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Addendum

First Evaluation Round

Addendum to the Compliance Report on Albania

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

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Albania at its 12th Plenary Meeting (13 December 2002). This report (Greco Eval I Rep (2002) 9E), which contains 11 recommendations addressed to Albania, was made public on 3 March 2003.
2. Albania submitted the Situation Report required by GRECO's compliance procedure on 9 August 2004. On the basis of this report and a Plenary debate, GRECO adopted the First Round Compliance Report (RC-Report) on Albania at its 21st Plenary Meeting (on 2 December 2004) which was made public on 28 January 2005. The Compliance Report (Greco RC-I (2004) 11E) concluded that recommendations i, v, vi and vii had been implemented satisfactorily. Recommendation xi had been dealt with satisfactorily. Recommendations ii, iii, iv, viii, ix and x had been partly implemented; GRECO requested additional information on their implementation. This information was submitted on 8 November 2006.
3. In accordance with 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 ii, iii, iv, viii, ix and x in the light of the additional information referred to in paragraph 2.

II. ANALYSIS

Recommendation ii.

4. *GRECO recommended to improve the transparency of public authorities vis-à-vis media and the wider public through implementation of the legislation on access to public information and documents.*
5. GRECO recalls that in the RC-Report it acknowledged that several positive measures had been introduced to improve the transparency of public authorities vis-à-vis the media and the public at large. However, GRECO concluded that this recommendation had been partly implemented to the extent that further progress was needed concerning, for example, the central institutions and local authorities.
6. The Albanian authorities indicate that the right to information, as well as the transparency in State public administration, are a priority in their fight against corruption. In this connection, the Government has reinforced access to information by guaranteeing greater transparency in its work: improvement/creation of websites for ministries and central and decentralised institutions, including practical information on their functioning¹ (e.g. declarations of assets by civil servants, data on budget and operational expenditure, contact details of officials – in particular, information officers, drafts of legislation underway, public procurement notices, etc); setting up/strengthening public information units in ministries; reinforced processing and communication of replies to information requests or complaints lodged by citizens; special telephone "hotlines" and post boxes for submitting complaints and reports in cases of suspicion of corruption²; public awareness campaigns on corruption issues, etc.

¹ Prime Ministerial Order No. 202 of 16 December 2005 on reinforcement of transparency by increasing the use of internet and improving existing websites.

² Prime Ministerial Order No. 208 of 29 December 2005 on provision of free telephone numbers for reporting cases of corruption.

7. The authorities added that the same process of improving transparency and increasing access to information for the public and the media had been conducted in the courts, the Office of the Prosecutor General and the judicial police at central and regional level. For instance, automated management of cases has been extended to five further regional courts, facilitating publication on their respective websites of all relevant information on cases pending and completed cases, including the texts of the final decisions and any intermediate decisions taken during the proceedings. Furthermore, Order No. 257 of 14 December 2005 on communication with the public and the media and preservation of secrecy vis-à-vis judicial investigations provides that directors of prosecutor's offices within the courts of first instance and courts of appeal, as well as the spokesperson for the Prosecutor General, must inform the general public and the media of the activities of the public prosecutor (indicators on criminal investigations, charges brought before the courts and enforcement of criminal-law decisions) and general or particular crime problems in their judicial district, avoiding publishing any information liable to hamper investigations or infringe the dignity or privacy of individuals, the rights of minors or public morals.
8. Moreover, since 2004 the right to information has been the subject of a special training module prepared and given by the Training Institute of Public Administration (TIPA) to central and local government staff. Over the last two years, training seminars on this subject have been held for more than 100 central and local government officials.
9. Furthermore, in 2005 the People's Advocate (Ombudsperson), as an institution legally empowered to supervise and monitor the implementation of the legislation on the right to information, devised a standard set of regulations on the right to information, drawing on the co-operation and efforts of the public institutions and international donors concerned. These regulations were presented in the form of a recommendation to the Government with an eye to implementing them and guaranteeing harmonisation in this field. The public institutions are supposed firstly to use this document to ensure uniform application of the legislation on the right to information, and secondly to ensure that it serves as a model for facilitating implementation and improved public awareness in this area.
10. Lastly, various civil society bodies and government institutions have conducted studies and surveys within the public administration on different aspects of the right to information and transparency, subsequently publishing the results of these initiatives.
11. GRECO has taken note of the new information reported, and welcomes the implementation of a wide range of measures, at both the central and local level, geared to improve the transparency of public authorities. It encourages Albania to continue its efforts in this field.
12. GRECO concludes that recommendation ii has been implemented satisfactorily.

Recommendation iii.

13. *GRECO recommended to systematically collect and process in a coherent way data concerning corruption, in particular in fields where there are particular corruption problems encountered.*
14. GRECO recalls that it concluded that this recommendation had been partly implemented to the extent that the efforts to systematically collect and process data on corruption were still in their initial stages.

15. The Albanian authorities report that as far as the collection, processing and publication of data on corruption are concerned, the Ministry of Justice publishes an Annual Statistical Report including information on completed cases and the decisions given by the three levels of courts in Albania. The statistics comprise general and specific data on the number and length of sentences, completed cases, the different subjects addressed, developments and comparative studies vis-à-vis previous years. Corruption-related statistics are also gathered by the Office of the Prosecutor General, the State Supreme Audit and the Directorate General of Internal Auditing within the Ministry of Finance.
16. Furthermore, the Internal Control Department and the bodies dealing with economic crime within the Ministry of the Interior, as well as the State Police Service, manage and analyse crime statistics, including those relating to corruption offences. These data are available on internet, and are evaluated in periodical analyses, which are regularly transmitted to other relevant bodies.
17. The Department for Internal Administrative Control (DIAC), which operates under the authority of the Council of Ministers, is responsible for preparing regular consolidated reports on anti-corruption measures based on its own activities and information collected by the ministries and institutions working under its authority. Finally, the Anti-Corruption Task Force (ACTF) is the central body responsible, *inter alia*, for analysing the situation regarding corruption, defining strategic priorities, objectives and concrete measures in the fight against corruption, and securing inter-institutional cooperation. In general, corruption problems brought to light through the statistics provided by the different institutions are followed up, after systematic analysis, by legal measures in order to improve certain areas of concern (for example regarding the restitution and compensation of property or the registration of real estate).
18. In the light of the foregoing, GRECO concludes that recommendation iii has been implemented satisfactorily.

Recommendation iv.

19. *GRECO recommended that the organisational structures of the police be reconsidered with a view to establishing a higher degree of organisational autonomy of the police.*
20. In its RC-Report GRECO acknowledged that some steps had been taken to improve the organisational structures of the police and its capacity for combating corruption; however, the information supplied by the Albanian authorities did not clearly show that the main concern of this recommendation, namely police independence from the political sphere, was appropriately addressed. Consequently, it concluded that this recommendation had only been partly implemented.
21. The Albanian authorities explain that with the reorganisation of the State Police Service the structures for combating economic crime and corruption will be upgraded (the current body will be replaced by a Directorate against Economic Crime and Corruption). Staffing will be increased in this Directorate, to include specialists with specific knowledge and know-how in the field of investigating corruption offences. Moreover, the draft law on the State Police Service provides for amending the powers of the Minister of the Interior, who will no longer be responsible for operational management of the police. Lastly, the harmonisation of the grades held by police officers vis-à-vis their actual duties, which is intended to reinforce police independence and autonomy, has now been completed.

22. GRECO notes that the Albanian authorities have taken due account of this recommendation and that progress is under way, including police reorganisation and the development of a legal framework intended to reinforce police autonomy and independence. GRECO encourages Albania to take the requisite steps to ensure that the reforms in question are completed as soon as possible.
23. GRECO concludes that recommendation iv has been dealt with in a satisfactory manner.

Recommendation viii.

24. *GRECO recommended that a more explicit regulation of the People's Advocate be put in place and the public awareness of the People's Advocate be increased. Moreover, Albania should consider allowing the People's Advocate to carry out reviews ex officio.*
25. GRECO recalls that in its RC-Report it concluded that the recommendation had been only partly implemented because a draft law intended to reinforce the powers of the People's Advocate (ombudsperson) had not yet been adopted. Furthermore, GRECO reaffirmed its position that it would be better if the People's Advocate could take action without the consent of the person affected in cases of corruption.
26. The Albanian authorities report that the People's Advocate is currently in his 6th year of activity. Public knowledge of this figure and public education about his role and work have been reinforced by practical awareness-raising measures, e.g. publication of the booklet "The People's Advocate" (2006) and the intensification of "Open Day" activities, which are now held nationwide. In this context, the People's Advocate and his team are now handling an average 4 000 complaints per year.
27. Moreover, Law No. 9398/2005 empowers the People's Advocate to take binding decisions vis-à-vis the public institutions, for instance allowing him/her to suspend administrative decisions and impose sanctions where such institutions fail to respond to his/her recommendations within a fixed deadline.
28. In connection with *ex officio* initiation of reviews of corruption cases, the People's Advocate stresses that he will not hesitate to do so, while retaining his specific role in order not to interfere with other governmental and State agencies more specialised in this field. In this connection the People's Advocate has denounced various forms of "State capture" leading to improper situations (e.g. in the fields of energy and telephone services). Lastly, the legislative amendments established under Law No. 9398 empower the People's Advocate to conduct reviews *ex officio* in the absence of the consent of the party concerned (1) in the case of (under-age or adult) persons lacking in legal capacity, and (2) in defending the interests of a large community.
29. GRECO concludes that recommendation viii has been implemented satisfactorily.

Recommendation ix.

30. *GRECO recommended that the independence and specialisation of the Public Procurement Agency be considerably strengthened, that staff, to the extent possible, be given civil servant status and that training be institutionalised and focused on anti-corruption measures.*

31. GRECO recalls that in its RC-Report it welcomed the measures implemented to improve the training and specialist skills of the Public Procurement Agency (PPA) and to increase its autonomy by means of a specific budget and staff enjoying civil servant status. However, GRECO noted that the independence of the PPA could still be improved. Consequently, GRECO concluded that recommendation ix had only been partly implemented.
32. The Albanian authorities point out that the legislation on public procurement has been and is still being amended to bring it into line with EU law. Since September 2004 Albania has been in receipt of technical assistance under the EU's CARDS Programme with a view to harmonising national provisions with the *acquis communautaire* in this field and improving the PPA's human resources (specialisation and institutionalised training under a new Training Strategy³) and technical resources (developing information technology, including a new website). In addition, 5.8 million dollars USD have been granted through a USAID technical assistance programme (2006-2008) aimed at strengthening transparency and minimising the risk of corruption in public procurement processes. Furthermore, the PPA's staffing was increased from 25 in 2004 to 27 in 2006. In connection with transparency and the fight against corruption, specific measures were introduced such as hotlines for reporting cases of corruption, an internal regulation on preventing conflicts of interest, etc.
33. In order to strengthen the independence and stability of the PPA, the new Law on Public Procurement⁴ determines that PPA staff members, including its Director and Vice-director, have civil servant status. A further innovation in the aforementioned law is the setting-up of the independent institution of the Public Procurement Advocate, who is elected by the National Assembly to defend the rights of parties to public contracts and concessions by monitoring procurement activities and by carrying out inspections to prevent potential infringements of the law. The legislative amendments recently introduced⁵ also concern the responsibilities of the PPA in conducting independent verification of concession contracts and all forms of partnership between the public and private sectors. Finally, a handbook on public procurement is being drafted. Further training needs are being assessed to promote greater awareness of the recently introduced legal framework on public procurement.
34. GRECO takes note of the new legal and institutional measures which have been introduced by the Albanian authorities with a view to reinforcing the independence and specialisation of the Public Procurement Agency. Given that some of the activities are still in their initial stages, GRECO is not in a position to assess the impact of these measures in practice. It earnestly hopes, however, that the Albanian authorities will pursue their efforts to shield public procurement activities from any political interference and minimise the risk of corruption in this field.
35. GRECO concludes that recommendation ix has been implemented satisfactorily.

Recommendation x.

36. *GRECO recommended that the State Supreme Audit at the outset of the fiscal year should announce a public statement reflecting the scope and justification for planned activities, and that*

³ Training was provided from May to October 2006 for all civil servants responsible for public procurement procedures in municipal councils, prefectures, courts, police directorate generals, ministries and central institutions. The main aim of the training was to familiarise participants with the principles and main procedures governing public procurement in EU law, as well as to exchange experience with other participants regarding problems encountered in the course of their duties (e.g. various possible interpretations of current legislation, conflicts of interest, cases of corruption, etc).

⁴ Law No. 9643 of 20 November 2006 on Public Procurement.

⁵ Law No. 9663 of 18 December 2006 on Concessions.

the State Supreme Audit be given adequate and predictable budgetary means to plan and fund their intended activities.

37. GRECO recalls that in its RC-Report it concluded that recommendation x had been partly implemented because the procedure of budget approval for the Supreme State Audit might still hinder the implementation of the objectives for the year to come.
38. The Albanian authorities reiterate that the Supreme State Audit's (SSA) annual activity report, which is tabled in the National Assembly every year, sets out the objectives for the coming year and lists the bodies to be audited and the financial resources needed to carry out the corresponding work. The report is made public and is also available on the SSA website. In connection with the budget totals earmarked for the work of the SSA, the Government undertook in its programme for 2005-2009 to conduct a thorough reform of the public finance planning system by reinforcing and consolidating the audit system at all levels. Against a background of significant cuts in public-sector budgets, explaining the 13.7% reduction in the Council of Ministers' budget for the year 2006, the sums allocated to the SSA have increased by 4% as compared to 2005.
39. GRECO takes note of the measures adopted by the Albanian authorities. Although no procedural change in the system of budget approval has been introduced since the adoption of the RC-Report, it would appear that the issues raised by the Second Round Evaluation Report have been addressed, in particular by ensuring the publicity of the SSA's future objectives and by providing the SSA with the financial resources required in order to carry out its auditing duties.
40. GRECO concludes that recommendation x has been dealt with in a satisfactory manner.

III. CONCLUSION

41. In view of the foregoing comments, GRECO concludes that recommendations ii, iii, viii and ix have been implemented satisfactorily and that recommendations iv and x have been dealt with in a satisfactory manner. GRECO considers that an impressive number of anti-corruption measures have been introduced over the last few years. It encourages Albania to continue its efforts to reinforce the independence of the police and public procurement procedures.
42. The adoption of this Addendum to the Compliance Report terminates the First Evaluation Round compliance procedure on Albania.
43. Finally, GRECO invites the authorities of Albania to translate the Addendum into the national language and to make this translation public.