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**Public**  
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## **Second Evaluation Round**

### **Compliance Report on Albania**

Adopted by GRECO  
at its 34<sup>th</sup> Plenary Meeting  
(Strasbourg, 16-19 October 2007)

## I. INTRODUCTION

1. GRECO adopted the Second Round Evaluation Report on Albania at its 22nd Plenary Meeting (Strasbourg, 14-18 March 2005). This report (Greco Eval II Rep (2004) 8E) was made public by GRECO, following authorisation by the authorities of Albania, on 8 July 2005.
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 implement the recommendations on 6 September 2007.
3. At its 26<sup>th</sup> Plenary Meeting (5-9 December 2005), GRECO selected, in accordance with Rule 31.1 of its Rules of Procedure, Croatia and Greece to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Mr Dražen JELENIĆ on behalf of Croatia and Mr Dimitrios GIZIS 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 Albania to comply with the recommendations contained in the Evaluation Report.

## II. ANALYSIS

5. It was recalled that GRECO in its Evaluation Report addressed 13 recommendations to Albania. Compliance with these recommendations is dealt with below.

### **Recommendation i.**

6. *GRECO recommended to develop clear procedures to be used for police officers and prosecutors concerning financial investigations in respect of offenders' assets, in order to enable them to make full use of the relevant legal provisions on detection and seizure. Furthermore, resources, specialisation and training in this area should be increased.*
7. The authorities of Albania state that new legislation on the organisation and competences of the State Police, Law No 9749 "on the State Police" of 4 June 2007 which came into force in July 2007 and which has to be supplemented by subsidiary legislation, has introduced, *inter alia*, provisions on seizure and on special investigative methods for criminal investigations, including financial investigations, carried out by police officers. They further make reference to the establishment of a Directorate for Combating Financial Crime within the State Police as well as a Joint Investigation Unit in the Tirana District Public Prosecution Office responsible for investigating economic crime and corruption. Finally, they indicate that in 2005 and 2006, about 100 officers of the relevant authorities participated in training activities on investigations into financial crime, including offenders' assets, that study visits and bilateral or multilateral activities were organised in this field, and that in the framework of the CARPO project (CARDS Regional Police Project), a handbook on financial investigations has been drafted and three prosecutors have been trained to provide future training on financial investigations for prosecutors.
8. GRECO takes note of the information provided with regard to the legislation on the State Police's competences in criminal investigations, concerning *inter alia* seizure and special investigative methods, to the establishment of special units for economic crime within law enforcement bodies and to the provision of some training activities and of a handbook for financial investigations. That said, it notes that no specific guidelines for financial investigations in respect of offenders' assets

have been reported and that specific training regarding the tracking of offenders' assets could be further increased.

9. GRECO concludes that recommendation i has been partly implemented.

**Recommendation ii.**

10. *GRECO recommended to provide appropriate training for prosecutors and judges concerning the use of interim measures (preventive attachment) and confiscation, including value confiscation. The Albanian authorities should also consider establishing an appropriate apportionment of the burden of proof, in connection with a conviction, to assist the authorities in identifying corruption proceeds liable to confiscation in suitable cases.*
11. The authorities report that during the period 2005 to 2007, around 860 public prosecutors, judges and police officers participated in training activities on recent developments concerning legislation on corruption, economic crime, organised crime, corruption investigations, financial inquiries, investigations into the proceeds of crime, special investigative techniques, international judicial and police co-operation, seizure and confiscation of the proceeds of crime, prevention of money laundering, etc. More specifically, they report that during the first half of 2007, 67 criminal law judges from courts of first instance and courts of appeal attended courses dealing with the main aspects of pre-trial procedures, with adducing evidence during the trial, with corruption and abuse of authority as well as seizure and confiscation of the proceeds of crime, and that this training programme for judges will continue in the second half of 2007.
12. The authorities further report that the burden of proof could not be apportioned specifically with a view to identifying corruption proceeds liable to confiscation without modifying the system of criminal procedure in general and that such a modification is currently not on the agenda.
13. GRECO acknowledges that extensive training has been reported, but it considers that further training dealing specifically with interim measures and confiscation, including value confiscation, should be provided for both judges and prosecutors in line with the recommendation. It further notes that no concrete steps regarding the examination of an appropriate apportionment of the burden of proof have been reported.
14. GRECO concludes that recommendation ii has been partly implemented.

**Recommendation iii.**

15. *GRECO recommended the establishment of guidelines on detection of corruption to include typologies of operations that might involve corruption for persons and institutions with a duty to report suspicious transactions in the area of money laundering.*
16. The authorities refer to a draft law "on the prevention of money laundering" aiming to adapt the national legislation to international standards in this field. They state that once adopted, the new law would be supplemented by subsidiary legislation taking into account recommendation iii.
17. GRECO takes note of the information provided. To date no concrete measures have been reported with a view to establishing guidelines on detection of corruption for persons and institutions with a duty to report suspicious transactions in the area of money laundering.

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

**Recommendation iv.**

19. *GRECO recommended that the government promotes anti-corruption policies and measures at local and regional levels and monitors their implementation.*
20. The authorities refer to the preparation of sectoral and intersectoral strategies, in the framework of the “National Strategy for Development and Integration”, including an “Intersectoral Strategy for the Prevention of and the Fight against Corruption and the Promotion of Transparent Government, 2007-2013”, which will be implemented, supervised and evaluated by means of common instruments established in line with the “Integrated Planning System”. Specific aspects of this strategy dealing with the decentralisation of public services and the fight against corruption at regional and local level include objectives and measures such as supporting the elaboration of anti-corruption plans and programmes, promoting transparency of the budgetary process and of the management of local finance, improving the quality and procedures of public services delivery, enhancing access and participation of the public in decision-making, strengthening control and self-control systems, etc. The authorities also report that a number of anti-corruption measures at local and regional levels will be integrated in this intersectoral strategy, deriving from a draft strategy for decentralisation and local governance, *inter alia*, enhancement of the overall process of good governance and transparency, enhancement of internal and external auditing capacities for local communities, exchange of information and statistics with the central authority. The authorities add that the preparation of this draft strategy has been preceded and accompanied over the past two to three years by a series of legal and institutional reforms relating, *inter alia*, to increasing the weight of local taxes and reducing that of central subsidies, implementation of the competitive grant system and decentralisation of the Building Works Inspectorate.
21. GRECO notes that the authorities are in the process of preparing a strategy for decentralisation and local governance comprising a number of anti-corruption measures at local and regional levels. GRECO looks forward to the adoption of such measures and to the integration of their anti-corruption aspects into the “Intersectoral Strategy for the Prevention of and the Fight against Corruption and the Promotion of Transparent Government, 2007-2013”, and also to the effective monitoring of their implementation.
22. GRECO concludes that recommendation iv has been partly implemented.

**Recommendation v.**

23. *GRECO recommended to make sure that ethical rules apply to all public officials and collaborators of the public service including to situations where public officials move to the private sector.*
24. The authorities stress that Law No 9131 of 8 September 2003 “on ethical rules in public administration” applies to all categories of public officials except for elected officials, members of the Council of Ministers and judges and that they consider these provisions sufficient, including those which prohibit the use of confidential information gained in the exercise of public functions for private purposes, after having left public service, as well as those which prohibit a former employee from representing any person or organisation in a conflict or trade relation with the public administration which is related to his/her previous position. They further mention the Law

No 9367 “on the prevention of conflicts of interest in the exercise of public functions” of 7 April 2005 which applies to all categories of public officials including those excepted from the scope of the Law “on ethical rules in public administration”, and which extends the public official’s annual reporting obligations to all the advantages received as well as to all the relations maintained during the exercise of his or her functions which could be used to serve personal interests after the termination of these functions.

25. GRECO takes note of the information provided and concludes that recommendation v has been implemented satisfactorily.

**Recommendation vi.**

26. *GRECO recommended to provide proper training to all public officials regarding the existing rules on gifts by using, in particular, practical examples of potential conflict situations.*
27. The authorities state that among a variety of measures taken to implement the legal framework on the prevention of conflicts of interest, on the basis of the aforementioned Law “on the prevention of conflicts of interest in the exercise of public functions” training programmes for all public officials, including information on conflicts of interest regulations, have been developed and accompanied by a training handbook, also containing practical examples of conflict situations, including the attitude to be adopted by public officials in respect of gifts. They indicate that training sessions for some 500 persons began in late 2006 and were attended by senior officials from the institutions (vice-ministers, general secretaries, directors of central institutions, members of regulatory bodies, management-level officials in the Central Administration, etc). In 2007 these training courses have been extended to other Central Administration and local authority levels to cover a total of some 200 civil servants and public employees. Training sessions are scheduled and will continue for other persons exercising public functions in the central institutions and local communities in the second half of 2007.
28. GRECO notes with satisfaction that extensive training activities in the field of conflicts of interest, including the acceptance of gifts, have been reported. GRECO would like to see this training continued for public officials at all levels.
29. GRECO concludes that recommendation vi has been implemented satisfactorily.

**Recommendation vii.**

30. *GRECO recommended to encourage and facilitate the reporting of corruption in public administration and ensure protection of whistle-blowers.*
31. The authorities indicate that on the basis of the Law No 9508 of 3 April 2006 “on public cooperation in combating corruption” measures to encourage the public to report suspicions of corruption and to protect whistle-blowers have been established. According to Article 7 of the aforementioned law, public institutions cannot start administrative, civil or criminal proceedings against whistle-blowers, even if it transpires that the suspicion was unfounded, that anonymity can be granted, and that the law obliges the state to remunerate cooperative persons. Furthermore, they report that telephone hotlines have been established within several bodies of the State Administration and have been used by an increasing number of people during the last two years. Finally, they report that the provisions of the Law “on the prevention of conflicts of interest in the exercise of public functions” grant special administrative protection to whistle-

blowers within the public administration, who cannot be charged or hindered in the exercise of their rights by the suspected person.

32. GRECO acknowledges that legislative measures to encourage the public to report suspicions of corruption and to protect whistle-blowers in public administration and in general have been reported. Although it appears that some of these measures (anonymity, remuneration) have not been specifically designed for whistle-blowers within the public administration, GRECO considers that they may contribute to facilitating the reporting of corruption by public officials as well.
33. GRECO concludes that recommendation vii has been dealt with in a satisfactory manner.

#### **Recommendation viii.**

34. *GRECO recommended to review the manner in which suspicions of corruption are being processed in public administration, in order to ensure the prompt initiation of criminal investigations, where appropriate.*
35. The authorities report that in accordance with Article 300 of the Criminal Code and with Article 281 of the Criminal Procedure Code, public officials are obliged to submit a written report on a suspected criminal offence, of which they become aware during the exercise of their duties or due to their position or service, to the prosecutor or an officer of the judicial police. They further state that according to the new provisions of the Law “on public cooperation in combating corruption”, in case of suspicions of corruption, internal investigations are directly initiated by the public institution whose administration has been involved in the alleged case of corruption or by its supervisory institution. The institution is obliged to ensure confidentiality and, on request, to grant anonymity. It must, after carrying out preliminary investigations, either initiate an administrative investigation, or transfer the case-file to the most senior official in the institution’s administration, with a view to forwarding it to the competent institution or to the Public Prosecution Office, or it may decide not to initiate administrative investigations where the complaint is not credible. Pursuant to Article 10 of the Law “on public cooperation in combating corruption”, administrative investigations in case of suspicions of corruption are carried out in accordance with the Administrative Procedures Code which requires the competent administrative body to take a decision within one month from the delivery of the complaint.
36. GRECO takes note of the information provided. GRECO acknowledges that the Law “on public cooperation in combating corruption” has introduced provisions to ensure the prompt initiation of internal investigations and, where appropriate, criminal investigations.
37. GRECO concludes that recommendation viii has been implemented satisfactorily.

#### **Recommendation ix.**

38. *GRECO recommended to ensure that persons establishing companies are screened in respect of possible entries in their criminal record and/or limitations of rights to which they might be subjected.*
39. The authorities report that in accordance with Article 30 of the Law No 9754 of 14 June 2007 “on the responsibility of legal persons” which entered into force in October 2007, information from the criminal record, which is also applicable to legal persons, is sent to the registry of legal persons. They add that on the basis of the Law No 9723 of 3 May 2007 “on the National Registration

Centre”,<sup>1</sup> the administration of the commercial registry, which has been remodelled into a single electronic data bank, has been transferred from the Court of Tirana to the newly established National Registration Centre which is obliged to register the decisions of public authorities within one day after reception.

40. GRECO takes note of the information provided and concludes that recommendation ix has been implemented satisfactorily.

#### **Recommendation x.**

41. *GRECO recommended to adopt the necessary legislation to speedily implement liability of legal persons for offences of corruption, trading in influence and money laundering with sanctions that are effective, proportionate and dissuasive, including monetary sanctions, in accordance with the Criminal Law Convention on Corruption (ETS No 173).*
42. The authorities report that the aforementioned Law “on the responsibility of legal persons” contains provisions for the implementation of Article 45 of the Criminal Code (which stipulates that legal persons are criminally liable), defining, *inter alia*, the organs and natural persons for whose acts the legal person is criminally liable as well as the applicable sanctions. Primary penalties are fines and, in certain cases such as reiteration or aggravating circumstances, compulsory dissolution. Fines range from 300 thousand to 1 million leks (2 420€ - 8 065€) for minor infringements to 25 to 50 million leks (201 610€) for the most serious crimes, they increase in case of reiteration within 5 years and may be replaced by compulsory dissolution in case of insolvency. Primary sanctions may be accompanied by additional penalties, i.e. suspension or closure of one or several of the legal person’s activities or structures, submission to administrative control, exclusion from public tender, exclusion from receipt or use of licenses, authorisations, concessions or subsidies, prohibition of public bidding for funds and financial resources, ban on exercising one or several activities or operations and the compulsory publication of the court decision. In addition, the court must decide on the confiscation of the proceeds of crime and of the resources used for the commission of the crime.
43. GRECO takes note of the information provided and concludes that recommendation x has been implemented satisfactorily.

#### **Recommendation xi.**

44. *GRECO recommended to review the system in place on accounting offences and to establish appropriate offences and sanctions in line with the Criminal Law Convention on Corruption (ETS No 173).*
45. The authorities state that this recommendation was mainly based on the fact that the Albanian tax authorities failed to produce proper information and did not indicate the relevant provisions of the Criminal Code. The authorities now explain that Articles 163 to 170/b of the Criminal Code provide quite severe sanctions for offences committed in commercial matters, *inter alia*, drafting false statements especially for capital operations (Article 163: fine), falsifying signatures (Article 165: fine or up to 5 years’ imprisonment), irregular issuing of shares before the registration of a company (Article 166: fine or up to 3 years’ imprisonment), giving false information (Article 168: fine or up to 5 years’ imprisonment) and refusing to write mandatory notes (Article 170: fine). They add that provisions similar to some of the above-mentioned articles are set out in Articles

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<sup>1</sup> The National Registration Centre became operational in September 2007.

295 to 301 of the Law No 7638 of 19 November 1992 “on commercial companies”. Finally, the authorities report that according to the conclusions of a working group established by the Ministry of Justice in 2006, the question here is not so much the severity of the penalties but rather the fact that the provisions in question are hardly ever used (in 2005 and 2006, no convictions on the basis of the abovementioned provisions have been reported), and that these conclusions will be taken into account in the framework of the criminal law reform.

46. GRECO takes note of the explanations provided by the authorities which suggest that an appropriate legal framework regarding accounting offences was already in place at the time of the visit and very much hopes that adequate measures will be taken to ensure their effective implementation in practice.
47. GRECO concludes that recommendation xi has been dealt with in a satisfactory manner.

#### **Recommendation xii.**

48. *GRECO recommended that tax authorities pay particular attention to the problem of corruption, particularly through directives and specific training modules concerning the detection of corruption offences and the enforcement of the relevant legislation.*
49. The authorities report that the Ministry of Finance has developed, on the basis of the OECD “Bribery Awareness Handbook for Tax Examiners”, a specific module concerning the detection of corruption offences and the implementation of the corresponding tax legislation, taking into account the recent legislative amendments in this field and containing guiding principles for officials of the tax administration. They report that this module has been forwarded to the relevant departments of the Directorate General of Tax for implementation and that a series of training courses for tax inspectors are scheduled at various tax authority levels - these started in August 2007.
50. GRECO takes note of the information provided, and in particular that training modules have been established. However, in the absence of concrete information on the scale of the training implemented, full compliance with this recommendation cannot be concluded.
51. GRECO concludes that recommendation xii has been partly implemented.

#### **Recommendation xiii.**

52. *GRECO recommended that legislative developments be accompanied by guidelines and training for private accountants and auditors on how to identify signs of corruption and its proceeds as part of their professional activities and to report their findings.*
53. The authorities indicate that the National Accounting Board has been reorganised in order to develop, *inter alia*, a system of accounting in accordance with law, as well as national accounting standards the application of which will be mandatory as from January 2008 and shall be prepared by training implemented at national and local level.
54. GRECO takes note of the information provided. The reported measures to reorganise the National Accounting Board may be an important step towards improving accounting systems in Albania but it does not contribute to the implementation of recommendation xiii which is related to



the identification and the reporting of signs of corruption and its proceeds by private accountants and auditors.

55. GRECO concludes that recommendation xiii has not been implemented.

### III. CONCLUSIONS

56. **In view of the above, GRECO concludes that Albania has implemented satisfactorily or dealt with in a satisfactory manner just over half of the recommendations contained in the Second Round Evaluation Report.** Recommendations v, vi, viii, ix and x have been implemented satisfactorily and recommendations vii and xi have been dealt with in a satisfactory manner. Recommendations i, ii, iv and xii have been partly implemented and recommendations iii and xiii have not been implemented.
57. Several important achievements, *inter alia*, measures to encourage the reporting of corruption as well as new legislation implementing the liability of legal persons for offences of corruption, trading in influence and money laundering, have been reported by the authorities for which they should be commended. GRECO notes that a number of recommendations are still under consideration. However, it is concerned that the recommendations aiming at measures to include persons and institutions with a duty to report suspicious transactions in the area of money laundering as well as private accountants and auditors in the fight against corruption have not been dealt with. GRECO urges the authorities to persist in their efforts to make sure that the outstanding recommendations are dealt with in an expeditious manner.
58. GRECO invites the Head of the Albanian delegation to submit additional information regarding the implementation of recommendations i, ii, iii, iv, xii and xiii by 30 April 2009.
59. Finally, GRECO invites the authorities of Albania to authorise, as soon as possible, the publication of this report; to translate it into the national language and to make this translation public.