



Strasbourg, 1 July 2005

Public
Greco RC-I (2003) 8E
Addendum

First Evaluation Round

Addendum to the Compliance Report on the United Kingdom

Adopted by GRECO
at its 24th Plenary Meeting
(Strasbourg, 27 June – 1 July 2005)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on the United Kingdom at its 6th Plenary Meeting (10-14 September 2001). This report (Greco Eval I Rep (2000) 8E Final) was made public by GRECO, following authorisation by the United Kingdom authorities on 9 October 2001.
2. The United Kingdom submitted the Situation Report required by GRECO's compliance procedure on 31 March 2003 concerning the implementation of the recommendations. On the basis of this report and a Plenary debate, GRECO adopted the First Round Compliance Report (RC-report) on the United Kingdom at its 14th Plenary Meeting (7-11 July 2003). This report was made public on 22 August 2003. The Compliance Report (Greco RC-I (2003) 8E) concluded that eight of the twelve recommendations (i, ii, v, vi, viii, ix, x and xi) had been implemented satisfactorily or dealt with in a satisfactory manner, whereas one recommendation (iii) had not been implemented and three of the recommendations (iv, vii and xii) had been partly implemented; GRECO requested additional information on their implementation. The additional information requested was submitted on 14 March 2005.
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 iii, iv, vii and xii, in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation iii.

4. *GRECO recommended that local authorities in Northern Ireland should benefit from a government-ethics statutory framework similar to the one contained in the Local Government Act 2000 and the Ethical Standards for Public Life etc. (Scotland) Act 2000.*
5. GRECO recalls that it in the RC-report welcomed the developments underway towards a statutory ethics-framework for local authorities in Northern Ireland, but in the absence of any form of mandatory standards, GRECO concluded that recommendation iii had not been implemented.
6. The authorities of the United Kingdom have reported that in April 2003, the Department of the Environment issued a revised voluntary code of recommended practice for the guidance of district councillors in Northern Ireland. The Code, which is based on a model code of conduct for local government members as provided for in legislation in Great Britain, also takes into account recommendations of "the Nolan Report on Standards in Public Life", and replaced the former code which was issued in October 1992. Moreover, the intention of the Department of the Environment is to review the need to make this Code mandatory in line with statutory developments on codes of ethics elsewhere in the public sector. In February 2005, the Department of the Environment therefore invited local government representative organisations to take part in a working group to review the current Code and to make recommendations for a revised Code taking into account the possible need to make the code mandatory with associated monitoring, enforcement and appeal procedures. The review began in April 2005.
7. GRECO took note of the new information provided. GRECO welcomes the continuing process towards a statutory ethics-framework, however, it could not change its previous conclusion in the

absence of any form of established mandatory ethical standards for local authorities in Northern Ireland.

8. GRECO concludes that recommendation iii has not been implemented.

Recommendation iv.

9. *GRECO recommended that the system for the registration of the interests of the Members of the House of Commons should be extended to cover the exact amount of donations, the interests of all "key connected persons" and all shareholdings; that the Parliamentary Commissioner of Standards' powers and duties should be put on a statutory basis to remove any possible doubts about his/her authority to compel production of information and attendance; and, finally, that the House of Lords should adopt a system of registration of interests with a commissioner along the lines of those of the House of Commons.*
10. GRECO recalls that it in the RC-report considered that the United Kingdom had not followed the first part of the recommendation as the system of registration had not been extended to cover an exact amount of donations, nor the interests of all "key connected persons" and did not cover all shareholdings. GRECO was however, satisfied that a system for registration of the interests of the Members of the House of Lords had been established, but noted that no autonomous body had been established to monitor the implementation, for which reason the third part of the recommendation was considered as only partly complied with.
11. The authorities of the United Kingdom have reported that in respect of the *House of Commons*, the Committee on Standards and Privileges completed a review of the Code of Conduct on 4 April 2005. The proposed revised Code emphasises Members' duties towards the Parliamentary Commissioner for Standards and the Committee on Standards and Privileges. It is anticipated that the House will debate and agree this before the Summer recess (July 2005). In respect of the *House of Lords*, when it agreed to a Code of Conduct and full disclosure of interests in 2001, it was also decided that this would be subject to review after 18 months. In 2003, the Working Group established to review the operation of the code came to the conclusion that it could not recommend any changes to the system at that time since there was not enough experience of how it was working in practice. It is probable that the composition and powers of the House will be examined and amended in the course of the present Parliament. Following any such changes, the new-style House may reconsider the operation of the code of conduct and the appointment of an independent commissioner. It must be remembered, however, that the House of Lords is traditionally self-regulating (leaving it to individual Members to decide how to behave, rather than imposing collective rules), and **important groups within the House are reluctant to change this tradition**. It should also be recognised that the current arrangements involve a significant degree of autonomy: the sub-committee on Lords' Interests is chaired by a retired judge and many day to day duties fall to the Registrar of Interests. Furthermore, the authorities have emphasised that the United Kingdom Government has no power to impose regulation on either House of Parliament; the freedom of each House to regulate its own affairs is a historic feature of the British constitutional arrangements, and regarded as a safeguard of democracy.
12. GRECO took note of the information provided and welcomes the further progress reported. It recognises that the final steps to be taken are subject to the democratic process in Parliament. GRECO therefore considers that recommendation iv, although not yet fully implemented, has been satisfactorily dealt with.

13. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

Recommendation vii.

14. GRECO recommended that *the decisions by all United Kingdom prosecuting authorities on whether to prosecute or not should be taken with reference to a set of clearly defined criteria to be found in either the Code of Crown Prosecutors or counterpart provisions; the aim of this recommendation is to extend such criteria to United Kingdom prosecuting authorities not currently bound.*
15. GRECO recalls that it in the RC-report concluded that only with regard to Northern Ireland there was a need to develop criteria for the prosecution service; GRECO considered that Northern Ireland did not benefit directly from "clearly defined criteria", for example, established in either the Code of Crown Prosecutors or counterpart provisions, on whether to prosecute or not in corruption cases.
16. The authorities of the United Kingdom have in this respect reported that a draft Code of practice for prosecutors was issued by the Director of Public Prosecutions for Northern Ireland (DPP) for consultation in 2004. A new version of the Code taking account of appropriate comments from the consultation process was published in June 2005. The Code is available on the Internet (<http://www.ppsni.gov.uk/site/default.asp>) and also in hard copy. The Code gives guidance on general principles to be applied (a) in determining, in any case, whether proceedings should be instituted or, where criminal proceedings have been instituted, whether they should be discontinued, and (b) in determining, in any case what charges should be preferred. Moreover, the Code sets out in detail the test for prosecution; prosecutions are initiated or continued by the Public Prosecution Service where it is satisfied that (i) the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction - the evidential test; and (ii) prosecution is required in the public interest - the public interest test. The Code also sets out, in detail, common public interest considerations for and against prosecution. Broadly, the presumption to be applied is that the public interest requires prosecution where there has been a contravention of the criminal law. Furthermore, the Code includes ethical guidelines, laying down standards of conduct and practice.
17. GRECO concludes that recommendation vii has been implemented satisfactorily.

Recommendation xii.

18. *GRECO recommended to exempt corruption offences from the application of Article 9 of the Bill of Rights.*
19. GRECO recalls that the position of the GET in the First Round Evaluation Report on the United Kingdom (paragraph 97) was that the "United Kingdom Law provides for immunity from prosecution in very limited situations" and the only issue that appeared to exist was that contained in Article 9 of the Bill of Rights. Moreover, there was already - before the adoption of the recommendation – the intention by the Government to exempt corruption offences from the application of Article 9, which was supported by GRECO. In the compliance procedure it was concluded that recommendation xii had been partly implemented as the Government – but not yet Parliament - had agreed to exempt corruption offences from the application of Article 9 of the Bill of Rights through the Corruption Bill.

20. The authorities of the United Kingdom have now reported that the factual situation remains the same and that this issue will continue to be pursued. Moreover, the authorities point out that GRECO in its Fifth General Activity Report (Greco (2005) 1 Final), Section X concludes *inter alia* that countries which have immunity only for Heads of States and a “freedom of speech exemption” for Parliamentarians meet the requirements of Guiding Principle 6.
21. GRECO notes that so called “freedom of speech immunity” in Parliament has generally not been an issue of concern by GRECO during its First Evaluation Round. At the same time it recalls that GRECO evaluates each Member on its own merits and this recommendation was adopted in order to support an initiative of the United Kingdom Government (“Home Office White Paper” at the time of the visit by the GET) to exempt corruption offences from the scope of Article 9 of the Bill of Rights (which prevents evidence being given in court which question proceedings in Parliament). As already stated in the Compliance Report, the “Corruption Bill”, which was published in March 2003, reflects this exemption. GRECO has since then not received any new information on the progress with regard to this Bill of the Government, more than that the authorities will continue to pursue the issue. GRECO maintains its previous conclusion.
22. GRECO concludes that recommendation xii has been partly implemented.

III. CONCLUSION

23. In addition to the conclusions contained in the First Round Compliance Report on the United Kingdom and in view of the above, GRECO concludes that recommendation vii has been implemented satisfactorily and recommendation iv has been dealt with in a satisfactory manner. Recommendation xii remains partly implemented and recommendation iii not implemented. GRECO is pleased that the outstanding recommendations are in the process of being dealt with and encourages the United Kingdom authorities to ensure that they will be implemented as soon as possible.
24. The adoption of the present Addendum to the Compliance Report terminates the First Evaluation Round compliance procedure in respect of the United Kingdom.