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Addendum

Second Evaluation Round

Addendum to the Compliance Report on Albania

Adopted by GRECO
at its 44th Plenary Meeting
(Strasbourg, 6-8 October 2009)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Albania at its 22nd Plenary Meeting (Strasbourg, 18 March 2005). This report (Greco Eval II (2004) 8E) addressed 13 recommendations to Albania and was made public on 8 July 2005.
2. Albania submitted the Situation Report required under the GRECO compliance procedure on 6 September 2007. On the basis of this report, and after a plenary debate, GRECO adopted the Second Round Compliance Report (RC Report) on Albania at its 34th Plenary Meeting (19 October 2007). This last report was made public on 7 January 2008. The Compliance Report (Greco RC-II (2007) 12E) concluded that recommendations v, vi, viii, ix and x had been implemented satisfactorily and recommendations vii and xi had been dealt with in a satisfactory manner. Recommendations i, ii, iv and xii had been partly implemented and recommendations iii and xiii had not been implemented; GRECO requested additional information on their implementation. This information was provided on 30 June 2009.
3. The purpose of this Addendum to the Second Round Compliance Report is, in accordance with Rule 31, paragraph 9.1 of GRECO's Rules of Procedure, to appraise the implementation of recommendations i, ii, iii, iv, xii and xiii in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation i.

4. *GRECO recommended to develop clear procedures to be used for police officers and prosecutors concerning financial investigations in respect of offenders' assets, in order to enable them to make full use of the relevant legal provisions on detection and seizure. Furthermore, resources, specialisation and training in this area should be increased.*
5. GRECO recalls that in the Second Round Compliance Report on Albania note was taken of the new legislation on the organisation and competences of the State Police – the Law No. 9749 “on the State Police” of 4 June 2007, in force since July 2007 – which introduced, *inter alia*, provisions on seizure and on special investigative methods for criminal investigations, including financial investigations, carried out by police officers. Furthermore, it was stressed that special units for economic crime within the law enforcement bodies had been established – namely the Directorate for Combating Financial Crime within the State Police as well as a Joint Investigation Unit in the Tirana District Public Prosecution Office responsible for investigating economic crime and corruption –, that some training activities had been provided, and that a handbook on financial investigations had been drafted. GRECO concluded that the recommendation had been only partly implemented because no specific guidelines for financial investigations in respect of offenders' assets had been reported and specific training regarding the tracking of offenders' assets could be increased.
6. The Albanian authorities now report on further measures taken to implement the Law “on the State Police”, including the enactment by the General Director of the State Police of the order No. 690 “on the identification of assets deriving from criminal offences” of 31 July 2008 which is aimed at increasing the cooperation among relevant Police units to fight organised, serious and financial crimes, as well as the adoption of the act No. 435 “Regulation and procedures” of 13 May 2008 which defines the duties of relevant structures against crime. Moreover, the authorities

state that the Joint Investigation Unit in the Tirana District Public Prosecution Office responsible for investigating economic crime and corruption (JIU) has been successful – *inter alia*, in conducting financial investigations, based on recent guidelines and on the financial competencies of experts in the field – and that it has thus been decided to extend the JIU to six other districts of Albania and to further strengthen the JIU by associating the High Inspectorate for Declaration and Audit of Assets and the High State Audit.

7. Furthermore, the authorities report on a number of continuous training activities carried out in 2008 and 2009, *inter alia*, in 2008 for 10 police officers of the anti-corruption unit of the Directorate for Combating Financial Crime (including the topics: investigation of corruption and techniques of investigation on assets and property) in the framework of international programmes, training of 28 police officers of the same unit by the training department of the State Police, and training of 25 police officers on “Investigation of money laundering and financial crime” during the period January to March 2009.
8. GRECO welcomes the information provided with regard to measures taken to implement the law “on the State Police”, including by strengthening the units for combating financial crime within the State Police and the Public Prosecution Office and by adopting subsidiary legislation, *inter alia*, on the identification of assets deriving from criminal offences. It also notes that several training activities on financial investigations for police officers have been reported. These measures are steps in the right direction to improve financial investigations of the competent law enforcement bodies, including by making use of the relevant legal provisions on detection and seizure of offenders’ assets. GRECO encourages the authorities to pursue their efforts in this area, *inter alia*, by organising further training activities on a regular basis.
9. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

10. *GRECO recommended to provide appropriate training for prosecutors and judges concerning the use of interim measures (preventive attachment) and confiscation, including value confiscation. The Albanian authorities should also consider establishing an appropriate apportionment of the burden of proof, in connection with a conviction, to assist the authorities in identifying corruption proceeds liable to confiscation in suitable cases.*
11. GRECO recalls that in the Compliance Report it concluded that the recommendation had been partly implemented. It acknowledged that extensive training had been reported, but considered that further training dealing specifically with interim measures and confiscation, including value confiscation, should be provided for both judges and prosecutors. GRECO further found that no concrete steps regarding the examination of an apportionment of the burden of proof had been reported.
12. The authorities now indicate that during the period 2007-2009, 79 judges and prosecutors from different cities of Albania have participated in regular training sessions on the topics “Organised and economic crime” and “Seizure and crime proceeds” organised by the Magistrates’ School, which specifically included the issues on seizure, interim measures and confiscation (including value confiscation) and which also dealt with international cooperation in this field. Concerning the second part of the recommendation, the authorities state that the Ministry of Justice has reconsidered the question of the burden of proof. However, the Ministry maintained its position that the burden of proof could not be apportioned specifically with a view to identifying corruption

proceeds liable to confiscation without modifying the system of criminal procedure in general and that this was still not on the agenda.

13. GRECO is pleased that appropriate training for judges and prosecutors has been provided, dealing also with interim measures and confiscation, including value confiscation. It furthermore notes that the question of an apportionment of the burden of proof, in connection with a conviction, has been examined as required by the recommendation. GRECO regrets, however, that no genuine progress has been achieved in this area and invites the authorities to keep this question under review.
14. GRECO concludes that recommendation ii has been implemented satisfactorily.

Recommendation iii.

15. *GRECO recommended the establishment of guidelines on detection of corruption to include typologies of operations that might involve corruption for persons and institutions with a duty to report suspicious transactions in the area of money laundering.*
16. GRECO recalls that in the Compliance Report it concluded that the recommendation had not been implemented because no concrete measures had been reported with a view to establishing guidelines on detection of corruption for persons and institutions with a duty to report suspicious transactions in the area of money laundering.
17. The authorities now state that on 19 May 2008, Parliament adopted the Law No. 9917 on "Prevention of money laundering and financing of terrorism" which took effect on 10 September 2008, and which is aimed at adapting the national legislation to meet international requirements such as the relevant recommendations of the Financial Action Task Force (FATF) and of the Moneyval Committee of the Council of Europe. They indicate that the law increases the number of entities obliged to report cash transactions to the Financial Intelligence Unit (FIU), introduces the control of politically exposed persons and enhanced due diligence, and defines the roles and responsibilities of the relevant public agencies in the area of prevention of money laundering and terrorism. The authorities add that in 2009, Law No. 9917 has been complemented by several instructions of the Minister of Finance regulating the reporting modes, procedures and standards of reporting entities¹. Finally, they report that Regulation No. 44 of 10 June 2009 on "Prevention of money laundering and financing of terrorism" issued by the Bank of Albania contains, in its Annex 1 and 2, guidelines for subjects (persons and institutions) licensed and supervised by the Bank of Albania, with the duty to report suspicious transactions in the area of money laundering and financing of terrorism. These guidelines include typologies of operations that might involve financial crimes.
18. GRECO takes note of the information provided and acknowledges the entry into force of new legislation on the prevention of money laundering and financing of terrorism, which increased the number of entities obliged to report financial transactions to the Albanian FIU and specified the relevant reporting modes, procedures and standards. The guidelines included in Regulation No.

¹ Instruction No. 11 of 5 February 2009 for non-financial professions; Instruction No. 12 of 5 February 2009 for reporting entities; see also Instruction of the Council of Ministers of 1 April 2009 for the Central Office of the Registration of Immovable Assets and Agency of Legalisation, Urbanisation and Integration of Informal Areas/Constructions; Decision of the Council of Ministers of 8 April 2009 for the Licensing and Supervisory Authorities; furthermore Instruction No. 15 of 16 February 2009 "On the prevention of money laundering and terrorism financing in the customs system" and Instruction No. 16 of 16 February 2009 "On the prevention of money laundering and terrorism financing in the tax system".

44 of the Bank of Albania concern money laundering. Nevertheless, GRECO accepts that the new instruments introduced to combat money laundering have the clear potential to facilitate the detection of corruption.

19. GRECO concludes that recommendation v has been partly implemented.

Recommendation iv.

20. *GRECO recommended that the government promotes anti-corruption policies and measures at local and regional levels and monitors their implementation.*
21. GRECO recalls that in the Compliance Report it was noted that the authorities were in the process of preparing a strategy for decentralisation and local governance comprising a number of anti-corruption measures at local and regional levels. However, it concluded that the recommendation had only been partly implemented, as such measures had not yet been adopted and integrated into the “Inter-sectoral Strategy for the Prevention of and Action against Corruption and the Promotion of Transparent Government, 2007-2013” (Anti-Corruption Strategy/ACS), nor had their implementation become subject to monitoring by the Government.
22. The authorities now indicate that by decision No. 1561 of 3 October 2008, the Council of Ministers enacted the ACS and entrusted the Inter-Ministerial Working Group (IWG), chaired by the Deputy Prime-Minister, with the task of coordinating and monitoring the implementation of the strategy and of elaborating and adopting annual action plans. The ACS has been distributed to the local government units and was published in the Official Gazette and on the website of the Council of Ministers. Furthermore, the authorities report on measures to assist local governments in developing and implementing anti-corruption policies and strategies at local level, in accordance with the national ACS. More specifically, the authorities refer to measures, foreseen in the integrated action plan 2009, such as drafting manuals and studies for setting standards (on local police and civil protection, on local public services, on local taxes and fees and on the progress of the decentralisation); drafting a Law “on Regions and Regional Development” in line with the standards of the European Union; and strengthening capacities and improving consultation with the locally elected persons and their associations. Finally, the authorities indicate that on the basis of the ACS, Law No. 9723 “on the National Registration Centre” and Law No. 10081 “on the Licenses, Authorisations and Permits in the Republic of Albania” were approved on 3 May 2007 and 23 February 2009 respectively with the aim to enhance cooperation between central and local government in the field of business.
23. GRECO takes note of the reported adoption of the national Anti-Corruption Strategy, which is to be monitored by the Inter-Ministerial Working Group and to be implemented, *inter alia*, by concrete measures at local level. GRECO notes that such measures have been included in the integrated action plan 2009 and is hopeful that they will be effectively implemented, monitored and further developed in the future.
24. GRECO concludes that recommendation iv has been implemented satisfactorily.

Recommendation xii.

25. *GRECO recommended that tax authorities pay particular attention to the problem of corruption, particularly through directives and specific training modules concerning the detection of corruption offences and the enforcement of the relevant legislation.*

26. GRECO recalls that in the Compliance Report it was noted that a specific training module concerning the detection of corruption offences and the implementation of the corresponding tax legislation and containing guiding principles for officials of the tax administration had been developed by the Ministry of Finance on the basis of the OECD “Bribery Awareness Handbook for Tax Examiners” –, and that training courses for tax inspectors were scheduled as from August 2007. However, in the absence of concrete information on the scale of the training implemented, GRECO concluded that the recommendation had been only partly implemented.
27. The authorities now state that systemic reforms aiming at preventing and reducing corruption in the General Tax Directorate have been implemented. They report on the adoption of Law No. 9920 “on the Tax Procedures” of 19 May 2008, which introduces new methods of self-declaration by taxpayers, of e-declaration and e-banking aimed at, *inter alia*, increasing transparency and which was implemented by a number of training activities for financial and accounting experts and for tax officials. The authorities further report that it is planned, in 2009, to publish a manual “on procedures of tax collecting and on debts management”; to provide training on this subject to tax officials; to organise training courses on “tax administration ethics, how to avoid conflicts of interest and work relationships within the tax administration” and on efficient collection of fiscal obligations for the employees of the tax administration; to prepare a brochure “on the rules of communication and ethics in tax administration”; and to launch further projects, in particular, the “Millennium Challenge Account Threshold Programme II”, which is aimed at, *inter alia*, establishing a modern tax administration and reducing corruption in tax collection. Finally, the authorities indicate that specific training modules on detection of corruption are currently being prepared in the framework of the IPA project “Fight against corruption”, with assistance from the Council of Europe.
28. GRECO takes note of the information provided with regard to the adoption of legislation reforming the tax procedures and to corresponding training activities, and with regard to the preparation of specific training modules on detection of corruption for tax authority staff and of further projects including anti-corruption measures. GRECO invites the authorities to ensure the organisation of the planned training of tax authority staff on detection of corruption and to continue such specific training activities.
29. GRECO concludes that recommendation xii has been implemented satisfactorily .

Recommendation xiii.

30. *GRECO recommended that legislative developments be accompanied by guidelines and training for private accountants and auditors on how to identify signs of corruption and its proceeds as part of their professional activities and to report their findings.*
31. GRECO recalls that in the Compliance Report it was concluded that the recommendation had not been implemented, as no relevant information had been provided at the time.
32. The authorities now state that on 5 March 2009, Law No 10091 “on Legal Auditing, Organisation of the Profession of Independent Audits and Authorised Accounting Experts”, which strengthens the public supervision of the audit profession, has been approved. The Ministry of Finance has adopted several instructions in order to comply with the new legislation. The law establishes rules regarding professional ethics and professional obligations in order to comply with international standards (those of the International Federation of Accounting Experts - IAAE) and foresees the

creation of public oversight bodies, authorities responsible for registration and licensing of the accounting professionals as well as training. The authorities further report that the Institute of Approved Accountants (IAA) has organised a number of training courses on the new legislation for its members, including information on ethical issues regarding the accounting profession, as well as training courses on specific issues such as tax legislation, sub-laws on money laundering and prevention of financing from terrorist activities but not in respect of private accountants and auditors. Moreover, the authorities indicate that cooperation between the IAA and the Oversight Authority is planned in order to train accountants on the identification of cases of corruption and money laundering.

33. GRECO takes note of the information provided. It appears, however, that no guidelines or training have yet been established for the purpose laid down in the recommendation.
34. GRECO concludes that recommendation xiii has not been implemented.

III. CONCLUSION

35. In addition to the conclusions contained in the Second Round Compliance Report on Albania and in view of the above, GRECO concludes that recommendations i, ii, iv and xii have been implemented satisfactorily. Recommendation iii has been partly implemented and recommendation xiii has not been implemented.
36. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the 14 recommendations issued to Albania, in total 12 recommendations have now been implemented satisfactorily or dealt with in a satisfactory manner. GRECO expects that further positive developments can be signalled in the near future, in particular in respect of the establishment of guidelines on detection of corruption in the area of money laundering and the enforcement of the relevant legislation as well as training for private accountants and auditors on the reporting of corruption cases.
37. The adoption of the present Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure in respect of Albania. The Albanian authorities may, however, wish to inform GRECO of further developments with regard to the implementation of recommendations iii and xiii.
38. Finally, GRECO invites the Albanian authorities to authorise, as soon as possible, the publication of the Addendum, to translate it into the national language and to make the translation public.