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Joint First and Second Round Evaluation

Compliance Report on Liechtenstein

Adopted by GRECO
at its 61st Plenary Meeting
(Strasbourg, 14-18 October 2013)

I. INTRODUCTION

1. GRECO adopted the Joint First and Second Round Evaluation Report on Liechtenstein at its 52nd Plenary Meeting (Strasbourg, 17-21 October 2011). This report ([Greco Eval I-II Rep \(2011\) 1E](#)) was made public by GRECO on 31 October 2012.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Liechtenstein submitted their Situation Report (RS-Report) on the measures taken to implement the recommendations on 30 April 2013. Additional information was submitted on 17 and 27 September 2013.
3. At its 59th Plenary Meeting (18-22 March 2013), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Iceland and Greece to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Helgi Magnùs GUNNARSSON, Deputy Director of Public Prosecution, on behalf of Iceland and Ms Panagiota VATIKALOU, Investigative Judge, Court of First Instance of Chania, on behalf of Greece. 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 Liechtenstein to comply with the recommendations contained in the Joint First and Second Round Evaluation Report.

II. ANALYSIS

5. It is recalled that GRECO in its Joint First and Second Round Evaluation Report addressed 18 recommendations to Liechtenstein. Compliance with these recommendations is dealt with below.

Recommendation i.

6. *GRECO recommended to enhance the active role of the Anti-Corruption Working Group i) by extending its composition so as to include agencies/organisations responsible for the prevention of corruption at the level of public administration and business in particular; and ii) by giving it the mandate to initiate further preventive measures as well as awareness-raising initiatives on the various dimensions of corruption in national and local administration, and in the private sector, involving as much as possible the general public and the media.*
7. The authorities of Liechtenstein report that on 5 February 2013 the Government decided to enhance the active role of the Anti-Corruption Working Group by providing it with a new name reflecting the focus of its new mandate and with an extended composition. The "*Working Group for the Prevention of Corruption*" has as its primary task to "propose and, as appropriate, implement measures for the prevention of corruption and for raising public awareness of the various dimensions of corruption in national and local administration as well as in the private sector." The Working Group is also mandated to devise preventive measures to be included in existing projects. Reference points for such measures are the United Nations Convention against Corruption and the Council of Europe Criminal Law Convention on Corruption as well as the "case law" of the respective monitoring mechanisms. In its new composition, the Working Group is made up of representatives of the Prime Minister's Office (which is responsible for all staff matters of the national administration), the Police (the Head of the Anti-Corruption Unit), the Public Prosecutor's Office, the Financial Intelligence Unit, the Ministry of Justice, the Office for

Foreign Affairs and the Office of Human and Administrative Resources (which implements the Government's staff policy, including in the areas of recruitment and training). In addition, the Working Group has the explicit competence to invite other experts of the national administration, the municipalities, the private sector, academia and international organisations to its meetings, thereby focussing its deliberations on particular aspects of corruption prevention in different areas. The authorities furthermore report that among the first activities undertaken by the Working Group in the fulfilment of its new mandate was the elaboration of a draft code of conduct for public officials. The Working Group has also prepared a report on the introduction of a "whistleblowing" regime. Both these texts have been submitted to the Office of the Prime Minister and are currently being considered by the Government. The draft report and draft legislation are due to be adopted by the Government and submitted to a consultation procedure in the last months of 2013.

8. GRECO welcomes the important steps taken to enhance the capacity of corruption prevention by reshaping the former Anti-Corruption Working Group into the "*Working Group for the Prevention of Corruption*". Concerning the first part of the recommendation, GRECO notes that the new Working Group has a broader composition than the previous one and that the strong focus on law-enforcement agencies in the past has been complemented through the involvement of a broad range of various other pertinent authorities at the central state level. GRECO notes that public administration at the local level and the business community are not included as full members of the Group; however, such representatives, as well as academics etc may be invited whenever necessary. Moreover, the mandate of the Working Group has been formulated in a way that reflects the recommendation (second part). GRECO finally notes that the Working Group has already accomplished work in the areas of public conduct and whistleblowing and that a public consultation is foreseen in this respect. GRECO commends Liechtenstein for these achievements which correspond well with the intentions of recommendation i.
9. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

10. *GRECO recommended to review the powers of the Prince, as enshrined in article 12 of the Constitution and other pieces of legislation, to block or discontinue criminal investigations and proceedings.*
11. The authorities of Liechtenstein report that they have thoroughly reviewed the issue of recommendation ii. They state, *inter alia*, that the constitutional powers of the Prince as the Head of State cannot sweepingly be assigned to the executive power and mixed up with those of the Government. The Government is a state organ clearly separate from the Reigning Prince, requiring the confidence of both the Reigning Prince and Parliament. The responsibility for the exercise of the executive state power is shared between the Reigning Prince as the Head of State and the Government. The Chief Prosecutor and his deputies are appointed by the Government. Only the Government has the competence (in accordance with the clearly defined criteria of the Prosecution Service Act, LGBl. 2011 No. 49) to issue instructions to the Public Prosecutor. The Head of State does not have any competence in this respect. He can only act in the exercise of his Constitutional right of pardon by mitigating or commuting in this framework legally awarded penalties or by quashing an initiated investigation (as an order equally issued in the framework of his right of pardon with the effect of discontinuing the proceedings in an individual case similar to an amnesty or a pardon). This provision has not been used for many years.

12. The authorities submit that the powers of the Prince at issue are enshrined in the Constitution in the sense of an "ordre public" to safeguard the interests of the State. Similar provisions can also be found in other member States of GRECO and the danger of political influence over the public prosecutor's office, especially where this office conducts preliminary criminal proceedings, exists in all systems in which the prosecutors ultimately are subject to instructions by the executive power and is in no way specific to Liechtenstein.
13. The authorities furthermore refer to the *Council of Europe Recommendation CM/Rec/(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibility of the Council of Europe*, which would allow for decisions on amnesty and pardon and similar measures by the executive. The authorities add that the reference in the Evaluation Report to "...a threat for the independence... of the criminal justice system..." is groundless since Article 6 of the European Convention on Human Rights requires independence of tribunals, but not for a "system". The authorities also note that the Reigning Prince's right to quash proceedings on the basis of article 12 of the Constitution is in existence since 1921 and is entirely undisputed in Liechtenstein. On the contrary, the authorities consider that there are good reasons for keeping this legal instrument for exceptional situations in which the legal order does not provide a possibility to refrain from proceedings.
14. GRECO recalls that the Evaluation Report (paragraph 49) refers to CM/Rec (2010)12 (article 17)¹, and that the possibility of the Executive power to take exceptional decisions on amnesty, pardon or similar measures was never criticised in the Report. However, the Constitution of Liechtenstein goes beyond that as it also includes the right of the Reigning Prince to quash initiated investigations. This situation could represent a threat to the independence of the justice system as expressed in the Evaluation Report. Having said that, GRECO also notes that no proceedings have been quashed for at least 12 years and that the main purpose of article 12 of the Constitution is to deal with exceptional situations, such as amnesty, pardon and the like. Nevertheless, the legal situation has not changed since the adoption of the Evaluation Report and GRECO can only advise the authorities to reconsider their position on this matter of principle.
15. GRECO concludes that recommendation ii has not been implemented.

Recommendation iii.

16. *GRECO recommended to ensure that the selection of judges, including temporary ad hoc judges, is effected in an impartial manner.*
17. The authorities state that when considering appointments of judges, the special structural situation of the Principality of Liechtenstein, characterised by its small territorial area and population, must be taken into account. The legal system is largely based on rules similar to those of Liechtenstein's neighbouring countries. Because of the small number of legal professionals working in Liechtenstein, judges are disqualified more often than in other judicial systems because of conflicts of interest. That said, Liechtenstein unrestrictedly shares the view expressed by GRECO that the selection and appointment of independent judges play a key role in combating corruption and, to this end, decisions concerning the selection and career of judges are to be based on objective criteria pre-established by law and a competent body.

¹ "With the exception of decisions on amnesty, pardon or similar measures, the executive and legislative powers should not take decisions which invalidate judicial decisions"

18. As already pointed out in the Evaluation Report, the authorities refer to the major change in the appointment system in 2003 with the introduction of the Judicial Appointment Act (2003) and subsequently the Court Organisation Act (2007). The authorities maintain that the Judicial Selection Commission is an independent Constitutional body, chaired by the Reigning Prince in his capacity as Head of State. The Commission is autonomous from the legislative and executive powers and its members are appointed on individual merits to perform their duties independently and on a personal basis. It cannot be concluded either from the legal provisions or from the practical procedures of the Judicial Selection Commission that its members are subject to any instructions or other influence when performing their duties, according to the authorities. Since the creation of the Judicial Selection Commission, its Chairman has never made use of his casting vote, nor has he refused his assent to any decision by the Commission.
19. The authorities also explain that the Head of State cannot appoint a judge of his own accord; candidates for judicial office are proposed by the Judicial Selection Commission, elected by Parliament and finally appointed by the Head of State (only a formal decision). If Parliament rejects a candidate proposed by the Commission, and if no agreement can be reached within four weeks, then the candidates proposed by the Commission and by Parliament are subject to a popular vote (article 96, paragraph 2 of the Constitution, articles 14 et seqq. of the Judicial Appointment Act). However, since the creation of the Judicial Selection Commission, all candidates proposed to Parliament have been elected. The authorities underline in this context that the (public) consideration of candidates in Parliament and, where applicable, before a popular vote, ensures transparency in the appointment process.
20. The authorities of Liechtenstein furthermore submit that while vacancies concerning *permanent full time judicial* posts are always announced publicly, the Judicial Selection Commission have discretionary powers to make announcements public in respect of other judicial vacancies (article 9, paragraph 1 of the Judicial Appointment Act). Full-time judges are appointed until the age of regular retirement. In its decisions, the Judicial Selection Commission is governed by the qualification principle and the personal suitability of the candidates (article 10, paragraph 2 of the Judicial Appointment Act). Moreover, special knowledge in the relevant area of law and relevant professional experience are taken into account. The suitability criteria include independence and impartiality, social and intellectual competence, communication skills, conscientiousness and decisiveness (article 4, paragraphs 2 and 3 of the Rules of Procedure of the Judicial Selection Commission, LGBl. 2005 No. 200). *Non-professional judges* with legal training must meet the conditions for exercising the profession of (lawyer or) judge. In the course of its practice, the Judicial Selection Commission has moved towards publicly calling for expression of interest by legally qualified lawyers to act on a part-time basis as non-professional judges. The respective candidates are also being interviewed. According to a decision of principle by the Judicial Selection Commission (Guidelines for the Selection of Non-Professional Judges), all applicants for non-professional judicial positions are thoroughly evaluated in terms of their perceptive faculties, decisiveness, communication skills and understanding for the parties to proceedings. Here again, the focus is on the independence and impartiality of the candidates. The Liechtenstein judicial system also includes a third category of judges, the so called *Ad hoc judges*. These may be appointed - in case the functioning of a court is significantly impaired - on application of the competent president of a court. Such appointments are only for a limited time and the appointees are assigned in accordance with the allocation of duties of the court. The procedure for appointing *ad hoc* judges is also governed by the Judicial Appointment Act; candidates must meet the requirements applicable to the appointment of the judge to be replaced (article 3 of the Judicial Service Act). To ensure the impartiality and transparency of the selection of such judges, the Judicial Selection Commission compiles a list of names made available by the

Chamber of Lawyers from which candidates are nominated in alphabetical order (article 8, paragraph 2 of the Rules of Procedure of the Judicial Selection Commission).

21. GRECO has repeatedly held that each member State must be evaluated on its own merits. The size of Liechtenstein and consequences related to that cannot be disregarded, for example, the need to replace judges in situations of conflicts of interest and the need for using *ad hoc* judges in certain situations. Having said that, there are also features of the system which are not the result of such particularities. The fact that the Head of State presides over the Judicial Selection Commission and also appoints the candidates in the end was criticised in the Evaluation report. GRECO maintains its position that this has a negative impact on the independence/impartiality of the Commission. Besides this matter of a more principle character, which has not been subject to any changes, the authorities have thoroughly explained how the system of selection/appointment of judges works, since the major legal changes in 2003/2007. It has been made clear that vacancies of permanent judicial posts are always announced publicly and that these judges are appointed until retirement. Moreover, the Judicial Selection Commission has more recently (since 2011) moved towards publicly announcing the vacancies of non-professional judges, a step in the right direction. The use of *ad hoc* judges in Liechtenstein continues and GRECO has not noted any changes in respect of this category of judges. To sum up, the system appears to be largely unchanged since the adoption of the Evaluation Report. GRECO notes, however, that some useful clarifications have been given and it is possible to say that the transparency in respect of the announcements of non-professional judges has improved.

22. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

23. *GRECO recommended to ensure, as planned, that information gathered through the relevant investigative tools provided in the Police Act can be used as evidence in court in the context of cases of bribery and trading in influence.*

24. GRECO recalls that this recommendation was triggered by a missing link in the Criminal Code of Procedure (CPC) to the Police Act, which made it doubtful whether elements of proof during the investigation were admissible as evidence in court. At the stage of the adoption of the Evaluation Report, the authorities had already submitted draft legal amendments to Parliament to remedy the situation.

25. The authorities of Liechtenstein report that draft legislation to amend the Code of Criminal Procedure, referred to in the Evaluation Report, has been adopted by Parliament (Law of 14 December 2011) and entered into force on 1 October 2012 (LGBl. 2012 Nr. 26). With these amendments, the competences and investigative tools of the Police are clearly spelt out in the CPC, ensuring that evidence gathered through the investigative tools used by the Police can also be used in court, including in the context of bribery and trading in influence.

26. GRECO takes note of the information and concludes that recommendation iv has been implemented satisfactorily.

Recommendation v.

27. *GRECO recommended to ensure that adequate access to information and evidence is granted for the investigation of the various corruption-related offences.*

28. The authorities of Liechtenstein report that the Ministry of Justice is preparing a “legal package”² entailing the revision of several provisions regarding corruption-related offences etc and enabling the ratification by Liechtenstein of the Council of Europe Criminal Law Convention on Corruption. As part of this package, the deletion of Art. 322 lit. 4 of the Code of Criminal Procedure is foreseen, which would allow for search of documents of third persons as well as seizure and confiscation also in respect of offences which are only punishable with less than 6 months’ imprisonment, thereby ensuring that in all corruption-related investigations information may also be obtained from information holders who are themselves not suspects. The draft legal amendment is foreseen to be agreed by the Government towards the end of 2013.
29. GRECO takes note of the information provided. It is pleased that the intended amendment of the CPC would, if adopted, expand the possibilities of the police to access information. The action underway appears to address the issue at stake in the recommendation; however, the legislative process is not yet at a stage where its precise content can be assessed.
30. GRECO concludes that recommendation v has not been implemented.

Recommendation vi.

31. *GRECO recommended i) to introduce whistle-blower policies that would encourage public sector employees to report suspicions of corruption directly to criminal law bodies, including the setting up of hotlines and protective measures against unjustified retaliation; ii) to provide for adequate possibilities to appeal a decision where a public official is not allowed by his supervisors to serve as a witness; and iii) to introduce, as planned, measures for the protection of witnesses.*
32. The authorities of Liechtenstein indicate that the Government has prepared draft legal amendments to the Police Act and the Criminal Code dealing with the protection of witnesses. The draft legislation, together with a report of the Government (adopted on 26 March 2013), have been subject to public consultation (ended on 26 June 2013) and as the reactions received were mainly positive, the Government is currently preparing the submission of final draft legislation to Parliament for a first reading before the end of 2013. Furthermore, revision of the State Personnel Act which would entail the introduction of provisions on whistleblowing (including the possibility to get external expert advice for an informed decision on reporting, protective measures against unjustified retaliation and appeal against decisions where a public official is not allowed by his supervisors to serve as a witness) is currently being considered by the Government.
33. GRECO welcomes the initiatives referred to, which address the issues raised in recommendation vi. Concerning the first part of the recommendation, GRECO notes that the elaboration of a “whistleblower regime” is being done as an integral part of the State Personnel Act. Currently, there is no draft legislation available. In respect of witness protection, the Government has adopted draft legislation which has been subject to public consultation and which will soon be submitted to Parliament. Draft legislation and a Government report have been made available to GRECO. The authorities are urged to pursue these matters which – although closely interlinked – are dealt with in different legislative contexts.

² The authorities have indicated the following main elements of the legal package: the criminalisation of active and passive bribery in the private sector and their inclusion as a predicate offence of money laundering, the expansion of the definition of “public official” to include members of Parliament and of local assemblies and the revision of Articles 304 to 309 of the Criminal Code on various corruption offences in order to also reflect respective developments in the Austrian Criminal Code (on which the Liechtenstein Criminal Code is modelled). In addition, amendments to the Code of Criminal Procedure and the Tax Act are planned to take into account GRECO recommendations.

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

Recommendations vii and viii.

35. *GRECO recommended to consider i) providing that the valuation of “property benefits” must be based on the “gross” benefit; and ii) extending deprivation under article 20 paragraph 2 of the Criminal Code to proceeds from corruption-related offences committed repeatedly, whether they are felonies or misdemeanours. (Recommendation vii)*

36. *GRECO recommended to consider ensuring that the various private sector bribery offences are predicate offences of money laundering under article 165 of the Criminal Code. (Recommendation viii)*

37. The authorities of Liechtenstein refer in respect of both these recommendations to the above mentioned “legal package” (see reference under recommendation v), which would include amendments to the Criminal Code and thus address all concerns raised in the recommendations. The authorities stress that the Ministry of Justice is considering these issues; currently an external expert has been mandated to propose legislation that would cover the issues raised in these two recommendations.

38. GRECO welcomes the deliberations underway in respect of recommendations vii and viii (including a feasibility study on possible legislation by a legal expert). It takes the view that these recommendations are currently under consideration; however, the deliberations have not yet been concluded.

39. GRECO concludes that recommendations vii and viii have been partly implemented.

Recommendation ix.

40. *GRECO recommended to put in place appropriate tools to evaluate the effectiveness, in practice, of measures to target proceeds of corruption, corruption-related money laundering and other relevant serious offences, including at the domestic level.*

41. The authorities of Liechtenstein report that on 15 January 2013 the Government established the Anti-Money Laundering/Countering Terrorism Financing Working Group responsible for the coordination of all related activities, including operational activities. The Working Group is chaired by the Director of the Financial Intelligence Unit (FIU) and meets 4-6 times per year. The Chair reports to the Prime Minister and to the Minister of Foreign Affairs every three months on the activities of the Group. In addition, the Head of the Public Prosecutor’s Office, the FIU Director, the CEO of the Financial Market Authority, the Head of the Criminal Police, directors of the Office for Foreign Affairs, the Tax Administration and the Office for International Financial Affairs meet on a quarterly basis, to inform each other about on-going activities and developments. Moreover, there are regular, sometimes weekly, meetings to discuss operational matters. The effectiveness of the measures to target proceeds from crime, including corruption, are constantly under review.

42. The authorities also report that in 2013, the Prosecution Service is setting up a system which compiles information concerning reported offenses (Suspicious Transaction Reports under the Due Diligence Act) in an electronic register containing information such as the names of the involved persons, the offences, the procedural steps taken, coercive measures etc. The data, which is to be available by the end of 2013, will provide a basis for inquiries and statistics. It is

intended to be a central pillar of the National Risk Assessment in accordance with the draft 4th EU Directive on Money Laundering. The risk-based approach has been applied in Liechtenstein since 2009 in the private sector. It has been reinforced with the implementation of the 3rd EU Directive on Money Laundering and follows closely the approach chosen by this Directive. In the area of particular risks, Liechtenstein has introduced measures to strengthen the beneficial ownership regime, for example, in respect of accounts held by trustees and client profiles within business relationships. The Prosecution Service also provides appropriate in-service training in this area. Finally the authorities refer to the participation of prosecutors in international fora and conferences and other forms of international co-operation.

43. GRECO takes note of the information provided, which highlights the broad range of measures taken by the authorities in the area of money laundering, which are also important for the fight against corruption. It notes that the gathering of information on practical cases is crucial for the evaluation of the effectiveness of measures, such as confiscation in corruption-related cases. GRECO sees the potential of the multidisciplinary approach taken with the establishment of the Working Group. It commends Liechtenstein for having put in place appropriate tools to evaluate the effectiveness of the use of measures to target proceeds of corruption, as requested in the recommendation. The authorities may wish to keep GRECO informed of the outcomes of the use of these tools for the underlying purpose of the recommendation.
44. GRECO concludes that recommendation ix has been implemented satisfactorily.

Recommendation x.

45. *GRECO recommended to clarify the scope of the State Personnel Act and the State Personnel Ordinance and to ensure that contractual personnel as well as other specific categories of public officials are subject to requirements concerning gifts, incompatibilities and other possible corruption preventive measures similar to those contained in these Acts.*
46. The authorities of Liechtenstein state that in order to ensure that regulations on incompatibilities of functions and gifts such as those contained in the State Personnel Act and the State Personnel Ordinance are also to be complied with by contractual personnel, a draft Code of Conduct covering this category of personnel is under preparation (see also recommendation xii). (Besides, article 74 paragraph 4 of the Criminal Code will continue to apply; it extends the coverage of the criminal law provisions on corruption to contractual personnel.)
47. With reference to recommendation xii, GRECO notes that the preparation of ethical rules dealing with contractual personnel appears to be underway and a revision of the State Personnel Act is being considered, but these processes are not currently sufficiently advanced to allow for scrutiny by GRECO.
48. GRECO concludes that recommendation x has not been implemented.

Recommendation xi.

49. *GRECO recommended to introduce appropriate screening procedures which would ensure that relevant positions in the public sector are filled by persons with a high degree of integrity.*

50. The authorities of Liechtenstein report that on 9 December 2009, the Government adopted the Ordinance on Security Screening (LGBl. 2009 Nr. 316). So far, 28 individuals in particularly sensitive positions have been screened, most of them in 2010, concerning appointments to the National Police, the Office of information Technology, the Migration and Passport Office, Foreign Affairs office. Currently, a pilot project centered on the classification of information handled by the Office of Justice and an ensuing categorisation of its staff is carried out in order to explore the possibility of extending the screening to further parts of the public administration.
51. GRECO takes note of the information provided. The Law on Screening was in place well before the adoption of the Evaluation Report and the screening carried out also pre-dates the adoption of the Report. Since then, a pilot project has been launched concerning a limited part of the public administration with a view to exploring the possibility of extending the current screening to a broader range of the administration. This is a promising step; however, no concrete outcome has yet been announced by the authorities in this respect.
52. GRECO concludes that recommendation xi has not been implemented.

Recommendation xii.

53. *GRECO recommended to develop ethical rules and codes of conduct for public administrations at central and local level and to provide adequate training on the use of these rules, including the conduct to be adopted vis-a-vis the offering of gifts and other gratuities.*
54. The authorities of Liechtenstein report that a draft Code of Conduct for the public administration, elaborated by the Working Group on the Prevention of Corruption, has been submitted to the Prime Minister's Office, but that the adoption of this code has been delayed as it will be considered in conjunction with whistleblowing provisions and a possible revision of the State Personnel Act following recent rulings by the Administrative Court (see also Recommendation i). As a result of the delay in establishing a code of conduct, a foreseen special training seminar dedicated to such a code for senior members of the public administration to be organised by Transparency International, Switzerland, has been postponed. The authorities furthermore report that work is underway to include the issue of corruption prevention in an e-learning programme which is being established for the whole staff of the national administration with a view to having a regular and mandatory check on knowledge and individual faculties in respect of cyber security and other important issues for the proper functioning of the national administration. The specific information on the content of the draft Code of Conduct (excluding for the time being the "whistleblowing" regime) is to be included in the training of newly hired staff was presented to the Conference of Directors of the National administration on 26 September 2013.
55. GRECO takes note of the information that ethical rules are being developed but not yet established. GRECO has not been provided with any draft texts. As a result of the current situation, the accompanying training foreseen has been postponed by the authorities. GRECO urges the authorities to pursue this matter in order to comply with the recommendation as soon as possible.
56. GRECO concludes that recommendation xii has not been implemented.

Recommendation xiii.

57. *GRECO recommended i) to introduce an effective system for the management of conflicts of interest and secondary activities that would be applicable to all public officials at central and local level, including elected representatives; and ii) to introduce rules / guidelines for situations where public officials move to the private sector.*
58. The authorities of Liechtenstein report that the draft Code of Conduct (referred to under Recommendation xii) introduces measures to be taken for the management of conflicts of interests and secondary activities. Rules for situations where public officials move to the private sector are included in the above-mentioned consultation report (see Recommendation vi) and the draft law which was elaborated by the Working Group on the Prevention of Corruption has been sent to the Government for adoption.
59. GRECO welcomes that the issues addressed in recommendation xiii appear to be underway/under consideration; however, currently, no draft text has been submitted to GRECO and it is therefore not yet possible to form an opinion on the concrete content and results of this process.
60. GRECO concludes that recommendation xiii has not been implemented.

Recommendation xiv.

61. *GRECO recommended to extend the applicability of the new regime of liability of legal persons under article 74a of the Criminal Code to all private sector bribery offences in their active form.*
62. The authorities of Liechtenstein state that the intention of the Government is to introduce a new article in the Criminal Code on private sector bribery. The liability of legal persons under article 74a of the Criminal Code will then be extended to these offences as well.
63. GRECO takes note of this information. The measures referred to appear to have the potential to comply with recommendation xiv, but the mere intention of a legal reform is not sufficient for GRECO to assess any results.
64. GRECO concludes that recommendation xiv has not been implemented.

Recommendation xv.

65. *GRECO recommended to introduce a measure in the Criminal Code which would enable the courts to prohibit a person found guilty of serious corruption offences from holding a leading position in a legal entity for a certain period of time.*
66. The authorities of Liechtenstein indicate that the introduction of a possibility to prohibit corruption offenders from holding positions in legal persons is being considered in the context of the above-mentioned "legal package" (see recommendation v), provided that similar measures are included in the Austrian Criminal Code which has been serving as a legal reference for the Liechtenstein Criminal Code since its adoption. This kind of "legal parallelism" has been upheld for decades in order to ensure a high consistency of jurisprudence which is of particular importance for a small country with limited case-law.

67. GRECO notes that the issue raised in this recommendation is still under consideration and concludes that recommendation xv has not been implemented.

Recommendation xvi.

68. *GRECO recommended to extend the list of non-tax deductible expenditures to the broadest range of relevant corruption-related offences.*
69. The authorities of Liechtenstein state that it is foreseen, as part of the “legal package” referred to above to include a reference to article 308 of the Criminal Code as well as to the new draft criminal law provision on bribery in the private sector in article 47 paragraph 3 lit. k of the Tax Act (LGBl. 2010 Nr. 340). With such a reference, the current list of non-tax deductible expenditures (which already refers to article 307 of the Criminal Code) would be extended to include all corruption-related criminal offences.
70. GRECO takes note of the positive intentions; however, nothing concrete has yet come out of this process.
71. GRECO concludes that recommendation xvi has not been implemented.

Recommendation xvii.

72. *GRECO recommended to take appropriate measures to enhance the supervision of trustees and holders of certificates under article 180a of the Law on Persons and Companies (Personen und Gesellschaftsrecht - PGR).*
73. The authorities of Liechtenstein report that at the initiative of the Financial Market Authority (FMA) and the Association of Liechtenstein Trustees, a draft law aimed at revising the Trustee Act has been elaborated. The main purpose of this exercise is to strengthen the regulatory supervision of trustees; an essential objective is the introduction of a continuous supervision over the compliance with the licensing requirements. Currently, the competence for issuing authorisations for holders of a certificate under article 180a PGR lies with the Department for Justice/Trade Register. Furthermore, a draft law regarding the supervision of holders of a certificate under article 180a PGR is also under way. Both these draft laws were subject to a first reading in Parliament on 6 September 2013 and the adoption is expected in November 2013, followed by entry into force on 1 January 2014. According to the authorities, this will allow for an improved license procedure as well as an effective and permanent supervision by the FMA. The new law will encompass extended conditions for licenses (such as capacity to act, education and practical experience), a proper check (personal integrity and professional qualification), rights and obligations (e.g. duty of disclosure, obligation to inform, continuing education) as well as effective measures (e.g. temporary prohibition of practising) and sanctions (termination, cancellation and revocation of a license and fines). Regulations concerning national and international administrative assistance and a public register of all licensees are provided for. Due to transitional provisions, each holder of a certificate under article 180a PGR will have to apply for a “new” license with the FMA and all holders will be checked with regard to their personal integrity. In case they do not apply within a certain period, they will lose their initial authorisation to exercise activities according to article 180a PGR.
74. GRECO takes note of the adequate legal measures to strengthen the regulatory supervision of trustees in Liechtenstein that are underway. Draft legislation revising the Trustee Act and the Law

on Persons and Companies, have been agreed by the Government (and submitted to GRECO) and is, currently, subject to parliamentary proceedings. However, the draft legislation has not yet been finally adopted.

75. GRECO concludes that recommendation xvii has been partly implemented.

Recommendation xviii.

76. *GRECO recommended to ensure adequate offences as well as effective and dissuasive sanctions are in place to deal with false information on customer identification, and to ensure these are known to everyone.*

77. The authorities of Liechtenstein indicate that the law of 20 December 2012 on the amendment of the Due Diligence Act (LGBl. 2013 Nr. 39), which entered into force on 1 February 2013 introduced, in Article 30, a specific sanction of up to six months of imprisonment for deliberate false identification or the non-identification of customers or beneficiaries as well as for the lack of regular update of such identification. The statute of limitation for this offence was raised to three years. The amendments have been made public in the Legal Gazette and will be applied by the Financial Market Authority (FMA). Financial intermediaries covered by the Due Diligence Act have been duly informed about the new legislation by the FMA. The law was submitted to GRECO.

78. GRECO takes note of the information provided. No legal amendments of the Criminal Code have been introduced. However, the Due Diligence Act (DDA) has been amended with an offence, criminal in nature, which appears to have the potential to remedy the shortcoming leading to the current recommendation and could have the general effect of contributing to increasing the level of compliance with the DDA.

79. GRECO concludes that recommendation xviii has been dealt with in a satisfactory manner.

III. CONCLUSIONS

80. **In view of the above, GRECO concludes that Liechtenstein has implemented satisfactorily or dealt with in a satisfactory manner only four of the eighteen recommendations contained in the Joint First and Second Round Evaluation Report.** Recommendations i, iv and ix have been implemented satisfactorily and recommendation xviii has been dealt with in a satisfactory manner. Recommendations iii, vi, vii, viii and xvii have been partly implemented. Recommendations ii, v and x - xvi have not been implemented.

81. Although the fight against corruption in Liechtenstein - in particular in the context of dealing with financial crime and money laundering - appears to be a priority of the Government, the reform process has been fairly slow and only limited progress has been achieved in order to comply with the recommendations issued by GRECO to Liechtenstein. In this context, the Government repeatedly refers to a "legal package" aimed at making it possible to ratify the Criminal Law Convention on Corruption (ETS 173) and to other on-going legislative measures which are inter-linked to that process, concerning, for example, the establishment of legal protection for whistleblowers, the elaboration of codes of conduct of public officials etc. A large number of the recommendations that have not been fully implemented are currently subject to consideration within the Government and preparatory work is underway. GRECO is concerned that Liechtenstein has not yet ratified the Criminal Law Convention; however, it notes in this respect

that a number of the pending recommendations are linked to the “legal package” aimed at paving the way to this ratification.

82. Despite the generally low level of compliance with the recommendations, Liechtenstein has achieved some modest results since the adoption of the Evaluation Report. Most notably, the establishment in 2013 of the *Working Group for the Prevention of Corruption* with a broad composition and an adequate mandate, covering both preventive and operational aspects of corruption fighting, is a step in the right direction. GRECO also notes in particular that this Working Group has already been active in preparing the ground for the implementation of other recommendations; for example, it has submitted reports and draft texts to establish a code of ethics for public officials and has carried out similar work in the area of whistleblowing protection. As mentioned above, these important issues are currently pending before the Government. Furthermore, Liechtenstein has also strengthened the regime to target proceeds of corruption and to identify customers and beneficiaries in the financial sector.
83. To sum up, the current low level of implementation of GRECO’s recommendations leaves considerable room for improvement. The on-going ratification process of the Criminal Law Convention needs to be completed and the pending recommendations must be dealt with in an expeditious manner. GRECO urges the authorities to pursue their on-going efforts in this respect.
84. GRECO invites the Head of delegation of Liechtenstein to submit additional information regarding the implementation of recommendations i, ii, v-viii, x-xvi and xvii by 30 April 2015.
85. GRECO invites the authorities of Liechtenstein to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make this translation public.