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Addendum

Second Evaluation Round

Addendum to the Compliance Report on Hungary

Adopted by GRECO
at its 47th Plenary Meeting
(Strasbourg, 7-11 June 2010)

I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Hungary at its 27th Plenary Meeting (Strasbourg, 6-10 March 2006). This report (Greco Eval II Rep (2005) 5E) was made public by GRECO, following authorisation by the authorities of Hungary, on 16 May 2006.
2. Hungary submitted the Situation Report required under the GRECO compliance procedure on 24 September 2007; additional information was subsequently delivered on 5 February 2008. On the basis of this report, and after a plenary debate, GRECO adopted the Second Round Compliance Report (RC-Report) on Hungary at its 37th Plenary Meeting (4 April 2008). This last report was made public on 9 April 2008. The Compliance Report (Greco RC-II (2008) 4E) concluded that recommendations i, ii, and ix had been implemented satisfactorily and recommendations iii, xi and xii had been dealt with in a satisfactory manner. Recommendations iv, v, viii and x had been partly implemented and recommendations vi and vii had not been implemented. GRECO requested additional information on their implementation. This information was provided on 26 November 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 iv, v, vi, vii, viii and x in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation iv.

4. *GRECO recommended to provide appropriate training to public officials on the implementation of freedom of information legislation and to raise the general public's awareness of their right of access to information.*
5. GRECO recalls that, in the RC-report, it considered the steps taken in this field as limited: some awareness raising activities had been carried out with respect to concrete implementation of the Act on Freedom of Electronic Information, but training on the implementation of freedom of information legislation had not occurred. GRECO further noted, on the basis of the details furnished by the authorities at the time, that the effective application of access to information legislation continued to pose challenges in practice. GRECO called for more convincing steps and assessed recommendation iv as partly implemented.
6. The Hungarian authorities now report on their plans to carry out, in the framework of the Mid-term Government Plan for 2008-2010, training for public officials on the implementation of freedom of information legislation. The authorities further add that, as part of the entrance examinations to the civil service, two modules of the relevant questionnaires are devoted to corruption prevention, accountability in public service, transparency and data protection. Moreover, the fight against corruption is one of the basic themes dealt with in the general training courses for civil servants. The authorities also report on a specific anticorruption training programme which was organised from 2006 to 2008 and where around 2,500 civil servants were trained on the principles and instruments available in the fight against corruption.

7. Further measures have been developed to implement the provisions of the Act on Freedom of Electronic Information, including the publication of a manual on e-government. In this context, the authorities signal that the Act on Freedom of Electronic Information is key in addressing some of the concerns expressed in the Second Round Evaluation Report with regard to access to information. In particular, it widens the categories of administrative documents which can be accessed by the public (or in other words, it limits the number of exceptions to the right of access to information).
8. GRECO takes note of the updates provided concerning implementation of electronic information legislation, e-government and anticorruption training. GRECO notes the reported plans to launch targeted training for public officials on the implementation of freedom of information legislation, as recommended. However, these are only plans which have not yet materialised.
9. GRECO concludes that recommendation iv remains partly implemented.

Recommendations v, vi and vii.

10. *GRECO recommended to introduce as soon as possible the model Code of Conduct for Civil Servants for the development of consistent standards for ethical behaviour throughout public administration, to widely disseminate it among public officials and the general public, and to provide the officials concerned with appropriate training on a permanent basis.*
11. *GRECO recommended that, as the Ministry of the Interior develops the model Code of Conduct for Civil Servants, clear guidance is provided with respect to seeking or receiving gifts.*
12. *GRECO recommended to introduce clear rules/guidelines for situations where public officials move to the private sector, in order to avoid instances of conflicting interests.*
13. GRECO recalls that in the RC-report it acknowledged the steps taken to train public officials on ethical matters, as well as to progress with the adoption of a Code of Conduct for Civil Servants. However, pending adoption of the Code of Conduct for Civil Servants – and subsequent training on its provisions – it assessed recommendation v as partly implemented.
14. The Hungarian authorities report that, as part of the Governmental Anticorruption Programme, the Parliament adopted, on 26 October 2009, Decision No. 105/2009 on ethical principles governing public service (including matters such as gifts, conflicts of interest, pantouflage, whistleblowing, disciplinary measures in case of infringements, etc.). Managers of State bodies, as well as other public institutions, self-government associations and professional organisations, are encouraged to develop their own codes of conduct in accordance with the general principles enshrined in Decision No. 105/2009. Negotiations with the relevant trade unions, self-government associations and professional chambers are yet to commence in order to adopt a single Code of Conduct for Civil Servants.
15. Training on ethics has continued. In the period 2006-2009 around 3,000 civil servants, from both central and regional/local administration, were trained on anti-corruption and professional ethics. Further training programmes are expected to be set up pursuant to the Mid-Term Government Plan for 2008-2010. Moreover, exams to enter public service now include specific questions on ethics and conflicts of interest.

16. GRECO acknowledges the measures reported to train/increase awareness of public officials on ethical matters. GRECO also notes the intention on the authorities to deal with gifts, conflicts of interest and pantouflage in a Code of Conduct. GRECO regrets that the adoption of a single code of conduct for the entire public administration continues to be an unresolved matter. In this connection, GRECO notes that, despite the reiterated reported intention of the authorities to progress swiftly with the adoption of a Code of Conduct for Civil Servants, very little has been fully achieved since the adoption of the Second Round Evaluation Report. More particularly, GRECO recalls that, at the time of the Second Round Evaluation Report, a model Code of Conduct had already been drafted (and handed to the GET for its analysis) and its adoption appeared to be imminent. For that reason, GRECO recommended to adopt “as soon as possible” the aforementioned draft in order to give further impetus to the process. Four years after the Second Round Evaluation Report, the adoption of the Code of Conduct for Civil Servants is still pending. GRECO urges the authorities to adopt a Code of Conduct for Civil Servants and to develop appropriate training thereafter.
17. GRECO concludes that recommendations v, vi and vii remain partly implemented.

Recommendation viii.

18. *GRECO recommended to establish clear guidelines and training for civil servants concerning the reporting of suspicions of corruption.*
19. GRECO recalls that in the RC-report it took stock of the provisions concerning whistleblowers included in the draft Code of Conduct for Civil Servants, as well as the training reported concerning, *inter alia*, the detection of corruption in the work place and the requirement to report such instances of malpractice. GRECO however deemed the aforementioned measures as insufficient for providing meaningful guidance for the conduct of public officials in terms of their reporting obligation (e.g. course of action to be taken when signalling suspicions of corruption and the available protection mechanisms). GRECO concluded that recommendation viii had been partly implemented.
20. The Hungarian authorities now report that the Ministry of Justice and Law Enforcement has prepared two draft bills dealing, *inter alia*, with whistleblower protection. On 1 April 2010, Act CLXIII on Acts of Corruption and Protection of the Persons Supplying Information of Public Interest entered into force; it includes detailed provisions on the course of action to be taken when signalling suspicions of corruption and the available protection mechanisms. However, the draft bill referring to the relevant body which was to implement the necessary procedures giving effect to Act CLXIII (i.e. the Authority of Public Procurement and of Protection of Public Interests) was returned by the President of the Republic to Parliament for further consideration. Due to the dissolution of Parliament preceding the last general elections in April 2010, this issue is still pending.
21. GRECO acknowledges the important steps taken to proceed with the implementation of recommendation viii by enacting legislative provisions on whistleblower protection. However, it is of crucial importance that the necessary whistleblower protection procedures and mechanisms become operational in practice, which is currently not the case.
22. GRECO concludes that recommendation viii has been partly implemented.

Recommendation x.

23. *GRECO recommended that efforts should be made to ensure that applicability of corporate criminal liability cannot be circumvented by institutional changes occurred after the commission of the criminal offence.*
24. GRECO recalls that in the RC-report it noted that legislative amendments were underway to address recommendation x. Pending effective adoption of these amendments, GRECO assessed the recommendation as partly implemented.
25. The Hungarian authorities confirm that Act IV of 2006 on Business Associations was amended in September 2008. Pursuant to the aforementioned amendment, a business association cannot be transformed into another form of business association if liquidation or dissolution measures have been instituted or if a criminal court or public prosecutor informs the business association and the competent court registry that criminal sanctions may be applied against the business association concerned (Article 69, new paragraph 2, Act IV of 2006 on Business Associations).
26. GRECO welcomes the changes introduced in legislation to prevent corporate liability being circumvented by institutional changes occurring after the commission of the criminal offence and concludes that recommendation x has been implemented satisfactorily.

III. CONCLUSION

27. In addition to the conclusions contained in the Second Round Compliance Report on Hungary and in view of the above, GRECO concludes that recommendation x has been implemented satisfactorily. Recommendations iv, v, vi, vii and viii remain partly implemented. With the adoption of this Addendum to the Second Round Compliance Report, GRECO concludes that out of the 12 recommendations issued to Hungary, 7 of them have been implemented or dealt with in a satisfactory manner.
28. Hungary needs to display more convincing efforts to effectively address GRECO's concerns in the area of prevention of corruption in public administration. In particular, it is essential that a Code of Conduct for Civil Servants is promptly adopted; regrettably, delays have occurred repeatedly in this respect. Moreover, rules and guidance for public officials are yet to be developed with respect to situations of conflicts of interest, including in connection with public officials seeking employment in the private sector (so-called pantouflage) and the acceptance of gifts. It is also important to ensure that the necessary whistleblower protection mechanisms become operational in practice. The authorities are urged to take more determined action in all these important areas.
29. The adoption of this Addendum to the Compliance Report terminates the Second Evaluation Round compliance procedure concerning Hungary. The authorities of Hungary may, however, wish to inform GRECO of further developments with regard to the implementation of recommendations iv, v, vi, vii and viii
30. Finally, GRECO invites the authorities of Hungary to authorise, as soon as possible, the publication of the Addendum; to translate it into the national language and to make the translation public.