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## **Third Evaluation Round**

### **Second Compliance Report on Bosnia and Herzegovina**

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

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#### **"Transparency of Party Funding"**

Adopted by GRECO  
at its 81<sup>st</sup> Plenary Meeting  
(Strasbourg, 3-7 December 2018)

## I. INTRODUCTION

1. The Second Compliance Report assesses further measures taken by the authorities of Bosnia and Herzegovina, since the adoption of the Compliance Report and the following interim reports, in respect of the recommendations issued by GRECO in its Third Round Evaluation Report on Bosnia and Herzegovina. It is recalled that the Third Evaluation Round covers 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 on Bosnia and Herzegovina was adopted at GRECO's 51<sup>st</sup> Plenary Meeting (27 May 2011) and made public on 17 August 2011 (Greco Eval III Rep (2010) 5E, [Theme I](#) and [Theme II](#)).
3. The [Compliance Report](#) was adopted by GRECO at its 61<sup>st</sup> Plenary Meeting (18 October 2013) and made public on 7 January 2014. It concluded that Bosnia and Herzegovina had implemented satisfactorily or dealt with in a satisfactory manner only four of the 22 recommendations contained in the Third Round Evaluation Report. In view of this result, GRECO categorised the very low level of compliance with the recommendations as “globally unsatisfactory” within the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the Evaluation Report and requested the Head of Delegation to provide a report regarding the implementation of pending recommendations.
4. In the [First Interim Compliance Report](#), which was adopted by GRECO at its 64<sup>th</sup> Plenary Meeting (20 June 2014) and made public on 1 October 2014, GRECO concluded that the level of compliance with the recommendations remained “globally unsatisfactory”, considering that little tangible progress had been made as regards the recommendations found either to be only partly, or not implemented in the Compliance Report. Therefore GRECO, in accordance with Rule 32, paragraph 2 subparagraph (ii), instructed its President to address a letter to the Head of Delegation of Bosnia and Herzegovina, drawing his attention to the non-compliance with the relevant recommendations and the need to take determined action with a view to achieving tangible progress as soon as possible. Furthermore, GRECO requested the Head of Delegation to provide a report regarding the action taken to implement the pending recommendations.
5. In the [Second Interim Compliance Report](#), which was adopted by GRECO at its 68<sup>th</sup> Plenary Meeting (19 June 2015) and made public on 6 August 2015, GRECO concluded that while some progress had been achieved with respect to Theme I – Incriminations, it did not merit significantly altering the level of implementation of the recommendations found either to be only partly, or not implemented in the Third Round Interim Compliance Report. The rating of Bosnia and Herzegovina's performance as “globally unsatisfactory” was therefore maintained and, in accordance with Rule 32, paragraph 2 subparagraph (ii) b), the President of the Statutory Committee, invited by GRECO, sent a letter to the Permanent Representative of Bosnia and

Herzegovina to the Council of Europe, drawing his attention to the country's non-compliance. Furthermore, GRECO requested the Head of Delegation of Bosnia and Herzegovina to provide a report regarding action taken to implement the pending recommendations. No such report was submitted, despite several reminders.

6. In the [Third Interim Compliance Report](#) which was adopted by GRECO at its 72<sup>nd</sup> Plenary Meeting (1 July 2016) and made public on 22 September 2016, GRECO noted that no further progress had been achieved as regards the implementation of the 15 recommendations found either to be only partly, or not implemented in the Third Round Interim Compliance Report (out of the 22 included in the Third Round Evaluation Report). The rating of Bosnia and Herzegovina's performance as "globally unsatisfactory" was therefore maintained and, in accordance with Rule 32, paragraph 2 subparagraph (ii) c), GRECO invited the Secretary General of the Council of Europe to send a letter to the Minister of Foreign Affairs of Bosnia and Herzegovina, drawing his attention to the country's non-compliance. Furthermore, GRECO requested the Head of Delegation of Bosnia and Herzegovina to provide a report regarding action taken to implement the pending recommendations.
7. The [Fourth Interim Compliance Report](#) was adopted by GRECO at its 76<sup>th</sup> Plenary Meeting (23 June 2017) and made public on 2 August 2017 following authorisation by the authorities. It concluded that Bosnia and Herzegovina had made progress by fully implementing four recommendations since the former interim report, bringing the total of fully implemented recommendations to ten out of 22. Seven recommendations remained partly implemented and five not implemented. Consequently, Bosnia and Herzegovina's level of compliance with the recommendations was no longer "globally unsatisfactory". GRECO requested the Head of Delegation to provide a report regarding action taken to implement the pending recommendations by 31 March 2018.
8. On 30 March 2018, the authorities submitted further information on the implementation of pending recommendations, which served as a basis for the present Second Compliance Report, drawn up by Mr Kevin VALLETTA (Malta) and Ms Vita HABJAN BARBORIČ (Slovenia), with the assistance of GRECO's Secretariat.

## **II. ANALYSIS**

### **Theme I: Incriminations**

9. It is recalled that GRECO, in its Evaluation Report, addressed 13 recommendations to Bosnia and Herzegovina in respect of Theme I. In the compliance procedure, until the preparation of the present report, Bosnia and Herzegovina had implemented satisfactorily recommendations i, ii, iii, iv, vii, viii, x, xi and xiii and partly implemented recommendations v and xii. Recommendations vi and ix had not been implemented.
10. It is furthermore recalled that, it was noted in the Compliance Report that Republika Srpska (hereafter RS) had amended its Criminal Code in 2013 (Law No. 67/13), the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191) had been ratified and draft amendments to the Criminal Code of Bosnia and Herzegovina (State level, hereafter BiH) had been prepared which, at the time of adoption of the Compliance Report, were awaiting discussion in Parliament. By contrast, no (draft) amendments to the Criminal Codes in use at the level of the Federation of Bosnia and Herzegovina (hereafter FBiH) and of the Brčko District (hereafter BD) had been presented. Furthermore, according to the Second Interim Compliance Report, a draft law on

amendments to the BiH Criminal Code – which was built on the previous bill presented in the Compliance Report and included some additional amendments – had been adopted on 18 May 2015 and entered into force on 27 May 2015. GRECO concluded that the amendments to the BiH Criminal Code were in line with recommendations ii, iii, iv, v, viii and xii. However, bearing in mind that amendments to the FBiH and BD Criminal Codes were still not under preparation, GRECO could not conclude on full implementation of those recommendations – except for recommendation iii, given that all offences of bribery and trading in influence of foreign jurors and arbitrators for which the country has jurisdiction are covered by the BiH Criminal Code. No further developments had been reported in the Third Interim Compliance Report. In the Fourth Interim Compliance Report, GRECO noted that laws on amendments to the Criminal Codes of FBiH and BD entered into force respectively on 16 June 2016 and 19 April 2017, which enabled full implementation of recommendations ii, iv and viii.

11. The authorities now report that a new RS Criminal Code entered into force<sup>1</sup> on 18 July 2017. The text of the amended corruption-related provisions, which are examined under the specific recommendations below, has been submitted to GRECO's Secretariat. Furthermore, amendments to the BD Criminal Code entered into force on 24 November 2018<sup>2</sup>.

#### **Recommendation v.**

12. *GRECO recommended to ensure that the bribery offences are construed in such a way as to cover, unambiguously, instances of bribery committed through intermediaries, as well as instances where the advantage is not intended for the official himself/herself but for a third party.*
13. GRECO recalls that the flaws in the bribery provisions regarding intermediaries and third parties had been remedied in the Criminal Codes of BiH and BD. The passive bribery provisions of the FBiH Criminal Code had been amended to cover cases of bribery committed through intermediaries. However, the concept of third parties intermediaries was still missing in the active bribery provisions of the FBiH Criminal Code. Moreover, no steps had been taken with regard to the bribery provisions of the RS Criminal Codes.
14. The authorities now report that active and passive bribery, which used to be covered by articles 352 and 351 of the RS Criminal Code are now incriminated by articles 320 and 319 of the new RS Criminal Code, which read as follows:

#### **Article 319 – Accepting a Bribe**

- (1) *An official or responsible person who demands or accepts a gift or any other benefit or who accepts the promise of a gift or a benefit in order to perform, in the course of her/his official duties, an act, which ought not to be performed by him, or not to perform an act, which ought to be performed by her/him, shall be punished by a term of imprisonment of between two and ten years.*
- (2) *An official or responsible person who demands or accepts a gift or any other benefit or who accepts the promise of a gift or a benefit in order that s/he performs, in the course of her/his official duties, an act, which ought to be performed by him, or not to perform an act, which ought not to be performed by her/him, shall be punished by a term of imprisonment of between one and eight years.*
- (3) *An official or responsible person who demands or accepts a gift or any other benefit following the performance or omission of an official duty under paragraphs 1 and 2 of this article in connection with the*

<sup>1</sup> The new Criminal Code was published on 10 July 2017 in the "Official Gazette of the Republika Srpska No. 64/17".

<sup>2</sup> The amendments to the Criminal Code were published on 16 November 2018 in the "Official Gazette of Brcko District of BiH No. 50/18".

performance or omission, shall be punished by imprisonment for a term up to three years.

- (4) A foreign official or responsible person who perpetrates the offence referred to in paragraphs 1, 2 and 3 of this article shall be punished with a punishment for that offence.
- (5) Any gift or material gain acquired by perpetration of the offences referred to in this article shall be forfeited.

#### **Article 320 – Offering a Bribe**

- (1) Whoever makes, offers or promises a gift or any other benefit to an official or responsible person in order that he performs, within his official authorisations or in connection to his official authorisations, an official act which must not be performed by him, or abstains from performing an official act which must be performed by him, or whoever mediates in the bribing of the official or responsible person, shall be punished by imprisonment for a term between six months and five years.
- (2) Whoever makes, offers or promises a gift or any other benefit to an official or responsible person in order that he performs, within his official authorisations or in connection to his official authorisations, an official act which must be performed by him, or abstains from performing an official act which must not be performed by him, or whoever mediates in the bribing of the official or responsible person, shall be punished by imprisonment for a term up to three years.
- (1) The provisions of paragraphs 1 and 2 of this article shall apply also when the bribe is given, offered or promised to a foreign official or responsible person.
- (2) The perpetrator of the offence referred to in paragraphs 1 and 3 of this article who reported the offence before it was discovered, may be acquitted.
- (3) The given gift or other benefit that is seized from the person who received the bribe may be, in the case referred to in paragraph 4 of this article, returned to the person who gave the bribe.

15. GRECO notes that cases of bribery committed through intermediaries are still not covered by the new passive bribery provision of the RS Criminal Code. Moreover, the concept of third party beneficiaries is still missing from both the active and passive bribery provisions of the RS Criminal Code. GRECO regrets that the adoption of the new RS Criminal Code was not used to correct these flaws in the bribery provisions. Moreover, GRECO recalls that the concept of third party beneficiaries is also missing in the active bribery provisions of the FBiH Criminal Code.
16. GRECO concludes that recommendation v remains partly implemented.

#### **Recommendation vi.**

17. *GRECO recommended to (i) clarify beyond doubt that bribery in the private sector is criminalised; and (ii) consider, for the sake of clarity, criminalising bribery in the public and the private sector in separate provisions.*
18. GRECO recalls that the recommendation had not been implemented. The Compliance Report notes that the authorities had intended to criminalise bribery in the private sector via an autonomous provision but the plans had not yet been coupled with concrete legislative steps. In the ensuing interim compliance reports, no progress on that matter was reported. The authorities had also referred to articles 267 and 268 of the RS Criminal Code (“Unlawful Accepting of Gifts or Presents” and “Unlawful Giving Gifts or Presents”) and to articles 246a and 246b of the BD Criminal Code (“Unauthorised Accepting Rewards, Gifts or Other Forms of Benefits” and “Unauthorised Giving a Reward, Gift or Other Forms of Benefit”), but GRECO had noted in the Fourth Interim Compliance Report that these provisions were much narrower in scope than Articles 7 and 8 of the Criminal Law Convention on Corruption.
19. The authorities now refer to articles 256 and 257 of the new RS Criminal Code (“Accepting a Bribe in Performing an Economic Activity” and “Offering a Bribe in Performing an Economic

Activity”), which entered into force in July 2017. They also refer to the new articles 246a and 246b of the BD Criminal Code (“Receiving a Gift or Other Benefit in the Performance of an Economic or Other Activity” and “Giving a Gift or Other Benefit in the Performance of an Economic or Other Activity”. These provisions read as follows:

**Article 256 RS Criminal Code – Accepting a Bribe in Performing an Economic Activity**

- (1) *Whoever, while performing an economic activity, in their own name or on behalf of another, directly or indirectly, requests or accepts a gift or other benefit, or who accepts a promise to receive a gift or other benefit, in order to conclude a contract or reach a business agreement or who provides a favour or refrains from such action or by breaching other duties in performing an economic activity by damaging of or in favour of a business entity or other legal entity s/he works for or is employed by, shall be punished by imprisonment for a term between one and eight years and a financial fine.*
- (2) *The perpetrator of the crime referred to in paragraph 1 of this article who, after the conclusion of a contract or reaching a business agreement or after providing a favour, or refrains from such action, accepts or demands a gift or other benefit for themselves or others, or accepts a promise of a gift or other benefit, shall be punished by imprisonment for a term between six months and three years and a fine.*
- (3) *The accepted gift or material gain shall be forfeited.*

**Article 257 RS Criminal Code – Offering a Bribe in Performing an Economic Activity**

- (1) *Whoever makes, offers or promises a gift or any other benefit to a person while performing an economic activity, concludes a contract, reaches a business agreement, provides a favour or refrains from such action or breaches other duties in the performance of an economic activity by damaging of or in favour of a business entity or other legal entity s/he works for or is employed by, or who mediates in such exchange of gifts or other benefit shall be punished by imprisonment for a term between six months and five years and a financial fine.*
- (2) *The perpetrator of the crime referred to in paragraph 1 of this article who gave a gift or other gain at the request of a person in the course of performing their economic activity, to conclude a contract, to reach a business agreement, to provide a favour or to breach duty, who had reported the crime before it was discovered, may be acquitted.*
- (3) *The given gift or material gain referred to in paragraphs 1 and 2 of this article shall be forfeited.*

**Article 246a BD Criminal Code – Receiving a Gift or Other Benefit in the Performance of an Economic or Other Activity**

- (1) *Whoever in the performance of an economic activity or other activity solicits or accepts, directly or indirectly, a gift or other benefit or accepts the promise of a gift or other benefit for him/herself or for others in order to conclude a contract or reach a business agreement or who provides a service or refrains from such action or breaches other duties in the performance of an economic or other activity to the detriment or for the benefit of the economic entity or other legal entity for which or in which s/he is employed or to the detriment or for the benefit of some other legal or natural person shall be punished by a term of imprisonment ranging from one to eight years.*
- (2) *The perpetrator of the offence referred to in paragraph 1 of this article who after entering into a contract or reaching a business agreement or after providing a service or refraining from such action requests or accepts for himself/herself or for others a gift or other benefit or accepts the promise of a gift or other benefit shall be punished by a term of imprisonment ranging from six months to three years.*
- (3) *The accepted gift or material gain shall be confiscated.*

**Article 246b BD Criminal Code – Giving a Gift or Other Benefit in the Performance of an Economic or Other Activity**

- (1) *Whoever in the performance of an economic activity or other activity directly or indirectly makes, offers or promises a gift or other benefit to a person for entering into a contract or reaching a business agreement or providing a service or refraining from such action or for breaching other duties in the performance of an economic or other activity to the detriment or for the benefit of the economic entity or other legal entity*

*for which or in which s/he is employed or to the detriment or for the benefit of another legal or natural person or whoever mediates in such giving a gift or other benefit shall be punished by a term of imprisonment ranging from six months to five years.*

- (2) *The perpetrator of the offence referred to in paragraph 1 of this article who gives a gift or other benefit at the request of a person for entering into a contract, reaching a business agreement, providing a service or breaching other duties in the performance of an economic or other activity but reports the offence before it has been discovered may be exempt from punishment.*
- (3) *The accepted gift or material gain referred to in paragraphs 1 and 2 of this article shall be confiscated.*

20. GRECO welcomes articles 256 and 257 of the new RS Criminal Code, as well as articles 246a and 246b of the BD Criminal Code. These articles not only clarify beyond doubt that bribery in the private sector is criminalised, as requested by the first part of the recommendation; they also criminalise it in specific provisions, distinct from the provisions on public sector bribery. In doing so, the authorities of RS and of BD have implemented and even gone beyond the second part of the recommendation, which was to consider a separate incrimination of private sector bribery. GRECO points out, however, that article 257 of the RS Criminal Code and article 246b of the BD Criminal Code do not cover the concept of third party beneficiaries, unlike article 7 of the Criminal Law Convention on Corruption. It invites the authorities to remedy this deficiency at the earliest opportunity. GRECO also recalls that the other Criminal Codes still do not clearly and broadly criminalise private sector bribery, in keeping with the Convention.

21. GRECO concludes that recommendation vi has been partly implemented.

#### **Recommendation ix.**

22. *GRECO recommended to fully harmonise the existing sanctions for bribery and trading in influence offences.*

23. GRECO recalls that the recommendation had not been implemented. In the Compliance Report, the authorities had reported on their intention to harmonise the existing sanctions for bribery and trading in influence offences across the national territory but the intended plans had not yet been coupled with concrete legislative steps. In the subsequent interim compliance reports, no progress on that matter was reported.

24. The authorities refer to the sanctions available under the new bribery and trading in influence provisions of the RS Criminal Code, namely:

- passive bribery (article 319): paragraph 1: two to ten years' imprisonment; paragraph 2: one to eight years' imprisonment; paragraph 3: up to three years' imprisonment.
- active bribery (article 320): paragraph 1: six months' to five years' imprisonment; paragraph 2: up to three years' imprisonment.
- trading in influence (article 321): paragraph 1: one to five years' imprisonment; paragraph 2: up to three years' imprisonment; paragraph 3: one to eight years' imprisonment; paragraph 4: six months' to five years' imprisonment; paragraph 5: two to twelve years' imprisonment.
- passive bribery in the private sector (article 256): paragraph 1: one to eight years' imprisonment; paragraph 2: six months' to three years' imprisonment.
- active bribery in the private sector (article 257): paragraph 1: six months' to five years' imprisonment.

25. GRECO notes that the sanctioning regime still varies slightly at the different levels of Government, as was the case at the time of adoption of the Evaluation Report. Some changes have occurred as regards the sanctions for passive bribery and trading in influence, but this has not led to further harmonisation of the sanctions at the different levels of Government. For instance, the sanctions provided by the passive bribery provisions of article 319 of the new RS Criminal Code are still different from those provided by the passive bribery provisions of the three other Criminal Codes, i.e. articles 217 BiH CC, 380 FBiH CC, 374 BD CC (paragraph 1: one to ten years' imprisonment; paragraph 2: six months' to five years' imprisonment; paragraph 3: the situation varies in the different CCs which foresee either one to ten years' imprisonment or six months' to five years' imprisonment). The situation is similar with regard to the passive trading in influence offences. As GRECO stressed in the Evaluation Report, it is essential that the applicable sanctions for bribery and trading in influence offences are the same throughout the national territory. No clear progress has been made in this respect.

26. GRECO concludes that recommendation ix remains not implemented.

#### **Recommendation xii.**

27. *GRECO recommended to abolish the possibility provided by the special defence of effective regret to return the bribe to the bribe-giver who has reported the offence before it is uncovered.*

28. GRECO recalls that the recommendation had been partly implemented. While the possibility provided by the special defence of effective regret to return the bribe to the bribe-giver who has reported the offence before it is uncovered was abolished in the BiH and BD Criminal Codes, the effective regret provisions of the FBiH and RS Criminal Codes had remained unchanged.

29. The authorities refer to article 320 paragraphs 4 and 5 of the new RS Criminal Code (see paragraph 14).

30. GRECO regrets that article 320 paragraph 5 of the new RS Criminal Code still provides for the possibility to return the bribe to the bribe-giver who has reported the offence before it is uncovered. The authorities are urged to amend the FBiH and RS Criminal Codes as required by the recommendation.

31. GRECO concludes that recommendation xii remains partly implemented.

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

32. It is recalled that GRECO, in its Evaluation Report, addressed nine recommendations to Bosnia and Herzegovina in respect of Theme II. In the compliance procedure, until the preparation of the present report, Bosnia and Herzegovina had implemented satisfactorily recommendation v and partly implemented recommendations ii, iv, vi, viii and ix. Recommendations i, iii, and vii had still not been implemented.

#### **Recommendations i to iv and vi to ix.**

33. *GRECO recommended:*

- *to review the provisions applicable to political parties, in particular as regards party and election campaign funding, which are currently dispersed in different legislative texts, with*

a view to ensuring that they are consistent, comprehensive and workable for practitioners and political parties, in particular by considering their consolidation within a single piece of legislation. (recommendation i)

- (i) to promote the use of the banking system for the receipt of donations and other sources of income, as well as for the payment of expenditure, by political parties and election candidates, in order to make them traceable, and (ii) to introduce the principle of a single campaign account for the financing of election campaigns. (recommendation ii)
- (i) to take measures to prevent the rules on ceilings on expenses during election campaigns from being circumvented by effecting these expenses outside the campaign reporting period and (ii) to give the Central Electoral Commission a mandate to supervise the expenditure of political parties also outside election campaigns. (recommendation iii)
- to increase the transparency of the accounts and activities of entities related, directly or indirectly, to political parties – or otherwise under their control – and to include, as appropriate, the accounts of such entities in the accounts of political parties. (recommendation iv)
- (i) to strengthen the mechanisms for internal financial control of political parties, in close cooperation with the parties' local and regional branches; (ii) to establish clear, consistent and specific rules on the audit requirements applicable to political parties and (iii) to ensure the necessary independence of the professionals who are to audit their accounts. (recommendation vi)
- to increase the financial and personnel resources allocated to the Audit Department of the Central Electoral Commission so that it is better equipped to perform effectively its monitoring and enforcement tasks concerning political financing, including by ensuring a more swift and substantial supervision of the political party and election campaigns financial reports. (recommendation vii)
- (i) to introduce a requirement for the Central Electoral Commission to report suspicions of criminal offences to the law enforcement authorities and (ii) to strengthen the co-operation and coordination of efforts on an operational and executive level between the Central Electoral Commission and the tax and law enforcement authorities. (recommendation viii)
- to clearly define infringements of political finance rules and to introduce effective, proportionate and dissuasive sanctions for these infringements, in particular, by extending the range of penalties available and by enlarging the scope of the sanctioning provisions to cover all persons/entities (including donors) upon which the Law on Financing of Political Parties and the Election Law impose obligations. (recommendation ix)

34. GRECO recalls that the authorities had expressed the intention to prepare a unified law on political parties at state level in order to implement recommendation i. However this intention had not materialised and no consolidation of the existing legal framework had taken place, leading GRECO to conclude in the Compliance Report and in the ensuing interim compliance reports that recommendation i had not been implemented. Meanwhile, the Law on Financing of Political Parties (LFPP) and the Election Law had been amended and entered into force on 4 June 2016 and 5 May 2016 respectively. GRECO concluded that these amendments had enabled partial implementation of recommendations ii, iv, vi, viii and ix. However, much more needed to be done

to fully implement these recommendations, notably as regards promotion of the use of the banking system for income and expenditure of political parties and election candidates, increased transparency over the accounts and activities of entities linked to political parties, more robust financial control over the finances of political parties, strengthened cooperation between the Central Electoral Commission and the tax and law enforcement authorities and dissuasive sanctions for infringements of political financing rules. Finally, no or insufficient measures had been taken to implement recommendations iii and vii and GRECO had concluded therefore that these recommendations remained not implemented.

35. The authorities report that the Inter-Agency Working Group on changes to election legislation in BiH, which is tasked with proposing amendments to the LFPP, has continued its activities and met on 28 February 2017. The Central Election Commission of BiH prepared amendments to this law and submitted them to the Working Group in August 2017.
36. As regards the second element of recommendation ii, the Central Electoral Commission adopted a Rulebook on Applications and Conditions for Certification of Political Entities for Participation in the General Elections 2018, which stipulates that political parties and independent candidates have to pay the fee to register for the election from a dedicated campaign account.
37. As regards recommendation vii, the Central Election Commission also prepared amendments to the Rulebook on the internal organisation of its Secretariat, with a view to increasing the human resources of the Audit Department. Its proposal was submitted to the BiH Ministry of Finance and Treasury and to the BiH Ministry of Justice on 21 August 2017. After approval by these ministries, the proposal would be submitted to the Council of Ministers of BiH.
38. GRECO takes note of the information provided. In the absence of concrete and specific steps towards implementation of any of the pending recommendations, it unfortunately cannot conclude that any progress has been made. As regards recommendation ii, the Rulebook mentioned – which is only valid for the 2018 general elections – does not state unambiguously that a single campaign account has to be used. This principle should be stated in a law and should apply to all election campaigns.
39. GRECO concludes that recommendations ii, iv, vi, viii and ix remain partly implemented and that recommendations i, iii and vii remain not implemented.

### **III. CONCLUSIONS**

40. **In view of the above, GRECO notes that Bosnia and Herzegovina has made very little progress since the last interim report of June 2017, with only one further recommendation being partly implemented. In total, still only ten of the 22 recommendations have been implemented satisfactorily to date.** Eight recommendations have been partly implemented and four have not been implemented.
41. More specifically, it is recalled that with respect to Theme I – Incriminations, recommendations i, ii, iii, iv, vii, viii, x, xi and xiii had been implemented satisfactorily and that recommendations v and xii had been partly implemented at the time of adoption of the Fourth Interim Compliance Report. Recommendation vi has now also been partly implemented. Recommendation ix remains not implemented.

42. With respect to Theme II – Transparency of Party Funding, it is recalled that, at the time of adoption of the Fourth Interim Compliance Report, recommendation v had been implemented satisfactorily, recommendations ii, iv, vi, viii and ix had been partly implemented and recommendations i, iii and vii had not been implemented. This situation remains unchanged.
43. Concerning incriminations, GRECO is pleased that the new Criminal Code of the Republika Srpska and the Criminal Code of the Brcko District incriminate private sector bribery in specific provisions, distinct from those on public sector bribery. This is, however, not the case for the other criminal codes. Other deficiencies also remain both in the new Criminal Code of the Republika Srpska and in other criminal codes, for instance as regards the harmonisation of sanctions throughout the national territory. The authorities are urged to continue the reform process so as to provide a fully harmonised and consistent legal framework for the criminalisation of corruption offences throughout the national territory, in keeping with the Convention.
44. Concerning transparency of party funding, GRECO is disappointed that no progress has occurred since the Fourth Interim Compliance Report of 2017. Much more needs to be done, *inter alia*, to harmonise the complex legal framework, promote the use of the banking system for contributions to political parties and increase the financial and personnel resources allocated to the Central Electoral Commission for the supervision of political financing.
45. Pursuant to Rule 31, paragraph 9 of its Rules of Procedure – GRECO asks the Head of Delegation of Bosnia and Herzegovina to submit additional information, namely regarding the implementation of recommendations v, vi, ix and xii (Theme I – Incriminations) and of recommendations i to iv and vi to ix (Theme II – Transparency of Party Funding), by 30 September 2019 at the latest.
46. GRECO invites the authorities of Bosnia and Herzegovina to authorise as soon as possible, the publication of the present report, to translate it into the national language and to make the translation public.