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Third Evaluation Round

Compliance Report on Switzerland

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

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"Transparency of Party Funding"

Adopted by GRECO
at its 61st Plenary Meeting
(Strasbourg, 14-18 October 2013)

I. INTRODUCTION

1. This Compliance Report assesses the measures taken by the Swiss authorities to implement the 11 recommendations issued in the Third Round Evaluation Report on Switzerland (see paragraph 2), covering two distinct themes, namely:
 - **Theme I – Incriminations:** Articles 1a and 1b, 2-12, 15-17 and 19.1 of the Criminal Law Convention on Corruption (ETS 173); Articles 1-6 of the Additional Protocol thereto (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 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. As required by GRECO's Rules of Procedure, the Swiss authorities submitted a Situation Report on measures taken to implement the recommendations. This report was received on 30 May 2013 and served as a basis for the Compliance Report.
4. GRECO selected the Republic of Moldova and France to appoint rapporteurs for the compliance procedure. The rapporteurs appointed were Ms Cornelia VICLEANSCHI, prosecutor, Head of General Section, Office of the General Prosecutor of Moldova, on behalf of the Republic of Moldova, and Mr Paul HIERNARD, judge, *chargé de mission* to the Director of Legal Affairs, Ministry of Foreign and European Affairs, on behalf of France. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
5. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any outstanding recommendations (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

II. ANALYSIS

Theme I: Incriminations

6. In its evaluation report GRECO addressed 5 recommendations to Switzerland in respect of Theme I. Compliance with these recommendations is dealt with below.
7. Generally, the Swiss authorities state that, at its 8 June 2012 sitting, the Swiss Government (Federal Council) took note of the contents of the two evaluation reports and decided on the initial measures to be taken in response to GRECO's recommendations. On Theme I, it decided, among other things, on a preliminary draft revision of the relevant legislation to strengthen the criminal-law provisions criminalising corruption. The Federal Council took note of the preliminary draft law and the accompanying explanatory report on 15 May 2013 and decided to submit them

for public consultation. The preliminary draft and the explanatory report were accordingly sent to the cantons, political parties and other interested parties, which were asked to give an opinion on them by 5 September 2013.

Recommendation i.

8. *GRECO recommended to ensure that the offences of granting and receiving advantages in articles 322^{quinquies} and 322^{sexies} of the criminal code cover, unambiguously, cases in which the advantage is intended for a third party.*
9. The Swiss authorities note that undue advantages intended for third parties are only restrictively covered by Articles 322^{quinquies} and 322^{sexies} of the Criminal Code (hereafter CP) in their current wording. For there to be a punishable act, the undue advantage must benefit the public official at least indirectly, eg by being intended for his wife.
10. The preliminary draft law mentioned in paragraph 7 proposes amending Articles 322^{quinquies} and 322^{sexies} CP in order to criminalise explicitly all cases where the undue advantage is intended for a third party, including where the public official has no financial links with the third party. The authorities stress that this amendment will remove the remaining ambiguity on this point.
11. GRECO takes note of the information provided and the express inclusion, in the proposed amendment to Articles 322^{quinquies} and 322^{sexies} CP, of the term “third party”, whose absence was mentioned in the Evaluation Report (paragraph 79) as being a source of uncertainty. However, as the amendments to the Criminal Code have not yet entered into force, GRECO cannot yet consider this recommendation to have been fully implemented.
12. GRECO concludes that recommendation i has been partly implemented.

Recommendation ii.

13. *GRECO recommended to consider extending the offence of bribery of foreign and international public officials, judges and officials of international courts and foreign arbitrators and jurors to include acts that do not constitute a breach of duty or that do not relate to the exercise of their discretion, and thus withdrawing or not renewing its declarations under Article 36 of the Convention and Article 9 paragraph 1 of the Additional Protocol.*
14. The Swiss authorities state that the desirability of extending the offence of bribery to the obligatory acts of foreign and international public officials was considered in the context of the revision of the Criminal Code mentioned in paragraph 7. The explanatory report accompanying the draft amending law specifies that very low-value advantages, such as “facilitation payments”, are considered undue if the act to be performed is inconsistent with the public official's duties or depends on his or her power of discretion. A Zurich court judgment of 16 November 2010 confirmed, moreover, that even the granting of an advantage amounting to a few Swiss francs is neither permitted nor socially acceptable if it leads the public official to act in a manner inconsistent with the duties of his or her office or might influence his or her power of discretion. This was a bribery case at national level, but the explanatory report stresses that this reasoning also applies to cross-border bribery insofar as the constituent elements of the relevant bribery offences are identical. The explanatory report also says that the concept of an act constituting a breach of duty or linked to the exercise of discretion must be interpreted broadly in Swiss law. For instance, the fact of expediting the performance of an administrative act or the handling of a

matter already constitutes a breach of the public official's duty and power of discretion. The explanatory report concludes, therefore, that there are no new elements which would justify departing from this view and that there are no grounds for extending the scope of foreign or international bribery to acts forming part of a public official's duties and not linked to his or her power of discretion. The declaration made by Switzerland in respect of Article 36 of the Convention should therefore be maintained.

15. GRECO takes note of the reasons given for not extending the offence of bribery of foreign and international public officials, judges and officials of international courts and foreign arbitrators and jurors to include obligatory acts performed by these officials. It notes that, except for the statement that the value of the advantage is not a determining factor, these arguments do not answer the points raised in the Evaluation Report (paragraph 83), particularly when one considers the ambiguous message sent to Swiss companies to the effect that the payment of bribes to local officials for acts which they are required to perform was not punishable. It regrets the position adopted by the Swiss authorities, but agrees that the question has been considered, as requested in the recommendation.
16. GRECO concludes that recommendation ii has been implemented satisfactorily.

Recommendation iii.

17. *GRECO recommended to abolish the requirement for a prior complaint before prosecutions are brought for bribery in the private sector.*
18. The Swiss authorities explain that the above-mentioned preliminary draft law proposes abolishing the requirement for a prior complaint before prosecutions are brought for bribery in the private sector. The proposed new Articles 322^{octies} and 322^{novies} CP¹, criminalising respectively bribery and acceptance of bribes in the private sector and replacing Articles 4a and 23 of the Law against Unfair Competition, provide for automatic prosecution of these two offences.
19. GRECO welcomes the intention of the Swiss authorities to include private bribery offences in the Criminal Code, thus enabling them to be automatically prosecuted. It notes that the wording of the new Articles 322^{octies} and 322^{novies} CP is identical to that of the former sections 4a and 23 of the Unfair Competition Act and that the constituent elements of this offence, which GRECO had deemed consistent with the Criminal Law Convention against Corruption, therefore remain unchanged. GRECO also welcomes the fact that the proposed legislative amendment will make it possible to clarify the scope of the offence of bribery in the private sector, as regards in particular the position of the international sports federations based in Switzerland and the allocation of major sporting events such as the Olympic Games or the football world cup. Only the criterion of commercial or occupational activity, taken in the broad sense as including all remunerated

¹ Art. 322^{octies} (new)

Persons who offer, promise or grant an undue advantage to employees, partners, agents or other representatives of third parties in the private sector, for the benefit of those persons or of third parties, in exchange for carrying out or failing to carry out actions in connection with their occupational or commercial activities that are incompatible with their duties or the exercise of their discretion, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

Art. 322^{novies} (new)

Persons who, as employees, partners, agents or other representatives of third parties in the private sector, solicit, receive a promise of or accept for their own benefit or that of third parties, an undue advantage in exchange for carrying out or failing to carry out actions in connection with their occupational or commercial activities that are incompatible with their duties or the exercise of their discretion, shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

ancillary activities, will be relevant in future, which will remove all ambiguity about whether the activities of major sports organisations are covered.

20. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

21. *GRECO recommended to consider criminalising trading in influence in accordance with the various elements of Article 12 of the Criminal Law Convention on Corruption (ETS 173) and thus withdrawing or not renewing the reservation concerning this article of the Convention.*
22. The Swiss authorities state that the desirability of criminalising trading in influence was considered in the course of the above-mentioned legislative work. The explanatory report to the draft amendment of the Criminal Code points out first of all that several situations involving trading in influence are already punished by the Swiss Criminal Code, although it contains no specific provision entitled "trading in influence". Swiss law criminalises inter alia all cases in which the intermediary is a public official, where his or her influence derives from his or her office. The report also says that the introduction of an offence of trading in influence would not be very effective, among other things because of the practical difficulties involved in proving the commission of the offence. Drawing the line between lawful acts, such as lobbying, and unlawful acts would be a perilous and complex exercise.
23. The report argues that it is more important to focus on the integrity of public officials, who form the last link in the chain, because reprehensible acts on their part may undermine public confidence in the authorities, than to seek to criminalise the behaviour of certain private individuals who move outside of public service circles. This is the approach adopted in Swiss law, which criminalises not only bribery, in the strict sense, of public officials, but also the acceptance or granting of undue advantages, without any requirement to prove a link between the undue advantage and a specific or specifiable act on the public official's part. The explanatory report therefore concludes that there is no justification for establishing a specific offence of trading in influence or for withdrawing the reservation to Article 12 of the Criminal Law Convention on Corruption.
24. GRECO regrets Switzerland's maintenance of its position, already expressed in the Evaluation Report (paragraphs 88-89), on the criminalisation of trading in influence. It notes that the re-affirmation of this position is the result of careful study by the authorities, who looked closely at this recommendation in the course of the legislative work referred to in this report. It points out, however, that other GRECO member states seem to have reconsidered their past opposition to the criminalisation of trading in influence as a distinct offence, and hopes that Switzerland will do likewise in future.
25. GRECO concludes that recommendation iv has been implemented satisfactorily.

Recommendation v.

26. *GRECO recommended to consider abolishing the dual criminality requirement for bribery offences committed abroad and thus withdrawing or not renewing the reservation to Article 17 of the Criminal Law Convention on Corruption (ETS 173).*

27. The Swiss authorities report that this issue was also addressed in the context of the previously mentioned legislative work. The explanatory report appended to the draft legislative amendment notes that the dual criminality requirement, as an emanation of the constitutional principle of legality, is a basic rule of Swiss criminal law, even though it admits of certain exceptions, for example where the protection of the Swiss state and national security are at stake, or in the case of certain specific very serious offences such as hostage-taking or crimes against humanity.
28. The report specifies, however, that the dual criminality requirement is interpreted in such a way that it is sufficient for the act in question to be also punishable in the place where it was committed – there is no need for the definition of the offence or the penalty laid down to be identical (“abstract” dual criminality). The report argues that bribery of national public officials is a well-established offence, recognised probably by nearly all countries in the world, and that its criminalisation is established as an international obligation under various legal instruments, including the United Nations Convention against Corruption, which has been ratified by 164 states. The potential obstacle represented by the dual criminality requirement therefore seems negligible in theory. The report adds that, in practice, there are no known actual cases in which the dual criminality requirement might have been an obstacle. The explanatory report concludes from this that neither the seriousness nor the characteristics of bribery offences would justify Switzerland’s abandonment of the dual criminality rule and the withdrawal of its reservation in respect of Article 17 of the Criminal Law Convention on Corruption.
29. GRECO notes that the Swiss authorities have initiated a process of reflection on the dual criminality requirement and the reservation to Article 17 of the Criminal Law Convention. It regrets Switzerland’s decision to maintain its dual criminality requirement and the corresponding reservation, without questioning its right to do so. It wishes to stress, however, that the drafters of the Convention provided for reservation possibilities “that may allow future Contracting Parties to bring their anti-corruption legislation progressively in line with the requirements of the Convention”². While taking note of the consideration given to this matter by Switzerland in line with the recommendation, GRECO therefore calls on the authorities to continue their reflection.
30. GRECO concludes that recommendation v has been implemented satisfactorily.

Theme II: Transparency of party funding

31. It will be recalled that, in its evaluation report, GRECO addressed 6 recommendations to Switzerland on Theme II. Its conformity with these recommendations is examined below.

Recommendations i to vi.

32. *GRECO recommended:*

- (i) to introduce accounting rules for political parties and election campaigns that provide for full and appropriate accounts to be kept; (ii) to ensure 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) to explore 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) to ensure that adequate financial information is readily available to the public in good time; (v) where appropriate, to invite the cantons to adapt their own regulations in line with this recommendation (recommendation i);

² See the explanatory report to the Criminal Law Convention on Corruption, paragraph 142.

- (i) to introduce 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; (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; (iii) to invite cantons that do not yet have such measures to adopt them (recommendation ii);

- (i) to seek ways of increasing the transparency of the financing of political parties and election campaigns by third parties; (ii) to invite also the cantonal authorities to consider these matters ((recommendation iii);

- (i) to ensure 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) to invite cantons to do the same ((recommendation iv);

- (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; and (ii) to invite cantons to do the same ((recommendation v);

- that the future rules on the financing of political parties and election campaigns be accompanied by effective, proportionate and dissuasive sanctions ((recommendation vi).

33. The Swiss authorities give no specific information on the measures taken in connection with each of the recommendations. They state generally, however, that the following steps have been taken. First, the Federal Department of Justice and Police (FDJP) mandated Sotomo, an institute of political studies which collaborates with Zurich University on teaching and scientific research, to carry out a study on the funding of elections and referendums in order to provide the Federal Council with an overview of the situation. This study³, available in German only, was published on 21 February 2012. It reportedly brings out a marked fluctuation in campaign expenses and finds that federal elections have absorbed more resources in the last few years. As for referendums, the resources invested vary from one issue to another and from one side to another, but the money invested is not always commensurate with the result obtained. Some very expensive referendum campaigns have resulted in a fiasco, while some parties have recorded electoral successes with very modest campaign budgets.

34. Secondly, the Swiss authorities point out that two cantons, Ticino and Geneva, already have some rules on the funding of political parties. On 15 February 2012, the Head of the DFJP forwarded the GRECO report and recommendations to all cantonal governments, asking them to give it their attention and to "consider the possible measures suggested therein". Since then, the canton of Neuchâtel has introduced rules on the subject, according to which, from now on, donations to political parties will have to be declared. Political parties, election candidates as well as groups campaigning for popular votes, initiative and referendum committees, will have to declare donations above 5 000 Francs, along with the names of the donors. This regulation was adopted by 59 votes to 52 by the Great Council (cantonal assembly). By contrast, on 25 September 2012, the parliament of the canton of Vaud rejected by 76 votes to 6, with 48 abstentions, a Vaud government bill aimed at bringing greater transparency to party funding. This bill foresaw in particular spending limits for electoral campaigns, transparency measures concerning entities which had presented candidates for federal, cantonal or local elections, as

³ "Das politische Profil des Geldes", available in German only on the DFJP website:
<http://www.ejpd.admin.ch/content/ejpd/fr/home/dokumentation/mi/2012/2012-02-21.html>

well as an obligation to name the donors of sums over 5 000 Francs. In the canton of Zurich, a parliamentary initiative proposing that donations above 5 000 Francs be made public was rejected by the cantonal assembly, by 99 votes to 73, for similar reasons to those laid out in paragraphs 35-36 below. In the canton of Basel-Landschaft, a popular initiative which called for transparency in the accounts of political parties and referendum committees was rejected in a popular vote, on 9 June 2013, by 36 625 votes to 27 890 (voter turnout 35.9%). The cantonal parliament had recommended, by 49 votes to 31, that the electorate reject the initiative, once again for the same reasons as those outlined in the following paragraphs. Finally, this matter is still under consideration in the canton of Aargau, where a popular initiative, signed by 3 610 citizens was tabled in April 2013. The above initiatives in the cantons of Basel-Landschaft and Aargau were launched by the Young Socialist party with a view to transparency.

35. Thirdly, the Federal Council gave initial consideration to GRECO's recommendations on 8 June 2012 and decided to request a discussion with a GRECO delegation before adopting any measures on political funding. This discussion was held on 10 April 2013 between Federal Council members Simonetta Sommaruga, head of the Federal Department of Justice and Police, and Didier Burkhalter, head of the Federal Department of Foreign Affairs, and a GRECO delegation consisting of Christian Manquet, Vice-President, Wolfgang Rau, Executive Secretary, and Sophie Meudal-Leenders, member of the Secretariat. The Federal Council representatives stressed three specific aspects which would preclude making party funding more transparent in Switzerland:

- Direct democracy means that a large part of the financing of political activities and campaigns concerns the numerous popular votes organised in Switzerland every year. In this context, regulations which would only apply to political parties - but not to referendum or initiative committees or the many committees formed during popular votes campaigns - would be ineffective. Legislation applying to all the country's political players would entail a large administrative workload and considerable costs, disproportionate to the objectives pursued and the utility⁴.
- Federalism means that the cantons enjoy a wide degree of autonomy; imposing uniform national rules on them would be contrary to the Swiss tradition and would probably call for an amendment to the Constitution. As mentioned above, two cantons have issued minimum rules in this field. The others are free to do likewise, but they have all taken the view so far that such rules were unnecessary. Rules which would apply only at federal level would be incomplete and ineffective;
- Great importance is attached in Switzerland to private responsibility. The political system is based to a great extent on the militia system and party apparatuses, and hence parties' funding needs, are often smaller than in other countries⁵. These needs are often met essentially through private donations, as public funding of political parties is not the usual model in Switzerland.

36. Lastly, the authorities say that the Federal Parliament has addressed the issue of transparency in politics several times since the Evaluation Report was adopted:

⁴ The authorities quoted, for example, the argument used by the government of the canton of Vaud in order to oppose legislation in this matter: in all, nearly 200 referendums and votes are held in this canton in an average year (at local, cantonal and federal level). This figure increases considerably in cantonal election years (district elections) and above all local elections (several votes and rounds are held in each municipality). These figures have to be multiplied by the number of parties, lists, groups or associations involved in a campaign. This means that, in the quietest of years, there are no less than around 500 campaign accounts to check in this canton.

⁵ See, notably, the Evaluation Report paragraph 23 and Mathieu Gunzinger's "*Analyse comparative des ressources financières des partis politiques suisses*", *Cahier de l'IDHEAP* 240/200.

- On 26 September 2011, the Council of States (upper chamber of Parliament) adopted a motion tabled by its Political Institutions Committee on transparency of funding sources in campaigns for federal votes. This motion asked the Federal Council to create the necessary legal basis to make it obligatory for entities involved in federal votes (initiatives and referendums) to disclose the source of their campaign funds. It is to be noted that this motion clearly excluded political parties and electoral campaigns and only concerned the instruments of direct democracy. However, this motion was rejected by the National Council (lower chamber) on 15 March 2012. The following reasons were given to explain this refusal: the quantity of votes held, practical difficulties in the implementation of such a recommendation, too much red tape and the results of political scientific studies which did not show any link between the means invested during a vote and its result.
- On 6 June 2012, National Council member Margret Kiener Nellen put a question to the Federal Council on the lack of transparency of Swiss political life, following the publication of the Transparency International report on Switzerland. In its reply, the Federal Council said that it wanted to meet a GRECO delegation before contemplating any measures;
- A federal popular initiative calling for disclosure of politicians' income failed at the stage of collecting the requisite number of signatures; in order to be organised, it would have required the support of 100 000 citizens in 18 months;
- Lastly, on 3 May 2013, the Legal Affairs Committee of the Council of States decided to follow up on a parliamentary initiative by Thomas Minder, a member of the Council of States, entitled "Limited companies listed on the stock exchange and companies controlled by public authorities. Publication of donations to politicians". Under this initiative, limited companies listed on the stock exchange would be required to inform their shareholders of any donations in excess of 10 000 Swiss francs per beneficiary. Companies controlled by the Confederation or by cantonal or local authorities would be subject to the same rules. "Politicians" would include candidates, parties, political associations, election committees, popular initiative committees, referendum committees and support bodies, such as foundations giving "politicians" financial support. The Legal Affairs Committee of the National Council must now give an opinion on this initiative. If it also decides to follow up on the initiative, Parliament will begin drafting.

37. GRECO takes note of the information provided by Switzerland on measures taken to follow up the recommendations contained in the Evaluation Report. In view of the general nature of this information, there is no need to analyse the situation with regard to each individual recommendation. GRECO notes first of all that the cantons were informed about the Evaluation Report and asked to consider the recommendations contained therein. It welcomes the adoption of a regulation on transparency of donations to political parties in the canton of Neuchâtel and notes with interest the other recent initiatives, both at cantonal level and in the federal parliament, to promote greater transparency in political funding. It considers that these initiatives confirm the continuing interest, also reflected in many articles in the national media, of some sections of Swiss society and some Swiss politicians in regulation of this area.

38. GRECO is aware, however, that there is not yet a consensus, or even a political majority, on this question. In this connection, it notes the various measures taken by the Swiss authorities in response to the Evaluation Report, but considers that they are not sufficient to constitute the first steps towards implementation of the recommendations. Indeed, they do not include draft legislation at federal level to remedy the absence, noted in the Evaluation Report, of appropriate legal rules on, and supervision of, the funding of political parties and election campaigns in

accordance with Recommendation Rec(2003)4 of the Committee of Ministers to member states on common rules against corruption in the funding of political parties and electoral campaigns. The study referred to in paragraph 33 and the arguments put forward by the members of the Federal Council during the meeting with the GRECO delegation (paragraph 35) do not add any really new elements. The specific features of Swiss democracy mentioned above have already been discussed in the Evaluation Report (see in particular paragraphs 48-50 and 52). As its delegation stressed at the meeting, GRECO is of the opinion that these features of Swiss democracy - whose strengths are acknowledged - do not prevent Switzerland from establishing a system of transparency in political financing just like the other member states of GRECO, which have nearly all ended up legislating along the lines recommended in the above-mentioned recommendation, or are in the process of so doing.

39. In the light of the foregoing, GRECO believes that the mere fact that the cantons were invited to consider recommendations i. to v. of the Evaluation Report is not sufficient to conclude that the recommendations have been partly implemented, given the position clearly expressed by the Swiss government, which is, however, open to discussion, that “the specific features [of the political system] preclude making party funding more transparent in Switzerland”⁶. The Swiss government therefore stated that, for the time being, it did not envisage implementing the recommendations contained in this report.
40. GRECO concludes that recommendations i-vi have not been implemented.

III. CONCLUSIONS

41. **In view of the above, GRECO concludes that Switzerland has implemented or addressed satisfactorily three of the eleven recommendations contained in the Third Round Evaluation Report.** With respect to Theme I – Incriminations, recommendations ii, iv and v have been implemented satisfactorily and recommendations i and iii have been partly implemented. With respect to Theme II – Transparency of Party Funding, recommendations i-vi have not been implemented.
42. With regard to incriminations, GRECO welcomes the fact that Switzerland has acted on each of its recommendations. The draft reform of the Criminal Code which has been submitted for public consultation should provide for explicit criminalisation of all cases where an undue advantage intended for a third party is granted or received, and should do away with the requirement of a prior complaint before proceedings can be brought for bribery in the private sector. It regrets, however, that Switzerland does not currently envisage bringing its legislation fully into line with the Criminal Law Convention on Corruption, especially as regards the criminalisation of trading in influence and the dual criminality requirement, for which it wishes to maintain its reservations and declarations on the relevant articles of that instrument.
43. With regard to transparency in party funding, GRECO takes note of the Swiss authorities’ position that they do not envisage, at the present time, remedying the absence of legislation and regulations noted in the Evaluation Report nor implementing GRECO’s recommendations because “the specific features [of the political system] preclude making party funding more transparent in Switzerland”. However, it notes with interest the various initiatives mentioned, at both federal and cantonal level, for promoting greater transparency in political funding and hopes that these, or other future initiatives, will bear fruit in the future, following the example of the

⁶ Federal Council press release, <http://www.ejpd.admin.ch/content/ejpd/fr/home/dokumentation/mi/2013/2013-04-100.html>

regulation on transparency of donations to political parties adopted recently by the canton of Neuchâtel.

44. In view of the above, and despite the progress noted in Theme I, GRECO concludes that the current very low level of compliance with the recommendations is "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asks the head of the Swiss delegation to provide a report on the progress in implementing the pending recommendations (i.e. recommendations i and iii regarding Theme I, and recommendations i to vi regarding Theme II) as soon as possible, but at the latest by 30 April 2014, pursuant to paragraph 2(i) of that rule.
45. Finally, GRECO invites the Swiss authorities to authorise, as soon as possible, the publication of the report and to translate it into the other official languages and to make these translations public.