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Third Evaluation Round

Second Compliance Report on Austria

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

"Transparency of Party Funding"

Adopted by GRECO
at its 71st Plenary Meeting
(Strasbourg, 14-18 March 2016)

I. INTRODUCTION

1. The Second Compliance Report assesses the measures taken by the authorities of Austria to implement the nine pending recommendations issued in the Third Round Evaluation Report on Austria (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 53rd Plenary Meeting (9 December 2011) and made public on 13 January 2012, following authorisation by Austria (Greco Eval III Rep (2011) 3E, [Theme I](#) and [Theme II](#)). The Third Round Compliance Report was adopted by GRECO at its 63rd Plenary Meeting (24-28 March 2014) and made public on 24 February 2015, following authorisation by Austria ([Greco RC-III \(2013\) 26E](#)).
3. As required by GRECO's Rules of Procedure, the authorities of Austria submitted a Situation Report on measures taken to implement the recommendations. This report was received on 23 October 2015 and served as a basis for this Second Compliance Report.
4. GRECO selected Estonia and Portugal to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed for the Second Compliance Report were Mrs Kätlin-Chris KRUUSMAA on behalf of Estonia and Mr Daniel MARINHO PIRES on behalf of Portugal. They were assisted by GRECO's Secretariat in drawing up this Second Compliance Report.

II. ANALYSIS

Theme I: Incriminations

5. It is recalled that GRECO in its Evaluation Report addressed 10 recommendations to Austria in respect of Theme I. In the subsequent Compliance Report, GRECO concluded that recommendations i, ii, iv, v, vii to x had been implemented satisfactorily and recommendations iii and vi had been partly implemented. Compliance with the latter two recommendations is dealt with below.

Recommendation iii.

6. *GRECO recommended to examine whether additional initiatives need to be taken to ensure that all cases of bribery and trading in influence are adequately dealt with, even in case of non-material undue advantages.*
7. GRECO recalls that according to the Compliance Report, an expert group had started to work on the issues addressed in this recommendation. It appeared that the participants of the group considered that a) real intangible advantages do not play a role in practice but are covered by the existing provisions and that b) because they cannot be expressed in monetary value and the

Austrian incriminations foresee a scale of sanctions determined by reference to the value of the undue benefit, it is the lowest penalty that would systematically be applicable. Pending the final adoption of the report, and possible subsequent policy decisions as to whether or not guidance was needed for practitioners, or whether or not the system of sanctions needed to be reviewed to ensure adequate penalties for acts of bribery and trading in influence involving significant intangible advantages, GRECO considered that this recommendation had been partly implemented.

8. The authorities now report that the expert group established to prepare amendments to the Penal Code (PC) had to finalise its work under significant time pressure and therefore had no opportunity to reopen the discussion on this issue. However, the Compliance Report and recommendation iii in particular were put on the agenda of the 16th meeting of the Coordination Body for Combating Corruption of 18 December 2014. This body came to the same conclusion as the expert group, i.e. that the existing corruption provisions are sufficient to adequately deal with instances involving intangible advantages.
9. GRECO notes that the findings of the expert group established to prepare amendments to the PC – which had not reconsidered this matter after the adoption of the Compliance Report – were confirmed by the Coordination Body for Combating Corruption. Thus, in the view of these bodies, real intangible advantages are covered by the existing provisions on bribery and trading in influence but do not play a role in practice. While GRECO accepts these explanations, it recalls its concerns about the fact that in such instances the lowest penalty would systematically be applicable, as described in the Compliance Report. Moreover, it encourages the authorities to provide adequate guidance to practitioners on how to deal with instances involving non-material advantages or advantages whose value is difficult to evaluate. That being said, GRECO notes that the subject matter has been accurately examined by Austria, in line with the requirements of the recommendation.
10. GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation vi.

11. *GRECO recommended (i) to review the need to keep provisions on bribery in the Unfair Competition Act and (ii) to take such measures as may be necessary to assure that the prosecution of acts of bribery leads in practice to a penal response which reflects the needs of an effective anticorruption policy.*
12. GRECO recalls that the recommendation had been considered partly implemented in the Compliance Report. It appeared that adequate measures had been taken to implement the first part of the recommendation through a better differentiation between the provisions contained in the Unfair Competition Act and those of the PC. As for the second part of the recommendation, GRECO was not convinced that the situation had improved in a way that would address the concerns expressed in the Evaluation Report; the example given by Austria was of marginal relevance in practice and neither legal nor practical measures had been adopted to improve the situation (amendments of the rules on breach of trust; encouraging prosecutorial bodies to apply the provisions on bribery as opposed to those on breach of trust).
13. The authorities now report, in respect of the second part of the recommendation, that article 153 PC (breach of trust) has been amended through the Criminal Law Amendment Act 2015¹ so as to

¹ Federal Law Gazette No. 112/2015. The amendments entered into force on 1 January 2016.

narrow down its scope (through a new definition of what constitutes an abuse of power²) and to raise the thresholds for more severe punishment³ – whereas the thresholds remain unchanged for corruption offences, given the international obligations and scrutiny by mechanisms such as GRECO. According to the authorities, following the amendments to article 153 PC there is less room for overlap with corruption offences. Moreover, legal doctrine is unanimous on the point that in the case of the coincidence (“concurrency”) of breach of trust and bribery within one conduct, the perpetrator cannot be punished for abuse of trust alone; instead, it is generally held that both offences apply cumulatively. While there appears to be no recent jurisprudence on this matter, the Supreme Court has recently ruled on a similar question by stating that the bribery offences are not absorbed by the offence of breach of official power (article 302 PC) and by referring in this context to the aforementioned legal doctrine. Furthermore, as regards the relationship between the bribery offences and the offence of accepting an advantage by executives (article 153a PC), the authorities indicate that there is no single voice in legal literature advocating for subsidiarity of the bribery offences; it is commonly held that in the event of the coincidence of both kinds of offences within one conduct, the bribery provisions are to be applied in any case. The authorities stress that the correct application of the bribery provisions in the above-mentioned situations is not subject to prosecutorial discretion. Following the recent legal amendments and clarifications, they thus no longer see a need to encourage prosecutorial bodies to apply the provisions on bribery as opposed to those on breach of trust.

14. GRECO takes note of the information provided with regard to recent amendments to article 153 PC narrowing down the scope of the offence of breach of trust, and of the explanations that in the event of overlap of articles 153/153a PC and the bribery provisions, the latter apply in any case. Given that prosecutors have no discretion in deciding to prosecute such cases under the bribery provisions, it would appear that the concerns underlying the second part of the recommendation have now also been adequately addressed.
15. GRECO concludes that recommendation vi has been implemented satisfactorily.

Theme II: Transparency of Party Funding

16. It is recalled that GRECO, in its Evaluation Report issued 11 recommendations in respect of Theme II. The Compliance Report concluded that recommendations i, ii, vii and viii had been implemented satisfactorily or dealt with in a satisfactory manner, recommendations iv, v, vi, ix and xi had been partly implemented and recommendations iii and x had not been implemented. Compliance with recommendations iii, iv, v, vi, ix, x and xi is thus dealt with below.

Recommendation iii.

17. *GRECO recommended i) to ensure that the future legislation on the financing of political parties and election campaigns provides for adequate accounting standards and ii) to invite the Länder to do the same.*

² According to this definition, a person abuses his/her power if s/he infringes rules aiming at the protection of the beneficial owner's property in an unjustifiable way

³ The thresholds were raised from 3 000 to 5 000 € and from 50 000 to 300 000 € respectively, as a general policy measure for all property offences except corruption and money laundering.

18. GRECO recalls that according to the Compliance Report, no measures directly relevant to the recommendation had been taken. It appeared that the new Political Parties Act (PPA)⁴ of 2012 made no reference to the duty for political parties to keep proper books and accounts. In their latest comments, the Austrian authorities had pointed out that despite the absence of specific provisions, political parties were not exempted from the application of civil, penal or tax law and, for instance, in so far as a party also acts as an undertaking, the Commercial Code and its accounting requirements were applicable. In the absence of further information and any new development since the evaluation, on the way accounts are to be kept by the political actors themselves, GRECO could not conclude that this recommendation had been addressed.
19. The authorities, for the purposes of the present report, do not refer to any new development. It would appear that following the adoption of the Compliance Report, no further action has been taken by Austria to address this recommendation.
20. GRECO very much regrets the absence of any further progress and concludes that recommendation iii remains not implemented.

Recommendation iv.

21. *GRECO recommended to ensure that the future legislation on the financing of political parties and election campaigns i) requires the consolidation of party accounts and annual financial statements so as to include all territorial sections of the parties and other entities under their control; ii) addresses the question of support from third parties and iii) applies to all political parties and election campaign participants, whether or not they receive public financial support.*
22. GRECO recalls that the recommendation had been considered partly implemented in the Compliance Report. As regards the first element of the recommendation, GRECO was pleased that the new PPA tried to follow a comprehensive approach but it had reservations about the fact that the financial situation of district and municipal party structures was only presented in a simplified manner in party accounts and that related entities were not fully taken into account; e.g. it appeared that certain party-related organisations such as charities and sports were left out of the scope of the disclosure duties. Regarding the second element of the recommendation, GRECO noted with concern that support from distinct entities or persons without a legal link to the beneficiary were not addressed in the new legislation. In contrast, GRECO was satisfied with the information provided with respect to the third element of the recommendation, namely that the new legislation imposed the same obligations on all political parties, campaigning parties, affiliated organisations and branches, no matter whether they received/were entitled to public support or not.
23. The authorities now stress, with regard to the first element of the recommendation, that the current approach of the PPA – which for district and municipal party organisations only requires the inclusion of aggregated amounts of income and expenditure – constitutes the result of an intensive political debate and a compromise, guaranteeing the necessary 2/3 majority in Parliament. This approach takes into account the factual situation of the Austrian political landscape and activities which have a focus on the federal level and on the provincial level of the *Länder*, as well as the fact that there is only very limited commercial activity of municipal organisations. The authorities furthermore take the view that there is no justification for including

⁴ [Link to English version](#); original language version: *Federal Act on the Financing of Political Parties (Political Parties Act 2012) / Bundesgesetz über die Finanzierung politischer Parteien (Parteiengesetz 2012 – PartG)*, Federal Law Gazette I No. 56/2012.

organisations pursuing a purpose of general interest such as charities and sports in the framework of the PPA and they clarify that such organisations are not left out of the scope of all disclosure duties, since they fall under other general regulations such as for instance sections 21 or 22 of the Law for Associations with book-keeping duties for all associations and qualified accounting rules for bigger associations.⁵

24. As for the second element of the recommendation, the authorities stress that according to section 5, paragraph 4 PPA the financial statements have to include payments by affiliated organisations, donations, living subsidies, benefits in kind, and any other revenue and income. They clarify that such third party contributions must be included independently of whether there is a legal link between the beneficiary and the third party.
25. GRECO takes note of the information provided. As regards the first element of the recommendation, GRECO accepts the explanations provided that party-related organisations such as charities and sports bodies are subject to book-keeping and accounting rules other than those of the PPA, and it understands that the current approach where the financial situation of district and municipal party structures is presented only in a simplified manner in financial party accounts is the result of a political compromise. While the formal requirements of this part of the recommendation have been fulfilled, GRECO would still have a clear preference for a more detailed presentation of the financial situation of district and municipal structures and encourages the authorities to keep this matter under review. With respect to the second element of the recommendation, GRECO welcomes the clarification provided that under the new legislation, third party contributions must be included in financial accounts independently of whether there is a legal link between the beneficiary and the third party.
26. GRECO concludes that recommendation iv has been implemented satisfactorily.

Recommendation v.

27. *GRECO recommended i) to regulate in an adequate manner the various forms of support used in practice for the financing of political parties and election campaigns; ii) to introduce in that context a ban on donations from donors whose identity is not known to the political party or election campaign participant; iii) to provide for an appropriate, standardised format for the accounts and financial statements that would require the recording of all forms of income and expenditure, assets and liabilities, and the effective itemisation of campaign expenditure and in this context; iv) to issue accompanying guidance documents that would in particular deal with the valuation of in-kind support, including sponsorship and v) to invite the Länder to do the same.*
28. GRECO recalls that in the Compliance Report, it was satisfied with the information concerning the first part of the recommendation – according to which the new legislation covers a variety of forms of support including donations, membership fees, payments by affiliated organisations, subsidies, contributions by elected officials, income from commercial activities, sponsoring and advertisement etc. – and the last part of the recommendation, given that the new PPA is applicable to the whole country. In contrast, the other parts of the recommendation had only been partly implemented. Namely, the PPA does not clearly require that all donors be, as a rule, identified by the recipient by means of a receipt and appropriate data in the books/accounts (second part of the recommendation). Furthermore, it remained unclear whether any particular standardised format had been elaborated by the Austrian Court of Accounts (ACA) for the

⁵ i.e. those having expenditure and revenue over 1 million € in two consecutive years and therefore being obliged to present a balance and the profit and loss account in the context of the annual financial statement.

purposes of submission of financial statements, and certain important accounting items are not addressed at all in the PPA (third part of the recommendation).⁶ It also appeared that no guidance had been provided as expected by the fourth part of the recommendation.

29. The authorities now draw attention, with regard to the third and fourth parts of the recommendation, to the ACA website where it has published information about the ACA's viewpoints in relation to the financial statements of several political parties and in which cases the ACA has informed the Independent Political Parties Transparency Panel (IPPTP) about possible infringements of the PPA;⁷ it remains to be seen whether the IPPTP in its current proceedings will follow the ACA's allegations and legal views. The authorities add that the Chamber of accountants has published guidelines referring to the examination of the financial statements.⁸
30. GRECO welcomes the ACA's publication, on its website, of information on the assessment of financial statements of different political parties, and the Chamber of accountants' publication of guidelines referring to such assessments by the ACA. That said, such measures cannot replace comprehensive and standardised formats for accounts and financial statements, as required by the third part of the recommendation. GRECO also remains doubtful whether the measures taken – which are related to isolated cases of financial statements and possible infringements of the law, which need to be further assessed by the IPPTP – are sufficient to provide the guidance required by the fourth part of the recommendation, including on matters such as the valuation of in-kind support and sponsorship. Finally, GRECO very much regrets that no further action has been taken to address the second part of the recommendation.
31. GRECO concludes that recommendation v remains partly implemented.

Recommendation vi.

32. *GRECO recommended i) to publish the identity of donors whose contributions to a political party or campaign participant exceed a certain threshold and to ensure the information is made available to the general public in a timely manner and ii) to invite the Länder to do the same.*
33. GRECO recalls that, according to the Compliance Report, the recommendation was partly implemented. The relevant provisions of the new PPA should enable the public to be informed about the origin of all donations above 3 500 €. However, GRECO noted that the information becomes available only at a late stage, bearing in mind the time-line for disclosure to the ACA (30 September of the following year, with a possible extension of 4 weeks) and the fact that statements become public only once they have been verified and validated by the ACA. According to the Compliance Report, this is only partly compensated by the fact that donations above 50 000 € need to be disclosed and published immediately, as this threshold is too high to provide a meaningful and real-time image of funds raised during a campaign and that the immediate disclosure duty only applies to donations *stricto sensu* and thus does not capture other important forms of support such as sponsoring and advertisement.
34. The authorities, for the purposes of the present report, do not refer to any new development. It would appear that following the adoption of the Compliance Report, no further measures have been taken by Austria to address this recommendation.

⁶ E.g. assets, debts and liabilities (only "loans" are to be mentioned in the financial statements as a source of income and revenue).

⁷ See <http://tiny.cc/vqwf3x>.

⁸ See <http://tiny.cc/48un3x>.

35. GRECO very much regrets the absence of any further progress and concludes that recommendation vi remains partly implemented.

Recommendation ix.

36. *GRECO recommended i) to ensure the effective and independent supervision of the financing of political parties and election campaigns, in accordance with Article 14 of Council of Europe Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and election campaigns; ii) to ensure that a duty to disclose financial reports applies to all political parties and participants in election campaigns, whether or not they receive public support and iii) to invite the Länder to do the same.*
37. GRECO recalls that the recommendation was considered partly implemented in the Compliance Report. GRECO was satisfied with the information provided with respect to the second and third parts of the recommendation: With the new disclosure and reporting arrangements which had become effective as of 2013, financial statements are to be submitted by political parties annually, as well as other campaign participants – in connection with elections – by 30 September of the year following the reference year or the year in which elections have been held; furthermore, the new legal framework is applicable country-wide, including in connection with elections in the *Länder* and at local level.
38. As far as the first part of the recommendation is concerned, GRECO welcomed the improvements made in respect of the supervision of political financing and the care taken to ensure adequate independence of the public bodies concerned, i.e. the ACA and the IPPTP. At the same time, GRECO took the view that more determined efforts were needed to ensure an effective control mechanism. It recalled the reservations already expressed in the Evaluation Report as to the ACA's ability to deal with this task given its generally limited powers and audit methods. Moreover, GRECO would have appreciated more detailed explanations on the role and powers of the ACA, which has the main responsibility for the supervision of political financing. GRECO was concerned that in the verification of financial statements, the ACA was left exclusively with the information supplied in the first hand in the statements. It also noted with concern that the PPA had not provided the ACA with clear powers to solicit/receive/use information or tips from other sources, e.g. election monitoring bodies, the tax administration, general public, a competing party. Finally, it had some doubts about the role assigned to the IPPTP in this context, its interaction with the ACA and its competence to initiate proceedings.
39. The authorities now provide further explanations concerning the role of the IPPTP, its interaction with the ACA and practical experience gained by the new supervisory mechanism. They clarify firstly that when it comes to the imposition by the IPPTP of administrative fines under section 12, paragraph 2 PPA, the IPPTP is not limited or bound by any finding of the ACA but is competent to initiate proceedings without any communication from the ACA. In this respect it can also act upon a complaint or notification by a third person or *ex officio*. The authorities refer in this connection to the jurisprudence of the IPPTP.⁹ Secondly, the authorities state that when it comes to the imposition by the IPPTP of financial penalties on political parties under section 10 PPA, the IPPTP needs a well-founded notification by the ACA as the experienced expert in questions of accounting standards. Namely, if the ACA comes to the conclusion that – even after a request for additional information – details of financial statements are missing or unclear, it has to inform the IPPTP which must then initiate proceedings ending in a formal decision about the correctness of

⁹ See the first paragraph on page 2 of the document under <http://www.bundeskanzleramt.at/DocView.axd?CobId=52952>

the legal and factual views taken by the ACA. The authorities add that this new mechanism has already proved its efficiency in practice, given that the IPPTP has initiated several proceedings dealing with financial statements and with the ceiling on campaign expenditure of several political parties upon notification by the ACA (in accordance with section 10 PPA). While proceedings against different political parties are still pending, the IPPTP has already published several decisions, including a recent decision on the imposition of a financial penalty on a political party to the amount of 567 000 € in a case of exceeding the ceiling on campaign expenditure.¹⁰

40. GRECO takes note of the information provided. It welcomes the clarification regarding the role of the IPPTP and its interaction with the ACA – notably, it can initiate proceedings without any communication from the ACA in cases falling under section 12 PPA but not under section 10 PPA – which appears to work in practice, as evidenced by several recent cases. That said, the other concerns raised by GRECO in the Compliance Report – namely with respect to the role, powers and capacities of the ACA – have not been addressed. GRECO once again wishes to stress that more determined efforts are needed to ensure an effective control mechanism – which is key to guaranteeing transparency in political financing – and it recalls its reservations as to the ACA's ability to deal with this task given its generally limited powers and audit methods.
41. GRECO concludes that recommendation ix remains partly implemented.

Recommendation x.

42. *GRECO recommended to introduce suitable measures that would ensure that the Austrian Court of Audit is in a position to report to the competent authorities both suspicions of corruption in connection with political financing and cases of mismanagement liable to attract criminal sanctions.*
43. GRECO recalls that according to the Compliance Report, the recommendation had not been implemented. The authorities had stated that since the joint first and second round evaluation, there had been some uncertainty and incorrect information supplied about the rules governing the reporting to criminal justice bodies by the ACA; and that only authorities of the executive branch of power – but not the ACA as a parliamentary support body – have such a duty to report (at the same time, the ACA has the *right*, as any citizen, to inform the prosecution authorities). Bearing in mind the long-standing uncertainties about this matter and the general confidentiality duty of the ACA's members with respect to information gathered about audited subjects and entities, GRECO would have preferred to see measures adopted to clarify this matter once and for all, or at least some conclusive examples provided by the authorities to substantiate the above statements.
44. The authorities now refer to the ACA's most recent official Performance Report ("*Leistungsbericht 2014/2015*"), published on 11 December 2015, which contains a chapter on the "Fight against corruption". In the chapter the Court summarises its anticorruption activities and points out that "it is indispensable for an efficient fight against corruption that all state actors involved, such as auditing and law enforcement authorities as well as the courts but also the legislator, cooperate." In particular the ACA notes that "if in the course of an audit issues of a criminal nature emerge, the Court of Audit transmits its findings and reports to the competent prosecutorial authority." Finally, the Court adds that "the Central Prosecution Authority for Economic Crime and Corruption (WKStA) receives all published reports."

¹⁰ See <http://www.bundestkanzleramt.at/site/7868/default.aspx>

45. GRECO takes note of the information provided by the authorities. Even though no targeted measures to specifically address the recommendation have been reported, GRECO accepts – based on the ACA’s official Performance Report – that the ACA is in effect in a position to report to the competent authorities suspicions of corruption detected in the course of its work.
46. GRECO concludes that recommendation x has been dealt with in a satisfactory manner.

Recommendation xi.

47. *GRECO recommended i) to clearly define infringements of existing (and yet to be established) provisions with regard to the transparency of party funding and to introduce effective, proportionate and dissuasive sanctions for these infringements, in accordance with Article 16 of Council of Europe Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and election campaigns and ii) to invite the Länder to do the same.*
48. GRECO recalls that the recommendation had been considered partly implemented in the Compliance Report. GRECO had welcomed the introduction of sanctions applicable in respect of infringements to the rules on regular financing of political parties and the specific situation of election campaigns, which apply to the whole of Austria. Nonetheless, it appeared that further improvements were needed to fully implement the first part of the recommendation. For instance, it was noted that no arrangements were in place on how to deal with the late or non-submission of financial reports. GRECO also had some concerns about the exemption of liability for inadmissible donations in case they are transferred to the ACA “immediately but no later than at the time when the statement of accounts is submitted for the relevant year”, and it had some doubts about the effectiveness of certain sanctions – noting that it remained unclear whether additional consequences are attached to them, in particular when it comes to the entitlement to public support, and whether the relevant criminal law provisions on accounting offences or falsification of evidencing documents are applicable.
49. The authorities now stress, with regard to the exemption from liability for inadmissible donations in case they are transferred to the ACA, the general rule of section 6, paragraph 7 PPA is that an inadmissible donation has to be reported “immediately”. It would therefore be contrary to the law if a political party just waited for the latest possible date for the transfer of any such donation (which would be the submission of the financial statements). The authorities cannot see that it would be possible to “deliberately seek large support from illegal sources, achieve sufficient electoral success or win elections (with that support) to be entitled to public support and then report/forward these amounts to the ACA at a much later stage”, as had been assumed in the Compliance Report. Moreover, the authorities clarify that relevant criminal law provisions on accounting offences or falsification of evidencing documents (see e.g. article 293 PC) are applicable in connection with political financing, even though the PPA and the Support of Political Parties Act do not explicitly refer to such provisions; such a reference is not required according to Austrian principles of law. Finally, they stress that in their view, existing sanctions such as financial penalties of up to 100 000 € or up to 20% of a possible over-spending (above the 7 million € threshold) are clearly effective and dissuasive, and they again refer to the financial penalty of 567 000 € which was recently imposed by the IPPTP on a political party.
50. GRECO acknowledges the explanations provided with regard to the exemption of liability for inadmissible donations in case of their “immediate” transfer to the ACA, even if it would have preferred clearer rules and additional arrangements such as limiting such an exemption to situations which are beyond the control of the beneficiary etc. GRECO also accepts the

clarification that relevant criminal law provisions on accounting offences or falsification of evidencing documents are applicable in addition to the range of sanctions provided by the PPA and the Support of Political Parties Act themselves. At the same time, it considers that the current regime of sanctions still warrants some further improvements, as detailed in the Compliance Report, in particular, the introduction of sanctions for late or non-submission of financial reports and consequences of serious violations of the PPA for the entitlement to public support.

51. GRECO concludes that recommendation xi remains partly implemented.

III. CONCLUSIONS

52. **In view of the conclusions contained in the Third Round Compliance Report on Austria and in light of the above, GRECO concludes that Austria has now implemented satisfactorily or dealt with in a satisfactory manner sixteen of the twenty-one recommendations contained in the Third Round Evaluation Report.** Four further recommendations remain partly implemented and one remains not implemented.
53. More specifically, with respect to Theme I – Incriminations, all ten recommendations have been implemented satisfactorily. With respect to Theme II – Transparency of Party Funding, recommendations i, ii, iv, vii, viii and x have been implemented satisfactorily or dealt with in a satisfactory manner, recommendations v, vi, ix and xi have been partly implemented and recommendation iii has not been implemented.
54. With regard to incriminations, GRECO had already welcomed in the Compliance Report the ratification by Austria of the Criminal Law Convention on Corruption and its Additional Protocol, as well as various amendments to align the national criminal legislation with these legal instruments, including as regards the incriminations of active and passive bribery involving a public official or a member of an elected assembly and the offence of illicit intervention (trading in influence), the increase in the level of sanctions for private sector bribery, the abolishment of the effective regret mechanism of article 307c PC and the extension of the rules on jurisdiction. In addition, GRECO now acknowledges that Austria has further considered the issue of non-material undue advantages to ensure that all cases of bribery and trading in influence are adequately dealt with and has taken additional measures to ensure that the prosecution of acts of bribery leads in practice to a penal response which reflects the need for an effective anticorruption policy.
55. With regard to political financing, GRECO had recognised in the Compliance Report the adoption of a new Political Parties Act which introduced country wide rules to regulate the sources of income of political parties and (other) campaign participants, required the disclosure of financial statements – including on the websites of political parties and of the Austrian Court of Audit (ACA) – and the subsequent supervision by the ACA, with possibilities to impose penalties in case of breach to the rules. While GRECO now acknowledges that some further matters have been clarified in the meantime – regarding, in particular, the coverage of third party support in financial statements and the role and competences of the Independent Political Parties Transparency Panel – and that first experiments with the new legislation have been reported, it regrets that several recommendations have still not been fully addressed, as regards, for instance, the applicable accounting and book-keeping standards, the regime of sanctions applicable in case of infringements and the new control mechanism, whose effectiveness needs to be kept under review given the absence of real control powers granted to the ACA. GRECO wishes to stress that the setting-up of an effective control mechanism is key to guaranteeing

transparency in political financing – and it recalls its reservations as to the ACA’s ability to deal with this task given its generally limited powers and audit methods. To conclude, the above-mentioned areas are important for the credibility of the financing of political life. Notwithstanding the overall positive results already achieved by Austria in the reform process, GRECO urges the authorities to continue this process and to eliminate the remaining gaps.

56. The adoption of the Second Compliance Report terminates the Third Round compliance procedure in respect of Austria.
57. Finally, GRECO invites the authorities of Austria 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.