; who intermediate these; who are provided with any undue advantage due to the bribery relation, if they are present in Turkey.

10. As concerns the first part of the recommendation, the authorities explain that the amended article 252 TPC provides new definitions of bribery offences in paragraphs 1 (active bribery in the form of giving a bribe) and 2 (passive bribery in the form of receiving a bribe), which are extended to "agreeing on a bribe" (paragraph 3), to "offering, promising and requesting a bribe" (paragraph 4), to private sector bribery (paragraph 8) and to bribery of foreign and international officials (paragraph 9). In addition, article 252 TPC contains specific paragraphs dealing with criminal liability of intermediaries and third party beneficiaries (paragraphs 5 and 6), aggravated cases of bribery (paragraph 7), as well as new jurisdictional rules in paragraph 10. The authorities stress that the different bribery offences – in particular those involving domestic officials on the one hand and those involving foreign and international officials on the other – have been harmonised.

11. With regard to the second part of the recommendation, the authorities indicate that paragraph 4 of article 252 TPC explicitly criminalises bribery offences committed in the form of simple promises, offers and requests which now constitute completed crimes, since there is no more reference to the attempt provisions. The agreement by the parties on a bribe is no longer a condition but only one specific form of bribery, which is regulated in paragraph 3, in order to clearly capture cases where the offer or promise of a bribe has been accepted but the bribe has not been handed over. The authorities add that active bribery and passive bribery are separate offences and each of these offences is punishable independently.

12. The authorities furthermore stress that the amended definition of bribery in article 252 TPC no longer requires the public official to act "in breach of the requirements of his/her duty". This element has been replaced by the concept "to act or refrain from acting in the exercise of his/her duty". This means, firstly, that article 252 TPC covers all acts and omissions in the exercise of the functions of a public official, irrespective of whether or not they lie within the scope of the official's competence. Secondly, article 252 TPC covers both "simple" and "aggravated" cases of bribery, in contrast to the previous situation where article 252 TPC only applied to aggravated bribery (implying a breach of duty) and not to simple bribery (without breach of duty) – which were dealt with under the provisions of article 125, paragraph 3a) TPC on "insult" (simple active bribery) and article 250 TPC on "extortion" or article 257, paragraph 3 TPC on "misuse of public duty" (simple passive bribery).[4]

13. GRECO acknowledges the information provided, according to which the bribery offences under article 252 TPC have been completely revised in order to comply with the requirements of the recommendation. The new legislation, which is already in force, makes it clear that all the different forms of corrupt behaviour in the meaning of Articles 2 and 3 (as well as Articles 7 and 8) of the Criminal Law Convention on Corruption – including unilateral acts such as mere offers, promises or requests of a bribe – constitute completed bribery offences. The agreement by the parties on the bribe is no longer required, nor is it necessary to refer to the attempt provisions or to other offences such as "insult", "extortion" or "misuse of public duty" in order to capture

[4] As a consequence article 257, paragraph 3 TPC which regulated securing a benefit by a public official in return for fulfilling the requirements of his/her duty was abrogated.

unilateral bribery acts, as was the case before. In addition, the provisions on bribery of domestic officials and of foreign and international officials now follow the same systematic approach. Although article 252 TPC, as amended, has altogether 10 paragraphs and still appears rather complex, there is no doubt that the legal framework for the criminalisation of bribery has been made more comprehensive, consistent and clear, as required by the first part of the recommendation.

14. Moreover, given that the amended provisions cover all forms of corrupt behaviour, irrespective of whether or not a) the parties have agreed upon a bribe, b) the acts or omissions of the official constitute a breach of duty or c) they lie within the scope of the official's competence, GRECO takes the view that the requirements of the second part of the recommendation have also been fulfilled. That said, GRECO maintains the misgivings it expressed in the Evaluation Report about the fact that certain bribery acts – namely (refused) offers, promises and requests – are not subject to the same sanctions as bribery agreements and cases of bribery where the advantage is actually handed over to the bribe-taker. The authorities are invited to reconsider their position in this respect and to harmonise the sanctions available for the different forms of bribery.

15. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

16. *GRECO recommended to ensure that the bribery offences are construed in such a way as to cover, unambiguously, instances of bribery committed through intermediaries as well as instances where the advantage is not intended for the official him/herself but for a third party.*

17. GRECO recalls that in the Compliance Report the recommendation was considered partly implemented. Draft legislation had been presented according to which the general definition of bribery explicitly covered third party beneficiaries. In contrast, as concerns the indirect commission of bribery through intermediaries, the draft amendments only concerned the liability of intermediaries themselves but not the liability of persons using intermediaries for committing bribery.

18. The authorities now state that the new definitions of bribery offences in paragraphs 1 (active bribery) and 2 (passive bribery) of article 252 TPC have been amended to expressly cover bribery committed 1) "directly or through intermediaries" and 2) for the benefit of a public official him/herself "or anyone else to be indicated by the public official" (see paragraph 9 above). The authorities explain that the aim of the phrase "to be indicated by the public official" is to highlight the necessary link between the third party beneficiary and the bribery relation. It is meant also to cover cases where a public official merely has the knowledge that a third party receives an undue advantage because of the bribery relation of the public official with another person, since the third party beneficiary may be indicated explicitly or implicitly.

19. GRECO notes that the revised bribery provisions explicitly include the indirect commission of bribery through intermediaries as well as instances where the advantage is intended for a third party, as required by the recommendation. As concerns third party beneficiaries, GRECO notes that article 252, paragraphs 1 and 2 TPC employ the terms "anyone else to be indicated by the public official", whereas Articles 2 and 3 of the Criminal Law Convention on Corruption refer more generally to "anyone else". In this connection, GRECO accepts the explanations by the authorities that the terms used in article 252 TPC are meant also to cover cases where a public official merely has the knowledge that a third party receives an undue advantage because of the

bribery relation, in line with the requirements of the Convention (bearing in mind that, according to paragraph 36 of the Explanatory Report, "the public official must at least have knowledge thereof [i.e. of the third party beneficiary] at some point"). The only issue which might deserve further attention is related to bribery of foreign and international officials, as the relevant provisions do not explicitly mention the concept of third party beneficiaries (see article 252, paragraph 9 TPC). In this connection, the authorities argue that the terms "the provisions of this article shall also apply" in article 252, paragraph 9 TPC is to be understood as a reference to the different elements contained in the domestic bribery provisions including third party beneficiaries. However, given that paragraph 9 itself contains a precise definition of bribery of foreign and international officials (including specific elements such as the indirect commission of the offence), the authorities are invited to keep this question under review in order to remove any possible doubts about the coverage of third party beneficiaries.

20. GRECO concludes that recommendation ii has been implemented satisfactorily.

Recommendation iii.

21. *GRECO recommended to ensure that active and passive bribery – within or outside of the context of international commercial activities – of all foreign public officials, members of foreign public assemblies, officials of international organisations, members of international parliamentary assemblies, judges and officials of international courts are criminalised unambiguously, in accordance with Articles 5, 6, 9, 10 and 11 of the Criminal Law Convention on Corruption (ETS 173).*

22. GRECO recalls that according to the Compliance Report the recommendation was partly implemented. Draft amendments to article 252 TPC were pending before Parliament which took into account several important elements of the recommendation. However, GRECO noted that the draft provision on bribery of foreign and international public officials did not clearly cover all forms of passive bribery, as it did not mention the acceptance of an offer or promise. Likewise, third party beneficiaries were not explicitly regulated. Moreover, according to the bill, bribery of foreign and international public officials remained limited to "elected or appointed persons" and the provisions on bribery in the domestic and foreign/international context had not been harmonised, as they still followed a different systematic approach.

23. The authorities now indicate that the amended provision on bribery of foreign and international officials in article 252, paragraph 9 TPC has been modelled on the revised provisions on bribery of domestic public officials (see paragraph 9 above). In particular, in contrast to the situation before the reform, the amended paragraph 9 covers passive bribery and is not restricted to acts of bribery committed within the context of international commercial activities. The authorities add that the acceptance of an offer or promise – which is not explicitly mentioned in this provision – is also covered, since the provision of article 252, paragraph 3 TPC – which refers to bribery agreements – is applicable to all bribery offences under this article.

24. The authorities furthermore stress that the categories of persons covered by article 252, paragraph 9 TPC have been redesigned in order to reflect more clearly the requirements of Articles 5, 6, 9, 10 and 11 of the Criminal Law Convention on Corruption. More precisely, the amended article 252, paragraph 9 TPC captures a) elected or appointed public officials in a foreign State, b) judges, jurors or other officials working for international or supranational courts or foreign courts, c) international or supranational parliamentarians, d) persons carrying out a public activity for a foreign country including public institutions and public enterprises, e) national

or foreign arbitrators assigned within the framework of the arbitration procedure applied for the settlement of a legal dispute, f) officials or representatives of international or supranational public organisations established on the basis of an international agreement. The authorities stress in particular that the new provision does not only apply to "elected or appointed" foreign officials (see *litt*. a) – as was the case with the previous draft provision which had given rise to concerns in the Compliance Report – but also to any "persons carrying out a public activity for a foreign country" (see *litt*. d). The authorities explain that those terms have been chosen in order to harmonise the definition of a foreign official with that of a domestic public official in the meaning of article 6, paragraph 1c) TPC ("any person who is elected, appointed or chosen in any other way to carry out a public duty for a temporary, permanent or specifically defined time period").

25. GRECO takes note of the information provided which indicates that the amendments to the provision on bribery of foreign and international public officials took into account all the main elements of the recommendation and of GRECO's concerns expressed in the Compliance Report. GRECO is satisfied that the amended article 252, paragraph 9 TPC covers a broad range of persons, in line with the requirements of Articles 5, 6, 9, 10 and 11 of the Criminal Law Convention on Corruption, and that this provision is no longer limited to acts of active bribery committed within the context of international commercial activities.

26. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv.

27. *GRECO recommended to ensure that active and passive bribery – within or outside of the context of international commercial activities – of foreign jurors and arbitrators are criminalised unambiguously, in accordance with Articles 4 and 6 of the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191), and to sign and ratify this instrument as soon as possible.*

28. GRECO recalls that the recommendation was considered as partly implemented. While note was taken, in the Compliance Report, of draft amendments to article 252 TPC which explicitly mentioned arbitrators as possible perpetrators of bribery offences ("arbitrators assigned within the framework of the arbitration procedure applied for the settlement of a legal dispute"), GRECO took the view that it should be specified that the reference to arbitrators was meant to also cover *foreign* arbitrators. As regards foreign jurors, no progress had been reported. Finally, a process directed at the signature and ratification of the Additional Protocol to the Criminal Law Convention on Corruption had been initiated but had not yet materialised.

29. The authorities now report that bribery of foreign arbitrators is explicitly addressed by the amended article 252, paragraph 9e) TPC, according to which the bribery provisions are applicable to "national or foreign arbitrators assigned within the framework of the arbitration procedure applied for the settlement of a legal dispute" (see paragraph 9 above). As regards foreign jurors, the authorities refer to the clause "judges, jurors or other officials working for international or supranational courts or foreign courts" in article 252, paragraph 9e) TPC. Finally, the authorities indicate that the Additional Protocol to the Criminal Law Convention on Corruption was signed on 12 April 2012. In order for it to be enacted, the Additional Protocol must be approved by Parliament. The bill on approval of the Additional Protocol was adopted by the Foreign Affairs Commission of Parliament on 7 February 2013 and is currently on the agenda of the General Assembly.

30. GRECO acknowledges that the amendments to article 252 TPC explicitly refer to foreign arbitrators, as well as "jurors working for […] foreign courts" as possible subjects of active and passive bribery offences. Moreover, GRECO recognises that the Additional Protocol to the Criminal Law Convention on Corruption has been signed and it encourages the authorities to proceed swiftly with its ratification, as planned and as required by the recommendation.

31. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v.

32. *GRECO recommended to criminalise active and passive bribery in the private sector – applicable to any persons who direct or work for, in any capacity, any private sector entities – in accordance with Articles 7 and 8 of the Criminal Law Convention on Corruption (ETS 173).*

33. GRECO recalls that according to the Compliance Report, the recommendation was partly implemented. Draft legal amendments to the provision on private sector bribery had been presented which addressed some of the concerns underlying the recommendation, in particular, as regards the scope of possible perpetrators of private sector bribery offences and their harmonisation with the public sector bribery offences. However, some important shortcomings remained, in particular, the list of entities covered – which had only been slightly modified and was still restricted to a limited number of entities with public participation or acting in the public interest – and the restrictive element "during the establishment of a legal relationship or in the framework of an existing legal relationship".

34. The authorities now indicate that the concerns expressed by GRECO in the Compliance Report with respect to the draft provision on private sector bribery have been taken into account during the legislative process and have led to further amendments which are now in force. In particular, the revised article 252, paragraph 8 TPC (see paragraph 9 above) employs the terms "for him/her to act or refrain from acting in the exercise of his/her duties" – instead of the terms "through a breach of duty" (which was used before the legal reforms) and without the restrictive element "during the establishment of a legal relationship or in the framework of an existing legal relationship" (which was still contained in the draft bill). Regarding the scope of possible perpetrators, the amendments already contained in the draft bill – which include any persons acting on behalf of specified legal entities, irrespective of whether they are public officials or not – are now in force. The authorities add that in contrast to the situation before the reform, the revised article 252, paragraph 8 TPC explicitly mentions the different types of corrupt behaviour[5] as well as the indirect commission of the offence ("through intermediaries") and instances involving third party beneficiaries ("providing any undue advantage to another person through this relation").

35. GRECO takes note of the information provided which indicates that the amendments to the provision on private sector bribery took into account several elements of the recommendation and of GRECO's underlying misgivings explained in the Compliance Report, in particular, as regards the scope of possible perpetrators of private sector bribery offences, their harmonisation with the public sector bribery offences, the abolishment of the elements "breach of duty" and "during the

[5] Regarding the acceptance of an offer or promise, which is not explicitly mentioned in this provision, the authorities state that it is nevertheless covered, since the provision of article 252, paragraph 3 TPC – which refers to bribery agreements – is applicable to all bribery offences under this article (cf. the same reasoning with regard to bribery of foreign and international officials, see under recommendation iii above).

establishment of a legal relationship or in the framework of an existing legal relationship" and the regulation of indirect commission of the offence and of third party beneficiaries.

36. GRECO notes that in the view of the authorities, the amended article 252, paragraph 8 TPC is in full conformity with Articles 7 and 8 of the Criminal Law Convention on Corruption. However, GRECO is concerned that the list of entities covered by this provision has not been further amended as compared to the draft bill and is still restricted to a limited number of entities with public participation or acting in the public interest. Additional changes to the provision on private sector bribery will therefore be necessary in order to ensure full compliance with the Convention.

37. GRECO concludes that recommendation v remains partly implemented.

Recommendation vi.

38. *GRECO recommended to criminalise active and passive trading in influence – without the requirement of a deception by the influence peddler – in accordance with Article 12 of the Criminal Law Convention on Corruption (ETS 173).*

39. GRECO recalls that, according to the Compliance Report, the recommendation was partly implemented. The draft bill included an amended article 255 TPC on "Procuring any undue advantage for a task outside the scope of authority" in order to specifically criminalise trading in influence. In particular, in contrast to the situation before the reform, draft article 255 TPC addressed both active and passive trading in influence by any person (not only public officials) for their own benefit or for the benefit of third parties, without the requirement of deception by the influence peddler. GRECO noted, however, that the draft provisions did not apparently capture all the possible forms of influence peddling – namely the offering, promising or requesting of an undue advantage, the indirect commission of the offences through intermediaries was not explicitly regulated and clarification was needed as to whether the element "for the purpose of having an improper business done" is equivalent to the concept of exertion of influence over the decision-making of any person as referred to in Articles 2, 4 to 6 and 9 to 11 of the Criminal Law Convention on Corruption.

40. The authorities now report that the concerns expressed by GRECO in the Compliance Report with respect to the draft provisions on trading in influence have been taken into account during the legislative process and have led to further amendments which are now in force. In particular, the revised article 255 TPC explicitly covers all the possible forms of influence peddling – including the offering, promising or requesting of an undue advantage (paragraph 3) and the acceptance of an offer or a promise (through the element "agreeing on providing any undue advantage" in paragraph 2) – and the indirect commission of the offences ("through intermediaries", see paragraph 1). Regarding the element "for the purpose of having an improper act performed", the authorities explain that this is to be understood as "for the purpose of exerting an improper influence over the decision-making of the competent public official". Moreover, the new paragraph 7 of article 255 TPC makes it clear that the trading in influence provisions also apply to situations where influence over foreign and international officials (including jurors and arbitrators) is traded. The amended provisions on trading in influence read as follows.

Article 255 TPC: Trading in influence

(1) Where a person, asserting that s/he is able to exert an improper influence over a public official, procures, directly or through intermediaries, any undue advantage for him/herself or for anyone else, in order to take the initiative for the purpose of having an improper act performed, s/he shall be sentenced to a penalty of imprisonment of two years to five years and a judicial fine of up to five thousand days. In the case that the offender is public official, the penalty shall be increased by one-half. As for the person providing any undue advantage in exchange for or in the expectation of having the sought act performed, s/he shall be sentenced to a penalty of imprisonment of one year to three years.

(2) Even in the case of agreeing on providing any undue advantage, the penalty shall be imposed as if the offence is completed.

(3) In the case that any undue advantage in line with the purpose stated under paragraph 1 is requested but not accepted or any undue advantage is offered or promised but not accepted, the sentence to be given in accordance with paragraph 1 shall be decreased by one-half.

(4) The person who intermediates the trading in influence offence shall be sentenced as a principal offender with the penalty laid down in paragraph 1.

(5) Any natural third person who has been provided any undue advantage indirectly within the trading in influence relation or as a representative of the legal entity accepting the undue advantage shall be sentenced as a principal offender with the penalty laid down in paragraph 1.

(6) Where taking the initiative for the purpose of performing an act constitutes a distinct offence, the persons shall also be sentenced owing to this offence.

(7) The provisions of this article shall also apply in the event that influence over the persons enumerated in article 252, paragraph 9 is traded. With regard to these persons, if they are present in Turkey, ex-officio investigation and prosecution shall be conducted, irrespective of them being nationals or foreigners.

41. GRECO is pleased that its assessment contained in the Compliance Report has been taken into account and that, on this basis, amended provisions on active and passive trading in influence have been enacted. In particular, the provisions of article 255 TPC capture all the possible forms of influence peddling, they explicitly mention the indirect commission of the offences through intermediaries and they clearly criminalise trading in influence over the decision-making of any person as referred to in Articles 2, 4 to 6 and 9 to 11 of the Criminal Law Convention on Corruption – namely, domestic public officials and members of domestic public assemblies, who are covered by the term "public official"[6] (paragraph 1), as well as foreign and international officials (paragraph 7). That said, GRECO has misgivings about the fact that certain acts of trading in influence – namely (refused) offers, promises and requests – are not subject to the same sanctions as agreements and cases of trading in influence where the advantage is actually handed over. The authorities are invited to reconsider their position in this respect and to harmonise the sanctions available for the different forms of trading in influence.

42. GRECO concludes that recommendation vi has been implemented satisfactorily.

[6] Cf. GRECO's Third Round Evaluation Report on Turkey, document Greco Eval III Rep (2009) 5E, Theme I, paragraph 66.

Recommendation vii.

43. *GRECO recommended (i) to analyse and accordingly revise the automatic – and mandatorily total – exemption from punishment granted to perpetrators of active and passive bribery in the public sector in cases of "effective regret", and to abolish the restitution of the bribe to the bribe-giver in such cases; and (ii) to make it clear to everyone, including the practitioners who are to apply the law, that exemption from punishment is not granted in cases where "effective regret" is invoked after the start of preliminary investigations.*

44. GRECO recalls that the recommendation was considered as partly implemented in the Compliance Report. Draft legal amendments to the provisions on effective regret had been presented which addressed some of the concerns underlying the recommendation. In particular, according to the draft bill 1) the restitution of the bribe to the bribe-giver in cases of effective regret would be abolished, and 2) the defence could not be invoked in any situations where the bribery act has already come to the knowledge of official authorities, thus making it clear that no exemption from punishment could be granted in cases where effective regret is invoked after the start of preliminary investigations. On the other hand, the automatic – and mandatorily total – exemption from punishment had only been analysed by the working group under the Ministry of Justice but had not been revised, as required by the recommendation.

45. The authorities now indicate that the above-mentioned draft amendments to the provisions on effective regret have been adopted and entered into force. Regarding the automatic nature of the defence, the authorities report that this question has once again been analysed in depth by the working group under the Ministry of Justice. The members of the working group maintained their position that the current provisions encourage any persons who know they will not be sentenced to inform the authorities of the offences committed[7] and that any changes in this respect would impair the fight against corruption. The provisions of article 254 TPC in their amended form read as follows.

> ***Article 254 TPC: Effective regret***
>
> *(1) Where, before the official authorities learn of the act, the person who received the bribe hands over the exact subject of the bribe to the competent investigation authorities, no penalty shall be imposed for the bribery offence. Where, before the act is learnt by official authorities, a public officer who, after having agreed to receive a bribe, informs the authorities of such, no penalty shall be imposed.*
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> *(2) Where, before the official authorities learn of the act, a person who gave a bribe to a public official or agreed on a bribe, informs the competent authorities of such by demonstrating regret, no penalty shall be imposed for the bribery offence.*
>
> *(3) Where, before the official authorities learn of the act, any other person who participates in the bribery offence informs the competent authorities by demonstrating regret, no penalty shall be imposed upon such person for this offence.*
>
> *(4) The provisions of this article shall not apply to persons who gave a bribe to foreign public officials.*

[7] According to statistical data provided by the Directorate General for Judicial Records and Statistics of the Ministry of Justice, the provisions on effective regret (article 254, paragraphs 1-3 TPC) were applied by the courts 182 times in different criminal cases between 2009 and 2012. Moreover, in the pre-trial phase, 552 decisions not to prosecute were made by public prosecutors on the basis of the same provisions.

46. GRECO acknowledges the adoption and entry into force of the amendments to the provisions on effective regret which abolish the restitution of the bribe to the bribe-giver and according to which this defence cannot be invoked in any situations where the bribery act has already come to the knowledge of official authorities (thus making it clear that no exemption from punishment can be granted in cases where effective regret is invoked after the start of preliminary investigations). However, GRECO very much regrets that no further changes were made to the automatic – and mandatorily total – nature of this defence and that the different approach adopted for bribery of foreign public officials (who are exempted from the defence provisions) has not been followed with respect to domestic officials. While GRECO notes that the situation has once again been analysed by the working group under the Ministry of Justice and that the group considered the defence in its present form as an effective tool for fighting corruption, GRECO maintains the significant concerns about the risks of abuse inherent in the automatic nature of this defence as described in the Evaluation Report. GRECO urges the authorities to continue active consideration of this matter and to provide for additional safeguards, as recommended.

47. GRECO concludes that recommendation vii remains partly implemented.

Recommendation viii.

48. *GRECO recommended (i) to abolish the condition that the prosecution of acts of corruption committed abroad by non-citizens, but involving Turkish public officials or members of Turkish public assemblies who are at the same time Turkish citizens, must be preceded by a request by the Minister of Justice (section 12, paragraph 1 of the Turkish Penal Code); and (ii) to establish jurisdiction over acts of corruption committed abroad by non-citizens, but involving officials of international organisations, members of international parliamentary assemblies, judges or officials of international courts who are, at the same time, Turkish citizens.*

49. GRECO recalls that, according to the Compliance Report, the recommendation was partly implemented. The draft amendments to article 252 TPC included jurisdictional rules in a new paragraph 8 which appeared to be partly in line with the recommendation – in so far as the requirement of a request by the Minister of Justice before prosecuting certain acts of bribery committed abroad by foreigners, but involving Turkish citizens, would be abolished (first part of the recommendation) and as jurisdiction would be established over specified bribery acts (second part of the recommendation). That said, GRECO noted that the new rules under draft paragraph 8 would only apply in respect of bribery of foreign and international officials (in the meaning of draft paragraph 7) but not in respect of bribery of domestic public officials or trading in influence, as required by the recommendation, which concerns any corruption offence.

50. The authorities now report that the concerns expressed by GRECO in the Compliance Report with respect to the draft amendments to article 252 TPC have been taken into account during the legislative process. Following the reform, jurisdictional rules are now included in a new paragraph 10 of article 252 TPC (see paragraph 9 above) which provides that *ex-officio* investigation and prosecution are initiated against bribers and bribees if the offence described in paragraph 9 of the same article (i.e. bribery of foreign and international officials) is committed by a foreigner abroad with regard to, *inter alia*, a dispute to which a Turkish citizen is a party, or to act or refrain from acting in a transaction or a dispute relating to a Turkish citizen (see the text of this provision under recommendation i). The authorities stress that this provision is not a mere procedural rule but establishes a specific jurisdictional rule over certain acts of bribery.

51. More specifically, the authorities explain with regard to the first part of the recommendation that under the new provision of article 252, paragraph 10 TPC, prosecution of acts of bribery committed abroad by foreigners but involving Turkish citizens no longer needs to be preceded by a request from the Minister of Justice but is initiated *ex officio*. They consider that the requirements of this part of the recommendation are fulfilled since the new jurisdictional rule does not only apply to bribery offences of foreign and international officials (in the meaning of article 252, paragraph 9 TPC) but also to acts of Turkish citizens who participate in such offences and who carry out a duty in a foreign State or in an international institution. Regarding the second part of the recommendation, the authorities stress that article 252, paragraph 10 TPC includes bribery offences committed abroad by foreigners but involving Turkish citizens – including those who are at the same time foreign or international officials, without the additional requirement that the offence be committed to the detriment of Turkey, as is the case under the general jurisdictional rules (see article 12, paragraph 1 TPC).

52. GRECO takes note of the adoption and entry into force of specific jurisdictional rules applicable to acts of bribery of foreign and international officials in the new paragraph 10 of article 252 TPC. It would appear that the new rules fulfil certain requirements of the recommendation, in that 1) the requirement of a request by the Minister of Justice before prosecuting such acts of bribery committed abroad by foreigners but involving Turkish citizens is abolished (first part of the recommendation) and 2) jurisdiction is established over such acts of bribery involving foreign or international officials who are, at the same time, Turkish citizens (second part of the recommendation). However, GRECO regrets that the new provision is limited to offences of bribery of foreign and international officials (and to participation in such offences) – as was the case with the slightly different draft provision presented in the Compliance Report – and therefore does not fully meet the requirements of the first part of the recommendation, which concerns any corruption offence, including bribery of domestic public officials and members of domestic public assemblies. Additional changes to the jurisdictional rules applicable to corruption offences will therefore be necessary in order to ensure full compliance with the Convention.

53. GRECO concludes that recommendation viii remains partly implemented.

Theme II: Transparency of Party Funding

54. It is recalled that GRECO in its Evaluation Report addressed nine recommendations to Turkey in respect of Theme II. The Compliance Report concluded that recommendations iii, iv, vii and viii had been partly implemented and recommendations i, ii, v, vi and ix had not been implemented.

55. The authorities recall that the Commission tasked with the implementation of the "Strategy for Enhancing Transparency and Reinforcing the Fight Against Corruption" of 1 February 2010 (hereafter "the Commission")[8] had instructed enactment of the suggestions made by the relevant working group which had been established with a view to conducting reforms, taking into account the recommendations issued by GRECO in its Third Round Evaluation Report on Turkey. In order to prepare the legal amendments necessary, the Commission had decided to establish a working group under the Ministry of Justice which included representatives of relevant ministries and institutions (hereafter "Working Group-MoJ").

56. The authorities now report that as a result of the deliberations of Working Group-MoJ, a "Draft Bill on the Amendment of Certain Laws for the Purpose of Ensuring Transparency in the Financing of

[8] Under the presidency of the Deputy Prime Minister, the Commission is composed of the Minister of Justice, the Minister of Finance, the Minister of Internal Affairs, the Minister of Labour and Social Security and the Minister of Customs and Trade.

Elections" (hereafter "the draft bill") was prepared, which envisages amendments to Law No. 2820 on Political Parties (hereafter "the LPP") and Law no. 298 on Basic Provisions on Elections and Voter Registers. Following some minor changes, the draft bill was adopted by the "Executive Committee for Enhancing Transparency and Reinforcing the Fight against Corruption" (hereafter "the Executive Committee")[9] on 5 September 2012 and submitted to the Commission for approval. On 14 January 2014, the Commission agreed to submit the draft bill to the Prime Minister. It is expected that, after its presentation to the Prime Minister, the draft bill will be forwarded to the cabinet and to Parliament.

Recommendation i.

57. *GRECO recommended to ensure that annual accounts of political parties include a) income received and expenditure incurred individually by elected representatives and candidates of political parties for political activities linked to their party, including electoral campaigning, and b) as appropriate, the accounts of entities related, to political parties or otherwise under their control.*

58. GRECO recalls that according to the Compliance Report the recommendation had not been implemented. While it was planned to take measures to implement the recommendation, no concrete results had been achieved. More precisely, regarding the first part of the recommendation, the Commission had instructed enactment of the suggestion made by the relevant working group "to take necessary measures in relation to the financing of election campaigns conducted by the candidates". Necessary legal amendments were to be prepared by Working Group-MoJ. Regarding the second part of the recommendation, the authorities stressed that under existing law, political parties can only establish entities for educational purposes such as women's and youth branches or political academies which have no separate legal personality and whose accounts are therefore already checked together with the party accounts by the Constitutional Court. Nevertheless, the above working group was considering further measures to increase transparency of the financing of such entities, in particular by incorporating their accounts into the annual accounts of political parties. In this connection, GRECO recalled that the second part of the recommendation was aimed at increasing transparency in respect of accounts covering both political parties and entities which are closely related to or come under the influence of a party – i.e. not necessarily entities *established by* the parties.

59. In relation to the first part of the recommendation, the authorities now refer to the draft bill which aims at implementing GRECO's recommendations and has been presented to the Prime Minister for approval (see paragraph 56 above).

60. Regarding the second part of the recommendation, the authorities reiterate that pursuant to section 73 LPP, accounts of political parties are consolidated in the central accounts managed by the parties' headquarter. These accounts include all party units without a separate legal personality, namely youth and women's branches and units providing training in the field of politics. The law does not provide for units with a separate legal personality which are affiliated with political parties. The establishment of a unit operating under a political party as a trade union or foundation would be against the law and no such unit exists in practice.

[9] Under the presidency of the Deputy Undersecretary of the Prime Ministry, the Executive Board is composed of the undersecretaries of the Ministry of Justice, the Ministry of Finance, the Ministry of Internal Affairs, the Ministry of Labour and Social Security and the Ministry of Customs and Trade, as well as representatives of the Union of Chambers and Commodity Exchanges of Turkey and relevant labour syndicates.

61. GRECO notes that a draft bill has been prepared which aims at addressing the recommendations issued by GRECO in its Third Round Evaluation Report on Turkey. However, at this early stage of the reform process – to date, the draft bill has been neither approved by the Government nor submitted to Parliament – and in the absence of any precise information on the content of the draft bill, GRECO cannot conclude that the recommendation has been even partly implemented. Furthermore, as far as the second part of the recommendation is concerned, GRECO is well aware of the fact that in Turkey, there are no entities with separate legal personality which are established by political parties and operating under them. GRECO wishes to reiterate that the recommendation was aimed at increasing transparency in respect of accounts of entities which are closely related to or come under the control of a party (e.g. entities where the parties have some kind of ownership or interest) – i.e. not only entities *established by* the parties. The authorities are invited to reconsider this issue and to take appropriate measures.

62. GRECO concludes that recommendation i has not been implemented.

Recommendation ii.

63. *GRECO recommended to take appropriate measures to ensure that annual accounts of political parties provide more detailed and comprehensive information on income and expenditure, including the introduction of a standardised format backed up by common accountancy principles, as well as the provision of guidance to parties by the monitoring body.*

64. GRECO recalls that in the Compliance Report, note was taken of the instruction by the Commission "to take necessary measures in order to standardise the keeping and reporting of financial records of political parties". Working Group-MoJ would prepare legal amendments to that effect, and it was also considering further measures such as setting up common accountancy standards or a monitoring body providing further guidance to political parties. However, in the absence of any concrete measures at that stage, GRECO concluded that the recommendation had not been implemented.

65. The authorities now indicate that questions relating to how the financial audit of the political parties is to be carried out and which documents are to be presented by them have been regulated in sections 51 and 52 of the "Bylaw of the Constitutional Court" which entered into force on 12 July 2012.[10] They state that these provisions require parties to submit more detailed and comprehensive information on their income and expenses and that they also contain regulations to speed up the process, *inter alia*, the time period given to parties to complete the outstanding documents and to correct mistakes and inconsistencies has been reduced from three months to one month (as compared to the relevant provisions of the previous Bylaw). In addition to those legislative measures, the authorities report on an information meeting held by the Constitutional Court on 24 January 2012, in which representatives of 37 political parties including all the parliamentary parties participated (all 63 registered political parties had been invited), in order to set minimal standards in the books, records and documents to be submitted in view of the financial audit. A similar workshop was carried out by the Court of Accounts (which assists the Constitutional Court in the financial audit of political parties) for the audits of the years 2010 and 2011 in order to guide political parties, both verbally and on the basis of written information. Furthermore, the Court of Accounts has prepared a draft "Guidebook to Financial Audit of Political Parties" which includes the procedures and substance relevant to the different steps of financial audit and to the process of reporting financial information to the Constitutional Court. The

[10] The Bylaw was prepared in accordance with Law No. 6216 on the Establishment of the Constitutional Court and Rules of Procedure which entered into force on 3 April 2011.

guidebook also contains featured passages and sample charts, which are to be annexed to the final accounts. It is planned that once finalised, the guidebook will be submitted to the political parties.

66. GRECO takes note of the information provided. The legal framework for the financial audit of political parties – including the information to be submitted by the parties – is currently subject to a reform process and in addition, information meetings on reporting requirements for the attention of party officials have been held and a guidebook including this issue is under preparation. GRECO hopes that the reform process will lead to more detailed and comprehensive party accounts in respect of income and expenditure and that the relevant information will be provided in a standardised format that makes it easy to compare over the years and across parties. GRECO is also hopeful that the guidebook, once finalised, will provide appropriate guidance to party officials/staff concerned with regard to the application in practice of relevant accountancy principles and rules, backed up by further seminars and the provision of advice upon request.

67. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii.

68. *GRECO recommended to ensure that annual accounts of political parties and monitoring reports of the supervisory body are made easily accessible to the public, within timeframes to be specified by law.*

69. GRECO recalls that according to the Compliance Report the recommendation was partly implemented. While two parliamentary parties already published financial information on their websites, the Commission had instructed that measures be taken to ensure that the financial reports of the political parties be released to the public by easily accessible means. Furthermore, steps had been taken to disclose the complete audit reports on party finances on the Internet – on the websites of the Official Gazette and of the Constitutional Court – but further legal or administrative regulations were necessary in order to ensure timely disclosure of audit reports.

70. The authorities now refer to the draft bill which has been presented to the Prime Minister for approval (see paragraph 56 above).

71. In the absence of any tangible progress, GRECO concludes that recommendation iii remains partly implemented.

Recommendation iv.

72. *GRECO recommended to regulate transparency in the financing of parliamentary, presidential and local election campaigns of political parties and candidates and, specifically, to find ways of increasing the transparency of contributions by third parties.*

73. GRECO recalls that according to the Compliance Report the recommendation was partly implemented. Law No. 6271 on Presidential Elections of 19 January 2012 introduced rules on campaign financing of presidential candidates. While the new rules appeared to be of a good standard, GRECO was however concerned about the apparent lack of a ban on anonymous donations in the law. GRECO furthermore noted that the preparation of legal amendments concerning campaign funding by candidates in parliamentary and local elections was planned. The authorities were invited to ensure that such amendments enhance transparency in campaign

funding by both independent candidates and individual party candidates and also to address the issue of support provided by third parties to election campaigns of political parties.

74. The authorities now refer to the draft bill which has been presented to the Prime Minister for approval (see paragraph 56 above).

75. In the absence of any tangible progress, GRECO concludes that recommendation iv remains partly implemented.

Recommendation v.

76. *GRECO recommended to require political parties and election candidates to regularly disclose all individual donations (including of a non-monetary nature) they receive above a certain value, indicating the nature and value of each donation as well as the identity of the donor, including during the electoral campaign period.*

77. GRECO recalls that according to the Compliance Report it had been decided to prepare legal amendments aimed at disclosure of party income and expenditure during election periods and at ensuring transparency in campaign funding by election candidates. While GRECO clearly supported this initiative, it drew attention to the fact that the recommendation was not limited to the election campaign period alone; it prescribed an obligation for parties and election candidates to regularly disclose donations received (above a certain value), including the nature and value of each donation and the identity of the donor. Given the very early stage of the reform process, GRECO concluded that the recommendation had not been implemented.

78. The authorities now refer to the draft bill (see paragraph 56 above).

79. In the absence of any tangible progress, GRECO concludes that recommendation v has not been implemented.

Recommendation vi.

80. *GRECO recommended to introduce independent auditing of party accounts by certified experts.*

81. GRECO recalls that the recommendation had not been implemented. According to the Compliance Report, it was planned to prepare legal amendments to introduce independent auditing of party accounts by certified experts.

82. The authorities now refer to the draft bill (see paragraph 56 above).

83. In the absence of any tangible progress, GRECO concludes that recommendation vi has not been implemented.

Recommendation vii.

84. *GRECO recommended that the supervision of the party accounts be complemented by specific monitoring of the campaign financing of parties and candidates, to be effected during and/or shortly after presidential, parliamentary and local elections.*

85. GRECO recalls that according to the Compliance Report the recommendation was partly implemented. In 2012, the Law on Presidential Elections had been adopted which introduced specific monitoring of the campaign financing of presidential candidates by the Supreme Election Board. The authorities were encouraged to implement the new regulations in an effective manner. Regarding parliamentary and local elections, note was taken of plans to prepare draft legislation to increase transparency in the financing of parliamentary and local elections. It was, however, not clear to what extent specific monitoring of campaign funding in such elections was foreseen.

86. The authorities now refer to the draft bill (see paragraph 56 above).

87. In the absence of any tangible progress, GRECO concludes that recommendation vii remains partly implemented.

Recommendation viii.

88. *GRECO recommended (i) to ensure more substantial, pro-active and swift monitoring of political financing, including investigation of financing irregularities and closer cooperation with the law enforcement authorities; and (ii) to increase the financial and personnel resources dedicated to the control of political financing.*

89. GRECO recalls that according to the Compliance Report, measures were planned to increase transparency in party financing and to facilitate the supervision of financial transactions, and that due to amendments to Law No. 6216 on the Establishment of the Constitutional Court and Rules of Procedure, which entered into force on 30 March 2011, the Constitutional Court is called to systematically request assistance by the Court of Accounts in checking the annual accounts of political parties. In accordance with the amended section 55 of this law, the Constitutional Court is to secure assistance from the Court of Accounts in order to review the lawfulness of property acquisitions by the political parties and their revenue and expenditure. To that effect, it has to convey the documents received by the parties – i.e. their consolidated final accounts as well as the final accounts of their central, provincial and district organisations – to the Court of Accounts and the latter has to send its audit reports to the Constitutional Court for final decision. While these moves were considered as a step in the right direction, GRECO stressed that much more needed to be done in order to ensure more pro-active monitoring of political financing, including investigation of financing irregularities and closer cooperation with the law enforcement authorities. For these reasons, the recommendation was only partly implemented.

90. In relation to the first part of the recommendation, the authorities now report that sections 55 and 56 of the above Law No. 6216, which set forth the principles governing the financial audit of political parties, have been complemented by more detailed regulations contained in sections 51 and 52 of the new "Bylaw of the Constitutional Court" which entered into force on 12 July 2012 (cf. recommendation ii above). The new provisions also set out new time limits for certain operations regarding the financial audit of political parties in order to speed up the process. In particular, auditors assigned by the Court of Accounts shall submit within two months from the receipt of the party accounts their initial report to the Constitutional Court. Political parties shall be given an appropriate time period not exceeding one month by the Constitutional Court for the correction of deficiencies, mistakes and inconsistencies. If there are no such deficiencies or if they are duly remedied, a decision on the examination of the substance issue shall be made which gives the party concerned an appropriate time period not exceeding one month for the submission of income-expense documents and the records of such, belonging to the party headquarters and provincial organisations. Examination reports including issues and findings,

determined during examination by the auditors, shall be sent to the relevant political party which shall then be asked to forward its opinions within two months at the latest, depending on the content of the report.

91. Regarding the second part of the recommendation, the authorities state that the Court of Accounts has established a special unit – the "25th Group Presidency" – in order to carry out the financial audit of political parties. Four auditors, one group president (expert auditor), two chief auditors and one regular auditor are exclusively entrusted with this task (the correspondence of the Group Presidency is carried out by the Editorial Desk, the body responsible for handling all external correspondence of the Court of Accounts). In contrast, before the reform the financial audit of party accounts was carried out by six auditors/rapporteurs in the Constitutional Court and a team of assisting officials who were, at the same time, also responsible for other cases filed in the Constitutional Court. The authorities state that the newly assigned unit is able to perform its duties more efficiently and more swiftly. Finally, the authorities indicate that there has been a considerable increase in the funds spared for the financial audit of political parties. The expenditures of the 25th Group Presidency for the year 2013 are envisaged as amounting to 409 000 TRY (approximately €150 000). Before the reform, the financial audit of political parties had been part of the general budget of the Constitutional Court.

92. GRECO notes, with regard to the first part of the recommendation, that the legal framework for the financial audit of party accounts, which is now to a large extent performed by the Court of Accounts, in co-operation with the Constitutional Court, has been further refined to include, in particular, several time limits for certain operations in order to speed up the process. While the amendments are clearly to be welcomed, GRECO regrets that no overall timeframe for the whole audit process and for the submission of the final audit report has been introduced. Moreover, GRECO reiterates its call made in the Compliance Report to ensure more pro-active monitoring of political financing, including investigation of the accounting reports in order to reveal possible financing irregularities and also the follow-up of concrete suspicions of such irregularities in closer co-operation with the law enforcement authorities. Regarding the second part of the recommendation, GRECO acknowledges that the financial audit of political parties has been entrusted to a newly established unit within the Court of Accounts, whose members are exclusively entrusted with this task and which has its own budget. GRECO hopes that the financial and personnel resources will prove to be sufficient in practice and it encourages the authorities to keep this question under review.

93. GRECO concludes that recommendation viii remains partly implemented.

Recommendation ix.

94. *GRECO recommends to introduce effective, proportionate and dissuasive sanctions for infringements of yet-to-be established regulations concerning election campaign funding of political parties and candidates.*

95. GRECO recalls that the recommendation had not been implemented. According to the Compliance Report, it was foreseen to develop sanction mechanisms together with the planned legal and administrative amendments for ensuring transparency in the financing of election campaigns.

96. The authorities now refer to the draft bill (see paragraph 56 above).

97. In the absence of any tangible progress, GRECO concludes that recommendation ix has not been implemented.

III. CONCLUSIONS

98. **In view of the conclusions contained in the Third Round Compliance Report on Turkey and in light of the above, GRECO concludes that Turkey has implemented satisfactorily or dealt with in a satisfactory manner only four of the seventeen recommendations contained in the Third Round Evaluation Report.** Of the remaining recommendations nine have been partly implemented and four have not been implemented.

99. More specifically, with respect to Theme I – Incriminations, recommendations i, ii, iii and vi have been implemented satisfactorily and recommendations iv, v, vii and viii have been partly implemented. With respect to Theme II – Transparency of Party Funding, recommendations ii, iii, iv, vii and viii have been partly implemented and recommendations i, v, vi and ix have not been implemented.

100. In relation to Theme I (Incriminations), GRECO welcomes the fact that Turkey has taken into account several concerns expressed in the Compliance Report in the reform process which led to the adoption of a new legal framework for the criminalisation of corruption offences. It is noteworthy that the relevant provisions have been completely overhauled in order to comply with the requirements of GRECO's recommendations. More comprehensive corruption provisions are now in place which make it clear that all the different forms of corrupt behaviour in the meaning of the Criminal Law Convention on Corruption (ETS 173) – including unilateral acts such as mere offers, promises or requests of a bribe – constitute completed bribery offences. Moreover, they explicitly include the indirect commission of bribery through intermediaries as well as instances where the advantage is intended for a third party. Bribery of foreign and international officials has been extended to a wide range of categories of persons and is no longer restricted to acts of active bribery committed within the context of international commercial activities. Private sector bribery has been criminalised more broadly and completely new provisions on trading in influence have been introduced. That said, GRECO regrets that several shortcomings remain in the corruption-related provisions of the Turkish Penal Code, as compared with the standards established by the Convention. The authorities must therefore pursue their commendable efforts in this respect and further amend the legal framework – in particular, the provisions on private sector bribery, the special defence of effective regret and the jurisdictional rules – in order to ensure full compliance with the recommendations.

101. In so far as Theme II (Transparency of Party Funding) is concerned, GRECO acknowledges that a "Draft Bill on the Amendment of Certain Laws for the Purpose of Ensuring Transparency in the Financing of Elections" has been prepared by a working group of the Ministry of Justice, which is aimed at addressing GRECO's recommendations. However, at this early stage of the reform process – to date, the draft bill has been neither approved by the Government nor submitted to Parliament – and in the absence of any precise information on the content of the draft bill, GRECO cannot conclude that any of the recommendations have been implemented satisfactorily. Apart from this draft legislation, some measures have been initiated to ensure more detailed and comprehensive party accounts and to improve the supervision of those accounts. However, more needs to be done in order to fully implement the relevant recommendations. GRECO urges the authorities to speed up their efforts, to carry through the reforms initiated and to pay particular attention to the effectiveness of measures planned.

102. To sum up, Turkey has not made any substantial and tangible progress in Theme II – Transparency of Party Funding, as compared to the situation assessed in the first Compliance Report two years ago (and four years after adoption of the Evaluation Report). More particularly, none of the nine recommendations addressed to the country in the aforementioned area has been implemented satisfactorily or dealt with in a satisfactory manner. Under these circumstances, GRECO has no choice but to consider the situation as "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure. GRECO therefore decides to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asks the Head of delegation of Turkey to provide a report on the progress made in implementing recommendations iv, v, vii and viii (Theme I – Incriminations) and recommendations i to ix (Theme II – Transparency of Party Funding), as soon as possible and – at the latest – by 30 September 2014, pursuant to paragraph 2(i) of that Rule.

103. GRECO invites the authorities of Turkey to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.