



Groupe d'Etats contre la corruption
Group of States against corruption

DIRECTORATE GENERAL OF HUMAN RIGHTS AND LEGAL AFFAIRS
DIRECTORATE OF MONITORING



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 27 May 2011

Public
Greco RC-III (2011) 6E

Third Evaluation Round

Compliance Report on Belgium

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

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“Transparency of Political Party Funding”

Adopted by GRECO
at its 51st Plenary Meeting
(Strasbourg, 23-27 May 2011)

I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Belgium to implement the 15 recommendations made in the Third Round Evaluation Report on Belgium (see paragraph 2), dealing with two different themes, namely:
 - **Theme I – Incriminations:** Articles 1a and b, 2-12, 15-17 and 19.1 of the Criminal Law Convention on Corruption; Articles 1-6 of the Additional Protocol thereto (CETS No. 191) and Guiding Principle 2 (incrimination of corruption).
 - **Theme II – Transparency of Political 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 on financing of political parties and election campaigns.
2. The Third Round Evaluation Report was adopted at the 42nd Plenary Meeting of GRECO (15 May 2009) and was made public on 22 June 2009 following authorisation by Belgium (Greco Eval III Rep (2008) 8E, [Theme I](#) and [Theme II](#)).
3. As required by GRECO's Rules of Procedure, the Belgian authorities submitted a Situation Report on measures taken to implement the recommendations. This report was received on 26 January 2011, including appendices received on 28 March 2011, and served as a basis for drafting the Compliance Report.
4. GRECO selected Andorra and Luxembourg to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Gérard ALIS EROLES in respect of Andorra and Ms Doris WOLTZ in respect of Luxembourg. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
5. The compliance report assesses the implementation of each individual recommendation contained in the Evaluation Report and makes an overall appraisal of the member's level of compliance with these recommendations. The implementation of any outstanding recommendation (partly implemented or not implemented) will be assessed on the basis of a further situation report to be submitted by the authorities within a specified time after the adoption of the present compliance report (see paragraph 48).

II. ANALYSIS

6. By way of a general introduction, the Belgian authorities recall the prominence given to the GRECO Evaluation Report: placed on line and released to the media by the Federal Public Service of Justice, published on the websites of both houses of Parliament, disseminated through the expert network on "Corruption" of the Board of State Prosecutors and the OECD-GRECO-UN interdepartmental working group. This working group comprises i.a. representatives of the expert network on "Corruption", the Central Anti-Corruption Office of the federal police, the federal ministry of budget's Office for ethics and deontology, the Federal Public Service for Justice (SPF Justice) and its Strategic Unit, the House of Representatives and the Senate.
7. They chiefly emphasise the current political and institutional crisis and Belgium's lack of a fully operative government for 10 months since the Third Round Evaluation Report was published in June 2009 (owing to the fall of the government and the dissolution of the legislative chambers on 7 May 2010); pending the appointment of a new government, governmental powers are confined to "routine business", and this impeded the implementation of the recommendations contained in the aforesaid Report.

Theme I: Incriminations

8. It is recalled that GRECO in its Evaluation Report made 4 recommendations to Belgium concerning Theme I. Compliance with these recommendations is reviewed below.
9. The Belgian authorities indicate that the necessity of framing a crime policy for fighting corruption was set out in the 2009 action plan of the "corruption" expert network of the Board of State Prosecutors, approved at the meeting on 10 December 2008. This crime policy will be specified in a circular of the Board of State Prosecutors and the Minister of Justice and will be binding on all prosecution magistrates. At the meeting on 11 February 2009, it was decided to form a select concept and drafting committee made up of representatives of the judiciary, the police and the Federal Public Service for Justice (SPF Justice). This drafting committee met for the first time on 25 March 2009 for an exchange of views on the potential content of the circular. The circular is currently being drafted within the Board of State Prosecutors.

Recommendation i.

10. *GRECO recommended that necessary measures, such as circulars, interpretative material or training, be introduced to recall that the intentional "receipt" of an advantage, within the meaning of the Criminal Law Convention on Corruption (ETS 173), is unlawful in respect of the various offences of passive bribery.*
11. The Belgian authorities cite three abstracts of case law in which the concept of "receiving a gift" appears, indicating that it is already covered: two Court of Cassation decisions in 1997 and 1998, but as these are decisions preceding the redefinition of corruption offences in 1999 (and the removal from the statutes of the systematic stipulation of an agreement between corrupter and corrupted), a decision delivered in 2005 by the Brussels court of first instance is also mentioned. The Belgian authorities indicate that no problem was observed in practice and that the concept of "receiving" of an advantage, with criminal intent, is covered by Belgian law.
12. However, 1) it was decided to distribute the GRECO report within the network of prosecutors specialising in corruption to draw their attention to this issue; 2) the SPF Justice in January 2010 advised the Minister of Justice to have included in the circular of the Board of State Prosecutors and the Minister of Justice a clarification in accordance with the GRECO recommendation on making passive corruption an offence, particularly with regard to the idea of "reception"; the representative of the Minister's Strategic Unit consented on 3 March 2010 and, as stated in paragraph 9, the circular is being drafted; 3) in the 2009 action plan of the expert network on "corruption" of the Board of State Prosecutors (see paragraph 9 above), it was stipulated that joint training on corruption should be given to judicial and police officers dealing with corruption cases. For that purpose, the expert network asked the Judicial Training Institute to organise this training. The Institute has confirmed that its 2011 action plan embodies training in "economic and financial criminal law" and specific "corruption" training is envisaged, in which participants' attention will be drawn to the question of receiving an advantage. This training might be organised in October 2011 in the context of a plenary meeting of the expert network on "Corruption" and the federal police.
13. GRECO notes and welcomes the initiatives taken by Belgium to implement this recommendation; for the time being, both the above-mentioned circular and the training actions remain schemes that will need to be examined in greater detail once the decisions have been finalised.
14. GRECO concludes that recommendation i has been partly implemented.

Recommendations ii and iii.

15. GRECO recommended that consideration be given to i) revising the offence of bribery in the private sector in Article 504bis of the Criminal Code to ensure that the requirement that managers or employers not be aware of or approve the offender's actions cannot be misused to permit agreements between different organisations or bodies or enable them to exonerate persons being prosecuted after the event, and therefore ii) withdrawing or not renewing the reservation concerning articles 7 and 8 of the Criminal Law Convention on Corruption (ETS 173). **(recommendation ii)**
16. GRECO recommended that consideration be given to i) establishing an offence of trading in influence that is compatible with the various elements of Article 12 of the Criminal Law Convention on Corruption (ETS 173), by specifying that the "influence peddler" need not be a public official, that the categories of person targeted are those specified in the Convention and that it is irrelevant whether or not the influence is exercised or achieves the intended result, and therefore ii) withdrawing or not renewing the reservation concerning Article 12 of the Convention. **(recommendation iii)**
17. Concerning recommendation iii on incrimination of trading in influence, the Belgian authorities recall that as early as 14 January 2008 (ie before the adoption of the Evaluation Report on 15 May 2009), the Senate had before it private member's bill no. 4/507 amplifying the Criminal Code so as to make an offence of influence trading committed by private individuals vis-à-vis persons discharging a public office (and not just influence trading by public officials vis-à-vis persons discharging a public office, as is the case currently). This is a parliamentary initiative which received the government's support expressed by the Minister of Justice (who also said that the initiative for continuation of the legislative work in this matter would be left to Parliament). The government had nonetheless tabled an amendment to the bill, seeking full compliance with Article 12 of the Criminal Law Convention on Corruption (and the United Nations Convention against corruption). The amendment sought to define as an offence private trading in influence whether of a passive or an active nature and to extend the terms of the bill to the categories of persons contemplated by the Criminal Law Convention (foreign public officials and staff of public-law international organisations).
18. The amended bill was approved by the Senate and forwarded to the House of Representatives on 14 February 2008, which asked the *Conseil d'Etat* for an opinion (delivered on 3 April 2008 and concluding that the offences were too imprecisely defined). After several meetings, also in consultation with the Strategic Unit of the Minister of Justice, the members of the parliamentary committee on justice were finally unable to reach agreement on the bill – the deadlock was essentially due to fear that the proposed legislation might outlaw certain legitimate forms of lobbying.
19. Since the Minister of Justice wished to leave to Parliament the initiative of legislating in the matter, no action was initially taken to break the deadlock on the bill. However, a memorandum of January 2010 by the SPF Justice on the four GRECO recommendations again drew the attention of the Minister of Justice to the bill's deadlocked situation owing to lack of political will.
20. Concerning recommendation ii on incrimination of private sector bribery, the SPF Justice further suggested in the memorandum that if the deadlock on the bill was broken, an amendment might be tabled to give effect also to the second recommendation (on private corruption). In other

words, discussion of the bill would be turned to account to propose in addition that the legislation on private corruption be adapted to make it comply fully with the Council of Europe Convention.

21. In an e mail message of 3 March 2010, the representative of the Strategic Unit of the Minister of Justice adverted to the parliamentary initiatives in hand, and on the same occasion issued an instruction to prepare an amendment for the adaptation of the legislation on private corruption.
22. However, owing to the fall of the government and the dissolution of the legislative chambers on 7 May 2010, it was not possible to follow up these developments and in the meantime the reservations to Articles 7, 8 and 12 of the Criminal Law Convention (due to expire in April 2010) were – logically – renewed on 17 March 2010. The bill has now lapsed in the House of Representatives, but there is no impediment to its reconsideration under the next legislature. Upon the appointment of a new Minister of Justice, the SPF Justice will send him/her a memorandum explaining the issues relating to these two GRECO recommendations and suggesting prospective action to take.
23. GRECO takes note of the information provided above and commends the government departments' stated determination to ensure that the recommendations of the Evaluation Report be implemented. However, these efforts are undermined by the current political situation. As to recommendation iii, it is clear that the legislative process to extend the offence of trading in influence, initiated before the on-site visit, aimed to improve the implementation of article 12 of the Criminal Law Convention on Corruption by incriminating trading in influence also where the influence peddler is not him/herself a public official. However, the question is whether – since the adoption of the Evaluation Report in May 2009 which had already taken note of the parliamentary initiative of January 2008 – the government but also the Parliament (to whom the former has left the legislative initiative) have considered (all) the suggested statutory improvements: the recommendation concerns also the need to specify in all cases the categories of persons who are target of the influence, to ensure that it is immaterial whether or not the influence has actually been brought to bear, or whether or not the presumed influence achieves the intended result – see paragraph 102 of the Evaluation Report. In the light of the information submitted, GRECO cannot conclude that such a consideration process has taken place and that decisions have been made on the follow-up to the various aims of recommendation iii (in addition, the parliamentary work engaged before the adoption of the Evaluation Report has not addressed the needs expressed in the said paragraph 102). Consequently, this recommendation cannot be considered fully implemented. Concerning recommendation ii, GRECO is pleased to see that the Strategic Unit of the Minister of Justice have directed that an amendment for adapting the legislation on private corruption be prepared. This intra-ministerial work was interrupted at an early stage and the government has not had occasion (nor has the Parliament), between 3 March and 7 May 2010, to make a pronouncement as such on the opportunity of taking measures along the lines suggested in recommendation ii. GRECO cannot conclude, also in this case, that this recommendation has been fully implemented.
24. GRECO concludes that recommendations ii and iii have been partly implemented.

Recommendation iv.

25. *GRECO recommended i) to take the necessary steps in order to clarify, notably for practitioners, the scope of Article 12bis of the Code of Criminal Procedure, which enables Belgium to assume jurisdiction on the basis of Article 17 paragraph 1 of the Criminal Law Convention on Corruption (ETS 173) in any case where the domestic rules of law fail to satisfy that provision, and make it*

clear that dual criminality is not a requirement in cases of bribery and trading in influence; ii) to consider withdrawing or not renewing the reservation concerning Article 17 of the Convention.

26. The Belgian authorities state that, given the extent of Belgium's jurisdiction under the current provisions of the Code of Criminal Procedure – particularly Article 10ter and Article 12bis mentioned in recommendation iv – the reservation to Article 17 of the Criminal Law Convention was no longer justified and its withdrawal took effect on 1 July 2010 after publication in the official gazette (second part of the recommendation). As to the first part of the recommendation, a circular was prepared specifically on this matter at the end of 2008 to alert practitioners to the scope and the usefulness of Article 12bis du Code of Criminal Procedure. The draft was discussed in 2009 and 2010 with the network of anti-corruption practitioners of the Board of State Prosecutors General. It was extended to the problem field of laundering and financing of terrorism, but difficulties arose due to the scope of Article 12bis finally proving too broad and likely to increase significantly the caseload of the federal prosecution services; therefore, the opportunity of legislating to extend the scope of other provisions (Articles 10quater and 12 CCP) is at present one of the alternatives or options contemplated to implement this recommendation. For the time being, the circular mentioned above thus remains in draft form.
27. The training on corruption provided by the Judicial Training Institute under its Action plan 2011, mentioned in paragraph 12 above, will address the issue of Belgium's extraterritorial jurisdiction.
28. GRECO takes note of the information provided above and commends the responsiveness of the Belgian authorities. However, the circular of December 2008 is still at the draft stage, and its content / outcome seem to depend to some extent on the question of a possible amendment to the rules governing Belgium's jurisdiction embodied in the Code of Criminal Procedure. As to the training measures announced for 2011, GRECO cannot assess their suitability at this stage, particularly given to the lack of information.
29. GRECO concludes that recommendation iv has been partly implemented.

Theme II: Transparency of Political Party Funding

30. It is recalled that GRECO in its Evaluation Report made 11 recommendations to Belgium concerning Theme II. Compliance with these recommendations is reviewed below.
31. As a preliminary remark, the Belgian authorities indicate that it is a matter of established tradition for legislation on political party funding and control of electoral expenditure to be regarded as an area where the Federal Parliament invariably takes the initiative (via a working group appointed for that purpose), even though the government's collaboration is an essential condition for achieving regulation, especially since the implementation of certain recommendations would require to amend legislation, or even the Constitution when it comes to the organisation and attributions of certain central institutions (see for instance recommendation viii).

Recommendation i.

32. *GRECO recommended that consultations be undertaken on the need for a comprehensive review of Belgian legislation on the financing of parties and election campaigns, to make it more uniform, precise and effective.*

33. The Belgian authorities indicate that even before GRECO's third evaluation round began, it had been realised in the Federal Parliament and specifically in the competent review body, the parliamentary control commission on electoral expenditure and political party accounting, that the legislation on electoral expenditure and political party funding displayed a series of flaws. That is why the control commission set up as from 21 December 2000 a working group on "Political Parties" responsible for evaluating this legislation. The working group's proceedings resulted in a private member's bill tabled in the House of Representatives in July 2002 (document Chambre, 2001-2002, n° 50 1959/1). This did not gain a broad consensus in the House, and so an abridged version was drawn up and finally adopted in 2003¹. Following the elections of 18 May 2003, work virtually stopped, but after the elections of 10 June 2007, to be exact on 27 October 2007, the control commission reactivated the working group by instructing it primarily to make an inventory of the statutory provisions requiring amendment. On the basis of that inventory of the problems, it was decided in particular: a) to give priority to drafting a private member's bill to solve a series of problems arising with regard to the time limits within which the control commission must discharge the responsibilities vested in it by law. This resulted in the Act of 18 January 2008 amending the Act of du 4 July 1989 on limitation and control of electoral expenditure committed for the elections of the Federal Chambers, and on open political party funding and accounting, with regard to the time limits laid down for the discharge of the control commission's responsibilities (*Moniteur belge* of 23 January 2008); b) to address the question of extending the control commission's possibilities for sanctions; c) to await the GRECO Third Round Evaluation Report (adopted in May 2009) before continuing the work.
34. Since that date, and up to the dissolution of Parliament in May 2010, the working group met on three occasions (on 27 October and 9 December 2009, and on 9 February 2010) with an assignment redefined by the report in question. It drew up a work programme on 27 October in order to deal with the following matters: 1. *the control commission's position in the light of the criticism expressed by GRECO regarding the political composition of that body*; 2. *the inequality between candidates in respect of maximum amounts for electoral expenditure*; 3. *the expediency of prohibiting certain election campaign methods*; 4. *the extent of the scope of consolidation of accounts and its widening to the local sections of the party, as requested by GRECO*; 5. *the issue of donations and sponsoring*; 6. *the problems over sanctions, inter alia for repeat offences, attaching to breaches of the regulations on electoral expenditure and political party accounting*.
35. Point 1 above was discussed on 9 December 2009 and points 2, 3 and 6 were discussed on 9 February 2010.
36. Aware of 30 November 2010 being the cut-off date for submission of information to GRECO, the control commission had its own discussion on 10 February 2010 of the proceedings of its working group; accordingly – and for the sake of greater effectiveness – all parties were invited 1) to react to each of the recommendations embodied in the Evaluation Report; 2) to indicate the other parts of the legislation (campaign expenditure and party accounting) which should be altered as a matter of priority, and how this should be done. All parties represented on the commission, as well as one political party also represented in Parliament and receiving State funding, submitted a memorandum.
37. However, the dissolution of parliament in May 2010 interrupted proceedings and since then negotiations have still been going on to form a new government. In December 2010 the control

¹ Act of 2 April 2003 amending the Act of 4 July 1989 on limitation and control of electoral expenditure committed for the elections of the Federal Chambers, and on open political party funding and accounting, and amending the Electoral Code - *Moniteur belge* of 16 April 2003

commission set up a new group which met on 5 April 2011. At this meeting, it was decided to continue the proceedings on the basis of the decisions of 9 February 2010. The political parties' positions on GRECO recommendations as well as their priorities regarding further legislative amendments have been included in a synoptic table which was eventually sent to all the members of the group, with a request to complement / fine-tuning the information with a view to a next meeting to be held in May 2011. At that meeting, the regional parliaments' request for association to the work of the group, as well as the possible holding of auditions, will be discussed.

38. Belgium also states that the control commission on 4 May 2010 approved new models for financial reports and summaries of financial reports, which were published as appendices to the commission's rules of procedure in the *Moniteur belge* of 15 July 2010, Ed. 2.
39. GRECO takes note of the continued efforts by the parliamentary control commission on electoral expenditure and political party accounting, and by its working group, to improve its legislation on the funding of parties and election campaigns. GRECO would have appreciated it if the consultations also involved non-political figures in order to ensure as open a debate as possible (this will reportedly be discussed at the next meeting of the working group in a few days); still, it observes that hitherto the meetings held since 2009 demonstrate a genuine resolve to carry out a legislative reform which would take into account not only the various recommendations made by GRECO but also other inadequacies stressed by the political parties themselves. GRECO very much hopes that the pace of work will be intensified given the absence of concrete progress so far in the implementation of all the other recommendations, as shown below.
40. GRECO concludes that recommendation i has been satisfactorily implemented.

Recommendations ii to xi.

41. GRECO recommended:

that the Act of 4 July 1989 and other relevant legislation be amended i) to extend their coverage to parties that do not receive federal public financing and ii) to introduce criteria for extending more systematically the scope of the consolidated accounts of parties and political groups to include associated structures, in particular the party's local sections, so that oversight is also exercised in respect of the local level. (recommendation ii)

that the federal legislation on the respective obligations and responsibilities of parties and their components be further clarified, to ensure that financial transactions are effected to the highest extent possible through each party's financial association. (recommendation iii)

i) the registration of donations of less than EUR 125 to parties and candidates be made a formal obligation; ii) the use of modern and more secure means of payment for donations be encouraged to make them more traceable; iii) the notion of donation be clarified or defined so as to better address services rendered free of charge or below market value on the one hand, and to ensure consistency as regards sponsorship by legal persons and the existing rules governing donations on the other hand; iv) if appropriate, the regions be invited to amend their legislation in accordance with this recommendation. (recommendation iv)

i) to examine the advisability of extending the financial and accounting reference period applicable to election campaigns so that declarations reflect more closely the resources and

expenditure devoted to these campaigns; ii) if appropriate, to invite the regions to amend their legislation in accordance with this recommendation. **(recommendation v)**

i) the retention period for supporting documents be extended beyond two years; ii) where it does not exist, particularly at provincial, district and municipal levels under the Act of 7 July 1994, such an obligation be introduced; iii) if appropriate, the regions be invited to amend their legislation in accordance with this recommendation. **(recommendation vi)**

i) parties and/or candidates be obliged – within the limits of the Constitution – to declare individual donations above a certain minimum value, together with the donors' identity; ii) if appropriate, the regions be invited to amend their legislation in accordance with this recommendation. **(recommendation vii)**

i) to set up a system – unified if possible – to supervise the financing of parties and election campaigns, that would be as independent as possible from the political parties and be allocated the means needed to exercise adequate substantive control; ii) to invite the regions to take this recommendation into account should the creation of a unified system prove too difficult in the national institutional context. **(recommendation viii)**

i) agreement be reached with the Institut des Réviseurs d'Entreprise (institute of company auditors) on more stringent standards for auditing the accounts of political parties, including rules for ensuring the auditors' necessary independence and ii) consideration be given to extending audit obligations beyond the parties' annual accounts so as to cover notably their reports on electoral expenditure. **(recommendation ix)**

i) steps be taken to ensure that if a party fails to meet its obligations under the Act of 4 July 1989, or other relevant legislation, and this would normally entail the loss of federal funding, it should lose all the services and benefits it receives in the form of public assistance throughout the country; ii) if appropriate, the regions be invited to amend their legislation in accordance with this recommendation. **(recommendation x)**

i) the powers of the authorities responsible for ordering sanctions for breaches of the rules on political financing be clarified; ii) steps be taken to ensure that there is a more proportionate and dissuasive scale of sanctions in place for the various infringements by parties and candidates, for example by making ineligibility generally applicable, diversifying the available penalties, establishing more severe criminal penalties and establishing rules on repeat offending; iii) if appropriate, the regions be invited to amend their legislation in accordance with this recommendation. **(recommendation xi)**

42. As indicated by the Belgian authorities in paragraphs 33-38 above, no legislative amendment or other concrete measure has yet been adopted to implement the various recommendations, apart from the first one concerning the question of consultations. In connection with the theme *expediency of prohibiting certain election campaign methods*, discussed by the working group on 9 February 2010, the question of sponsorship (see recommendation iv) was addressed (the parties remain divided – some wish to prohibit this practice, others to retain it). The question of the control body's independence and effectiveness (see recommendation viii) was addressed by the working group on 9 December 2009. A consensus seems to have taken shape, summed up as follows by the working group's chair: a) maintenance of the status quo, b) subject to increasing the control exercised by the Court of Auditors, at the request of the houses of parliament, during operations intended to verify the use of the public resources made available to political parties

and their members, especially during election campaigns; c) subject to a possibility of appeal (before the Constitutional Court or the *Conseil d'Etat*) to hear any objections raised, on the part of candidates who have missed election, by a decision of the federal parliament's or the regional parliaments' control body. Finally, avenues of reflection have been envisaged² in connection with the topic of sanctions (see recommendation xi) discussed by the working group on 9 February 2010. Besides these matters, the information in paragraphs 33-38 above shows that the themes of the recommendations have not yet been discussed (so far, the various parties represented have merely been invited to state their positions).

43. GRECO takes note of the current situation and of the fact that for the time being no tangible action has been taken on recommendations ii to xi. The parliamentary working group has not even addressed these, with the exception of three. In respect of recommendation viii, GRECO regrets that the consensus reached hitherto is essentially aimed at a status quo, and considers that the changes contemplated would not remedy the various weaknesses recorded in paragraphs 78-82 of the Evaluation Report, particularly concerning the lack of operational independence of the federal control commission and its regional counterparts³. The establishment of an appeals body is moreover in line with other considerations (relating to the question of sanctions and strand ii of recommendation xi). The other two recommendations, recommendations iv and xi, have succinctly been discussed. GRECO urges Belgium to resume and intensify work for the implementation of recommendations ii to xi of theme II of the Evaluation report.

44. GRECO concludes that recommendations ii to xi have not been implemented.

² The chairman of the working group summed them up as follows in his succinct report dated 10 February 2010: a) identification of the breaches; b) diversification of the breaches; c) distinction between sanctions affecting a candidate, a list or a party; d) proportionality between the breaches and the sanctions; e) intervention of a judicial authority, for example, in the event of an appeal, if the sanction is to result in withdrawal of a parliamentary mandate.

³ For example, paragraph 79 emphasised that "The composition of the commissions assigns a predominant/exclusive role to the political parties and in practice they reportedly display a lack of resolve when it comes to exercising real oversight and taking decisions likely to lead to a sanction, even where the court of auditors uncovers possible breaches or expresses reservations. This is compounded by other factors such as alliances entered into for political convenience or under the constraints of access to political financing, or again the special majority voting rules. At the federal level, only half a dozen cases since 1989 have concerned the accounts of minor political parties; half of these concerned the same party, and in some cases on which the federal control commission was moved to take a decision, that decision was on occasion obstructed by the fact that one of the members had left the meeting (lack of a quorum), the commission not having postponed consideration of the item to a subsequent meeting. The picture is especially unfavourable as regards supervision of the election campaign accounts of parties and candidates following elections. Apparently no real step has been taken even in respect of significant infringements (for instance, failures to render accounts have not been followed up after several letters of reminder). The federal control commission seems to rely solely on anticipative findings, absence of complaint from another candidate, etc. The involvement of the court of auditors in the supervision process does not (in the present context) afford all sureties of counteracting the politicisation of the control commissions. The court, albeit independent in principle, remains a collateral organ of the federal parliament and its members may be dismissed."

III. CONCLUSIONS

45. **In the light of the foregoing, GRECO concludes that Belgium has implemented or satisfactorily dealt with only one of the fifteen recommendations contained in the Third Round Evaluation Report.** Concerning Theme I – Incriminations, recommendations I, ii, iii and iv were partly implemented. Concerning Theme II – Political Party Funding, recommendation i was implemented satisfactorily and recommendations ii to xi were not implemented.
46. With regard to incriminations, two circulars are in preparation, intended: a) the first one, to remind the prosecutors in charge of corruption cases that “receipt” with intent to gain an advantage, within the meaning of the Criminal Law Convention on Corruption (ETS173), is unlawful in respect of the various passive corruption offences; b) the second one, to draw their attention to the extent of the rules governing Belgium’s extraterritorial jurisdiction. This initiative is to be amplified in 2011 by training schemes. The parliament’s lack of political resolve, followed by the political and institutional crisis after 7 May 2010 (the date of dissolution of the legislative chambers) and the absence of a government have meant that no concrete political decision or sufficient follow-up could be given to address the recommendations on considering a possible aligning of the offences of private corruption and trading in influence to the requirements of the Convention.
47. This crisis also affected the implementation of the recommendations on transparency of political party funding, for which the Belgian government has left the initiative with the parliament, by means of express terms of reference issued to a special working group of the *parliamentary control commission on electoral expenditure and political party accounting*. Consultations began to take place on the basis of the GRECO report as from October 2009 to decide on the measures to be taken; this process allows the expectations of the first recommendation to be met. Negotiations are slowly going ahead and, apart from some general paths of reflection on sanctions or an occasional consensus on the question of reform to the control machinery – at all events far from meeting the needs identified in the Evaluation Report – no tangible follow-up has been given to the ten other recommendations. The control commission’s working group resumed its proceedings, under the new legislature, in April 2011.
48. GRECO therefore concludes that the present very low level of compliance with the recommendations is “globally unsatisfactory” within the meaning of Rule 31, paragraph 8.3 of its Rules of Procedure. GRECO accordingly decides to apply Rule 32 concerning members failing to comply with the recommendations contained in the mutual Evaluation Report and asks the Head of the Belgian delegation to provide it with a report on the progress made in implementing those recommendations not given effect (ie recommendations i-iv, under Theme I, and recommendations ii-xi, under Theme II) as soon as possible, but not later than 30 November 2011, in accordance with paragraph 2(i) of this Rule.
49. Lastly, GRECO invites the Belgian authorities to authorise the publication of this report as soon as possible, to translate it into the other national languages, and to make the translations public.