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First Evaluation Round

Compliance Report on Denmark

Adopted by GRECO
at its 20th Plenary Meeting
(Strasbourg, 27-30 September 2004)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Denmark at its 10th Plenary Meeting (8-12 July 2002). This Report (Greco Eval I Rep (2002) 6E) was made public by GRECO, following authorisation by the authorities of Denmark, on 25 September 2002.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Denmark submitted on 10 March 2004 their Situation Report (RS-report) on the measures taken to follow the recommendations and, on 12 July 2004 some additional information upon request.
3. At its 13th Plenary Meeting (24-28 March 2003), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Georgia and the Netherlands to provide Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Levan KHETSURIANI on behalf of Georgia and Ms Eline WEEDA on behalf of the Netherlands. The Rapporteurs were assisted by the GRECO Secretariat in drafting the Compliance Report (RC-Report).
4. The RC-Report was adopted by GRECO, following examination and debate pursuant to Rule 31.7 of the Rules of Procedure, at its 20th Plenary Meeting (27-30 September 2004).
5. Under Article 15 para. 6 of the GRECO Statute and Rule 30.2 of the Rules of Procedure, the objective of the RC-Report is to assess the measures taken by the authorities of Denmark and, wherever possible, their effectiveness in order to comply with the recommendations contained in the Evaluation Report.

II. ANALYSIS

6. It was recalled that GRECO in its Evaluation Report addressed 4 recommendations to Denmark. Compliance with these recommendations is dealt with below.

Recommendation i.

7. *GRECO recommended to maintain and enhance:*
 - *the general awareness of corruption in its wider sense, its dangers to society and to the particular sectors which are likely to be affected,*
 - *the cooperation between the law enforcement authorities and other State bodies, agencies and authorities which play a role in the prevention and control of corruption.*
8. The authorities of Denmark have reported that as an immediate action at the time of the publication of the Evaluation Report, the Ministry of Justice issued a press release summarising the main conclusions of the Report and made a reference to the website of GRECO, where the Report had been made public.
9. The authorities have furthermore reported that fighting corruption is considered particularly important for Danish development co-operation and that the Ministry of Foreign Affairs has, for a number of years, been supporting anti-corruption measures in relation to aid programmes in which context corruption has regularly been discussed with governments of partner countries. Moreover, in 2003, the Minister for Foreign Affairs launched a targeted action plan – the “*Danida Action Plan to Fight Corruption*”, including the drawing-up of a code of conduct, training and awareness raising of Danida staff, elaboration of anti-corruption clauses in contracts, etc. A conference was held in 2003 prior to the launch of the action plan.

10. It has also been reported that the Confederation of Danish Industries (a private body) has established a website concerning corruption, which is aimed at assisting exporting companies to understand the problems of corruption and to provide guidance. In July 2002 the Confederation of Danish Industries issued the publication "*Avoid Corruption – a Guide for Companies*", which deals with corruption that may occur in foreign countries.
11. With regard to the second paragraph of the recommendation, the authorities of Denmark have reported that a system of co-operation between bodies concerned with prevention and control of corruption has been established. The Public Prosecutor for Serious Economic Crime (SØK) who deals with severe white collar crime, including corruption, has a close co-operation with other authorities to prevent and control corruption. More particularly, the Economic Crime Intelligence Unit (an integrated part of SØK) established in 2001 a network consisting of all 54 police districts in Denmark making it possible to facilitate a day-to-day exchange of information. Nation wide meetings within the Network were held on 6 and 18 November 2003. Furthermore, the National Criminal Intelligence Service (NEC) frequently co-operates and exchanges information with the police districts and Customs and Excise. In addition, SØK and other parts of the police and the prosecution service have regular co-operation and exchange of information concerning economic crime with e.g. Customs and Excise, the Financial Supervisory Authority, the Competition Authority, the Confederation of Danish Industries, etc. This co-operation is carried out in relation to the investigation of specific cases and in the context of the "Contact Group on Economic Crime" established by the Government in 1997.
12. Finally, the Danish authorities have reported that the Ministry of Justice established a National network to take account of different opinions in Denmark for the negotiation of the United Nations Convention against Corruption. This Network was composed of representatives of both public institutions and private organisations, such as the Confederation of Danish Industries and Transparency International.
13. As to the first paragraph of the recommendation, GRECO was pleased that the anti-corruption initiatives within the field of business transactions and development programmes in foreign countries continued to improve. Most of the measures mentioned - already discussed at the time of the evaluation visit - had been implemented with the Ministry of Foreign Affairs and the Confederation of Danish Industries as the main actors.
14. However, the first paragraph of this recommendation is - above all - about enhancing the general awareness of corruption *in Denmark*, with a view to *inter alia* "refrain from the perception that corruption only exists outside Denmark" (Evaluation Report, paragraphs 101 and 102), as such a view could be a danger to the alertness to possible corruption now or in the future. In this respect the authorities have only referred to a press release (available to GRECO), including a description of GRECO's work, its visit to Denmark and a general conclusion of the Minister of Justice that corruption at large does not exist in Denmark and a reference to the website of GRECO. In the absence of any further measures to maintain and enhance the general awareness of possible domestic corruption, its dangers etc, GRECO could not conclude that Denmark had complied fully with this part of the recommendation.
15. With regard to the second paragraph of the recommendation, GRECO recalled that close co-operation between law enforcement authorities had already been observed by the GET during the evaluation visit (Evaluation Report, paragraph 103). GRECO was pleased that co-operation between law enforcement agencies and other bodies appeared to be improving further and was of the opinion that this part of the recommendation had been implemented.

16. GRECO concludes that recommendation i. has been partly implemented.

Recommendation ii.

17. *GRECO recommended to re-consider the situation that the Minister of Justice may, in principle, intervene in the work of the police and/or the prosecutor in individual cases of corruption during investigation/prosecution, in order to avoid risks of undue or improper influence.*
18. The authorities of Denmark have stated that the Minister of Justice by tradition and as a matter of principle exercises the utmost caution when dealing with specific decisions made by the competent public prosecutor.
19. Furthermore, the authorities have reported that on 13 November 2003 a motion for a Parliamentary resolution regarding the competence of the Minister of Justice was submitted to Parliament by three political parties (outside the Government), according to which it was proposed to abolish the competence of the Minister of Justice to intervene in the investigation and prosecution of individual criminal cases, in order to avoid political influence over the process. The Government did not agree with the motion and it was not adopted by Parliament. However, the Minister of Justice agreed that it would be desirable with further transparency and openness in the rare situations where the Minister intervenes in individual criminal cases. The intention is therefore to introduce a Bill before Parliament in 2004/2005 to that end.
20. GRECO notes that the issue raised in this recommendation has been subject to consideration both at Government and Parliament levels and concludes that recommendation ii. has been implemented satisfactorily.

Recommendation iii.

21. *GRECO recommended to organise additional training – in particular on the typologies of corruption, including its international dimension - for police staff and prosecutors dealing with corruption and connected offences and to provide a higher degree of specialised staff on corruption offences within the existing structures of the police and the prosecution service.*
22. The authorities of Denmark have highlighted that the fight against corruption and training is dealt with within the wider framework of the fight against economic crime. The training courses in this field have been developed in close co-operation between the Police College and the Public Prosecutor for Serious Economic Crime (SØK) in order to provide various degrees of specialisation to police and prosecutors. As from 2004, the Police College has intensified its training with regard to corruption concerning *inter alia* investigation of corruption, based on relevant case material. Moreover, SØK, which is the specialised central body for investigations of corruption cases, organised in November 2003 a thematic national seminar on corruption (legislation and investigation in practice) for senior employees of all police districts in Denmark who regularly deal with cases concerning economic crime. In particular, the seminar dealt with symptoms of behaviour that might lead to corruption or similar offences. In addition, the First Round Evaluation Report on Denmark and its recommendations were discussed.
23. GRECO took note of the information provided and concludes that recommendation iii. has been implemented satisfactorily.

Recommendation iv.

24. *GRECO recommended that the conditions for using special investigative means in cases involving serious corruption be reconsidered, keeping in mind the need to respect the principle of proportionality and existing constitutional and legal safeguards.*
25. The authorities have recalled that Denmark has very few cases of corruption, and that most of them only concern minor matters, for what reason special investigative means have in practice only been used to a very limited extent in such cases. Nevertheless, the authorities have reported that investigative means have been improved on several points. On 6 June 2002, new legislation was adopted by Parliament according to the following: confiscation was extended to money and other property (and not just “objects”) with regard to instrumentalities (Criminal Code, Section 77 a). According to amendments to the Administration of Justice Act telecommunication companies and Internet service providers have to record and store (“log”) for one year information concerning transmitted telecommunication and internet information (Section 786); the Minister of Justice can issue rules on the practical assistance to the police by telecommunication providers in cases of wiretapping etc. (Section 786). Furthermore, the police can obtain a court warrant to capture data in an information system not available to the public by means of software or other equipment (Section 791b) as well as carry out several individual searches without immediate notification (Section 799) and order a third party to surrender documents, etc. (discovery) without prior warrant in urgent cases (Section 806).
26. Moreover, on 4 June 2003, new legislation was adopted by Parliament on the fight against organised crime, providing new investigative means. The Administration of Justice Act had been amended in order to allow the police to conclude an agreement with a civil person to act as an agent of the police in relation to a specific investigation (Section 754b-2) and to allow the police to obtain a court order to capture data in an information system not available to the public by means of software or other equipment in cases of serious offences (and not only in cases of very serious offences) (Section 791 b). Furthermore, the Criminal Code was amended to allow for total or partial confiscation of property belonging to a person found guilty of an act punishable by imprisonment of six years or more and in some other circumstances, provided that the act committed is of a nature which may entail a significant gain.
27. The authorities have highlighted that all special investigative means provided for in legislation (including search, seizure, confiscation, encroachment on the secrecy of the mails, telephone tapping, data capture, logging, discovery, observation and the use of agents), with the sole exception of secret searches pursuant to Section 799 of the Administration of Justice Act, can be used in cases involving serious corruption.
28. GRECO took note of the information provided and concludes that recommendation iv. has been implemented satisfactorily.

III. CONCLUSIONS

29. In view of the above, GRECO concludes that Denmark has implemented the vast majority of the recommendations contained in the First Round Evaluation Report. Recommendations ii, iii and iv have been implemented satisfactorily. Recommendation i. has been partly implemented.
30. GRECO invites the Head of the delegation of Denmark to provide additional information by 31 March 2006 on the progress of the implementation of recommendation i.