



Strasbourg, 20 May 2005

Public
Greco RC-I (2005) 1E

First Evaluation Round

Compliance Report on Bosnia and Herzegovina

Adopted by GRECO
at its 23rd Plenary Meeting
(Strasbourg, 17-20 May 2005)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Bosnia and Herzegovina at its 14th Plenary Meeting (7-11 July 2003). This Report (Greco Eval I Rep (2003) 10E) was made public by GRECO, following authorisation by the authorities of Bosnia and Herzegovina, on 11 August 2003.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Bosnia and Herzegovina submitted their Situation Report (RS-Report) on the measures taken to comply with the recommendations on 4 January 2005.
3. At its 13th Plenary Meeting (24-28 March 2003), GRECO, in accordance with Rule 31.1 of its Rules of Procedure, selected Georgia and Norway to provide Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Levan KHETSURIANI on behalf of Georgia and Mr Henrik HORN on behalf of Norway. 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 23rd Plenary Meeting (Strasbourg, 17-20 May 2005).
5. Under Article 15 para. 6 of GRECO's 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 Bosnia and Herzegovina 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 18 recommendations to Bosnia and Herzegovina. Compliance with these recommendations is dealt with below.

Recommendation i.

7. *GRECO recommended to establish or designate a body responsible for the enhancement of country-wide anti-corruption activities. This body could also be in charge of international cooperation aspects and research activities on the phenomena, modus operandi and importance of criminal activities (including corruption). This mechanism should be complemented at the level of the Entities by adequate cooperation mechanisms involving the Entities' police, tax authorities/financial police, Customs, border guards etc.*
8. The authorities of Bosnia and Herzegovina reported that Article 14 of the Law on Ministries and other administrative bodies of Bosnia and Herzegovina (Official Gazette, issue 5/03) defines the competencies of the Ministry of Security and its organisational units which consist of the State Investigations and Protection Agency (SIPA), the State Border Service and the Interpol Office of Bosnia and Herzegovina. This Ministry and in particular SIPA (see Article 3 of the Law on SIPA, which mentions serious financial crimes and therefore includes corruption) may be considered the strongest mechanisms available to coordinate anti-criminal efforts and anti-corruption efforts in Bosnia and Herzegovina. Article 14 of the Law on Ministries requires from the Ministry of Security to provide full co-operation with Entity law enforcement bodies as well as international co-operation. In 2005, a Finance Intelligence Unit has been established within SIPA and operates on the entire territory of Bosnia and Herzegovina.

9. Article 21 of the Law on the SIPA defines official co-operation in the following terms: "Administrative and other bodies, services and other Bosnia and Herzegovina institutions, Entity and Cantonal Ministries of Interior, Customs and Tax authorities, Financial Police, Interpol liaison bodies, responsible authorities of the Brčko District, and other relevant bodies, shall co-operate with SIPA and extend assistance upon SIPA's request in performing duties within SIPA's competencies, and shall coordinate activities within their respective competencies, in accordance with the law and other regulations regarding protection of sources, methodology and other non-public information."
10. The Law on State Prosecutor's Office of Bosnia and Herzegovina was passed by virtue of a Decree of the High Representative in 2002, and (the Law) was amended at the beginning of 2003 to include the possibility of appointing international prosecutors using the English language. The Law also established a special Department for Corporate Crime, Organized Crime and Corruption, responsible for investigating and prosecuting perpetrators of corporate crime, organized crime and corruption as defined in the legislation of Bosnia and Herzegovina, when that legislation prescribes the jurisdiction of the State Court of Bosnia and Herzegovina.
11. The Ministry of Security transmitted to the Council of Ministers a draft Decision concerning the establishment of a working group with a view to establishing an Anti-corruption Office responsible for coordinating all anti-corruption activities and prevention efforts in Bosnia and Herzegovina.
12. GRECO takes note of the information provided. It is also informed that, at the moment, there is no specialised service in Bosnia and Herzegovina dealing exclusively with corruption. The Monitoring Office of the Economic Policy Planning Unit is in charge of monitoring and evaluating the national Anti-corruption Strategy and Action Plan. The Ministry of Security established a Department for Organised Crime and Corruption and an Inspectorate in charge of internal control, in addition to the special Department for Organised Crime and Corruption established under the authority of the Prosecutor's Office of Bosnia and Herzegovina. At Entity level, the Departments for organised crime and corruption of the Entities' Ministries of Interior are other relevant institutions. GRECO welcomes the progress made to implement the recommendation at State level, through, in particular the establishment of the Ministry of Security and the State Investigations and Protection Agency (SIPA). It understands that the creation of an Anti-corruption Office responsible for coordinating all anti-corruption activities and prevention efforts will strengthen co-operation mechanisms involving the Entities' Police, Tax authorities/Financial Police, Customs, border guards, etc., for the enhancement of anti-corruption initiatives, including, for the implementation of Article 21 paragraph 3 of the Law on SIPA.
13. GRECO welcomes the forthcoming creation of an Anti-corruption Office and concludes that recommendation i has been dealt with in a satisfactory manner

Recommendation ii.

14. *GRECO recommended to speed up the process of reform of the criminal legislation and, through that process, to harmonise to the largest possible extent the criminal codes and criminal procedure codes.*
15. The authorities of Bosnia and Herzegovina reported that the Criminal Code (CC) and the Criminal Procedure Code (CPC) of Bosnia and Herzegovina entered into force on March 1, 2003 (before the adoption of GRECO's first Evaluation Round Report), after which harmonised Entity Criminal

Codes and Criminal Procedure Codes were passed (see also recommendation x). Entity criminal codes apply to perpetrators of crimes according to the place where the crime has been committed, except crimes the prosecution of which is of the exclusive responsibility of the Court of Bosnia and Herzegovina. Drafting consistent legislation at the State and Entity level was said to have resulted in harmonization of Entity legal systems and the efficient implementation of legal norms.

16. There is no "crime of corruption" in the Criminal codes, but corruption, as an undesirable social phenomenon and process, is punishable under several separate offences (the so-called corruption offences), under the chapter on criminal offences against official duty or other responsible duty, in all four criminal codes (of the State, the Entities and the Brčko District, all dating from 2003).¹
17. GRECO welcomes the progress made through the reported adoption and/or harmonisation of criminal and criminal procedure codes at State and Entity levels. It was informed that further amendments to these codes are currently being made as well as additional activities with a view to improve their implementation (e.g. in the field of special investigative means and protection of witnesses), including with the assistance of the international community, and, among others, the Council of Europe. It encourages the authorities of Bosnia and Herzegovina to pursue their activities and to harmonise to the largest possible extent the Entity criminal and criminal procedure codes.
18. GRECO concludes that recommendation ii has been dealt with in a satisfactory manner.

Recommendation iii.

19. *GRECO recommended to take the legal and financial measures necessary for the courts to have easy access to the expertise they require and to allow the use of that expertise as evidence before the courts.*
20. The authorities of Bosnia and Herzegovina reported that in Chapter VIII of the CPC of Bosnia and Herzegovina on "Actions aimed at obtaining evidence", Articles 95 - 115 of Section 7 concerning "Expert evaluations" lay down rules for ordering expert evaluations, define the duties of expert witnesses, regulate the presentation of opinion and findings, as well as various categories of expert evaluations. Article 111 regulates audit of business books. In Chapter XVI - Costs of criminal proceedings, Article 185, Paragraph 2, Item (a) prescribes that the costs include the costs for witnesses, expert witnesses, interpreters and specialists, and the cost of a crime scene investigation. Other articles regulate the costs of proceedings when the accused is found guilty and the costs when the proceedings are discontinued or the accused is acquitted.

¹ CRIMINAL CODE OF BiH: Chapter XIX (Criminal offences of corruption and criminal offences against official duty or other responsible duty) -- Accepting gifts and other forms of benefits (Article 217); Giving gifts and other forms of benefits (Article 218); Illegal interceding (Article 219); Abuse of office or official authority (Article 220). Apart from these offences, corruption as an act of bribery or other undue influence for personal benefit is covered by other offences: Violating the free-decision-making of voters (Article 151); Violation of equality in performing economic activity (Article 204).

CRIMINAL CODE OF FBH: Chapter XXXI (Criminal offences of corruption and criminal offences against official duty or other responsible duty) -- Accepting gifts and other forms of benefits (Article 380); Giving gifts and other forms of benefits (Article 381); Illegal interceding (Article 382); Abuse of office or official authority (Article 383). Furthermore: Violating the free-decision-making of voters (Article 195); Violation of equality in performing economic activities (Article 241); Abuse in bankruptcy proceedings (Article 245); Abuse of authority in economic business operations (Article 247); Abuse of privatization process (Article 248); Drawing up a false balance sheet (Article 249), Abuse of appraisals (Article 250), Disclosure and unauthorized procuring of business secrets (Article 254).

The same offences are found in the criminal codes of the RS and the Brčko District.

21. Thanks to international co-operation, Bosnia and Herzegovina improved its systems for identification of criminals. In 2004, the Council of Ministers adopted the AFIS project (Automatic Identification Fingerprint System). The project CAN (Criminal Analyst Network) was also adopted, whereby all police forces will be connected in the exchange of intelligence and criminal information to be analyzed by SIPA and made available to all police forces in Bosnia and Herzegovina. The project of a single forensic lab was also adopted, to be installed at the Police Academy in Sarajevo and to serve the needs of all police forces. Currently, the installation of equipment is underway, which will enable analysis and identification of persons through DNA analysis. These different projects should be finalized by June 2005 and will promote the use of expertise as evidence before the courts on the whole territory of Bosnia and Herzegovina.
22. GRECO takes note of information provided. It welcomes the finalisation of the different projects aiming at strengthening the investigating capacities and the expertise required in corruption cases. In the absence of more concrete information it is unable to ascertain whether the measures have already facilitated access to the expertise the Courts may require in practice. That said, GRECO is confident that the above mentioned legislation and new measures will be given an appropriate follow up at medium term. The authorities of Bosnia and Herzegovina may wish to transmit to GRECO additional information concerning the implementation of the relevant provisions of the Criminal Procedure Codes of Bosnia and Herzegovina, of the Entities and of the Brčko District on expert evaluations.
23. GRECO takes note of the information provided and concludes that recommendation iii has been dealt with in a satisfactory manner.

Recommendation iv.

24. *GRECO recommended to continue the efforts to limit the political influence and to enhance modernisation of the police bodies at all territorial levels, especially at the lower levels, with the adequate institutional, legal, awareness-raising and other safeguarding measures.*
25. The authorities of Bosnia and Herzegovina reported that the Law on Civil Service in institutions of Bosnia and Herzegovina sets very high standards for higher ranking civil servants. Articles 15 and 16 define the rights of civil servants aimed at protecting them from any influence and discrimination, as well as from anything incompatible with their duties. Article 48 of the Law on Police Officers of 15.6.2004 defines the conditions for recruiting police officers, which include a public competition conducted by the Selection Commission with a view to ensuring transparency and fairness of the employment procedure.
26. The High Representative for Bosnia and Herzegovina, upon initiative of the Prime Minister and the Council of Ministers, passed a Decision on Establishing the Commission to Restructure Police Force in Bosnia and Herzegovina with the basic task of ensuring a development of the Police (such as rationalised organisation, effective law enforcement, economically and financially sustainable, free of any political influence). The Commission meets twice a month, and a draft framework of the future police force in Bosnia and Herzegovina is expected by the end of 2005.
27. At Entity level, Police Administrations have been established under the authority of the Ministries of Interior, headed by directors appointed by independent Police Committees. At the cantonal level, police forces are headed by police commissioners, who are independent from the Ministry of Interior, whereby the exercise of political influence is said to become a marginal phenomenon.

28. GRECO welcomes the efforts of Bosnia and Herzegovina, its Entities and the Brčko District in the area of police reform and encourages them to pursue actively their important work with a view to increase rationalised organisation, effective economically and financially sustainable law enforcement, which is free of political influence. It concludes that recommendation iv has been implemented satisfactorily.

Recommendation v.

29. *GRECO recommended to take all measures to ensure that the police provides the assistance required by other authorities in accordance with statutory provisions and regulations.*
30. The authorities of Bosnia and Herzegovina reported that it is understood that law enforcement and prosecution bodies shall support each other and other institutions of Bosnia and Herzegovina that may require such support (including departments of the Ministry of Security, Intelligence and Security Agency, Indirect Taxation Authority, Entity Ministries of Interior). A part from the relevant provisions already mentioned under recommendation i (Article 14 of the Law on Ministries and other administrative bodies of Bosnia and Herzegovina and Article 21 of the Law on State Investigations and Protection Agency), this co-operation is considered to work well, and certain possibilities for extending assistance are defined through agreements and memoranda, when such assistance concern different levels of authority in Bosnia and Herzegovina.
31. Police forces signed a Memorandum on exchange of intelligence involving SIPA, the State Border Service, Entity and cantonal ministries of the interior and the Indirect Tax Administration. This also covers the exchange of information within AFIS (Automatic Identification Fingerprint System) and CAN (Criminal Analyst Network). Consequently, the level of co-operation has been improved.
32. GRECO welcomes the measures taken and concludes that recommendation v has been implemented satisfactorily.

Recommendation vi.

33. *GRECO recommended to continue the efforts to enhance the merit-based selection of members of judicial bodies at all territorial levels, including the lower ones, with the adequate institutional, legal, awareness-raising and other measures.*
34. The authorities of Bosnia and Herzegovina reported that the High Representative for Bosnia and Herzegovina established an Independent Judicial Commission and gave them the responsibility of selecting judges and prosecutors in Bosnia and Herzegovina with a view to averting the exercise of political influence on the selection process. The mandates of the Independent Judicial Commission and the High Judicial and Prosecutorial Council were extended until March 31, 2004, when the selection of judges and prosecutors in Bosnia and Herzegovina was completed.
35. Further, the Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina of 21.5.2004, revoked the Laws on the High Judicial and Prosecutorial Council of the Republika Srpska and of the Federation of Bosnia and Herzegovina. The new Law regulates the operations of the Council, its structure, responsibilities, powers, as well as the conditions and mandate for its judicial and prosecutorial function, the appointment of judges and prosecutors, the disciplinary accountability of judges and prosecutors, the temporary removal of a judge or prosecutor from

duty, the incompatibility of a judge's or prosecutor's duty with other functions, and the termination of a judge's or prosecutor's mandate.²

36. GRECO takes note of the measures adopted and concludes that recommendation vi has been implemented satisfactorily

Recommendation vii.

37. *GRECO recommended in order to restore faith of the public in the judicial system, to make efforts to inform the media about successfully handled corruption and other sensitive cases and to promote professionalism and ethical conduct among journalists. Measures should also be taken to improve access to official information by journalists and the public in general.*
38. The authorities of Bosnia and Herzegovina reported that the Criminal Procedure Code of Bosnia and Herzegovina provides that trials shall be public. The public is excluded only in exceptional cases, enumerated in the Code. Victims of corruption are notified, for instance, in cases where prosecution of reported cases is abandoned. Information on corruption cases are published in websites. The prosecutors' offices co-operate with the media through chief prosecutors or through persons authorised by them at all levels of judiciary. This co-operation has been intensified in the recent period, and particularly when there are cases of corruption, the media are informed in due time. The Freedom of Information Act of 17 November 2000 is applicable on the entire territory of Bosnia and Herzegovina and for all public institutions. The Law on Personal Data Protection has also been adopted and a data protection Commissioner has been established.
39. GRECO welcomes the information provided. The authorities of Bosnia and Herzegovina might wish to transmit to GRECO additional information on their reporting on successfully handled corruption cases and on the rules enabling some public scrutiny on how corruption cases are handled.³
40. GRECO concludes that recommendation vii has been dealt with in a satisfactory manner.

Recommendation viii.

41. *GRECO recommended to look for ways over time to ensure that adequate remuneration is paid to police officers and prosecutors.*

² In accordance with Article 35 of the Law, the High Judicial and Prosecutorial Council's Rulebook prescribes the procedure for the appointment of judges and prosecutors, preceded by a public vacancy announcement published in the whole of Bosnia and Herzegovina. In accordance with the Law, the Council has a duty regarding the whole judiciary in Bosnia and Herzegovina, including: Court of Bosnia and Herzegovina; Prosecutor's Office of Bosnia and Herzegovina; Supreme Courts of the Federation of Bosnia and Herzegovina and the Republika Srpska; District and basic courts in the Republika Srpska; Cantonal and municipal courts in the Federation of BH; Republic Prosecutor's Office and district prosecutor's offices in the Republika Srpska; Federal Prosecutor's Office and cantonal prosecutor's offices in the Federation of BH; Appellate Court, Basic Court and the Prosecutor's Office of Brčko District; furthermore, the Council makes comments and proposals to responsible authorities with regard to their selection of judges for the Constitutional Court of the Republika Srpska and their appointment of judges to the Constitutional Court of the Federation of Bosnia and Herzegovina.

³ Legislation and measures on access to official information is one of the specific topics for consideration in the context of the Second Evaluation Round. The GRECO evaluation team responsible for the Second Round Evaluation of Bosnia and Herzegovina could establish whether effective action has been taken to implement the relevant legislation and to improve access to official information in practice.

42. The authorities of Bosnia and Herzegovina reported that salaries and other compensations for police officers and prosecutors are regulated by the Law on Court of Bosnia and Herzegovina⁴, the Law on Prosecutor's Office of Bosnia and Herzegovina⁵ and the Law on Police Officers of 15.6.2004 (Article 39) and the Entity legislation on courts and judicial service and on prosecutors' offices.
43. In the Federation of Bosnia and Herzegovina, institutions responsible for the investigation and prosecution of, *inter alia*, corruption-related phenomena, are allocated 20% to 30% more funds than other institutions (including, for their personnel, in the form of a compensation in addition to their salary, in accordance with legislation and by-laws regulating the funding of these institutions: Law on Budgets of the Federation of Bosnia and Herzegovina, Law on Budget Performance of the Federation of Bosnia and Herzegovina, Law on the Treasury of the Federation of Bosnia and Herzegovina, Law on Financial Police). The Government of the Republika Srpska did not envisage increased spending in the 2005-2007 budgets, and consequently did not provide for increased salaries of employees involved in law enforcement.
44. Regarding wages of prosecutors and judges, the Decision of the High Representative on High Judicial and Prosecutorial Council set the wages in the range between KM 2100 (1050 €) at municipal level and KM 4000 (2000€) at State level, which is many times more than the national average of KM 500 (250€). Police officers in Republika Srpska, depending on their rank, have monthly wages of around KM 400 (200€) and an additional 30% for special working conditions. Police officers in the Federation of Bosnia and Herzegovina have an average monthly wage of KM 500 (250€) and an additional 30% for special working conditions. Police officers of State law enforcement agencies such as SIPA and the State Border Service receive approximately KM 600 (300€) and the same additional 30%. Articles 74 to 79 of the Law on Police Officers establish objective conditions, criteria and procedures for promotions within the Police.
45. GRECO welcomes the information provided by the authorities of Bosnia and understands that, given the difficult economical situation of the country and the importance to combat effectively economic crime and corruption, continuous consideration is given to the issue of an adequate remuneration of police officers and prosecutors.
46. GRECO concludes that recommendation viii has been dealt with in a satisfactory manner.

Recommendation ix.

47. *GRECO recommended to look for ways over time to devote more financial resources to bodies responsible for investigation, and to provide them with better human and material resources.*
48. The authorities of Bosnia and Herzegovina reported that the budgetary means available have decreased between 2002 and 2004. A further reduction is also expected in 2005. In this context, an increase in expenditure in the budgets is unrealistic because the budget must be balanced and harmonised in such a way as to reduce the expenditure proportionally to the decrease in revenues. In spite of stagnating revenues, the majority of institutions performing investigative tasks, in proportion with the importance of their activities, were allocated increased funds in the Federation of Bosnia and Herzegovina Budgets for 2002-2004, with a view to ensuring better

⁴ [The High Representative's Decision Enacting the Law on further re-amending the Law on Court of Bosnia and Herzegovina](#) was published in the Official Gazette of Bosnia and Herzegovina 37/03.

⁵ [The High Representative's Decision Enacting the Law Re-amending the Law on the Prosecutor's Office of Bosnia and Herzegovina](#) was published in the Official Gazette of Bosnia and Herzegovina 37/03.

material and human resources. However, the Government of the Republika Srpska did not envisage to increase the financial, human and material resources of investigative bodies.

49. The Financial Police of the Federation of Bosnia and Herzegovina in the last four years has reportedly experienced a significant drain of able inspectors with experience in the field of finance and accounting, who have taken up better paid positions outside the Financial Police of the Federation of Bosnia and Herzegovina. On September 30, 2004, there were 86 employees in the Financial Police of the Federation of Bosnia and Herzegovina, representing 47.78% of the envisaged staff complement of 180. The human resource drain is mostly the result of low salaries and great responsibility in performing complex and risky jobs. Professional development and training of the Federation Financial Police has been reduced to a minimum due to budgetary restrictions and is only organised by the international community. Finally, the Financial Police of the Federation of Bosnia and Herzegovina has not received appropriate equipment. The Government of the Federation of Bosnia and Herzegovina, in coordination with the Office of the High Representative, decided to amend the Law on the Financial Police of the Federation of Bosnia and Herzegovina. A first draft has been agreed at the beginning of 2005.
50. GRECO welcomes the information provided and fully understands the particularly difficult budgetary situation of the country. It also recognises the efforts made to increase the resources of the investigative bodies despite the drastic budgetary measures taken in other sectors. Nevertheless, it encourages the State and Entity authorities to pursue their efforts to further seek ways for devoting more financial resources to bodies responsible for investigation, and to provide them with better human and material resources.
51. GRECO concludes that recommendation ix has been dealt with in a satisfactory manner.

Recommendation x.

52. *GRECO recommended to amend the criminal procedure codes and to include modern investigative techniques allowing to detect corruption and other forms of serious crimes, while assuring an adequate protection of European human rights standards.*
53. The authorities of Bosnia and Herzegovina reported already (see recommendation ii) that the Criminal Code (CC) and the Criminal Procedure Code (CPC) of Bosnia and Herzegovina entered into force on March 1, 2003 (before the adoption of GRECO's first Evaluation Round Report), after which harmonised Entity Criminal Codes and Criminal Procedure Codes were passed. They now include modern investigative techniques allowing to detect corruption and other forms of serious crimes, while assuring an adequate protection of European human rights standards (Article 116 to 122 of the CPC of Bosnia and Herzegovina, Art. 130-136 of the CPC of the Federation of Bosnia and Herzegovina and Chapter XIX, Art. 226-232 of the CPC of Republika Srpska and the Brčko District.
54. GRECO welcomes the measures adopted. It is informed that ongoing work is taking place together with international assistance, with a view to improve implementation of the new provisions, and encourages the authorities of Bosnia and Herzegovina to pursue their activities in this field.
55. GRECO concludes that recommendation x has been implemented satisfactorily.

Recommendation xi.

56. *GRECO recommended to use witness protection law also in corruption cases, and to consider the usefulness of programmes on the protection of such witnesses after trial.*
57. The authorities of Bosnia and Herzegovina reported that the Law on Protection of Witnesses under Threat and Vulnerable Witnesses was promulgated on July 24, 2003. It is intended to amend this law with a view to remedying the practical problems faced by judges and prosecutors when applying the existing law. The new draft law reportedly defines terms more precisely in accordance with European standards and removes obstacles for efficient witness protection during court proceedings. Furthermore, the Law on the Witness Protection Programme of Bosnia and Herzegovina entered into force in July 2004. The Law defines the application of protection measures implemented by the Witness Protection Department within the Investigations and Protection Agency of Bosnia and Herzegovina. The Department has a special legally defined programme, which provides physical protection of witnesses, allows witnesses to change his or her identity, and protects personal data and confidentiality when processing information.
58. Until now, the BiH Prosecutor's Office used a protected witness in corruption cases on two occasions, accompanied by special investigative techniques - covert recording, which resulted in criminal reports being filed with the State Prosecutor's Office.
59. GRECO welcomes the measures introduced to enhance witness protection and the use of the new legislation in corruption cases. It notes that the draft Law amending the Law on Protection of Witnesses under Threat and Vulnerable Witnesses has not yet been adopted. GRECO encourages the prompt adoption of the draft law and its effective use in corruption cases. The authorities of Bosnia and Herzegovina might wish to transmit to GRECO the new law when it is adopted.
60. GRECO concludes that recommendation xi has been implemented satisfactorily.

Recommendation xii.

61. *GRECO recommended to devote more resources to the State Audit Office.*
62. The authorities of Bosnia and Herzegovina reported that The House of Representatives of the Bosnia and Herzegovina Parliamentary Assembly adopted on 7.8.2003, Measures to Ensure Sustainable Development of the State Office Auditing Financial Operations of Bosnia and Herzegovina Institutions. The Measures provide for the recruitment of 13 additional staff members by the end of 2005. During 2004, four out of 13 were recruited, due to technical and organisational reasons. The budget plan for 2005 provides for four additional staff members, who will require suitable equipment and offices.
63. GRECO takes note of the information provided and concludes that recommendation xii has been implemented satisfactorily.

Recommendation xiii.

64. *GRECO recommended to develop further rules and regulations to govern public procurement at the State and Entity level.*

65. The authorities of Bosnia and Herzegovina reported that the Law on Public Procurement of Bosnia and Herzegovina (Official Gazette, issue 49/04) was adopted in November 2004. 60 days upon the effectiveness of this Law, Entity and District procurement legislation ceased to be in force, and the law is now applied throughout the country. This Law is meant to clarify certain lacuna and inconsistencies regarding the application of the Law, procedures for awarding contracts, common provisions concerning bidding documents, transparency and public scrutiny, competitions for proposals and project documentation, complaints and review processes. The implementation of the Law is ongoing. A number of by-laws have been adopted, regulating the issues of procurement and tendering.
66. GRECO welcomes the adoption of the Law on Public Procurement and its ongoing implementation. It concludes that recommendation xiii has been implemented satisfactorily.

Recommendation xiv.

67. *GRECO recommended to envisage a consolidation of the Entities' Customs administrations and to set up an adequate mechanism for cooperation and information exchange between the Entities' tax authorities.*
68. The authorities of Bosnia and Herzegovina reported that upon the adoption of the Indirect Taxation System Law on 31.12.2003 and the establishment of the Indirect Tax Administration, the Entity customs administrations have been merged. According to the Law, the Indirect Taxation System becomes the only body responsible for the collection and distribution of indirect taxes on the territory of Bosnia and Herzegovina. Direct taxation is still within the competence of Entity and District tax administrations, but their re-organization is ongoing and their full dissolution and transfer under the ITA is expected to occur by the end of 2005.
69. GRECO welcomes the measures adopted. It notes however, that apart from Indirect Tax Administration and Customs, the other elements of the Tax administration remain, for the moment, divided between the State and the Entity levels. GRECO believes that the recommendation should be fully implemented when these different authorities remaining divided will be merged, as expected by the end of 2005.
70. GRECO concluded that recommendation xiv has been partly implemented.

Recommendation xv.

71. *GRECO recommended to examine the possibility of involving to a larger extent the Ombudsman in the fight against corruption and, in parallel, to promote awareness of the possibilities to complain to the Ombudsman about irregularities, maladministration and suspicions of corruption.*
72. The authorities of Bosnia and Herzegovina reported that Ombudspersons of Bosnia and Herzegovina have already become active in this area by conducting in situ visits and making it possible for citizens to talk to Ombudspersons on the spot or file written complaints to the Institution of the Ombudsman. The Institution uses every other opportunity to inform the public about the scope of their mandate and the achieved results, via the mass media, by publishing their decisions and reports, and through publications (including via the internet). Ombudspersons, however, are of the opinion that citizens of Bosnia and Herzegovina are still not fully acquainted with the concept and mandate of Ombudspersons and it is intended to make additional efforts with a view to bringing this Institution closer to citizens.

73. The Ombudsperson of the Republika Srpska may monitor and investigate corruption as a phenomenon, but not individual cases. If, while working on an individual case of violations, the Ombudsperson becomes aware that there is grounded suspicion of corruption, she/he may inform the competent prosecutor's office. In addition, the Ombudsperson of the Republika Srpska may participate in media campaigns and awareness raising in the fight against corruption, and he may also propose to the competent authorities to take appropriate measures. The Ombudsperson of the Republika Srpska occasionally conducts educational campaigns concerning the activities of the Ombudsperson, and about areas in which the citizens may appeal to the Ombudsperson.
74. The involvement of the Ombudsperson of the Federation of Bosnia and Herzegovina in anti-corruption efforts and awareness raising among citizens concerning the possibility of appealing to the Ombudsperson in case of irregularities, abuse of office and suspicion of corruption, is evidenced: by decisions on individual violations upon complaints filed by citizens and recommendations made to the responsible party with a view to remedying confirmed violations; by special reports on observed mass violations of the rights of citizens in a certain area; and by annual reports in which the Ombudspersons of the Federation of Bosnia and Herzegovina evaluate the human rights situation in a given period. As an example of the usual action the Ombudsperson takes upon individual and collective complaints, the Ombudspersons of the Federation of Bosnia and Herzegovina mention two decisions. These are decisions 233/04 and 507/04 made in August 2004 with regard to complaints filed by citizens concerning illegal actions of municipal departments in the Municipality Centre of Sarajevo and the Municipality of Iliđža. These cases concern illegal construction of buildings whose investors were politically and financially influential persons. Citizens view such actions by the authorities as abuse of office and corruption, and they call upon to the Ombudspersons of the Federation of Bosnia and Herzegovina more and more frequently, requesting protection of their rights. In their 2003 annual report, the Ombudspersons of the Federation of Bosnia and Herzegovina presented their observations and assessments to the authorities, including that poor administration and problems in the judicial system create a breeding ground for corruption and abuse of office. Apart from the mentioned forms of action, the Ombudspersons of the Federation of Bosnia and Herzegovina have signed a Memorandum of Co-operation with Transparency International Bosnia and Herzegovina, which is being successfully implemented. This cannot be said of the co-operation with the Prosecutor's Office, which is not sufficiently efficient. The Ombudspersons of the Federation of Bosnia and Herzegovina take the view that their activities in the fight against all forms of corruption and abuse of office are increasing significantly, as well as awareness of citizens who trust this institution.
75. GRECO welcomes the information provided by the authorities and the positive results achieved in some areas. It hopes all ombudspersons will continue to implement this recommendation as shown by the examples mentioned above. It is also informed that further amendments in the institutional structure of ombudspersons are considered at the moment. GRECO also supports the wish expressed to improve the reporting and co-operation with the prosecution authorities and recalls that this issue is one of the specific topics for consideration in the Second Evaluation Round.
76. GRECO concludes that recommendation xv has been implemented satisfactorily.

Recommendation xvi.

77. *GRECO recommended to review the system of immunities applicable at State and Entity level and make sure that the legal framework is clear, coherent, comprehensive, and understood by practitioners and the public at large.*
78. The authorities of Bosnia and Herzegovina reported that the Law on Immunity of Bosnia and Herzegovina entered into force in November 2003. This Law has been published in the Entity and District official gazettes and is said to harmonize Entity legislation. Entity Immunity Laws overall correspond to the provisions of this Law. Under Article 4 of the new Law on Immunity of Bosnia and Herzegovina, the immunity is limited to actions directly related to the duty performed by those who enjoy such immunity⁶. It defines the procedure which makes criminal prosecution possible.
79. GRECO notes that the system of immunities applicable at State and Entity level has been reviewed. However, it cannot see in the law of November 2003 any changes concerning the scope of immunities (inviolability against criminal prosecution and civil action for “acts committed in the course of duties”) as well as with regard to the procedure applicable for lifting these immunities. On the contrary, the situation, as described in GRECO’s First Evaluation Round Report, seems unchanged in some respects. The elements reported by the national authorities do not allow GRECO to ascertain whether the legal framework is now clear, coherent, comprehensive (both at State and Entity levels), and understood by practitioners and the public at large.
80. GRECO concludes that recommendation xvi has been partly implemented.

Recommendation xvii.

81. *GRECO recommended to limit the categories of persons covered by immunities from criminal proceedings.*
82. The authorities of Bosnia and Herzegovina reported that Article 3 of the Law on Immunity defines the categories of persons enjoying immunities: delegates in the House of Peoples and the House of Representatives, who cannot be prosecuted for criminal offences or be subjects of civil action for any action done within their duties; and members of the Presidency of Bosnia and Herzegovina and of the Council of Ministers, who cannot be subjects of civil action for any acts committed during the exercise of their duties in the Presidency and the Council of Ministers.
83. GRECO takes note of the information provided. It understands that at State level all sorts of immunities have been abolished with the exception of the immunities provided for parliamentarians, the Council of Ministers and the presidency of the State. The authorities of Bosnia and Herzegovina reported that this new system has been harmonised satisfactorily at Entity level, as well as for the cantons and the Brcko District.
84. GRECO concludes that recommendation xvii has been implemented satisfactorily

Recommendation xviii.

85. *GRECO recommended to provide for clear conditions and procedures to be followed for the lifting of the immunities.*

⁶ The authorities of the Federation of Bosnia and Herzegovina reported that, according to the new Law, delegates in the House of Representatives and the House of Peoples shall not bear either criminal or civil liability for actions taken in the course of duty.

86. The authorities of Bosnia and Herzegovina reported that the new Law on Immunity of Bosnia and Herzegovina and the harmonised Entity Immunity Laws specify the procedure which makes criminal prosecution possible. By virtue of Article 6 (on criminal proceedings) and Article 7 (on civil actions) of the Law of November 2003, the competent court decides whether or not an action has been committed in the course of duties. The decision is final and binding. It is then for the institution to which the person concerned is a member to lift or not his immunity.
87. GRECO notes that the system of immunities applicable at State and Entity level has been reviewed. However, in the absence of more concrete information it is unable to ascertain whether the conditions and procedures to be followed for lifting the immunities at State and Entity levels are now clearer than those applied at the time of adoption of GRECO's First Evaluation Round Report. GRECO recalls that the GET responsible for the First Evaluation Round Report on Bosnia and Herzegovina had asked about details on the procedure or conditions for the lifting of immunities but could get no satisfactory reply. The law of November 2003 does not give any indication as to the procedure applicable with a view to lifting the immunity. In the light of the information provided, it would appear that the situation has not changed considerably.
88. GRECO concludes that recommendation xviii has been partly implemented.

III. CONCLUSIONS

89. **In view of the above, GRECO concludes that Bosnia and Herzegovina has implemented satisfactorily or dealt with in a satisfactory manner the vast majority of the recommendations contained in the First Round Evaluation Report.** Recommendations iv, v, vi, vii, x, xi, xii, xiii, xiv, xv and xvii have been implemented satisfactorily. Recommendations i, ii, iii, viii and ix have been dealt with in a satisfactory manner. Recommendations xvi and xviii have been partly implemented.
90. GRECO invites the Head of the delegation of Bosnia and Herzegovina to submit additional information regarding the implementation of recommendations xvi and xviii by 30 November 2006.