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First Evaluation Round

Compliance Report on Albania

Adopted by GRECO
at its 21st Plenary Meeting
(Strasbourg, 29 November - 2 December 2004)

I. INTRODUCTION

1. GRECO adopted the First Round Evaluation Report on Albania at its 12th Plenary Meeting (9-13 December 2002). This Report (Greco Eval I Rep (2002) 9E) was made public by GRECO, following authorisation by the authorities of Albania, on 13 December 2002.
2. In accordance with Rule 30.2 of GRECO's Rules of Procedure, the authorities of Albania submitted their Situation Report (RS-Report) on the measures taken to follow the recommendations on 9 August 2004.
3. At its 19th Plenary Meeting (28 June – 2 July 2004), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, the Czech Republic, and the Netherlands to provide Rapporteurs for the compliance procedure. The Rapporteurs appointed were Ms Karin BINDEROVA, on behalf of the Czech Republic and Ms Tania VAN DIJK, on behalf of the Netherlands. The Rapporteurs were assisted by the GRECO Secretariat in drafting the Compliance Report (RC-Report).
4. The RC-Report was adopted by GRECO, following examination and debate pursuant to Rule 31.7 of the Rules of Procedure, at its 21st Plenary Meeting (29 November - 2 December 2004).
5. Under Article 15 para. 6 of the GRECO Statute and Rule 30.2 of the Rules of Procedure, the objective of the RC-Report is to assess the measures taken by the authorities of Albania and, their effectiveness in complying with the recommendations contained in the Evaluation Report.

II. ANALYSIS

6. It was recalled that GRECO in its Evaluation Report addressed 11 recommendations to Albania. Compliance with these recommendations is dealt with below.

Recommendation i.

7. *GRECO recommended to amend the National Anti-Corruption Plan explicitly with a stronger notion of involvement of the civil society and the business sector in the implementation of the Plan and, to strengthen the involvement of civil society and the business sector in the activities of the Anti Corruption Monitoring Group (ACMG).*
8. The authorities of Albania have reported that the prevention of and the fight against corruption remains one of the highest priorities of the Government and that special attention is given to co-operation with civil society and the business community.
9. In order to further strengthen the involvement of civil society and the business sector in the activities of the Anti Corruption Monitoring Group (ACMG), hearings with representatives of the business community, civil society and trade unions are organised at the ACMG Board meetings. By virtue of Order No. 252 of the Prime Minister of 23.9.2002, the ACMG structure has been revised, *inter alia*, to make the Albanian Coalition against Corruption (ACAC) - which is a civil society umbrella network including more than 160 NGOs and representatives from main business community organisations - a full member of the ACMG Board.
10. Moreover, civil society and the business community have participated actively in a large number of projects/activities aiming at preventing and fighting corruption; in particular in the revision of the

Anti-Corruption Action Plan (2003) as well as in the implementation of particular projects, such as studies and drafting of legislation in the fields of awareness, education and policies. The Albanian authorities have provided a list of pertinent activities.

11. GRECO notes that the involvement of civil society and the business sector in the National Anti Corruption Plan and the ACMG has increased considerably. GRECO encourages Albania to continue these commendable efforts.
12. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

13. *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.*
14. The authorities of Albania have recalled that Article 23 of the Constitution guarantees the right to information, including the right to obtain information about activities of state organs. The authorities have also referred to the “Code of Administrative Procedures” (1999) and the “Law on the Right to Information from Official Documents” (1999).
15. The authorities have added that a new law “on the declaration and audit of assets, financial obligations of elected persons and certain public officials” (2003) contributes to increasing transparency as data obtained from such declarations are in principle available to the public.
16. Moreover, each ministry has established, in 2002/2003, a spokesperson’s office, departments and offices for public relations, websites etc., designed to offer comprehensive information on a daily basis on the activities of the ministries. In addition, a working group established in 2003 - headed by the deputy Minister of Economy - has stated that Public Information Offices should be opened in all central administrative institutions in order to provide information to the general public. Training workshops on public information legislation for public information officials at local government level and for the judicial administration officials are foreseen.
17. GRECO welcomes the measures reported to improve the transparency of public authorities vis-à-vis the media as well as the general public. The establishment of a spokesperson in each ministry is particularly interesting. It appears that the main focus of the reform has been on ministries and that further progress would be needed concerning, for example, the central institutions and local authorities.
18. GRECO concludes that recommendation ii has been partly implemented.

Recommendation iii.

19. *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.*
20. The authorities of Albania have reported that the recently established “Triangle Commission on Exchange of information and Cooperation on data in the Field of Corruption” (2003), is to exchange knowledge of corruption. The parties to this Commission (Minister of State to the Prime Minister, the Prosecutor General and the ACAC) exchange information on, *inter alia*, criminal

offences relating to corruption and abuse of powers. Each party and institution is responsible for the collection and processing of the data they have. The Office of the Minister of State for Coordination officially collects such information from all central government institutions and reports on this to the "Triangle Commission". From October 2003 to May 2004, the Commission organised many meetings and made several analyses. According to the figures available, in 2003, 255 persons were referred to the General Prosecutor's Office and criminal charges for corruption were brought against 224 of them; 107 persons were tried in Court and 92 were sentenced by Court. For the period of January - May 2004, central administration institutions reported that 138 persons had been referred to the General Prosecutor's Office for corruption offences (9 of them involving high ranking police officers).

21. Since 2000, the Directorate for the Coordination of the Fight against Money Laundering collects and processes suspicious transaction reports on money laundering cases, where the predicate offences might also be corruption. The Supreme State Audit forwards to the General Prosecution Office cases under their field of competence where a corruption offence has been detected. In order to ensure transparency, reports and other relevant information are made public. The Ministry of Justice, in close cooperation with the Ministry of Public Order, the General Prosecution Office and the Courts, have elaborated criteria for information required to be collected and processed for statistical purposes, including corruption-related offences. Since 2002, the comprehensive Annual Statistical Book is published regularly by the Ministry of Justice.
22. GRECO welcomes the important progress reported by the Albanian authorities with a view to collecting and processing data concerning corruption from all central government institutions in a coherent way. The central collection of corruption information by the Office of the Minister of State and the subsequent work of "the Triangle Commission" appear to be a very important step forward, but as this work is still in the initial stages, GRECO can only conclude that this recommendation has been implemented partly.
23. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

24. *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.*
25. The authorities of Albania have referred to the "Law on the State Police" (1999) which defines the role of the Police under the authority of the Minister of Public Order. Furthermore, the principles of organisational autonomy of the State Police is sanctioned with the adoption of the "Law on the Ranks in the State Police" (2000), which defines the criteria for career development and ranks. According to this Law and a decision of the Council of Ministers (No 64/2001) there is a ranking system in place which applies to all state police forces. It is also considered to harmonise the ranks of state police forces with their functions in order to enhance the independence and the autonomy of the police.
26. The authorities have furthermore indicated that organisational changes of the structure of the police have been carried out in 2004 (or are under way), *inter alia* the establishment of a Directorate on economic crime and corruption, a Directorate on organised crime and witness protection, as well as a Task force against organised crime, all of them being closely inter-linked with the General Prosecutor's Office. Moreover, the Council of Ministers has adopted a decree

(No 82/2004) moving the General Directorate of the State Police to new headquarters in order to strengthen and enhance the administrative and organisational autonomy of the State Police.

27. The Albanian authorities have stated that as a result of the above changes, the police is less dependent upon political influence; the powers of the Ministry of Public Order are basically related to the implementation of Government policies.
28. GRECO welcomes the measures reported by Albania with a view to improving the organisational structures of the police and its capacity to fight corruption. The focus of this recommendation was the autonomy of the police vis-à-vis the political sphere (especially considering that the Minister of Public Order can make use of operational powers in individual cases). It is unclear to what extent the Albanian authorities have considered this particular matter.
29. GRECO concludes that recommendation iv has been partly implemented.

Recommendation v.

30. *GRECO recommended that specialised education and training of police, prosecutors and judicial police on corruption (in particular its typologies and the international dimension) and its links to connected crime be arranged.*
31. The authorities of Albania have reported that in 2003/2004, 101 Police officers were trained and became specialised in the fight against corruption and the use of investigative techniques. Seven specialised training sessions were organised by the Police Academy in co-operation with international organisations and individual countries. One of the main topics of these training programmes was corruption in public institutions and within the police. In cooperation with the School of Magistrates three training sessions during 2003 have been carried out on “criminal offences against corruption and the methodology of its investigation”: 60 prosecutors and judicial police officers took part. Several training activities were carried out by the School of Magistrates in 2003-2004 for judges and prosecutors, specifically on economic crime, corruption, investigative techniques, tenders, seizure and confiscation of proceeds of crime with Council of Europe support. Moreover, two training sessions during the first half of 2004 on “criminal offences in the taxation sector and economic crime” were attended by almost 60 public officials from the Directorate of Taxes Office, the Tirana Police Directorate (Economic Crime Division) and prosecutors from the Economic Crime Division of the Tirana Prosecution Office. Finally, the Department of Coordination of the Fight against Money Laundering also organised several training sessions during 2003-2004.
32. GRECO concludes that recommendation v has been implemented satisfactorily.

Recommendation vi.

33. *GRECO recommended that the conditions for using special investigative techniques in cases involving serious corruption be reconsidered, keeping in mind the need to respect the principle of proportionality and existing constitutional and legal safeguards.*
34. The authorities of Albania have reported that following amendments to the “Criminal Procedure Code” in 2004 (No. 9187) the law provides for the application of special investigative means such as: taping in public and private places, simulating acts, undercover infiltration, etc (Sections 2; 3; 4 and 7 of the Law). Application of these methods could be carried out during the investigation of

corruption-related offences. The authorities have stated that the new forms of special investigative means contribute to the quality of the investigations and an increased number of persons convicted for corruption and organised crime.

35. GRECO concludes that recommendation vi has been implemented satisfactorily.

Recommendation vii.

36. *GRECO recommended that the conditions of judges, in particular those of the district courts, be improved and that the present evaluation system of judges – within its constitutional framework – be reconsidered, in order to develop an accountability mechanism of the judges without undue interference with their independence and impartiality.*
37. The authorities of Albania have reported that a number of amendments to existing laws have addressed the issues of judges' and prosecutors' salaries and the court organisation. As from September 2003, a new system of remuneration is applicable to judges and prosecutors and their salaries have increased by at least 40 per cent. As a result, the minimum salary of a judge or a prosecutor is equal to that of a high level official in the public administration (director of a ministry's department, etc.) and is progressively higher in upper courts. Magistrates may also receive a supplementary allowance for inconvenient working hours. Moreover, some ongoing pilot projects to improve the working conditions and functioning of the judicial administration within courts and the prosecution serve as models for a standardised and contemporary organisation. Finally, the High Council of Justice has taken steps to standardise the appointment procedure of judges and the standardisation of their career management. A revision of the existing evaluation system is in process. A regulation is currently being drafted in co-operation with the Council of Europe to introduce a new system of evaluation of the professional capabilities of judges, in accordance with international standards. The regulation will be submitted for approval in 2004 to the High Council of Justice.

38. GRECO concludes that recommendation vii has been implemented satisfactorily.

Recommendation viii.

39. *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.*
40. The authorities of Albania have recalled that the People's Advocate (Ombudsman) is a young institution, with only 4 years' experience and that some amendments to the Law "On the People's Advocate" will be prepared in order to give this office more compelling powers over public institutions, more specifically, to suspend administrative decisions, and to impose sanctions. With regard to *ex-officio* reviews, the only change foreseen is in relation to persons who are legally incapable (minors and disabled), in which case the People's Advocate would not need consent to pursue a case. Moreover, since June 2000, a policy for a high level media coverage and open relations with the public has been applied. All reports are made public on the People's Advocate website. "Open Days" have been organised with a view to enhancing relations with the public. Co-operation has also been established with the local and central media as well as with NGOs to further enhance public awareness. The number of complaints has increased as a result of constant awareness raising. In 2003, there were some 4000 applications lodged, of which 20-25 per cent led to measures by the Ombudsman.

41. GRECO notes that the Albanian authorities are in the process of amending the regulation of the Ombudsman to strengthen the powers of this Office. GRECO reiterates its position that the Ombudsman should preferably be able to take action without the consent of the person affected in cases of corruption. GRECO welcomes the progress made with regard to public awareness and notes that the number of complaints has increased dramatically.

42. GRECO concludes that recommendation viii has been partly implemented.

Recommendation ix.

43. *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.*

44. The authorities of Albania have reported that according to the amendments in 2003 (No. 9064) to the “Law on Public Procurement”, the Public Procurement Agency (PPA) is defined as a separate legal entity, with its own budget. However, the PPA is still under the authority of the Office of the Prime Minister; the Director is appointed and dismissed by the Prime Minister. In the light of the harmonisation of the public procurement legislation with European Union Law, the status of the Director will be reconsidered. Employees, management and experts of the Agency are covered by the Law “On the Status of the Civil Servant”. The number of staff has increased to 25 (from 20 in 2002). A new structure of the PPA is in place since the adoption of Decision No. 45 of 11.3.2003 of the Council of Ministers “on the structure and staff of the PPA”. Training seminars have been organised for selected PPA staff members either abroad or in co-operation with the Training Institute of Public Administration (TIPA), including anti-corruption matters. The PPA has conducted and continues to conduct various training sessions for procurement entities on legislation and procurement standards, sometimes in co-operation with the TIPA. Finally, the authorities have reported that public procurement information is now published on the website of the PPA.

45. GRECO took note of the measures reported. It was pleased that the specialisation of the PPA and the staff training was improving. GRECO welcomes the fact that the PPA has become a separate legal entity with its own budget and that its staff have civil service status. It notes with concern, however, that the PPA still falls under the Prime Minister’s authority. The independence of this body could still be improved.

46. GRECO concludes that recommendation ix has been partly implemented.

Recommendation x.

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

48. The authorities of Albania have recalled that the Supreme State Audit (SSA) has a constitutional obligation to report at the beginning of every fiscal year to Parliament on its activities (Art. 164 of the Constitution). Objectives for the year to come are included in its annual activity reports, as well as the entities that will be audited and financial resources required in order to carry out its obligations. The report is made public and is available on the website of the SSA. Furthermore,

press conferences are held on a regular basis. Moreover, under Article 3 of the Law "On the State Supreme Audit" (1997), the financial means of the SSA shall be provided from the State Budget within which the SSA shall have a separate budget chapter. The draft budget shall be proposed by the SSA to the Economic, Financial and Privatisation Committee and the latter presents it to Parliament for approval. The budget has been increased; 1.23 per cent from 2002 to 2003 and 14.6 per cent from 2003 to 2004. In 2004 the budget of the SSA was 200.275.000 leke (about 1.600.000€). The budget is considered adequate for the intended activities of the SSA.

49. GRECO notes on the one hand that no procedural change as suggested in the recommendation has been implemented and that the system of budget approval may still hinder the implementation of planned activities. On the other hand GRECO welcomes the budgetary increase which will help the SSA in carrying out its duties.
50. GRECO concludes that recommendation x has been partly implemented.

Recommendation xi.

51. *GRECO recommended to further consider a reduction in the list of categories of officials covered by immunity and/or to reduce the scope of immunity to a minimum.*
52. The authorities of Albania have reported that the content of Recommendation xi has been included in the Albanian Action Plan for the Prevention and Fight against Corruption, 2003-2004, "revision of the immunity system and the rules for its gain/acquisition and its lifting on the grounds of alleged corruptive activities". However, the reduction of the categories of officials covered by immunity would require Constitutional changes and is still under consideration. Nevertheless, regarding the reduction of the scope of immunity, some new legislative initiatives aim at reducing some aspects of immunities for certain categories of officials, e.g. judges and prosecutors. The draft laws will be submitted to Parliament for approval by the end of 2004 or the beginning of 2005. Furthermore, there is a general discussion among politicians on how to revise the list of officials covered by immunities and in this respect there is a general belief that immunity should not cover corruption offences in the future. The Albanian authorities have emphasised that the issue of lifting immunity arises only in cases where the offender is to be charged. It does not prevent the authorities from carrying out investigations and collecting evidence.
53. GRECO takes note of the reported efforts in reducing the number of officials covered by immunities and is pleased that this matter, as included in the Albanian Action Plan, is under serious consideration by the Government.
54. GRECO concludes that recommendation xi has been dealt with in a satisfactory manner.

III. CONCLUSIONS

55. **In view of the above, GRECO concludes that Albania has implemented satisfactorily or dealt with in a satisfactory manner almost half of the recommendations contained in the First Round Evaluation Report.** Recommendations i, v, vi and vii have been implemented satisfactorily. Recommendation xi has been dealt with in a satisfactory manner. Recommendations ii, iii, iv, viii, ix and x have been partly implemented.
56. GRECO invites the Head of the delegation of Albania to submit additional information regarding the implementation of recommendations ii, iii, iv, viii, ix and x by 31 May 2006.