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Addendum

First Evaluation Round

Addendum to the Compliance Report on “the former Yugoslav Republic of Macedonia”

Adopted by GRECO at its 32nd Plenary Meeting
(Strasbourg, 19-23 March 2007)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on “the former Yugoslav Republic of Macedonia” at its 12th Plenary Meeting (9-13 December 2002). The report (Greco Eval I Rep (2002) 7E), which contains 17 recommendations addressed to “the former Yugoslav Republic of Macedonia”, was made public on 28 January 2003.
2. “The former Yugoslav Republic of Macedonia” submitted the Situation Report required by GRECO’s compliance procedure on 18 June 2004. On the basis of this report and a Plenary debate, GRECO adopted the First Round Compliance Report (RC-report) on “the former Yugoslav Republic of Macedonia” at its 21st Plenary Meeting (29 November – 2 December 2004) which was made public on 13 January 2005. The Compliance Report (Greco RC-I (2004) 15E) concluded that recommendations ii, iii, iv, v, vi, vii, viii, ix, x, xii and xiv had been implemented satisfactorily or dealt with in a satisfactory manner. Recommendations i, xi, xiii and xv had been partly implemented and recommendations xvi and xvii had not been implemented; GRECO requested additional information on their implementation. The additional information requested was submitted on 17 November 2006.
3. Pursuant to Rule 31, paragraph 9.1 of GRECO’s Rules of Procedure the objective of the present Addendum to the First Round Compliance Report is to appraise the implementation of recommendations i, xi, xiii, xv, xvi and xvii in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation i.

4. *GRECO recommended to conduct regular studies to improve knowledge of the fields most affected by corruption with a view to developing a detailed corruption picture based on statistics and research to measure more clearly the extent of the corruption phenomenon in the country.*
5. GRECO recalls that the RC-report concluded that additional efforts had to be undertaken to address the concern expressed in recommendation i, notably by conducting regular studies to improve knowledge of the fields most affected by corruption.
6. The authorities of “the former Yugoslav Republic of Macedonia” report that since the adoption of the First Round Evaluation Report, a large number of studies has been conducted on a regular basis to gain a clearer insight into the scale of corruption, including by identifying the areas mainly affected. In addition to the studies reported in the RC-report (surveys on corruption perception; scientific research on the scale of corruption in targeted areas, as for example within the academic system, which were conducted by international and non-governmental organisations), a survey was carried out in early 2006, through the PACO-Impact programme of the Council of Europe, to identify existing and emerging areas of public concern with respect to domestic corruption¹. Four groups were targeted: the judiciary, public administration, health system and professors employed by the State universities. In addition, the State Commission for Preventing Corruption adopted in 2003 the “State Programme for Prevention and Repression of Corruption” and its “Action Plan Matrix”, which contain a comprehensive analysis of the situation

¹ Research report entitled *Public Opinion on Corruption in “the former Yugoslav Republic of Macedonia”*. Saint Cyril and Methodius University of Skopje and Institute for Sociological, Political and Legal Research of Skopje (Skopje, April 2006).

in almost every sector of Government, including a description of the problems and the envisaged reforms required to effectively tackle corruption within each area of concern.

7. Based on the information supplied, GRECO welcomes the steps taken to implement this recommendation. GRECO is hopeful that the authorities of “the former Yugoslav Republic of Macedonia” will continue to assess the phenomenon of corruption in the country and to keep their responses to the problem under permanent review.
8. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation xi.

9. *GRECO recommended to set up a specialised anti-corruption unit, either as a special unit integrated into the new financial police or as a separate body within another State agency. This unit should be responsible for dealing specifically with the prevention, detection and investigation of corruption cases. It also recommended that the unit produce an annual progress report of its activities to be made available to the public.*
10. GRECO recalls that this recommendation was considered partly implemented as there was still room for progress with regard to anti-corruption specialisation of the investigation services, in particular by creating a special body or institution with a multidisciplinary character dealing exclusively or predominantly with the fight against corruption.
11. The authorities of “the former Yugoslav Republic of Macedonia” report that three new bodies have been established in order to comply with the purpose of this recommendation, i.e. a specialised anti-corruption unit within the Financial Police (composed of a multidisciplinary team of police officers, economists and lawyers who were previously working in the Ministry of the Interior, the Public Revenues Office and the Public Prosecutor’s Office, respectively), a Money Laundering and Corruption Department within the Ministry of the Interior, and finally, the Department for Prosecution of Perpetrators of Criminal Acts in the Area of Organised Crime and Corruption within the Public Prosecutor’s Office of “the former Yugoslav Republic of Macedonia”. All the afore-mentioned specialised units prepare annual reports on the activities undertaken and the results achieved; these reports are publicly available. Finally, a body for coordination of the activities carried out in the fight against corruption was established in 2006; it consists of representatives of the Ministry of Justice, Ministry of the Interior, Ministry of Finance, Ministry of Local-Self Government, Secretariat for European Affairs, Agency for Civil Servants, High Public Prosecutor’s Office and Supreme Court.
12. GRECO welcomes both the establishment of the aforementioned specialised units dealing with corruption cases and the introduction of a mechanism to coordinate the activities of the different authorities in charge of the fight against corruption. GRECO also notes that the concern raised by the First Round Evaluation Report concerning the need for a specialised anti-corruption unit with a multidisciplinary character (First Round Evaluation Report, page 24, paragraph 112) has been taken into account when staffing the specialised anti-corruption unit within the Financial Police.
13. GRECO concludes that recommendation xi has been implemented satisfactorily.

Recommendation xiii.

14. *GRECO recommended to create clearly defined conditions and examination procedures for appointment of all new candidates to the Public Prosecution Office and to the Courts valid equally to both prosecutors and judges. It further recommended to undertake all necessary measures to reduce the risk of any interference in the process of nomination of prosecutors and judges.*
15. In the RC-report, GRECO welcomed the initiatives undertaken and under consideration to reduce the risk of interference in the nomination of prosecutors and judges. It considered that such measures, once fully in place, would comply with recommendation xiii.
16. The authorities of “the former Yugoslav Republic of Macedonia” have now informed GRECO that, in December 2005, substantial amendments² were introduced to the Constitution with respect to the organisation of the judiciary (e.g., change of organisation of the courts with a view to their rationalisation and specialisation, possibility for an administrative body to decide on misdemeanours in order to tackle the backlog of pending cases, etc.). In particular, the responsibility for the appointment and dismissal of judges and prosecutors will be entrusted to the Judicial Council and the Public Prosecutors’ Council, respectively, with a view to ensuring the independence of these professionals from inappropriate political influence. Members of the Judicial Council are in the process of being nominated: 8 judges were elected in November 2006 and 5 additional members are to be elected in the forthcoming months. A draft Law for the Public Prosecutor’s Council has been prepared in close cooperation with a number of international organisations (OSCE, Council of Europe – Venice Commission) and currently awaits adoption by the Parliament.
17. The Prosecutor General continues to be appointed by the Parliament, but additional safeguards have reportedly been introduced to prevent potential political pressures on the leadership of the Public Prosecution Office as the Government would now need the prior consent of the Public Prosecutors Council before proposing to the Parliament a candidate.
18. Further in May 2006, a new Law on Courts was adopted; it develops the afore-mentioned constitutional amendments concerning the election of judges and stresses the role that education and training are to play in the future with the establishment of an Academy for the Training of Judges and Prosecutors.
19. Finally, the authorities of “the former Yugoslav Republic of Macedonia” consider that the legal framework for the reform of the judiciary is now completed and indicate that priority is given to completing the nomination of the members of the Judicial Council and setting out the legal basis for the establishment of the Public Prosecutor’s Council.
20. GRECO welcomes the legal and institutional measures introduced to comply with the recommendation, which have the potential of strengthening the independence of judges and prosecutors. However, it cannot change its previous conclusion until the establishment of the Judicial Council and Public Prosecutor’s Council has been completed in practice.
21. GRECO concludes that recommendation xii has been partly implemented.

² Constitutional amendments XXIV, XXVIII, XXIX and XXX.

Recommendation xv.

22. *GRECO recommended to amend the national legislation to ensure that the procedure for deciding on immunities of members of Government is not carried out by the Government itself.*
23. GRECO recalls that, pending adoption of Constitutional amendments with regard to the immunity of members of the Government, the recommendation was partly implemented.
24. The authorities of “the former Yugoslav Republic of Macedonia” state that the amendments introduced to the Constitution³ and the Law on the Government establish that, with respect to the Government, only the President of the Government enjoys immunity and this immunity is decided by the Assembly.
25. GRECO concludes that recommendation xv has been implemented satisfactorily.

Recommendation xvi.

26. *GRECO recommended to establish guidelines for Deputies of the Assembly, and especially its Committee on Immunities, containing criteria to be applied when deciding on requests for lifting immunities.*
27. GRECO recalls that in the RC-report it considered that the concerns expressed in recommendation xvi had not been adequately addressed.
28. The authorities of “the former Yugoslav Republic of Macedonia” report that this issue has been subject to further consideration and has accordingly been introduced in the amended Rules of Procedure of the Assembly, which are to be adopted in the first half of 2007.
29. Pending adoption of the amended Rules of Procedure of the Assembly, which are to include guidelines containing criteria to be applied when deciding on requests for lifting immunities, GRECO can only conclude that recommendation xvi has not been implemented.

Recommendation xvii.

30. *GRECO recommended to reduce the list of categories of officials covered by immunity to a minimum.*
31. GRECO concluded in the RC-report that the recommendation was not implemented as no concrete action or activities had been undertaken to reduce the categories of officials benefiting from immunity.
32. The authorities of “the former Yugoslav Republic of Macedonia” report that, following amendments to the Constitution⁴, the list of categories of officials covered by immunity has been significantly reduced to the President of “the former Yugoslav Republic of Macedonia”, the President of the Government and the representatives of the Assembly. Therefore, immunity no longer applies to Government ministers, public prosecutors or members of the Judicial Council. Finally, judges would only benefit from procedural immunity.

³ Constitutional amendment XXIII.

⁴ Constitutional amendments XXIII, XXVII, XXVIII, XXX.

33. GRECO acknowledges the efforts undertaken by “the former Yugoslav Republic of Macedonia” to amend its Constitution in order to allow for the fulfilment of this recommendation and concludes that recommendation xvii has been implemented satisfactorily.

III. CONCLUSION

34. In addition to the conclusions contained in the First Round Compliance Report on “the former Yugoslav Republic of Macedonia” and in view of the above, GRECO concludes that recommendations i, xi, xv and xvii have been implemented satisfactorily. Recommendation xiii remains partly implemented and recommendation xvi not implemented. In this connection, GRECO encourages the authorities of “the former Yugoslav Republic of Macedonia” to pursue the ongoing reform of the judiciary and the prosecution with a view to effectively ensuring the independence of judges and prosecutors. Finally, GRECO hopes that guidelines containing criteria regarding the lifting of immunity of Deputies of the Assembly will be introduced in the very near future.
35. The adoption of the present Addendum to the Compliance Report terminates the First Evaluation Round compliance procedure in respect of “the former Yugoslav Republic of Macedonia”.
36. Finally, GRECO invites the authorities of “the former Yugoslav Republic of Macedonia” to translate the Addendum into the national language and to make this translation public.