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## **Third Evaluation Round**

### **Second Compliance Report on Poland**

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

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

Adopted by GRECO  
at its 58<sup>th</sup> Plenary Meeting  
(Strasbourg, 3-7 December 2012)

## **I. INTRODUCTION**

1. The Second Compliance Report assesses further measures taken by the authorities of Poland since the adoption of the Compliance Report in respect of the recommendations issued by GRECO in its Third Round Evaluation Report on Poland. 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 40<sup>th</sup> Plenary Meeting (1-5 December 2008) and made public on 17 February 2009, following authorisation by Poland (Greco Eval III Rep (2008) 2E, [Theme I](#) and [Theme II](#)). The subsequent Compliance Report was adopted at GRECO's 49<sup>th</sup> Plenary meeting (29 November – 3 December 2010) and was made public on 21 January 2011, following authorisation by Poland ([Greco RC-III \(2010\) 7E](#)).
3. As required by GRECO's Rules of Procedure, the Polish authorities submitted their Second Situation Report with additional information regarding the actions taken to implement those recommendations that were partly implemented or not implemented according to the Compliance Report. This report was received on 30 July 2012 and served as a basis for the Second Compliance Report.
4. GRECO selected Malta and Azerbaijan to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Lara LANFRANCO on behalf of Malta, and Mr Elnur MUSAYEV on behalf of Azerbaijan. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.

## **II. ANALYSIS**

### **Theme I: Incriminations**

5. It is recalled that GRECO addressed five recommendations to Poland in respect of Theme I in its Evaluation Report. In the subsequent Compliance Report, recommendation ii was considered as implemented satisfactorily and recommendations iv and v were considered to be dealt with in a satisfactory manner. The remaining recommendations are dealt with below.

#### **Recommendation i.**

6. *GRECO recommended to ensure that foreign arbitrators are fully covered by the bribery provisions of the Penal Code and to sign and ratify the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) as soon as possible.*

7. GRECO recalls that this recommendation was considered as not implemented in the Compliance Report, as no concrete steps had been taken by the authorities to address it beyond a declaration of their intention to sign and ratify the Additional Protocol to the Criminal Law Convention.
8. The authorities of Poland now report that the Additional Protocol was signed on 7 October 2011 and that measures are being taken to advance the process of ratification. Following an analysis prepared within the Ministry of Justice, a request for an opinion was submitted to the Commission for the Codification of Criminal Law on whether the provisions currently in force enable the ratification of the Protocol. This Commission, to which all analyses and draft amendments on criminal codification are submitted, is composed of eminent professors of law and experienced senior legal practitioners, such as judges of the Supreme Court and prosecutors of the Prosecutor General's Office.
9. The Commission concluded that a foreign arbitrator acting upon the arbitration agreement concluded between private parties has to be regarded as a person performing public functions within the meaning of the Criminal Code (articles 228 § 6 and 229 § 5 in connection with article 115 § 19) as far as his/her decisions are legally binding. The decisions become legally binding when they are recognised within national law, which according to Polish law, supposes that they are recognised by a civil court (article 1212 of the Code of Civil Procedure). This opinion of the Commission was published on the website of the Ministry of Justice, in order to make it widely known among legal practitioners and to have it reflected accordingly in the practice of the courts. The authorities add that the ratification of the Additional Protocol is expected to take place next year.
10. GRECO welcomes the signature by Poland of the Additional Protocol to the Criminal Law Convention and the on-going work to enable its ratification, which represent concrete steps towards implementation of the recommendation. It also welcomes the opinion of the Commission for the Codification of Criminal Law and its publication on the website of the Ministry of Justice, which brings clarification to this issue.
11. GRECO concludes that recommendation i has been partly implemented.

### **Recommendation iii.**

12. *GRECO recommended to review the provision on active trading in influence in order to ensure that all instances of an (asserted or confirmed) improper influence are covered, in accordance with Article 12 of the Criminal Law Convention on Corruption (ETS 173).*
13. In the Compliance Report, this recommendation was assessed as not implemented, considering the inaction of the Polish authorities to address the concerns expressed by GRECO about the use of the expression “*unlawful exertion of influence*” instead of the terms “improper influence” in the wording of article 230a of the Criminal Code on active trading in influence.
14. The Polish authorities state that an analysis was carried out within the Ministry of Justice with a view to ensuring that all instances of an (asserted or confirmed) improper influence are covered by article 230a of the Criminal Code. This analysis was transmitted to the Commission for Codification of Criminal Law together with the request for an opinion concerning the conformity of this article with article 12 of the Criminal Law Convention on Corruption. According to this analysis and to the Commission for Codification of Criminal Law, the expression “*unlawful exertion of influence*” should be understood broadly, as involving an act which aims at evading

the law in the meaning of article 58 of the Civil Code (*acts in fraudem legis*). Such an act can take place for instance when the influence peddler, who can be a family member or a friend of the public official, counts on his/her private relationship to persuade this official to take a decision outside the normal procedure. The Commission stated that article 230a of the Criminal Code meets the requirements of article 12 of the Convention. It noted that wielding of influence, as such, is inherent to a democratic society and belongs to the rights of the citizens. However, this right is limited to what is in conformity with the law. In that sense, the Commission considers that the term “unlawful” covers also the meaning of the word “improper” as laid down in article 12. The opinion of the Commission was published on the website of the Ministry of Justice, in order to make it widely known to legal practitioners.

15. GRECO welcomes the clarifications provided by the Polish authorities regarding the broad meaning of the expression “unlawful exertion of influence” in article 230a of the Criminal Code. It would appear that this provision would indeed enable the prosecution of cases in which the influence peddler is not a public official and does not have to abide by official regulations.
16. GRECO concludes that recommendation iii has been implemented satisfactorily.

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

17. It is recalled that GRECO in its evaluation report addressed 8 recommendations to Poland in respect of Theme II. The Compliance Report concluded that recommendations i-iii, v, vi and viii had been partly implemented and that recommendations iv and vii had not been implemented. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

18. *GRECO recommended to harmonise the provisions on political financing contained in the Political Parties Act, in the election laws and in the relevant ordinances of the Minister of Finance and, in particular, to align the relevant provisions of the Statute on the Election of the President of the Republic of Poland with the standards set by the other election laws.*
19. GRECO recalls that in the Compliance Report, it had welcomed the alignment of the relevant provisions of the Statute on the Election of the President of the Republic with the standards set by the other election laws and the preparation of a single Electoral Code, which had passed the first reading in Parliament. It had therefore assessed the recommendation as partly implemented.
20. The authorities of Poland now indicate that the Electoral Code referred to in the Compliance Report was adopted by Parliament on 5 January 2011 and came into force on 1 August 2011. This Code harmonises the provisions governing elections to both chambers of Parliament, the *Sejm* and the Senate, as well as elections to the European Parliament, presidential elections and local elections. The Code repeals all the previously binding provisions on these elections. This harmonisation extends to matters related to the financing of election campaigns, which are laid down in Chapter 15 of the Code. Several new provisions have been introduced in the Code with a view to increasing the transparency of political financing, such as a ban on election committees to accept donations from legal persons and contributions in-kind, except for free of charge dissemination of election posters and leaflets by natural persons. Timeframes for submission of financial reports to the National Electoral Commission have also been unified, along with the form and information to be included in financial reports.

21. GRECO welcomes the entry into force of the Electoral Code, which now provides for a unified legal framework governing all elections, including as regards their financial aspects.
22. GRECO concludes that recommendation i has been implemented satisfactorily.

**Recommendation ii.**

23. *GRECO recommended to entrust the National Electoral Commission with the responsibility to assist political parties and election committees to observe the political financing regulations, inter alia, by providing advice upon request of parties and election committees.*
24. GRECO recalls that this recommendation had been considered as partly implemented in the Compliance Report, because although the National Electoral Commission was obliged to provide – and had provided – information to anyone requesting it, no activity targeting specifically political parties and election committees had been organised.
25. The Polish authorities explain that, pursuant to the adoption of the Electoral Code, the responsibilities of the National Electoral Commission include the issuance of clarifications to the election committees on the applicable legislation. Clarifications, such as the one issued on 5 August 2011 (ZKF-503-2/11) in view of the October 2011 elections to the Sejm and the Senate, include explanations on the rules of election campaign financing, which comprehensively describe how to raise and spend funds and how to draft and submit financial reports. Such clarifications are delivered to all committees participating in the elections and are published in the Bulletin of Public Information of the National Electoral Commission. The Commission also issues, when necessary in case of doubts as to the interpretation of the law or in the event of any reported infringements of the law, additional detailed clarifications. For example, in relation to the October 2011 elections, such clarifications were issued on information campaigns carried out by political parties and persons holding public offices (ZPOW-557-1/11), the dissemination of political goals of political parties (ZPOW-503-44/11), the use of the premises and office appliances of political parties by election committees (ZKF-503-5/11), the rules on maintaining and financing internet websites of election committees (ZKF-503-6/11) or the use of free services by election committees (ZKF-503-8/11). This obligation to issue clarifications results also from the operational rules of public authorities in the Republic of Poland. The National Electoral Commission is obliged to provide information to anyone who requests it, in particular political parties and election committees. When the information provided has an impact, not only on the applicant, but on other persons or entities, it is published in the above-mentioned Bulletin of Information.
26. GRECO takes note of the information provided, which indicates that the National Electoral Commission now provides assistance and advice to political parties and election committees on how to comply with political financing regulations, as required by the recommendation.
27. GRECO concludes that recommendation ii has been implemented satisfactorily.

**Recommendation iii.**

28. *GRECO recommended to take appropriate measures to ensure that loans granted to political parties for statutory purposes and to election committees of voters 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.*

29. It is recalled that this recommendation had been assessed by GRECO as partly implemented in the Compliance Report, as the government had requested the inclusion in the draft Electoral Code of provisions ensuring that loans granted to election committees of voters would be regulated in accordance with the recommendation. However, the draft Electoral Code had not yet been adopted and similar measures had not been taken regarding loans granted to political parties for statutory purposes, outside election campaigns.
30. The Polish authorities stress that, according to the Electoral Code, general rules applicable to electoral financing also apply to loans. Such is the case for instance of the rule according to which election committees can only receive and spend money for purposes connected to the election. Financial resources, including those coming from loans, cannot be spent before the National Electoral Commission is informed of the setting up of an election committee, nor after the report on electoral financing is submitted to the Commission (article 129 of the Electoral Code, hereafter EC). Similarly, in order to ensure that financial resources come only from Polish citizens with permanent residence in Poland, such citizens alone are allowed to guarantee loans to election committees. Loans guarantees are non-transferable (article 132 EC). Actions resulting in a reduction of the liabilities of an election committee may only be performed by a natural person in accordance with the applicable laws. Such actions are considered as payments and have to comply with the caps on donations. Considering that election committees are legal persons, loans which are granted to them by banks cannot be written off. Election committees are obliged to keep and publish registers regarding bank loans (article 140 EC) and the financial reports they submit are to be rejected by the National Electoral Commission if a loan is granted or reimbursed in breach of the conditions stipulated by the Code.
31. The authorities indicate that some minor further steps still need to be taken to comply fully with the recommendation, notably concerning the reimbursement of loans after the dissolution of election committees. At present, the entities that take over their obligations are not obliged to report on further reimbursement of the loans.
32. Similar rules apply as regards political parties' routine activities, following the amendments to the Act on Political Parties introduced on 24 December 2009. Political parties are obliged to submit early reports concerning subventions and other financial sources from which bank loans can be paid from (articles 34 and 38 of the Law on Political Parties). These reports are analysed by the National Electoral Commission, which also has knowledge of the history of bank accounts of political parties, as explained below. The Commission can thus follow the reimbursement of loans and assess whether this is done in line with the relevant legal provisions. As is the case with campaign financing, violation of the rules regarding the granting or reimbursement of loans is a cause for rejection of the financial reports.
33. GRECO is satisfied that some specific measures have been taken to ensure that the reimbursement of loans is carried out in conformity with the terms with which they have been granted. It encourages the Polish authorities to pursue these encouraging steps in order to fully implement the recommendation.
34. GRECO concludes that recommendation iii remains partly implemented.

#### **Recommendation iv.**

35. *GRECO recommended to require that the financial reports of political parties which are subject to supervision by an independent monitoring body also cover those expenses for statutory activities which are not charged to subventions received from the State budget.*
36. GRECO recalls that it had assessed this recommendation as not implemented in the Compliance Report, as no concrete measure towards its implementation had been reported.
37. The authorities of Poland state that, according to the Political Parties Act of 1997, political parties have to submit to the National Electoral Commission an annual report concerning their sources of funding and the expenses covered by the election fund and the subvention they receive from the state budget. They emphasise that this report is accompanied by supporting documents consisting of, inter alia, the history of transactions of all bank accounts owned by the political party (§3 paragraph 1 item 2 of the Regulation of the Minister of Finance of 18 February 2003 on reports concerning sources of the acquisition of financial means). Consequently, the National Electoral Commission has insight into all income and expenses of political parties, regardless of the sources of income and the target of expenditure. Article 24, paragraph 8 of the Political Parties Act namely provides that financial resources of a political party have to be collected exclusively in a bank account, with the exception of small amounts of membership contributions.
38. The authorities add that the National Electoral Commission analyses all source documents attached to financial reports, assessing also the correctness of expenditures on statutory expenses disclosed in the history of transactions on bank accounts, in cases where such expenditure may be the basis for an infringement finding. In some cases, the examination of such expenditure has impacted the National Electoral Commission's decisions on submitted reports. Example is given of a case in which expenses were covered by natural persons from their private funds, and then refunded by the political party, which was considered by the Commission as a covert loan and an illicit source of funding.
39. Finally, the authorities submit that documents attached to the financial reports, including the history of transactions on bank accounts reflecting all revenues and expenditures of a political party, constitute public information and are thus made publicly available, in accordance with the Act on access to Public Information of 2001.
40. GRECO takes note of the fact that the reports submitted by political parties on their statutory activities still do not contain information on their expenses which are not covered by subventions received from the state budget. That said, details of such expenses may be controlled by – and this seems to be the practice of – the National Electoral Commission, through the history of bank transactions appended to the reports. GRECO also notes that this information is apparently accessible to the public. While it would be better, in terms of transparency, for the complete information on expenditures to be included in financial reports themselves, rather than for some of it to be found in appended documents, GRECO accepts that this information is accessible to the National Electoral Commission and to the public. Current arrangements are therefore in conformity with articles 13 and 14 of Recommendation Rec(2003)4.
41. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

### **Recommendation v.**

42. *GRECO recommended to take appropriate measures to ensure that the financial reports of political parties and election committees are made public in a coherent and comprehensible manner and thus make the data on political financing more accessible.*
43. It is recalled that this recommendation had been assessed by GRECO as partly implemented in the Compliance Report, as the Polish government had requested the inclusion in the draft Electoral Code of provisions for the compulsory publication on internet, in an intelligible form, of information contained in reports on electoral financing. However, similar measures had not been foreseen as regards political parties' routine activities.
44. The authorities of Poland indicate that, according to article 102 EC, election committees have to inform the National Electoral Commission of the website on which the financial information subject to disclosure is posted. The Commission publishes this information in the Public Information Bulletin. This obligation does not, however, apply to election committees who only register candidates to municipal or district councils. Election committees also have to publish their registers of loans and payments on that website, in a clear and precise manner, according to the form prescribed by a Regulation of the Minister of Finance of 12 September 2011.
45. The authorities also submit that according to article 143 §1 EC, financial reports submitted by the election committees for the elections to the *Sejm*, the Senate, the European Parliament and the President of the Republic are published, within 30 days of their submission, by the National Election Commission in the Public Information Bulletin<sup>1</sup> – this publication comprises information on the websites, where public authorities and other entities performing public tasks publish information to the extent requested by the law. After the lapse of this term, the National Electoral Commission publishes such reports in the Official Journal<sup>2</sup>.
46. The financial reports of political parties are also published in the Official Journal, in accordance with article 34.5 and 38.4 of the Law on Political Parties. They are also made public by the National Election Commission in the Public Information Bulletin, like the reports of the election committees.
47. GRECO takes note of the information provided. It welcomes the fact that, pursuant to the adoption of the Election Code and the amendments of the Law on Political Parties, publication on the internet of financial information on political parties and election campaigns has become a rule rather than a practice. However, the different reports submitted by the same political parties still appear to be published separately and there is still no single document giving an overview of a given political party's financial situation, in a clear and complete manner.
48. GRECO concludes that recommendation v remains partly implemented.

### **Recommendation vi.**

49. *GRECO recommended to require more frequent declarations on donations received by political parties and election committees as well as their publication, at regular intervals to be defined by law.*

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<sup>1</sup> Available at [www.pkw.gov.pl](http://www.pkw.gov.pl) under the tab "Political parties and election campaign financing".

<sup>2</sup> Available at [www.monitorpolski.gov.pl](http://www.monitorpolski.gov.pl).

50. GRECO recalls that this recommendation had been assessed as partly implemented, taking into account that a regular reporting and publication requirement had been adopted for presidential elections. However, similar requirements did not yet exist for other election campaigns, nor for donations received by political parties outside the context of election campaigns.
51. The Polish authorities underline that, according to article 140 EC, election committees have to keep registers of all loans taken out and donations received, the total value per person of which exceeds the minimum wage. The full name and address of the persons giving such payments has to be indicated. These records must be published by the committees on their website and updated regularly, within seven days of the loan being granted or the payment being made. These requirements apply to all election committees, except those who only present candidates to municipal or district councils.
52. The authorities indicate that with respect to political parties outside the election context, information on finances is part of the annual report submitted by the party to the National Electoral Commission (article 38 of the Act on political parties). The Commission publishes such reports, along with the opinion of the auditor, in the official journal and on its website, within 14 days from a report's submission.
53. GRECO welcomes the legislative arrangements that have been taken to ensure that declarations and publication of information on donations received by election committees within the context of most election campaigns are made on a more basis. It regrets, however, that similar requirements still do not apply to political parties, outside the context of election campaigns. Publication of the annual report of a political party by the National Electoral Commission – which already existed at the time of the adoption of the Evaluation Report – does clearly not constitute an adequate substitute to the declaration and publication of information regarding donations specifically, as required by the recommendation.
54. GRECO concludes that recommendation vi remains partly implemented.

**Recommendation vii.**

55. *GRECO recommended to increase the financial and personnel resources dedicated to the National Electoral Commission's unit responsible for the control of political financing.*
56. GRECO recalls that, as there had been no clear increase in the financial and personnel resources of the National Electoral Commission's unit dealing with the control of political financing, it had assessed this recommendation as not implemented.
57. The Polish authorities now state that a draft law amending some laws on the execution of the 2012 budget foresees an increase of 174,000 PLN (about 45,000 Euros) of the resources of the National Electoral Commission. In the reasoning of the draft law, the necessity of compliance with the GRECO recommendation is mentioned. The draft budget for 2013 foresees a further increase of about 60,000 Euros in the resources of the Commission. Both draft laws are currently pending before Parliament.
58. The authorities also explain that time-limits for the examination of financial reports have been extended from 3 to 6 months (article 144 §1 EC, article 84a (1) of the Act on elections to commune councils, district councils and voivodeship councils, Article 38a (1) of the Act on political parties). The aim of this measure, in the context of the necessary limitation of expenditure

from the state budget, was to decrease the workload of employees in charge of the control of political financing by other means than by an increase in staff.

59. GRECO takes note of the information submitted and of the proposed increase of the resources of the National Electoral Commission, which represents a step towards the implementation of the recommendation. The increase in the time-limit for the examination of financial reports by the Commission also indirectly responds to the concerns which led to the recommendation.
60. GRECO concludes that recommendation vii has been partly implemented.

### **Recommendation viii.**

61. *GRECO recommended (i) to ensure more substantial and pro-active auditing and monitoring of political parties' and election committees' financial reports, including a material verification of the information submitted as well as investigation of financing irregularities and (ii) to take adequate measures to enhance the cooperation between the authorities responsible for the enforcement of political financing legislation.*
62. GRECO recalls that this recommendation had been assessed as partly implemented, as some measures were foreseen in the draft Electoral Code to ensure better cooperation between the authorities responsible for the enforcement of political financing legislation, as requested by the second part of the recommendation. However, no measure had been reported as regards the first part of the recommendation.
63. As regards the first part of the recommendation, the authorities of Poland now report that the National Electoral Commission, when reviewing the financial reports and appended information submitted by political parties and election committees, has access to a variety of documents, including certified auditor's opinions and reports. In the course of its review, the Commission checks in particular if election committees have received income or made expenses in breach of the EC's provisions; if they have accepted financial sources other than the election fund and if they have accepted donations, in cash or in kind, or loans, in breach of the EC's provisions (article 144 EC). To establish these elements, the Commission has access to all documentation that the election committees have to submit along with their financial report. It may also request certified auditors to draw up an expert study, an opinion or a report. The authorities state in this regard that the Commission has sufficient means to examine data included in the financial reports and should not replace other authorities in the investigation of possible law infringements.
64. In this respect, the authorities stress that in the Polish system, the rules regarding the submission and review of financial reports and those on preventing activities other than those disclosed in the reports have been separated and assigned to different bodies. The National Electoral Commission is competent to supervise matters included in the financial reports, while actions related to activities beyond such matters, involving the infringement of criminal provisions included in the Law on Political Parties and the EC, are assigned to law enforcement authorities and courts. Therefore, the possible detection of cases in which political events may have been funded by non-declared sources does not lie within the responsibility of the National Electoral Commission. If the Commission has reason to suspect that such cases have occurred, it has to alert the relevant authorities and provide them with help during the ensuing proceedings, in particular by providing documentation and evidence.

65. As regards the second part of the recommendation, the authorities submit that the measures foreseen by the Electoral Code, which were presented in the Compliance Report, have now entered into force. In particular, article 144 EC obliges public administration bodies to provide the National Election Commission, upon its request, with necessary assistance in the examination of a financial report. Moreover, audit, control and inspection bodies working in public and local administration have to inform the Commission, upon its request, of the results of the audit proceedings they have conducted.
66. As regards the first part of the recommendation, GRECO takes the view that the information reported does not highlight a more substantial and proactive role of the National Electoral Commission. It is expressly mentioned by the Polish authorities that the Commission has not been granted investigative powers to detect irregularities and it is not apparent how the supervisory arrangements are different from those that existed at the time of the Evaluation Report. Even if the Commission may ask for opinions and reports from certified auditors – a possibility that was already mentioned in the Evaluation Report – GRECO already assessed this possibility as providing a “level of scrutiny that may satisfy accountancy norms, but not political ones, since the auditors lack the requisite skills to investigate possible breaches in respect of donations and expenditure” (see Evaluation Report, paragraph 86). GRECO accepts that some material verification is possible on the basis of the Commission’s current prerogatives, such as access to the history of bank accounts. Taking into account the limited inspection powers of the Commission and the need for an increased specialisation of its staff, however, GRECO doubts that all possible irregularities will come to light, since it would appear that the Commission still works mainly on the basis of the documentation submitted by the political parties and the election committees themselves and relies largely on the work carried out by auditors.
67. Turning specifically to the division of tasks described under paragraph 64 and the reason why the Polish authorities do not intend to provide the National Election Commission with investigative powers, as requested by the recommendation, GRECO takes the view that this model is not the best guarantee of efficiency, especially when the exchange of information between the supervisory and the law enforcement authorities does not function smoothly, as seems to be the case in Poland (see below). It recalls that it had been highlighted in the Evaluation Report that, although administrative sanctions were frequently applied, criminal investigations were rare and there had been only one conviction for criminal violation of political financing provisions. Against this background, GRECO regrets that it is not in the competence of the National Election Commission to investigate whether political events, for instance, may have been funded by non-declared means. Such occurrences are obviously linked to the issue of political financing and GRECO has underlined on numerous occasions that the body responsible for monitoring in this area, equipped with adequate authority, powers and resources, is best placed to bring such issues to light.
68. Insofar as the second part of the recommendation is concerned, GRECO notes the entry into force of provisions obliging public and local administration bodies, in particular inspection bodies, to cooperate with the National Election Commission. However, no information is provided about enhanced cooperation with law enforcement bodies. GRECO recalls that the Evaluation Report (paragraph 86) had already highlighted that in spite of an obligation of the National Electoral Commission and the law enforcement bodies to exchange information on suspicions of criminal offences and on criminal proceedings, such exchanges of information did not take place in practice. In the model of division of responsibilities chosen by Poland, such exchanges are crucial for the efficiency of supervision, but nothing indicates that the situation has improved in this respect.

69. GRECO concludes that recommendation viii remains partly implemented.

### III. CONCLUSIONS

70. **In view of the conclusions contained in the Third Round Compliance Report on Poland and in light of the above, GRECO concludes that Poland has implemented satisfactorily or dealt with in a satisfactory manner in total seven of the thirteen recommendations contained in the Third Round Evaluation Report.** With respect to Theme I – Incriminations, recommendations ii and iii have been implemented satisfactorily, recommendations iv and v have been dealt with in a satisfactory manner and recommendation i has been partly implemented. With respect to Theme II – Transparency of Party Funding, recommendations i and ii have been implemented satisfactorily, recommendation iv has been dealt with in a satisfactory manner and recommendations iii, v, vi, vii and viii have been partly implemented.

71. As regards incriminations, GRECO welcomes the signature by Poland of the Additional Protocol to the Criminal Law Convention on Corruption and the clarifications provided as regards the active side of the offence of trading in influence.

72. Insofar as transparency of party funding is concerned, GRECO welcomes the adoption of the Election Code, in which the various provisions on election financing, previously contained in different laws, are harmonised. Other positive steps include the publication of more information regarding political funding on internet and a more frequent declaration of donations received in the context of election campaigns. The proposed increase in the resources of the National Electoral Commission is welcome, although it still needs to be adopted by Parliament. Some issues contained in the pending recommendations also still remain incompletely addressed, notably regarding transparency of political parties' routine activities.

73. In view of the fact that almost half of the recommendations addressed to Poland in respect of the Third Round Evaluation are still not fully implemented or dealt with in a satisfactory manner and in the absence of substantial progress regarding in particular monitoring of political financing, GRECO in accordance with Rule 31, paragraph 9 of its Rules of Procedure asks the Head of the Polish delegation to submit additional information regarding the implementation of recommendation i regarding Theme I, and recommendations iii, v, vi, vii and viii regarding Theme II by 30 September 2013 at the latest.

74. Finally, GRECO invites the authorities of Poland to translate the report into the national language and to make this translation public.