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## **Third Evaluation Round**

### **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 91<sup>st</sup> Plenary Meeting  
(Strasbourg, 13-17 June 2022)

## I. INTRODUCTION

1. This Addendum assesses further measures taken by the Swiss authorities, since the adoption of the Second Compliance Report, in response to the recommendations issued by GRECO in its Third Round Evaluation Report on Switzerland. The Third Evaluation Round covers two distinct themes:
  - **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 on Switzerland was adopted by GRECO at its 52<sup>nd</sup> 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 61<sup>st</sup> 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 64<sup>th</sup> and 68<sup>th</sup> 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 72<sup>nd</sup> 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 76<sup>th</sup> 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 80<sup>th</sup> 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 83<sup>rd</sup> 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 87<sup>th</sup> 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. GRECO hoped that the continuation of the legislative process would result in a regulation that met the Council of Europe’s standards in that area. GRECO therefore asked the head of the Swiss delegation to provide a report on the progress made in implementing the outstanding recommendations by 31 March 2022 at the latest. The report was received on 28 March 2022 and served as a basis for this Addendum to the Second Compliance Report.
10. GRECO selected France to appoint a rapporteur for the compliance procedure. France appointed Mr Vincent FILHOL, who was assisted by GRECO’s Secretariat in drawing up the Compliance Report.

## **II. ANALYSIS**

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

11. It will be noted that, in its Evaluation Report, GRECO addressed six recommendations to Switzerland concerning Theme II. In the Second Compliance Report, GRECO held that recommendations i, ii, v and vi had been partly implemented and recommendations iii and iv had still not been implemented.
12. The Swiss authorities describe fresh developments at federal and cantonal levels since the last compliance report, namely:
13. At federal level, the Federal Assembly adopted rules on transparency in the funding of political parties and election and referendum campaigns (indirect counter-proposal to the transparency initiative) on 18 June 2021. This took the form of a partial revision of the Federal Act on Political Rights (LDP, RS 161.1). The new provisions are governed by Articles 76b to 76k of the revised LDP.<sup>1</sup> Once these new legal provisions on transparency in politics were adopted, the federal transparency initiative was withdrawn by the committee that had launched it on the grounds that the initiative’s aims had been sufficiently reflected in the draft law as adopted.
14. The legal provisions set out in the various recommendations below still need to be clarified by means of a federal ordinance (legislative act adopted by the Federal Council, the Swiss

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<sup>1</sup> Published in the Federal Gazette (FF) 2021, p. 1492 and online: <https://www.fedlex.admin.ch/eli/fga/2021/1492/fr>

government). The preliminary draft Ordinance on the Transparency of Political Funding (OFipo)<sup>2</sup> was open to public consultation until the end of March 2022. The revised LDP is to take effect at the same time as the OFipo. The Federal Council will set the date when they enter into force. Under current plans, both texts will come into force in October 2022 so that the transparency provisions apply to the next federal parliamentary elections in October 2023.

15. At cantonal level, Vaud Grand Council (cantonal parliament) adopted a complete revision of the law on the exercise of political rights (LEDP) on 5 October 2021. The revised law and its implementing regulation came into force on 1 January 2022. In particular, the revision introduces the principle of transparency in the funding of political parties and organisations by requiring the publication of political party and campaign accounts and the disclosure of donations of 5 000 francs or more from natural persons or legal entities.
16. In the canton of Jura, a popular initiative on transparency in political party funding had passed the first hurdle in 2020 by obtaining the requisite number of signatures. The text required parties, political groups and any other organisations taking part in votes or elections in the canton to publish their accounts and disclose their funding sources. On 19 November 2020, the Jura cantonal government forwarded its statement on the subject to the Jura cantonal parliament.
17. On 13 February 2022, the initiative on transparency in political party funding was approved in a popular vote by almost 60% of voters. The electorate preferred the popular initiative to the less restrictive counter-proposal that parliament had put forward. The text requires parties to publish their annual accounts and disclose their funding sources. Campaign committees participating in votes and elections in the canton and communes are also subject to this requirement. The identity of contributors to the funding of political organisations must be made public if their annual or one-off payments exceed 750 francs. The names of any companies funding party activities must be published, including the amount paid from the first franc. The initiative, which has constitutional status, has yet to be implemented.
18. In the canton of Schaffhausen, a popular initiative entitled *Transparenz in der Politikfinanzierung* (Transparency in political funding) was approved in a popular vote on 9 February 2020 with 54% of the votes. The initiative requires parties to publish their campaign budgets for elections and referendums and the names of individuals and companies making donations of more than 3 000 francs a year. Candidates are also subject to these disclosure requirements.
19. In September 2021, Schaffhausen Grand Council (cantonal parliament) passed by a vote of 28 to 24 a motion to revise the constitutional provision that had recently been approved by popular vote. As a result, on 18 January 2022, Schaffhausen State Council (cantonal government) proposed a more loosely worded draft constitutional provision and implementing legislation that was less strict than the text of the initiative.<sup>3</sup> This in turn led to the launch of a new popular “implementation” initiative in February 2022 to demand that the text of the original initiative approved by public vote be strictly adhered to.
20. In the canton of Valais, a preliminary draft amendment to the Valais law on political rights provides for the publication of political party and campaign accounts and the disclosure of donations of 5 000 francs or more from legal entities or natural persons. It also requires parties and campaign committees to 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. According to the

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<sup>2</sup> <https://www.bj.admin.ch/dam/bj/fr/data/staat/gesetzgebung/transparenz-politikfinanzierung/vorentw.pdf>

<sup>3</sup> <https://sh.ch/CMS/get/file/76e7ad0f-d6ca-4d36-b457-b09b266eca0f> (only available in German).

preliminary draft, transparency requirements apply to cantonal political parties, cantonal elections and candidates in cantonal elections. It was not considered advisable to include parties, elections and referendums at municipal level, mainly because it would be too time-consuming. Public consultations on the preliminary draft law were held and, on the basis of their outcome, a draft law will be submitted to the Grand Council in autumn 2022.

21. In the canton of Zurich, the relevant parliamentary committee of the Grand Council (cantonal parliament) is currently discussing a parliamentary initiative on the transparency of political funding.<sup>4</sup> It calls for greater transparency in political funding in the canton of Zurich and proposes to amend the cantonal law on political rights in this respect.

### **Recommendation i.**

22. *GRECO had 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.*
23. GRECO points out that this recommendation had been deemed to have been partly implemented in the previous reports. In its Second Compliance Report, GRECO had noted that the draft law on transparency contained reporting and publication obligations in line with the recommendation and that the threshold for triggering disclosure requirements had been lowered to 50 000 francs, which it had considered appropriate. GRECO had also stressed the importance of applying the law to election campaigns, including those for election to the Council of States, in accordance with Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties.
24. The Swiss authorities report that the following regulations were adopted after the last round of parliamentary debate. If referendum or election campaign spending exceeds 50 000 francs, the budgeted revenue, final income statement and any (monetary or non-monetary) donations exceeding 15 000 per donor and per campaign made in the 12 months preceding the referendum or election must be declared. Budgeted revenue must be declared 45 days prior to referendums and elections and an income statement and details of any donations must be provided within 60 days following the vote. Special transparency regulations apply to elections of members of the Council of States (due to the lack of federal jurisdiction for elections to the Council of States) which only apply from the date on which they take office.
25. GRECO welcomes the partial revision of the Federal Act on Political Rights (LDP) adopted by the Federal Assembly on 18 June 2021. It now requires party and campaign accounts to be kept and revenues, donations and contributions to be declared to a competent authority which then makes this information public. The practical details of these new reporting requirements, including the threshold for triggering them and the time limits set, are consistent with Recommendation Rec(2003)4. GRECO notes, however, that these obligations do not include expenditure and

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<sup>4</sup> Parliamentary initiative 442/2020 (only available in German), published on the Internet:  
<https://www.kantonsrat.zh.ch/geschaefte/geschaefte/?id=5c9373b1cc314413a8e87617771a2d7e>

liabilities as called for in the Recommendation. It also notes that the revised law has not yet entered into force and that the reporting format has yet to be determined by federal ordinance.

26. GRECO concludes that recommendation i remains partly implemented.

**Recommendation ii.**

27. *GRECO had 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.*
28. GRECO points out that this recommendation had been deemed to be partly implemented in previous reports, as the draft law included transparency requirements for donations and a ban on anonymous donations. Discussions had been under way on the threshold for triggering those rules, with GRECO taking the view that the threshold of 25 000 francs was too high.
29. The Swiss authorities now report that, in the last round of parliamentary debate, the Council of States agreed to a threshold of 15 000 francs instead of the 25 000-franc threshold it had previously favoured. The political parties represented in the Federal Assembly must therefore declare each year their revenues and any (monetary and non-monetary) donations exceeding 15 000 francs per donor, per year. They must also declare any contributions received from elected members and other office holders, irrespective of the amount.
30. If campaign spending exceeds 50 000 francs, the budgeted revenue, final income statement and any (monetary or non-monetary) donations exceeding 15 000 francs per donor and per campaign made in the 12 months preceding referendums or elections must be declared. Anonymous and foreign donations are both banned.
31. GRECO notes with satisfaction that the revised LDP provides 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 at 15 000 francs, the threshold for triggering these requirements remains high, the revised law is still an important step forward compared with the previous situation in which there was complete lack of transparency with respect to donations. GRECO also notes that anonymous donations are banned and that the cantons were called on to adopt similar measures, with an increasing number of them choosing to move towards greater transparency too, as outlined in paragraphs 15-21 above and in previous reports. Once the revised LDP comes into force, this recommendation may be considered fully implemented.
32. GRECO concludes that recommendation ii remains partly implemented.

**Recommendation iii.**

33. *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.*
34. GRECO points out that this recommendation had been deemed not to have been implemented in previous reports.

35. The Swiss authorities report that the legal provisions that have been adopted do not include any new elements related to the recommendation.
36. GRECO concludes that recommendation iii remains not implemented.

#### **Recommendation iv.**

37. *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.*
38. GRECO points out that this recommendation had been deemed not to have been implemented in previous reports.
39. The Swiss authorities state that the legal provisions that have been adopted do not include any new elements relating to the recommendation.
40. GRECO concludes that recommendation iv remains not implemented.

#### **Recommendation v.**

41. *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.*
42. GRECO points out that this recommendation had been deemed to have been partly implemented in the most recent reports. The draft law on transparency provided for the monitoring of compliance with the rules on transparency of political funding by an authority whose composition, role and powers had yet to be defined. It also provided that the authority would carry out sample checks to verify the accuracy of the information submitted by those subject to such requirements and GRECO had welcomed this arrangement.
43. The Swiss authorities point out that, under the revised LDP, the information and documents submitted by political parties and campaigners will be verified and published by an authority appointed by the Federal Council. There are currently plans to appoint the Swiss Federal Audit Office (SFAO)<sup>5</sup> as the authority responsible for carrying out audits and checks. The SFAO is Switzerland's supreme financial supervision body and its independence is enshrined in the Federal Audit Office Act (FAOA).<sup>6</sup> Pursuant to Article 1, paragraph 2 of this Act, the SFAO carries out its work independently and autonomously in accordance with legal requirements.
44. The formal audit process involves checking that all information and documents were submitted in due time. The random sample checks, which GRECO had welcomed in its previous report, are also enshrined in the revised LDP. If the competent authority finds that certain information or documents have not been submitted in due time or are not accurate, it must report the violations (after an additional compliance period has been granted) to the competent prosecuting authority (Art. 76e LDP).

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<sup>5</sup> <https://www.efk.admin.ch/fr>.

<sup>6</sup> [https://www.efk.admin.ch/images/stories/efk\\_dokumente/gesetz/FKG\\_2018\\_e.pdf](https://www.efk.admin.ch/images/stories/efk_dokumente/gesetz/FKG_2018_e.pdf).

45. GRECO takes note of the information provided, which is consistent with the recommendation. Choosing the Swiss Federal Audit Office as supervisory authority affords the necessary guarantees of independence, but in its next report, GRECO wishes to satisfy itself that sufficient resources have been allocated to this task so as to ensure it is carried out effectively. In addition, as noted above, the LDP has not yet come into force.
46. GRECO concludes that recommendation v remains partly implemented.

#### **Recommendation vi.**

47. *GRECO recommended that the future rules on the financing of political parties and election campaigns be accompanied by effective, proportionate and dissuasive sanctions.*
48. GRECO points out that this recommendation had been deemed to have been partly implemented in the previous report. The draft law provided for a system of penalties for violations of the rules on transparency of political funding, but the choice of certain penalties was still under discussion. GRECO had noted that the choice of the type of penalties was a matter for the Swiss authorities, but that it was important to ensure that they were effective, proportionate and dissuasive and that any violation of the rules was punished.
49. The Swiss authorities now report that the provisions on penalties of the draft law previously submitted to GRECO have now been confirmed by the final parliamentary debate. Violating the rules on transparency is punishable by a fine of up to 40 000 francs (Article 76j of the LDP).
50. GRECO notes with satisfaction that any intentional violation of the rules provided for in the revised LDP is a punishable offence. While these sanctions may apply to “anyone” who violates these rules, it is not clear from the explanatory report that these sanctions may be applied not only to natural persons but also to parties as legal entities. GRECO invites the Swiss authorities to ensure, in particular in the framework of the future ordinance, that sanctions can be applied to all persons and entities on which the revised LDP imposes obligations. Furthermore, it wonders whether a fine of up to 40 000 francs in the event of any violation would have a dissuasive effect – parties and candidates may choose to deliberately break the rules and pay the fine in order to conceal financial flows that they may not wish to make public. It is possible, however, that the damage to reputation arising from the public disclosure of any fine would act as an effective deterrent. Consequently, GRECO encourages the Swiss authorities to be attentive to this issue and to amend this provision, if necessary, in the light of its implementation in practice once the law has entered into force. For the time being, GRECO deems that the recommendation may be considered fully implemented once the revised LDP enters into force.
51. GRECO concludes that recommendation vi remains partly implemented.

### **III. CONCLUSIONS**

52. **In view of the above, GRECO concludes that there is no change as regards the overall implementation by Switzerland of the recommendations that were deemed not to have been implemented in the Third Round Second Compliance Report. The total number of recommendations implemented or addressed satisfactorily – five out of eleven – remains unchanged as compared with the Second Compliance Report. As regards the other recommendations, four remain partly implemented and two remain not implemented.**



53. With regard to Theme I – Incriminations, GRECO recalls 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, ii, v and vi remain partly implemented and recommendations iii and iv remain not implemented.
54. With regard to Theme II – Transparency of party funding, GRECO welcomes the adoption of the revised Federal Law on Political Rights on 18 June 2021. This text represents a major step forward for the transparency of federal political funding in Switzerland. The entry into force of this law and its implementing ordinance, on a date yet to be confirmed, should make it possible to meet some of the Council of Europe’s standards in that area, particularly with regard to transparency requirements for political party and election campaign funding and donations, as well as to the procedures for verifying compliance with such obligations and punishing any violations of the rules. Other aspects of these standards – including the transparency of party and candidate expenditure and independent auditing – have not been covered by this text, however. Before taking a final decision, GRECO would like to see the details of how the law’s provisions are implemented in the ordinance on the transparency of political funding. GRECO also welcomes the positive developments since its last report in the cantons of Vaud, Jura, Schaffhausen, Valais and Zurich.
55. In view of the fact that all the recommendations on the transparency of party funding are yet to be fully implemented, GRECO in accordance with Rule 31 revised, paragraph 9, of its Rules of Procedure, asks the Head of the Swiss delegation to provide a report on progress in implementing the outstanding recommendations (i.e. recommendations i to vi of Theme II) by 30 June 2023.
56. 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.