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Third Evaluation Round

Second Compliance Report on Liechtenstein

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

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"Transparency of Party Funding"

Adopted by GRECO
at its 85th Plenary Meeting
(Strasbourg, 21-25 September 2020)

I. INTRODUCTION

1. The Compliance Report assesses the measures taken by the authorities of Liechtenstein to implement the 20 recommendations issued in the Third Round Evaluation Report on Liechtenstein (see paragraph 2), covering 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 71st Plenary Meeting (18 March 2016) and made public on 2 June 2016, following authorisation by Liechtenstein (Greco Eval III Rep (2016) 2E, [Theme I](#) and [Theme II](#)). The subsequent Compliance Report was adopted at GRECO's 79th Plenary Meeting (19-23 March 2018) and made public on 30 May 2018 ([GrecoRC3\(2018\)3E](#)).
3. As required by GRECO's Rules of Procedure, the Liechtenstein authorities submitted their Second Situation Report with additional information regarding the implementation of recommendations that were partly implemented and not implemented, according to the Compliance Report. This situation report was received on 23 September 2019 and served as a basis for the Second Compliance Report.
4. GRECO selected Malta and the Slovak Republic to appoint rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Kevin VALLETTA, on behalf of Malta, and Mr Martin GAJDOŠ, on behalf of the Slovak Republic. 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 in its Evaluation Report addressed 12 recommendations to Liechtenstein in respect of Theme I. In the Compliance Report, GRECO concluded that all had been implemented satisfactorily.

Theme II: Transparency of Party Funding

6. It is recalled that GRECO in its Evaluation Report issued eight recommendations in respect of Theme II. In the Compliance Report, seven recommendations were considered as partly implemented (i-vi and viii) and one was considered not to be implemented (recommendation vii). Compliance with these recommendations is dealt with below.

Recommendation i.

7. *GRECO recommended to ensure that political parties in Liechtenstein take an appropriate status and legal form, which takes into account the specificities of political parties and entails the necessary legal capacity.*

8. GRECO recalls that in the Compliance Report it had considered that the proposed amendment to Article 2 of the Law on the Payment of Contributions by Political Parties (LPCPP) requiring political parties to register appeared to respond to the concern expressed in the Evaluation Report. The draft bill, endorsed by Government, had yet to be adopted by Parliament. This recommendation was thus considered to be partly implemented.
9. The authorities now report that on 1 May 2019 the revision of the LPCPP entered into force. In Article 2 para. 1, the establishment of a political party in the form of an association and the requirement for it to register in the Commercial Register are enforced. The amended law gives a legal framework for a uniform procedural treatment of political parties with regard to their financing and increases the transparency of party funding. Registration in the Commercial Register increases legal certainty and transparency. The legal status is verified when a party submits its statutes and extracts from the Commercial Register after the elections to the Landtag (Article 2 para. 4).
10. GRECO notes from the information provided by the authorities that Article 2 paras. 1 and 4 of the LPCPP as revised is identical to the one that was presented for the purposes of the Compliance Report when it was included in the bill to be sent to Parliament. GRECO, in line with its previous assessment, considers that this provision as revised satisfies the requirements of the above recommendation in requiring the registration of all political parties under a uniform procedure.
11. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

12. *GRECO recommended i) that adequate accounting rules and forms be introduced which would clearly apply to the financing of all political parties and of election campaigns, which would take into account the various sources of income, expense, assets, debts and liabilities, and ii) that accounts be properly consolidated with the inclusion of all entities which are related directly or indirectly to a political party or are otherwise under its control.*
13. GRECO recalls that it found in the Compliance Report that, from the draft bill seeking to amend the LPCPP, a more precise framework was proposed for annual financial statements provided by political parties concerning different sources of revenues as well as expenditure. Applications for state contributions, to which the submission of annual financial statements is linked, would have a fixed date which would in turn provide a unified reference period for annual financial statements. As to election campaigns, it was highlighted in the Evaluation Report that political parties play a central role in campaigns rather than candidates and that the relevant information concerning the financing of campaigns would be included in their financial statements. As the Government's draft bill remained to be adopted by Parliament, GRECO concluded that recommendation ii was partly implemented.
14. The authorities now report that Article 2 paras. 2 and 3 as well as Article 6 of the revised LPCPP have introduced unified and comprehensive accounting rules for the political parties and the proper consolidation of their accounts, including a list of sources of income, expense, assets, debts and liabilities as well as all entities which are related to a political party or under its control.
15. GRECO notes from the information provided by the authorities that the revised text of the LPCPP, adopted by Parliament and in force, is identical to the one submitted for the preparation of the Compliance Report, with few small exceptions notably the addition of explicit dates for the beginning and end of the financial year and the date for applying for the allocation of contributions to parties. Therefore, in line with its previous assessment, GRECO considers that an adequate

accounting framework has been put in place, in particular with annual financial statements providing details on sources of income and expenses, including with regard to entities which are related to political parties. With these amendments to the LPCPP, the situation can be assessed as being in conformity with the recommendation.

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

Recommendation iii.

17. *GRECO recommended Liechtenstein seeks ways to increase the transparency of contributions by third parties in the financing of political parties and election campaigns.*
18. GRECO recalls that in the Compliance Report it considered that para. 4 d and o of Article 6 of the draft bill on the LPCPP could bring more transparency regarding contributions by third parties. However, it concluded that recommendation iii was partly implemented as the Government's draft bill had yet to be adopted by Parliament.
19. The authorities now report that Article 6 of the revised LPCPP specifies the way political parties have to account for their financing. This includes the requirement for political parties to publish their annual financial statement on the internet and to state contributions of the municipalities to the local groups. This is to increase the transparency of the contributions by third parties as well as the financing of election campaigns.
20. GRECO takes note from the information provided by the authorities that the relevant provisions of the revised LPCPP that were submitted for the purpose of the Compliance report, in particular those in Article 6, were adopted by Parliament. GRECO considers that the revised provisions of the LPCPP, with the requirement of detailed annual financial statements covering contributions of municipalities to the local groups affiliated to a political party, will contribute to increasing transparency around contributions by third parties in financing political parties and, since the authorities were to seek ways of achieving that objective, the recommendation can be considered to be complied with.
21. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv.

22. *GRECO recommended i) that political parties – and other campaign participants as the case may be – be required by law to record all forms of funding and private support with information on their nature and value, including for goods and services provided free of charge or at preferential value, as well as in respect of loans; ii) to introduce a general ban on donations from persons or bodies that fail to reveal their identity to the political party or candidate concerned and iii) that the legal situation regarding funding from parliamentary groups and private support to these groups be clarified and that the financial flows concerned be properly accounted for in that context.*
23. GRECO recalls that, in the Compliance Report, it found in respect of the first part of the recommendation that Article 6, as proposed in the draft bill amending the LPCPP, would set out a clearer framework for sources of funding for political parties as they would be required to give details of their income coming from economic activities which they engage in. As to the second part of the recommendation, GRECO noted that the proposed Article 6 para. 4 f would require from parties to include donations in their financial statements and that Article 6a would require them not to accept anonymous donations in excess of CHF 1 000 (approximately EUR 853). GRECO considered that this would fall short of a general ban on donations from unknown donors or what

could be considered an acceptable *de minimis* exception to this general ban. Regarding part (iii) of the recommendation, GRECO noted that the proposed new provisions would require parties to indicate in their financial statements contributions made to their parliamentary groups (Article 6 para. 4 m) and the expenses for these parliamentary groups (Article 6 para. 5 m), which appeared to respond to the concerns underpinning the recommendation.

24. The authorities now state Article 6 of the revised LPCPP, in particular paras. 5 and 6, require parties to record all forms of funding and private support. This includes their nature and value, goods and services provided free of charge or at a preferential value, in respect of loans as well as contributions to the parliamentary group in the Landtag. They add that Article 2 para. 3, Article 5 paras. 3 and 4 as well as Article 6 of the revised LPCPP set a legal framework regarding the proper accounting of financial flows. They ensure the standardisation, itemisation, publication and audit of the annual financial statements and further increase the transparency of party funding. Finally, Article 6a para. 2 prohibits anonymous donations from persons and bodies. Exempt are donations up to CHF 300 (approximately EUR 280) in individual cases allowing for spontaneous fundraising.
25. GRECO takes note of the information provided by the authorities. As regards part (i) of the recommendation, the relevant text of the revised LPCPP as in force does not differ from that examined for the purposes of the Compliance Report. GRECO, in line with its previous assessment, is satisfied that the revised law sets out a clearer framework concerning sources of funding of political parties, including income from economic activities, which have to be reported in their annual financial statements. As to part (ii) of the recommendation, GRECO notes that the law lays down the principle of a ban on anonymous donations, with a *de minimis* threshold to allow for spontaneous fundraising of EUR 280, which is rather high. GRECO also notes that the threshold set for the ban on anonymous donations in the law appears to apply only in respect of individual donations. This could lead, for example, to situations where a donor can remain anonymous even if several donations that each are below this threshold but together are above it, are made in the same financial year. Consequently, GRECO considers that this falls short of the general ban on donations from unknown donors required by part (ii) of the recommendation. As to part (iii) of the recommendation, GRECO notes that both contributions to the parliamentary groups and expenses for the parliamentary groups have to be reported in the political parties' financial statements and as such meet the requirements of this part of the recommendation.
26. GRECO concludes that recommendation iv remains partly implemented.

Recommendation v.

27. *GRECO recommended i) that measures be taken to ensure the effective, regular and timely publication of adequate financial statements concerning political parties and – as appropriate – other election campaign participants and ii) that individual donations above a certain minimum level, together with the identity of donors, be disclosed in that context.*
28. GRECO recalls that, concerning the first limb of the recommendation, the draft bill revising the LPCPP proposed that political parties publish annual financial statements (including a balance sheet and income statement) on their website, which would appear to comply with the recommendation. As to the second part of the recommendation, the draft bill proposed to require political parties to record different types of donations in their public financial statements without, however, disclosing the identity of donors, contrary to what is required by the recommendation.
29. The authorities now report that Article 2 para. 3 and Article 6 paras. 1 and 3 of the revised LPCPP express the uniform obligation for parties to publish annual financial statements and standardise the way these statements have to be published, specifying where and for how long these

statements have to be made publicly available. The standardisation and the introduction of a uniform fiscal year from 1 January to 31 December in Article 6 para. 2 increase the comparability between the annual statements of the different parties. In Article 6a para. 2 anonymous donations to a political party are prohibited, i.e. the relevant party bodies must know where donations come from and disclose them if necessary to the auditing company as well as the Financial Affairs Unit. As previously outlined, donations up to CHF 300 (approx. EUR 280) in individual cases are permitted. The provisions under Article 6 para. 5 o and para 6 o require that income and receipts as well as types of expenditure exceeding 5% of the respective annual income or expenditure have to be shown separately.

30. GRECO takes note of the information provided by the authorities. As regards part (i) of the recommendation, the obligations related to the publication of annual financial statements by political parties have been confirmed in the revised LPCPP, including set dates for the financial year which must be followed by all parties and the publication of their annual statements on the internet. GRECO considers that this part of the recommendation has been complied with. As to part (ii) of the recommendation, GRECO notes that the identity of donors whose individual donations are above a certain level would be disclosed. Therefore, GRECO considers this part of the recommendation as implemented.
31. GRECO concludes that recommendation v has been implemented satisfactorily.

Recommendation vi.

32. *GRECO recommended i) to establish a mechanism for the independent supervision of the financing of political parties and election campaigns, which would have the necessary authority and resources to ensure proper supervision; and that ii) political parties and other election campaign participants as appropriate, be required to present periodically – and at least annually in the case of political parties – financial statements comprising adequate information for enabling proper supervision.*
33. GRECO recalls that in the Compliance Report it considered that the requirement for political parties to provide, together with their application for state financial support, an audit report carried out by a certified public accountant or auditing company, as proposed in the draft bill, would be a positive development. That said, the Evaluation Report also pointed to the need of reviewing the arrangements involving the Government's Financial Affairs Unit, which would remain the competent public authority under the proposed bill, so as to entrust a sufficiently independent body with the task of supervision (paragraph 59). As to the second part of the recommendation, the draft bill proposed that parties be required to submit annual financial statements with a certain amount of information on funding and expenditure as already examined under recommendation ii, in line with this part of the recommendation.
34. The authorities now state that Article 2 paras. 2 and 3b, Article 5 paras. 3 and 4 as well as Article 6 paras 1 to 4 of the revised LPCPP establish an annual mechanism for the supervision of the financing of political parties and election campaigns by the Financial Affairs Unit. This ensures and strengthens the independent supervision and audit of party financing. In particular, the specifications that the statements have to be prepared and the review performed according to the principles of proper accounting make the process more uniform and guarantee the independence of the statutory auditors in accordance with the binding professional guidelines of the Liechtenstein Association of Auditors.
35. GRECO notes, as in the Compliance Report, that the new provisions, which entered into force, introduce the possibility of additional audits to be carried out by an independent audit firm at the

costs of the State or political party concerned if there are any breaches to the LPCPP, which could become an incentive for them to abide by their statement obligations. However, in connection with this recommendation, the Evaluation Report called for a sufficiently independent body to be tasked with the supervision rather than the existing setting, which has been kept in the revised law, where this role is entrusted to the Government's Financial Affairs Unit. Therefore, GRECO cannot consider this part of the recommendation as fully implemented, as the Financial Affairs Unit remains the supervisory authority. As to part (ii) of the recommendation, GRECO is satisfied that the changes brought about by the revised LPCPP, which require parties to submit annual financial statements with information on funding and expenditure, as examined under recommendation ii, comply with this part of the recommendation. Overall, in view of part (i) of the recommendation, GRECO considers that this recommendation remains partly implemented.

36. GRECO concludes that recommendation vi remains partly implemented.

Recommendation vii.

37. *GRECO recommended that the improved supervisory arrangements include the periodic publication of results and findings concerning individual party compliance.*
38. GRECO recalls that in the Compliance Report the authorities had not referred to any provisions, whether in the draft bill on revising the LPCPP or elsewhere, to address this recommendation and that the authorities should ensure that the supervisory arrangements provide for the periodic publication of results and findings concerning individual party compliance. GRECO concluded that recommendation vii had not been implemented.
39. The authorities now state that Article 6 paras. 1 and 3 of the revised LPCPP require political parties to publish yearly on the internet their annual financial statements together with the report of the statutory auditors for at least five years. Furthermore, it is in the interest of political parties to comply with the provisions of the amended law as otherwise the party may not receive any contributions by the State. According to them the likelihood of the parties to fully comply is therefore great.
40. GRECO notes that political parties are required to publish online for five years not only their annual financial statements but also the corresponding report of the statutory auditors on these statements. While GRECO regrets that an independent supervisory body has not been set up (see recommendation vi), it considers that the additional requirement that parties publish an audit report on their annual financial statements, which now cover a wide range of expenses and funding, can be seen as improving transparency and is a step in the right direction. However, the Government's Financial Affairs Unit being the supervising authority, their findings on the annual financial statements should also be made public for this recommendation to be considered fully implemented.
41. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii.

42. *GRECO recommended i) that the legislation be supplemented by effective, proportionate and dissuasive sanctions for various breaches of the regulations on the financing of political parties and – as the case may be – of elections campaigns and ii) that for such purposes, the supervisory authority be clearly allowed to forward to the prosecutorial body those cases for which there is a suspicion of a criminal offence.*

43. GRECO recalls that in the Compliance Report it noted that the draft bill proposed to introduce administrative sanctions (state contributions being refused and payment of the cost of any additional audit) as well as criminal sanctions (with penalties of up to CHF 50 000, approximately EUR 42 660, or a prison sentence of up to six months). As regards part (ii), GRECO was satisfied that any suspicions of a criminal offence would need to be reported to the law enforcement authorities. However, as the draft bill had yet to be adopted by Parliament, it concluded that the recommendation had to be considered as partly implemented.
44. The authorities now report that Article 5 paras. 3 and 4 as well as Article 6b of the revised LPCPP require of the Financial Affairs Unit to refuse the state allocation to parties in the event of insufficient documentation and specify penalties for violations as well as dissuasive sanctions for breaches of the obligations. Furthermore, the Financial Affairs Unit must report any suspicion of a criminal offence to the law enforcement authorities as per Article 53 of the Code of Criminal Procedure.
45. GRECO notes from the information provided by the authorities that, as regards part (i), the sanctions, which it had examined in the Compliance Report when they were still in the then bill, were adopted as part of the revised LPCPP, which is now in force. There are therefore both administrative and criminal sanctions to deal with breaches to the rules on party financing. GRECO is satisfied that this part of the recommendation has been implemented. As concerns part (ii) of the recommendation, in the current setting, where the Financial Affairs Unit is responsible for supervising political parties' statements, suspicions of a criminal offence have to be reported to the law enforcement authorities, which is therefore in line with part (ii) of the recommendation. Therefore, both parts of the recommendation can be considered to have been fulfilled.
46. GRECO concludes that recommendation viii has been implemented satisfactorily.

III. CONCLUSIONS

47. **In view of the above, GRECO concludes that Liechtenstein has implemented satisfactorily seventeen of the twenty recommendations contained in the Third Round Evaluation Report.** The three remaining recommendations have been partly implemented.
48. More specifically, with respect to Theme I – Incriminations, recommendations i to xii have been implemented satisfactorily. With respect to Theme II – Transparency of Party Funding, recommendations i-iii, v and viii have been implemented satisfactorily, and recommendations iv, vi and vii have been partly implemented.
49. With regard to incriminations, GRECO had already found in the Compliance Report that all recommendations had been implemented satisfactorily. GRECO commends the progress achieved by Liechtenstein with the ratification on 9 December 2016 and entry into force on 1 April 2017 of the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191), and with the entry into force of the revision of the Criminal Code on 1 June 2016, which have responded to the different recommendations made by GRECO in its Evaluation Report. The notions of “public official” and “arbitrator” in connection with the bribery offences has been broadened and clarified; in particular, “public official” now explicitly covers all assembly members, as well as officeholders and employees of the legislature, administration or judiciary of another State or an international organisation. The incriminations of active and passive bribery in the private sector have also been introduced. The notion of trading in influence has been revised in line with Article 12 of the Convention. Moreover, sanctions for bribery and trading in influence have been increased and brought to levels comparable to other member states. Finally, training and awareness raising measures have been taken to sensitise the relevant professionals.

50. With regard to political financing, GRECO notes that the Law on the Payment of Contributions to Political Parties (LPCPP) has been revised with a view to providing a clearer framework for the financing of political parties and more transparency. The LPCPP as revised responds to a number of, if not all, recommendations. New obligations have been set out for political parties, *inter alia*: the registration of political parties as associations; annual financial statements, with a unified reference period, providing details on sources of income and expenses, including with regard to entities which are related to political parties; more information on contributions from third parties, administrative and criminal sanctions for breaches of the financing rules. However, while the revised LPCPP provides for a ban on anonymous donations above the de minimis amount, this de minimis is rather high and this cannot be considered a general ban on donations from persons or bodies that fail to reveal their identity to the political party concerned. Moreover, the LPCPP does not provide for financial supervision by a sufficiently independent public authority, which GRECO regrets as it is an essential part of the effectiveness of the whole system and urges the authorities to work toward the introduction of such an independent mechanism. Overall, GRECO recognises that significant progress has been made with the revision of the LPCPP, even though the above-mentioned issues would need addressing.
51. The adoption of the Second Compliance Report terminates the Third Round compliance procedure in respect of Liechtenstein. However, the Liechtenstein authorities are invited to inform GRECO of future progress on the full implementation of the outstanding recommendations regarding the transparency of party funding.
52. Finally, GRECO invites the authorities of Liechtenstein 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.