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## **Second Evaluation Round**

### **Compliance Report on Cyprus**

Adopted by GRECO  
at its 37<sup>th</sup> Plenary Meeting  
(Strasbourg, 31 March-4 April 2008)

## **I. INTRODUCTION**

1. GRECO adopted the Second Round Evaluation Report on Cyprus at its 27<sup>th</sup> Plenary Meeting (6-10 March 2006). This report (Greco Eval II Rep (2005) 3E) was made public by GRECO, following authorisation by the authorities of Cyprus, on 19 July 2006.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Cyprus submitted their Situation Report (RS-Report) on the measures taken to implement the recommendations on 14 November 2007.
3. At its 26<sup>th</sup> Plenary Meeting (5-9 December 2005), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Georgia and Malta to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Tina GOLETIANI on behalf of Georgia and Mr Silvio CAMILLERI on behalf of Malta. The Rapporteurs were assisted by the GRECO Secretariat in drafting the Compliance Report (RC-Report).
4. The objective of the RC-Report is to assess the measures taken by the authorities of Cyprus to comply with the recommendations contained in the Evaluation Report.

## **II. ANALYSIS**

5. It was recalled that GRECO in its Evaluation Report addressed 10 recommendations to Cyprus. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

6. *GRECO recommended to enhance the specialisation and training of the police with regard to the investigation of offences of corruption in general and the use of confiscation and interim measures in particular in order to provide for more proactive law enforcement.*
7. The authorities of Cyprus report that soon after the adoption of the 2<sup>nd</sup> round Evaluation Report, this recommendation was discussed with the representatives of the Police bilaterally as well as within the activities/meetings of the Coordinating Body Against Corruption. A letter on this matter was also sent to the Chief of Police who decided to assign the responsibility for the investigation of corruption offences to a team of investigators from the Police Headquarters as well as to the Financial Crime Unit of the Police which is part of the Police Headquarters.
8. The Cypriot authorities also indicate that the Chief of Police decided in September 2006 to include, on a permanent basis, a training session in the Police Academy on the investigation of corruption offences, including the relevant legal provisions. Attendees are mostly newly recruited staff and staff on higher levels. A training programme on money laundering, as well as the confiscation regime and provisional measures has been included in the training programmes of the Police Academy, which is presented by lawyer-members of the FIU.
9. Furthermore, in December 2006 the FIU of Cyprus, MOKAS, issued and disseminated a Circular Note (containing mandatory requirements) to members of the Police and public prosecutors on the legal provisions as well as the practical use and implementation of the provisions on temporary measures and confiscation for their guidance and assistance. Following this Circular Note, meetings/training seminars were conducted between January and March 2007 in all districts of the country (Nicosia, Larnaca, Limassol and Paphos), by members of MOKAS on this

issue, for members of the police dealing with such cases. The presentations and discussions included practical examples.

10. GRECO takes note of these new initiatives which, on the one hand, confer to specialist police units (team of investigators from the Police Headquarters, Financial Crime Unit of the Police) the main responsibility for investigating corruption offences and, on the other hand, offer new training opportunities in the area of investigation of corruption and the use of confiscation and provisional measures. These various measures meet the expectations of the recommendation.
11. GRECO concludes that recommendation i has been implemented satisfactorily.

#### **Recommendation ii.**

12. *GRECO recommended to make the Co-ordinating Body against Corruption place more emphasis in its work on problems of corruption in public administration and to give it a mandate to make proposals for a consolidated anti-corruption strategy for public administration.*
13. The authorities of Cyprus indicate that following discussions within the Co-ordinating Body Against Corruption, its Chairman (the Attorney General) submitted a proposal to the Council of Ministers that representatives of the Public Administration and Personnel Service, which falls under the Ministry of Finance, as well as of the Accountant General and the Internal Control be appointed as members of the Co-ordinating Body. The Proposal was adopted by the Council of Ministers on 20.9.2006. With the appointment of these three new members, the Co-Ordinating Body appears to be now in a position to put more emphasis upon and discuss further, the issues and problems of corruption in public administration, and to contribute to the elaboration of the relevant decisions and strategies.
14. GRECO takes note of, and welcomes, the involvement as from autumn 2006 of new sectors and bodies of the public sector in the Co-ordinating Body Against Corruption of Cyprus, as the first part of the recommendation had suggested. The new, enlarged composition has the potential of giving the body a greater ability to handle administrative and institutional aspects of the fight against corruption. However, GRECO recalls that the absence of a clear mandate and mission was a particular issue discussed in the Second Evaluation Round Report (paragraphs 80 and 81). In this respect, the authorities of Cyprus do not report any new development that would indicate that the role of the Co-ordinating Body against Corruption has been strengthened or re-defined and that it had been given the task to elaborate a consolidated anti-corruption strategy for public administration. Under these circumstances, GRECO must conclude that only the first part of the recommendation has been addressed.
15. GRECO concludes that recommendation ii has been partly implemented.

#### **Recommendation iii.**

16. *GRECO recommended to develop legislation on the right to access to information held by public authorities, to - subsequently - take measures to inform the public about their right to access information and to enhance transparency in public administration (including "e-government").*
17. The authorities of Cyprus underline that in Cyprus anyone may access public information which is not confidential. For the time being there is no specific law regulating this issue (with the

exception of some usual specific arrangements<sup>1</sup> and the Press Law N° 145/89 of 1989 which grants access of journalist to information held by state authorities). However, according to the provisions of Articles 19 and 29 of the Constitution, a request for information can be made directly to the competent authorities which has the obligation to reply within 30 days; a procedure which is said to be used by the public on a regular basis. Any possible future legislation to be adopted in this area will be examined following the conclusion of the European Convention on Access to Official Documents, and in line with its provisions (this convention is currently under preparation by a Council of Europe committee which includes a member of the Attorney General's Office of Cyprus). Cyprus would thus comply with this new set of European standards without having to pass a series of amendments to legislation that would have been enacted before the convention.

18. GRECO takes note of the information provided and regrets that there have been no developments yet on such an important matter as the legal guarantees for ensuring access to information. GRECO recalls that in the Evaluation Report, it was considered that the (very basic) constitutional provisions needed to be complemented by a law regulating the various practical aspects of information access. Although the Cypriot authorities' intention to await and take into account the results of the elaboration of a Council of Europe instrument in this field is understandable, it must be pointed out that a number of countries have demonstrated that it is possible to elaborate domestic legislation in this field also in the absence of an international reference instrument. As regards the third part of the recommendation, GRECO notes that Cyprus does not report any new measures to foster transparency in the administration.
19. GRECO concludes that for the time being, recommendation iii has not been implemented.

#### **Recommendation iv.**

20. *GRECO recommended to clarify the mandate of the Commissioner for Administration, the Ombudsman, to the effect that s/he has the ability to investigate corruption in public administration and to raise the public's awareness of this aspect of the Commissioner's mandate.*
21. The authorities of Cyprus claim that, following meetings with the office of the Ombudsman<sup>2</sup>, these matters have been clarified. It is now acknowledged that the law governing the powers of the Ombudsman gives the institution the authority to investigate corruption in the Public Administration. On the other hand, it has also been made clear that once the Ombudsman's investigation reveals that a criminal offence was committed, the case would be referred to the Attorney General and the Police for a formal criminal investigation.
22. The authorities of Cyprus also indicate that this investigative component of the Commissioners' mandate becomes better known during training seminars<sup>3</sup> organised in the Public Administration Academy as well as on the occasion of lectures and presentations, including TV programmes involving the Ombudsman. No further details are provided, especially on the content of messages conveyed as regards his/her anti-corruption role and "jurisdiction" in this respect and whether this has already triggered some corruption-related complaints from citizens.

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<sup>1</sup> Decisions of the Council of Ministers are promulgated by publication in the Official Gazette of the Republic, public authorities have to publish an annual report about their activities, laws regulating the functioning of registries (of vehicles, of the population) provide for the accessibility of information by the public.

<sup>2</sup> The meetings were held within the Co-ordination Body against corruption and between members of the Ombudsman and the Attorney General's Office

<sup>3</sup> These seminars are attended by civil servants and some of them are also open to the public

23. GRECO takes note of the clear stand taken in Cyprus in favour of the Ombudsman's competence - as an institution - to investigate corruption in public administration and hopes that this will make the Commissioner for Administration / Ombudsman become a powerful additional element in the fight against corruption.
24. GRECO concludes that recommendation iv has been implemented satisfactorily.

**Recommendation v.**

25. *GRECO recommended to establish regular training for all staff (permanent and temporary) on ethics in public administration.*
26. The authorities of Cyprus report that training seminars are organised in the Public Administration Academy on the existing provisions of the current Public Service Law on ethics in Public Administration, as well as the duties and obligations of civil servants.
27. It is intended to establish further training for all staff (permanent and temporary) on ethics, after the adoption of the "Code of Ethics", which is now said to be in its final drafting stage.
28. GRECO takes note of the information provided. New initiatives do not appear to have been adopted yet and the situation is the same as at the time of the on-site visit (the existing training seminars are only provided to newly hired staff, the current Public Service Law on Ethics needs to be complemented by the Code of Ethics so that corruption-related matters are better addressed, and regulations in that area become applicable also to temporary staff).
29. GRECO concludes that, for the time being, recommendation v has not been implemented.

**Recommendation vi.**

30. *GRECO recommended to abolish the requirement that the initial reporting of corruption must be done in written form.*
31. The authorities of Cyprus stress that the issue was discussed among the members of the Coordinating Body Against Corruption as well as with the Public Administration and Personnel Service and the Civil Servants Association. Serious concerns were raised that any attempt to amend the existing text would cause more problems rather than adding any value to the existing provision concerning the reporting of suspicions of corruption. Under the current regulations, an official may give information about possible corrupt behaviour in writing but (with or) without identifying himself (anonymously); there are fears that if the suspicion is to be reported orally, thus revealing automatically the "whistleblower's" identity, this would dissuade such reporting. In addition, when the duty to report (in writing) was introduced in December 2003 by an amendment to the Public Service Law – as a result of GRECO's first evaluation round report on Cyprus – similar changes were made to the legislation applicable to semi-governmental organisations.
32. The Cypriot authorities indicate that nevertheless, it has been decided that during the training seminars organised for public employees, it would be stressed that in urgent cases they could avoid the written form, if they consider that this is more appropriate under the specific circumstances. The Cypriot authorities do not indicate whether this new policy has been enshrined in a document for the sake of "institutional memory", nor whether these "specific

circumstances” and “urgent cases” have been specified. However, they confirm that oral reporting has exactly the same consequences as a written report and authorities have to react upon it.

33. GRECO takes note of the fact that this recommendation was discussed extensively in Cyprus. According to the information contained in the evaluation report, the requirement that reporting suspicions of corruption must be made in writing is a mandatory rule laid down by law in the Public Service Act. The measure reported by the Cypriot authorities in the above paragraph is an informal, administrative one and the law appears to have remained the same. This leads to a contradiction that could generate problems in practice (including for the official to whom a report is submitted orally). GRECO therefore is not totally convinced that the measure taken in Cyprus fully achieves the objective of the recommendation in a different way; it would only do so if the law were to be formally amended in the sense that is being suggested. To conclude, GRECO welcomes the decision to allow whistleblowers to report also orally where the circumstances so require. But it invites the Cypriot authorities to consider further the implementation of this recommendation.

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

#### **Recommendation vii.**

35. *GRECO recommended to introduce clear rules/guidelines for situations where public officials move to the private sector, in order to avoid situations of conflicting interests.*

36. The authorities of Cyprus indicate that a law regulating this issue was enacted on 25.7.2007 (Law no. 114(I)/2007). This law regulates instances where members of government and other public officials move from the public to the private sector. The principle now is that moving from the public to the private sector requires a special authorisation which is granted, according to the legal amendment, by an independent committee composed of 3 attorneys from the Attorney General's Office. If the committee considers that the new situation would generate conflicting interests, they issue a prohibition for the official concerned to work in the relevant business for a period of two years, starting from the date of retirement or voluntary resignation from office. Non-compliance with a decision of the committee or with the duty to apply to it to obtain possible clearance, constitute a criminal offence punishable by up to two years' imprisonment and/or a fine up to EUR 17,000.

37. The content of Law no. 114(I)/2007 with the relevant procedure to be followed and the consequences of an infringement, was disseminated on 20.9.2007 to the members of the Public Service via a Circular of the Ministry of Finance.

38. GRECO welcomes the adoption of these measures and the fact that Cyprus, like various other countries, now has rules in place to exert some form of control over officials moving to the private sector, including in case of retirement from the public sector.

39. GRECO concludes that recommendation vii has been implemented satisfactorily.

#### **Recommendation viii.**

40. *GRECO recommended to strengthen the sanctions applicable to legal persons convicted of corruption offences with a view to making them more effective, proportionate and dissuasive.*

41. The authorities of Cyprus indicate that according to the provisions of the new anti-money laundering bill which was enacted on 13 December 2007 with effect as of 8 January 2008, the fine to be imposed on a legal person for not applying the preventive money laundering measures foreseen in law has been increased significantly to EUR 200,000. In parallel, directors of legal persons can also be held criminally liable for the offence of corruption and money laundering. Furthermore, in case of proceedings against a legal person for corruption, as a rule the offence of money laundering is always included in the indictment together with the corruption offence. Therefore, the penalties to be imposed can be increased in practice. No information was provided to illustrate the importance of this approach in practice.
42. The Cypriot authorities emphasise that the matter addressed in the recommendation was examined by an ad hoc committee composed of representatives of the Office of the Attorney General, the Ministry of Justice and the Police. It was concluded, that in light of the above, the current sanctions are adequate. But the matter will be examined again during the legislative drafting process preparing for the Ratification of the United Nations Convention Against Corruption (UNCAC), which started recently.
43. GRECO takes note of the information provided and welcomes the steps taken to prepare for the ratification (and implementation) of the UNCAC in the context of which the present recommendation would be considered again. For the time being, the rest of the information submitted by Cyprus is irrelevant for the purposes of recommendation viii or confirms that it has not been implemented. In particular, GRECO does not agree that the increased level of sanctions obtained in practice where a legal person is convicted for both corruption and money laundering would be a satisfactory alternative. Especially so where a person indicted jointly for corruption and money laundering is convicted of corruption but not of money laundering.
44. GRECO concludes that recommendation viii has not been implemented.

#### **Recommendation ix.**

45. *GRECO recommended to consider the possibility of establishing bans on business activities for physical persons following their conviction for offences, such as corruption.*
46. The authorities of Cyprus stress that although this recommendation is not of a mandatory nature, it has been examined in meetings of the Co-Ordinating Body Against Corruption and in meetings between the Attorney General, the Ministry of Justice and the Registrar of Companies: it emerged that for some types of companies registered with the Securities and Exchange Commission, there are explicit provisions requiring that the senior employees be of good reputation and to have a clean criminal record. The same applies for banking and financial institutions. The Cypriot authorities underline that these measures were already in place at the time of the evaluation visit but were not mentioned probably as a result of omissions. They also indicate that in case of a criminal conviction, the Registrar of Companies is informed so that possible appropriate measures can also be taken at its level (entering the information into the data system for future reference).
47. GRECO takes note of the information provided which indicates that some consultations have taken place and that contrary to the information and findings contained in the Second Round Evaluation Report on Cyprus, measures such as those required by recommendation ix already existed in respect of certain business sectors (mainly financial ones). Therefore, it would appear that this recommendation has lost some of its initial relevance, even though GRECO would have

preferred to learn from the Cypriot authorities whether the consultations have also dealt with the opportunity of introducing new professional bans outside the financial sector.

48. GRECO concludes that recommendation ix has been dealt with in a satisfactory manner.

**Recommendation x.**

49. *GRECO recommended to strengthen co-operation between the Police and the tax authorities in the investigation of cases of corruption, in particular, in respect to the reporting of suspicions of corruption and with regard to access to tax records.*
50. The authorities of Cyprus indicate that following various meetings and consultations involving the Police and the Inland Revenue Department, it has been made clear and confirmed that the Inland Revenue has a legal obligation, based on the Criminal Code<sup>4</sup>, to report to the police any matter relevant to the commission of any criminal offence, including corruption offences. No further measure would have been necessary since the requirement is already in the law and it just needed to be reminded.
51. Although, as a rule, the police cannot have direct access to the tax records, obtaining information from the tax authorities is possible on a case by case basis. Furthermore, in order to avoid formalities and delays in the field of information exchange, and to strengthen co-operation along the lines of the recommendation, both the police and tax authorities have appointed liaison officers. According to the authorities of Cyprus, the first results would confirm that co-operation is taking place in a more effective manner.
52. GRECO takes note of the improvements introduced. As regards the reporting of suspicions by the tax authorities to the police, it turns out that this was basically a problem of lack of awareness of the current legislation; nevertheless, GRECO would have welcomed more specific information on how awareness about this general reporting duty is now ensured among all present – but also future staff – of the Inland Revenue Department. As regards the access of police to tax records, the introduction of liaison officers has, reportedly, a positive impact on information exchange and cooperation as a whole. Here too, GRECO would have welcomed clearer indications that the cumbersome conditions of access to tax records (it is subject to the approval of the Minister of Finance or a court in each case)<sup>5</sup> has become a non-issue in the context of relations between the police and tax authorities. .
53. GRECO concludes that recommendation x has been dealt with in a satisfactory manner.

**III. CONCLUSIONS**

54. **In view of the above, GRECO concludes that Cyprus has implemented satisfactorily or dealt with in a satisfactory manner half of the recommendations contained in the Second Round Evaluation Report.** Recommendations i, iv and vii have been implemented satisfactorily and recommendation ix and x have been dealt with in a satisfactory manner. Recommendations ii and vi have been partly implemented and recommendations iii, v and viii have not been implemented.

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<sup>4</sup> Section 369 of the Criminal Code, by virtue of which all citizens in Cyprus, including public officials, are obliged to report information on (possible) criminal offences to the police (see also para. 90 of the Second Round valuation Report).

<sup>5</sup> See Second Evaluation Round Report, para. 125



55. In Cyprus, noticeable improvements have taken place as regards i.a. the training and specialisation of the police in the area of corruption offences and the targeting of proceeds of crime, regulations on revolving doors, cooperation between the police and tax authorities. Cyprus still needs to take measures for instance as regards the clarification of the mandate of the Coordinating Body against Corruption (and to entrust it with the task of elaborating an anti-corruption strategy for the administration), the setting up of a clear, general legal framework on access to information, the training of officials on ethics and sanctions for legal persons convicted of corruption offences.
56. GRECO invites the Head of the Cyprus delegation to submit additional information regarding the implementation of recommendations ii, iii, v, vi and viii by 31 October 2009.
57. Finally, GRECO invites the authorities of Cyprus to authorise, as soon as possible, the publication of the report, to translate the report into the national language and to make this translation public.