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## **Third Evaluation Round**

### **Second Addendum to the Second Compliance Report on Switzerland**

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

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#### **“Transparency of Party Funding”**

Adopted by GRECO  
at its 96th Plenary Meeting  
(Strasbourg, 18-22 March 2024)

## I. INTRODUCTION

1. This Second Addendum assesses further measures taken by the Swiss authorities since the adoption of the Addendum to the Second Compliance Report to implement the recommendations made by GRECO in the Third Round Evaluation Report on Switzerland. The Third Evaluation Round covers two distinct themes:
  - **Theme I – Incriminations:** Articles 1a and 1b, 2 to 12, 15 to 17, 19 paragraph 1, of the Criminal Law Convention on Corruption (ETS 173), Articles 1 to 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 on Switzerland was adopted by GRECO at its 52nd plenary meeting (21 October 2011) and made public on 2 December 2011, following authorisation by Switzerland (Greco Eval III Rep (2011) 4E, [Theme I](#) and [Theme II](#)).
3. In the Compliance Report adopted at its 61st plenary meeting (14-18 October 2013), GRECO concluded that Switzerland had implemented satisfactorily three out of the eleven recommendations contained in the Third Round Evaluation Report. In view of this outcome, GRECO categorised the very low level of compliance with the recommendations as “globally unsatisfactory” within the meaning of Rule 31, paragraph 8.3, of its Rules of Procedure. GRECO therefore decided to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asked the head of the Swiss delegation to provide a report on progress made in implementing the outstanding recommendations (namely, recommendations i and iii regarding Theme I, and recommendations i to vi regarding Theme II) pursuant to paragraph 2(i) of that rule.
4. In the Interim Compliance Report and the Second Interim Compliance Report adopted at its 64th and 68th plenary meetings respectively (16-20 June 2014 and 15-19 June 2015), GRECO again categorised Switzerland’s level of compliance with the recommendations as “globally unsatisfactory” since the total number of recommendations outstanding remained unchanged.
5. In the Third Interim Compliance Report, adopted at its 72nd plenary meeting (1 July 2016), GRECO held that the two outstanding recommendations concerning Theme I had now been implemented satisfactorily. GRECO therefore decided to terminate the compliance procedure on this theme, all the recommendations having been implemented. Given the lack of positive developments with regard to Theme II, however, GRECO concluded that Switzerland’s overall level of compliance with the recommendations remained “globally unsatisfactory”.
6. In the Fourth Interim Compliance Report, adopted at its 76th plenary meeting (23 June 2017), GRECO held that the outstanding recommendations regarding Theme II remained unimplemented. Consequently, in accordance with Rule 32, paragraph 2 (iii), GRECO asked the Swiss authorities to receive a high-level mission with a view to examining, on the spot, with all the stakeholders, means of speeding up the legislative and policy changes called for in the report.

7. In the [Fifth Interim Compliance Report](#), adopted at its 80th plenary meeting (22 June 2018), GRECO held that the very low level of compliance with the recommendations remained “globally unsatisfactory” within the meaning of Rule 31, paragraph 8.3, of the Rules of Procedure. It decided to remain in close contact with the Swiss authorities regarding the organisation, in due course, of the high-level mission.
8. In the [Sixth Interim Compliance Report](#), adopted at its 83rd Plenary Meeting (21 June 2019), GRECO welcomed the draft amendment to the Federal Act on Political Rights drawn up by the Political Institutions Committee of the Council of States and held that both this draft and the draft constitutional article put forward by the federal popular initiative broadly corresponded to most of the recommendations made in the 2011 report – even if some elements still required further improvement. GRECO concluded that the level of compliance with the recommendations was no longer “globally unsatisfactory” within the meaning of Rule 31, paragraph 8.3, of its Rules of Procedure. Switzerland was therefore no longer subject to the non-compliance procedure and would now be evaluated via the regular compliance procedure.
9. In the [Second Compliance Report](#), adopted at its 87th Plenary Meeting (22-25 March 2021), GRECO welcomed the Federal Council’s new decision to support national legislation to ensure transparency in political funding, as well as the approval by the National Council of an indirect counter-proposal in this field.
10. In the [Addendum to the Second Compliance Report](#), adopted by GRECO at its 91st Plenary Meeting (13-17 June 2022) and made public on 15 September 2022, GRECO concluded that there had been no significant progress in the overall implementation of the recommendations. It therefore asked the head of the Swiss delegation to provide a report on progress made in implementing the outstanding recommendations (i.e., recommendations i to vi regarding Theme II). This information, submitted on 18 September 2023, served as a basis for this Second Addendum to the Second Compliance Report.
11. GRECO selected France to appoint a rapporteur for the compliance procedure. France appointed Ms Lise Chipault, who was assisted by GRECO’s Secretariat in drawing up this report.

## **II. ANALYSIS**

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

12. It will be noted that, in its Evaluation Report, GRECO addressed six recommendations to Switzerland concerning Theme II. In the Addendum to the Second Compliance Report, GRECO held that recommendations i, ii, v and vi remained partly implemented and recommendations iii and iv had still not been implemented.
13. The Swiss authorities begin by pointing out that, with regard to developments at federal level, the Federal Assembly adopted rules on transparency in the funding of political parties and election and referendum campaigns (Articles 76b to 76k of the revised Federal Act on Political Rights, LDP, RS 161.1) on 18 June 2021. On 24 August 2022, the Federal Council then adopted the secondary legislation required to implement the law in the form of the Ordinance on the Transparency of Political Funding (OFipo, RS 161.18) and set 23 October 2022 as the date when the revised LDP and the OFipo would come into force. The OFipo also specified when the various reporting obligations would apply for the first time (Article 19 OFipo). For political parties, this was the 2023 calendar year. For election campaigns, those campaigning for the October 2023 National Council

elections were the first to comply with such requirements. The campaigns of members of the Council of States elected in 2023 were also subject to the new transparency rules. In the case of referendum campaigns, reporting requirements have been in place since 4 March 2023, and the referendum of 3 March 2024 was the first to be held under the new rules.

14. At cantonal level, the authorities report that on 12 November 2022, the Grand Council of Valais (cantonal parliament) adopted the amendment to the law on political rights (LcDP, RS 160.1), which then entered into force on 1 April 2023. The transparency of political funding is governed by section 8a (Article 221a et seq. LcDP). The new provisions provide for the publication of political party and campaign accounts (Article 221a, paragraph 1 LcDP) and the disclosure of donations of 5 000 francs or more from legal entities or natural persons (Article 221a, paragraph 2 LcDP). Parties and campaign committees must also make their accounts and lists of donors available to the public. Upon written request, this information must be made available to any interested party within 10 days (Article 221d LcDP). In the event of a refusal to provide the accounts or a list of donors, or in the event of incorrect or incomplete information, the State Council may impose a fine of up to 10 000 francs on the political party, campaign committee or organisation or on the candidate in cantonal elections (Article 221e LcDP). In the canton of Schaffhausen, a parliamentary motion and a popular implementation initiative are complicating the implementation of the constitutional article and the legislative process relating to the new Transparency Act. The case is pending before the Federal Supreme Court. The canton of Bern also wants to introduce transparency requirements for the political financing of cantonal elections and votes. A preliminary draft revision of the Political Rights Act has been submitted for public consultation.
15. While only two cantons (Geneva and Ticino) had legislation on the transparency of political funding when the evaluation report was adopted in October 2011, five additional cantons (Neuchâtel, Fribourg, Schwyz, Valais and Vaud) now have a legislative framework in force on the transparency of political funding. Four other cantons (Zurich, Bern, Schaffhausen and Jura) are currently working on legislation in this area. In the latter two cases, the legislative work follows the approval by popular vote of new provisions in their cantonal constitutions.

#### **Recommendation i.**

16. *GRECO recommended (i) introducing accounting rules for political parties and election campaigns that provide for full and appropriate accounts to be kept; (ii) ensuring that income, expenditure and the various elements of assets and liabilities are accounted for in detail and in full and presented in a coherent format; (iii) exploring ways of consolidating accounts to include parties' cantonal and local branches and bodies directly or indirectly linked to them or otherwise under their control; (iv) ensuring that adequate financial information is readily available to the public in good time; (v) where appropriate, inviting the cantons to adapt their own regulations in line with this recommendation.*
17. GRECO points out that this recommendation had been deemed to have been partly implemented in the previous report. It had welcomed the partial revision of the Federal Act on Political Rights (LDP), which required party and campaign accounts to be kept and revenues, donations and contributions to be declared to a competent authority which must make this information public. The practical details of these new reporting requirements, including the threshold for triggering them and the time limits set, had been found to be consistent with Recommendation Rec(2003)4. GRECO had noted, however, that these obligations did not include expenditure and liabilities as called for in the Recommendation. It had also noted that the revised law had not yet entered into force and that the reporting format had yet to be determined by federal ordinance.

18. As mentioned above, the Swiss authorities state that the LDP as examined by GRECO in the previous report and the implementing provisions of the OFipo entered into force on 23 October 2022.
19. GRECO welcomes the entry into force of the LDP and its implementing provisions, which were applied for the first time in the 2023 parliamentary elections. It notes that the timely publication of financial information on election campaigns on the website of the Swiss Federal Audit Office represents a clear step forward in the transparency of such funding. However, as stated in its previous report, GRECO regrets that the reporting and transparency obligations do not cover party and election campaign expenditure.
20. GRECO concludes that recommendation i remains partly implemented.

#### **Recommendation ii.**

21. *GRECO recommended (i) introducing a general obligation for political parties and candidates to elections to provide information on all donations received, including donations in kind, above a certain size together with the identity of the donors; (ii) introducing a general ban on donations from persons or bodies that fail to reveal their identity to the political party or candidate concerned; (iii) inviting cantons that do not yet have such measures to adopt them.*
22. GRECO points out that this recommendation had been deemed to be partly implemented. It had noted with satisfaction that the revised LDP provided for a general obligation for political parties and election candidates to supply information on any donations received, including those in kind, and to reveal the donors' identity. Although it had noted that the threshold for triggering these requirements – 15,000 francs, or about 15,900 euros – remained high, it had stressed that the law still represented an important step forward compared with the previous situation in which there had been a complete lack of transparency. GRECO had also noted that anonymous donations had been banned and that the cantons had been called on to adopt similar measures, with an increasing number of them choosing to follow suit. Once the revised LDP had come into force, this recommendation could be considered fully implemented.
23. The Swiss authorities reiterate that the revised LDP and its implementing provisions entered into force on 13 October 2022.
24. GRECO welcomes the entry into force of the new regulations, which it had deemed to be in line with the requirements of the Recommendation in its previous report. However, in the light of the experience gained with the implementation of the provisions, it calls on the Swiss authorities to consider lowering the 15,000-franc threshold for triggering the obligation to report donations and donor identity. The high threshold allows many donors to fly under the radar, especially as in some cases, donations appear to be channelled through foundations.<sup>1</sup>
25. GRECO concludes that recommendation ii has been implemented satisfactorily.

#### **Recommendation iii.**

26. *GRECO recommended (i) seeking ways of increasing the transparency of the financing of political parties and election campaigns by third parties; (ii) inviting also the cantonal authorities to consider these matters.*

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<sup>1</sup> [Eidgenössische Wahlen 2023: Transparenzregeln mit blinden Flecken | Schaffhauser Nachrichten \(shn.ch\)](#)

27. GRECO points out that this recommendation had not been implemented.
28. The Swiss authorities report that the partial revision of the LDP and the OFipo implementing provisions, which have now entered into force, do not include any new elements relating to the recommendation.
29. GRECO concludes that recommendation iii remains not implemented.

**Recommendation iv.**

30. *GRECO recommended (i) ensuring that, as far as possible, independent audits are carried out on political parties subject to the obligation to maintain accounts and on election campaigns accounts; and (ii) inviting cantons to do the same.*
31. GRECO points out that this recommendation had not been implemented.
32. The Swiss authorities report that the partial revision of the LDP and the OFipo implementing provisions, which have now entered into force, do not include any new elements relating to the recommendation.
33. GRECO concludes that recommendation iv remains not implemented.

**Recommendation v.**

34. *GRECO recommended (i) ensuring 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; and (ii) inviting cantons to do the same.*
35. GRECO points out that this recommendation had been deemed to have been partly implemented in the previous report. There had been plans to make the Swiss Federal Audit Office (SFAO) responsible for the independent supervision of the funding rules. The pro-forma audit process was to involve verifying that all information and documents had been submitted in due time and random sample checks were to be carried out. GRECO had welcomed these provisions and considered that the SFAO afforded the necessary guarantees of independence. However, in its next report, it had wished to satisfy itself that sufficient resources had been allocated to this task.
36. The Swiss authorities confirm that, following the entry into force of the LDP as amended and the OFipo, the information and documents submitted by political parties and persons campaigning are verified and published by the SFAO, in accordance with Article 7 OFipo. The SFAO is responsible for carrying out pro-forma checks (Article 11 OFipo) and sample checks (Article 12 OFipo). The pro-forma audit process involves checking that all information and documents were submitted in due time. Substantive verification enables the SFAO to carry out random sample checks on the accuracy of the information provided. If necessary, the SFAO may require those involved in the political process to co-operate in clarifying the facts and provide it with the necessary documents and information (Article 13 OFipo). It may also carry out on-site checks (Article 12, paragraph 3 OFipo). If it finds that certain information or documents have not been submitted in due time or are not accurate, leading it to suspect a failure to comply with the law, the SFAO must report the

violations (after an additional compliance period has been granted) to the competent prosecuting authority (Article 76e LDP).

37. Parliament granted the SFAO the human and financial resources it needs to carry out its new tasks from 2022, including the development and management of an electronic register. Three persons are assigned to these tasks. The SFAO has also commissioned its own internal experts (auditors) to carry out the 24 material audits in 2023. Annual operating costs - excluding personnel costs - amount to 100,000 francs, or around 106,000 euros.
38. GRECO notes that pro forma and substantive checks – including random sample checks – are carried out on the statements by the SFAO, which is an independent authority with the means to do so. The resources allocated to the formal and substantive checks carried out in 2023 appear to be adequate, as shown in particular by the SFAO's publication in January 2024 of the information required by law on the material checks carried out after the October 2023 elections. Finally, it is positive that the SFAO's auditors took part in the audits.
39. GRECO concludes that recommendation v has been implemented satisfactorily.

#### **Recommendation vi.**

40. *GRECO recommended that the future rules on the financing of political parties and election campaigns be accompanied by effective, proportionate and dissuasive sanctions.*
41. GRECO points out that this recommendation had been deemed to have been partly implemented, pending the entry into force of the revised LDP. It had considered that the penalties provided for by the law met the requirements of the recommendation.
42. The Swiss authorities reiterate that the revised LDP, as examined by GRECO in the previous conformity report, and the implementing provisions of the OFipo entered into force on 23 October 2022.
43. In addition to the penalties provided for in the revised LDP, the OFipo further specifies that, if a final judgment has been handed down, the SFAO must include it in the relevant information and documents it publishes by providing a reference to the judgment. This ensures greater publicity of criminal penalties (including by linking the conviction of a natural person to the entity subject to reporting requirements under the revised LDP) and ensures transparency by stressing the inaccuracy of the data provided. The SFAO may also ask those concerned to rectify the data so that it can then correct the published information.
44. GRECO welcomes the entry into force of the revised LDP, which means that this recommendation can be considered to have been fully implemented. It notes that it is up to the member states to decide on the type of penalty to be imposed for breaches of the rules on political funding. In making this choice, it is essential to ensure that the penalties are actually effective in the event of an infringement. Accordingly, as Switzerland gains experience from applying the new rules, it should examine how their application works in practice and whether subsequent adjustments are needed, for example with regard to the various types of penalty to be imposed on different offenders (including responsible natural persons and political parties as such) and their dissuasive nature. GRECO invites the authorities to give this matter careful consideration.
45. GRECO concludes that recommendation vi has been implemented satisfactorily.

### III. CONCLUSIONS

46. **In view of the above, GRECO concludes that Switzerland has made clear progress in its overall implementation of the recommendations that were deemed not to have been implemented in the Third Round Addendum to the Second Compliance Report. The total number of recommendations implemented or addressed satisfactorily is now eight out of eleven. As regards the other recommendations, one remains partly implemented and two remain not implemented.**
47. With regard to Theme I – Incriminations, GRECO notes that all the recommendations (i to v) had been implemented satisfactorily at the time of the Third Interim Compliance Report. As regards Theme II, “Transparency of party funding”, recommendations i, v, and vi have now been implemented satisfactorily, recommendation i remains partly implemented and recommendation iii and iv have still not been implemented.
48. With regard to Theme II – Transparency of party funding, GRECO welcomes the entry into force of the revised Federal Law on Political Rights and its implementing provisions on 23 October 2022. This reform makes it possible, for the first time at Swiss federal level, to provide transparency on the income of political parties and election campaigns, as well as on donations above the 15,000-franc threshold. The reported information is subject to pro-forma and substantive checks by the Swiss Federal Audit Office and the rules provide for criminal penalties in the event of violation. Although the rules represent an important step forward and are to be welcomed, they need to be improved in a number of respects in order to be fully in line with Recommendation Rec(2003)4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns. Transparency obligations do not cover the expenditure of those concerned and the threshold for triggering donation reporting requirements remains high. In addition, there are no provisions for independent audits prior to reporting or for the transparency of funding from third parties, such as foundations. GRECO invites the Swiss authorities to learn from future practice in the implementation of the revised law in order to refine the system in a way that is more in line with the Recommendation.
49. Lastly, GRECO welcomes the developments at cantonal level. While only two cantons (Geneva and Ticino) had legislation on the transparency of political funding when the evaluation report was adopted in October 2011, five additional cantons (Neuchâtel, Fribourg, Schwyz, Valais and Vaud) now have a set of laws and regulations in force in this respect. Four other cantons (Zurich, Bern, Schaffhausen and Jura) are currently working on legislation in this area. These developments show that GRECO’s evaluation and compliance procedure, although aimed at the federal level, has also inspired and encouraged major improvements in transparency at the cantonal level.
50. The adoption of this second Addendum to the Second Compliance Report terminates the Third-Round compliance procedure in respect of Switzerland. However, the Swiss authorities are invited to inform GRECO of any future progress on the full implementation of the outstanding recommendations.
51. Lastly, GRECO invites the Swiss authorities to authorise publication of this report as soon as possible and to translate it into the other official languages and make these translations public.